



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

OneCare Limited
(AG2021/6469)

ONECARE LTD NURSING EMPLOYEES ENTERPRISE AGREEMENT 2020

Health and welfare services

DEPUTY PRESIDENT YOUNG

MELBOURNE, 16 AUGUST 2021

Application for approval of the OneCare Ltd Nursing Employees Enterprise Agreement 2020.

[1] OneCare Limited (the Employer) has made an application for approval of an enterprise agreement known as the *OneCare Ltd Nursing Employees Enterprise Agreement 2020* (the Agreement) pursuant to s 185 of the *Fair Work Act 2009* (the Act). The Agreement is a single-enterprise agreement.

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

[3] Subject to the undertakings referred to above, and on the basis of the material contained in the application, and the accompanying statutory declaration and the additional information provided by the Employer, 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 the Health Services Union, being bargaining representatives for the Agreement, have given notice under s 183 of the Act that they seek to be covered by the Agreement. In accordance with s 201(2) and based on the statutory declaration provided by these organisations, I note that the Agreement covers these organisations.

[5] The Agreement was approved on 16 August 2021 and, in accordance with s 54, will operate from 23 August 2021. The nominal expiry date of the Agreement is 30 June 2022.



DEPUTY PRESIDENT

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Annexure A



OneCare Ltd Nursing Employees Enterprise Agreement 2020

I, Peter Williams, Chief Executive Officer, have the authority given to me by OneCare Limited to provide the following undertaking with respect to the OneCare Ltd Nursing Employees Enterprise Agreement 2020 ("the Agreement"):

Clause 5.1.2 defines a shiftworker for the purposes of the National Employment Standards (NES).

This undertaking is provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

A handwritten signature in black ink, appearing to read 'pwilliams', is positioned above the printed name of Peter Williams.

Peter Williams
Chief Executive Officer

10 August 2021



ONECARE LTD

NURSING EMPLOYEES

ENTERPRISE AGREEMENT 2020

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.

**This is a Single-Enterprise Agreement as provided by
The *Fair Work Act* 2009**

PART 1 - APPLICATION AND OPERATION OF AGREEMENT

1.1 TITLE

This Agreement shall be known as the **OneCare Ltd** Nursing Employees Enterprise Agreement 2020 ('the Agreement').

1.2 ARRANGEMENT

This Agreement is arranged as follows:-

PART 1 - APPLICATION AND OPERATION OF AGREEMENT

- 1.1 Title
- 1.2 Arrangement
- 1.3 Commencement date and period of operation
- 1.4 Application of the Agreement
- 1.5 Parties bound by this Agreement
- 1.6 Complete Agreement
- 1.7 No extra claims
- 1.8 Definitions
- 1.9 Grievance and dispute resolution

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- 6.1 Travelling
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- 6.10 Pandemic and Influenza Vaccinations
- 6.11 Employee Representatives
- 6.12 No precedent
- 6.13 Declaration and Signatories

Schedule 1: Wages Schedule

Schedule 2: Allowances and Meals

1.3 COMMENCEMENT DATE AND PERIOD OF OPERATION

This Agreement takes effect from a day being seven days after the Fair Work Commission advises that the Agreement has been approved.

Despite the operative date of the Agreement the Employer shall implement the first wage increase identified in Clause 3.2.6 Salary Increases on or after the first full pay period following 1 January 2021.

The Agreement has a nominal expiry date of 30 June 2022, unless terminated or varied by the mutual consent in writing of the parties pursuant to the Act or by operation of law.

1.4 APPLICATION OF THE AGREEMENT

This Agreement covers the wages and conditions of nursing staff employed by the employer.

1.5 PARTIES BOUND BY THIS AGREEMENT

This Agreement is binding on:

- (a) OneCare Ltd (ABN 84 100 869 421);
- (b) the Australian Nursing and Midwifery Federation - Tasmanian Branch;
- (c) the Health Services Union, Tasmania Branch; and
- (d) all nursing staff employed by the employer in positions classified in this Agreement.

1.6 COMPLETE AGREEMENT

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

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

For the avoidance of doubt, this Agreement supersedes and replaces in their entirety all provisions of the Nurses Award 2010.

1.7 NO EXTRA CLAIMS

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

- 1.7.2 Where any disagreement arises, the parties shall follow the Dispute Settlement Procedure contained in this Agreement. The parties acknowledge that the terms of this Agreement represent the totality of all matters in the employment relationship.

1.8 DEFINITIONS

In this Agreement:-

- 1.8.1 The **'Act'** means the *Fair Work Act* 2009 (Cth);
- 1.8.2 **'Afternoon Shift'** means a shift which finishes between the hours of 6.00pm and 12.00am;
- 1.8.3 **'Base Rate of Pay'** has the same meaning as per the Act and means the hourly rate of pay that the employee receives for Ordinary Hours of Work. The Base Rate of Pay is achieved by taking the specified annualised amount in Schedule 1 divided by 52 to achieve the weekly rate and then divided by 38;
- 1.8.4 The **'business'** means the business conducted from time to time by the employer;
- 1.8.5 **'Client'** means a care recipient (eg. resident/client/occupant) who receives care or services from the business;
- 1.8.6 **'Casual employee'** means an employee engaged on an irregular, variable or unpredictable basis or on an as and when needed basis;
- 1.8.7 The **'Commission' or 'FWC'** means the Fair Work Commission;
- 1.8.8 **'Continuous service'** has the same meaning as under the Fair Work Act;
- 1.8.9 **'Day shift'** means a shift worked between 6.00am and 6.00pm;
- 1.8.10 **'Day worker'** means an employee whose ordinary weekly hours are worked between 7.00am and 7.00pm Monday to Friday;
- 1.8.11 **'Domestic/Family Violence'** means situations such as violence or abuse experienced by an employee in their personal life that may affect their attendance or performance at work. This includes physical, sexual, financial, verbal or emotional abuse by a family member or spouse.
- 1.8.12 The **'employer'** means OneCare Limited;
- 1.8.13 **'Employees'** means all Nurses whose employment is subject to this Agreement;
- 1.8.14 **"Fixed term"** means an employee may be engaged for a fixed term for a project or for a specific task or where specified work is only required for a specified period. There must no expectation of continuing employment

beyond the fixed term; ie. if such an expectation exists or is implied the employee must be employed on a permanent basis.

1.8.15 **'Full rate of pay'** means the rate of pay payable to the employee, including all the following:

- 1.8.14(a) incentive-based payments and bonuses;
- 1.8.14(b) loadings;
- 1.8.14(c) monetary allowances;
- 1.8.14(d) overtime or penalty rates;
- 1.8.14(e) any other separately identifiable amounts.

1.8.16 **'Full-time employee'** means someone engaged to work for the full weekly ordinary hours as prescribed in this Agreement;

1.8.17 **'Health Professional'** means a dentist, physiotherapist, chiropractor or pharmacist registered, or licensed under a Federal, State or Territory law that provides for the registration or licensing of those occupations;

1.8.18 **'Immediate family member'** – the following are members of an employee's immediate family:

- spouse or former spouse
- de facto partner or former de facto partner
- child
- parent
- grandparent
- grandchild
- sibling, or a
- child, parent, grandparent, grandchild or sibling of the employee's spouse or de facto partner (or former spouse or de facto partner).

This definition includes step-relations (eg. step-parents and step-children) as well as adoptive relations.

Employees will be able to take compassionate leave for other relatives (eg. cousins, aunts and uncles) if they are a member of the employee's household, or if the employer agrees to this request.

1.8.18 **'de facto partner'** in relation to an employee:

1.8.18(a) means a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and

1.8.18(b) includes a former de facto partner of the employee.

1.8.19 **'Medical certificate'** means a certificate signed by a Medical Practitioner or Health Professional;

- 1.8.20 **‘Medical practitioner’** means a person registered, or licensed, as a medical practitioner under a Federal, State or Territory law that provides for the registration or licensing of medical practitioners;
- 1.8.21 **‘Night shift’** means a shift which is not a day or afternoon shift;
- 1.8.22 **‘Pandemic’** in this Enterprise Agreement refers to an illness or condition as defined by the National Health Authority .
- 1.8.23 **‘Part-time employee’** means someone, other than a casual employee, engaged to work for fewer hours than an equivalent full-time employee;
- 1.8.24 **‘Part-time shift worker’** means a part-time employee who holds a position on a shift roster as prescribed in this Agreement;
- 1.8.25 **‘Roster’** means a documented arrangement setting out the names of employees required to work in accordance with the roster, and the days, dates, times and hours when each rostered employee is required to work;
- 1.8.26 **‘Shift worker’** means an employee other than a Day Worker who is required to work rotating shifts in accordance with a roster;
- 1.8.27 **‘Year of service’** means 1976 ordinary hours worked, and includes paid leave.

1.9 GRIEVANCE AND DISPUTE RESOLUTION

- 1.9.1 If a grievance or dispute arises about any matter under this Agreement or the National Employment Standards, in the first instance employees are to attempt to resolve the issue with their Manager/Supervisor. The Manager/Supervisor and the parties to the dispute will genuinely attempt to resolve the dispute at this level.
- 1.9.2 At any stage of the procedure, a party may appoint another person, organisation or association to accompany or represent them.
- 1.9.3 If the grievance or dispute remains unresolved after (1.9.1) above, the grievance will be referred by the immediate Manager/Supervisor to a more senior manager.
- 1.9.4 If the grievance or dispute remains unresolved after (1.9.3) above, the issue will be referred to senior management and union or other employee representatives.
- 1.9.5 If the grievance is unable to be resolved at the workplace level by the above process, the matter may be referred to the Commission on the application of either party for conciliation and/or arbitration.

1.9.6 Alternatively, by agreement between the employee(s) and employer, the matter may be referred to mediation or other alternative dispute resolution process to be conducted by a person agreed between the parties in dispute on the matter.

1.9.7 In the event that the parties cannot agree on an alternative dispute resolution provider the Commission will be used.

Where an alternative dispute resolution provider is used, the parties will agree to be bound by the provider's decision. The costs of the agreed mediator will be borne by the employer.

1.9.7 Without prejudice to either party, and except where a bona fide safety issue is involved, normal work and existing custom and practice will continue while attempts are being made to resolve the grievance or dispute in accordance with these procedures.

PART 2 – EMPLOYMENT RELATIONSHIP

2.1 CONTRACT OF EMPLOYMENT

2.1.1 Employment of full time and part-time employees is to be by the fortnight.

2.1.2 Employment will be terminated in accordance with the notice provisions of clauses 2.3 – Termination of Employment and 2.4 – Redundancy. Notice may be given at any time provided that the termination of the employment takes effect at the end of a days work or by the payment or compensation (as the case may be), of the wages appropriate to the said notice period. The period of notice in this clause shall not apply in the case of dismissal for conduct that justifies instant dismissal.

2.1.3 An employee who is justifiably dismissed for any reason is entitled to payment for work in that fortnight only for the time actually worked.

2.1.4 Employees, other than casual employees, are entitled to be paid in respect of any week at their base rate of pay as specified in this Agreement, including shift and weekend loadings and overtime where applicable, if:

2.1.4(a) due to the act, default or order of their employer they do not work for their full number of ordinary hours; and

2.1.4(b) they are ready, willing and available to work their full number of ordinary hours in that week.

2.1.5 **Minimum Period of Employment (Qualifying Period)**

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

2.2 EMPLOYMENT CATEGORIES AND TERMS OF ENGAGEMENT

At the time of engagement the employer will inform each employee whether they are employed on a fulltime, part-time or casual or fixed term basis.

2.2.1 FULLTIME EMPLOYEES

- 2.2.1(a) Fulltime employee means an employee who is engaged to work 38 hours per week.
- 2.2.1 (b) The shift length or ordinary hours of work per day will be a maximum of 8 hours exclusive of meal breaks.

2.2.2 PART-TIME EMPLOYEES

- 2.2.2(a) Part-time employees are engaged for less than 38 hours per week and shall be provided with a minimum of 2 hours work, or alternatively paid for a minimum of 2 hours on each occasion they are required to attend for work.
- 2.2.2(b) The shift length or ordinary hours of work per day will be a maximum of 8 hours exclusive of meal breaks.
- 2.2.2(c) Before commencing part time employment, the employer and employee will agree in writing to the guaranteed minimum number of hours to be worked and the rostering arrangements which will apply to those hours.
- 2.2.2 (d) The penalty rates prescribed in Clause 4.7 Penalties – Shift Workers for work on Saturdays, Sundays and public holidays are applicable to part-time employees.
- 2.2.2(e) Part-time employees shall be entitled to the annual leave and personal leave on a pro-rata basis as prescribed in this agreement, provided that payment therefore shall be made at the rate normally paid to such employee for a similar period of time worked.
- 2.2.2(f) Review of Part-time Hours
- (i) Where an employee is regularly working more than their guaranteed contracted hours the employee may request to have their hours reviewed annually.
 - (ii) The hours worked in the following circumstances will not be incorporated in any adjustment:
 - If the increase in hours is a direct result of an employee being absent on leave, for example, annual leave, long service leave, parental leave, workers compensation; and
 - If the increase in hours is due to a temporary increase in hours only due, for example, to the specific needs of a client.
 - (iii) If a review establishes a consistent pattern of greater hours being worked, the employer will off the employee those additional hours as part of their guaranteed minimum number of hours.

2.2.3 CASUAL EMPLOYEES

- 2.2.3(a) For the purposes of this clause and this Agreement, casual employee means an employee engaged on an irregular, variable or unpredictable basis or on an as and when needed basis as defined.
- 2.2.3(b) A casual employee's engagement is by the hour.
- 2.2.3(c) Notwithstanding 2.2.3(a) above, if required to attend for work a casual employee must be provided with a minimum of two hours work for

each engagement or paid for a minimum of two hours for each engagement.

2.2.3(d) The rate of pay for ordinary hours of work is the base rate of pay, plus a loading of 25% in lieu of annual leave, personal leave and public holidays.

2.2.3(e) Where an employer has engaged a casual employee in accordance with this clause the employer may give notice of cancellation of the engagement up to twelve hours before the scheduled commencing time in the case of a day shift, and up to six hours before the scheduled commencing time of either an afternoon or night shift.

PROVIDED that if the minimum notice of cancellation of the engagement in (4) above is not given the employee is to be paid three (3) hours pay.

2.2.3(f) A casual employee whose engagement is cancelled without the minimum notice specified in (2.2.3(e)) above and who has incurred child care fees shall, upon providing the employer with documentary proof of the expenditure so incurred, be reimbursed in full.

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

2.2.3(g) Conversion of casual employees

(i) (a) A person engaged by a particular employer as a regular casual employee may request that their employment be converted to full-time or part-time employment.

(b) A regular casual employee is a casual employee who has in the preceding period of 26 weeks worked a pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to perform as a full-time employee or part-time employee under the provisions of this agreement.

(c) A regular casual employee who has worked equivalent full-time hours over the preceding period of 12 months' casual employment may request to have their employment converted to full-time employment.

(d) A regular casual employee who has worked less than equivalent full-time hours over the preceding period of 12 months' casual employment may request to have their employment converted to part-time employment consistent with the pattern of hours previously worked.

(e) Any request under this subclause must be in writing and provided to the employer.

(f) Where a regular casual employee seeks to convert to full-time or part-time employment, the employer may agree to or refuse the

request, but the request may only be refused on reasonable grounds and after there has been consultation with the employee.

(g) Reasonable grounds for refusal include that:

(i) it would require a significant adjustment to the casual employee's hours of work in order for the employee to be engaged as a full-time or part-time employee in accordance with the provisions of this award –that is, the casual employee is not truly a regular casual employee as defined in paragraph (b);

(ii) it is known or reasonably foreseeable that the regular casual employee's position will cease to exist within the next 12 months;

(iii) it is known or reasonably foreseeable that the hours of work which the regular casual employee is required to perform will be significantly reduced in the next 12 months; or

(iv) it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the employee's hours of work are required to be performed in the next 12 months which cannot be accommodated within the days and/or hours during which the employee is available to work.

(h) For any ground of refusal to be reasonable, it must be based on facts which are known or reasonably foreseeable.

(i) Where the employer refuses a regular casual employee's request to convert, the employer must provide the casual employee with the employer's reasons for refusal in writing within 21 days of the request being made. If the employee does not accept the employer's refusal, this will constitute a dispute that will be dealt with under the dispute resolution procedure in clause 9. Under that procedure, the employee or the employer may refer the matter to the Fair Work Commission if the dispute cannot be resolved at the workplace level.

(j) Where it is agreed that a casual employee will have their employment converted to full-time or part-time employment as provided for in this clause, the employer and employee must discuss and record in writing:

(i) the form of employment to which the employee will convert –that is, full-time or part-time employment; and

(ii) if it is agreed that the employee will become a part-time employee, the matters referred to in clause 2.2.2.

(k) The conversion will take effect from the start of the next pay cycle following such agreement being reached unless otherwise agreed.

(l) Once a casual employee has converted to full-time or part-time employment, the employee may only revert to casual employment with the written agreement of the employer.

(m) A casual employee must not be engaged and re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under this clause.

(n) Nothing in this clause obliges a regular casual employee to convert to full-time or part-time employment, nor permits an employer to require a regular casual employee to so convert.

(o) Nothing in this clause requires an employer to increase the hours of a regular casual employee seeking conversion to full-time or part-time employment.

(p) An employer must provide a casual employee, whether a regular casual employee or not, with a copy of the provisions of this subclause within the first 12 months of the employee's first engagement to perform work. In respect of casual employees already employed as at the operative date of this agreement, an employer must provide such employees with a copy of the provisions of this subclause by 1 January 2022.

(q) A casual employee's right to request to convert is not affected if the employer fails to comply with the notice requirements in paragraph (p).

2.2.4 FIXED TERM

An employee may be engaged on a fixed term, working fulltime or part time hours, to undertake a project or a specific task or where specified work is only required for a specified period. There must be no expectation of continuing employment beyond the fixed term – if such an expectation exists or is implied, the employee must be employed on a permanent basis. If a fixed term employee is engaged to work full time hours, then the provisions of clause 2.2.1 apply to that employee. If a fixed term employee is engaged to work part time hours, then the provisions of clause 2.2.2 apply to that employee.

2.3 TERMINATION OF EMPLOYMENT

2.3.1 Notice of termination by the Employer

2.3.1(a) In order to terminate the employment of an employee, the employer must give the employee the following notice:

<i>Employee's period of continuous service with the employer</i>	<i>Period of notice</i>
<i>Not more than 3 years</i>	<i>At least 2 weeks</i>
<i>More than 3 years but not more than 5 years</i>	<i>At least 3 weeks</i>
<i>More than 5 years</i>	<i>At least 4 weeks</i>

2.3.1(b) In addition to the notice in 2.3.1(a), employees over 45 years of age at the time of the giving of notice with not less than two years continuous service are entitled to additional notice of one week.

2.3.1(c) Payment at the ordinary rate of pay in lieu of the notice prescribed in 2.3.1(a) and/or 2.3.1(b) must be made if the appropriate notice period is not given. Employment may be terminated by working part of the required period of notice specified and part payment in lieu.

2.3.1(d) In calculating any payment in lieu of notice the employer must pay the wages an employee would have received in respect of the ordinary time the employee would have worked during the period of notice had the employee's employment not been terminated.

2.3.1(e) The period of notice in this clause does not apply in the case of:

- 2.3.1(e)(i) dismissal for conduct that at common law justifies instant dismissal;
- 2.3.1(e)(ii) casual employees;
- 2.3.1(e)(iii) employees engaged for a specific period of time for a specific task or tasks.

2.3.2 Notice of termination by the Employee

2.3.2(a) No employee shall, without the consent of the employer, resign without having given a minimum of 14 days' notice of intention so to do.

2.3.2(b) If an employee fails to give the notice set out in clause 2.3.2(a), subject to the authorisation of the employee, the employer has the right to withhold monies due to the employee to a maximum amount equal to the amount the employee would have received under 2.3.2(a) which shall be forfeited by the employee.

2.3.3 Mutual Termination prior to Period of Notice

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.

2.3.4 Casual Employees

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

2.3.5 Instant Dismissal

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

2.3.6 Discussions prior to decision to terminate employment

Prior to determining whether to terminate the employment of an employee on the grounds other than would justify summary dismissal, the employer shall:

2.3.6(a) inform the employee in writing that the termination of their employment is being considered

2.3.6(b) advise the employee of the reasons for possible termination; and

- 2.3.6(c) provide the employee with an opportunity to respond to any allegations regarding their conduct

An employee shall be given reasonable time to respond and shall be provided with details of any relevant material. An employee who wishes to be represented may, at the request of the employee, be represented by a representative of the employee's choice.

2.3.7 Records

Personal records are kept in relation to the employee. An employee has the right to access their file to see the reports and to correct any inaccuracy.

2.4 REDUNDANCY

Redundancy in this clause includes a situation where the employer believes for operational reasons that it is necessary to make one or more positions redundant, or to reduce the number of employees, or to decrease an employee's ordinary hours of work thus causing a reduction to the employee's income.

2.4.1 Commitment to Consult

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

2.4.2 Redeployment and Retraining

If a redundancy is likely to occur –

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

2.4.3 Notice of Redundancy

- 2.4.3(a) The employer is to provide as much notice as is reasonably practicable of an intended redundancy.
- 2.4.3(b) The minimum period of notice to be given to an employee affected by a redundancy is –

Employee's period of continuous service

Not more than 3 years

More than 3 years but not more than 5 years

Period of Notice

At least 2 weeks

At least 3 weeks

More than 5 years

At least 4 weeks

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

2.4.4 Voluntary Redundancy

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

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

2.4.4(b) In assessing expressions of interest for voluntary redundancy the employer will take into account the skill and operational requirements of the facility/enterprise.

2.4.4(c) Wherever reasonably practicable involuntary redundancies will only be effected if there are no, or insufficient, volunteers for a voluntary redundancy package after expressions of interest have been sought and assessed from existing employees in accordance with sub clauses (2.4.4(a)) and (2.4.4(b)).

2.4.5 Redundancy Package

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

2.4.5(a) Voluntary Redundancies

2.4.5(a)(i) notice as specified in this clause, or payment in lieu of that notice; and

2.4.5(a)(ii) two weeks pay for each completed year of service and pro rata for an uncompleted year provided no redundancy pay will be less than that prescribed by the NES; and

2.4.5(a)(iii) payment for all accrued annual leave including leave loading.

2.4.5(b) Involuntary Redundancies

2.4.5(b)(i) notice as specified in this clause, or payment in lieu of that notice;

2.4.5(b)(ii) two weeks pay for each completed year of service and pro rata for an uncompleted year provided no redundancy pay will be less than that prescribed by the NES;

2.4.5(b)(iii) payment for all accrued annual leave including leave loading; and

- 2.4.5(b)(iv) payment of pro rata long service leave for employees with more than five years continuous service.

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

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

2.4.6 Partial Redundancy Package for Changed or Decreased Hours

- 2.4.6(a) Where an employee is not offered similar hours or hours are altered, other than by a normal change of roster in accordance with this Agreement, and this causes a loss of income to the employee, the employer is to pay a partial redundancy package calculated as –

partial redundancy payment = existing weekly rate, minus new weekly rate, multiplied by 2, multiplied by years of service, plus pro rata for any uncompleted year of continuous service.

2.4.7 Definition

- 2.4.7(a) For the purposes of this clause a '**weeks pay**' means the base rate of pay, and any loadings and all-purpose allowances to which the employee is normally entitled.

2.4.8 Paid Time Off to Seek Alternative Employment

- 2.4.8(a) Employees who are made involuntarily redundant are to be given assistance by the employer in seeking suitable alternative employment, including being granted up to 8 hours paid time off to look for work and to arrange training or re-training.

2.4.9 Financial Counseling

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

2.4.10 Details of Redundancy Package to be Provided

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

2.5 LEVEL 2 – REGISTERED NURSE RATIO

The employer will use its best endeavours to achieve a 25% Registered Nurse Level 2 ratio.

PART 3 – RATES OF PAY AND RELATED MATTERS

3.1 CLASSIFICATIONS

3.1.1 Definitions

- 3.1.1(a) **Enrolled Nurse** means a nurse registered as such with the Australian Health Practitioner Regulation Agency.
- 3.1.1(b) **Enrolled Nurse – Medication-Endorsed** means an Enrolled Nurse holding an endorsement to administer medications issued by the Australian Health Practitioner Regulation Agency and who is required by the employer to so administer medications.
- 3.1.1(c) **Registered Nurse** means a nurse registered as such with the Australian Health Practitioner Regulation Agency.
- 3.1.1(d) **Registered Nurse – Level 1** means a Registered Nurse who is not otherwise classified within a Level of Registered Nurse positions.
- 3.1.1(e) **Registered nurse – Level 2** means a Registered Nurse who is engaged as such; and –
 - 3.1.1(f)(i) has demonstrated competence in basic nursing practice and the ability to provide direct care in more complex nursing care situations; and
 - 3.1.1(f)(ii) has the ability and skills to provide guidance to Level 1 registered nurses; and
 - 3.1.1(f)(iii) is employed within a care unit.
- 3.1.1(f) **Registered Nurse – Community Health/Domiciliary** means a Registered Nurse employed in this setting and who is not otherwise classified.
- 3.1.1(g) **Registered Nurse – Level 3** means a Registered Nurse who is engaged as such, and may be referred to as Clinical Nurse Consultant, Nurse Manager, or Staff Development Nurse.
- 3.1.1(h) **Registered Nurse – Level 3A** means a Registered Nurse engaged as such who may be referred to as the after-hours supervisor, and is accountable for the overall provision of resident care and the management of resources
- 3.1.1(i) **Registered Nurse – Level 4** means a Registered Nurse who is engaged as such and may undertake one or more of the following streams:
 - 3.1.1(i)(i) **Clinical** is responsible for the formulation, co-ordination and direction of policies for nursing practice, and is accountable for the standard of nursing care in an assigned number of care units.
 - 3.1.1(i)(ii) **Management** is responsible and accountable for management resources in an assigned number of management/clinical units.

3.1.1(i)(iii) **Education** is responsible for the co-ordination, development and evaluation of post-basic education courses approved by the Australian Health Practitioner Regulation Agency, or staff development programs.

3.2 SALARIES

An employee engaged or promoted to a position within a classification or level prescribed in this Agreement shall be paid the salary specified in Schedule 1 of this Agreement (the base rate of pay).

3.2.1 Nurse undertaking post graduate training

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

3.2.2 Enrolled Nurse Upgrading to Registered Nurse

An Enrolled Nurse who completes a period of study which qualifies them to seek registration as a Registered Nurse with the Australian Health Practitioner Regulation Agency shall, if they wish to continue in employment with the employer, be transferred to a position as a Registered Nurse if the employer has such a position available and if the employee is suitable for the position.

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

3.2.3 Salary Re-entry – Registered Nurses

3.2.3(a) A Registered Nurse undertaking the re-entry to practice course shall be paid at Registered Nurse Level 1, 1st year of service during course clinical time.

3.2.3(b) Subject to (3.2.3(a)), such an employee shall be paid at Registered Nurse Level 1, 2nd year of service for the first year of service of 1976 hours, or two years, whichever comes first.

3.2.3(c) Following successful completion of the re-entry program and time served in 3.2.3(b) all of the employee's previous nursing experience shall be recognised upon proof of that past experience.

3.2.4 Salary Re-entry – Enrolled Nurses

3.2.4(a) An Enrolled Nurse undertaking the re-entry to practice course shall be paid at enrolled nurse 1st year of service during course clinical time.

3.2.4(b) Subject to sub-clause 3.2.4(a), such an employee shall be paid at enrolled nurse second year of service for the first year of service of 1976 hours, or two years, whichever comes first.

3.2.4(c) Following successful completion of the re-entry program and time served in 3.2.4(b) all of the employee's previous nursing experience shall be recognised upon proof of that past experience.

3.2.5 Accelerated Advancement

A Registered Nurse Level 1 will commence at Level 1 Year 2 and be paid as per the wage rate stated within Schedule 1.

3.2.6 Salary Increases

The salaries during this Agreement are set out in Schedule 1.

3.3 SUPERANNUATION

3.3.1 The subject of Superannuation is dealt with extensively by legislation including the Superannuation Guarantee (Administration) Act 1992, the Superannuation Guarantee Charge Act 1992, The Superannuation Industry (Supervision) Act 1993, the Superannuation (Resolution of Complaints) Act 1993. This legislation, as varied from time to time governs the superannuation rights and obligations of the parties.

3.3.2 Upon commencement or within 28 days of commencement of employment, the employer shall provide the employee with a Choice of Superannuation Fund: Standard Choice Form. The employer must nominate the default/employer fund as required in Part A (2) of the Standard Choice Form.

3.3.3 An employee may nominate any complying superannuation fund in accordance with the SG Legislation.

3.3.4 To make a choice an employee must complete the Standard Choice Form and provide the employer with details of their chosen fund as specified in Part B of the Standard Choice Form.

3.3.5 If an employee does not complete the form with appropriate details of their chosen fund and return it to the employer within the required period of time from commencement, the employer shall forward the employees name, date of birth and Tax File Number with payment of the Superannuation Guarantee (SG) contribution to the nominated default fund.

3.3.6 The nominated default fund will be HESTA Superannuation Fund or any successor.

3.3.7 A Superannuation Guarantee contribution, paid by the employer will be calculated on the gross salary.

- The gross salary is defined as that total salary amount prior to any salary packaging by an employee or any salary contribution being paid into superannuation by the employer of behalf of an employee.

3.3.8 An employee may make additional voluntary (post-tax) contributions to their fund from their salary. On receiving written authorisation from an employee the employer must commence making contributions to the fund in accordance with the requirements of the superannuation legislation.

3.3.9 Superannuation contributions shall be made on a monthly basis as a minimum.

3.4 SALARY PACKAGING AND SALARY SACRIFICE

3.4.1 Employees' rates of pay specified in Schedule 1 of this Agreement may be packaged in accordance with the employer's salary packaging program and in accordance with the relevant legislation.

3.4.2 By agreement with the employer, employees may elect, in writing, to convert a component of their annual ordinary time salary to packaged benefits.

- 3.4.3 In respect of employees who have elected to enter into a salary packaging arrangement, any overtime and shift loadings must be calculated on the salary level which would have applied if the employee was not in the salary packaging scheme.
- 3.4.4 Non salary-packaged benefits must be paid for any period in respect of which the employee is paid salary, including but not limited to absence on worker's compensation, annual or other leave with pay, including long service leave.
- 3.4.5 If an employee on a salary packaging arrangement goes on workers compensation the employee will receive not less than the entitlements which would have applied if the employee was not in the salary packaging scheme.
- 3.4.6 If an employee who has entered into a salary packaging arrangement ceases employment with the employer the salary packaging arrangement will cease on the date the employment ceases and –
- 3.4.6(a) all entitlements due to the employee on termination will be paid at the employee's base rate of pay; and
- 3.4.6(b) any outstanding fringe benefits tax or salary packaging benefit held by the employer, or the employer's salary packaging agent, on behalf of the employee, due to the employee will be paid less any necessary taxation deduction.
- 3.4.7 If an employee has entered into a salary packaging arrangement, superannuation payments required under the *Superannuation Guarantee (Administration) Act 1992* must be calculated at the employee's base rate of pay.
- 3.4.8 If an employee has entered into a salary packaging arrangement, annual leave loading entitlements must be calculated at the employee's base rate of pay.
- 3.4.9 Employees who have entered into a salary packaging agreement will be given the opportunity to review such agreements annually, and to amend or withdraw from such agreements.
- 3.4.10 The employer will advise each employee in writing –
- 3.4.10(a) that an employee's participation in salary packaging is optional and entirely voluntary;
- 3.4.10(b) of the employee's classification level and base rate of pay;
- 3.4.10(c) that the employee is encouraged to consult with a financial adviser before signing a salary packaging agreement;
- 3.4.10(d) that the employee must be provided with a copy of any proposed salary packaging arrangement before deciding whether or not to elect to enter into it.
- 3.4.10(e) of the right of the employee to inspect details of the payments and transactions made under the terms of any salary packaging arrangement and where such details are maintained electronically the employee must be provided with a print-out of the relevant information;

- 3.4.10(f) that where at the end of the agreed period the full amount allocated to a specific benefit has not been expended the unused amount will not be carried forward to the next period;
- 3.4.10(g) that where changes are proposed to all salary packaging arrangements, or salary packaging arrangements are to be cancelled by the employer for reasons other than legislative requirements then the employer must give two months notice; and
- 3.4.10(h) that in the event the employer ceases to attract exemption from payment of Fringe Benefits Tax, all salary packaging arrangements will be terminated and employees' wages will revert to their respective base rate of pays as specified in this Agreement.

3.4.11 Salary packaging arrangements shall be entered into only in accordance with this Clause.

3.4.12 By agreement with the employer an employee may sacrifice an amount of salary, which would otherwise be payable in accordance with Schedule 1 of this agreement, and have that sacrificed amount contributed to a complying superannuation fund of the employee's choice.

3.4.13 By agreement with the employer, an employee may also sacrifice an additional amount of salary, which would otherwise be payable in accordance with Schedule 1 of this Agreement for such matters as for "non-reportable" fringe benefits and novated leases.

3.4.14 Salary increases under this Agreement shall be payable to employees covered by salary packaging arrangements and such increases are to be applied to employees' base rate of pay.

3.5 ALLOWANCES

3.5.1 Higher Duties

An employee who, for a period of three or more consecutive working days, performs the duties of a position higher than those of the employee's normal position shall be paid the base rate of pay prescribed for the higher position for all time so worked.

3.5.2 In-charge Allowance

3.5.2(a) Registered Nurses – Level 1 or Level 2

A Registered Nurse Level 1 or Level 2 who, for more than half a shift, is required to assume charge of a care unit, where a Level 3 Nurse is normally employed, shall be paid the allowance specified in Schedule 2 for each shift worked.

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

PROVIDED FURTHER that there is no entitlement to this payment if a Registered Nurse Level 3 or above is rostered for duty at the same time and in the same unit.

3.5.3 Post Graduate Qualification Allowance

3.5.3(a) Registered Nurse

A Registered Nurse who holds post graduate qualifications shall be paid an allowance, in addition to the base rate of pay, as follows:—

- 3.5.3(a)(i) for a post graduate hospital or post graduate certificate – 4.0% of the base rate of pay of pay;
- 3.5.3(a)(ii) for a post graduate diploma or a degree other than a nursing under graduate degree – 6.5% of the base rate of pay of pay;
- 3.5.3(a)(iii) a masters or a doctorate – 7.5% of the base rate of pay of pay;

PROVIDED that an employee is entitled to payment of only one qualification allowance.

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

3.5.3(b) Enrolled Nurse

An Enrolled Nurse Level 2 who holds post graduate qualifications shall be paid an allowance, in addition to the base rate of pay, as follows:–

- 3.5.3(b)(i) for a post graduate certificate – 4.0% of the base rate of pay of pay; or
- 3.5.3(b)(ii) for a post graduate diploma – 6.5% of the base rate of pay.

PROVIDED that an employee is entitled to payment of only one qualification allowance.

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

- 3.5.3(c) A post graduate qualification allowance paid in accordance with this sub clause shall be taken into account in calculating overtime and annual leave payments.

3.5.4 Preceptor Allowance

- 3.5.4(a) An Enrolled Nurse, a Registered Nurse Level 1 or a Registered Nurse Level 2 who acts as a preceptor shall be paid the allowance specified in Schedule 2 for all time spent so acting, subject to the following –

- 3.5.4(a)(i) the preceptor program must be approved by the employer;
- 3.5.4(a)(ii) This allowance will be payable only when EN or RN levels 1 or 2 act as a preceptor for new or current staff.
(Note: this allowance is not payable for preceptor duties relating to students)

3.5.4(a)(ii) The employee must have completed either an approved internal or external short course covering adult learning or buddying /mentoring principles; and

3.5.4(a)(iii) where an employer requires an employee to act as a preceptor the employer will pay all course fees and provide time off on full pay for the employee to attend the preceptor course.

3.5.5 Meal allowance when required to work away from usual workplace

An employee who is required to travel away from their usual worksite and is more than sixteen kilometres away from that worksite at their usual meal time will be paid in accordance with the OneCare Travel and Expense Policy which provides the meal allowances prescribed by the Australian Tax Office as determined from time to time. These amounts are current as at the date of approval of this Agreement:

Meal Allowances are specified within Schedule 2.

3.5.7 Driving licence allowance

An employee directed by the employer to drive vehicles requiring a specialised driving licence is to be reimbursed the cost of the driving licence upon the production of an invoice or receipt.

3.5.8 Allowances not to be taken into account

3.5.8(a) Allowances specified in this Agreement, other than higher duties allowance and post graduate allowance, shall not be taken into account in calculating overtime and shift loadings specified in this Agreement.

3.5.9 District allowance

3.5.9(a) Employees stationed permanently in an isolated or remote district may, on the determination of the employer, be paid an allowance as specified in Schedule 2 in accordance with Category B locations under the Commonwealth Taxation Zone B prescription, initially the rates are as follows:

3.5.8(a)(i) an employee with whom dependent relatives reside - \$1428.91 per annum; or

3.5.8(a)(ii) an employee with no dependents residing - \$716.18 per annum.

3.5.9(b) part-time employees

The district allowance payable under sub clause 3.5.8(a) is payable to part-time employees on the following basis –

3.5.8(b)(i) an employee whose ordinary weekly hours are fewer than 10 – 25% of the allowance specified for a full time employee;

3.5.9(b)(ii) an employee whose ordinary weekly hours are 10 or more but less than 20 – 50% of the allowance specified for a full time employee;

3.5.9(b)(iii) an employee whose ordinary weekly hours are 20 or more but less than 30 – 75% of the allowance specified for a full time employee; and

3.5.9(b)(iv) an employee whose ordinary weekly hours are 30 or more – the full allowance specified for a full time employee.

3.5.10 Allowances as specified below will increase by the same percentage(s) and at the same time(s) as the percentage(s) that will apply to the increases to salary rates during the life of this Agreement.

3.5.10(a) Meal allowance when required to work away from usual workplace as prescribed in sub-clause 3.5.5.

3.5.10(b) Charges for meal provided by employer as prescribed in sub-clause 4.4.4.

3.5.10(c) Meal to be provided/allowance paid when required to work overtime as prescribed in sub-clause 4.4.3.

3.5.10(d) Remote call as prescribed in sub-clause 4.5.3(b).

3.6 PAYMENT OF WAGES

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

3.6.1 Time and Interval of Payment

3.6.1(a) Wages shall be paid fortnightly and not later than Thursday of the week of payment.

3.6.1(b) When a pay day falls on a public holiday wages shall be transferred by the employer on the last working day before the public holiday.

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

3.6.2 Method of Payment of Wages

3.6.2(a) Employees shall have their wages paid by direct deposit, electronic funds transfer or some other method determined by the employer, into an account with a bank or other financial institution as nominated by the employee. Wages shall be deposited by the employer in sufficient time to ensure that wages are available for withdrawal by employees by the close of business on pay day. Where the wages are not available to employees by such time due to circumstances beyond the employer's control, the employer shall not be held accountable for such delay.

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

3.6.3 Statement of Wages

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

3.6.4 Deduction of Moneys

- 3.6.4(a) Where authorised by an employee in writing, the employer is to make deductions from the employee's wages in respect of medical benefits, union subscriptions, and deductions in respect of superannuation and salary packaging.
- 3.6.4(b) Where on termination of employment an employee owes money to the employer, including the cost of unreturned uniforms and other property of the employer, subject to the authorisation of the employee, the employer is entitled to deduct such owed money from the employee's final pay.

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

3.6.5 Overpayment of Wages

- 3.6.5(a) In the event of an overpayment to an employee where the overpayment has been made in one lump sum, the following shall apply:
- 3.6.5(a)(i) the employer will negotiate a repayment arrangement with the employee;
 - 3.6.5(a)(ii) if agreement is reached, such agreement will be documented and implemented; and
 - 3.6.5(a)(iii) subject to the authorisation by the employee, the overpayment will be repaid over a maximum of six (6) pay periods and the employer is authorised to deduct the overpayment from the employee's pay.
- 3.6.5(b) In the event of an overpayment to an employee where the overpayment has been made over an extended period of time, the following shall apply:-
- 3.6.5(b)(i) the employer will negotiate a repayment arrangement with the employee; and
 - 3.6.5(b)(ii) if agreement is reached, such agreement will be documented and implemented.
- 3.6.5(c) The employer will give due consideration to the ability of the employee to repay the overpayment. Upon termination, and subject to the authorisation of the employee, the balance remaining of any overpayment will be deducted from any accrued entitlements or other payments due to be paid to the employee.

3.6.5(d) In exceptional circumstances, by agreement between the employer and the employee, this clause may be waived or varied.

3.6.6 Late Payment of Wages

- 3.6.6(a) Except in circumstances beyond the control of the employer, and subject to 3.6.6(b) below, an employee whose pay is not paid on pay day shall be paid at overtime rates for all time worked up to a maximum of 7.6 hours in any 24 hour period until such time as they receive their pay directly or it is deposited into their nominated bank account or financial institution.
- 3.6.6(b) Allowances prescribed by this Agreement shall not be taken into account in the calculation of waiting time rates as prescribed by this sub-clause.

3.6.7 Agreed Alternative Arrangements - No Waiting Time Payment to Apply

- 3.6.7(a) The provisions for payment of waiting time of 3.6.6 above shall have no effect in circumstances whereby payment cannot be effected on pay day but the employer and employee agree to an alternative arrangement for payment to be made.

PROVIDED that if the employer fails to make payment of the employee's wages in accordance with an alternative arrangement provided for under this sub clause, the employee shall be deemed to have been kept waiting for payment since the usual pay day and shall be entitled to payment of waiting time in accordance with the provisions of 3.6.6 above until such time as the employee's wages are paid.

3.6.8 Payment of Wages on Termination

- 3.6.8(a) Where employment is terminated, all monies owing shall be deposited in the employee's nominated bank account or financial institution on the normal pay day for that employee following their termination date or on such other day as may be agreed between the employee and the employer.

PROVIDED that upon request by the employee or where employment is terminated by the employer, payment shall be made, where practicable on the day of termination. If payment at the time of termination is not practicable the employer shall, on the next working day of the pay office (being Monday to Friday) arrange for all of the employee's outstanding pay and entitlements to be paid into the employee's nominated bank or other financial institution account.

- 3.6.8(b) Except in circumstances beyond the employer's control, if an employee's outstanding pay and entitlements upon termination are not paid within the time specified in 3.6.8(a) above, any time spent waiting to be paid after the date of termination shall be paid for at the base rate of pay up to a maximum of 7.6 hours a day for each day that the employee is kept waiting for payment and shall continue until the time that payment is made.

PART 4 – HOURS OF WORK, SHIFT WORK, MEAL BREAKS AND OVERTIME

4.1 HOURS OF WORK – DAY WORKER

4.1.1 The ordinary hours of work for a full-time day worker (as defined) shall be:

- 38 hours per week; and
- Worked between the hours of 7.00am and 7.00pm Monday to Friday in continuous periods of 8 hours per day, except for meal breaks.

PROVIDED THAT:

- hours worked outside 7:00am and 7:00pm shall be paid as overtime but deemed ordinary hours of work for the calculation of the 38 hour week;
- by agreement with the employer a fulltime day worker may negotiate to work 152 hours averaged over the month with an accrued day off (ie a 19 day month).

4.2 HOURS OF WORK – SHIFT WORKERS

4.2.1 Other than as provided for in (4.2.2) and (4.2.3) below, the ordinary hours of shift workers are not to exceed –

4.2.1(a) 8 in any one day;

4.2.1(b) 48 in any one week;

4.2.1(c) 88 in 14 consecutive days; and

4.2.1(d) 152 in 28 day accounting period.

4.2.2 Where an employee works in excess of those stipulated in 4.2.1 above those excess hours are to be paid in accordance with Clause 4.6 Overtime.

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

4.2.3 Notwithstanding 4.2.1 and 4.2.2 above, by agreement between the employer and a majority of the employees in a particular unit or work area, the ordinary hours of work for night shift employees may be extended to ten per day, to be paid at the appropriate shift rate.

4.2.4 Notwithstanding 4.2.1 above, by agreement in writing between an employer and an employee the employee's ordinary hours of work may be extended to a maximum of twelve per day.

PROVIDED that such an agreement may be discontinued by either the employer or the employee giving seven days written notice.

The employer shall not use this sub-clause to reduce the full-time equivalent (FTE) staff employed in the nursing home.

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

4.2.5 Subject to this Clause shift workers shall work at such times as required by the employer.

4.2.6 Unless agreed otherwise an employee shall not be required to start a shift unless there has been a break of at least nine hours since the employee's previous shift finished.

4.2.7 Provided that agreement may be reached between the parties to allow for special circumstances.

4.2.8 Make Up Time – Day and Shift Workers

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

4.3 DAYLIGHT SAVING

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

4.3.1 employee's shall be paid for actual time worked irrespective of the length of the shift; and

4.3.2 employees paid in accordance with 4.3.1 are not entitled to payment for the one hour lost.

4.4 MEAL BREAKS

Subject to 4.4.2 an employee who works in excess of five hours will be entitled to an unpaid meal break of not less than 30 minutes and not more than 60 minutes. The Employee may take a meal break between the beginning of the fourth hour and the end of the sixth hour on any day and the meal break will be of 30 minutes duration. Provided that, by agreement of an individual employee, an employee who works shifts of six hours or less may forfeit the meal break.

PROVIDED that by agreement between the employer and employee an unpaid meal break shall be allowed on each day or shift, of a duration of not less than 30 minutes and not more than 60 minutes.

4.4.1 Meal Break – Day Workers

4.4.1(a) Meal breaks for day workers shall be unpaid, except in the following circumstances:

4.4.1(a)(i) where an employee is directed to work during their usual meal break;

4.4.1(a)(ii) where an employee is interrupted during meal break by a call to duty; or

4.4.1(a)(iii) where an employee is unable to leave the facility and may be called upon to return to work during a meal break, the meal break will be paid at the ordinary rate of pay for 30 minutes; and

PROVIDED that for all work performed during his/her recognised meal break and thereafter until a meal break is allowed, be paid at the rate of time and a half of his/her base rate of pay.

4.4.1(b) Meal breaks are to be taken between 12.00pm midday and 2.00pm.

PROVIDED that agreement may be reached between the employer and employee(s) for different arrangements to allow for special circumstances.

4.4.2 Meal Break – Shift Workers

4.4.2(a) All meal breaks for shift workers shall be counted as time worked and paid at the base rate of pay.

4.4.2(b) Shift workers receiving a paid meal break are required to remain at the workplace and may be called upon to return to work during a meal break.

PROVIDED that overtime rates do not apply to work performed during meal breaks.

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

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

4.4.2(d) Meal breaks are to be taken between the beginning of the fourth hour and the end of the sixth hour of the shift.

PROVIDED that agreement may be reached between the employer and employee(s) for different arrangements to allow for special circumstances.

- 4.4.2(e) Notwithstanding 4.4.2(a) above, a shift worker who, at the determination of the employer, is not required to remain at the workplace so to be available to be called upon to return to work, shall take an unpaid meal break in accordance with subclause 4.4.1(a).

PROVIDED that for all work performed during his/her recognised meal break and thereafter until a meal break is allowed, be paid at the rate of time and a half of his/her base rate of pay.

4.4.3 Meal Break When Required to Work Overtime

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

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

PROVIDED further that an employee required to work for more than two hours without being notified the previous day or earlier of the requirement to work overtime shall be supplied with a meal by the employer.

4.4.4 Charges for Meal Provided by Employer

- 4.4.4(a) The maximum amount that shall be charged or deducted where employees receive a meal from their employer shall be as outlined within Schedule 2.

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.

4.5 CALL ARRANGEMENTS

4.5.1 Call Back

- 4.5.1(a) An employee recalled to work overtime after finishing the normal day's work, whether notified before or after leaving the workplace, is to be paid overtime, at the base rate of pay, as follows:

4.5.1(a)(i) for the first recall a minimum payment of four hours at overtime rates; and

4.5.1(a)(ii) for any subsequent recall a minimum payment of three hours at overtime rates.

- 4.5.1(b) An employee in a Community Care environment who is recalled to work is to be paid double time for a minimum of one hour per occasion for the first and any subsequent recall.
- 4.5.1(c) Time reasonably spent in getting to and from work is to be regarded as time worked.
- 4.5.1(d) Employees recalled to work within two hours of their normal starting time shall be paid at overtime rates with a minimum payment of two hours at double time.

4.5.2 Close Call

- 4.5.2(a) For the purposes of this Clause **close call** means an employee being required to be on call for duty and not allowed to leave the workplace.
- 4.5.2(b) An employee may be required by the employer to remain on close call.
- 4.5.2(c) An employee required to remain on close call shall –
 - 4.5.2(c)(i) if not required to commence work be paid a minimum payment equivalent to six hours at the employee's base rate of pay; or
 - 4.5.2(c)(ii) if required to commence work be paid at the relevant overtime rate, provided that such payment shall not be less than the minimum payment specified in (4.5.1(a)) above.

4.5.3 Remote Call (On-Call)

- 4.5.3(a) For the purpose of this Clause **remote call** means an employee rostered to be available for call but allowed to leave the workplace.
- 4.5.3(b) An employee rostered to remain on remote call is to be paid an hourly allowance as stated within Schedule 2 for each hour that the employee is required to remain on call, with a minimum payment per day or shift when so rostered as stated within Schedule 2. Allowances as stated within schedule 2.
- 4.5.3(c) If an employee rostered to be on remote call is recalled to attend the workplace payment is to be as specified in 4.5.1(a) above or in the case of a community care worker 4.5.1(b), in addition to the allowance specified in Schedule 2.
- 4.5.3(d) The whole of the on call period is calculated according to the day on which the major portion of the on call period falls for the purpose of pay.

- 4.5.3 (e) An employee who is required to be on call and who is required to perform work by the employer via telephone or other electronic communication away from the workplace, for less than 30 minutes, will be paid at the appropriate overtime rate for 30 minutes.
- 4.5.3 (f) An employee who responds to multiple electronic requests made and concluded within thirty minutes shall be compensated within the same thirty minutes overtime payment. Time worked beyond each thirty minutes will be rounded to the nearest 15 minutes and will be paid at the appropriate overtime rate.

4.6 OVERTIME

4.6.1 Overtime is not to be worked without the prior approval of the employer.

4.6.2 Each day's overtime is to stand alone.

4.6.3 Overtime shall not apply to those cases where arrangements have been made between the employees themselves, or in cases due to rotation of shifts.

4.6.4 Allowances prescribed by this Agreement other than higher duties allowance or post graduate qualification allowance shall not be taken into consideration in the computation of overtime payments.

4.6.5 The loading payable to casual employees shall be taken into consideration in the computation of overtime payments.).

4.6.6 Requirement to Work Reasonable Overtime

4.6.6(a) Subject to (4.6.6(b)) below an employer may require an employee to work reasonable overtime at the overtime rates specified in this Agreement.

4.6.6(b) An employee may decline to work overtime if it would result in the employee working hours which are unreasonable having regard to:

4.6.6(b)(i) any risk to the employee's health and safety;

4.6.6(b)(ii) the employee's personal circumstances including family responsibilities;

4.6.6(b)(iii) the needs of the employer;

4.6.6(b)(iv) the notice (if any) given by the employer of the requirement to work overtime and by the employee of his or her intention to refuse it; and

4.6.6(b)(v) any other relevant matter.

4.6.7 Payment for Working Overtime – Day Workers

4.6.7(a) For all time worked in excess of ordinary hours of work in accordance with Clause 4.1 – Hours of Work – Day Worker, payment, except for shift workers, is to be made as follows –

4.6.7(a)(i) Monday to Saturday inclusive – time and a half for the first two hours and double time thereafter;

4.6.7(a)(ii) Sunday – double time; and

4.6.7(a)(iii) public holidays – double time and one half.

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

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

4.6.8 Payment for Working Overtime - Shift Workers

4.6.8(a) The provisions of this sub-clause 4.6.8 apply to shift workers only.

4.6.8(b) For all time worked in excess of ordinary hours of work in accordance with Clause 4.2 – Hours of Work – Shift Workers, payment is to be made at double time.

4.6.8(c) Subject to clause 4.6.8(b), if an employee by choice or agreement with the employer works outside rostered shifts such work shall not attract overtime rates.

4.6.8(d) Where an employee is directed to work shifts other than in accordance with this clause the employee shall be entitled to payment of double time.

4.6.8(e) Any time worked in excess of eight hours per day shall be paid at double time.

4.6.8(f) Where arrangements have been made to extend ordinary hours in accordance with Clause 4.2 – Hours of Work – Shift Workers, subclauses 4.2.3 and 4.2.4, overtime shall be payable for work in excess of 10 or 12 hours per day, as the case may be.

4.6.8(g) In circumstances where the employer is given less than 4 hours notice that an employee rostered to relieve an afternoon or night

shift worker will not attend to do so at the designated time, the unrelieved worker is to be paid at the rate of time and one half for the additional time worked until four hours has elapsed from the time notice was given to the employer.

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

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

4.6.10 Casual employees - Calculation of overtime

4.6.10(a) For casual employees, overtime is to be calculated on the casual loaded rate.

4.6.11 Fulltime and Part Time employees - Time off in lieu of payment for overtime

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

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

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

4.6.12 Rest period after overtime

4.6.12(a) Where employees are required to work overtime it shall, wherever reasonably practicable, be so arranged that employees have at least eight consecutive hours off duty between the work of successive days.

4.6.12(b) Employees, other than casual employees, who work so much overtime between the termination of their ordinary hours on one day and the commencement of their ordinary hours on the next that they have not had at least 8 consecutive hours off duty between those finishing and starting times, shall not be required after the completion of the overtime to resume the next day's ordinary hours until they have had eight consecutive hours off duty, without loss of pay for any ordinary hours working time occurring during such time off duty.

4.6.12(c) If at the direction of the employer an employee resumes or continues work without having had eight consecutive hours off

duty as specified in sub-clause 4.6.12(b) above, the employee shall be paid at double time until released from duty and shall then be entitled to eight consecutive hours off duty without loss of pay for any ordinary hours working time occurring during such time off duty.

4.7 PENALTIES - SHIFT WORKERS

4.7.1 Shift Definitions

- 4.7.1(a) "Day Shift" means a shift worked between the hours of 6.00am and 6.00pm, Monday to Friday.
- 4.7.1(b) "Afternoon Shift" means a shift which finishes between the hours of 6.00pm and 12.00am.
- 4.7.1(c) "Night Shift" means a shift which is not a day or afternoon shift.
- 4.7.1(d) "Saturday Shift" means a shift the major portion of which is worked on a Saturday.
- 4.7.1(e) "Sunday Shift" means a shift the major portion of which is worked on a Sunday.
- 4.7.1(f) "Public Holiday Shift" means a shift the major portion of which is worked on a Public Holiday.

4.7.2 Afternoon and Night Shifts

- 4.7.2(a) Afternoon Shift – will be paid a loading of 15% of their ordinary rate of pay (or the casual loaded rate for casual employees).
- 4.7.2(b) Night Shift – will be paid a loading of 17.5% of their ordinary rate of pay (or the casual loaded rate for casual employees).

4.7.3 Saturday Shifts

- 4.7.3(a) Saturday Shift – Base rate (or the casual loaded rate for casual employees) plus 50%.

4.7.4 Sunday and Holiday Shifts

- 4.7.4(a) Sunday Shift – Base rate (or the casual loaded rate for casual employees) plus 100%.
- 4.7.4(b) Public holidays – Base rate (or the casual loaded rate for casual employees) plus 150%.

4.7.5 A shift worker who –

- 4.7.5(a) during a period of engagement on shift, works night shift only;
- 4.7.5(b) works on night shift for a period in excess of four consecutive weeks; or

4.7.6(c) works on a night shift which does not rotate or alternate with another shift or with day work so as to give the employee at least one third of working time off night shift in each shift cycle;

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

Provided that where a shift worker by mutual arrangement with an employer works permanently on a night shift, and where but for such arrangement a rotating or alternating roster would need to be worked, such employee shall be paid shift penalties on the base rate of pay in accordance with sub-clause 4.7.2(b).

4.8 ROSTERS

There is to be a shift roster which must –

4.8.1 Rotation

make provision for rotation unless all of the employees concerned desire otherwise;

4.8.2 Number of Shifts

not roster any employee to work for more than 8 shifts in any 9 consecutive days except where alternative arrangements are made by agreement between the employer and the employee(s) concerned; and

4.8.3 Roster Period

stipulate a 28 day roster period. Where an employee works a 19 day month the 28 day roster period will include the accrued day off in addition to eight (8) rostered days off.

4.8.4 Minimum Number of Days Off

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

4.8.5 Change to Roster

The structure of a whole roster will not be changed without a minimum of 4 weeks notice, provided that an individual employee's place on such roster shall not be changed except on one weeks notice of such change, or payment of the relevant overtime rate.

PROVIDED that by agreement between the employer and the employee(s) concerned changes to rosters may occur without the 4 weeks notice specified above.

4.8.6 Handover

4.8.6(a) A maximum of 15 minutes per shift will be paid to the designated Nurse providing handover – to clarify, this would be a maximum of 45 minutes paid in any twenty-four hour period.

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

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

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

4.8.6(c) Handover time shall only be payable on shifts actually worked.

4.8.7 Broken or Split Shifts

(a) A broken shift:

- (i) is a rostered shift of no more than a total of 8 working hours;
- (ii) does not include a double shift; and
- (iii) allows for a break between each portion of the shift of no less than 1 hour and no more than 4 hours.

(b) Broken shifts may be worked by mutual agreement between the employer and the employee(s) concerned and work performed will be at the relevant Full Rate of Pay for each separate portion of the shift.

(c) PROVIDED that in emergency situations a broken shift may be worked by mutual agreement between the employer and employee and work performed in excess of a spread of nine hours shall be paid at the rate of double time.

PART 5 - LEAVE AND PUBLIC HOLIDAYS

5.1 ANNUAL LEAVE

5.1.1 Entitlement

5.1.1(a) Fulltime and Part Time

Fulltime employees in this part shall be entitled to 4 weeks paid annual leave. This shall mean a maximum of 152 hours for a fulltime employee.

Part time employee will accrue annual leave on a pro rata basis based on all ordinary hours of work.

Annual leave is cumulative fortnightly and will accrue on a pro rata basis. Accrual is at the rate of .076923 for each ordinary hour worked.

A period of annual leave does not break an employee's continuity of service.

5.1.1(b) Casual

5.1.1(c)(i) Casual employees have no entitlement to paid annual leave.

5.1.2 Additional Leave - Shift Workers

Shift workers who work at least 20 weekend shifts (ie Saturdays and/or Sundays) in any one leave year shall be allowed, in addition to the 152 hours prescribed in sub clause (5.1.1(a)) above, an extra 38 hours annual leave.

PROVIDED that if an employee with twelve months' continuous service is engaged for part of that period as a shift worker, the employee's entitlement to annual leave, in addition to the 152 hours prescribed in subclause 5.1.1(a) above, is to be increased by 3.8 hours for each month the employee has been continuously engaged as a shift worker.

5.1.4 Annual Leave May Be Taken in More Than One Period

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

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

5.1.6 Extensive Accumulated Annual Leave

The employer is able to direct an employee to take up to a quarter of their annual leave entitlement if the employee has an accrued annual leave balance greater than 8 weeks for day workers and 10 weeks in the case of shift workers.

The Employer does 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. This may vary if a shorter period of notice is agreed between the employer and the employee.

- a) Genuine attempts at reaching agreement must occur before the employer shall provide notice to take annual leave under this clause.
- b) The employer will not direct an employee to take leave under this clause in periods of less than 1 week,
- c) Leave directed under this clause must not be inconsistent with any existing leave plans or approvals.

5.1.7 Payment for Period of Leave

5.1.7(a) Upon application to take leave, an employee may request to receive annual leave payments 'in advance' or 'fortnightly'.
PROVIDED that payment for annual leave 'in advance' is to be made not later than 12 noon on the last day of work prior to the employee going on leave. Payments for annual leave fortnightly is to be made on the normal pay day as would be the case had the employee worked.

5.1.7(b) Leave loading on base rate of pay for annual leave taken. Day Workers shall be paid 17.5% leave loading on the annual leave taken. Shift workers shall be paid an annual leave loading which provides them with the greatest financial benefit either:

- (i) 17.5%; or
- (ii) shift penalties in accordance with the roster the employee would have worked if not on annual leave.

PROVIDED that leave loading is not payable for days added to Annual Leave in lieu of public holidays as provided under Clause 5.1.12(b).

5.1.7(c) The foregoing provisions are subject to the conditions of clause 5.1.9 Cashing Out Annual Leave.

5.1.8 Payment of Annual Leave on Termination of Employment

Upon termination of employment, an employee shall be paid any outstanding annual leave accrual including leave loading under clause 5.1.7(b).

5.1.9 Cashing Out Annual Leave

Annual leave credited to an employee may be cashed out, subject to the following conditions:-

- 5.1.9(a) paid annual leave must not be cashed out if the cashing out would result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks;
- 5.1.9(b) each cashing out of a particular amount of paid annual leave must be by a separate agreement in writing between the employer and employee;
- 5.1.9(c) the employer has agreed to the employee cashing out the annual leave;

- 5.1.9(d) leave shall not be cashed out in advance of it being accrued;
- 5.1.9(e) 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 forgone; and
- 5.1.9(f) for day workers, payment for cashed out annual leave will be at the base rate of pay. The 17.5% leave loading provided for at clause 5.1.7(b) will be paid at the time of cashing leave.

5.1.10 Annual Leave Allowed in Advance

The employer may allow an employee to take annual leave either wholly or partly in advance before the leave has accrued. Where paid leave has been granted to an employee in excess of the employee's accrued entitlement, and the employee subsequently leaves or is discharged from the service of the employer before completing the required amount of service to account for the leave provided in advance, the employer is entitled to deduct the amount of leave in advance still owing from any remuneration payable to the employee upon termination of employment, subject to the authorisation of the employee.

5.1.11 Annual Leave Exclusive of Certified Personal/Carer's Leave

An employee who is certified as unfit for duty because of personal illness by a medical practitioner approved by the employer during a period of paid annual leave, shall be given credit for the time so certified and the paid annual leave is to be extended by the number of days that the employee has been certified as unfit for duty.

5.1.12 Annual Leave Exclusive of Public Holidays

- 5.1.12(a) Subject to this clause the annual leave prescribed by this clause is exclusive of any public holidays prescribed by clause 5.5 – Public Holidays. If a public holiday falls within an employee's period of annual leave and is observed on a day which in the case of that employee would have been an ordinary working day there shall be added to that period of annual leave time equivalent to the ordinary time which the employee would have worked if such day had not been a holiday.
- 5.1.12(b) In the case of a fulltime or part-time (on a rotating roster only) shift worker the employee will have added to the period of annual leave one day for each statutory holiday mentioned in clause 5.5 – Public Holidays, whether or not such holiday is observed on a day which, for that employee would have been a rostered day off.
- 5.1.12(c) In the case of a part-time shift worker whose place on a roster does not rotate (non-rotating roster) will only have the period of annual leave extended by the addition of one day for each statutory holiday mentioned in clause 5.5 – Public Holidays, upon which he/she is rostered to work.

5.2 PERSONAL (SICK LEAVE) / CARER'S LEAVE)

The provisions of this clause apply to fulltime and part-time employees (on a pro rata basis) but do not apply to casual employees. The entitlements of casual employees are set out in sub-clause 5.2.8.

5.2.1 Entitlement

5.2.1(a) In addition to any entitlement under clause 5.9, an employee will be entitled to paid personal leave in the event of:

- personal illness or injury (sick leave);
- to provide care or support for a member of his or her immediate family or household in the event of their illness or injury; or
- in case of an unexpected emergency (carers leave).

5.2.1(b) Full-time employees will accrue 152 hours per annum of paid personal leave. This leave is accrued at the rate of .076923 per hour worked for all ordinary hours to a maximum of 152 hours per annum for full time employees. Personal leave only accrues on ordinary time.

5.2.1(b)(i) This leave will be accumulate from year to year without limitation.

5.2.1(b)(ii) A pro-rata entitlement applies to eligible part-time employees).

5.2.1(c) Any personal leave taken by the employee is deducted from the employees personal leave credit.

5.2.1(d) Accrued personal leave is not payable upon termination of employment.

5.2.2 Personal Leave for Injury or Illness

5.2.2(a) An employee is entitled to use the full amount of their personal leave entitlement including accrued leave for the purposes of sick leave, at the employee's base rate of pay exclusive of shift or weekend loadings or overtime subject to the conditions set out in this clause.

5.2.2(b) An employee shall be entitled to a maximum of 5 (five) certificate free sick days in a period of 12 calendar months, provided that:

- i. no more than 2 (two) consecutive days will be awarded as certificate free;
- ii. this entitlement is not cumulative and each year stands alone;
- iii. if leave is taken beyond the 5 certificate free days the employer may request evidence as provided for in 5.2.5; and

- iv. if an employee is suffering from gastroenteritis and is instructed by the manager to not attend work for a specified period, the employee is not required to obtain a medical certificate for that period and such leave shall not count towards the certificate free days mentioned in this clause.

- 5.2.2(c) The employer is not required to pay personal leave entitlements for any period during which the employee is absent from work because of a personal illness or injury for which the employee receives workers compensation payments.

5.2.3 Personal Leave to Care for an Immediate Family or Household Member (Carer's Leave)

- 5.2.3(a) Subject to 5.2.3(b) all employees are entitled to use the full amount of their personal leave, including accrued leave each year, for the purposes of carer's leave.

- 5.2.3(b) Leave may be taken for part of a single day.

5.2.4 Employee Must Give Notice

- 5.2.4(a) The employee must, as soon as reasonably practicable, inform the employer of the taking of leave and the estimated duration of the absence.

5.2.5 Evidence Supporting Claim

- 5.2.5(a) When taking sick leave, the employee must, if required by the employer, establish by production of a medical certificate issued by a medical practitioner or health professional, that the employee was unable to work because of personal injury or illness.

- 5.2.5(b) Except for 5.2.2(b)(iii), when taking carers leave, the certificate or agreed evidence must clarify that the employee is providing care or support for a member of their immediate family or household who is injured or ill or who requires care or support due to an unexpected emergency.

5.2.6 Unpaid Leave

- 5.2.6(a) In the event that an employee has exhausted their paid personal leave entitlements, and they comply with the relevant statutory requirements, they are entitled to take unpaid carer's leave. The employer and employee shall agree on the period. In the absence of agreement, the employee is entitled to take up to 2 days of unpaid leave per occasion.

- 5.2.6(b) A period of unpaid carer's leave does not break an employee's continuity of service, however it does not count as service.

5.2.7 Casual Employees - Caring Responsibilities

- 5.2.7(a) Casual employees are entitled to not be available to attend work, or to leave work if they need to provide care or support for members of their immediate family or household who are sick and require the employees care or support, or who require care or support due to an unexpected emergency.
- 5.2.7(b) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause.
- 5.2.7 (c) The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

5.2.8 Conditions

- 5.2.8(a) The employer is not required to pay personal leave entitlements for any period during which the employee is absent from work because of a personal illness or injury for which the employee receives workers compensation payments.

5.3 COMPASSIONATE LEAVE

5.3.1 Paid Compassionate Leave Entitlement

An employee, other than a casual employee, shall be entitled to take up to 3 days paid compassionate leave per occasion (a permissible occasion) when a member of the employee's immediate family or household:

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

The Employee will be entitled to an additional 2 days paid Compassionate Leave in the event of the death of a parent, spouse or child.

5.3.2 Taking Compassionate Leave

- 5.3.2(a) An employee may take leave for a particular permissible occasion if the leave is taken:
 - 5.3.2(a)(i) for the purpose of spending 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 5.3.1; or
 - 5.3.2(a)(ii) after the death of the member of the employee's immediate family or household referred to in section 5.3.1.

5.3.2(b) An employee may take compassionate leave as follows:

5.3.2(b)(i) a single continuous period of 3 days (or 5 days if the Employee has an entitlement to the additional 2 days under clause 5.3.1); or

5.3.2(b)(ii) any separate periods to which the employer and employee agree.

5.3.2(c) An employee is entitled to take compassionate leave at any time while the illness or injury persists.

5.3.3 Payment for Compassionate Leave (other than casual employees)

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

5.3.4 Notice and Evidence Requirement

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

5.3.4(b) The notice:

5.3.4(b)(i) must be given to the employer as soon as is reasonably practicable (which may be a time after the leave has started); and

5.3.4(b)(ii) must advise the employer of the period, or expected period, of the leave.

5.3.4(c) An employee who has given notice of the taking of leave must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for a permissible occasion in circumstances specified in 5.3.1.

5.3.5 Unpaid Compassionate Leave

An employee may take unpaid compassionate leave by agreement with the employer.

5.3.6 Casual Employees

5.3.6(a) Subject to the evidentiary requirement in sub-clause 5.3.4, casual employees are entitled to unpaid leave for the same periods as those specified in sub-clause 5.3.1.

5.3.6(b) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of the employer to engage or not to engage a casual employee are otherwise not affected.

5.3.7 Extended Definition of Parent for Compassionate Leave

For the purposes of this clause 5.3, 'parent' includes a foster parent, step-parent or legal guardian.

5.4 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.

The provisions of this clause apply to full-time, part-time and eligible casual employees, but do not apply to other casual employees.

5.4.2 Basic Entitlement to Parental Leave

5.4.2(a) An employee is entitled to Parental Leave in accordance with the NES.

5.4.3 Paid Parental Leave

5.4.3(a) In order to be eligible to apply for paid parental leave an employee must:

- (i) have been employed for 12 months continuous service prior to the expected date of confinement; and
- (ii) not be a casual employee.

5.4.3(b) An eligible female employee may apply for 14 weeks paid maternity leave.

5.4.3(c) An eligible male employee or non-birth partner employee may apply for 1 week paid paternity leave at the time of birth.

5.4.3(d) Paid parental leave is granted to an employee on the following conditions:-

- leave must be taken in a single unbroken period;
- unless additional leave is sought and granted, a combination of paid and unpaid leave must not exceed 52 weeks;
- it is to be paid at an employee's base rate of pay (ie. no shift or public holiday penalties or allowances);
- it is not to be extended by public holidays or any other leave falling within the period of leave.
- paid parental leave may be paid:
 - on a normal fortnightly basis; or
 - at the rate of half pay over a period of 28 weeks on a regular fortnightly basis;

- annual and/or long service leave credits can be combined with periods of maternity leave on full or half pay to enable an employee to remain on paid leave for that period.

5.4.3(e) Part-time employees are entitled to the same provisions as full-time employees. Payment will be at the base rate of pay based on the employees projected roster at the time of taking leave.

5.4.3(f) During periods of paid or unpaid maternity leave, personal (sick) leave with pay is not to be granted for a normal period of absence for confinement. However, any illness arising from the incidence of the pregnancy may be covered by personal leave to the extent available, subject to the usual provisions relating to production of a medical certificate and the medical certificate indicates that the illness had arisen from the pregnancy.

5.5 PUBLIC HOLIDAYS

5.5.1 For the purposes of this agreement 'public holidays' means the following holidays:

5.5.1(a) Southern Tasmania

New Year's Day, Australia Day, Hobart Regatta Day, Labour Day, Good Friday, Easter Monday, Anzac Day (weekday only), Queen's Birthday, Hobart Show Day, Christmas Day and Boxing Day.

5.5.1(b) Northern Tasmania

New Year's Day, Australia Day, Labour Day, Recreation Day, Good Friday, Easter Monday, Anzac Day (weekday only), Queen's Birthday, Launceston Show Day, Christmas Day and Boxing Day.

5.5.1(c) North-West Tasmania

New Year's Day, Australia Day, Labour Day, Recreation Day, Good Friday, Easter Monday, Anzac Day (weekday only), Queen's Birthday, either Devonport or Burnie Show Day, Christmas Day and Boxing Day.

5.5.1(d) Substitute Days

The Public holidays under sub-clause 5.5.1(a), (b) and (c) include the substitute days specified by the *Statutory Holidays Act 2000 (Tas)* but not both days.

5.5.1(e) Other days

Any other day, or part day, declared or prescribed by the Statutory Holidays Act 2000 (Tas) to be observed generally within Tasmania, or a region of Tasmania, as a public holiday, other than a day or part-day, or a kind of day or part-day, that is excluded by the Fair Work Regulations from counting as a public holiday.

5.5.2 Payment and entitlements

- 5.5.2(a) Employees (other than casual employees) must be allowed the public holidays prescribed in 5.5.1 without loss of pay.
- 5.5.2(b) Employees (other than casual employees) who would normally work on the day of the public holiday and are not required to work on such day will be paid at ordinary rates of pay as if they had worked their normal number of hours on that day.
- 5.5.2(c) Employees (other than casual employees) must be paid an additional 100% of the base rate of pay as defined, for actual hours worked, on the public holidays as prescribed in 5.5.1.

5.5.3 Day Workers

Day workers who would not normally work on the day of the public holiday and are required to work on such day will be paid at double time and one half of the base rate of pay as defined, for actual hours worked, on the public holidays as prescribed in 5.5.1.

5.5.4 Shiftworkers

Shiftworkers are to be paid at double time and one half the base rate of pay as defined for work on a public holiday. Casuals are to be paid double time and one half the casual loaded rate

5.6 LONG SERVICE LEAVE

- 5.6.1 The provisions of the *Long Service Leave Act Tasmania 1976* (as amended) shall apply to employees covered by this Agreement.
- 5.6.2 Employees who achieve 10 years continuous service with the employer will be entitled to long service leave on a pro-rata basis of 8.66 weeks.

5.7 COMMUNITY SERVICES LEAVE

An employee will be entitled to Community Services Leave in accordance with the NES which provides for:

- paid leave of up to ten (10) days per summons for Jury Service (less any jury service pay received by the employee); and
- unpaid leave to carry out voluntary emergency management activities.

5.8 CEREMONIAL LEAVE

- 5.8.1 An employee who is an Aboriginal or Torres Strait Islander, or is a member of another culture or religion will be entitled to leave without pay of up to ten working days in any one calendar year:
- for the purpose of observation of religious occasions; or
 - where there is a cultural day of significance to the employee.
- 5.8.2 A statutory declaration or other satisfactory evidence must be submitted to the relevant Manager.

- 5.8.3 An employee taking leave for cultural or religious purposes as defined may opt to take annual leave instead of leave without pay.
- 5.8.4 Under normal circumstances the employee must provide at least 2 weeks' notice in writing (usually by furnishing an 'Application for Leave' form) of the employee's intention to take leave pursuant to this clause.
- 5.8.5 An employee may elect to use annual leave in lieu of any unpaid leave granted in accordance with this provision.

5.9 EXCEPTIONAL LEAVE

- 5.9.1 We understand that life can suddenly change and we are keen to support nurses through challenging events. Exceptional Leave provides support for events not currently covered by traditional leave. This leave will encompass issues such as miscarriage, still birth, violence/assault, pandemic, personal emergency or an illness which may not be covered within Personal/Carer Leave.

Exceptional leave can be taken in addition to other relevant leave entitlements.

This leave will be two (2) days per annum paid leave with evidence (available from 1 January 2021 over a 12 month period).

In regard to this leave, *further access may be up to 5 days using additional days from personal/carers leave on the basis that:*

- *The leave must be applied for via the CEO or their authorised delegate; and*
- *Evidence must be provided which may include a statutory declaration or the Employee and the CEO can agree to not require evidence or require evidence in another form.*

5.9.2 Family Violence Leave

5.10.1(a) An employee experiencing Domestic/Family violence will have access to personal/carers leave or unpaid leave in the case of casuals for medical appointments, legal proceedings and other activities relating to Domestic/Family Violence. This leave may be taken as consecutive or single days or as a partial day and can be taken without prior approval, subject to notifying the relevant contact person.

5.10.1(b) An employee who supports a person experiencing Domestic/Family Violence may take carer's leave to accompany them to court, hospital or to mind children.

5.10.1(c) Paid Exceptional Leave is available in addition to current applicable leave entitlements. The duration of additional paid leave will be determined on a case by case basis.

5.10.1(d) Employees may access five days unpaid leave.

5.10.1 (e) Proof of family violence will be required and can be in the form of an agreed document issued by the Police Service, a court, a doctor, a family violence support service or a lawyer.

5.10.1(f) OneCare has a Domestic/Family Violence Policy to supplement this clause which details the appropriate action to be taken in the event that an employee reports Domestic/Family Violence.

5.10 STUDY LEAVE

Study Leave is to encourage and support nurse's professional development. As such, three (3) days paid study leave will be available noting:

- *The Study Leave will be based on a formal qualification relevant to Aged Care; and*
- *Appropriate documentation must be provided to prove the leave was taken for study associated with a relevant formal qualification; and*
- *The Study Leave must have been approved in advance of the study.*

PART 6 – OTHER PROVISIONS

6.1 TRAVELLING

6.1.1 Subject to Clause 6.1.3, employees required to travel in the course of their duties are to be reimbursed for all valid travelling expenses incurred and all reasonable out-of-pocket expenses.

6.1.2 Subject to Clause 6.1.3, if employees are required to use their own motor vehicles in connection with the business of the employer, they are to be reimbursed on a per kilometre travelled basis in accordance with the ATO rates prevailing at that time.

6.1.3 If:

- (a) an employee asks to work a shift at a facility (Facility A) which is less than 26 kilometres away from their usual worksite; and
- (b) the employer offers to roster the employee to work a shift at Facility A on the condition that the employee will not be reimbursed for travel to and from Facility A; and
- (c) the employee agrees in writing to work a shift at Facility A on that basis;

the employee will not be entitled to receive a reimbursement under this clause for travel to Facility A.

6.2 UNIFORMS

6.2.1 Sufficient, suitable and serviceable uniforms are to be provided, free of cost, to all employees who are required by the employer to wear uniforms. Employees will have a choice of uniform items from a nominated supplier to a maximum annual value of \$225.

6.2.2 Employees must return provided uniforms to the employer upon cessation of employment. The cost of unreturned uniforms may be deducted from the employee's final pay as per 3.6.4 Deduction of Money.

6.2.5 The employee is able to use the laundries on site at each facility.

6.3 CONSULTATION TERM

6.3.1 This term applies if:

- (a) if the employer has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
- (b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

The Major change

6.3.2 For a major change referred to in paragraph (1)(a):

- (a) the employer must notify the relevant employees of the decision to introduce the major change; and
- (b) subclauses (6.3.3) to (6.3.9) apply.

6.3.3 The relevant employees may appoint a representative for the purposes of the procedures in this term.

6.3.4 If:

- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- (b) the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

6.3.5 As soon as practicable after making its decision, the employer must:

- (a) discuss with the relevant employees:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the employees; and

- (iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and

- (b) for the purposes of the discussion—provide, in writing, to the relevant employees:

- (i) all relevant information about the change including the nature of the change proposed; and
- (ii) information about the expected effects of the change on the employees; and
- (iii) any other matters likely to affect the employees.

6.3.6 However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

6.3.7 The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

6.3.8 If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph (2)(a) and subclauses (3) and (5) are taken not to apply.

6.3.9 In this term, a major change is likely to have a significant effect on employees if it results in:

- (a) the termination of the employment of employees; or
- (b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
- (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
- (d) the alteration of hours of work; or
- (e) the need to retrain employees; or
- (f) the need to relocate employees to another workplace; or
- (g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

6.3.10 For a change referred to in paragraph (1)(b):

- (a) the employer must notify the relevant employees of the proposed change; and
- (b) subclauses (11) to (15) apply.

6.3.11 The relevant employees may appoint a representative for the purposes of the procedures in this term.

6.3.12 If:

- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and

- (b) the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

6.3.13 As soon as practicable after proposing to introduce the change, the employer must:

- (a) discuss with the relevant employees the introduction of the change; and
- (b) for the purposes of the discussion—provide to the relevant employees:
 - (i) all relevant information about the change, including the nature of the change; and
 - (ii) information about what the employer reasonably believes will be the effects of the change on the employees; and
 - (iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and
- (c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

6.3.14 However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

6.3.15 The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.

6.3.16 In this term:

relevant employees means the employees who may be affected by a change referred to in subclause (1).

6.4 FLEXIBILITY ARRANGEMENTS

6.4.1 An employer and employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:

- (a) the agreement deals with 1 or more of the following matters:
 - (i) arrangements about when work is performed;
 - (ii) overtime rates;
 - (iii) penalty rates;
 - (iv) allowances;
 - (v) leave loading; and
- (b) the arrangement meets the genuine needs of the employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
- (c) the arrangement is initiated by the employee and genuinely agreed to by the employer and employee.

6.4.2 The employer must ensure that the terms of the individual flexibility arrangement:

- (a) are about permitted matters under section 172 of the Fair Work Act 2009; and
- (b) are not unlawful terms under section 194 of the Fair Work Act 2009; and

(c) result in the employee being better off overall than the employee would be if no arrangement was made.

6.4.3 The employer must ensure that the individual flexibility arrangement:

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

6.4.4 The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

6.4.5 The employer or employee may terminate the individual flexibility arrangement:

- (a) by giving no more than 28 days written notice to the other party to the arrangement; or
- (b) if the employer and employee agree in writing — at any time.

6.5 Employees may appoint a representative for the purposes of the procedures of this term. Where a relevant employee(s) appoints a representative and the employee(s) advise the employer of the identity of the representative, the employer must recognise the representative.

6.5 NOTICE BOARD

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

6.6 PROFESSIONAL DEVELOPMENT

All parties to this Agreement will actively encourage and facilitate professional development, particularly in relation to supporting Registered Nurses and Enrolled Nurses maintaining registration with NBT.

6.7 WORKLOAD MANAGEMENT

The parties to the agreement have a responsibility to maintain a balanced workload and recognise the adverse effects that excessive workloads may have on employees and the quality of client care.

Accordingly, the employer will establish a regular consultative mechanism at which workload issues will be specifically discussed including but not limited to rostering, work methods, skill mix and staffing levels.

6.8 WORKPLACE HEALTH AND SAFETY

The parties recognise their responsibilities under workplace health and safety legislation. Accordingly, the employer will ensure that sufficient consultative measures are in place to support positive change in the area of workplace health and safety, supported by a program of training for participants and managers, and staff more broadly.

6.9 INFLUENZA VACCINATIONS

The employer will provide influenza vaccinations at no cost to employees annually.

6.10 PANDEMIC AND INFLUENZA VACCINATIONS

The employer will provide influenza vaccinations at no cost to employees annually.

Schedule X—Additional Measures During the COVID-19 Pandemic

X.1 Subject to clauses X.2.1(d) and X.2.2(c), Schedule X operates from 8 April 2020 until further or other order of the Commission in matter number AM2020/13. The period of operation can be extended on application.

X.2 During the operation of Schedule X, the following provisions apply:

X.2.1 Unpaid pandemic leave

(a) Subject to clauses X.2.1(b),(c) and (d), any employee is entitled to take up to 2 weeks' unpaid leave if the employee is required by government or medical authorities or on the advice of a medical practitioner to self-isolate and is consequently prevented from working, or is otherwise prevented from working by measures taken by government or medical authorities in response to the COVID-19 pandemic.

(b) The employee must give their employer notice of the taking of leave under clause X.2.1(a) and of the reason the employee requires the leave, as soon as practicable (which may be a time after the leave has started).

(c) An employee who has given their employer notice of taking leave under clause X.2.1(a) must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for a reason given in clause X.2.1(a).

(d) A period of leave under clause X.2.1(a) must start before 29 March 2021 but may end after that date.

(e) Leave taken under clause X.2.1(a) does not affect any other paid or unpaid leave entitlement of the employee and counts as service for the purposes of entitlements under this Enterprise Agreement and the NES.

NOTE:

The employer and employee may agree that the employee may take more than 2 weeks' unpaid pandemic leave.

X.2.2 Annual leave at half pay

(a) Instead of an employee taking paid annual leave on full pay, the employee and their employer may agree to the employee taking twice as much leave on half pay.

(b) Any agreement to take twice as much annual leave at half pay must be recorded in writing and retained as an employee record.

(c) A period of leave under clause X.2.2(a) must start before 29 March 2021 but may end after that date.

EXAMPLE: Instead of an employee taking one week's annual leave on full pay, the employee and their employer may agree to the employee taking 2 weeks' annual leave on half pay.

In this example:

- the employee's pay for the 2 weeks' leave is the same as the pay the employee would have been entitled to for one week's leave on full pay (where one week's full pay includes leave loading under the Annual Leave clause of this Enterprise Agreement); and
- one week of leave is deducted from the employee's annual leave accrual.

NOTE 1:

A employee covered by this Enterprise Agreement who is entitled to the benefit of clause X.2.1 or X.2.2 has a workplace right under section 341(1)(a) of the Act.

NOTE 2:

Under section 340(1) of the Act, an employer must not take adverse action against an employee because the employee has a workplace right, has or has not exercised a workplace right, or proposes or does not propose to exercise a workplace right, or to prevent the employee exercising a workplace right. Under section 342(1) of the Act, an employer takes adverse action against an employee if the employer dismisses the employee, injures the employee in his or her employment, alters the position of the employee to the employee's prejudice, or discriminates between the employee and other employees of the employer.

NOTE 3:

Under section 343(1) of the Act, a person must not organise or take, or threaten to organise or take, action against another person with intent to coerce the person to exercise or not exercise, or propose to exercise or not exercise, a workplace right, or to exercise or propose to exercise a workplace right in a particular way.

Schedule Y—Industry Specific Measures During the COVID-19 Pandemic

Y.1 Schedule Y applies to employees engaged in the aged care industry.

Y.2 For the purposes of Schedule Y, the aged care industry means the provision of accommodation and care services for aged persons in a hostel, nursing home, aged care independent living units, aged care serviced apartments, garden settlement, retirement village or any other residential accommodation facility.

Y.3 Paid pandemic leave

Y.3.1 Subject to clauses Y.4 to Y.4.9, an employee engaged in the aged care industry is entitled to take up to 2 weeks' paid pandemic leave on each occasion the employee is prevented from working (including working from home):

- (a) because the employee is required by government or medical authorities to self isolate or quarantine;
- (b) because the employee is required by their employer to self isolate or quarantine;
- (c) because the employee is required on the advice of a medical practitioner to self isolate or quarantine because they are displaying symptoms of COVID-19 or have come into contact with a person suspected of having contracted COVID-19;

(d) because the employee is in isolation or quarantine while waiting for the results of a COVID-19 test; or
(e) because of measures taken by government or medical authorities in response to the COVID-19 pandemic.

Y.3.2 Except where clause Y.4.1(b) applies, the employee must give their employer notice of the taking of leave under clause Y.4.1 and of the reason the employee requires the leave, as soon as practicable (which may be a time after the leave has started).

Y.3.3 An employee required on the advice of a medical practitioner to self isolate who has given their employer notice of taking leave under clause Y.4.2 must, if required by the employer, produce a medical certificate.

Y.3.4 Except where clauses Y.4.1(b) or Y.4.3 apply, an employee who has given their employer notice of taking leave under clause Y.4.2 must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for a reason given in clause Y.4.1.

Y.3.5 A period of leave under clause Y.4.1 must start before 29 March 2021, but may end after that date.

Y.3.6 An employee cannot take paid pandemic leave under clause Y.4.1 if the employee could instead take paid personal/carer's leave.

NOTE:

Personal/carer's leave is provided for in the NES. Section 97 of the Act sets out the circumstances in which an employee may take personal/carer's leave. An employee who is prevented from working for one of the reasons set out in Y.4.1 may not be entitled to take personal/carer's leave if they are not unfit for work because of a personal illness or injury.

Y.3.7 An employee cannot take paid pandemic leave under clause Y.4.1 if the employee becomes entitled to workers compensation benefits as a result of contracting COVID-19.

Y.3.8 An employee will not be entitled to paid pandemic leave unless the employee
(a) has undertaken a COVID-19 test in connection with the applicable circumstance in clause Y.4.1; or
(b) undertakes a COVID-19 test at the earliest opportunity.

Y.3.9 A casual employee is not entitled to leave under clause Y.4.1 unless engaged on a regular and systematic basis.

Y.3.10 Leave taken under clause Y.4.1 does not affect any other paid or unpaid leave entitlement of the employee and counts as service for the purposes of entitlements under this Enterprise Agreement and the NES.

Y.3.11 For a full-time employee, leave taken under clause Y.4.1 shall be paid at the employee's base rate of pay for the employee's ordinary hours of work in the period of the leave.

NOTE:

The base rate of pay has the meaning given in section 16 of the Act.

Y.3.12 For a part-time employee, pay for leave taken under clause Y.4.1 will be the greater of:

- (a) their agreed ordinary hours of work under clause 10.3(b); or
- (b) the average of their weekly ordinary hours of work for the previous 6 weeks.

Y.3.13 For a casual employee, pay for leave taken under clause Y.4.1 shall be calculated on the average weekly pay received by the employee in the previous 6 weeks, or where the employee has been employed for less than 6 weeks, for the duration of their employment.

NOTE 1:

An employee covered by this Enterprise Agreement who is entitled to the benefit of Schedule Y has a workplace right under section 341(1)(a) of the Act.

NOTE 2:

Under section 340(1) of the Act, an employer must not take adverse action against an employee because the employee has a workplace right, has or has not exercised a workplace right, or proposes or does not propose to exercise a workplace right, or to prevent the employee exercising a workplace right. Under section 342(1) of the Act, an employer takes adverse action against an employee if the employer dismisses the employee, injures the employee in his or her employment, alters the position of the employee to the employee's prejudice, or discriminates between the employee and other employees of the employer.

NOTE 3:

Under section 343(1) of the Act, a person must not organise or take, or threaten to organise or take, action against another person with intent to coerce the person to exercise or not exercise, or propose to exercise or not exercise, a workplace right, or to exercise or propose to exercise a workplace right in a particular way.

6.11 EMPLOYEE REPRESENTATIVES

(a) Union delegates or elected workplace representatives, with approval of the employer and upon application in writing, shall be granted up to a combined total of three days paid union delegate leave each calendar year, non cumulative, to:

- represent members in bargaining;
- represent the interests of members to the employer and at times industrial tribunals;
- consult with union members and other employees for whom the delegate is a bargaining representative;
- attend union education;

- attend courses conducted by an approved training provider, that are designed to provide skills and competencies that will assist the delegate or workplace representative contribute to the prompt resolution of disputes and or grievances in the workplace; and
 - attend union annual delegates conference.
- (b) For any request for leave to attend union training, the employee must submit their request in writing with two months notice prior to the commencement of the union training to the employer. Approval of the leave request shall be on the basis that the employer agrees to release the delegate from their normal roster if the delegate was rostered to work during the time of leave.
- (c) The granting of any leave pursuant to this clause shall be subject to the employer being able to make adequate staffing arrangements amongst current employees during the period of such leave. The employer shall not use this subclause to avoid an obligation under this clause.
- (d) Leave of absence granted pursuant to this clause, shall count as service for all purposes of this Agreement.
- (e) All expenses (such as, travel, accommodation and meals) associated with or incurred by the employee attending a training course as provided in this clause shall be the responsibility of the employee or the Union.
- (f) An employee may be required to satisfy the employer of attendance at the course to qualify for leave.
- (g) An employee granted leave pursuant to this clause shall, upon request, inform the employer of the nature of the course attended and their observations on it.
- (h) In the event of a disagreement arising from the outcome of this clause, the matter may be settled using the dispute resolution procedures of this Agreement.

6.12 NO PRECEDENT

This Agreement must not be used by any party as a precedent.

6.13 DECLARATIONS AND SIGNATORIES

Declaration

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.

Signatories

Signed for and on behalf of the parties:

Peter Williams
Chief Executive Officer
OneCare Limited
140 Macquarie Street, Hobart, Tasmania



Date: 30 July 2021

Emily Shepherd
Branch Secretary
Australian Nursing and Midwifery Federation
Tasmanian Branch
182 Macquarie Street, Hobart, Tasmania



30 July 2021
Date:

Tim Jacobson
State Secretary
Health and Community Services Union
Tasmania Branch
11 Clare Street, New Town, Tasmania



Date: 30/7/21

SCHEDULE 1 WAGES

	current hourly rate	2.5% 1/01/2021	2.50% 1/07/2021
Enrolled Nurse Level 1			
Year 1	\$27.21	\$27.89	\$28.59
Year 2	\$27.78	\$28.47	\$29.19
Year 3	\$28.36	\$29.07	\$29.80
Year 4	\$28.93	\$29.65	\$30.39
Year 5	\$29.51	\$30.25	\$31.00
Enrolled Nurse Level 2			
Year 1	\$29.95	\$30.70	\$31.47
Year 2	\$30.53	\$31.29	\$32.08
Registered Nurse Level 1			
Year 2	\$31.24	\$32.02	\$32.82
Year 3	\$32.68	\$33.50	\$34.33
Year 4	\$34.12	\$34.97	\$35.85
Year 5	\$35.56	\$36.45	\$37.36
Year 6	\$37.01	\$37.94	\$38.88
Year 7	\$38.45	\$39.41	\$40.40
Year 8	\$39.89	\$40.89	\$41.91
Registered Nurse Level 2			
Year 1	\$41.33	\$42.36	\$43.42
Year 2	\$42.29	\$43.35	\$44.43
Year 3	\$43.25	\$44.33	\$45.44
Year 4	\$44.21	\$45.32	\$46.45
Registered Nurse Level 3			
Year 1	\$46.01	\$47.16	\$48.34
Year 2	\$47.10	\$48.28	\$49.48
Year 3	\$48.18	\$49.38	\$50.62
Year 4	\$49.26	\$50.49	\$51.75
Registered Nurse Level 4			
Grade 1	\$55.02	\$56.40	\$57.81
Grade 2	\$55.02	\$56.40	\$57.81
Grade 3	\$55.02	\$56.40	\$57.81
Grade 4	\$59.23	\$60.71	\$62.23

SCHEDULE 2 ALLOWANCES AND MEALS

Allowances will be paid as follows:

Allowance	Rate – 1 January 2021	Rate – 1 July 2021
In charge per shift	\$32.78	\$ 33.60
Preceptor per hour	\$ 3.50	\$ 3.59
Remote (remain on call) - per hour	\$ 1.48	\$ 1.51
Remote Call per shift Mon-Fri	\$ 22.47	\$ 23.03
Remote Call per shift Sat	\$ 33.85	\$ 34.70
Remote Call per shift Sun, PH and RDOs	\$ 39.49	\$ 40.48
District (a)	\$1,561.37	\$1,600.41
District (b)	\$782.57	\$802.14
Meal allowance when required to work away from usual workplace	Breakfast: \$27.05 Lunch (or midday meal): \$30.45 Dinner \$51.85	
Charges for meals provided by employer		
2 or 3 courses	\$3.00	
single meal or soup	\$2.00	
breakfast	\$4.50	



OneCare Ltd Nursing Employees Enterprise Agreement 2020

I, Peter Williams, Chief Executive Officer, have the authority given to me by OneCare Limited to provide the following undertaking with respect to the OneCare Ltd Nursing Employees Enterprise Agreement 2020 ("the Agreement"):

Clause 5.1.2 defines a shiftworker for the purposes of the National Employment Standards (NES).

This undertaking is provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

A handwritten signature in black ink, appearing to read 'pwilliams', is positioned above the printed name and title.

Peter Williams
Chief Executive Officer

10 August 2021