

# **REGISTER OF ENTERPRISE AGREEMENTS**

**ENTERPRISE AGREEMENT NO:** EA06/284

**TITLE: Health Care Australia Pty Ltd and New South Wales Nurses' Association Nurses' and Midwives' (State) Enterprise Agreement 2006-2008**

**I.R.C. NO:** IRC6/1760

**DATE APPROVED/COMMENCEMENT:** 24 March 2006 / 24 March 2006

**TERM:** 31

**NEW AGREEMENT OR  
VARIATION:** New.

**GAZETTAL REFERENCE:** 11 August 2006

**DATE TERMINATED:**

**NUMBER OF PAGES:** 53

**COVERAGE/DESCRIPTION OF**

**EMPLOYEES:** The agreement applies to all employees employed by Health Care Australia Pty Ltd., who are engaged in the industry of nursing employed in or in connection with hospitals owned or operated by Health Care Australia in NSW, who fall within the coverage of the following awards: Private Hospital Industry Nurses' (State) Award, Private Hospital and Nursing Home Nurses' Superannuation (State) Award, Nurses (Private Sector) Redundancy (State) Award and the Nurses' (Private Sector) Training Wage (State) Award.

**PARTIES:** Health Care Australia Pty Ltd -&- the New South Wales Nurses' Association

**HEALTH CARE AUSTRALIA PTY LTD AND NEW SOUTH WALES  
NURSES' ASSOCIATION NURSES' AND MIDWIVES' (STATE) ENTERPRISE  
AGREEMENT 2006 - 2008**

**PART A**

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## 2. Definitions

Unless the context otherwise indicates or requires the several expressions hereunder defined shall have the respective meanings assigned to them:

- (i) **"Industry of Nursing"** means the industry of persons engaged and employed in New South Wales in the profession or occupation of nursing including midwifery and employed in or in connection with in private hospitals and Day Procedure Centres.
- (ii) **"Hospital"** means a private hospital and a day procedure centre as defined by the *Private Hospitals and Day Procedure Centres Act 1988*.
- (iii) **"Board"** means the Nurses' and Midwives' Board of New South Wales.
- (iv) **"Trainee Enrolled Nurse"** means a person who is being trained to become an enrolled nurse in a hospital approved for this purpose by the Board.
- (v) **"Assistant in Nursing/Midwifery"** means a person, other than a registered nurse, student nurse, trainee enrolled nurse, or enrolled nurse, who is employed in nursing/midwifery duties in a hospital.
- (vi) **"Enrolled Nurse"** means a person enrolled by the Board as such.
- (vii) **"Enrolled Nurse – Medication Endorsement"** means a person enrolled by the Board and endorsed to administer medications by the Board.
- (viii) **"Registered Nurse"** means a person registered by the Board as a Registered Nurses and/or Registered Midwife.
- (ix) **"Clinical Nurse/Midwifery Specialist"** means a registered nurse with relevant post-basic qualifications and 12 months' experience working in the clinical area of his/her specified post-basic qualification, or a minimum of four years' post-basic registration experience, including three years' experience in the relevant specialist field and who satisfies the local criteria.
- (x) **"Nursing/Midwifery Unit Manager"** means a registered nurse in charge of a ward or unit or group of wards or units in a hospital shall include:

**"Nursing/Midwifery Unit Manager Level 1"** whose responsibilities include:

- (a) Co-ordination of Patient Services
  - Liaison with all health care disciplines for the provision of services to meet patient needs.
  - The orchestration of services to meet patient needs after discharge.
  - Monitoring catering and transport services.

(b) Unit Management

- Implementation of hospital policy.
- Dissemination of information to all personnel.
- Ensuring environmental safety.
- Monitoring the use and maintenance of equipment.
- Monitoring the supply and use of stock and supplies.
- Monitoring cleaning services.

(c) Nursing Staff Management

- Direction, co-ordination and supervision of nursing activities.
- Training, appraisal and counselling of nursing staff.
- Rostering and/or allocation of nursing staff.
- Development and/or implementation of new nursing practice according to patient need.

**"Nursing/Midwifery Unit Manager Level 2"** whose responsibilities in relation to patient services, ward or unit management and staff management are in excess of those of a Nursing/Midwifery Unit Manager Level 1.

**"Nursing/Midwifery Unit Manager Level 3"** whose responsibilities in relation to patient services ward or unit management and staff are in excess of those of a Nursing/Midwifery Unit Manager Level 2.

- (xi) **"Clinical Nurse/Midwifery Educator"** means a registered nurse with relevant post registration certificate qualifications or experience deemed appropriate by the employer, who is required to implement and evaluate educational programmes at the ward/unit level. The Clinical Nurse/Midwifery Educator shall cater for the delivery of clinical nurse/midwifery education in the ward/unit level only.

A nurse will achieve Clinical Nurse/Midwifery Educator status on a personal basis by being required by the Hospital to provide the educational programmes detailed above.

Nothing in this clause shall affect the role carried out by the Clinical Nurse/Midwifery Specialist as a specialist resource and the Clinical Nurse/Midwifery Consultant in the primary role of clinical consulting, researching etc.

- (xii) **"Nurse/Midwifery Educator"** means a registered nurse with a post registration certificate, who has relevant experience or other qualifications, deemed appropriate by the employer who is appointed to a position of Nurse/Midwifery Educator.

A Nurse/Midwifery Educator shall be responsible for the development, implementation and delivery of nursing education programmes within a hospital or group of hospitals. Nurse education programmes shall mean courses conducted such as post registration certificates, continuing nurse education, new graduate orientation, post registration enrolled nurses courses and where applicable general staff development courses.

A person appointed to a position of Nurse/Midwifery Educator who holds relevant tertiary qualification in education or tertiary postgraduate specialist clinical nursing/midwifery qualifications shall commence on the 3rd year rate of the salary scale.

A person appointed as the sole nurse/midwifery educator for a hospital or group of hospital shall be paid at the 3rd year rate of the salary scale.

Incremental progression for Nurse/Midwifery Educators' shall be on completion of 12 months' satisfactory service subject that progression shall not be beyond the 3rd year rate unless the person possesses the qualifications detailed in the two previous paragraphs. Persons appointed to the 3rd year rate by virtue of paragraphs 3 and 4 above shall progress to the 4th year rate after completion of 12 months' satisfactory full time service.

- (xiii) **"Senior Nurse/Midwifery Educator"** means a registered nurse with a post registration certificate or appropriate qualifications, who has, or is working towards recognised tertiary qualifications in education or equivalent and has demonstrated experience and skills in the field of education appointed to a position of Senior Nurse/Midwifery Educator.

A Senior Nurse/Midwifery Educator shall be responsible for one or more Nurse/Midwifery Educators in the planning, co-ordination, delivery, and evaluation of educational programmes such as post registration certificate courses, continuing nurse/midwifery education, new graduate orientation, post registration enrolled nurses courses and where applicable general staff development courses either on a hospital or group of hospitals basis.

Incremental progression shall be on completion of 12 months' satisfactory service.

- (xiv) **"Clinical Nurse/Midwifery Consultant"** means a registered nurse appointed as such to the position of, whose had at least five years post-basic registration experience and who has in addition approved post-basic nursing/midwifery qualifications relevant to the field in which they are appointed or such other qualifications or experience deemed appropriate by the employer.

- (xv) **"Assistant Director of Nursing/Midwifery" means:**

- (a) A person appointed as such in a hospital where the adjusted daily average of occupied beds is not less than 150 and includes a person appointed as the nurse in charge during the evening or night in a hospital where the adjusted daily average of occupied beds is not less than 150.
- (b) A person appointed to be a registered nurse in charge of all theatres in a hospital having four or more major theatres in regular use.
- (c) A person appointed as such to a position approved by the employer including persons appointed to be in charge of the administration of a group of wards or department of a hospital including a community nursing department.

- (xvi) **"Subsidiary Hospital Director of Nursing"** means a person who is in charge of a subsidiary hospital which is under the management of the main hospital but which is detached there from and is substantially separately administered.

- (xvii) **"Day Worker"** means a worker who works their ordinary hours from Monday to Friday inclusive and who commences work on such days at or after 6.00 am and before 10.00 am otherwise than as part of the shift system.

- (xiii) **"Deputy Director of Nursing"** means a person appointed to that position or deemed to hold that position pursuant to Clause 32, Deputy Directors of Nursing and Assistant Directors of Nursing, of this Enterprise Agreement.

- (xix) **"Director of Nursing"** includes a registered nurse who is registered by their employer with the Health Administration Corporation of New South Wales as the person in charge of the hospital. There shall be only one person in each hospital entitled to be classified as Director of Nursing or whatever title the Senior Nursing Administrator is known by an individual hospitals.

- (xx) **"Experience"** in relation to a trainee enrolled nurse, enrolled nurse, or assistant in nursing/ midwifery means experience before and/or after the commencement of this Enterprise Agreement whether within New South Wales or elsewhere and in the case of a trainee enrolled nurse, enrolled nurse or assistant in nursing/midwifery who was formerly a student nurse includes experience as such student nurse.

For the purpose of determining the year of experience for part time or casual employment a year of experience shall be 1976 hours of employment.

- (xxi) **"Service"** for the purpose of Clause 8, Salaries, means service before or after the commencement of this Enterprise Agreement in New South Wales or elsewhere as a registered nurse, provided that all service recognised prior to the commencement of this Enterprise Agreement shall continue to be recognised.

To the foregoing shall be added any actual periods on and from January 1971 during which a registered nurse undertook a post-basic course whilst an employee of and rendering service in an institution or hospital and such course is recognised by the Board or acceptable to the Health Administration Corporation of New South Wales, or is one of the following certificate or diploma courses:

Associate Diploma in Community Health - College of Nursing, Australia; NSW College of Nursing.

Associate Diploma in Nursing Administration - College of Nursing, Australia; NSW College of Nursing.

Associate Diploma in Nursing Education - College of Nursing, Australia; NSW College of Nursing; Newcastle College of Advanced Education.

Certificate in Operating Theatre Management - NSW College of Nursing, Australia.

Certificate in Operating Theatre Technique - College of Nursing, Australia.

Certificate in Coronary Care - NSW College of Nursing.

Certificate in Orthopaedic Nursing - NSW College of Nursing.

Certificate in Ward Management - NSW College of Nursing.

Midwife Tutor Diploma - College of Nursing, Australia, or Central Midwives Board, London.

Occupational Health Nursing Certificate - NSW College of Nursing.

Provided that no more than three such courses shall count as service.

A reference to the New South Wales College of Nursing in this Enterprise Agreement shall be deemed to be a reference also to the School of Nursing Studies, Cumberland College of Health Sciences.

For the purpose of determining the year of service for part time or casual employment a year of service shall be 1976 hours of employment.

- (xxii) **"Shift Worker"** means a worker who is not a day worker as defined.
- (xxiii) **"Association"** means the New South Wales Nurses' Association and/or the NSW Branch of the Australian Nursing Federation
- (xxiv) **"Parties"** means Health and the Association.
- (xxv) **"Health"** means facilities which are Hospitals owned by Health Care Australia Pty Limited in NSW with ABN number 93117285300 where these facilities employ persons in the Industry of Nursing.
- (xxix) **"Workplace representatives"** includes but is not limited to an Association workplace representative or delegate.
- (xxx) **"Commencement Date"** is the date of approval of this Enterprise Agreement by the NSW Industrial Relations Commission.

### 3. Hours Of Work And Free Time Of Employees Other Than Directors Of Nursing

- (i) The ordinary hours of work for day workers, other than Directors of Nursing, exclusive of meal times, shall be 152 hours per 28 calendar days to be worked Monday to Friday inclusive and to commence on such days at or after 6.00 am and before 10.00 am.

- (ii) The ordinary hours of work for shift workers, other than Directors of Nursing, exclusive of meal times, shall not exceed an average of 38 hours per week in each roster cycle.
- (iii) (a) The hours of work prescribed in subclauses (i) and (ii) of this clause shall, where possible, be arranged in such a manner, that in each roster cycle of 28 calendar days each employee shall not work their ordinary hours or work on more than nineteen days in the cycle, but this shall not apply to students in block.
- (b) Notwithstanding the provision of paragraph (a) of this subclause, employees may, with the agreement of the employer work shifts of less than 8 hours each over 20 days in each cycle of 28 days.
- (c) Provided that on the occasion of an employee's written request, and with the consent of the employer, a 9.5 day fortnight may be worked instead of the 19-day month.
- (iv) Except where authorised by subclause (xix) of this clause, each shift shall consist of no more than 10 hours on a day shift or 11 hours on a night shift with not less than 8 hours break between each shift; provided that an employee shall not work more than 7 consecutive shifts unless the employee so requests and the Director of Nursing agrees. An employee shall not work more than two (2) quick shifts in any period of 7 days.

A quick shift is an evening shift which is followed by a morning shift.

- (v) The employer is to decide when employees take their additional days off duty prescribed by subclause (iii) of this clause (as a consequence of the implementation of the 38 hour week). Where necessary the employer must consult with the affected employees to ascertain the employees' preferences and must take any such preferences into account when arriving at a decision. Where practicable additional days off duty shall be consecutive with the rostered days off duty prescribed in subclause (xiv) of this clause.
- (vi) Once set, the additional days off may not be changed except in accordance with the provisions of Clause 6, Rosters.
- (vii) Where the employer's decision (in accordance with subclause (v) of this clause) is that an employee's additional days off be accumulated, no more than 6 days may be accumulated in any one year of employment. By mutual agreement this may be extended to no more than 12 days at any one time.
- (viii) Except for breaks for meals the hours of duty each day shall be continuous. Provided, that in the case of permanent part-time employees, an employer may apply to the New South Wales Nurses' Association for an exemption from this provision, and from subclause (iv) of this clause with regard to the span of hours only, to enable an additional break of no more than 4 hours. In any event, the span of hours shall not exceed 12 hours.
- (ix) (a) Each employee shall be allowed a break of not less than thirty minutes and not more than sixty minutes for each meal occurring on duty.
- (b) Where practicable, employees shall not be required to work more than 5 hours without a meal break. Provided that where practicable an employee engaged to work for 5 hours or less in any one shift may elect not to take a meal break as otherwise provided for by this subclause without penalty to the employer. The term where practicable' encompasses regard being paid to the service requirements of the employer.
- (x) Two separate ten-minute intervals (in addition to meal breaks) shall be allowed each employee on duty during each ordinary shift of 8 or 10 hours as the case may be. Subject to agreement between the employer and the employee, such intervals may alternatively be taken as one twenty-minute interval, or by one 10-minute interval with the employee allowed to proceed off duty 10 minutes before the completion of the normal shift finishing time. Such interval(s) shall count as working time.
- (xi) (a) Subclauses (ix) and (x) of this clause shall not apply to an employee who, before going on night duty, is provided with a meal between 9.00 pm and 11.00 pm and who is allowed two intervals of



twenty minutes each during the period of night duty but such intervals shall count as working time and shall be paid for as such.

- (b) Where an employee is required to change into a uniform or a specified type of garment at the employer's premises they shall be allowed ten minutes for such a purpose and such time shall be counted as working time and paid for as such.
- (xii) (a) Except as provided for in paragraph (b) an employee shall not be employed on night duty for a longer period than 8 consecutive weeks. After having served a period of night duty an employee shall not be required to serve a further period on night duty until they have been off night duty for a period equivalent to the previous period on night duty.
  - (b) The provisions of paragraph (a) shall not apply to an Assistant Director of Nursing, a Nursing/Midwifery Unit Manager or a general nurse in charge, as the case may be, who is employed permanently in charge at night nor to an employee who requests to be employed on night duty and the Director of Nursing consents.
  - (c) Moreover except in cases of emergency a trainee enrolled nurse shall not be employed on night duty for more than 10 weeks in any one year of training nor shall a trainee enrolled nurse who is sitting for his or her final examination be required to perform night duty during a period of at least two weeks prior to the respective examination or on the two nights following such examination.
- (xiii) An employee changing from night duty to day duty or from day duty to night duty shall be free from duty during the twenty hours immediately preceding the commencement of the changed day.
- (xiv) (a) Each employee shall be free from duty for not less than two full days in each week or four full days in each fortnight or eight full days in each twenty-eight (28) day cycle and no duties shall be performed by the employee on any of such free days except for overtime. Where practicable, days off shall be consecutive and shall not be preceded by an evening shift or a night shift unless an additional eight hours are granted as sleeping time. An evening shift shall be one which commences at or after 1.00 pm and before 4.00 pm.
  - (b) An employee, at her or his request, may be given free from duty time in one or more periods but no period shall be less than one full day.
  - (c) For the purpose of this subclause "full day" means from midnight to midnight or midday to midday.
- (xv) (a) Employees may be required to remain on call. Any such time on call shall not be counted as time worked (except insofar as an employee may take up actual duty in response to a call), but shall be paid for in accordance with Clause 12, Special Allowances, of this Enterprise Agreement: Provided, however, no employee shall be required to remain on call whilst on leave or on the day before entering upon leave.
  - (b) No employee shall be required to remain on call whilst on a rostered day off nor on completion of the shift on the day preceding a rostered day off. This provision shall not apply where in special circumstances it is necessary for an employer to place staff on call on rostered days off or on completion of the shift on the day preceding a rostered day off in order to ensure the provision of services.
- (xvi) All rostered time off duty occupied by a trainee enrolled nurse in attendance at lectures and demonstrations given in the course of instruction in the theory and practice of nursing or during the time necessarily occupied in attending at and sitting for prescribed examinations shall be deemed to be time worked.
- (xvii) An employer shall not alter the period over which the ordinary hours of work of employees are balanced except upon giving one month's notice of their intention so to do to the Industrial Registrar and to the Association.
- (xviii) The provisions of paragraphs (a) and (b) of subclause (xii) and of subclause (xiii) and of paragraph (a) of subclause (xiv) of this clause, shall not apply if the employee is required to perform duty to enable the

nursing service of the employer to be carried on or where another employee is absent from duty on account of illness or in an emergency.

(xix) The following criteria shall apply to the introduction of 12 hour shifts:

- (a) 12 hour shifts will only be introduced in units where there has been full consultation with the staff affected and a majority of the staff affected agree to the introduction of the proposed 12 hour shift system;
- (b) any employee who does not wish to work under the 12 hour shift system may work a mutually agreed alternative shift system in the unit affected or may transfer to another mutually agreed position within the facility with no loss of classification and contracted hours;
- (c) the span of hours must not exceed 12.5 hours;
- (d) there must be a maximum of three consecutive night shifts which include one or more 12 hour shifts;
- (e) there must be a minimum break of 11.5 hours rostered between each 12 hour shift;
- (f) employees must be allowed either two 30 minutes or one 60 minutes meal break. In addition to the meal breaks employees must be allowed either two 10 minute or one 20 minute paid tea break;
- (g) the employer must notify the Association of the implementation of the 12 hour shifts at least one month prior to commencing the new arrangements. The details of that notification must indicate the number of staff involved, the section of the hospital involved and the Enterprise Agreement provisions which need to be overridden.
- (h) there must be an evaluation process at the completion of the first 12 months, or sooner if the employer and affected employees agree. The evaluation process must involve representatives of employees and the employer. Aspects which are to be considered in the evaluation process are to include occupational health and safety data, sick leave patterns and the frequency of overtime.
- (i) the Association is to be notified of the outcome of the evaluation process;
- (j) nothing contained in this subclause shall prevent an individual employee and their employer reaching mutual agreement to that individual working 12 hour shifts.

#### **4. Hours Of Work And Free Time Of Directors Of Nursing**

This clause does not apply to part-time employees.

- (i) A Director of Nursing shall be free from duty for not less than 9 days in each 28 consecutive days and such days free from duty may be taken in one or more periods.
- (ii) If any of the days mentioned in subclause (i) of this clause cannot be taken by reason of emergency, such day or days shall be given and taken within 28 days of becoming due.
- (iii) A Director of Nursing shall, where practicable, inform his or her employer giving not less than seven days' notice of the days he or she proposes to be free from duty; provided that such days shall be subject to the approval of the employer, and such approval shall not be unreasonably withheld.

#### **5. Banking Of Hours**

- (i) A full time or part time employee may, by agreement made daily, weekly or fortnightly with their Nurse/Midwifery Unit Manager or DON:
  - (a) work less than their daily, weekly or fortnightly rostered or contracted hours and work those hours at a later date; or

- (b) work more than their daily, weekly or fortnightly rostered or contracted hours and take time off in lieu of payment, or may set off the additional hours worked against any owing under (i) above.
- (ii) An employee who works less than their rostered or contracted hours shall be paid as if those hours had been worked during the relevant period, including payment for any weekend or shift penalties that would otherwise have been due for the time not worked.
- (iii) An employee who works more than their rostered or contracted hours shall not receive payment for any weekend or shift penalties that would otherwise have been due for that extra time worked.
- (iv) Time debited or credited under these arrangements shall all be at ordinary time, i.e. an hour for an hour.
- (v) An employee may not have more than 76 hours in debit or credit at any point in time.
- (vi) Employees who have hours in debit must be given first option to work additional hours prior to the use of casual employees.
- (vii) Each hospital must keep detailed records of all hours credited and debited to employees under these arrangements. Employees must have full access to these records.
- (viii) On termination of employment the employer must pay the employee for all hours in credit and may deduct from termination pay the value of any hours in debit.
- (ix) Either party shall have the right to terminate an agreement under this clause with two weeks notice.

## **6. Rosters**

- (i) The ordinary hours of work for each employee, other than the Director of Nursing and casual employees, shall be displayed on a roster in a place conveniently accessible to employees.
- (ii) The roster shall be displayed where practicable at least two weeks prior, but in any event not less than one week prior, to the commencing date of the first working period in the roster. Provided that in the case of a permanent part-time employee whose hours are balanced over 4 weeks, the roster shall be displayed where practicable, at least 4 weeks prior to the commencing date of the first working period in the roster but in any event not less than one week prior, to the commencing date of the first working period in the roster.
- (iii) Notwithstanding the foregoing provisions of this clause, a roster may be altered at any time to enable the nursing service of the hospital to be carried on where another employee is absent from duty on account of illness or in an emergency: Provided that where any such alteration involves an employee working on a day which would otherwise have been such employee's day off, the day off in lieu thereof shall be as mutually arranged.
- (iv) Prior to the date of the changed shift, such change of roster shall be notified verbally or in writing to the employee concerned.
- (v) An employee may change their roster at short notice, with the agreement of their nurse/midwifery unit manager or Director of Nursing for any reasonable ground.
- (vi) An employer may change an employee's roster at short notice, with the agreement of the employee, for any reasonable ground including unexpected situations and unforeseen fluctuations in patient dependency.
- (vii) Where an employee is entitled to an additional day off duty in accordance with Clause 3, Hours of Work and Free Time of Employees other than Directors of Nursing, of this Enterprise Agreement, such day is to be shown on the roster of hours for that employee.
- (viii) All rosters shall be retained for at least six years.

## 7. Pilot Roster Projects

- (i) Notwithstanding any other provision of this Enterprise Agreement, Pilot Roster Projects for the purposes of trialing flexible roster practices may be implemented on the following basis:
  - (a) The terms of the Pilot Roster Project shall be agreed in writing between the employer and the Association on behalf of the nurses participating in the project. Provided that the Association shall not unreasonably refuse to agree to, or unreasonably delay in responding to, a Pilot Roster Project proposed by an employer.
  - (b) The terms shall include
    - (1) the duration of the project; and
    - (2) the conditions of the project, and
    - (3) the Enterprise Agreement provisions required to be overridden in order to implement the project; and
    - (4) review mechanisms to assess the effectiveness of the project.
  - (c) Whilst the Pilot Roster Project is being conducted according to its terms, the employer shall not be deemed to be in breach of the Enterprise Agreement by reason alone of implementing the project.
  - (d) Any purported Pilot Roster Project which does not comply with this clause is not a Pilot Roster Project for the purposes of this clause and in particular no employer shall be able to claim the benefit of subclause (c) when implementing such project.
- (ii) The Association agrees to participate in a review of the operation of this clause, if requested by a party to the making of this Enterprise Agreement.

## 8. Salaries

- (i) The minimum salaries per week shall be as set out in Table 1 - Salaries, of Part B, Monetary Rates. The parties have agreed that the following wage increases will apply from the first full pay period to commence on or after:
  - (a) 1 November 2005 – 3.5%
  - (b) 1 October 2006 – 4%;
  - (c) 1 October 2007 – 4%;
  - (d) 30 July 2008 – 2.5%
- (ii) The allowances as set out in Table 2 – Other Rates and Allowances, of Part B Monetary Rates shall be paid. The parties have agreed to the increases as set out in Columns 1 – 4.
- (iii) An Enrolled Nurse who is endorsed to administer medication will be classified and paid as an Enrolled Nurses – Medication Endorsement from the commencement of the first full pay period following the issuing by the Board of their Letter of Endorsement to Administer Medication or Authority to Practice Certificate, Enrolled Nurse including Endorsement to Administer Medication, whichever is issued earlier. This provision will commence on or after the date of certification of this Enterprise Agreement.

Provided that an Enrolled Nurse – Medication Endorsement 1<sup>st</sup> year shall not progress to Enrolled Nurse – Medication Endorsement 2<sup>nd</sup> year until completion of twelve months' service at the 1<sup>st</sup> year rate (or for part time employees the full time equivalent of 1,982 hours), and to the 3<sup>rd</sup> year rate until completion of twelve months' service at the 2<sup>nd</sup> year rate (or for part time employees the full time equivalent of 1,982 hours), and so on throughout the scale.

- (iv) In relation to the salaries of Deputy Director of Nursing and Director of Nursing, "beds" means adjusted daily average of occupied beds; in relation to the salary of Subsidiary Hospital Director of Nursing, "beds" means the adjusted daily average of occupied beds in the subsidiary hospital.

**9. Transitional Arrangements - Registered Nurse Incremental Scale**

- (i) For the purposes of this clause "transitional date" means the first pay period commencing on or after 1 March 1997.
- (ii) The year of service for the purpose of the incremental scale for a registered nurse employed at the transitional date shall be determined by locating the registered nurse's current year of service on the incremental scale in Column A of the Transitional Table in subclause (iv). The registered nurse's incremental year of service shall be deemed to be the year of service appearing opposite in Column B of the Transitional Table. Provided that a registered nurse with eight or more actual years of service shall be placed on the eighth year of service in Column B of the Transitional Table.
- (iii) Registered nurses who commence employment with an employer after the transitional date shall have their year of service determined as if they were employed by the employer at the transitional date. That is; the transitional arrangements shall apply to all periods of employment, under this Enterprise Agreement, which commence on or after the transitional date.
- (iv) Transitional Table:

Column A (Old incremental scale)	Column B (New incremental scale)
First year of service	First year of service
Second year of service	First year of service
Third year of service	Second year of service
Fourth year of service	Third year of service
Fifth year of service	Fourth year of service
Sixth year of service	Fifth year of service
Seventh year of service	Sixth year of service
Eighth year of service	Seventh year of service
UGI	Eighth year of service
Note: For the purposes of the old incremental scale only, a registered nurse who has obtained an appropriate degree in Nursing or Applied Science (Nursing) or Health Studies (Nursing) (referred to for the purposes of this clause as a "UGI" qualification) shall enter the incremental scale on the second year of service.	

- (v) The year of service determined by this clause shall be year of service only for the purposes of Clause 8 Salaries. In particular this clause shall not affect the definition of service for the purposes of Clause 23, Annual Leave and Public Holidays; Clause 25, Sick Leave or Clause 26, Long Service Leave.
- (vi) A registered nurse's anniversary date for the purpose of moving to the next year of service is not affected by this clause.

**10. Recognition Of Service And Experience**

- (i) The employer shall notify each nurse in writing of the requirements of this clause at the time of the nurse's commencement of employment. If the employer does not so notify the nurse then the requirements of this clause shall not commence until the employer does so notify the nurse.
- (ii) From the time of commencement of employment the nurse has three months in which to provide documentary evidence to their employer detailing any other 'service' or 'experience', as defined in Clause 2, Definitions, not disclosed at the time of commencement. This evidence, in the absence of other documentary evidence may take the form of a statutory declaration.

- (iii) Until such time as the nurse furnishes any such documentation contemplated in (ii) above the employer shall pay the nurse at the level for which documentary evidence has been provided.
- (iv) If within three months of commencing employment a nurse does provide documentary evidence of other previous service or experience not disclosed at the time of commencement, the employer shall pay the nurse at the appropriate rate as and from the date of commencement that would have been paid from that date had the additional evidence been provided at that time.
- (v) If a nurse provides documentary evidence of other previous service or experience not disclosed at the time of commencement after the said three months period, the nurse shall be paid a rate appropriate for the previous service or experience then proved but only from the date of providing that evidence to the employer.
- (vi) A nurse who is working as a nurse for more than one organisation shall notify each employer under this Enterprise Agreement within one month of the end of each quarter of their hours of service or experience, as appropriate, worked with those other employers in the last quarter.
- (vii) A nurse who is entitled to progress to the next year of service or experience (by reason of hours worked with other employers) as and from a particular date must provide documentary evidence of that entitlement within three months of that entitlement arising. If that proof is so provided the nurse shall be paid at the higher rate as and from the particular date. If the documentary evidence is provided outside that three month period the nurse shall be paid at the higher rate only from the date of proof.

## **11. Average Occupied Beds**

For the purpose of ascertaining the adjusted daily average of occupied beds of a hospital, each newly born baby shall count as one half patient and 700 registered outpatients per annum shall count as one occupied bed. The average shall be taken for the twelve months ended on the 30 June in each and every year and such average shall relate to the salary of the succeeding year. Each employer shall furnish to the Association, by prepaid letter posted on or before the 31 July in each year, a statement in writing showing the adjusted daily average of occupied beds for the twelve months ending on the preceding 30 June.

## **12. Special Allowances**

- (i) (a) A registered nurse in charge during the day, evening or night of a hospital having a daily average of occupied beds of less than 100 shall be paid, in addition to her or his appropriate salary, whilst so in charge, the sum set out in Item 1 of Table 2 - Other Rates and Allowances, of Part B Monetary Rates, per shift.
- (b) A registered nurse in charge of a shift in a ward or unit during the day, evening or night in the absence of the Nursing/Midwifery Unit Manager shall be paid, in addition to her or his appropriate salary whilst so in charge the sum set out in Item 2 of Table 2, per shift. This subclause shall only apply where the registered nurse is in charge of one or more other nurses in the ward or unit in question.
- (c) This subclause shall not apply to registered nurses holding classified positions of a higher grade than that of registered nurse.
- (ii) (a) An employee required by their employer to be on call otherwise than as provided for in paragraph (b) shall be paid the sum set out in Item 3 of Table 2 for each period of 24 hours or part thereof provided that only one allowance shall be payable in any period of 24 hours.
- (b) An employee required to be on call on rostered days off in accordance with subclause (xv)(b) of Clause 3 shall be paid the sum set out in Item 4 of Table 2 for each period of 24 hours or part thereof provided that only one allowance shall be payable in any period of 24 hours.
- (c) An employee who is directed to remain on call during a meal break shall be paid an allowance of the sum set out in Item 5 of Table 2 provided that no allowance shall be paid if, during a period of 24 hours including such period of on call, the employee is entitled to receive the allowance prescribed in (a) above. If an employee is recalled to duty during such meal break, they shall be paid at overtime rates for the total period of the meal break.

- (d) Where an employee on call leaves the hospital and is recalled to duty, they shall be reimbursed all reasonable fares and expenses actually incurred provided that where an employee uses a motor car in these circumstances the allowance payable shall be the transport rate prescribed from time to time by the NSW Health Department. The provisions of this paragraph shall apply to all employees.
- (e) This subclause shall not apply to a Director of Nursing, Subsidiary Hospital Director of Nursing, Deputy Director of Nursing or Assistant Director of Nursing.
- (iii) (a) Where a Director of Nursing is required by the hospital to perform radiographic duties they shall be paid in addition to their appropriate salary an allowance of the sum set out in Item 6 of Table 2 per week.
- (b) The allowance prescribed by paragraph (a) of this subclause shall apply to an employee who relieves the Director of Nursing for a period of one week or more.
- (c) An employee who is performing radiographic duties in the absence of the Director of Nursing for a period of less than one week shall be paid in addition to his or her appropriate salary a daily allowance of the sum set out in Item 7 of Table 2; provided that the maximum allowance per week payable in accordance with this paragraph shall not exceed the sum set out in Item 8 of Table 2.
- (d) The allowance prescribed by this subclause shall be regarded as part of the salary for the purpose of this Enterprise Agreement.
- (e) Provided that the allowances provided for in this subclause shall only be paid to employees who had been in receipt of the allowance prior to 1 July 1996.
- (iv) An employee required to wear a lead apron shall be paid an allowance of the sum set out in Item 9 of Table 2 for each hour or part thereof that they are required to wear the said apron.
- (v) (a) A registered nurse who is designated to be in-charge of a ward or unit when the Nursing/Midwifery Unit Manager is not rostered for duty and who is also designated to be in-charge of a hospital with less than 100 beds during the day, evening or night on the same shift shall be paid an allowance per shift of the sum set out in Item 10 of Table 2. This subclause shall only apply where the registered nurse is in charge of one or more other nurses in the ward or unit in question.
- (b) This subclause shall not apply to registered nurses holding classified positions of a higher grade than of a registered nurse.

### 13. Penalty Rates For Shift Work And Weekend Work

- (i) Employees working afternoon or night shift shall be paid the following percentages in addition to the ordinary rate for such shift: Provided that employees who work less than 38 hours per week shall only be entitled to the additional rates where their shifts commence prior to 6.00 am or finish subsequent to 6.00 pm.
  - Afternoon shift commencing at 10.00 am and before 1.00 pm - 10%
  - Afternoon shift commencing at 1.00 pm and before 4.00 pm - 12.5%
  - Night shift commencing at 4.00 pm and before 4.00 am - 15%
  - Night shift commencing at 4.00 am and before 6.00 am - 10%
- (ii) "**Ordinary rate**" and "**ordinary time**" shall not include any percentage addition by reason of the fact that an employee works less than 38 hours per week but shall include amounts payable under Clause 8, Salaries; and Clause 12, Special Allowances subclause (iii).
- (iii) For the purposes of this clause day, afternoon and night shifts shall be defined as follows:

**"Day Shift"** means a shift which commences at or after 6.00 am and before 10.00 am.

**"Afternoon shift"** means a shift which commences at or after 10.00 am and before 4.00 pm.

**"Night Shift"** means a shift which commences at or after 4.00 pm and before 6.00 am on the day following.

- (iv) Employees whose ordinary working hours include work on a Saturday and/or Sunday shall be paid for ordinary hours worked between midnight on Friday and midnight on Saturday at the rate of time and one half and for ordinary hours worked between midnight on Saturday and midnight on Sunday at the rate of time and three quarters. These extra rates shall be in substitution for and not cumulative upon the shift premiums prescribed in the subclause (i) of this clause.

The foregoing paragraph shall apply to employees who work less than 38 hours per week, but such employees shall not be entitled to be paid in addition any allowance prescribed by Clause 22, Part-time, Casual and Temporary Employees, of this Enterprise Agreement in respect of their employment between midnight on Friday and midnight on Sunday.

- (v) The additional payments prescribed by this clause shall not form part of the employee's ordinary pay for the purposes of this Enterprise Agreement, except as provided in Clause 23, Annual Leave and Public Holidays, of this Enterprise Agreement.
- (vi)
  - (a) This subclause shall only apply to nurses who work an entire ordinary time shift in a discrete designated day procedure ward or unit which routinely functions between the hours of 7.00 am and 6.00 pm.
  - (b) This subclause shall not apply to any nurse whose employment commenced prior to 15 December 1994 and who has been employed on a continuous basis since that date.
  - (c) A nurse to whom this subclause applies shall not be entitled to an additional penalty rate payment for ordinary time worked prior to 6.00 pm on any week day.
  - (d) A nurse to whom this subclause applies shall be paid, in addition to their ordinary rate, a penalty payment at the rate of 15% for all ordinary time worked after 6.00 pm on any week day.

#### **14. Fares And Expenses**

- (i) A student nurse or trainee enrolled nurse sitting for an examination prescribed by the Board and required to travel from the home centre to an examination centre shall be paid by the employer all fares necessarily incurred in such travelling, and if it is reasonably necessary for each student nurse or trainee enrolled nurse to sleep away from such home centre the employer shall pay in addition to the fares the cost of reasonable accommodation and meals. "Home Centre" means the town in which is situated the hospital at which such student nurse or trainee enrolled nurse is employed.
- (ii) An employee required to travel in the performance of duty shall be paid all reasonable out of pocket expenses (including fares).
- (iii)
  - (a) An employee who is engaged for an indefinite period and who remains in the employment for at least six months shall be reimbursed forward fares from the place of engagement; provided that the distance of normal travel there from to the employment exceeds 40 kilometres.
  - (b) An employee who is engaged for an indefinite period and who is dismissed within six months for any reason other than misconduct or inefficiency shall be reimbursed forward fares from the place of engagement; provided that the distance of normal travel there from to the employment exceeds 40 kilometres; and shall also be reimbursed return fares to such place of engagement or the employee's immediate destination, whichever is the cheaper.
- (iv) An employee who is engaged for a definite period and who completed the period of engagement or who is dismissed before completing such period for any reason other than misconduct or inefficiency shall be reimbursed also return fares to such place of engagement or to the employee's immediate destination, whichever is the cheaper.



- (v) Subclauses (iii) and (iv) of this clause shall not apply to, trainee enrolled nurses or to nurses travelling to a hospital for post-graduate training.
- (vi) Fares within the meaning of this clause shall include only fares incurred in respect to travel within New South Wales.
- (vii) An employee who claims reimbursement of fares, pursuant to this clause, shall furnish to the employer, if so required, satisfactory proof that they have not received from another employer reimbursement in respect of those fares.

## **15. Telephone Allowance**

If an employee is required, for the purpose of their employment, to be on call on a regular basis or where an employee is required by their employer to have a telephone installed for the purpose of their employment the employer shall be responsible for the following payments:

- (i) Where the employee already has a telephone installed:
  - (a) three quarters of the cost of rental of the telephone;
  - (b) the cost of all official STD and mobile phone calls.
- (ii) Where the employee does not have the telephone installed:
  - (a) the cost of installation of the telephone;
  - (b) three quarters of the cost of rental of the telephone;
  - (c) the cost of all official STD and mobile phone calls.

Provided that where the employee is provided with a Pager the employer shall be responsible for the following payments:

- (i) one half of the cost of rental of the telephone;
- (ii) the cost of all official STD and mobile phone calls.

## **16. Uniform And Laundry Allowances**

- (i) Subject to subclause (iii) of this clause, sufficient, suitable and serviceable uniforms, including one pair of shoes per annum which shall be of a recognised acceptable standard for the performance of nursing duties, and one cardigan or jacket shall be supplied free of cost to each employee required to wear a uniform. An employee to whom a new uniform or part of a uniform has been issued who, without good reason, fails to return the corresponding article last supplied shall not be entitled to have such article replaced without payment therefore at a reasonable price.
- (ii) An employee, on leaving the service of an employer, shall return any uniform or part thereof supplied by that employer which is still in use immediately prior to leaving.
- (iii)
  - (a) In lieu of supplying uniforms and shoes to an employee, an employer shall pay the said employee the sum set out in Item 11 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, for uniforms and the sum set out in Item 12 of Table 2 for shoes per week.
  - (b) In lieu of supplying stockings to a female employee an employer shall pay the said employee the sum set out in Item 13 of Table 2 per week.
  - (c) In lieu of supplying a cardigan or jacket to an employee an employer shall pay the said employee the sum set out in Item 14 of Table 2 per week.

- (d) If, in any hospital, the uniforms of an employee are not laundered at the expense of the hospital an allowance of the sum set out in Item 15 of Table 2 shall be paid to the said employee; provided that the payment of such laundry allowance shall not be made to any employee on absences exceeding one week.
- (e) Where the employer requires any employee to wear headwear, the hospital shall provide headwear free of charge to the employee.
- (f) In lieu of supplying socks to an employee the employer shall pay the said employee the sum set out in Item 16 of Table 2 per week.
- (g) The allowances referred to subclause (iii) are also payable during any period of paid leave.

**17. Higher Grade Duty**

- (i) An employee who is called upon to relieve an employee in a higher classification or is called upon to act in a vacant position of a higher classification shall be entitled to receive for the period of relief or the period during which they act the minimum payment for such higher classification.
- (ii) The provisions of subclause (i) shall not apply where the employee being relieved is absent from duty for a period of three consecutive working days or less which have been rostered in advance, except where the duties of the higher position involve being in charge of the facility during the period in question.
- (iii) Further, the provisions of subclause (i) shall not apply where a Director of Nursing is absent from duty for a period of three working days or less for any reason other than Clause 4, Hours of Work and Free Time of Directors of Nursing.

**18. Overtime**

- (i) Subject to subclause (ii) an employer may require an employee to work reasonable overtime
- (ii) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.
- (iii) For the purposes of subclause (ii) what is unreasonable or otherwise will be determined having regard to:
  - (a) the risk to the employee's health and safety;
  - (b) the employee's personal circumstances including any family and carer responsibilities;
  - (c) the needs of the facility;
  - (d) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
  - (e) any other relevant matter.
- (iv) (a) Subject to paragraph (b) hereof all time worked by employees other than Directors of Nursing in excess of the rostered daily ordinary hours of work shall be overtime and shall be paid for at the rate of time and one half for the first two hours and double time thereafter in respect of each overtime shift worked or in respect of overtime worked prior to or at the conclusion of a normal shift. Provided that overtime worked on Sundays shall be paid for at the rate of double time and on public holidays at the rate of double time and one half.
- (b) All time worked by permanent part time employees, in excess of the rostered daily ordinary hours of work prescribed for the majority of full-time employees employed on that shift in the ward or section concerned shall be paid for at the rate of time and one half for the first two hours and double time thereafter except that on Sundays such overtime shall be paid for at the rate of double time and on public holidays at the rate of double time and one half.

Time worked up to the rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the ward or section concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.

- (v) The ordinary hours of work for Directors of Nursing shall be thirty eight hours per week and shall not, without payment of overtime at the rate of time and one half, exceed:
  - (a) 43 hours in any week; or
  - (b) 86 hours in any fortnight; or
  - (c) 129 hours in any twenty one consecutive days; or
  - (d) 172 hours in any twenty eight consecutive days.
- (vi) An employee recalled to work overtime after leaving the employer's premises shall be paid for a minimum of four hours work at the appropriate rate for each time so recalled. If the work required is completed in less than four hours, the employee shall be released from duty provided that this subclause does not apply to a Director of Nursing.
- (vii) An employee required to work overtime following on the completion of their normal shift for more than two hours shall be allowed twenty minutes for the partaking of a meal and a further twenty minutes after each subsequent four hours overtime. All such time shall be counted as time worked; provided that benefits of this subclause shall not apply to permanent part time employees, until the expiration of the normal shift for a majority of the full-time employees employed on that shift in the ward or section concerned.
- (viii) An employee recalled to work overtime after leaving the employer's premises and who is required to work for more than four hours shall be allowed twenty minutes for the partaking of a meal and a further twenty minutes after each subsequent four hour's overtime; all such time shall be counted as time worked.
- (ix) The meals referred to in subclauses (vii) and (viii) of this clause shall be allowed to the employee free of charge. Where the hospital is unable to provide such meals, an allowance per meal of the sum set out in Item 17 Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, shall be paid to the employee concerned.
- (x) Where an employee is required to work an overtime shift on his or her rostered day off, the appropriate meal breaks for that shift, as prescribed by Clause 3, Hours of Work and Free Time of Employees other than Directors of Nursing shall apply.
- (xi) If an employee is recalled to duty during a meal break, they shall be paid at overtime rates for the total period of the meal break.
- (xii) An employee who works so much overtime:
  - (a) between the termination of their ordinary work on any day or shift and the commencement of their ordinary work on the next day or shift that they have not had at least eight consecutive hours off duty between these times; or
  - (b) on a Saturday, a Sunday and a holiday, not being ordinary working days, or on a rostered day off without having had eight consecutive hours off duty in the twenty-four hours preceding their next day or shift; shall subject to this subclause, be released after completion of such overtime until they have had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If on the instruction of the employer such an employee resumes or continues to work without having such eight consecutive hours off duty they shall be paid at double time of the appropriate rate applicable on such day until they are released from duty for such period and they then shall be entitled to be absent until they have had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

- (xiii) In lieu of receiving payment for overtime in accordance with this clause, employees may be compensated by way of time off in lieu of overtime on the following basis:
- (a) Time off in lieu of overtime must be taken within four months of it being accrued at ordinary rates.
  - (b) Where it is not possible for a nurse to take the time off in lieu of overtime within the four month period, it is to be paid out at the appropriate overtime rate based on the rates of pay applying at the time payment is made.
  - (c) Nurses cannot be compelled to take time off in lieu of overtime.
  - (d) Records of all time off in lieu of overtime owing to nurses and taken by nurses must be maintained by the employer.

## **19. Payment And Particulars Of Salaries**

- (i) All salaries and other payments shall be paid weekly or fortnightly, provided that payment for any overtime worked may be deferred to the pay day next following the completion of the working cycle within which such overtime is worked, but for no longer; provided further that the payment of shift and weekend penalties relating to work performed in the second week of a fortnightly roster period may be deferred to the pay day next following the completion of the working cycle within which such shifts were worked, but for no longer.
- (ii) Employees shall have their salary paid into one account with a bank or other financial institution in New South Wales as nominated by the employee. Wages may be initially deposited into the hospital's own local bank and transferred to each employee's requested financial institution. Salaries shall be deposited by hospitals in sufficient time to ensure that wages are available for withdrawal by employees by no later than pay day, provided that this requirement shall not apply where employees nominate accounts with non-bank financial institutions, but in such cases facilities shall take all reasonable steps to ensure that the wages of such employees are available for withdrawal by no later than pay day.
- (iii) Notwithstanding the provisions of subclause (ii) of this Clause, an employee who has given or has been given the required notice of termination of employment, in accordance with Clause 37, Termination of Employment, of this Enterprise Agreement, shall be paid all moneys due to them prior to ceasing duty on the last day of employment.

Where an employee is summarily dismissed or their services are terminated without due notice, any moneys due to them shall be paid as soon as possible after such dismissal or termination but in any case not more than three days thereafter.

- (iv) On each payday an employee, in respect of the payment then due, shall be furnished with a written statement containing the following particulars, namely: name, the amount of ordinary salary, the total number of hours or overtime worked, if any, the amount of any overtime payment, the amount of any other moneys paid and the purpose for which they are paid, and the amount of the deductions made from the total earnings and the nature thereof.

## **20. Remuneration Packaging**

- (i) No employee or employer shall be compelled to enter into a remuneration packaging arrangement.
- (ii) Where an employer makes a decision to offer remuneration packaging the employer shall provide details of the proposed remuneration packaging to the Association 28 days before the introduction of the proposal. Where a private hospital already has remuneration packaging in place prior to the operation of this clause, they shall be deemed to have complied and are not required to notify the Association in accordance with this subclause.

- (iii) The terms and conditions of a package offered to an employee shall not, when viewed objectively, be less favourable than the entitlements otherwise available under the Enterprise Agreement and shall be subject to the following provisions:
  - (a) The employer shall ensure that the structure of any package complies with taxation and other relevant laws.
  - (b) Employees will have the Superannuation Guarantee Contribution (SGC) calculated on their Enterprise Agreement salary prior to the application of any remuneration packaging arrangements.
- (iv) A copy of the agreement shall be made available to the employee.
- (v) The employee shall be entitled to inspect details of payments made under the terms of this agreement.
- (vi) The configuration of the remuneration package shall remain in force for the period agreed between the employee and the employer.
- (vii) Where at the end of the Fringe Benefit Tax year the full amount allocated to a specific benefit has not been utilised, it will be paid as salary, which will be subject to appropriate taxation requirements. By agreement between the employer and the employee, any unused benefit may be carried forward to the next period on the basis that any FBT obligation is accepted by the employee.
- (viii) In the event that the employer ceases to attract exemption from payment of Fringe Benefit Tax, the employer may terminate all remuneration packaging arrangements and the employee's salary will revert to the applicable Enterprise Agreement classification rate the employee would have been entitled to receive but for the remuneration packaging agreement.
- (ix) One month's notice by either party is required for change or termination of a remuneration packaging agreement, unless the change or termination is brought about by legislation or an increase to the Enterprise Agreement wage.
- (x) In the event that the employee ceases to be employed by the employer this agreement will cease to apply as at the date of termination. Benefits not paid on or before the date of termination shall be treated as salary and the appropriate tax deducted.
- (xi) Pay increases granted to employees in accordance with this Enterprise Agreement shall also apply to employees subject to remuneration packaging arrangements.
- (xii) Any allowance, penalty rate, overtime, payment for unused leave entitlements, other than any payments for leave taken whilst employed, shall be calculated by reference to the salary which would have applied to the employee in the absence of any remuneration packaging arrangements.

## **21. Registration or Enrolment Pending**

- (i) A student or trainee enrolled nurse who has completed the course of training prescribed by the Board and applied for registration or enrolment shall, upon registration or enrolment, be paid as from the date of application for registration or enrolment the salary to which they would have been entitled if registered or enrolled.
- (ii) A nurse or enrolled nurse who has trained outside New South Wales shall be paid as a registered nurse or enrolled nurse as and from the date they are notified that they are eligible for registration or enrolment as a registered nurse or enrolled nurse provided that they make application for registration within seven days after being so notified.
- (iii) They shall notify the employer as soon as possible after they have so applied.

## **22. Part-Time, Casual And Temporary Employees**

### PART I - Permanent Part-time Employees

- (i) (a) A permanent part-time employee is one who is permanently appointed by a facility to work a specified number of hours which are less than those prescribed for a full-time employee.

- (b) By agreement between employer and employee, the specified number of hours may be balanced over a week, a fortnight or four weeks. Provided that the average weekly hours shall be deemed to be the specified number of hours for the purposes of accrual of annual leave.
  - (c) An employee whose hours are averaged over 4 weeks shall be paid each week or fortnight according to the employee's average weekly or fortnightly hours as is appropriate.
  - (d) Provided further that there shall be no interruption to the continuity of employment merely by reason of an employee, whose hours are balanced over a fortnight or over four weeks, not working in any one week in accordance with paragraph (b).
- (ii) Permanent part time employees shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed by Clause 8, Salaries, of this Enterprise Agreement and, where applicable, one thirty-eighth of the appropriate allowance or allowances prescribed by Clause 12, Special Allowances, of this Enterprise Agreement, with a minimum payment of 2 hours for each start, and one thirty-eighth of the appropriate allowances prescribed by Clause 16, Uniform and Laundry Allowances of this Enterprise Agreement, but shall not be entitled to an additional day off or part thereof, as prescribed by subclauses (iii) and (v) of Clause 3, Hours of Work and Free Time of Employees Other Than Directors of Nursing.
  - (iii) Four weeks' Annual Leave on ordinary pay is to be granted on completion of each twelve months' service. The provisions of subclauses (v) to (xi) of Clause 23, Annual Leave and Public Holidays, and Clause 24, Annual Leave Loading, of this Enterprise Agreement shall apply to employees engaged under Part I of this clause. The remaining provisions of Clause 23 shall not apply.

Where an employee has any period of permanent part-time employment during any 12 months qualifying period for annual leave, payment for such annual leave shall be calculated on the basis of the proportion that the average number of hours worked each week bears to 38 hours.

- (iv) A public holiday occurring on an ordinary working day shall be allowed to employees without loss of pay; provided that an employee who is required to and does work on a public holiday shall have one day or one half day, as appropriate, added to their period of annual leave and be paid at the rate of one half time extra to the time actually worked. Such payment is in lieu of any additional rate for shift work or weekend work which would otherwise be payable had the day not been a public holiday. In lieu of adding to annual leave under this paragraph an employee may elect to be paid for the time actually worked at the rate of time and one half in addition to their ordinary weekly rate.

Such election shall be made on the commencement of employment and then on the anniversary date each year. The employee may not alter such election during the year except with the agreement of the employer. Where payment is made in lieu of leave in respect of time worked on a public holiday, payment shall be made for a minimum of four hours work, and any balance of the day or shift not worked shall be paid at ordinary rates.

- (v) To the leave prescribed by subclause (iv) of part I of this clause there shall be added one working day for each public holiday or one half working day for each half public holiday which occurs on what would have been an ordinary working day during a period of annual leave.
- (vi) For the purpose of Part I of this clause the following are to be public holidays, viz: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Local Labour Day, Christmas Day, Boxing Day and any other day duly proclaimed and observed as a public holiday within the area in which the hospital is situated.
- (vii) In addition to those public holidays prescribed in subclause (vi) of Part I of this clause, there shall be an extra public holiday each year. Such public holiday will occur on the August Bank Holiday or a date which is agreed upon by the Association and the respective employers. The foregoing does not apply in areas where, in each year:
  - (a) a day in addition to the ten named public holidays specified in subclause (vi) Part I of this clause is proclaimed and observed as a public holiday; or

- (b) two half days in addition to the ten named public holidays specified in subclause (vi) of Part I of this clause are proclaimed and observed as half public holidays.
- (viii) In areas where in each year one half day in addition to the ten named public holidays specified in subclause (vi) of Part I of this Clause is proclaimed and observed as a half public holiday, for the purposes of this Enterprise Agreement the whole day is to be regarded and observed as a public holiday, and no additional public holiday which would otherwise apply as a result of this subclause will be observed.
- (ix) Employees engaged under Part I of this clause shall be entitled to all other benefits of this Enterprise Agreement not otherwise expressly provided for herein in the same proportion as their ordinary hours of work bear to full-time hours.

#### PART II - Casual Employees

- (i) A casual employee is one engaged on an hourly basis otherwise than as a permanent part-time or full-time employee.
- (ii) A casual employee shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate, prescribed by Clause 8, Salaries, of this Enterprise Agreement and where applicable one thirty-eighth of the appropriate allowance or allowances prescribed by Clause 12, Special Allowances, of this Enterprise Agreement plus 10 per centum thereof, with a minimum payment of 2 hours for each start, and one thirty-eighth of the appropriate allowances prescribed by Clause 16, Uniform and laundry Allowances, of this Enterprise Agreement.
- (iii) With respect to a casual employee the provisions of Clause 32, Deputy Directors of Nursing, Assistant Directors of Nursing; Clause 4, Hours of Work and Free Time of Directors of Nursing; Clause 6, Rosters; Clause 18, Overtime; Clause 30, Special Provisions Relating to Trainee Enrolled Nurses; Clause 23, Annual Leave and Public Holidays and Clause 14, Fares and Expenses of this Enterprise Agreement, shall not apply. Further, casual employees shall not be entitled to an additional day off or part thereof as prescribed by subclauses (iii) and (v) of Clause 3, Hours of Work and Free Time of Employees Other Than Directors of Nursing.
- (iv) For the entitlement to payment in respect of annual leave, see *Annual Holidays Act 1944*.
- (v) A casual employee who is required to and does work on a public holiday as defined in sub-clauses (iii) and (iv) of Clause 23, Annual leave, shall be paid for the time actually worked at the rate of double time and one-half such payment being in lieu of weekend or shift allowances which would otherwise be payable had the day not been a public holiday; provided that a casual employee shall not be entitled to be paid in addition the allowance of 10 per centum prescribed in subclause (ii) of Part II in respect of such work.
- (vi) For the entitlement to payment in respect of long service leave, see the *Long Service Leave Act 1955*.

#### PART III - Temporary Employees

- (i) A temporary employee is one engaged for a set period not exceeding 13 weeks.
- (ii) A temporary employee shall be paid, in addition to all rates and allowances to which the said employee is entitled under this Enterprise Agreement, an allowance equal to 10 per centum of the rates prescribed for his or her classification by Clause 8, Salaries, of this Enterprise Agreement, provided that this subclause shall cease to apply upon:
  - (a) The said period of engagement being extended after the said period of 13 weeks;
  - (b) The employer and the employee agreeing during the said period of 13 weeks, that the employee shall be employed on a permanent part-time or full-time basis.
- (iii) For entitlement to payment in respect of annual leave, see *Annual Holidays Act 1944*.

## 23. Annual Leave And Public Holidays

- (i) Annual leave on full pay is to be granted on completion of each twelve months service as follows:
  - (a) Employees required to work on a seven (7) day basis - six (6) weeks annual leave.
  - (b) All other employees - four (4) weeks annual leave.
- (ii)
  - (a) An employee to whom paragraph (a) of subclause (i) applies and who is required to and does work on a public holiday shall be paid, in addition to the appropriate ordinary weekly rate of pay, at the rate of one half time extra for the time actually worked on such holiday. Such payment shall be in lieu of any additional rate for shift work or weekend work which would otherwise be payable had the day not been a public holiday.
  - (b) To leave prescribed by paragraph (a) of subclause (i) there shall be added one working day or one half working day for each special public holiday or half public holiday (not being one of the ten (10) specifically named public holidays prescribed by subclause (iii) of this clause, or a special day proclaimed in lieu of any of them) which may occur during the qualifying period for annual leave or during the period of annual leave.
  - (c) A public holiday occurring on an ordinary working day shall be allowed to employees covered by paragraph (b) of subclause (i) on full pay; provided that an employee who is required to and does work on a public holiday shall have one day or one half day, as appropriate, added to their period of annual leave and be paid at the rate of one half time extra for the time actually worked. Such payment is in lieu of any additional rate for shift work or weekend work which would otherwise be payable had the day not been a public holiday. In lieu of adding to annual leave under this paragraph an employee may elect to be paid for the time actually worked at the rate of time and one half in addition to their ordinary weekly rate. Such election shall be made on the commencement of employment and then on the anniversary date each year.

The employee may not alter such election during the year except with the agreement of the employer. Where payment is made in lieu of leave in respect of the time worked on a public holiday payment shall be made for a minimum of four hours work, and any balance of the day or shift not worked shall be paid at ordinary rates.
  - (d) Where a public holiday falls on a rostered day off of a shift worker as defined in Clause 2, Definitions, of this Enterprise Agreement, and who receives four (4) weeks annual leave in accordance with paragraph (b) of subclause (i) of this clause, such shift worker shall be paid one day's pay in addition to the weekly rate or if the employee so elects shall have one day added to the period of annual leave.
  - (e) To the leave prescribed by paragraph (b) of subclause (i) there shall be added one working day for each public holiday or one half working day for each half public holiday which occurs on what would have been an ordinary working day during a period of annual leave; provided that in the case of a shift worker referred to in paragraph (d) of this subclause the provision of this paragraph shall apply to any public holidays falling during the period of annual leave.
- (iii) For the purpose of this subclause the following are to be public holidays, viz: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Local Labor Day, Christmas Day, Boxing Day and any other day duly proclaimed and observed as a public holiday within the area in which the hospital is situated.
- (iv)
  - (a) In addition to those public holidays prescribed in subclause (iii) of this clause, employees are entitled to an extra public holiday each year. Such public holiday will occur:
    - (1) on the August Bank Holiday; or
    - (2) on a date which is agreed upon by the Association and the respective employers;
    - (3) as an additional public holiday between Christmas and New Year; provided that such day is placed between Monday to Friday (inclusive) which is not gazetted as a public holiday.



The foregoing does not apply in areas where in each year:

- (4) a day in addition to the ten (10) named public holidays specified in subclause (i) is proclaimed and observed as a public holiday; or
  - (5) two half days in addition to the ten (10) named public holidays specified in subclause (i) are proclaimed and observed as half public holidays.
- (b) In areas where in each year only one half day in addition to the ten (10) named public holidays specified in subclause (iii) is proclaimed and observed as a half public holiday for the purposes of this Enterprise Agreement the whole day is to be regarded and observed as a public holiday and no additional public holiday which would otherwise apply as a result of this subclause will be observed.
- (v) (a) An employee shall be eligible for annual leave when twelve (12) months have elapsed since the date on which the first annual leave would have begun if taken immediately it had become due or, if the employee has not previously had annual leave, since the commencement of employment.
- (b) Credit of time towards an allocated day off duty shall not accrue when an employee is absent in accordance with subclause (i) of this clause. Employees entitled to allocated days off duty in accordance with Clause 3, Hours of Work and Free Time of Employees Other Than Directors of Nursing, of this Enterprise Agreement shall accrue credit towards an allocated day off duty in respect of each day those employees are absent on additional annual leave in accordance with subclauses (ii)(b) and subclause (ii)(c) of the Enterprise Agreement.
- (vi) Annual leave shall be given and shall be taken either in one consecutive period or two periods neither of which shall be less than one week, or if the employer and employee so agree in either two, three or four separate periods, but not otherwise.
- (vii) (a) Annual leave shall be given and shall be taken within a period of six (6) months after the date when the right to annual leave accrued; provided that the giving and taking of such leave may be postponed by mutual agreement between the parties for a further period not exceeding six (6) months.
- (b) Nothing in this subclause shall prevent an employer, by agreement with the employee, from allowing annual leave to an employee before the right thereto has accrued; but where leave is taken in such a case a further period of annual leave will not commence to accrue until the expiration of the twelve (12) months in respect of which annual leave was taken before it accrued.
- (c) The employer shall give each employee, where practicable, three (3) months notice of the date upon which she or he shall enter upon leave, and in any event such notice shall not be less than twenty-eight (28) days.
- (viii) (a) Each employee before going on leave shall be paid for the period of the leave at the ordinary rate of salary to which she or he is entitled under this Enterprise Agreement. Where an employee has any period of permanent part-time employment during any 12 month qualifying period for annual leave, payment for such annual leave shall be calculated on the basis of the proportion that the average number of hours worked each week bears to 38 hours.
- (b) An employee to whom paragraph (a) of subclause (i) applies shall be paid during the first twenty eight (28) consecutive days whilst on annual leave her or his ordinary rate of salary plus shift allowances and weekend penalties relating to ordinary time the employee would have worked if they had not been on annual leave; additional annual leave accrued under subclause (xi) attracts shift allowances and weekend penalties relating to ordinary time the employee would have worked if they had not been on annual leave; provided that the provisions of the preceding paragraphs of this subclause shall not apply to public holidays which occur during a period of annual leave or days which have been added to annual leave in accordance with paragraph (b) of subclause (ii) and subclause (iv) of this clause.
- (ix) Except as provided for in subclauses (x) and (xi) of this clause payment for annual leave shall not be made or accepted in lieu of annual leave.

- (x) Where the employment of an employee is terminated the employee shall be entitled to receive, in addition to all other amounts due, in respect of service of less than one year an amount equal to one-twelfth (6/46ths in respect of employees rostered to work on a seven (7) day basis) of her or his ordinary pay for that period of employment together with payment for any days added to annual leave in accordance with subclause (ii) of this clause, and in calculating such payment no deduction is to be made for accommodation or board.
- (xi) (a) In addition to the leave prescribed by subclause (i) employees who work their ordinary hours on Sundays and/or public holidays are entitled to receive additional annual leave as follows:

Number of ordinary shifts worked on Sundays and/or public holidays during a qualifying period of employment for annual leave purposes	Additional Annual Leave
4 - 10	1 day
11 - 17	2 days
18 - 24	3 days
25 - 31	4 days
32 or more	5 days

provided that an employee may elect to be paid when proceeding on annual leave an amount equivalent to the value of their additional leave entitlement in lieu of taking the additional leave. Such election is to be made in writing by the employee at the commencement of each year of employment and is irrevocable during the currency of that year of employment.

- (b) On termination of employment employees are to be paid for any untaken annual leave due under this subclause together with payment for any leave in respect of an uncompleted year of employment calculated in accordance with this subclause together with payment for any untaken annual leave due in accordance with subclause (x).

## 24. Annual Leave Loading

- (i) Before an employee is given and takes an annual holiday, or where by agreement between the employer and the employee the annual holiday is given and taken in more than one separate period, then before each of such separate periods the employer shall pay the employee a loading determined in accordance with this clause.
- (ii) The loading is payable in addition to the pay for the period of holiday given and taken due to the employee under subclauses (i)(b) and (ii)(c) of Clause 23, Annual leave and Public Holidays, of this Enterprise Agreement, or in the case of part-time employees for the period of holiday given and taken and due to the employee in accordance with the provisions of the *Annual Holidays Act 1944*.
- (iii) The loading is to be calculated in relation to any period of annual holiday to which the employee becomes or has become entitled since 31 December 1973 and which commences on or after 11 July 1974 or, where such a holiday is given and taken in separate periods, then in relation to each such separate period.
- (iv) The loading is the amount payable for the period or the separate periods, as the case may be, stated in subclause (iii) of the rate per week of 17½% of the appropriate ordinary weekly time rate of pay prescribed by this Enterprise Agreement for the classification in which the employee was employed immediately before commencing by the employee's annual holiday together with any allowances prescribed by subclause (iii) of Clause 12, Special Allowances, of this Enterprise Agreement.
- (v) No loading is payable to an employee who takes an annual holiday wholly or partly in advance; provided that, if the employment of such an employee continues until the day when the employee would have become entitled under the said Clause 23 to an annual holiday, the loading then becomes payable in respect of the period of such holiday and is to be calculated in accordance with subclause (iv) of this clause applying the Enterprise Agreement rates and wages payable on that day. This subclause applies where an annual holiday has been taken wholly or partly in advance after 31 December 1973 and the entitlement to the holiday arises on or after 11 July 1974.
- (vi) (a) When the employment of an employee is terminated by his employer after 11 July 1974 for a cause other than misconduct, and at the time of termination the employee has not been given and

has not taken the whole of an annual holiday to which he became entitled after 31 December 1973, he shall be paid a loading calculated in accordance with subclause (iv) of the period not taken.

- (b) Except as provided by paragraph (a) of this subclause no loading is payable on the termination of an employee's employment.
- (vii) This clause extends to an employee who is given and takes an annual holiday and who would have worked as a shift worker if the employee had not been on holidays; provided that, if the amount to which the employee would have been entitled by way of shift work allowances and weekend penalty rates to the ordinary time (not including time on a public or special holiday) which the employee would have worked during the period of the holiday exceeds the loading calculated in accordance with this clause, then that amount shall be paid to the employee in lieu of the loading.

## 25. Sick Leave

- (i) Subject to the following limitations and conditions an employee shall be entitled to sick leave on full pay calculated by allowing 76 rostered ordinary hours of work for each year of continuous service less any sick leave on full pay already taken.
  - (a) An employee during the first year of employment with an employer shall be entitled to sick leave at the rate of 7.6 hours at the end of each of the first five months continuous service. Upon completion of six months continuous service the employee shall be entitled to a further 38 hours sick leave. For the purpose of this subclause, where service is continuous, each new entitlement will accrue at the monthly anniversary date of the commencement of employment, i.e. A person starting on 6 March would be entitled to their first 7.6 hours on 6 April.
  - (b) An employee shall not be entitled to sick leave on full pay for any period in respect of which such employee is entitled to workers' compensation; provided, however, that an employer shall pay to an employee who has sick leave entitlement under this clause the difference between the amount received as workers' compensation and ordinary pay as defined in Clause 13 Penalty Rates for Shift Work and Weekend Work. The employee's sick leave entitlement under this clause shall, for each week during which such difference is paid, be reduced by that proportion of 38 hours which the difference paid bears to full pay.
  - (c) All periods of sickness shall be certified to by the medical superintendent or director of nursing of the hospital or by the employee's own legally qualified medical practitioner. The employer may dispense with the requirements of a medical certificate when the absence does not exceed two consecutive days or where, in the employer's opinion, the circumstances are such as not to warrant such requirement.
  - (d) Each employee shall, as soon as reasonably practicable and in any case within 24 hours of the commencement of such absence, inform the employer of their inability to attend for duty and as far as possible state the nature of the injury or illness and the estimated duration of the absence.
  - (e) For the purpose of determining a full-time employee's sick leave credit as at 19 September 1986, sick leave entitlement shall be proportioned on the basis of 76:80
- (ii) The employer shall not change the rostered hours of an employee fixed by the roster or rosters applicable to the fourteen days immediately following the commencement of sick leave merely by reason of the fact that they are on sick leave.
- (iii) Part-time employees: A permanent part-time employee shall be entitled to sick leave in the same proportion of 76 hours as the average weekly hours worked over the preceding 12 months of from the time of the commencement of employment, whichever is the lesser, bears to 38 ordinary hours. Such entitlements shall be subject to all the above conditions applying to full-time employees.
- (iv) With respect to an employee who is eligible for sick leave and who produces a satisfactory medical certificate to the effect that they have been incapacitated for a period of at least one week's duration while on annual leave, the employee may re-credit such employee with an equivalent period of annual leave; provided that no such re-crediting shall be granted to an employee on leave prior to retirement,

resignation or termination of services and provided further the employer is satisfied on the circumstances and the nature of the incapacity.

- (v) Subject to the provision of a satisfactory medical certificate and sick leave being due, extended or long service leave shall be re-credited where an illness of at least one week's duration occurs during the period of extended or long service leave; provided that the period of leave does not occur prior to retirement, resignation or termination services.

## 26. Long Service Leave

- (i) For long service leave falling due prior to 20th February 1981, see *Long Service Leave Act 1955*.
- (ii) For long service leave falling due after 20th February 1981 the following provisions shall apply:
  - (a)
    - (1) Every employee after ten years' continuous service with the same employer shall be entitled to two months' long service leave on full pay; after fifteen years' continuous service to an additional one month's long service leave on full pay; and for each five years' continuous service thereafter to an additional one and one half months' long service leave on full pay. Such leave shall be taken at a time to be mutually arranged between the employer and the employee.
    - (2) Where the service of an employee with at least five years' service is terminated, the employee shall be entitled for five years' service to one month's long service leave on full pay and for service after 5 years to a proportionate amount of such leave on full pay calculated on the basis of 2 months' long service leave for 10 years' service.
  - (b) Where an employee has acquired a right to extended leave under subclause (a) of this clause, then and in every such case:
    - (1) If before such leave has been entered upon the employment of such employee has been terminated such employee shall be entitled to receive the monetary value of the leave to which such employee has been entitled computed at the rate of salary which such employee had been receiving immediately prior to the termination of employment.
    - (2) If such employee dies before entering upon such extended leave, or if after having entered upon the same dies before its termination, his widow, or in the case of a widower leaving children his children or their guardians or other dependent relatives or their legal representatives, shall be entitled to receive the monetary value of the leave not taken or not completed, as the case may be, and computed at the rate of salary which the employee had been receiving at the time of death.
  - (c) For the purpose of this Clause:
    - (1) Continuous service in the same hospital prior to the coming into force of this Enterprise Agreement shall be taken into account.
    - (2) One month equals four and one-third weeks.
    - (3) Continuous service shall be deemed not to have been broken by:
      - (i) any period of absence on leave without pay not exceeding six months;
      - (ii) absence of an employee from the hospital whilst a member of the Defence Forces of the Commonwealth in time of war.
  - (d) Where any employee has been granted a period of long service leave prior to the coming into force of this Enterprise Agreement the amount of such leave shall be debited against the amount of leave due under this Enterprise Agreement.

- (e) Any period(s) of part-time employment with the same employer shall count towards long service leave as provided for in paragraph 2(a) of this clause. Such long service leave shall be paid for on the basis of the proportion that the average number of hours worked per week bears to 38 hours.
- (f) Where an employee has accrued a right to an allocated day off duty on pay prior to entering a period of long service leave such day shall be taken on the next working day immediately following the period of long service leave.

An employee returning to duty from long service leave shall be given the next allocated day off duty in sequence irrespective of whether sufficient credits have been accumulated or not.

## **27. Compassionate Leave**

- (i) In general, compassionate leave with pay should be granted only in extraordinary or emergent circumstances where a member of the staff of a hospital is forced to absent themselves from duty because of urgent pressing necessity, and such leave as is granted should be limited to the time necessary to cover the immediate emergency.
- (ii) Any absence occasioned by personal exigencies which might fairly be regarded as an obligation on the employee, rather than the employer, to make good should be covered by the grant of leave without pay or, if the employee so desires, charged against their annual leave credit.
- (iii) The following basic principles should be kept in mind when dealing with applications by permanent employees:
  - (a) Bereavement Leave - An employee shall be entitled to up to two days bereavement leave without deduction of pay, on each occasion of the death of a person as prescribed in paragraph (c) of this subclause. Where the employee is involved in funeral arrangements, travelling etc., leave may be allowed for up to three days. Leave with pay would not ordinarily be granted for the death or attendance at the funeral of a relative other than those mentioned, unless special circumstances existed, i.e., the employee lived with the deceased.
  - (b) The employee must notify the employer as soon as practicable of the intention to take bereavement leave and will, if required by the employer, provide to the satisfaction of the employer proof of death.
  - (c) Bereavement leave shall be available to the employee in respect to the death of a person prescribed for the purposes of personal/carer's leave as set out in subparagraph (2) of paragraph (c) of subclause (i) Use of Sick Leave of Clause 28, Personal/Carer's Leave provided that, for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.
  - (d) An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.
  - (e) Bereavement leave may be taken in conjunction with other leave available under subclauses (ii), (iii), (iv), (v) and (vi) of Clause 28 Personal/Carer's Leave. In determining such a request, the employer will give consideration to the circumstances of the employee and the reasonable requirements of the business.
  - (f) Illness in the family:
 

Except in very special circumstances leave with pay should be limited to one day, which as a general rule, would prove sufficient time to meet the immediate emergency and allow the employee to make any other arrangements necessary. It would be expected that no one but the employee would be available to care for the sick member of the family.
- (iv) The above principles are not intended to codify completely purposes for which compassionate leave with pay may be allowed. The element of unforeseen emergency could be present in other situations, eg. floods and bushfires, which clearly prevent attendance for duty.

- (v) In view of the purpose for which compassionate leave is intended, it is not possible to prescribe a precise limitation of the amount of leave to be granted in a given period. It is suggested, however, that only under the most exceptional circumstances should leave exceeding a total of three days be granted to an employee in any year.
- (vi) **Bereavement entitlements for casual employees**
  - (a) Subject to the evidentiary and notice requirements in paragraph (b) of subclause (i) Use of Sick Leave, casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subparagraph (2) of paragraph (c) of subclause (i) Use of Sick Leave, of Clause 28 Personal/Carer's Leave.
  - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
  - (c) 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 an employer to engage or not engage a casual employee are otherwise not affected.

## **28. Personal/Carer's Leave**

- (i) Use of Sick Leave
  - (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out subparagraph (2) of paragraph (c) of subclause (i) Use of Sick Leave, of Clause 28 Personal/Carer's Leave, who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at Clause 25, Sick Leave for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at Clause 41 Resolution of Disputes should be followed.

- (b) The employee shall, if required,
  - (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
  - (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.
  - (3) In normal circumstances, an employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.
- (c) The entitlement to use sick leave in accordance with this subclause is subject to:
  - (1) the employee being responsible for the care of the person concerned; and
  - (2) the person concerned being:
    - (i) a spouse of the employee; or
    - (ii) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or

wife of that person on a bona fide domestic basis although not legally married to that person; or

(iii) a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or

(iv) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or

(v) a relative of the employee who is a member of the same household, where for the purposes of this paragraph:

(a) "relative" means a person related by blood, marriage or affinity;

(b) "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and

(c) "household" means a family group living in the same domestic dwelling.

(d) An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and their relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

(ii) Unpaid leave for family purpose

An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in subparagraph (2) of paragraph (c) of subclause (i) Use of Sick Leave of this clause who is ill or who requires care due to an unexpected emergency.

(iii) Annual Leave

(a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.

(b) Access to annual leave, as prescribed in paragraph (a) of this subclause, shall be exclusive of any shutdown period provided for elsewhere under this Enterprise Agreement.

(c) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.

(d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

(iv) Time Off in Lieu of Payment for Overtime

(a) For the purpose only of providing care and support for a person in accordance with subclause (i) of this clause, and despite the provisions of Clause 18, Overtime, the following provisions shall apply.

(b) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within 12 months of the said election.

(c) Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked.

- (d) If, having elected to take time as leave in accordance with paragraph (a) of this subclause, the leave is not taken for whatever reason payment for time accrued at overtime rates shall be made at the expiry of the 12 month period or on termination.
- (e) Where no election is made in accordance with the said paragraph (a), the employee shall be paid overtime rates in accordance with the Enterprise Agreement.

(v) **Make-up time**

- (a) An employee may elect, with the consent of their employer, to work "make-up time", under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the Enterprise Agreement at the ordinary rate of pay.
- (b) An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off ordinary hours and works those hours at a later time), at the shift work rate which would have been applicable to the hours taken off.

(vi) **Rostered Days Off**

- (a) An employee may elect, with the consent of the employer, to take a rostered day off at any time.
- (b) An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.
- (c) An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer and employee, or subject to reasonable notice by the employee or the employer.
- (d) This subclause is subject to the employer informing each union which is both party to the Enterprise Agreement and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for the union(s) to participate in negotiations.

(vii) **Personal Carer's Entitlement for Casual Employees**

- (a) Subject to the evidentiary and notice requirements in subparagraph (1) of paragraph (b) of subclause (i) Use of Sick Leave casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subparagraph (2) of paragraph (c) of subclause (i) Use of Sick Leave of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (c) 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 an employer to engage or not to engage a casual employee are otherwise not affected.

**29. Staff Amenities**

The employer shall provide for the use of employees:

- (i) A suitable changing room and adequate washing and toilet facilities;
- (ii) A full-length locker fitted with lock and key or other suitable place for the safe keeping of clothing and personal effects of such employee;



- (iii) An employer shall provide for an employee morning and afternoon tea, supper and early morning tea (which shall include tea or coffee together with milk and sugar) when the employee is on duty, at times appropriate for the partaking thereof, and shall provide also for such an employee, who requires them, meals of a reasonable standard, which fall due during the duty period, and for such meals so provided may make a charge, provided that the charge for breakfast shall be the sum set out in Item 18 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates and the sum set out in Item 19 of Table 2 for other meals. The charges referred to in this subclause are to be adjusted in accordance with the movement in wage rates following State Wage Case decisions. The employers are entitled to set prices for meals at a level to cover labour and ingredient costs.

**30. Special Provisions Relating To Trainee Enrolled Nurses**

(This clause does not apply to part-time employees.)

- (i) Where a trainee enrolled nurse has transferred from one training school to another, the time allowed by the Board in the first training school shall be counted in computing salary.
- (ii) A trainee enrolled nurse, who is absent from training for not more than two weeks, exclusive of annual leave, in any period of twelve months training shall, for the purpose of annual increase in salary under Clause 8, Salaries, of this Enterprise Agreement, be deemed to have completed the particular year of training twelve calendar months after the commencement thereof notwithstanding such absence, but if absent for more than the aforesaid time in any such period the particular year of training shall not be deemed to have been completed until the employee has served the actual period of excess of such time.

**31. Escort Duty**

- (i) Periods during which an employee, other than Director of Nursing, is engaged in nursing duties, viz, in attendance on a patient, shall be paid as working time under this Enterprise Agreement. Where applicable, overtime shall be payable.
- (ii) All reasonable out-of-pocket expenses shall be reimbursed.
- (iii) Rostered time shall be paid as such even though an employee may be travelling, in hotel/motel accommodation, or waiting for transport.
- (iv) In respect of non-rostered time not spent in nursing duties:
  - (a) Periods in hotel/motel accommodation or waiting for transport shall not be counted as working time;
  - (b) Periods in travelling shall count as working time.

**32. Deputy Directors Of Nursing, Assistant Directors Of Nursing**

- (i) The following appointments shall be made in hospitals with adjusted daily averages of occupied beds as specified hereunder:

Less than 40 beds - a Deputy Director of Nursing except where

- (a) the Registered Nurses at the hospital are all given the same duties and no Registered Nurse is delegated Deputy Director of Nursing duties; and
- (b) the Director of Nursing perceives no requirement for a Deputy Director of Nursing to be employed.

40 beds and over but less than 75 beds - a Deputy Director of Nursing except where

- (a) at least two full time equivalent Nursing Unit Managers are employed; and

- (b) the Director of Nursing perceives no requirement for a Deputy Director of Nursing to be employed.

75 beds and over but less than 150 beds - a Deputy Director of Nursing

150 beds and over - a Deputy Director of Nursing, and one or more Assistant Directors of Nursing.

Provided that no Deputy Director of Nursing employed as at 1 January 1998 shall be dismissed or demoted as a result of the implementation of this clause.

- (ii) Appointments under subclause (i) of this clause, shall be made within two calendar months of the date this Enterprise Agreement becomes operative and thereafter within two calendar months of the occurrence of a vacancy. In default of appointment within the said period of two calendar months of the occurrence of a vacancy, the registered nurse employed as such or in a higher classification who has customarily relieved, in the vacant position, or if no one has so customarily relieved, the registered nurse employed in the same or the next senior classification at the hospital, shall be deemed to be appointed until such time as another appointment is made by the hospital.

### **33. Proportion**

Except in cases of emergency not more than four enrolled nurses and/or assistants-in-nursing/midwifery to each registered nurse shall be employed in a hospital and for this purpose a director of nursing shall count; provided that the proportions specified by this clause may be altered in respect of any particular hospital by agreement between the hospital concerned and the Association.

### **34. Medical Examination Of Nurses**

On commencement of employment the employee shall be notified of the availability of the following provisions which the employer shall provide at the request of the employee:

- (i) For protection against tuberculosis:
  - (a) Before a nurse commences duty, a PA chest x-ray examination of the nurse unless a radiologist's report of a normal chest x-ray taken within the previous six months is available.
  - (b) As soon as practicable after the nurse commences duty, a Mantoux test on the nurse, then -
    - (1) where the Mantoux test is negative, immunisation with BCG vaccine;
    - (2) where the Mantoux test is positive (otherwise than as a result of BCG vaccination), referral to a chest clinic for assessment.
  - (c) A Mantoux test annually to -
    - (1) previously Mantoux-negative nursing staff;
    - (2) nursing staff whose Mantoux reaction has been converted by BCG vaccination.
  - (d) A chest x-ray annually to nursing staff whose Mantoux reaction is positive (otherwise than as a result of BCG vaccination).
  - (e) Where a nurse has been caring for open tuberculosis cases, a PA chest x-ray examination of the nurse one year after completion of employment.
- (ii) For protection against other communicable diseases:
  - (a) where a nurse has not had a complete course of immunisation against diphtheria, tetanus, poliomyelitis, measles, mumps and hepatitis, immunisation against those diseases;

- (b) booster immunisation against tetanus at 10-year intervals;
- (c) a rubella antibody test and, where a nurse has a negative result, rubella immunisation.
- (iii) For protection against radiation exposure, nurses required to work in close proximity to a source of ionising radiation should be provided with a film badge or personal radiation dosimeter, and a record should be maintained of the radiation exposure measured by such film badge or dosimeter.
- (iv) The costs involved in the various screening and protection procedures should be borne by the employer.

### **35. Domestic Work**

- (i) Except as hereinafter provided, nurses, student nurses, trainee enrolled nurses, enrolled nurses and assistants-in-nursing shall not be required to perform, as a matter of routine, the following duties, viz: washing, sweeping, polishing and/or dusting of floors, walls or windows of wards, corridors, annexes, bathrooms or verandas, nor any duties which are generally performed by classifications other than nursing staff: but this provision shall not preclude the employment of nurses, student nurses, trainee enrolled nurses, enrolled nurses and assistants-in-nursing on any of such duties in an isolation block or where the performance of those duties involves disinfection.
- (ii) Nothing in subclause (i) of this clause shall preclude a student nurse, trainee enrolled nurse, enrolled nurse or an assistant-in-nursing from being required to perform all or any of the specified duties during the first thirteen weeks of training or experience, as the case may be.
- (iii) Nothing in subclause (i) of this clause shall preclude any employee from being required to perform all or any of the specified duties at any time when domestic staff is not available to perform them; provided that the employer has made all reasonable efforts to obtain domestic staff.

### **36. Labour Flexibility**

An employer may direct an employee to carry out duties as are within the limits of the employee's skill, competence and training. Such duties may include work which is incidental or peripheral to the employee's main tasks provided that such duties are not designed to promote deskilling nor are inconsistent with Clause 35 - Domestic Work.

Any employer may direct an employee to carry out duties and use such equipment as may be required provided that the employee has been properly trained or has otherwise acquired the necessary skills in the use of such equipment. Any such direction issued by the employer shall be consistent with the employer's responsibility to provide a safe and healthy working environment for employees and the employer's duty of care to patients.

### **37. Termination Of Employment**

- (i) Except for misconduct justifying summary dismissal, the services of an employee shall be terminated only by fourteen days notice or by the payment of fourteen days salary in lieu thereof in the case of an employee other than a director of nursing, and by twenty eight days notice or by the payment of twenty eight days salary in lieu thereof in the case of a director of nursing.
- (ii) No employee shall, without the consent of the employer, resign without having given fourteen days notice (or in the case of a director of nursing, twenty eight days notice) of intention so to do or forfeiting salary earned during the pay period current at the time of resignation; provided that in no circumstances shall the employee other than a Director of Nursing forfeit more than fourteen days pay, and a director of nursing more than twenty eight days pay at the rates prescribed for her or his classification by Clause 8, Salaries, of this Enterprise Agreement.
- (iii) Upon The Termination Of The Services Of An Employee The Employer Shall Furnish The Employee With A Written Statement, Surely Signed By Or On Behalf Of The Employer, Setting Out The Period Of The Employment And The Capacity In Which The Employee Was Employed.
- (iv) Employees Who Have Accrued Additional Days Off Duty Pursuant To Subclause (vii) Of Clause 3, Hours Of Work And Free Time Of Employees Other Than Directors Of Nursing, Shall Be Paid For Such Accrued Time At Ordinary Rate Of Pay Upon Termination.

### **38. Enterprise Agreement Benefits To Be Continuous**

- (i) In the event of any change in ownership licensee or management of any hospital or institution covered by this Enterprise Agreement, all employee rights and benefits provided by this Enterprise Agreement shall continue as if no such change in ownership, licensee or management had taken place

Where such changes do occur, no employee shall be paid out for accrued annual leave, long service leave or any other benefit, but such benefits shall be continuous.

- (ii) No employee, full-time or part-time, shall be terminated or required to take leave without pay where such termination or leave is used to avoid the requirements of any Act or to avoid payment of any rights or benefits provided by this Enterprise Agreement.

### **39. Right Of Entry**

The parties agree that current arrangement which flow from sections 296-298 of the *Industrial Relations Act 1996* will be incorporated into policy and will continue to apply.

### **40. Attendance At Meetings And Fire Drills**

- (i) Any employee required to work outside the ordinary hours of work in satisfaction of the requirements for compulsory fire safety practices (fire drill and evacuation procedures) contained from time to time within the Private Hospitals and Day Procedure Centres Act 1988, and the regulations made there under, shall be entitled to be paid the "ordinary rate" for the actual time spent in attendance at such practices. In lieu of receiving payment, employees may with the agreement of the employer be permitted to be free from duty for a period of time equivalent to the period spent in attendance at such meetings. Such time spent in attendance shall not be viewed as overtime for the purposes of this Enterprise Agreement.
- (ii) Any employee required to attend Occupational Health and Safety Committee and/or Board of Management meetings in the capacity of employee representative shall, if such meetings are held outside the ordinary hours of work, be entitled to receive payment at the "ordinary rate" for the actual time spent in attendance at such meetings. In lieu of receiving payment, employees may with the agreement of the employer be permitted to be free from duty for a period of time equivalent to the period spent in attendance at such meetings. Such time spent in attendance shall not be viewed as overtime for the purposes of this Enterprise Agreement.
- (iii) For the purposes of this clause "ordinary rate" shall include amounts payable under Clause 8, Salaries, and Clause 12, Special Allowances, subclauses (i) and (ii), of this Enterprise Agreement; plus, where appropriate, the 10% loading prescribed in Clause 22 Part-time, Casual and Temporary Employees of this Enterprise Agreement for employees engaged otherwise than as a full-time or permanent part-time employee.
- (iv) Workplace representatives are permitted to continue to conduct Association activities according to arrangements in place at the time this Enterprise Agreement is made. Health recognises the rights of workplace representatives to carry out their roles, consistent with their employment obligations. As has been customarily been the practice at Health facilities, recognition and the role of workplace representatives have been based on mutual commitment to ensure that the legitimate activity of workplace representatives should occur without disruption to normal work.

### **41. Resolution Of Disputes**

- (i) With a view to an amicable and speedy settlement of all disputes which cannot be resolved between the employees or their representatives and the supervising staff, such dispute shall be referred to the management of the facility who will arrange for the matter to be discussed with the employee concerned and a representative or representatives of the Association.
- (ii) Failing settlement of the issue at this level the matter shall be submitted to a committee consisting of not more than four members, two of whom shall be appointed by the employer and two by the Association.
- (iii) Whilst these procedures are continuing no stoppage of work or any form of ban or limitation of work shall be applied.

- (iv) The Association reserves the right to vary this procedure where it is considered a safety factor is involved.
- (v) This clause shall not interfere with the right of either party to institute proceedings for the determination of any matter in accordance with the *Industrial Relations Act 1996*.
- (vi) In the event that this Enterprise Agreement is covered by Federal legislation the parties expressly confer the powers of the Australian Industrial Relations Commission (or its successor body), to make binding recommendations, make inquiries, directions or use any power available to it under legislation to resolve disputes.
- (vii) This clause shall not be a vehicle for the improvement or alteration to the terms of this Enterprise Agreement including wages and conditions or the reopening of this agreement except where there is mutual agreement to do so. Nothing in this subclause limits the rights of either party to access the relevant court.

#### **42. Anti-Discrimination**

- (i) It is the intention of the parties bound by this Enterprise Agreement to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity and age.
- (ii) It follows that in fulfilling their obligations under the dispute resolution procedure by this Enterprise Agreement the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Enterprise Agreement are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the Enterprise Agreement which, by its terms or operation, has a direct or indirect discriminatory effect.
- (iii) Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (iv) Nothing in this clause is to be taken to affect:
  - (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
  - (b) offering or providing junior rates of pay to persons under 21 years of age;
  - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
  - (d) a party to this Enterprise Agreement from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- (v) This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this clause.

#### NOTES---

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

"Nothing in this Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion".

#### 43. Parental Leave

- (i) Refer to the Industrial Relations Act 1996 (NSW). The following provisions shall also apply in addition to those set out in the Industrial Relations Act 1996 (NSW)
- (ii) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
  - (a) the employee or employee's spouse is pregnant; or
  - (b) the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

#### (iii) **Right to request**

- (a) An employee entitled to parental leave may request the employer to allow the employee:
  - (1) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
  - (2) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
  - (3) to return from a period of parental leave on a part-time basis until the child reaches school age;

to assist the employee in reconciling work and parental responsibilities.

- (b) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- (c) Employee's request and the employer's decision to be in writing

The employee's request and the employer's decision made pursuant to subparagraph (2) of paragraph (a) of subclause (iii) Right to Request and subparagraph (3) of paragraph (a) of subclause (iii) Right to Request of this Clause must be recorded in writing.

- (d) Request to return to work part-time

Where an employee wishes to make a request pursuant subparagraph (3) of paragraph (a) of subclause (iii) Right to Request of this Clause such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

#### (iv) **Communication during parental leave**

- (a) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
  - (1) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
  - (2) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the

employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a) of this subclause.

(v) **Paid Parental Leave**

The parties agree that the existing arrangements for paid parental leave as at the date of certification will be no less and will be incorporated into policy and will continue to apply.

#### **44. Secure Employment**

(i) **Objective of this Clause**

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

(ii) **Casual Conversion**

- (a) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (b) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (c) Any casual employee who has a right to elect under paragraph (a) of subclause (ii) Casual Conversion, upon receiving notice under paragraph (b) of subclause (ii) Casual Conversion or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (d) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (e) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (f) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (c) of subclause (ii) Casual Conversion, the employer and employee shall, in accordance with this paragraph, and subject to paragraph (c) of subclause (ii) Casual Conversion, discuss and agree upon:

- (1) whether the employee will convert to full-time or part-time employment; and
- (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the Industrial Relations Act 1996 (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (g) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (h) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause

**(iii) Occupational Health and Safety**

- (a) For the purposes of this subclause, the following definitions shall apply:
  - (1) A “labour hire business” is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
  - (2) A “contract business” is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer’s own employees.
- (b) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer’s premises shall do the following (either directly, or through the agency of the labour hire or contract business):
  - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (c) Nothing in this subclause (iii) Occupational Health and Safety is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the Occupational Health and Safety Act 2000 or the Workplace Injury Management and Workers Compensation Act 1998.

**(iv) Disputes Regarding the Application of this Clause**

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this Enterprise Agreement.

- (v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the Apprenticeship and Traineeship Act 2001 (or equivalent interstate



legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

**45 Superannuation**

Refer to Appendix 1 – Superannuation

**46. Redundancy**

Refer to Appendix 3 – Redundancy

**47. Existing State Award Provisions**

- (i) The parties agree that the existing terms and conditions of the Private Hospital Industry Nurses' (State) Award, Private Hospital and Nursing Home Nurses' Superannuation (State) Award, and the Nurses' (Private Sector) Redundancy (State) Award will continue to apply until the commencement date of this Enterprise Agreement. The Nurses' (Private Sector) Training Wage (State) Award will continue to operate in conjunction with this Enterprise Agreement.

**48. Renegotiation of Agreement**

The parties agree to commence negotiations for a new collective agreement no later than June 2008; the parties may commence negotiations prior to this date. It is the intention of the parties that the operative date of the new collective agreement will be 2 October 2008.

**49. No Extra Claims**

- (i) The parties agree not to pursue any extra claims except where provided for under this Enterprise Agreement, Further, this provision will not apply to any improvements in conditions that may arise from any consolidation of Health policies.

**50. Leave Reserved**

Leave is reserved to the parties to apply in respect of any variation necessary to give effect to their joint commitment to re-draft in "plain English" as much of the Enterprise Agreement as is practicable.

**51. Area, Incidence And Duration**

- (i) This Enterprise Agreement applies to persons engaged and employed in the industry of nursing employed in or in connection with Hospitals owned or operated by Health in NSW.
- (ii) This agreement shall remain in force from the commencement date until 1 October 2008.

**MONETARY RATES: TABLE 1 - SALARIES**

	<b>From EA commencement date (already applying) 01-Nov-2005 Former Affinity Hospitals (\$)</b>	<b>FFPP on or after 01-Oct-2006 4.0% (\$)</b>	<b>FFPP on or after 01-Oct-2007 4.0% (\$)</b>	<b>FFPP on or after 30-Jul-2008 2.5% (\$)</b>
<b>Assistant in Nursing, Assistant in Midwifery and Trainee Enrolled Nurse</b>				
<b>Under 18:</b>				
<b>1st year</b>	482.30	501.60	521.70	534.70
<b>2nd year</b>	503.50	523.60	544.50	558.10
<b>Thereafter</b>	523.70	544.60	566.40	580.60
<b>Over 18:</b>				
<b>1st year</b>	568.90	591.70	615.40	630.80
<b>2nd year</b>	587.10	610.60	635.00	650.90
<b>3rd year</b>	605.50	629.70	654.90	671.30
<b>Thereafter</b>	624.40	649.40	675.40	692.30
<b>Enrolled Nurse</b>				
<b>1st year</b>	698.20	726.10	755.10	774.00
<b>2nd year</b>	713.50	742.00	771.70	791.00
<b>3rd year</b>	729.00	758.20	788.50	808.20
<b>4th year</b>	744.40	774.20	805.20	825.30
<b>Thereafter</b>	759.90	790.30	821.90	842.50
<b>Enrolled Nurse - Medication endorsed</b>				
<b>1st year</b>	712.20	740.70	770.30	789.60
<b>2nd year</b>	727.80	756.90	787.20	806.90
<b>3rd year</b>	743.60	773.30	804.20	824.30
<b>4th year</b>	759.30	789.70	821.30	841.80
<b>Thereafter</b>	775.10	806.10	838.30	859.30
<b>Note: new classification applying from FFPP on or after date of EA approval.</b>				

<b>Registered Nurse/Midwife</b>				
<b>1st year</b>	791.70	823.40	856.30	877.70
<b>2nd year</b>	834.80	868.20	902.90	925.50
<b>3rd year</b>	877.90	913.00	949.50	973.20
<b>4th year</b>	924.10	961.10	999.50	1,024.50
<b>5th year</b>	969.80	1,008.60	1,048.90	1,075.10
<b>6th year</b>	1,015.80	1,056.40	1,098.70	1,126.20
<b>7th year</b>	1,067.80	1,110.50	1,154.90	1,183.80
<b>8th year</b>	1,111.80	1,156.30	1,202.60	1,232.70
<b>Clinical Nurse/Midwifery Specialist</b>	1,157.10	1,203.40	1,251.50	1,282.80
<b>Clinical Nurse/Midwifery Consultant</b>	1,422.70	1,479.60	1,538.80	1,577.30
<b>Nursing/Midwifery Unit Manager</b>				
<b>Level I</b>	1,394.70	1,450.50	1,508.50	1,546.20
<b>Level II</b>	1,460.90	1,519.30	1,580.10	1,619.60
<b>Level III</b>	1,500.00	1,560.10	1,622.50	1,663.10
<b>Nurse undergoing pre-registration training</b>	682.60	709.90	738.30	756.80
<b>Clinical Nurse/Midwifery Educator</b>	1,157.10	1,203.40	1,251.50	1,282.80
<b>Nurse/Midwifery Educator</b>				
<b>1st year</b>	1,283.60	1,334.90	1,388.30	1,423.00
<b>2nd year</b>	1,319.70	1,372.50	1,427.40	1,463.10
<b>3rd year</b>	1,352.10	1,406.20	1,462.40	1,499.00
<b>4th year</b>	1,422.70	1,479.60	1,538.80	1,577.30
<b>Senior Nurse/Midwifery Educator</b>				
<b>1st year</b>	1,457.10	1,515.40	1,576.00	1,615.40
<b>2nd year</b>	1,487.00	1,546.50	1,608.40	1,648.60
<b>3rd year</b>	1,536.80	1,598.30	1,662.20	1,703.80
<b>Assistant Director of Nursing</b>	1,500.00	1,560.10	1,622.50	1,663.10
<b>100 beds &amp; over</b>				

<b>Deputy Director of Nursing</b>				
<b>Less than 100 beds</b>	1,460.90	1,519.30	1,580.10	1,619.60
<b>100 beds, less than 200 beds</b>	1,500.10	1,560.10	1,622.50	1,663.10
<b>200 beds, less than 250 beds</b>	1,536.80	1,598.30	1,662.20	1,703.80
<b>250 beds, less than 350 beds</b>	1,594.20	1,658.00	1,724.30	1,767.40
<b>350 beds, less than 450 beds</b>	1,651.30	1,717.40	1,786.10	1,830.80
<b>450 beds, less than 750 beds</b>	1,712.30	1,780.80	1,852.00	1,898.30
<b>750 beds &amp; over</b>	1,778.90	1,850.10	1,924.10	1,972.20
<b>Director of Nursing</b>				
<b>Less than 25 beds</b>	1,505.60	1,565.80	1,628.40	1,669.10
<b>25 beds, less than 50 beds</b>	1,594.10	1,657.90	1,724.20	1,767.30
<b>50 beds, less than 75 beds</b>	1,628.70	1,693.80	1,761.60	1,805.60
<b>75 beds, less than 100 beds</b>	1,662.50	1,729.00	1,798.20	1,843.20
<b>100 beds, less than 150 beds</b>	1,710.30	1,778.70	1,849.90	1,896.10
<b>150 beds, less than 200 beds</b>	1,767.30	1,838.00	1,911.50	1,959.30
<b>200 beds, less than 250 beds</b>	1,824.70	1,897.70	1,973.60	2,022.90
<b>250 beds, less than 350 beds</b>	1,893.40	1,969.10	2,047.90	2,099.10
<b>350 beds, less than 450 beds</b>	2,007.50	2,087.80	2,171.30	2,225.60
<b>450 beds, less than 750 beds</b>	2,123.90	2,208.90	2,297.30	2,354.70
<b>750 beds &amp; over</b>	2,257.10	2,347.40	2,441.30	2,502.30

**MONETARY RATES: Table 2 - OTHER RATES AND ALLOWANCES**

	<b>Clause</b>	<b>FFPP on or after 01-Oct-2006 (\$)</b>	<b>FFPP on or after 01-Oct-2007 (\$)</b>	<b>FFPP on or after 30-Jul-2008 (\$)</b>
<b>In charge hospital/nursing home day, evening or night shift</b>	12(i)(a)	20.09	20.90	21.42
<b>In charge ward/unit in absence of Nursing Unit Manager</b>	12(i)(b)	20.09	20.90	21.42
<b>In charge ward/unit &amp; hospital:</b>	12(v)(a)	30.11	31.32	32.10
<b>On call:</b>	12(ii)(a)	18.06	18.78	19.25
<b>On call on days off:</b>	12(ii)(b)	35.67	37.10	38.03
<b>On call during meal break:</b>	12(ii)(c)	10.13	10.54	10.80
<b>Radiographic allowance: DON</b>	12(iii)(a)	28.68	29.83	30.58
<b>Employee in absence of DON</b>	12(iii)(c)	5.85	6.08	6.23
<b>Lead apron allowance:</b>	12(iv)	1.42	1.48	1.52
<b>Meal allowance overtime:</b>	18(vii)	15.59	16.21	16.62
<b>Uniform and laundry allowances:</b>				
<b>Uniform</b>	16(iii)(a)	5.57	5.73	5.85
<b>Shoes</b>	16(iii)(a)	1.72	1.77	1.81
<b>Cardigan or Jacket</b>	16(iii)(c)	1.68	1.73	1.77
<b>Stockings</b>	16(iii)(b)	2.88	2.96	3.02
<b>Socks</b>	16(vi)	.57	.59	.60
<b>Laundry</b>	16(iv)	4.64	4.77	4.87
<b>Staff Amenities:</b>				
<b>Breakfast</b>	29(a)(iii)	3.18	3.31	3.39
<b>Other meals</b>	29(a)(iii)	5.77	34.64	35.51

## APPENDIX 1 – SUPERANNUATION

### 1. Arrangement

Clause No.	Subject Matter
1.	Arrangement
2.	Definitions
3.	Superannuation Legislation
4.	Contributions
5.	Salary Sacrifice to Superannuation
6.	Grievance Procedure

### 2. Definitions

- (i) "Approved fund" means:
- (a) the Health Employees' Superannuation Trust Australia (H.E.S.T.A.);
  - (b) the Health Industry Plan (HIP);
  - (c) the National Healthcare Superannuation Fund (N.H.S.F.);
  - (d) the Medprac Superannuation Scheme (Medprac);
  - (e) any superannuation fund as agreed between the Association and employer(s), provided that the fund is a complying regulated fund and holds a Certificate of Compliance issued by the Australian Prudential Regulation Authority. Provided further that the Association shall not unreasonably withhold agreement unless it establishes good and proper reasons;
  - (f) any superannuation fund operating within a place of employment prior to 8 July 1997 provided that the fund is a complying regulated fund, holds a Certificate of Compliance issued by the Australian Prudential Regulation Authority, and the Association agrees to the continued approval of that fund. Provided that the Association shall not unreasonably withhold agreement unless it establishes good and proper reasons;
  - (g) any superannuation fund nominated by the employee and approved by the employer in accordance with section 124 of the Industrial Relations Act 1996 ("the 1996 Act").
- (ii) "Complying regulated fund" means a superannuation fund that is regulated under the Superannuation Industry (Supervision) Act 1993 and has been issued with a Certificate of Compliance by the Australian Prudential Regulation Authority.
- (iii) "Ordinary-time earnings" means remuneration for an employee's weekly number of hours of work, excluding overtime hours, calculated at the ordinary-time rate of pay, including the following:
- (a) Monday to Friday shift premiums for ordinary hours of work;
  - (b) Weekend shift premiums for ordinary hours of work;
  - (c) Public holiday loadings;
  - (d) Any percentage addition payable to casual employees for ordinary hours or work;
  - (e) Ordinary time award allowances (not including expense related allowances);

- (f) Overaward payments for ordinary hours of work.
- (iv) "Association" means the New South Wales Nurses' Association and/or the NSW Branch of the Australian Nursing Federation.
- (v) "Qualified employee" means:
  - (a) a full-time or part-time employee who has completed at least four weeks service in the industry of nursing. Provided that once this period has elapsed, payments in accordance with Clause 4, Contributions, shall be made for the entire period of service with the employer;
  - (b) a casual employee who has earned in excess of \$2,000.00 ordinary-time earnings during their employment with an employer in the course of any one year (1 July to 30 June). Provided further that any casual employee who is deemed to be a qualified employee prior to 8 July 1997 will continue to be qualified.

### **3. Superannuation Legislation**

The subject of superannuation is dealt with extensively by federal 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, and section 124 of the Industrial Relations Act 1996. This legislation, as varied from time to time, shall govern the superannuation rights and obligations of the parties.

### **4. Contributions**

- (i) The employer shall make, in respect of qualified employees, superannuation contributions in accordance with Superannuation Guarantee legislation into an approved fund on a monthly basis. With respect to casual employees, contributions shall be remitted at the time that employees receive their annual group certificates.
- (ii) An employee may nominate one complying fund to which all award and statutory superannuation contributions shall be paid, subject to employer approval of the fund nominated by the employee. Provided that the employer shall not unreasonably withhold agreement unless it establishes good and proper reasons for the withholding of the agreement.
- (iv) Where no such nomination is made before any such contributions become payable, the contributions referred to in subclause (i) of this clause will be paid to the approved fund for that place of employment."

### **5. Salary Sacrifice to Superannuation**

- (i) Salary Sacrifice to Superannuation means the option of making additional superannuation contributions by electing to sacrifice a portion of the gross earnings (pre tax dollars) under the parent awards. This will give the effect of reducing the taxable income by the amount for salary sacrifice.
- (ii) This clause shall not apply to any employee receiving remuneration in accordance with "Remuneration Packaging" provisions contained within this Enterprise Agreement.
- (iii) Salary sacrifice to superannuation shall be offered to employees by mutual agreement between the employee and employer.

- (iv) Such election must be made prior to the commencement of the period of service to which the earnings relate.
- (v) One change of a sacrificed amount will be permitted in an employee's anniversary year, which is 12 months from the date of commencement of employment, without incurring an administration charge (\$50). Changing from full-time to part-time or part-time to full-time employment will not be classified as a change for administration charge purposes.
- (vi) The amount sacrificed must not exceed any relevant superannuation guarantee contribution limit.
- (vii) The sacrificed portion of salary reduces the salary subject to PAYG Taxation deductions.
- (viii) Any allowance, penalty rate, overtime payment for unused leave entitlements, other than any payments for leave taken whilst employed, shall be calculated by reference to the salary which would have applied to the employee in the absence of any salary sacrifice to superannuation. Payment for leave taken whilst employed will be at the post salary sacrificed amount.
- (ix) Salary sacrifice arrangements can be cancelled by either the employer or employee at any time provided either party gives one months notice. The employer has the right to withdraw from offering salary sacrifice to employees without notice if there is any alteration to relevant Australian Taxation legislation.
- (x) Contributions payable by the employer in relation to the Superannuation Guarantee Legislation shall be calculated by reference to the salary which would have applied to the employee under the parent award in the absence of any salary sacrifice.
- (xi) Employers will not use any amount that is salary sacrificed by an employee to negate contributions payable under the Superannuation Guarantee Legislation.
- (xii) The employee shall have the portion of payable salary that is sacrificed paid as additional employer superannuation contributions into the same superannuation fund that receives the employer's SGC contributions.
- (xiii) Nothing in this clause shall affect the right of an employer to maintain alternate arrangements with respect to salary sacrifice for employees.

## **7. Grievance Procedure**

Grievances and disputes shall be dealt with in the following manner:

- (i) The employee is to notify (in writing or otherwise) the employer as to the substance of the grievance, request a meeting with the employer for discussions and state the remedy sought. This meeting shall take place within two working days of the issue arising (weekends and public holidays excepted).
- (ii) If agreement is not reached, the matter shall then be referred by either party to a higher authority (where this exists) no later than three working days after the meeting specified in subclause (i) of this clause (weekends and public holidays excepted). At the conclusion of the discussion, the employer must provide a response to the employee's grievance if the matter has not been resolved, including reasons (in writing or otherwise) for not implementing the proposed remedy.
- (iii) If the matter is still not settled within a reasonable period of time, subclauses (v) and (vi) of Clause 41 Resolution of Disputes will apply.
- (iv) The employer may be represented by an industrial organisation of employers and the employee(s) may be represented by an organisation of employees for the purposes of each step of the procedure.



## Appendix 2 – Redundancy

### 1. Arrangement

Clause No.	Subject Matter
1.	Arrangement
2.	Application
3.	Introduction of Change
4.	Redundancy
5.	Termination of Employment
6.	Severance Pay
7.	Grievance and Dispute Resolution Procedures
8.	Savings Clause

### 2. Application

- (i) In respect to employers who employ 15 or more employees immediately prior to the termination of employment of the employees, in the terms of clause 5, Termination of Employment.
- (ii) Notwithstanding anything contained elsewhere in this award, this award shall not apply to employees with less than one year's continuous service and the general obligation on employers shall be no more than to give such employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.
- (iii) Notwithstanding anything contained elsewhere in this award, this award shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty, or in the case of casual employees or employees engaged for a specific period of time or for a specified task or tasks or where employment is terminated due to the ordinary and customary turnover of labour.

### 3. Introduction of Change

- (i) Employer's Duty to Notify -
  - (a) Where an employer has made a definite decision to introduce major changes in production, programme, organisation, structure or technology that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and the union to which they belong.
  - (b) "Significant effects" include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.

Provided that where an award referred to in subclause (i) of Clause 2, Application, makes provision for alteration of any of the matters referred to herein, an alteration shall be deemed not to have significant effect.

- (ii) Employer's Duty to Discuss Change -
  - (a) The employer shall discuss with the employees affected and the union to which they belong, inter alia, the introduction of the changes referred to in subclause (i) of this clause, the effects the changes are likely to have on employees and measures to avert or mitigate

the adverse effects of such changes on employees, and shall give prompt consideration to matters raised by the employees and/or the union in relation to the changes.

- (b) The discussion shall commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in the said subclause (i).
- (c) For the purpose of such discussion, the employer shall provide to the employees concerned and the union to which they belong, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees, provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

#### **4. Redundancy**

Discussions Before Termination -

- (a) Where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing to be done by anyone pursuant to paragraph (a) of subclause (i) of Clause 3, Introduction of Change, and that decision may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and with the union to which they belong.
- (b) The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provision of subclause (a) of this clause and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination on the employees concerned.
- (c) For the purposes of the discussion the employer shall, as soon as practicable, provide to the employees concerned and the union to which they belong, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of employees normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

#### **5. Termination of Employment**

- (i) Notice for Changes in Production, Programme, Organisation or Structure –

This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from production, programme, organisation or structure in accordance with paragraph (a) of subclause (i) of Clause 3 Introduction of Change:

- (a) In order to terminate the employment of an employee the employer shall give to the employee the following notice:

<u>Period of continuous service</u>	<u>Period of notice</u>
Less than 1 year	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks
5 years and over	4 weeks

- (b) In addition to the notice above, employees over 45 years of age at the time of the giving of the notice, with not less than two years continuous service, shall be entitled to an additional week's notice.

- (c) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

(ii) Notice for Technological Change –

This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from "technology" in accordance with paragraph (a) of subclause (i) of the said Clause 3 Introduction of Change.

- (a) In order to terminate the employment of an employee the employer shall give to the employee three months notice of termination.
- (b) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.
- (c) The period of notice required by this subclause to be given shall be deemed to be service with the employer for the purposes of the Long Service Leave Act 1955, the Annual Holidays Act 1944, or any Act amending or replacing either of these Acts.

(iii) Time Off During the Notice Period -

- (a) During the period of notice of termination given by the employer, an employee shall be allowed up to one day's time off without loss of pay during each week of notice, to a maximum of five weeks, for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent.

(iv) Employee Leaving During the Notice Period –

If the employment of an employee is terminated (other than for misconduct) before the notice period expires, the employee shall be entitled to the same benefits and payments under this clause had the employee remained with the employer until the expiry of such notice. Provided that in such circumstance the employee shall not be entitled to payment in lieu of notice.

(v) Statement of Employment –

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification of or the type of work performed by the employee.

(vi) Notice to Centrelink –

Where a decision has been made to terminate the employment of employees, the employer shall notify Centrelink thereof as soon as possible giving relevant information including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

(vii) Centrelink Employment Separation Certificate –

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee an "Employment Separation Certificate" in the form required by Centrelink.

(viii) Transfer to Lower Paid Duties –

Where an employee is transferred to lower paid duties for reasons set out in subclause (i) of the said clause 4, the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated, and the employer may at the employer's option make payment in lieu thereof of an amount equal to the difference between the former ordinary-time rate of pay and the new ordinary-time rate for the number of weeks notice still owing.

(ix) Notice Required by an Award –

The period of notice prescribed by this clause shall be in substitution for any notice required the Enterprise Agreement.

**6. Severance Pay**

(i) Where the employment of an employee is to be terminated pursuant to Clause 5, Termination of Employment, subject to further order of the Industrial Relations Commission of New South Wales, the employer shall pay the following severance pay in respect of a continuous period of service.

(a) If an employee is under 45 years of age, the employer shall pay in accordance with the following scale:

<u>Years of Service</u>	<u>Entitlement</u>
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

(b) Where an employee is 45 years of age or over, the entitlement shall be in accordance with the following scale:

<u>Years of Service</u>	<u>Entitlement</u>
Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

(c) "Week's pay" means the all-purpose rate of pay for the employee concerned at the date of termination, and shall include, in addition to the ordinary rate of pay, over-award payments, shift penalties and allowances specified in paragraph (d) of this subclause paid in accordance with the award covering the wages and conditions of the employee.

(d) For the purposes of this clause the following allowances in Clause 12 Special Allowances of this Enterprise Agreement shall form part of an employee's "week's pay": paragraphs (a) and (b) of subclause (i); paragraphs (a) and (c) of subclause (ii); and paragraph (a) of subclause (v).

(e) A "week's pay" for a particular employee shall be determined according to the average week's pay received by the employee in the period immediately prior to their last date of

employment equal to the number of weeks of severance pay to which the employee is entitled under paragraphs (a) and (b) of this subclause.

(ii) Incapacity to Pay

Subject to an application by the employer and further order of the Industrial Relations Commission of New South Wales, an employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause (i) of this clause.

The Commission shall have regard to such financial and other resources of the employer concerned as the Commission thinks relevant, and the probable effect paying the amount of severance pay in the said subclause (i) will have on the employer.

(iii) Alternative Employment –

Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause (i) of this clause if the employer obtains acceptable alternative employment for an employee.

## **7. Grievance and Dispute Resolution Procedures**

(i) Procedures relating to grievances of individual employees -

- (a) The employee is required to notify the employer (in writing or otherwise) as to the substance of the grievance, request a meeting with the employer for bilateral discussions and state the remedy sought.
- (b) A grievance must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.
- (c) Reasonable time limits must be allowed for discussion at each level of authority.
- (d) At the conclusion of the discussion, the employer must provide a response to the employee's grievance, if the matter has not been resolved, including reasons for not implementing any proposed remedy.
- (e) While a procedure is being followed, normal work must continue.
- (f) The employee may be represented by an industrial organisation of employees.

(ii) Procedures relating to disputes, etc., between employers and their employees -

- (a) A question, dispute or difficulty must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.
- (b) Reasonable time limits must be allowed for discussion at each level of authority.
- (c) While a procedure is being followed, normal work must continue.
- (d) The employer may be represented by an industrial organisation of employers and the employees may be represented by an industrial organisation of employees for the purposes of each procedure.

## **8. Savings Clause**

Nothing in this award shall be construed so as to require the reduction or alteration of more advantageous benefits or conditions which an employee may be entitled to under any existing

redundancy arrangement, taken as a whole, between the union and any employer bound by this Enterprise Agreement.

**SIGNATURE PAGE**

**SIGNED for and on behalf of  
HEALTH CARE AUSTRALIA PTY LTD by**

-----  
**in the presence of**

**Witness:** \_\_\_\_\_

**Date:**

**SIGNED for and on behalf of  
NEW SOUTH WALES NURSES' ASSOCIATION by**

-----  
**Brett Holmes  
General Secretary**

**in the presence of**

**Witness:** \_\_\_\_\_

**Date:**