



FAIR WORK
AUSTRALIA

DECISION

Fair Work Act 2009

s.185 - Application for approval of a single-enterprise agreement

Melbourne Pathology

(AG2011/1324)

MELBOURNE PATHOLOGY AND HEALTH SERVICES UNION - SCIENTISTS - ENTERPRISE AGREEMENT 2010

Health and welfare services

COMMISSIONER CRIBB

MELBOURNE, 16 MAY 2012

Application for approval of the Melbourne Pathology and Health Services Union - Scientists - Enterprise Agreement 2010.

[1] An application has been made for approval of an enterprise agreement known as the *Melbourne Pathology and Health Services Union - Scientists - Enterprise Agreement 2010* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Melbourne Pathology. The Agreement is a single-enterprise agreement.

[2] I am satisfied that each of the requirements of ss.186, 187 and 188 as are relevant to this application for approval have been met.

[3] The Health Services Union of Australia (HSU) being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover them. In accordance with s.201(2) of the Act I note that the Agreement covers the organisation.

[4] The Agreement was approved in Chambers on 16 May 2012 and, in accordance with s.54 of the Act, will operate from 23 May 2012. The nominal expiry date of the Agreement is 30 June 2012.



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Melbourne Pathology
and Health Services Union- Scientists-
Enterprise Agreement
2010.

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TITLE

This Agreement shall be known as the *Melbourne Pathology and Health Services Union- Scientists- Enterprise Agreement 2010*.

1. TERM OF THE AGREEMENT

The Agreement shall apply to Melbourne Pathology and to all persons employed by Melbourne Pathology in medical scientist classifications as per Schedule A of this Agreement.

2. SCOPE OF THE AGREEMENT

This Agreement contains all the terms and conditions of employment for employees covered by the Agreement.

3. DATE AND PERIOD OF OPERATION

This Agreement shall operate from seven days after the approval of the Agreement by Fair Work Australia and shall remain in force until the 30 June 2012 and thereafter the provisions of the *Fair Work Act 2009* will apply.

4. COVERAGE OF AGREEMENT

4.1 This Agreement covers:

- (a) Melbourne Pathology Pty. Ltd. and any successors in law in whole or part thereof; and
- (b) Employees who are employed in classifications contained in this Agreement.
- (c) The Union as a bargaining representative for the Agreement entitled to be covered by the Agreement in accordance with section 183 of the Fair Work Act 2009, subject to the decision of Fair Work Australia.

5. RELATIONSHIP WITH AWARD, NES AND PREVIOUS CERTIFIED AGREEMENTS

5.1 This Agreement is a comprehensive agreement and overrides the Award.

5.2 National Employment Standards (NES):

Where this Agreement has provisions which are less favourable than those set out in the NES, the NES will prevail to the extent of the inconsistency and the provisions dealing with that matter in this Agreement will have no effect. The provisions in this Agreement otherwise apply.

6. INDIVIDUAL FLEXIBILITY ARRANGEMENTS

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

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

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

- (a) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
- (b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
- (c) result in the employee being better off overall than the employee would be if no arrangement was made.

6.3 The employer must ensure that the individual flexibility arrangement:

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

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

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

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

7. SAVINGS CLAUSE

Nothing in this Agreement will diminish any existing entitlement of any employee covered by this Agreement, except where expressly varied by this Agreement.

8. SONIC HEALTHCARE LIMITED VALUES

- **Commit to service excellence.**
(To willingly serve all those with whom we deal with unsurpassed excellence).
- **Treat each other with respect and honesty.**
(To work towards developing a workplace where trust, team spirit and equity are an integral part of everything we do).
- **Demonstrate responsibility and accountability.**
(To set an example; to take ownership of each situation to the best of our ability and to seek help where needed).
- **Be enthusiastic about continuous improvement.**
(To never be complacent; to recognise limitations and opportunities for processes; and ourselves and to learn through these).
- **Maintain confidentiality**
(With regard to patient, professional and commercial issues).

9. PRODUCTIVITY GAINS

- 9.1 The parties to this Agreement are committed to a co-operative approach to implementing measures to improve productivity and efficiency at the enterprise during the life of the agreement. The parties have therefore agreed that there will be a continuing commitment and participation in work reviews.
- 9.2 Melbourne Pathology, in the spirit of continuous improvement, may seek to review the following issues (but not limited to):
- (a) Multi-skilling of employees
 - (b) Flexibility in rostering parameters;
 - (c) Organisational change that may affect the current structures in the workplace;
 - (d) Change to work practices to achieve Sonic Benchmarks;

- 9.3 It is the intent of this Agreement that parties will observe the consultative processes specified in clause 20 of this Agreement with the intent that change processes shall be achieved in an amiable, prompt fashion.

10. SALARIES

- 10.1 The following salary increases shall apply during the life of this Agreement, and are payable from the first pay period on/or after the nominated date.

Date	% of Increase
1/07/09	3.5%
1/07/10	3.3%
1/07/11	3.2%
30/06/12	3.0%

- 10.2 In order to overcome anomalies between grading and experience levels at Grade 1, 7th year of experience and Grade 2, 4th year of experience, and Grade 3, fourth year of experience, the wage rates have been adjusted as per Appendix A.
- 10.3 Provided that a scientist grade 1, year 6 or Grade 1 year 7, who is appointed to a Grade 2 position, shall be paid at the scientist Grade 2, year 2 rate of pay upon appointment.
- 10.4 The percentage increases as indicated above are applicable to the rates of pay and allowances identified in Schedule A..

11. ANTI-DISCRIMINATION

- 11.1 It is the intention of the parties to this Agreement to achieve the principal object in s.3(e) of the Act through respecting and valuing the diversity of the work force by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.
- 11.2 Accordingly, in fulfilling their obligations under the disputes avoidance clause, the parties must make every endeavour to ensure that neither the Agreement provisions nor their operation are directly or indirectly discriminatory in their effects.
- 11.3 Nothing in this clause is taken to effect:

- (a) any different treatment (or treatment having different effects) which is specifically exempted under the Commonwealth anti-discrimination legislation;
 - (b) an employee, employer or registered organisation, pursuing matters of discrimination in any State or federal jurisdiction, including by application to the Human Rights and Equal Opportunity Commission;
- the exemptions under the Act.

12. DEFINITIONS

12.1 Act means *Fair Work Act 2009*

12.2 Award means the *Health Services Union of Australia (Private Pathology - Victoria) Award 2003*.

12.3 Employee means a person employed by Melbourne Pathology on a permanent or casual basis and includes a person employed on a part-time basis.

12.4 Experience means for the purpose of this Agreement means experience as a medical scientist within the last five years

12.5 Employer means Melbourne Pathology and any successors in law in whole or part thereof.

12.6 FWA means Fair Work Australia.

12.7 Higher Qualifications Allowances shall mean allowances prescribed by clauses 25.9 of this Agreement and where applicable shall form part of the employees' base salary for all purposes of this Agreement.

12.8 Intermittent Employee means an employee who is engaged on a recurring basis in relieving work or work of a casual nature.

12.9 NES shall mean National Employment Standards.

12.10 Ordinary Pay shall mean an employee's remuneration for their weekly number of hours of work calculated at the ordinary time for their classification and shall include:

- (a) the cash value of any deduction for board and lodging;
- (b) over Agreement payments for ordinary hours of work;
- (c) shift work premiums according to roster of projected rostered; and
- (d) Saturday or Sunday work premiums, where they are part of regular work.

12.11 **Union** means the Health Services Union (HSU).

12.12 **Week** in relation to any worker means the worker's ordinary working week.

13. AVOIDANCE OF INDUSTRIAL DISPUTES AND GRIEVANCES

13.1 It is the objective of the parties to this Agreement that, where possible, disputes or grievances are resolved by negotiation and decision at the enterprise level.

13.2 In the event of an industrial dispute or grievance occurring about matters arising under this Agreement the parties to it will observe the following grievance procedures:

- (a) An employee shall have the right for grievances to be heard through all levels of line management.
- (b) In the first instance the employee shall attempt to resolve the grievance with their immediate supervisor.
- (c) If the employee still feels aggrieved, then the matter shall be referred to their department head. The employee's or employer's representative shall be present if required by either party.
- (d) If the grievance is still unresolved the matter shall be referred to senior management and the representatives of either party.
- (e) If the grievance is still unresolved then the employee's representative shall be advised and a meeting arranged. At this stage the employer's representative shall be advised and shall be present at the request of either party.
- (f) If a dispute in relation to a matter arising under the Agreement, is unable to be resolved at the workplace, and all agreed steps for resolving it have been taken, the dispute may be referred by either party, to FWA for resolution by mediation and/ or conciliation and, where the matter remains unresolved, for arbitration. If arbitration is necessary FWA may exercise its powers in relation to hearings, witnesses, evidence and submissions which are necessary to make the arbitration effective.
- (g) It is agreed steps (a) to (e) shall take place within seven days.

13.3 Until the grievance is determined work shall continue normally in accordance with the custom or practice existing before the grievance arose while discussions take place. No party shall be prejudiced as to the final settlement by the continuance of work. Health and safety matters are exempted from this paragraph.

14 MODES OF EMPLOYMENT

14.1 Employees under this Agreement shall be employed in any one of the following categories:

- (a) Full-Time Employees;
- (b) Regular Part-Time Employees;
- (c) Casual Employees
 - (i) Regular Casual Employees
 - (ii) True Casual Employees
 - (iii) Relieving Casual Employees;

14.2 At the time of engagement an employer shall inform each employee of the terms of their engagement, and in particular, whether they are to be Full-Time, Regular Part-Time, Regular Casual, True Casual, Relieving Casual or Sessional Casual employees.

15 FULL-TIME EMPLOYEES

An employee who is ready, willing and available to work a full week of 38 hours as and when required by the employer shall be entitled to the full weekly wage prescribed herein irrespective of the number of hours worked not exceeding 38.

16. PART-TIME EMPLOYEES

- 16.1 Employees employed as regular part-time employees shall be paid for hours worked at an hourly rate equal to 1/38th of the weekly rate appropriate to the employees classification. Employees employed under this subclause shall receive leave entitlements on a pro rata basis;
- 16.2 The conditions of part-time work shall be agreed upon between employer and employee and shall be confirmed in writing between the two parties, with total weekly hours being less than 38 hours per week.
- 16.3 A full-time employee who returns to work after parental leave may, with the agreement of the employer, work part-time. A part-time employee who returns to work after parental leave may renegotiate the conditions of his/her part-time work with the employer.
- 16.4 Any agreement between the employer and the employee shall be confirmed in writing, and shall include the hours of work, days upon which those hours will be worked and the starting and finishing times of the work. The terms of

the agreement may be varied by consent, and the new agreement reduced to writing.

17. CASUAL EMPLOYEES

17.1 A Casual Employee is a person who is either a Regular Casual, a True Casual, a Relieving Casual, or a Sessional Casual as defined in this clause.

(a) Regular Casual Employees

- (i) Regular Casual employees shall be paid at an hourly rate equal to 1/38th of the appropriate weekly rate plus 25% of such hourly rate for work performed during ordinary hours on weekdays and 75% of such hourly rate for work performed on weekends and public holidays. Employees employed under this subclause shall not be entitled to any benefits prescribed in clauses 37 (Annual leave) and 38 (Personal Leave)
- (ii) A regular casual employee who returns to work after parental leave may renegotiate the conditions of his/her regular casual work with the employer.

Any agreement between the employer and the employee shall be confirmed in writing, and shall include the hours of work, days upon which those hours will be worked and the starting and finishing times of the work. The terms of the agreement may be varied by consent, and the new agreement reduced to writing.

An employee who, prior to this Agreement was a part time employee and, as a result of this Agreement is deemed to be a Regular Casual, shall not have their continuous service broken as a result and such service shall be recognised for the purpose of determining entitlements under this Agreement.

(b) True Casual Employees

- (i) A true casual employee is an employee who is engaged in relieving work or work of a casual nature and whose engagement is terminable by the employer in accordance with the employer's requirements, without the requirement of prior notice by either party, but does not include an employee who could properly be classified as Full Time, Part Time or Regular Casual.
- (ii) A true casual employee shall be paid for all work done on weekdays an amount equal to 1/38th of the weekly wage appropriate to the employees classification per hour plus 25% and for all work done on Saturday, Sunday and public holidays an amount equal to 1/38th of the weekly wage appropriate to the employees classification per hour plus 75%.
- (iii) In addition a true casual employee shall be entitled to receive the appropriate allowances contained in this Agreement.

- 17.2 The provisions of clauses 19- Termination of employment, 21- Redundancy, 37- Annual leave and 38- Personal leave shall not apply in the case of a casual employee.

18. NOTIFICATION OF CLASSIFICATION

Upon appointment, a scientist shall be notified in writing of their grading and classification within that grade.

19. TERMINATION OF EMPLOYMENT

- 19.1 Except where the conduct of the employee justifies instant dismissal, at least four weeks notice of termination of employment shall be given by either the employer or the employee, or four week's wages paid or forfeited as the case may be in lieu of notice, except that the period of notice may be reduced by mutual agreement.
- 19.2 Where an employee has given or has been given notice under 19.1 above they shall continue in their employment until the date of expiration of such notice and where the employee refuses to work or is absent from work without just cause or excuse, the employee shall be deemed to have abandoned the employment and shall not be entitled to be paid for work done during the period of notice.
- 19.3 Where any dispute arising from the threatened or actual dismissal of an employee occurs the dispute shall be notified to FWA.
- 19.4 In addition to the notice in 19.1 employees over 45 years of age at the time of being given notice by their employer, with not less than two years continuous service, shall be entitled to an additional week's notice.
- 19.5 Where an employer has given notice of termination to an employee, an employee shall be allowed up to one day's time-off without loss of pay for the purpose of seeking other employment. The time-off shall be taken at times that are convenient to the employee after consultation with the employer.

Notice of Termination by an Employee

- 19.6 The notice of termination required to be given by an employee is the same as that required of an employer, save and except that there is no requirement on the employee to give additional notice based on the age of the employee concerned.
- 19.7 If an employee fails to give notice the employer has the right to withhold monies due to the employee to a maximum amount equal to the ordinary time rates of pay for the period of notice

Job search entitlement

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

20. CONSULTATION RE MAJOR CHANGE

- 20.1 Prior to Melbourne Pathology making a definite decision to implement major changes in its program organisation, structure or technology that are likely to have a significant impact on employees, the employer shall, as early as practicable, consult with employees and their representatives.

- 20.2 The discussions with the affected employees and their representatives will include:

- (a) The introduction of changes that are likely to have a significant effect on employees.
- (b) The effect such changes are likely to have.
- (c) The reasons for any proposed redundancies and measures to avert or mitigate adverse effects of such changes on employees.
- (d) For the purpose of such discussion, the employer, shall provide in writing to the affected employees and where requested their representatives.
 - (i) All relevant information about the changes, including the nature of the changes proposed;
 - (ii) Reasons for any proposed redundancies and the number of employees and categories likely to be affected; and the expected effects of the changes on employees and other matters that may impact on them;
 - (iii) provided that the employer is not required to disclose confidential information, the disclosure of which would be contrary to the employers' interests.

- 20.3 This Agreement recognises that management has the ultimate administrative and operational responsibility for decisions made at the workplace level.

21. REDUNDANCY

Definition

- 21.1 Redundancy occurs where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone and that decision leads to the termination of employment of the employee, except where this is due to the ordinary and customary turnover of labour.
- 21.2 Transmission includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and transmitted has a corresponding meaning.
- 21.3 Week's pay means the ordinary time rate of pay for the employee concerned. Provided that such rate shall exclude:
- (a) overtime;
 - (b) penalty rates;
 - (c) disability allowances;
 - (d) shift allowances;
 - (e) special rates;
 - (f) fares and travelling time allowances;
 - (g) bonuses; and
 - (h) any other ancillary payments of a like nature.

Transfer to lower paid duties

- 21.4 Where an employee is transferred to lower paid duties by reason of redundancy the same period of notice must be given as the employee would have been entitled to if the 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 rate of pay and the new ordinary time rate for the number of weeks of notice still owing.

Severance pay

- 21.5 An employee, whose employment is terminated by reason of redundancy is entitled to the following amount of severance pay in respect of a period of continuous service:
- 21.6 For the purpose of this clause continuity of service shall be calculated as for Long Service Leave in this Agreement.

- 21.7 Melbourne Pathology shall make the following payments to the employees who are made redundant.
- 21.8 Four weeks notice shall be given or paid out in lieu of notice.
- 21.9 In addition to the notice provided above, employees over 45 years of age at the time of giving notice with not less than 2 years continuous service shall be entitled to an additional weeks notice.

Years of Continuous service	Redundancy period pay(at the base rate of pay for his or her ordinary hours of work)
At least 1 year but less than 2 years	4 weeks
At least 2 years but less than 3 years	6 weeks
At least 3 years but less than 4 years	7 weeks
At least 4 years but less than 5 years	8 weeks
At least 5 years but less than 6 years	10 weeks
At least 6 years but less than 7 years	12 weeks
At least 7 years but less than 8 years	14 weeks
At least 8 years but less than 9 years	16 weeks
At least 9 years but less than 10 years	18 weeks
At least 10 years but less than 11 years	20 weeks
At least 11 years but less than 12 years	22 weeks
At least 12 years but less than 13 years	24 weeks
At least 13 years but less than 14 years	26 weeks
At least 14 years but less than 15 years	28 weeks
15 years and over	30 weeks

- 21.10 Provided that the severance payments shall not exceed the amount which the employee would have earned if employment with the employer had proceeded to the employee's normal retirement date.

Employee Leaving During Notice Period

- 21.11 An employee given notice of termination in circumstances of redundancy may terminate his or her employment during the period of notice set out in Clause 18. In this circumstance the employee will be entitled to receive the benefits and payments they would have received under this clause had they remained with the employer until the expiry of the notice, but will not be entitled to payment in lieu of notice.

Alternative Employment

- 21.12 An employer, in a particular redundancy case, may make application to FWA to have the general severance pay prescription varied if the employer obtains acceptable alternative employment for an employee.
- 21.13 This provision does not apply in circumstances involving transmission of business as set in subclause 21.16

Job Search Entitlement

- 21.14 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 for the purpose of seeking other employment.
- 21.15 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 he or she shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

Employees Exempted

- (a) Employees terminated as a consequence of serious misconduct that justifies dismissal without notice.
- (b) Probationary employees.
- (c) Trainees.
- (d) Employees engaged for a specific period of time or for a specified task or tasks.
- (e) Casual employees.

Transmission of Business

- 21.16 The provisions of this clause are not applicable where a business is before or after the date of this Agreement, transmitted from an employer (in this subclause called the transmitter) to another employer (in this subclause called the transferee), in any of the following circumstances:

- (a) Where the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmitter and any prior transmitter to be continuous service of the employee with the transmittee; or
- (b) Where the employee rejects an offer of employment with the transmittee in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the employee at the time of ceasing employment with the transmitter; and which recognises the period of continuous service which the employee had with the transmitter and any prior transmitter to be continuous service of the employee with the transmittee.

21.17 On application by the employee, Fair Work Australia may, if satisfied that subsection 21.16(b) operates unfairly to him or her, determine that the old employer must pay the employee a specified amount of redundancy pay. The amount must not exceed his or her severance pay entitlement under this clause.

Redundancy Disputes

21.18 Clauses 21.19 and 21.20 impose additional obligations on an employer where an employer contemplates termination of employment due to redundancy and a dispute arises (a redundancy dispute).

21.19 Where a redundancy dispute arises, and if it has not already done so, the employer must provide affected employees and the Union (if requested by any affected employee) in good time, with relevant information including:

- (a) the reasons for any proposed redundancy;
- (b) the number and categories of workers likely to be affected; and
- (c) the period over which any proposed redundancies are intended to be carried out.

21.20 Where a redundancy dispute arises and discussions occur in accordance with this clause the employer will, as early as possible, consult on measures taken to avert or to minimise any proposed redundancies and measures to mitigate the adverse affects of any proposed redundancies on the employees concerned.

22. EMPLOYEE DUTIES

An employer may direct an employee to carry out duties that are incidental and peripheral to the work normally performed, where those duties are within the employee's skill, competence and training and are consistent with the classification structure of this Agreement.

23. HIGHER DUTIES

- 23.1 A Higher Duties Allowance is designed to recognise the extra responsibility taken on by employees who act in a position, other than their own, that carries a higher classification and level of responsibility. It is not applicable in situations where staff take on additional responsibilities in their substantive position. An employee who is authorised to act in a position of higher classification for a period of more than five consecutive working days shall be paid a higher duties allowance of 5% of the lowest level of appropriate classification.
- 23.2 If the employee is not performing the full range of the duties of the higher level position, they shall be paid a pro rata amount of the higher duties allowance. The pro rata amount shall equate with the proportion of the duties of the higher position performed.
- 23.3 Provided that where a Laboratory Manager is appointed in writing to assume the same administrative responsibilities as the Director of Pathology in charge, for a period exceeding four weeks, then they shall be paid at the top incremental level for the classification with the addition of 31.5% of that increment.

24. ROSTERS

- 24.1 Rosters of at least 4 weeks duration, showing the employees' shift starting and finishing times, shall be posted at least 4 weeks before the roster commences.
- 24.2 The roster shall set out hours of duty, on call requirements, meal times, commencing times, finishing times, weekend duty, night duty, and other such duty where applicable and as prescribed by the employer shall be kept posted in some readily accessible section of the building for viewing by employees. Except in the case of sickness or emergency, the roster shall not be altered without a minimum seven days notice being given to employees affected by the alteration.
- 24.3 Consideration will be given to individual employee needs in the roster development process.
- 24.4 Where an employer requires an employee without seven day's notice and outside the circumstances prescribed in 24.2 to perform duty at other times than those previously rostered the employee shall be paid in accordance with the hours worked with the addition of a daily allowance equal to 2.5% of the weekly rate of pay for the classification Scientist Grade 1 1st Year.

25. CLASSIFICATION STRUCTURE AND RATES OF PAY

This clause should be read in conjunction with Appendix A (Rates of Pay)

- 25.1 Trainees (persons who are engaged in studies leading to the attainment of being eligible for associate membership of the Australian Institute of Medical Laboratory Scientists).

Year Of Part Time Course	% Of The Rates Of Scientist Grade 1/Year 1
First year	50
Second year	60
Third year	75
Fourth year	85
Thereafter	90

- 25.2 An adult trainee shall receive not less than 80 per cent of the rate prescribed for the classification Scientist - Grade 1, 1st year of experience after qualification.
- 25.3 A trainee who as a full-time student passed all subjects in the first full-time year of the course, shall be paid not less than the rate prescribed for the third year of the course (part-time).
- 25.4 A trainee who as a full-time student passed all subjects specified in the second full-time year of the course, shall be paid not less than the rate prescribed for fifth year and thereafter (part-time).
- 25.5 A trainee who as a full-time student has not passed all subjects specified for the appropriate full-time year of the course shall be paid a rate equivalent to the next lower part-time classification than that which would apply under sub clauses 25.3 and 25.4.

25.6

- (a) Scientist - Grade 1:

- (i) A scientist who holds or is qualified to hold the degree of Bachelor of Applied Science Honours or Bachelor of Science Honours (four-year course) shall be entitled to be classified as a Scientist - grade 1, 2nd year of experience after qualification;
- (ii) A scientist who holds or is qualified to hold the degree of Master of Applied Science or Master of Science shall be entitled to be classified as a Scientist - Grade 1, 3rd year of experience after qualification, provided further that a scientist so classified shall not be entitled to the higher qualification payment prescribed in Appendix C for a further period of two years;

(iii) A scientist who is a Fellow of the Australian Institute of Medical Laboratory Scientists or is qualified to hold a degree of Doctor of Philosophy shall be entitled to be classified as a Scientist - Grade 1, 5th year of experience after qualification, provided further that a scientist so classified shall not be entitled to the higher qualification payment prescribed in Clause 25.9 for a further two years; and

(iv) A sole scientist i.e. a scientist who is the only scientist employed in a laboratory, shall be paid at the rate of 5% of the Scientist - Grade 1, 1st year of experience after qualification, in addition to the appropriate rate applicable to a Scientist - Grade 1.

(b) Scientist - Grade 2:

(i) A qualified scientist appointed to Grade 2 is performing work which requires special knowledge or depth of experience above that of Grade 1 scientist, or appointed as such because in addition to their Grade 1 duties they consistently demonstrate initiative in their area of work.

(ii) Provided that a Scientist grade 1 6th year of experience and thereafter appointed to this grade shall be paid at the Scientist grade 2 2nd year after appointment rate.

(c) Scientist - Grade 3:

In addition to the requirements of a Grade 2 a Grade 3 Scientist has at least seven years experience and is in-charge of scientific and/or related work.

(d) Scientist - Grade 4:

In addition to the requirements of a Grade 3, a Grade 4 Scientist is appointed to this Grade by agreement between the employer and the employee.

25.7 Progression through pay points

Progression for all classifications in this sub-clause for which there is more than one wage point shall be by annual increments, having regard to the acquisition and utilisation of skills and knowledge through experience in an employee's practice setting(s) over such period.

25.8 For the purposes of clause 255:

- (a) The first year of experience after qualification shall be deemed to commence on 1 January in the year following the year during which the scientist presented themselves for final examination which, if successful, would entitle the scientist to the degree of Bachelor of Science or Bachelor of Applied Science.
- (b) Where a scientist was required to attend a supplementary examination, such scientist shall, if successful, be deemed to have passed the final examination in the year during which the final examination was held.
- (c) Where a Scientist Grade 1 1st year of experience after qualification commences employment during the first year after qualification, the scientist shall be advanced to the classification Scientist Grade 1 2nd year of experience after qualification, as from 1 January in the next succeeding year.

25.9 Higher Qualifications Allowances

This clause should be read in conjunction with Appendix A (Rates of Pay)

A scientist who has a higher qualification, which is recognised by AIMS and which is relevant to the scientists employment at Melbourne Pathology, shall be entitled to the following:

- (a) For Graduate Diploma in Health Administration, or equivalent, the sum of 7.6% of the Scientist Grade 1, Year 1 weekly rate of pay.
- (b) Membership of the Australian Association of Clinical Biochemists, Master. Science, Master. Applied Science, Diploma of Bacteriology of London University, MAIP or other recognised equivalent degree or qualification from a tertiary institution – 8.8% of the Scientist Grade 1 Year 1 weekly rate of pay.
- (c) Fellowship of the Australian Association of Clinical Biochemists, Fellowship of the Australian Institute of Medical Scientists, Doctor of Science, Doctor of Philosophy, Fellowship of the Human Genetics Society of Australia, or Member of the Royal College of Pathologists or equivalent – 11.7% of Scientist Grade 1 Year 1 weekly rate of pay.
- (d) Only one allowance shall be payable for each employee, being the highest allowance most relevant to the scientists current area of work.
- (e) The Qualifications Allowance shall be pro rata for part time staff.

25.10 Appendix A reflects the full time equivalent rates of pay for the above

26. PAYMENT OF WAGES

Subject to any individual arrangements between an employer and an employee (other than a sessional employee) wages shall be paid no later than a Thursday. On or prior to the pay day the employer shall state to each employee, in

writing, the amount of wages to which the employee is entitled, the amount of deductions there from, and the net amount being paid to the employee.

27. SALARY PACKAGING

- 27.1 It is the intention of Melbourne Pathology to develop a salary-packaging scheme for staff. Salary packaging is the sacrifice or substitution of salary for other benefits, provided that the total cost to the employer shall be no greater than if all the employee's entitlements had been taken as salary. The cost of the benefit (including taxes and administration expenses) is deducted from the total package to arrive at the cash salary component.
- 27.2 Eligible employees may enter into a salary packaging arrangement in accordance with the requirements of the Australian Taxation Office and Melbourne Pathology Policy.
- 27.3 Salary packaging will be offered to all full time and part time employees employed on continuous contract of employment or on a fixed term contract of greater than six months.
- 27.4 Employees on approved unpaid leave shall not be entitled to benefits pursuant to salary packaging while on leave.
- 27.5 Employees on other forms of paid leave (such as Annual Leave, Long Service Leave and Personal Leave) shall be entitled to salary packaging while on leave.
- 27.6 The employer shall pay superannuation contributions on behalf of employees as required by law and shall calculate its superannuation contributions as a percentage of the pre-packaging amount of gross salary.
- 27.7 Under no circumstances is the offer of a benefit to be taken as an approval to any action, activity, loan etc. by the employer. Packaging of expenses does not confer other entitlements on any staff member (eg. education expenses do not imply approval of study leave).
- 27.8 If legislative changes e.g. *Fringe Benefit Tax Act 1986* and/or *Income Tax Assessment Act 1936* and *Income Assessment Act 1997* or other changes have the effect of increasing the cost of packaging to the practice, then these shall either be paid by the staff member participating in packaging or the staff member or the practice can choose to cease the arrangement.
- 27.9 Employees are encouraged to seek independent financial advice prior to entering into any arrangements for salary packaging

28. ALLOWANCES

Histopathology Cut Up Allowances

- 28.1 The payment of allowances will be dependent on training levels of staff members.
- 28.2 All staff will be required to undergo revision training.
- 28.3 No allowances will be paid during a period of staff training or retraining.
- 28.4 Training will be as outlined in the manual, progressing through levels of complexity with the timetable for training being determined by the Department. Once set, Melbourne Pathology will use its best endeavours to adhere to the plan
- 28.5 When staff members have completed the training schedule they will be required to have their training signed off by the histopathology department manager. Allowances will then be paid for cut-up performed.
- 28.6 Staff are to record the amount of time in cut-up (1-4hrs, >4hrs) on their fortnightly time sheet.
- 28.7 The following codes will be recorded:
 - (a) CT1 – for rostered cut up over 1 hour but less than 4 hours(a minimum of 30 cases must be achieved);
 - (b) CT2 – For rostered cut up over 4 hours.
- 28.8 It is the responsibility of staff to record to accurately.
- 28.9 Staff will be actively involved in the introduction and testing of new technology processes in the histopathology department.
- 28.10 Payments for the allowances will be as per schedule A.
- 28.11 Only one allowance is payable each day.

Meal allowances

- 28.12 Where an employee is authorised to work overtime which exceeds two hours and falls over a meal period, meal allowance shall be paid at the rate prescribed by the Australian Taxation Office (as varied from time to time).
- 28.13 When recalled to duty outside of usual working hours for a period in excess of two hours, and when the time of such recall coincides with or over-runs normal meal time.

Telephone allowance

- 28.14 Where the employer requires an employee to install and/or maintain a telephone for the purpose of being on-call, the employer shall reimburse the installation costs and/or the subsequent rental charges on production of receipted accounts.

Travel Allowance

- 28.15 Where an employee is authorised to use their own vehicle in order to carry out duties or where an employee is recalled to duty; mileage will be paid at the rate prescribed by the Australian Taxation Office (as varied from time to time).
- 28.16 Any employee recalled to duty who does not use their vehicle shall be provided, at the expense of the employer, with a hire car or taxi, for the inward and return journeys.
- 28.17 An employee on rostered shifts who is required to use public transport to journey to or from work between 9.00 p.m. and 7.00 a.m. shall be provided with transport (taxi or hire car) if no public transport is available for the inward and/or outward journey. The cost of which shall be reimbursed to the employee.

29. ACCIDENT PAY

Definitions

29.1 The words hereunder shall bear the respective definitions set out herein:

- (a) Total incapacity - In the case of an employee who is or is deemed to be totally incapacitated within the meaning of the *Accident Compensation Act 1985* (hereinafter referred to as the Act) and arising from an injury covered by this clause means a weekly payment of an amount representing the difference between the total amount of compensation paid under Section 9.1(b)(i) of the Act for the week in question and the total 38 hour weekly rate and weekly over Agreement payment for a day worker which would have been payable under this Agreement for the employee's normal classification of work for the week in question if they had been performing their normal duties provided that such latter rate shall exclude additional remuneration by way of shift premiums, overtime payments, special rates or other similar payments.
- (b) Partial incapacity - In the case of an employee who is or deemed to be partially incapacitated within the meaning of the Act and arising from an injury covered by this clause means a weekly payment of an amount representing the difference between the total amount of compensation paid under Section 9.1(b)(ii) of the Act for the period in question together with the average weekly amount the employee is earning or is able to earn in some suitable employment or business (as determined expressly or by implication by the Workers

Compensation Board or as agreed between the parties) and the total 38 hour weekly rate and weekly over Agreement payment for a day worker which would have been payable under this Agreement for the employee's normal classification of work for the week in question if he had been performing his normal duties provided that such latter rate shall exclude additional remuneration by way of shift premiums, overtime payments, special rates or other similar payments.

- 29.2 The total 38 hour weekly Agreement rate and weekly over Agreement payment abovementioned shall be the same as that applying for a total incapacity provided that where an employee receives a weekly payment under this Section and subsequently such payment is reduced pursuant to Section 9.6(1) of the Act, such reduction will not increase the liability of the employer to increase the amount of accident pay in respect of that injury.
- 29.3 For purposes of the calculation of the total 38 hour weekly Agreement rate and weekly over Agreement payment in 29.1(a) and 29.1(b) payments made to an employee arising from a production incentive earnings scheme (whether arising from a payment by results, task or bonus scheme or however titled) shall not be taken into account.

Payment for part of a week

- 29.4 Where an employee receives accident pay and such pay is payable for incapacity for part of a week the amount shall be a direct pro rata.
- 29.5 Injury shall be given the same meaning and application as applying under the Act, and no injury shall result in the application of accident pay unless an entitlement exists under the Act.
- 29.6 Workers Compensation Act means *Workers Compensation Act 1958*, as amended from time to time, of the State of Victoria. Where an entitlement to Accident Make-up Pay arises under this Agreement any reference to the *Workers Compensation Act 1958* shall be deemed to include a reference to the *Accident Compensation Act 1985* and any reference to the *Accident Compensation Act 1985* shall be deemed to include a reference to the *Workers Compensation Act 1958*.

Qualifications for payment

- 29.7 Always subject to the terms of this clause, an employee covered by this Agreement shall upon receiving payment of compensation and continuing to receive such payment in respect of a weekly incapacity within the meaning of the Act be paid accident pay by his employer who is liable to pay compensation under the Act, which said liability by the employer for Accident Pay may be discharged by another person on his behalf provided that:
- (a) Accident pay shall only be payable to an employee whilst such employee remains in the employment of the employer by whom he was employed at the

time of the incapacity and then only for such period as he receives a weekly payment under the Act. Provided that if an employee on partial incapacity cannot obtain suitable employment from his employer but such alternative employment is available with another employer then the relevant amount of accident pay will still be payable.

- (b) Provided further that in the case of the termination of employment by an employer of an employee who is incapacitated and who except for such termination would be entitled to accident pay, accident pay shall continue to apply subject to the provisions of this clause except in those cases where the termination is due to serious and/or wilful misconduct on the part of the employee. In order to qualify for the continuance of accident pay on termination an employee shall if required provide evidence to his employer of the continuing payment of weekly workers compensation payments.
- 29.8 Accident pay shall not apply to any incapacity occurring during the first two weeks of employment unless such incapacity continues beyond the first two weeks and then, subject to subclause 29.2 and to the maximum period of payment prescribed elsewhere herein, Accident Pay shall apply only to the period of incapacity after the first two weeks.
- 29.9 Provided that as to industrial disease contracted by a gradual process or injuries subject to recurrence, aggravation or acceleration (as provided in Section 3 of the Act) such injuries or diseases shall not be subject to accident pay unless the employee has been employed with the employer at the time of the incapacity for a minimum period of one month.
- 29.10 Accident pay shall not apply in respect of any injury during the first five normal working days of incapacity. Provided, however, that in the case of an employee who contracts an infectious disease in the course of duty and is entitled to receive Workers' Compensation therefore shall receive accident pay from the first day of incapacity.
- 29.11 An employee on engagement may be required to declare all Workers' Compensation claims made in the previous five years and in the event of false or inaccurate information being deliberately and knowingly declared the employer may require the employee to forfeit his entitlement to accident pay under this clause.

Maximum period of payment

- 29.12 The maximum period or aggregate of periods of Accident Pay to be made by an employer shall be a total of 39 weeks for any one injury as defined in sub clause 29.5.

Absences on other paid leave

- 29.13 An employee shall not be entitled to payment of accident pay in respect of any period of other paid leave of absence.

Notice of injury

- 29.14 An employee upon receiving an injury for which he claims to be entitled to receive accident pay shall give notice in writing of the said injury to his employer as soon as reasonable practicable after the occurrence thereof; provided that such notice may be given by a representative of the employee.

Medical examination

- 29.15 In order to receive entitlement to accident pay an employee shall conform to the requirements of the Act as to medical examination.
- 29.16 Where in accordance with the Act a medical referee gives a certificate as to the condition of the employee and his fitness for work or specifies work for which the employee is fit and such work is made available by the employer and refused by the employee or the employee fails to commence the work, accident pay shall cease from the date of such refusal or failure to commence the work.

Cessation of weekly payments

- 29.17 Where there is a cessation or redemption of weekly compensation payments under the Act the employer's liability to pay accident pay shall cease as from the date of such cessation or redemption.

Civil damages claim

- 29.18 An employee receiving or who has received accident pay shall advise his employer of any action he may institute or any claim he may make for damages. Further, the employee shall, if requested, provide an authority to the employer entitling the employer to a charge upon any money payable pursuant to any judgment or settlement on that injury.
- 29.19 Where an employee obtains a judgment or settlement for damages in respect of an injury for which he has received accident pay the employer's liability to pay accident pay shall cease from the date of such judgment or settlement; provided that if the judgement or settlement for damages is not reduced either in whole or part by the amount of accident pay made by the employer the employee shall pay to his employer any amount of accident pay already received in respect of that injury by which the judgement or settlement has not been so reduced.
- 29.20 Where an employee obtains a judgement or settlement for damages against a person other than the employer in respect of an injury for which he has received accident pay the employer's liability to pay accident pay shall cease from that date of such judgement or settlement; provided that if the judgement or settlement for damages is not reduced either in whole or part by the amount of accident pay made by the employer the employee shall pay to his employer any amount of accident pay already received in respect of that injury by which the judgement or settlement has not been so reduced.

Insurance against liability

29.21 Nothing in this Agreement shall require an employer to insure against his liability for accident pay.

Variations in compensation rates

29.22 Any changes in compensation rates under the Act shall not increase the amount of accident pay above the amount that would have been payable had the rates of compensation remained unchanged.

Death of an employee

29.23 All rights to accident pay shall cease on the death on an employee.

Commencement

29.24 This clause shall only apply in respect of incapacity arising from any injury occurring or recurring on or after 3 November 1975.

30. SUPERANNUATION

Contributions

- 30.1 Melbourne Pathology is a participating employer in The Health Employees Superannuation Trust Australia (HESTA), Healthsuper and the Sonic Superannuation Fund and shall participate in accordance with the trust deed of the relevant fund.
- 30.2 Existing employees with existing National Mutual Tailored Superannuation Fund (AXA) accounts may continue to nominate this fund as their Superannuation Fund.
- 30.3 The employer shall contribute to the fund on behalf of each worker superannuation payments calculated on the employee's ordinary salary as defined by subclause 30.10, prior to any salary sacrifice, in accordance with the Superannuation Guarantee Act.
- 30.4 Melbourne Pathology shall provide each employee upon commencement of employment with a membership form for their preferred fund and shall forward the completed membership form within 28 days. If an employee has not completed an application form within 28 days of having received it, Melbourne Pathology shall forward contributions and employee details including full name, address and date of birth to the HESTA.
- 30.5 Melbourne Pathology shall make payments into the nominated fund on a monthly basis.

Salary sacrifice of superannuation contributions

- 30.6 Melbourne Pathology agrees to permit employees covered by this agreement, who elect to do so, to convert a component of their gross salary to superannuation contributions to their superannuation fund. This agreement is made subject to superannuation contributions continuing to remain exempt from Fringe Benefits Tax. In the event of legislation or other changes imposing a tax liability on Melbourne Pathology, the employee shall bear the cost ceases the arrangement or so modify the arrangement that there is no cost to Melbourne Pathology.

Accident Make Up Pay.

- 30.7 Contributions are to be made in accordance with this clause while employees are in receipt of accident make up pay.

Qualifying Period

- 30.8 Existing employees who have been employed for at least four consecutive weeks from the commencement of employment shall have the contributions paid on their behalf in accordance with the provisions of this clause.
- 30.9 All employees shall have superannuation contributions paid to HESTA or other fund nominated by this clause from the commencement of employment after the expiration of the qualifying period.

Definition of Ordinary Salary

- 30.10 Ordinary Salary means remuneration for a workers weekly number of hours of work calculated at the ordinary time rate of pay and in addition shall include:
- (a) Cash value of any deduction for board and lodging;
 - (b) Over Agreement payments for ordinary hours of work;
 - (c) Shift work premiums;
 - (d) Saturday and Sunday premiums, where they are part of ordinary work;

Intermittent Employees

- 30.11 For the purposes of this clause intermittent employee means intermittent employee as defined in subclause 12.8 (Definitions).
- 30.12 Intermittent employees are exempt from the provisions of this clause.
- 30.13 Provided that where such an employee earns \$450 or more in a calendar month a monthly contribution based on subclause 30.10 shall be paid to HESTA or other fund nominated by this clause.

- 30.14 Provided that where such an employee earns \$3000 or more per year an annual contribution based on 30.3 shall be paid to HESTA or other fund nominated by this clause. Contributions made under this paragraph shall be calculated on gross salary to 30 June each year.

Transmission of Business

- 30.15 Where a business is transmitted from one employer (the transmitter) to another employer (the transferee) an employee who worked with the transmitter shall be entitled to count such service with the transmitter as service with the transferee for the purposes of this clause provided that the service occurred in the relevant twelve month period.

31. HOURS OF WORK

- 31.1 The hours for an ordinary week's work shall be worked either:

- (a) in a week of five days in shifts of not more than seven hours and 36 minutes each; or
- (b) by mutual agreement in a week of four days in shifts of not more than ten hours each; or
- (c) by mutual agreement, provided that the length of any ordinary shift shall not exceed ten hours.

- 31.2 Subject to the roster provisions 80 hours may be worked in any two consecutive weeks, but not more than 50 ordinary hours may be worked in any of such weeks.

- 31.3 With the exception of time occupied in having meals, the work of each shift shall be continuous.

- 31.4 Notwithstanding anything contained elsewhere in this Agreement, where by reason of legislation summer time is prescribed as being in advance of the standard time, the length of any shift:

- (a) commencing before the time prescribed pursuant to the relevant legislation for the commencement of a summer time period; and
- (b) commencing on or before the time prescribed pursuant to such legislation for the termination of a summer time period - shall be deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the end thereof, the time of the clock in each case to be set to the time fixed pursuant to the legislation.

- 31.5 In this clause the expressions standard time and summer time shall bear the meanings as are prescribed by legislation, and legislation shall mean the *Summer Time Act 1972* as amended or as substituted.

31.6 Split Shifts

The parties agree that split shifts will not be rostered.

32. OVERTIME

32.1 The parties acknowledge that overtime is for emergency service provision only and is not in the usual course of business rostered. All overtime must be approved in advance of the overtime being worked. In situations where there is no-one available to approve overtime and it is necessary to work past the employees finishing time to ensure results/blood is released, overtime may be authorised after the event, provided that such authorisation shall not be unreasonably withheld.

32.2 An employer must not request or require an employee to work more than the following number of hours in a week unless the additional hours are reasonable:

- (a) for a full time employee - 38 hours; or
- (b) for an employee who is not a full time employee--the lesser of:
 - (i) 38 hours; and
 - (ii) the employee's ordinary hours of work in a week.

Employee may refuse to work unreasonable additional hours

32.3 The employee may refuse to work additional hours (beyond those referred to in paragraph 32.2(a) or 32.2(b) if they are unreasonable.

Determining whether additional hours are reasonable

32.4 In determining whether additional hours are reasonable or unreasonable for the purposes of this sub clause the following must be taken into account:

- (a) any risk to employee health and safety from working the additional hours;
- (b) the employee's personal circumstances, including family responsibilities;
- (c) the needs of the workplace or enterprise in which the employee is employed;
- (d) whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, working additional hours;
- (e) any notice given by the employer of any request or requirement to work the additional hours;

- (f) any notice given by the employee of his or her intention to refuse to work the additional hours;
- (g) the usual patterns of work in the industry, or the part of an industry, in which the employee works;
- (h) the nature of the employee's role, and the employee's level of responsibility;
- (i) any other relevant matter.

Authorised leave or absence treated as hours worked

32.5 For the purposes of sub clause 32.2 the hours an employee works in a week are taken to include any hours of leave, or absence, whether paid or unpaid, that the employee takes in the week and that are authorised:

- (a) by the employee's employer; or
- (b) by or under a term or condition of the employee's employment; or
- (c) by or under a law of the Commonwealth, a State or a Territory, or an instrument in force under such a law.

32.6 Only authorised overtime shall be paid for and the following rates of overtime shall apply:

- (a) In excess of ordinary hours work on any one day - time and one half for the first two hours and double time thereafter.
 - (b) Outside a spread of twelve hours from the commencement of the rostered period of duty - double time.
 - (c) Except as provided for in this sub clause, overtime shall be paid for and a scientist shall not be allowed to take time-off in lieu.
 - (d) A scientist may elect in lieu of payment of overtime, to take time-off equivalent to the time worked at the appropriate penalty rate at a time mutually agreed between the employer and the employee, in which case the time-off shall be granted within two weeks of working the overtime, or by mutual agreement between the employer and the employee, a scientist may elect in lieu of payment of overtime to take time-off equivalent to the time worked at ordinary time in conjunction with their Annual Leave.
 - (e) In the event that a scientist elects in lieu of payment of overtime to take time-off in conjunction with their Annual Leave, such time will not be subject to the Annual Leave Loading.
- 32.7 When overtime work is necessary, it shall, wherever reasonably practicable, be so arranged that employees have at least ten consecutive hours off duty between the work of successive shifts.

- 32.8 An employee (other than a True Casual employee) who works so much overtime between the termination of their last previous rostered ordinary hours of duty and the commencement of their next succeeding rostered period of duty that they would not have at least ten consecutive hours off duty between those times, shall, subject to this subclause, be released after completion of such overtime worked until they have had ten consecutive hours off duty without loss of pay for rostered ordinary hours occurring during such an absence.
- 32.9 If on the instruction of the employer such an employee resumes or continues work without having had ten consecutive hours off duty then the employee shall be paid at the rate of double time until they have been released from duty for a ten hour rest period and they shall be entitled to be absent until they have had ten consecutive hours off duty without loss of pay for rostered ordinary hours occurring during the absence.

Review of Overtime Worked

- 32.10 The parties agree that, within the first twelve (12) months of the Agreement, Melbourne Pathology shall conduct a review of all overtime worked. Melbourne pathology shall discuss the findings with staff and their representatives in order to address any areas of concern and to identify initiatives.

33. SHIFT WORK

- 33.1 In addition to any other rates prescribed elsewhere in this Agreement an employee whose rostered hours of ordinary duty finish between 6.30 p.m. and 6.30 a.m. or commence between 6.30 p.m. and 6.30 a.m. shall be paid an amount equal to 3 per cent of the weekly rate applicable to a Scientist Grade 1 1st Year after qualifications for that employee per rostered period of duty.
- 33.2 Provided that in the case of an employee working on any rostered hours of ordinary duty finishing on the day after commencing duty or commencing after midnight and before 5.00 a.m. they shall be paid for any such periods of duty an amount equal to 5 per cent of the rate applicable to the first year of experience Scientist Grade 1 after qualification for that employee, and provided further that in the case of an employee permanently working on any such rostered hours of ordinary duty they shall be paid for any such period of duty an amount equal to 10 per cent of the rate applicable to the first year of experience Scientist Grade 1.
- 33.3 Permanently working shall mean working for any period in excess of four consecutive weeks.
- 33.4 Provided further that in the case of an employee who changes from working on one shift to working on another shift the time of commencement of which differs by more than four hours from that of the first they shall be paid an amount equal to four per cent of the rate applicable to first year of experience

Scientist Grade 1 in the occasion of each such change in addition to any amount payable under the preceding provisions of this clause.

- 33.5 Where an employee self-rosters or requests a change of shift, the change of shift payment is not applicable.
- 33.6 The allowances payable pursuant to this clause shall be calculated to the nearest five cents, portions of a cent to be disregarded.
- 33.7 Where Saturday or Sunday duties are required to be carried out in excess of the ordinary week's work, such duties shall be paid for at the rate of double time.
- 33.8 All rostered time of ordinary duty performed on a Saturday or on a Sunday shall be paid for at the rate of time and a half.
- 33.9 If the Saturday or Sunday duty involves duty in excess of the prescribed rostered hours, the excess period shall be paid for at the rate of double time for Saturday and Sunday.
- 33.10 The provisions of this clause shall not apply to a Scientist-Director or Deputy Director.

34. MEAL BREAKS

- 34.1 Except as provided in subclause 34.2, a meal interval of not less than 30 minutes and not more than 60 minutes shall be allowed each employee during each shift. Such meal interval shall not be counted as time worked.
- 34.2 Each employee on night duty who is not relieved from duty (and on call) during the rostered meal interval shall be granted a meal interval of not less than twenty minutes to be commenced after completing three hours and not more than five hours of duty. Such time to be counted as time worked.
- 34.3 The above crib time arrangement may also be adopted in any case where there is mutual agreement between the employer and employee.

35. REST PERIOD

At a time suitable to the employer two rest periods of ten minutes shall be given to each employee during each eight hour period of duty and shall be counted as time worked.

36. ONCALL/RECALL

Subject to sub clauses 32.2- 36.5 all employees may participate in the on-call roster.

- 36.1 An on-call allowance of two and a half per cent of the rate for the Scientist grade 1 Year 2 shall be paid to an employee in respect to any 24 hour period or part thereof during which the employee is on call during the period commencing from the time of finishing ordinary duty on Monday and the termination of ordinary duty on Friday. The allowance shall be 5% in respect to any other 24 hour period or part thereof or any public holiday or part thereof.
- 36.2 A Scientist Director or Deputy Director required to be on call outside ordinary hours shall be paid an allowance equal to 10% of their weekly wages for each week during which they are required. Provided that a Scientist Director or Deputy Director not already on call but who substitutes themselves on the normal on call roster of the laboratory concerned shall be paid in accordance with the provisions of subclause 36.1.
- 36.3 In the event of an employee being recalled to duty for any period during an off-duty period such employee shall be paid from the time of receiving the recall until the time of finishing such recall duty with a minimum of two hours payment for each such recall, at the following rates:
- (a) Within a spread of twelve hours from the commencement of the last period of ordinary duty - time and a half.
 - (b) Outside a spread of twelve hours from the commencement of the last previous period of ordinary duty - double time.
- 36.4 All persons employed shall be entitled to a minimum rest period either before or after recall to duty of 10 hours without loss of pay
- 36.5 An employee (other than a casual employee) who works so much recall between rostered shifts so that they have not had a rest period 10 hours either before or after recall to duty, shall, be released after completion of such recall worked until they have had ten consecutive hours off duty without loss of pay for rostered ordinary hours occurring during such absence.
- 36.6 If on the instructions of their employer such an employee resumes or continues work without having had such ten consecutive hours off duty they shall be paid at the rate of double time until they are released from duty for such a rest period and the employee shall then be entitled to be absent until they have had ten consecutive hours off duty without loss of pay for rostered ordinary hours occurring during such an absence. No employee shall present for duty on a voluntary basis unless they have had ten consecutive hours (within the meaning of this subclause) off duty.

- 36.7 In the event of any employee finishing any period of overtime at a time when reasonable means of transport are not available for the employee to return to their place of residence the employer shall reimburse the employee for the cost of obtaining transport home.
- 36.8 No employee shall be permitted to be on call in the 24 hour period prior to any change of shift unless by specific request by the employee.
- 36.9 Where an employee is required to be on-call, a mobile telephone and laptop computer, with remote access will be provided as required.

37. ANNUAL LEAVE

Period of Leave

- 37.1 An employee who has been in the service of the same employer for a period of not less than twelve months shall be granted 152 hours leave on ordinary pay.
- 37.2 The Annual Leave prescribed in 37.1 shall be exclusive of any of the holidays prescribed by clause 42 (Public holidays) and if any such holiday falls within an employee's period of Annual Leave and is observed on a day which in the case of that employee would have been an ordinary working day there shall be added to the period of Annual Leave time equivalent to the ordinary time which the employee would have worked if such a day had not been a holiday.

Leave to be Taken

- 37.3 The annual leave provided for by this clause shall be allowed and shall be taken and except as provided by subclause 37.6 and 37.10, payment shall not be made or accepted in lieu of annual leave.
- 37.4 It is anticipated that employees will make arrangements with their Manager to take accrued annual leave on an annual basis.
- 37.5 An employee who completes the relevant documentation shall receive a response to their application within a two week period, outside of School Holiday times

Cashing Out of Annual Leave

- 37.6 Melbourne Pathology and its employees who have accrued Annual Leave in excess of 4 (four) weeks may agree to cash out a portion of that leave subject to the following:
- (a) leave must not be cashed out if the cashing out would result in the employee's remaining accrued entitlement to paid Annual Leave being less than 4 weeks
 - (b) no more than 1/26 of the accrued Annual Leave may cashed out.

- (c) each cashing out of Annual Leave must be confirmed in writing between the parties.
- (d) the employee must be paid at least the full amount that would have been payable had the employee taken the leave that has been foregone.

Time of Taking Leave

- 37.7 Annual Leave shall be given at a time determined by mutual Agreement between the employer and the employee within a period not exceeding six months from the date when the right to Annual Leave accrued and after not less than two weeks' notice to the employee.

Leave Allowed Before Due Date

- 37.8 An employer may allow Annual Leave to an employee before the right thereto has accrued due, but where leave is taken in such case a further period of Annual Leave shall not commence to accrue until after the expiration of the twelve months in respect of which Annual Leave had been taken before it accrued. Where leave has been granted to an employee pursuant to this subclause before the right thereto has accrued and the employee subsequently leaves or is discharged from the service of the employer before completing the twelve months' continuous service in respect of which the leave was granted and the sum paid by the employer to the employee as ordinary pay for the Annual Leave or part so taken in advance exceeds the sum which the employer is required to pay under subclause 37.10 the employer shall not be liable to make any payment to the employee under subclause 37.10 and shall be entitled to deduct the amount of such excess from any remuneration payable to the employee upon termination of employment.

Payment for Period of Annual Leave

- 37.9 Each employee before going on leave shall be paid for the period of leave provided the period of leave is not less than one week. Employees may make a request to the employer that payments be made in the normal pay cycle.

Proportionate Leave

- 37.10 Where the employment of any employee is terminated at the end of the period of employment of less than twelve months, the employer shall forthwith pay to the employee, in addition to all other amounts due to the employee, an amount equal to 1/12th of the employees ordinary pay for that period.
- 37.11 Where the employment of an employee who has become entitled to one or more periods of Annual Leave provided by this Agreement is terminated, the employer shall be deemed to have given all of such leave (except so much, if any, as has already been taken) to the employee as from the date of the termination of the employment, and shall forthwith pay to the employee, in

addition to all other amounts due to the employee, the employee's ordinary pay for the period of that leave.

37.12 Clause 37.11 applies to and in respect of any Annual Leave (except so much, if any, as has already been taken) whether or not the employee concerned continues to be entitled (apart from this clause) to take it, and so applies as if the employee's right to take it had accrued immediately before the date of the termination of the employee's employment.

37.13 Nothing in this clause affects the obligation of an employer to give or an employee to take Annual Leave in accordance with this Agreement.

Weekend Worker

37.14 Additional leave - full-time:

- (a) For all purposes of this clause in addition to the leave prescribed a full-time employee or part time employee as defined required to work and who worked ordinary hours 10 or more weekends throughout the qualifying twelve month period of service (a defined shift worker as required by the NES) throughout the qualifying twelve-month period of service shall be allowed 38 working hours leave. Part time staff shall receive the additional leave on a pro rata basis.
- (b) A full-time employee with twelve months continuous service so engaged for part of the qualifying twelve-month period shall have the leave prescribed in subclause 37.14 increased by three hours 48 minutes for each month of weekend work.
- (c) A full-time or part time employee so engaged for part of the qualifying twelve-month period whose employment is terminated shall receive in addition to other amounts due in lieu of Annual Leave a pro rata payment based on the amount payable under this subclause for the full qualifying twelve month period engaged as a weekend worker.
- (d) This subclause shall not apply to any weekend on which the employee works four hours or less.

37.15 Part-Time Employees Only - Sunday Workers:

- (a) For the purposes of this Agreement Sunday Workers' shall mean any employee who, in any one year of employment works portion of their ordinary hours on a Sunday. A Sunday Worker who works on ten or more Sundays during the yearly period of which their leave accrues shall be allowed 38 hours leave additional to the leave hereinbefore prescribed. This subclause shall not apply to any Sunday on which the employee works four hours or less.
- (b) Only employees who at the time of approval of this Agreement are 'Sunday Workers' shall continue to accrue leave in accordance with 37.15(a) for the life

of this Agreement. All other employees will accrue additional leave in accordance with 37.14

Annual Leave Loading

- 37.16 An employee entitled to Annual Leave shall be paid an Annual Leave loading of 17.5% of the ordinary weekly rate of pay for the classification at which the employee is employed at the commencement of their Annual Leave, provided that the maximum annual allowance payable shall be the base salary for Medical Scientist Grade 3, Year 2.
- 37.17 Provided that where an employee would have received shift penalties or Saturday and/or Sunday penalties prescribed in clause 33 of this Agreement had they not been on Annual Leave and such shift loadings would have entitled the employee to a greater amount than under subclause 37.16, then the shift loadings shall be paid to the employee in lieu of the loading.

Termination

- 37.18 The loading calculated according to 37.16 shall be payable on Proportionate Leave.

Personal And Compassionate Leave Entitlement During Annual Leave

- 37.19 Where an employee qualifies for Personal or Compassionate Leave under the terms of this Agreement whilst on Annual Leave and, if requested by the employer, provides evidence as required by sub clause 37.5 then the number of days specified in the certificate shall be deducted from any Personal or Compassionate Leave entitlement standing to the employee's credit, and shall be re-credited to his or her Annual Leave entitlement.
- 37.20 The amount of Annual Leave loading received for any period of Annual Leave converted to Personal Leave in accordance with this subclause shall be deducted from any future entitlement to Annual Leave loading, or if the employee resigns, from termination pay.

Purchased Leave

- 37.21 Employees may apply for and be granted Purchased Leave employment arrangements subject to agreement with the employer, such agreement not being unreasonably withheld.
- 37.22 These arrangements are defined as meaning a situation where an employee takes an additional 4 weeks leave per annum in addition to all other leave entitlements but is paid 48/52 of the weekly base rate prescribed by this Agreement for each week during which their employment is subject to these arrangements. Other entitlements will be unaffected by these arrangements. Where an employee applies for leave pursuant to this clause the employer shall respond to such request within eight weeks.

38. PERSONAL LEAVE

The provisions of this clause apply to full-time and regular part-time employees (on a pro rata basis) but do not apply to casual employees. The entitlements of casual employees are set out in clause 17.2 and 17.9

38.1 Definitions

The term immediate family includes:

38.1.1 (a) spouse including a former spouse), a de facto partner , child, parent,, grandparent, grandchild or sibling of the employee, or

(b) a child, parent grandparent, grandchild or sibling of a spouse or de facto partner of the employee.

38.2 Amount of paid personal leave

38.2.1 Paid personal leave is available to an employee, when they are absent:

- due to personal illness or injury; or
- for the purposes of caring for an immediate family or household member who is sick and requires the employee's care and support or who requires care due to an unexpected emergency.

38.2.2 The amount of personal leave to which a full-time employee is entitled depends on how long they have worked for the employer and accrues as follows:

38.2.2(a) 91.2 hours will be available in the first year of service;

38.2.2(b) 106 hours and 24 minutes will be available per annum in the second, third and fourth years of service.

38.2.2(c) 159 hours and 36 minutes will be available in the fifth and following years of service

38.2.3 In any year personal leave accrues by the balance of that year's untaken personal leave.

38.3 Personal leave for personal injury or sickness

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

38.4 Personal leave to care for an immediate family or household member

38.4.1 An employee is entitled to use up to 10 days personal leave, including accrued personal leave, each year to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency, subject to the conditions set out in this clause. An employee's entitlement to paid personal/carer's leave accrues progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year.

38.4.2 By agreement between an employer and an individual employee, the employee may access an additional amount of their accrued personal leave for the purposes set out in 38.4.1, beyond the limit set out in 38.4.2. In such circumstances, the employer and the employee shall agree upon the additional amount that may be accessed.

38.5 Evidence supporting claim

38.5.2 The provisions of sub clauses 38.4.1 and 38.4.2 are subject to the provision that such illness is certified by a legally qualified medical practitioner (or a statutory declaration signed by an employee shall be deemed to be satisfactory evidence of sickness) and evidence thereof, if required by the employer is produced within three days of such a request.

38.5.3 When taking leave to care for members of their immediate family or household who require care due to an unexpected emergency, the employee must, if required by the employer, 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.

38.6 Unpaid personal leave

Where an employee has exhausted all paid personal leave entitlements, they are entitled to take unpaid personal leave to care for members of their immediate family or household who are sick and require care and support or who require care due to an

unexpected emergency. The employer and the employee shall agree on the period. In the absence of agreement, the employee is entitled to take up to two days (up to a maximum of 16 hours) per occasion, provided the requirements of 38.5 and 38.6 are met.

38A. BEREAVEMENT LEAVE

The provisions of this clause apply to full-time and regular part-time employees (on a pro rata basis) but do not apply to casual employees. The entitlements of casual employees are set out in clauses 17.2 and 17.9.

38A.1 Paid leave entitlement

An employee is entitled to up to four days bereavement leave on each occasion of the death in Australia of either a member of the employee's immediate family or household.

38A.2 Proof of death must be provided to the satisfaction of the employer, if requested.

38A.3 Unpaid bereavement leave

38A.4. Where an employee has exhausted all personal leave entitlements, including accumulated entitlements, they will be entitled to four days per annum unpaid bereavement leave.

39. EMERGENCY SERVICE LEAVE

39.1 An employee who engages in an eligible community service activity is entitled to be absent from his or her employment for a period if:

- (a) the period consists of one or more of the following:
 - (i) time when the employee engages in the activity;
 - (ii) reasonable travelling time associated with the activity;
 - (iii) reasonable rest time immediately following the activity;and
- (b) the employee's absence is reasonable in all the circumstances.

- 39.2 Five days per annum (pro rata for part time staff) shall be available for members of CFA or SES for emergency relief activities without loss of pay. Approval of the paid leave will be dependent on the operational requirements of the department.

40. PARENTAL LEAVE

- 40.1 Subject to the terms of this clause employees are entitled to Maternity, Partner's and Adoption Leave and to work part-time in connection with the birth or adoption of a child.
- 40.2 The provisions of this clause apply to full-time, part-time and eligible casual employees, but do not apply to other casual employees.
- 40.3 An eligible casual employee means a casual employee who:
- (a) is a Regular Casual employee as defined in Clause 17 of this Agreement
 - (b) is employed by an employer on a regular and systematic basis for several periods of employment or on a regular and systematic basis for an ongoing period of employment during a period of at least 12 months; and
 - (c) has, but for the pregnancy or the decision to adopt, a reasonable expectation of ongoing employment.
- 40.4 For the purposes of this clause, continuous service is work for an employer on a regular and systematic basis (including any period of authorised leave or absence).
- 40.5 An employer must not fail to re-engage a casual employee because:
- (a) the employee or employee's spouse is pregnant; or
 - (b) the employee is or has been immediately absent on Parental Leave.
- 40.6 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.

Definitions

- 40.7 For the purpose of this clause child means a child of the employee under the age of one year except for adoption of a child where 'child' means a person under the age of five years who is placed with the employee for the purposes of adoption, other than a child or step-child of the employee or of the spouse of the employee or a child who has previously lived continuously with the employee for a period of six months or more.
- 40.8 In this clause, spouse includes a de facto partner or former spouse.

Basic entitlement

40.9 After twelve months continuous service an employee is entitled to 12 months of paid and unpaid Parental Leave if:

- (a) The leave is associated with:
 - (i) The birth of a child of the employee or the employee's spouse or defacto partner; or
 - (ii) The placement of a child with the employee for adoption; and
- (b) The employee has or will have a responsibility for the care of the child.

40.10 Leave available is summarised in the following table:

Type of leave	Paid leave	Total combined paid and unpaid leave (the available period)
Maternity leave	6 weeks	52 weeks
Paternity/partner	1 week	52 weeks
Adoption leave – primary care giver	6 Weeks	52 weeks
Adoption leave – secondary care giver	1 week	3 weeks

40.11 Subject to subclause 40.7, Parental Leave is to be available to only one parent at a time, in a single unbroken period, except that both parents may simultaneously take:

- (a) for Maternity and Paternity Leave, an unbroken period of up to three weeks at the time of the birth of the child;
- (b) for Adoption Leave, an unbroken period of up to three weeks at the time of placement of the child.

40.12 Full time, part time and eligible casual employees shall be entitled to six weeks paid Maternity/Adoption Leave at the time of commencement of leave. Payment will be at the classification the employee was employed at prior to commencing leave. The rate for payment will be in accordance with Appendix A.

- 40.13 Employees on Maternity/Adoption Leave may apply to return to work on a part time basis, which will be considered by Melbourne Pathology in view of the service needs of the organization
- 40.14 An employee on an initial period of Maternity leave may make application for an extension of unpaid parental leave for a period of up to 12 months, immediately following the end of the available parental leave period.
- 40.15 The application must be in writing at least four weeks before the end of the available leave period.
- 40.16 The employer must provide a written response to the request and provide reasons if the application is refused.
- 40.17 The request may be refused only on reasonable business grounds

Maternity Leave

- 40.18 An employee must provide notice to the employer in advance of the expected date of commencement of Parental Leave. The notice requirements are:
 - (a) of the expected date of confinement (included in a certificate from a registered medical practitioner stating that the employee is pregnant) - at least ten weeks;
 - (b) of the date on which the employee proposes to commence Maternity Leave and the period of leave to be taken - at least ten weeks.
- 40.19 When the employee gives notice under subclause 40.18(a) the employee must also provide a statutory declaration stating particulars of any period of Paternity Leave sought or taken by her spouse and that for the period of Maternity Leave she will not engage in any conduct inconsistent with her contract of employment.
- 40.20 An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by the birth occurring earlier than the presumed date.
- 40.21 Subject to subclause 40.9 and unless agreed otherwise between the employer and employee, an employee may commence Parental Leave at any time within six weeks immediately prior to the expected date of birth.
- 40.22 Where an employee continues to work within the six week period immediately prior to the expected date of birth, or where the employee elects to return to work within six weeks after the birth of the child, an employer may require the employee to provide a medical certificate stating that she is fit to work on her normal duties.

Special Maternity Leave

- 40.23 Where the pregnancy of an employee not then on Maternity Leave terminates after 28 weeks other than by the birth of a living child, then the employee may take unpaid Special Maternity Leave of such periods as a registered medical practitioner certifies as necessary.
- 40.24 Where an employee is suffering from an illness not related to the direct consequences of the pregnancy, an employee may take any paid sick leave to which she is entitled in lieu of, or in addition to, Special Maternity Leave.
- 40.25 Where an employee not then on Maternity Leave suffers illness related to her pregnancy, she may take any paid Personal Leave to which she is then entitled and such further unpaid Special Maternity Leave as a registered medical practitioner certifies as necessary before her return to work. The aggregate of paid Personal Leave, Special Maternity Leave and Parental Leave, including Parental Leave taken by a spouse, may not exceed 52 weeks.
- 40.26 Where leave is granted under subclause 40.23 during the period of leave an employee may return to work at any time, as agreed between the employer and the employee provided that time does not exceed four weeks from the recommencement date desired by the employee.

Partner's/Paternity Leave

- 40.27 An employee will provide the employer at least ten weeks prior to each proposed period of leave, with:
- (a) a certificate from a registered medical practitioner which names their spouse, states that she is pregnant and the expected date of confinement, or states the date on which the birth took place; and
 - (b) written notification of the dates on which they proposes to start and finish the period of Paternity Leave; and
 - (c) a statutory declaration stating:
 - (i) they will take that period of Paternity Leave to become the primary care-giver of a child;
 - (ii) particulars of any period of Maternity Leave sought or taken by his spouse; and
 - (iii) that for the period of Paternity Leave he will not engage in any conduct inconsistent with his contract of employment.
- 40.28 The employee will not be in breach of subclause 40.27 if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances.

Adoption leave

- 40.29 The employee will notify the employer at least ten weeks in advance of the date of commencement of Adoption Leave and the period of leave to be taken. An employee may commence Adoption Leave prior to providing such notice, where through circumstances beyond the control of the employee, the adoption of a child takes place earlier.
- 40.30 Before commencing Adoption Leave, an employee will provide the employer with a statutory declaration stating:
- (a) the employee is seeking Adoption Leave to become the primary care-giver of the child;
 - (b) particulars of any period of Adoption Leave sought or taken by the employee's spouse; and
 - (c) that for the period of Adoption Leave the employee will not engage in any conduct inconsistent with their contract of employment.
- 40.31 An employer may require an employee to provide confirmation from the appropriate government authority of the placement.
- 40.32 Where the placement of child for adoption with an employee does not proceed or continue, the employee will notify the employer immediately and the employer will nominate a time not exceeding four weeks from receipt of notification for the employee's return to work.
- 40.33 An employee will not be in breach of this clause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of a spouse, or other compelling circumstances.
- 40.34 An employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The employee and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to two days unpaid leave. Where paid leave is available to the employee, the employer may require the employee to take such leave instead.

Variation of Period of Parental Leave

- 40.35 Unless agreed otherwise between the employer and employee, an employee may apply to their employer to change the period of Parental Leave on one occasion. Any such change to be notified at least four weeks prior to the commencement of the changed arrangements.

Parental Leave and Other Entitlements

- 40.36 An employee may in lieu of or in conjunction with Parental Leave, access any Annual Leave or Long Service Leave entitlements which they have accrued subject to the total amount of leave not exceeding 52 weeks.

Transfer To A Safe Job

- 40.37 Where an employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee will, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of Maternity Leave.
- 40.38 If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee to commence Parental Leave for such period as is certified necessary by a registered medical practitioner.

Returning To Work After A Period Of Parental Leave

- 40.39 An employee will notify of their intention to return to work after a period of Parental Leave at least four weeks prior to the expiration of the leave.
- 40.40 An employee will be entitled to the position which they held immediately before proceeding on Parental Leave. In the case of an employee transferred to a safe job pursuant to subclause 40.37, the employee will be entitled to return to the position they held immediately before such transfer.
- 40.41 Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee will be entitled to a position as nearly comparable in status and pay to that of their former position.

Replacement Employees

- 40.42 A replacement employee is an employee specifically engaged or temporarily promoted or transferred, as a result of an employee proceeding on Parental Leave.
- 40.43 Before an employer engages a replacement employee the employer must inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

Effect Of Parental Leave on Employment

- 40.44 Notwithstanding any other provision of this Agreement absence on Parental Leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of the Agreement.

Termination of Employment

- 40.45 An employee on Parental Leave may terminate their employment at any time during the period of leave by notice given in accordance with this Agreement.
- 40.46 An employer shall not terminate the employment of an employee on the ground of their pregnancy or their absence on Parental Leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

41. LONG SERVICE LEAVE

Entitlement

- 41.1 All persons employed under this Agreement shall be entitled to Long Service Leave as hereinafter provided.
- 41.2 An employee shall be entitled to Long Service Leave with pay, in respect of continuous service with the employer, in accordance with the provisions of this clause.
- 41.3 An employee shall have the following entitlement to Long Service Leave:
- (a) on the completion by the employee of fifteen years' continuous service - six months' Long Service Leave and thereafter an additional two months' Long Service Leave on the completion of each additional five years' service;
 - (b) in addition, in the case of an employee who has completed more than fifteen years' service and whose employment is terminated otherwise than by the death of the employee, an amount of Long Service Leave equal to one thirtieth of the period of their service since the last accrual of entitlement to Long Service Leave, and
 - (c) by agreement, Long Service Leave may be granted before the entitlement to that leave has accrued provided at least 10 years continuous service has been completed;
 - (d) in the case of an employee who has completed at least ten years' service, but less than fifteen years' service and whose employment is terminated for any cause other than serious and wilful misconduct, such amount of Long Service Leave as equals one thirtieth of the period of service.

Service entitling to leave

- 41.4 Subject to this subclause service shall also include all periods during which an employee was serving in the Australian Defence Forces.
- 41.5 Where a business is transmitted from one employer (the transmitter) to another employer (the transferee) an employee who worked with the

transmitter and who continues in the service of the transferee shall be entitled to count their service with the transmitter as service with the transferee for the purposes of this clause.

- 41.6 For the purposes of this clause service shall be deemed to be continuous notwithstanding:
- (a) the taking of any Annual Leave or Long Service Leave;
 - (b) any absence from work of not more than fourteen days in any year on account of illness or injury or if applicable such longer period as provided in clause 37(Personal Leave);
 - (c) any interruption or ending of the employment by the employer if such interruption or ending is made with the intention of avoiding obligations in respect of Long Service Leave or Annual Leave;
 - (d) any absence on account of injury arising out of or in the course of the employment of the employee for a period during which payment is made under clause 29 (Accident Pay);
 - (e) any leave of absence of the employee where the absence is authorised in advance in writing by the employer to be counted as service;
 - (f) any interruption arising directly or indirectly from an industrial dispute;
 - (g) the dismissal of an employee if the employee is re-employed within a period not exceeding two months from the date of such dismissal;
 - (h) any absence from work of a female employee for a period not exceeding twelve months in respect of any pregnancy or such longer period as mutually agreed between the employee and Melbourne Pathology;
 - (i) any other absence of an employee by leave of the employer, or on account of injury arising out of or in the course of their employment not covered by 41.6(d).

41.7 In calculating the period of continuous service of any employee, any interruption or absence of a kind mentioned in subclauses 41.6(n) to 41.6(e) of the last preceding paragraph shall be counted as part of the period of their service, but any interruption or absence of a kind mentioned in subclauses 41.6(f) to 41.6(i) shall not be counted as part of the period of service unless it is so authorised in writing by the employer.

41.8 The employer shall keep or cause to be kept a long service record for each employee, containing particulars of service, leave taken and payments made.

Payment in lieu of Long Service Leave on the death of an employee

41.9 Where an employee who has completed at least ten years' service dies while still in the employ of the employer, the employer shall pay to such

employee's personal representative a sum equal to the pay of such employee for one thirtieth of the period of the employee's continuous service in respect of which leave has not been allowed or payment made immediately prior to the death of the employee.

Payment for period of leave

41.10 Payment to an employee in respect of Long Service Leave shall be made in one of the following ways:

- (a) In full in advance when the employee commences their leave; or
- (b) At the same time as payment would have been made if the employee had remained on duty; in which case payment shall, if the employee in writing so requires, be made by cheque posted to a specified address; or
- (c) In any other way agreed between the employer and the employee.

41.11 Where the employment of an employee is for any reason terminated before the employee takes any Long Service Leave to which they are entitled or where any Long Service Leave accrues to an employee, the employee shall subject to the provisions of subclause 41.12 be entitled to pay in respect of such leave as at the date of termination of employment.

41.12 Where any Long Service Leave accrues to an employee under this clause the employee shall be entitled to pay in respect of such leave as at the date of termination of employment.

41.13 Where an increase occurs in the ordinary time rate of pay during any period of Long Service Leave taken by the employee, the employee shall be entitled to receive payment of the amount of any increase in pay at the completion of such leave.

Taking of leave

41.14 When an employee becomes entitled to Long Service Leave such leave shall be granted by the employer within six months from the date of the entitlement, but the taking of such leave may be postponed to such a date as is mutually agreed, provided that such leave is not to commence before the expiry of six months from the date of such determination.

41.15 Any Long Service Leave shall be:

exclusive of any public holiday or accrued days off occurring during the period when leave is take.

41.16 If the employer and an employee so agree:

- (a) where an employee is entitled to a period of Long Service Leave, the employee may take the whole or any part of the leave at double the quantum of leave at

half the pay or half the quantum of leave at double pay provided that such arrangement will not result in an additional cost to Melbourne Pathology;

- (b) the first six months Long Service Leave to which an employee becomes entitled under this Agreement may be taken in two or three separate periods; and
- (c) any subsequent period of Long Service Leave to which the employee becomes entitled may be taken in two separate periods; but save as aforesaid Long Service Leave shall be taken in one period.

41.17 Employees with between 10 and 15 years of continuous service are entitled to apply for pro rata Long Service Leave after 10 years continuous service.

41.18 By agreement, Long Service Leave may be granted before the entitlement to that leave has accrued provided at least 10 years continuous service has been completed.

41.19 Where the employment of an employee who has taken Long Service Leave in advance is subsequently terminated for serious and wilful misconduct before entitlement to Long Service Leave has accrued, the employer may, from whatever remuneration is payable to the worker upon termination, deduct and withhold an amount equivalent to the amount paid to the employee in respect of the leave in advance.

Definitions

41.20 For the purposes of this clause the following definitions apply:

- (a) Pay means remuneration for an employee's normal weekly hours of work at their ordinary time rates of pay and shall be calculated by averaging the hours the employee has worked over the 12 months prior to the date leave is to commence or, if the employee dies before taking leave, pay shall be calculated at the employee's ordinary time rate of pay at the time of their death. Payment shall include the amount of any increase to the employee's ordinary time rate of pay which occurred during the period of leave as from the date such increase operates provided that where accommodation is made available to an employee during their period of leave and where a deduction is made for the rental, such amount shall be deducted from the pay for the period of leave.
- (b) Month shall mean a calendar month.
- (c) Transmission includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and transmitted has a corresponding interpretation.

42. PUBLIC HOLIDAYS

42.1 An employee shall be entitled to holidays on the following days:

- (a) New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day and Boxing Day; and
 - (b) Australia Day, Anzac Day, Queen's Birthday and Eight Hours' Day or Labour Day; and
 - (c) Melbourne Cup Day or in lieu of Melbourne Cup Day, some other day as determined in a particular locality.
- 42.2 When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December.
- 42.3 When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 28 December.
- 42.4 When New Year's Day or Australia Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on the next Monday.
- 42.5 Where public holidays are declared or prescribed on days other than those set out in the above subclauses, those days shall constitute additional holidays for the purpose of this Agreement.
- 42.6 An employer and his or her employees may agree to substitute another day for and prescribed in this clause. For this purpose, the consent of the majority of affected employees shall constitute agreement.
- (a) An agreement pursuant to this subclause shall be recorded in writing and be available to every affected employee.
 - (b) The Union shall be consulted about an agreement pursuant to this subclause. Any disputes arising shall be dealt with by reference to FWA.
- 42.7 Subject to the ongoing operational needs of the employer an employee may, with the prior agreement of the employer, substitute a gazetted public holiday with a nominated religious holiday. Where a religious holiday is nominated to be a substitute and the employee works on the gazetted holiday he or she will be paid at ordinary time.
- 42.8 Requests to substitute a day, must be made ten weeks in advance.
- 42.9 An employee who works (excepting on recall) on any day specified in this clause shall:
- (a) Be paid for the time so worked with a minimum of four hours wages at the rate of time and a half in addition to the weekly wage prescribed in schedule A to this Agreement or;
 - (b) be entitled to time-off amounting to one and a half times the hours worked with a minimum of six hours time-off without loss of pay; such time-off shall be taken at a time mutually convenient to the employer and the employee within one month of the day on which the employee worked, provided that

where an employee is entitled to a full working day off, such time may be added to the employee's Annual Leave by mutual consent.

- 42.10 An employee who is recalled to duty and works on any day specified in this clause shall be paid from the time of receiving the recall until the time of finishing such recall duty with a minimum of two hours payment for each recall at the rate of time and a half in addition to the weekly wage prescribed in Appendix A.
- 42.11 Where a public holiday occurs on an employee's rostered day off, then the employee shall be entitled to receive one and a half days pay in addition to the weekly wage or one and a half days off at a time convenient to the employer without loss of pay.
- 42.12 In respect to Easter Saturday, an employee who ordinarily works Monday to Friday and who does not work on Easter Saturday, shall be entitled to one day's pay in respect of Easter Saturday or where there is mutual consent, within four weeks following the date on which such holiday occurred the employee may take one day off in lieu or have one day added to their Annual Leave.
- 42.13 **Christmas Day, Boxing Day and New Year's Day**
- 42.13.1 Where Christmas Day and/or Boxing Day and/or New Year's Day fall on a Saturday or a Sunday, an employee, other than a casual employee, who works on Christmas Day and/or Boxing Day and/or New Year's Day shall be paid at the rate of time and one half for the time worked with a minimum of four hours wages. If such an employee also works on the Holiday(s) in lieu set out elsewhere in this clause, he or she shall be paid at the normal award rate for work on this day or these days.
- 42.13.2 In addition to the benefit provided by clause 42.13.1 hereof, an employee who works on Christmas Day and/or Boxing Day and/or New Year's Day shall, for each day so worked, either be allowed a substitute holiday at a time convenient to the employer or receive an extra day's wages at ordinary rates.
- 42.13.3 This clause overrides any other provisions of the award with which it is inconsistent.

43 JURY SERVICE

- 43.1 An employee required to attend for jury service during their ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the amount of wage pursuant to schedule A (Rates of Pay) they would have received in respect of ordinary time they would have worked had they not been on jury service.

43.2 An employee shall notify their employer as soon as possible of the date upon which they are required to attend for Jury Service. Further, the employee shall give their employer proof of their attendance, the duration of such attendance and the amount received in respect of such Jury Service.

44 STUDY LEAVE

44.1 An employee shall be granted leave with full pay in order to attend examinations necessary to obtain a higher qualification as defined in subclause 25.9 of this Agreement and examinations necessary to obtain the degree of Bachelor of Applied Science (Medical Laboratory Science), provided that the examinations are held within Australia.

44.2 The amount of such leave shall be sufficient to allow the employee:

44.2.1 to proceed to and from the place of examination; and

44.2.2 in addition, allow three clear days prior to the oral examination, and three clear days or three single days prior to the written papers with a maximum of six days pre-examination study leave in any calendar year;

44.2.3 any leave granted under the provision of this clause shall be taken in addition to Annual leave.

45 CONTINUING EDUCATION

45.1 Melbourne Pathology is committed to a program of conference and study leave for staff. Employees may apply for leave to attend programs that are specially related to the position they are employed for, in accordance with the policy of Melbourne Pathology.

45.2 Paid leave will be granted for all courses of training required to be undertaken by Melbourne Pathology. Melbourne Pathology will meet fees and approved expenses associated with the training.

45.3 In-service training or information sessions or induction programs that Melbourne Pathology requires employees to attend shall be paid for at the ordinary rate of pay.

46 DAMAGED CLOTHING

Where an employee in the course of their employment suffers any damage or soiling of clothing or other personal effects (excluding female hosiery), the employer shall be liable for the replacement, repair or cleaning or such clothing or personal effects, providing that immediate notification is given of such damage or soiling. This clause shall not apply in the case where the damage or soiling is occasioned by the negligence of the employee.

47 REIMBURSEMENT OF THE COSTS OF POLICE CHECKS

47.1 Where an employee is required by law to have a current Police Check, Melbourne Pathology will refund the cost of the Police Check to the employee on production of a receipt.

47.2 New employees applying for employment into positions that require a police check shall provide a valid police check prior to employment with Melbourne Pathology. Subsequent renewal costs of that Police Check shall be reimbursed on production of a receipt.

48 TRAINEE SUPERVISION

No trainee (as defined) shall be required or permitted to work in any laboratory at any time without the supervision of a qualified employee.

49 RENEGOTIATION OF AGREEMENT

The parties shall commence negotiations for a new Agreement, six months prior to the expiry of this Agreement. This Agreement shall remain in force until it is replaced by another agreement.

 Date: 11/5/2012

Dr. Rosemary Kelly

Secretary Health Services Union Victoria #4 Branch

 Date: 8/6/2011

Melbourne Pathology

103 Victoria Parade

Collingwood

Appendix A: Wage Rates

Classification	Current Rate	1/07/2009	1/07/2010	1/07/2011	30/6/2012
Grade 1		3.50%	3.30%	3.20%	3%
1st Year	799.30	827.28	854.58	881.92	908.38
2nd Year	857.89	887.92	917.22	946.57	974.97
3rd Year	930.78	963.36	995.15	1026.99	1057.80
4th Year	995.53	1030.37	1064.38	1098.44	1131.39
5th Year	1045.00	1081.52	1117.21	1152.96	1187.55
6th Year	1098.20	1136.59	1174.09	1211.66	1248.01
7th Year	1124.90	1180.00	1223.50	1268.60	1306.66
Grade 2					
1st Year	1098.20	1200.00	1239.60	1279.27	1317.65
2nd Year	1176.70	1217.92	1258.11	1298.37	1337.32
3rd Year	1234.10	1277.31	1319.47	1361.69	1402.54
4th Year	1316.50	1380.00	1430.00	1481.60	1526.05
Grade 3					
1st Year	1369.60	1417.58	1464.36	1511.22	1556.55
2nd Year	1417.70	1467.31	1515.73	1564.23	1611.16
3rd Year	1455.60	1506.54	1556.25	1606.05	1654.23
4th Year	1536.00	1595.00	1652.00	1711.20	1762.54
Grade 4					
1 st & 2 nd Years	1605.40	1661.57	1716.40	1771.32	1824.46
3 rd & 4 th Years	1690.90	1750.12	1807.88	1865.73	1921.70

Shift Allowances

Scientists	Current	1/07/2009	1/07/2010	1/07/2011	

	Rates				30/6/2012
Morning Shift	23.98	24.82	25.64	26.46	27.25
Afternoon Shift	23.98	24.82	25.64	26.46	27.25
Night Shift	39.97	41.36	42.73	44.10	45.42
Permanent Night Shift	79.93	82.73	85.46	88.19	90.84
Change of Shift	31.97	33.09	34.18	35.28	36.34
On Call	21.44	22.20	22.93	23.66	24.37
Qualifications					
Graduate Diploma (7.6%)	60.75	62.87	64.95	67.03	69.04
M.Sc, M.App.Sci, MAACB, MAIP, HGSACC or other recognised equiv degree, (8.8%)	70.34	72.80	75.20	77.61	79.94
FAACB, FAIMLS D Sc, Phd, FIMLS or Royal College Member (11.7%)	93.52	96.79	99.99	103.18	106.28
Cut Up Allowances CT1 1.3% of Grade 1 Yr 1	10.70	11.09	11.47	11.84	12.21
Cut Up Allowances CT2 4% of Grade 1 Yr 1	32.15	33.32	34.45	35.59	36.69

Notice of employee representational rights

(regulation 2.05)

Fair Work Act 2009, subsection 174 (6)

Melbourne Pathology gives notice that it is bargaining in relation to an enterprise agreement (*Melbourne Pathology and the Health Services Union- Scientists Collective Agreement 2010*) which is proposed to cover employees that are employed as scientists by Melbourne Pathology.

What is an enterprise agreement?

An enterprise agreement is an agreement between an employer and its employees that will be covered by the agreement that sets the wages and conditions of those employees for a period of up to 4 years. To come into operation, the agreement must be supported by a majority of the employees who cast a vote to approve the agreement and it must be approved by an independent authority, Fair Work Australia.

If you are an employee who would be covered by the proposed agreement:

You have the right to appoint a bargaining representative to represent you in bargaining for the agreement or in a matter before Fair Work Australia about bargaining for the agreement.

You can do this by notifying the person in writing that you appoint that person as your bargaining representative. You can also appoint yourself as a bargaining representative. In either case you must give a copy of the appointment to your employer.

If you are a member of a union that is entitled to represent your industrial interests in relation to the work to be performed under the agreement, your union will be your bargaining representative for the agreement unless you appoint another person as your representative or you revoke the union's status as your representative.

Questions?

If you have any questions about this notice or about enterprise bargaining, please speak to either your employer, bargaining representative, go to www.fairwork.gov.au, or contact the Fair Work Australia Infoline on 13 13 94.