



## DECISION

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

**St John of God Health Care Inc T/A St John of God Pathology Victoria**  
(AG2016/317)

### **ST JOHN OF GOD PATHOLOGY VICTORIA - HEALTH SERVICES UNION - CAREGIVER ENTERPRISE AGREEMENT 2015**

Health and welfare services

COMMISSIONER JOHNS

SYDNEY, 21 MARCH 2016

*Application for approval of the St John of God Pathology Victoria - Health Services Union - Caregiver Enterprise Agreement 2015.*

[1] On 17 February 2016 St John of God Health Care Inc T/A St John of God Pathology Victoria (**Applicant**) made an application for approval of the *St John of God Pathology Victoria – Health Services Union – Caregiver Enterprise Agreement 2015* (**Agreement**). The application was made pursuant to s 185 of the *Fair Work Act 2009* (Cth) (**Act**). The Agreement is a single-enterprise agreement.

[2] The Agreement was lodged within 14 days after it was made.

[3] The Applicant has provided written undertakings. A copy of the undertakings is attached as Annexure A. The Commission is satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement and that the undertakings will not result in substantial changes to the Agreement. In any case, the Health Services Union of Australia has indicated its acceptance of the undertakings.

[4] Subject to the undertakings referred to above, the Commission is satisfied that each of the requirements of ss 186, 187, 188 and 190, as are relevant to this application for approval, has been met.

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

[6] The Agreement is approved. In accordance with s 54 of the Act the Agreement will operate from 28 March 2016. The nominal expiry date of the Agreement is 30 September 2016.



COMMISSIONER

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Annexure A



**Fair Work Commission**

**MATTER NO: AG2016/317**

**Undertaking**

I refer to Application for approval of the St John of God Pathology Victoria – Health Services Union – Caregiver Enterprise Agreement 2015.

**Form F17 Questions 2.4 and 2.5**

The answers to the above questions contained typographical error noting the response to 2.4 should have been the employees were provided with access to the Agreement on 04/01/2016.

The answer to question 2.5 should have been the employees were provided with the voting information on 27/01/2016 with the ballot opening on 04/02/16

**Clause 14 (Flexibility Term) and Clause 33 (Consultation)**

It is acknowledged that the model Flexibility and Consultation terms will be incorporated on approval into the Agreement.

**Better Off Overall Test**

It is intended that the pre reform Awards as noted below:  
Health and Allied Services (Private Sector) Consolidated Award 1998;  
Health Services Union of Australia (Health Professional Services Private Sector Victoria) Award 2004;  
Health Services Union of Australia (Victoria – Private Sector) Medical Scientists Psychologists and Pharmacists) Award 2004) and as noted at clause 4 of the Agreement will be relied upon and incorporated into the Agreement.

A handwritten signature in cursive script that reads "Dorothy Gibbs".

Dorothy Gibbs  
Senior Industrial and Employee Relations Advisor  
St John of God Health Care  
07/03/2016

**ST JOHN OF GOD PATHOLOGY VICTORIA**

and

**HEALTH SERVICES UNION AUSTRALIA**

**CAREGIVER**

**EMPLOYEE AGREEMENT 2015**

Note - the model consultation term is taken to be a term of this agreement and can be found at the end of the agreement.

Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of the agreement.

Note - the model flexibility term is taken to be a term of this agreement and can be found at the end of the agreement.

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**1. TITLE**

This Agreement shall be called the *St John of God Pathology Victoria - Health Services Union - Caregiver Enterprise Agreement 2015* ("the Agreement").

**2. PARTIES**

The parties to this Agreement shall be:

- (a) St John of God Pathology (a division of St John of God Health Care Inc.) ("the Employer"); and
- (b) Caregivers employed in the classifications contained in the wages schedule of this Agreement by the Employer in the State of Victoria.

**3. APPLICATION FOR COVERAGE**

- (a) This Agreement is made under s.172 of the *Fair Work Act 2009* ("the Act"). The Employer will take the necessary steps to seek approval of this Agreement under s.186 of the Act.
- (b) The Employer will formally advise the Health Services Union Victoria No.1, No.3 and No. 4 Branches ("HSU") when the Agreement is made in order for HSU to apply under s.183 of the Act to be covered by the Agreement.
- (c) It is the intention of this Agreement that the HSU will be covered by this Agreement.

**4. RELATIONSHIPS TO AWARDS**

- (a) The relevant provisions of the
  - Health and Allied Services (Private Sector) Consolidated Award 1998
  - Health Services Union of Australia (Health Professional Services – Private Sector Victoria) Award 2004 and
  - Health Services Union of Australia (Victoria – Private Sector – Medical Scientists, Psychologists and Pharmacists) Award 2004as in place at 31 December 2005 that are attached to this Agreement shall be incorporated and read in conjunction with this Agreement insofar as such matters are neither objectionable nor prohibited. All such terms are enforceable as provisions of the Agreement.

- (b) Where there is an inconsistency between this Agreement and the attached Award provisions (at Schedules B, C and D), this Agreement shall prevail to the extent of any inconsistency. Where this Agreement makes provision for a varied or additional operation of a term of the Award provisions, that term will apply subject to, or as varied by, this Agreement.

## 5. TERM

- (a) This Agreement shall commence operation with effect from the commencement of the first full pay period on or after a positive ballot is concluded, and shall remain in force until 30 September 2016 and thereafter in accordance with the Act.
- (b) The parties commit to the development of a comprehensive agreement without reference to pre-Modern Awards during the Term.

## 6. REPLACEMENT

This Agreement cancels and replaces the *St John of God Pathology Victoria Health Services Union Caregiver Union Collective Agreement 2013*.

## 7. DEFINITIONS

- (a) "Caregiver" means an employee of St. John of God Pathology.
- (b) "Child" includes an adopted child, stepchild, ex-nuptial child or adult child.
- (c) "Employer" means St John of God Pathology (a division of St John of God Health Care Inc.), the CEO of Pathology or facility or a person delegated by the CEO to exercise the power on his/her behalf.
- (d) "immediate family" of a Caregiver means:
  - (i) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the Caregiver; or
  - (ii) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the Caregiver
  - (iii) **spouse** includes a former spouse.
  - (iv) **de facto partner** of a Caregiver:
    - (1) means a person who, although not legally married to the Caregiver, lives with the Caregiver in a relationship as a couple on a genuine domestic basis (whether the Caregiver and the person are of the same sex or different sexes); and
    - (2) includes a former de facto partner of the Caregiver.



- (e) "Union" or "HSU" means the Health Services Union Victoria No. 1, 3 and 4 Branches.
- (f) "Duties" means each Caregiver is required to work in accordance with his/her duty statement and the policies and procedure of the Employer. The Employer may direct the Caregiver to carry out such duties as are within the reasonable limits of the Caregiver's skill, competence and/or training.
- (g) Where the provisions of this Agreement provide for agreement between the Employer and the Caregiver", agreement shall not be deemed to have been reached unless freely entered into by both parties.

## **8. COMMITMENT TO IMPROVED PRODUCTIVITY AND FLEXIBILITY**

- (a) The parties agree that in giving effect to the provisions of this clause, both organisation and Caregiver needs are to be considered including:
  - (i) ensuring that the careers of Caregivers are not disadvantaged;
  - (ii) consideration of the Caregiver's personal commitments, family needs and carer responsibilities; and that sufficient annual leave remains available for the Caregiver to have the opportunity of adequate rest and recreation.

### **Commitment to Improved Productivity**

- (b) The parties to this Agreement recognise that with increased competition in the Pathology industry, the wage increases and other benefits contained in this Agreement can only be sustained through improvements in productivity.
- (c) Due to the current funding climate, where there is a lack of fee increase or fee reduction within the funding structures, Caregivers and St John of God Pathology (SJGP) agree to work together to maximise efficiencies within the laboratories, call centres and work areas and achieve productivity to maintain the ongoing viability for SJGP and reduce the potential for redundancies due to any future fee cuts or market changes.
- (d) SJGP is committed to best practice principles and the delivery of quality patient care. Caregiver levels are in accordance with service requirement and viability. The parties to this Agreement are committed to the continuous quality improvement process through the use of appropriate efficiency strategies. A co-operative spirit will prevail to ensure quality outcomes are achieved and barriers to improved performance are identified through the consultation process.
- (e) The HSU Number 3 and 4 Branches and their members commit to implementing the productivity agreement signed by the parties. This commitment by Caregivers and the associated implementation of measures to increase the productivity of the scientific input is necessary to the viability of the business of St John of God Pathology in Victoria.

- (f) The Agreement by all scientists and technician Caregivers to commit to participation in the identification and implementation of productivity initiatives which enhance the commercial viability of SJGP.
- (g) St John of God Pathology Victoria recognises the value of its Caregivers and seeks that the initiatives be shared across the scientific and technician Caregivers through a recognition of work/life balance practices.

### **Flexibility**

- (h) It is envisaged that productivity improvements necessary to support this Agreement will primarily be met as a result of the implementation of innovative and efficient work and staffing practices. Where the Employer proposes to introduce such initiatives Caregiver(s) affected by the proposal(s) shall be consulted and their views meaningfully taken into consideration.

## **9. CONFIDENTIALITY**

Information relating to the Employer or its facilities, its customers/patients or activities may not be released or divulged by the Caregiver to a third party other than in the proper performance of the Caregiver's obligations under this Agreement or relevant Act and the Caregiver's right to seek advice or representation from the Union or other representatives. A Caregiver may not knowingly make unauthorised access to patient or organisational records or information.

## **10. PURPOSE OF THIS AGREEMENT**

To provide the basic framework to assist Caregivers and the Employer working together toward the following goals:

- (a) Development of a pathology service that is committed to a continuing review of service and quality to ensure the highest level of care is achieved;
- (b) Pursuit of best practice in the provision of patient service through a commitment to the standards and guidelines provided by accreditation, quality endorsement programs and Occupational Health & Safety Legislation;
- (c) Joint recognition of the importance of identifying and implementing strategies that will improve productivity and efficiency within the service, to ensure long term viability, improved business performance and improved quality of services;
- (d) Joint recognition of the importance of cooperation and communication between all parties, and the important contribution of Caregivers in ensuring the Practice's future; and

- (e) Achievement of a stable industrial relations framework within the Practice.

## **11. SALARY ADJUSTMENT**

- (a) Wages will be increased as follows and are set out at Schedule A:

First full pay period on or after 14 <sup>th</sup> December 2015	2%
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First full pay period on or after 1 July 2016	1%
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- (b) Any further wage increase shall be at the discretion of the Employer, unless the rate of pay falls below the Modern Award rate (with reference to the transitional provisions), in such circumstances the rate of pay shall default to the minimum rate prescribed in accordance with the relevant Modern Award rate (with reference to the transitional provisions).
- (c) All wage related allowances shall be as set out in Appendix 1 of this Agreement.
- (d) In addition, a lump sum bonus payment will be made to Caregivers employed as at the first full pay period on or after 1 October 2015 in accordance with Schedule E of this Agreement.

## **12. SALARY PACKAGING**

- (a) The Employer has Concessional Tax Status ("CTS") for Fringe Benefits Tax purposes and as a result is able to offer salary packaging to its Caregivers.
- (b) Where the Employer or the new Employer, through a transfer of business, do not enjoy CTS with the Australian Taxation Office (ATO), the Employer or the Employer as described above will not be obliged to salary package and may at any time cease the salary packaging arrangements with the Caregiver.
- (c) Salary packaging is the sacrifice or substitution of salary for other benefits, provided that the total cost to the Employer will be no greater than if all the Caregiver's entitlements had been taken as PAYG salary. The cost of the benefit (including taxes and administrative expenses) is deducted from the gross salary of a Caregiver to arrive at the cash component. Gross salary does not include the Employer's contribution to compulsory and/or contributory superannuation.
- (d) By agreement between the Employer and the Caregiver, the rate of pay specified by this Agreement may be salary packaged in accordance with the Employer Salary Packaging policy as applying from time to time.

- (e) Salary packaging may be entered into on a voluntary basis and is an arrangement for the payment of wages or salary payable under this Agreement whereby the total remuneration is broken into a cash and a non-cash /benefits component.
- (f) Caregivers are encouraged to seek independent financial advice prior to entering into any form of salary packaging and the Employer will not be responsible for that advice or any outcome which may result there from.
- (g) Where legislative e.g. Fringe Benefit Tax Act 1988 and/or Income Tax Assessment Act or other changes have the effect of reducing or withdrawing the personal benefits identified/resulting from this Agreement, the Employer will not be liable to make up the salary benefits lost by a Caregiver as a consequence of such change and where other changes have the effect of increasing the cost of packaging to the Employer, then these costs will either be paid by the Caregiver participating in packaging or the Caregiver may choose to cease the arrangement.
- (h) The parties agree that in the event that the salary packaging ceases to be an advantage to a Caregiver, or a Caregiver decides, for whatever reason, to stop participating in salary packaging, arrangements will be made to reinstate as salary the agreed amount packaged. Any costs associated with the conversion to salary will be borne by the Caregiver and the Employer will not be liable to make up any benefit lost as a consequence of a Caregiver's decision to convert to salary.
- (i) The cost of salary packaging is the reasonable cost incurred by the Caregiver as levied and varied from time to time.

### **13. SUPERANNUATION**

- (a) The Employer shall contribute on behalf of the Caregiver in accordance with the requirements of the Superannuation Guarantee (Administration) Act 1992.
- (b) Contributions shall at the option of the Caregiver be paid into either:
  - (i) the Health Caregivers' Superannuation Trust Australia fund ("HESTA"). Upon commencement the Employer will provide each caregiver with a membership form for the HESTA fund.
  - (ii) the National Catholic Fund;
  - (iii) the Private Practice Caregivers' Superannuation Fund; or
  - (iv) such other complying superannuation fund or scheme nominated by the Caregiver.
- (c) In the event that within 28 days of commencing employment, the Caregiver has not completed an application form for any fund or advised the Employer of the fund into which the Caregiver wishes superannuation to be made the Employer shall forward contributions and caregiver details including full name, address and date of birth to HESTA Super Fund as the default fund.

- (d) Contributions on behalf of a Caregiver in receipt of payments under the Workers Compensation and Assistance Act shall continue to be paid in accordance with the relevant award
- (e) A Caregiver may make additional contributions to the Fund from their after tax salary or in accordance with the Salary Packaging arrangements as it stands from time to time, and on receiving written authorisation from the Caregiver the Employer will commence making contributions to the Fund in accordance with the Superannuation Industry Supervision Legislation (SIS).
- (f) New Caregivers with existing Health Super accounts may elect to continue to nominate this account.

#### **14. FLEXIBILTY ARRANGEMENTS**

The Employer and a Caregiver covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of the terms of this Agreement subject to it being made in accordance with the *Fair Work Act 2009*. The relevant Caregiver may appoint a representative for the purposes of the procedures in this term.

#### **15. MULTI-SKILLING MEDICAL SCIENTISTS**

All such Caregivers shall at the discretion of the Employer become multi-skilled to enable them to participate in the on-call rosters. The Employer is committed to the development of all Caregivers and provision of training to ensure this is met. Once training has been completed to the Employer's satisfaction, the Caregiver will participate in the on-call roster.

#### **16. MEDICAL SCIENTISTS HIGHER QUALIFICATIONS ALLOWANCES**

- (a) For the duration of this Agreement following set rates will be applied to qualifications allowance to be paid to eligible Caregivers for the life of the Agreement
- (b) Where a scientist has a higher qualification that is applicable to their job description, s/he shall be paid, in addition to the rates of pay prescribed in the appropriate clause, the following:

<b>Allowance</b>	<b>Amount paid per week for full time Caregiver and pro-rata for part time Caregiver</b>
Graduate Certificate in Medical Science, or other recognised equivalent, the sum of	As per Schedule A - Wages
For Graduate Diploma in Medical Science or Graduate Diploma in Health Administration, or other recognised equivalent qualification, the sum of	As per Schedule A - Wages
For MAACB, M.Sc, M.App.Sc., MAIP, HGSACC, or other recognised equivalent degree or qualification from a tertiary institution the sum of	As per Schedule A - Wages
For FAACB, FAIMLS, DSc, Ph.D, FAIP, FIMLS, FHGSA or member of the Royal College of Pathologists or other recognised equivalent qualification, the sum of	As per Schedule A - Wages

## 17. PROFESSIONAL DEVELOPMENT

- (a) The Employer is committed to the ongoing professional development of Caregivers. Subject to organisational requirements, service capacity and relevance to employment, a Caregiver may access up to 5 days paid professional development leave per year non-cumulative. The leave can be in the form of study leave, conference leave and/or professional development. This leave can include development programs provided by the Employer.
- (b) Caregivers may also by approval of the CEO take unpaid and annual leave for professional development activities.
- (c) All professional development leave must be made on an application form.
- (d) The respective award provisions for examination leave will continue to be made available.

## **18. REPLACEMENT OF CAREGIVERS ON LEAVE**

- (a) Management shall not unreasonably oppose requests for leave replacement for Caregivers who are on approved leave for in excess of 10 continuous days.
- (b) Where St John of God Pathology Victoria replace staff on leave, part time Caregivers shall be given preference to voluntarily opt to work such shifts. There will be no additional penalties or overtime incurred through increasing of existing part time hours up to 38 hours to take up the additional hours other than those shift penalties that normally apply to the hours for weekend, public holiday or shift work.

### **Part time Caregivers and additional hours**

- (c) Before commencing employment, the Employer and Caregiver will agree in writing on:
  - (i) the span of hours that the Caregiver may be rostered within a fortnight. This span of hours shall include which shifts the Caregiver may be rostered to work; and
  - (ii) the days of the week the Caregiver may be rostered to work within a fortnight; and
  - (iii) the agreed minimum number of contracted hours to be worked per fortnight.
- (d) Notwithstanding the overtime provisions incorporated into this Agreement, a part time Caregiver may agree to work in excess of their rostered ordinary hours at the ordinary time rate of pay, provided that all time worked by a part-time Caregiver which exceeds 8 hours per day or 76 hours in a fortnight, will be paid at the rate of time and a half for the first two hours and double time thereafter, except on Sundays when overtime will be paid for at the rate of double time, and on public holidays at the rate of double time and a half.
- (e) Part-time Caregivers will work in excess of their rostered ordinary hours by mutual agreement only.

## **19. WEEKEND SHIFT WORK; ADDITIONAL ANNUAL LEAVE ENTITLEMENTS**

- (a) For the purposes of this clause all additional annual leave is calculated for the 12 month period commencing the 1<sup>st</sup> July of each year.
- (b) Caregivers (excluding Casuals) with twelve months' continuous service who work shifts in excess of 4 hours which fall on a Saturday and/or Sunday, as part of their ordinary hours, will accrue additional annual leave at the rate of 0.5 times the number of ordinary hours worked on any weekend day, up to a maximum of 38 hours additional leave in any 12 month period for 38 hour worker or part time Caregiver and up to 40 hours for a 40 hour Caregiver. Part time workers who accumulate more than their normal average hours up to 38 hours will take this leave on the basis of one weeks' annual leave.
- (c) Any full time Caregiver who works regular rostered overtime (greater than 4 hours) in excess of normal hours and/or on-call for 30 Saturday and/or Sundays in any one year period shall be entitled to one additional weeks' annual leave.
- (d) Provided that, in the case of Caregivers (excluding Casuals) who work both a Saturday and a Sunday shift on the same weekend, only one shift per weekend will attract the accrual of the additional annual leave (ie either the Saturday or Sunday shift, but not both), up to the maximum accrual of 38 hours in any 12 month period. Provided further that where a differing number of hours are worked on a Saturday and Sunday by a part- time worker on any one weekend, the longer shift will be used to calculate the accrual of additional annual leave.
- (e) The maximum additional leave a Caregiver can accrue in any one year under clause 19 and its subclauses (b), (c) or (d) or within the award is one week.
- (f) Where extended leave is taken (eg parental, sick, long service leave etc) once these other entitlements have been used a Caregiver may elect to utilise any available annual leave credits, or retain such credits until her/his return to duty;
- (g) Where a Caregiver with extended leave credits resigns or their employment is otherwise terminated, their credits will be paid out as part of their normal annual leave payments.
- (h) The additional annual leave may be taken separately, or in conjunction with another period of annual leave, at any time by mutual agreement. Provided that where there is no agreement, such leave may be taken within six months of the end of any twelve-month period during which the additional annual leave has accrued.
- (i) Additional Leave accruing in this clause will be paid at ordinary rates.



## **20. PORTABILITY OF CAREGIVERS**

The Employer is committed to providing pathology services throughout the State of Victoria. To ensure Caregivers in country areas receive adequate coverage and that the highest level of service is maintained, Caregivers may, by mutual agreement, be transferred to different sites on an interim basis to provide relief. Caregivers transferred shall be entitled to the following:

- (a) Reasonable costs incurred by the Caregiver in travelling from the principal site of employment to the site allocated;
- (b) Payment for reasonable time spent travelling between sites;
- (c) Where the Employer has not arranged and paid for accommodation and/ or meals reimbursement for accommodation and/ or reasonable meal costs (Tax Invoices and receipts are to be provided); and
- (d) Payment at the Caregiver's usual rate for work undertaken at the site unless a higher rate is applicable (higher duties allowance).

## **21. PARENTAL AND ADOPTION LEAVE**

In addition to entitlements provided for under the incorporated Award(s) and the NES, the following applies.

### **Paid Maternity/Paternity/Adoption Leave**

- (a) After 12 months continuous service a Caregiver is entitled to parental leave in accordance with the parental leave provisions within the Award subject to the following provisions relating to payment of a portion of the parental leave. A Caregiver must provide a minimum of ten weeks' notice of their intention to take Parental leave unless there are extenuating circumstances which require a shorter notice period.
- (b) At the immediate commencement of their maternity/adoption leave Caregivers shall then be entitled to ten (10) weeks paid leave. Caregivers shall also be entitled to one (1) weeks paid partner leave.
- (c) Payment shall be made at the commencement of leave and paid at the Caregiver's ordinary weekly rate of pay, exclusive of allowances. The payment shall be calculated by averaging the Caregiver's average weekly hours of employment for the twelve months preceding the commencement of the leave. Caregivers can have this payment made at either full or half pay.
- (d) Annual Leave and Long Service Leave may be taken in conjunction with Maternity Leave provided that the aggregate of all leave does not exceed 18 months.

- (e) In accordance with the provisions of s.73 of the Fair Work Act 2009 a Caregiver shall be entitled to work until her expected date of confinement, provided she provides an additional medical certificate from her treating medical practitioner six weeks immediately prior to the expected date of birth, or earlier if requested by the Employer. The medical certificate must specify that the Caregiver is fit to work for the final six weeks of confinement or part thereof.
- (f) A Caregiver is not entitled to take Parental leave at the same time as their spouse excepting for the period of 8 weeks parental leave. The entitlement to paid parental leave is reduced by any period of paid parental leave taken by the Caregiver's spouse in relation to the same child (except for the 1 week period of paid paternity leave).
- (g) The period of Parental leave may with consent of the Employer, be lengthened or shortened only once by the Caregiver providing a minimum of eight weeks' notice.
- (h) The rate of pay for parental leave shall be based on the Caregiver's ordinary hours and rate of wage at the time of proceeding on parental leave.
- (i) A Caregiver shall confirm to the Employer in writing of his or her intention of returning from Parental Leave at least eight weeks prior to the expiration of the period of parental leave.

## **22. SICK LEAVE CERTIFICATE AND SICKNESS ON ANNUAL LEAVE**

This Clause shall operate in addition to the sick leave provisions of the incorporated Award(s).

- (a) Where a Caregiver becomes sick while on annual leave, the number of days ill shall be debited as sick leave and the Caregiver's annual leave balance credited with the amount so debited, provided that the total period of illness is supported by a medical certificate.

### **Sick leave Certificates**

- (b) For the purposes of certification of sick leave, a statutory declaration signed by the Caregiver; certificates issued by registered psychologists, dentists, medical practitioners/psychiatrists, physiotherapists shall be deemed to be satisfactory evidence of sickness.
- (c) Any absence on sick leave of three or more consecutive days requires a medical certificate.

### **23. COMPASSIONATE LEAVE**

- (a) A Caregiver is entitled to the number of days specified in the applicable incorporated Award of compassionate leave for each occasion (a permissible occasion) when a member of the Caregiver's immediate family, or a member of the Caregiver's household:
  - (i) contracts or develops a personal illness that poses a serious threat to his or her life; or
  - (ii) sustains a personal injury that poses a serious threat to his or her life; or
  - (iii) dies.
- (b) A Caregiver may take compassionate leave for a particular permissible occasion if the leave is taken:
  - (i) to spend time with the member of the Caregiver's immediate family or household who has contracted or developed the personal illness, or sustained the personal injury, referred to in subclause (a); or
  - (ii) after the death of the member of the Caregiver's immediate family or household referred to in subclause (a).
- (c) A Caregiver may take compassionate leave for a particular permissible occasion as a single continuous period; or in separate periods of 1 day each; or any separate periods to which the Caregiver and the Employer agree.
- (d) If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the Caregiver may take the compassionate leave for that occasion at any time while the illness or injury persists.
- (e) If, in accordance with this Clause, a Caregiver, other than a casual Caregiver, takes a period of compassionate leave, the Employer must pay the Caregiver at the Caregiver's base rate of pay for the Caregiver's ordinary hours of work in the period. For casual Caregivers, compassionate leave is unpaid leave.
- (f) The Caregiver, if required by the Employer, shall supply relevant evidence of the requirement for such leave. Such evidence may include a requirement to supply a medical certificate.

### **24. LEAVE WITHOUT PAY FOR COMPASSIONATE LEAVE PURPOSES**

A Caregiver may apply for and be granted leave without pay, however all other forms of appropriate leave must be exhausted before any application will be considered. This is subject to organisational capacity.

## **25. ACCRUED DAYS OFF**

- (a) All Caregivers who Accrue Days Off (ADOs) are to be rostered so as to provide an accrued day off within each four-week cycle. This provision shall not require the Employer to, nor prevent the Employer from replacing Caregivers who are absent on an accrued day off.
- (b) All new Caregivers will have the option of selecting either a 38 or 40-hour week working arrangement.

## **26. DEFERRED ADO ENTITLEMENTS**

- (a) Both parties have a commitment to Caregivers utilising ADOs as they accrue, however ADO entitlements may be deferred by mutual agreement between the Employer and the Caregiver for a maximum of 5 days.
- (b) Unless otherwise agreed a Caregiver shall be permitted to take deferred ADO entitlements provided that the Caregiver provides a minimum of 4 weeks' notice before the leave is due to be taken.

## **27. ANNUAL LEAVE**

- (a) By mutual agreement between the Employer and the Caregiver, a Caregiver can:
  - (i) Take annual leave in the form of up to 5 single days per annum; and/or
  - (ii) Take annual leave in periods of one or two week breaks.
- (b) Under these arrangements leave may be taken in combinations of part weeks ie. 1, 2, 3 or 4 days or for example as 1, 2, 3 or 4 weeks and can be taken in conjunction with other leave.
- (c) Where a Caregiver has in excess of an accrued entitlement of four weeks leave and by mutual agreement with the Employer this excess leave can be taken off in single day periods subject to organisational capability.
- (d) By mutual agreement between the Employer and the Caregiver and only in extenuating financial circumstances, a Caregiver may be paid out excess annual leave entitlements of up to four weeks, provided that:
  - (i) paid annual leave must not be cashed out if the cashing out would result in the Caregiver's remaining accrued entitlement to paid annual leave being less than 4 weeks; and
  - (ii) the Caregiver must be paid at least the full amount that would have been payable to the Caregiver had the Caregiver taken the leave that the Caregiver has forgone.

Where such an arrangement is agreed the Caregiver must book and take a minimum of three weeks annual leave within that twelve month period.

- (e) Where a part-time worker has been accruing annual leave at more hours than they are contracted to work they will:
  - (i) Be paid the leave at the higher number of averaged accrued hours, or
  - (ii) By mutual agreement a part time Caregiver working less than three days per week can opt to take more than their weekly hours as annual leave in any week (up to 38 hours ) provided that:
    - a. Sufficient leave credits are available
    - b. At least 3 clear weeks of annual leave are taken in any one year.

## **28. PUBLIC HOLIDAY SUBSTITUTION**

- (a) By mutual agreement between the Employer and the Caregiver and subject to organisational capacity, a Caregiver who would normally be rostered to work the public holiday or has an entitlement to the public holiday may take an alternative day for the Melbourne Cup Day Public Holiday or in lieu of Melbourne Cup Day Public Holiday as gazetted in a particular location. Where such substitution has occurred the entitlement for the public holiday payment will only be made for the substituted day and not the Melbourne Cup Day Public Holiday.
- (b) By agreement between the Caregiver and the Employer where a Caregiver would normally be rostered to work a public holiday or has an entitlement to the public holiday they may take an alternative day for that public holiday .Where such substitution has occurred the entitlement for the public holiday payment will only be made for the substituted day.

## **29. LONG SERVICE LEAVE**

- (a) Caregivers shall accrue paid long service leave at that rate of:
  - (i) 17 and a third weeks leave for the first 10 years service; and
  - (ii) 8 and two third weeks leave for each subsequent 5 years service.
- (b) A Caregiver shall be able to access pro-rata Long Service Leave at any time after the first 7 years continuous service, including upon termination of employment, otherwise than termination by the Employer on the grounds of serious misconduct.
- (c) Long Service Leave shall not accrue on WorkCover leave in excess of one month.
- (d) By agreement between the Employer and Caregiver, a part time Caregiver or a Caregiver whose hours have changed from full time to part time may take his or her long service leave entitlement as a reduced period of full time equivalent time off. Such agreement shall not be unreasonably withheld by the Employer.

- (e) Long service leave may be taken at half pay for double the period accrued or double pay for half the period accrued with the agreement of the Employer.
- (f) By mutual agreement between the Caregiver and the Employer, where the Caregiver has a long service leave accrual after 10 years service, the Caregiver may opt to take that leave as follows:
  - (i) Take up to 30 single days within in each Long Service Leave entitlement.
  - (ii) Take up eight, one week leave periods in each Long Service Leave entitlement.
  - (iii) Take up to four, two week periods in each Long Service Leave entitlement.
  - (iv) A Caregiver may elect to cash out an amount of accrued LSL at any time after 7 years continuous service.

### **30. PORTABILITY OF SERVICE, SICK LEAVE AND ANNUAL LEAVE ENTITLEMENTS**

- (a) Annual Leave, sick leave and service entitlements are portable within St John of God Health Care Inc., and therefore service is continuous.
- (b) By agreement with the Employer, where a Caregiver with extended leave entitlements greater than 4 weeks annual leave or in excess of six months long service leave is promoted, the entitlements may be carried over to their new position, however the Caregiver can be required to take any extended leave in excess of these amounts before commencing the new position.

### **31. USE OF LEAVE IN SITUATIONS OF DOMESTIC VIOLENCE**

- (a) Where Caregivers find themselves in a situation of family and/or domestic violence, they may access personal and other forms of leave as necessary to help cope during this situation. Caregivers in this situation will be able to access personal and other paid leave, leave without pay and the SJGHC Caregivers Facing Hardship Policy. Caregivers will also be provided with free independent counselling assistance to support them during such a time.
- (b) Managers will exercise compassion flexibility and confidentiality in considering applications for leave to support those involved in family and domestic violence.

### **32. ORDINARY TIME**

Work between 6 .30 am and up until 6.30 pm each day shall be paid as ordinary time and does not attract shift penalties.

### 33. INTRODUCTION OF CHANGE, REDUNDANCY AND SALARY MAINTAINENCE

#### Interpretation

- (a) In this clause:
- (i) "Caregiver" does not include a Caregiver engaged on a casual or temporary basis or on a fixed term contract.
  - (ii) "redundant" means being no longer required by the Employer to continue doing a job because the Practice has decided that the job will not be done by any Caregiver.
- (b) For the purposes of this clause, an action of the Employer has a "significant effect" on a Caregiver if:
- (i) there is to be a major change in the composition, operation or size of, or skills required in the Employer's workforce that will affect the Caregiver; or
  - (ii) there is to be elimination or reduction of a job opportunity, promotion opportunity or job tenure for the Caregiver; or
  - (iii) the guaranteed hours of the Caregiver's work are to significantly increase or decrease; or
  - (iv) the Caregiver is required to be retrained; or
  - (v) the Caregiver is to be required to transfer to another job or work location; or
  - (vi) the Caregiver's job is to be restructured.

#### Caregiver to be Informed

- (c) Where the Employer has decided to:
- (i) take action that is likely to have a significant effect on a Caregiver; or
  - (ii) make a Caregiver redundant,
- the Caregiver is entitled to be informed by the Employer, as soon as reasonably practicable after the decision has been made, of the action or the redundancy, as the case may be.

#### Discussions to occur

- (d) The Employer shall thereafter hold discussions with the Caregiver affected as to:
- (i) the likely effects of the action or the redundancy in respect of the Caregiver; and
  - (ii) measures that may be taken by the Caregiver or the Employer to avoid or minimise a significant effect.

Provided that the Practice shall not be required to disclose confidential information the disclosure of which may seriously harm the Employer's interests.

**Union to be informed**

- (e) Where the Employer has made a definite decision to introduce major changes that are likely to have significant effects on Caregivers, the Employer shall notify and hold discussions with the Union.

**Discussion before Termination**

- (f) Where the Employer has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and the change is likely to have a significant effect on Caregivers of the Employer, the Employer shall consult with affected Caregivers in accordance with the consultation regarding change provision of this Agreement.

**Severance Pay**

- (g) In addition to the period of notice prescribed in relevant awards for ordinary termination, a Caregiver whose employment is terminated on the grounds of redundancy shall be entitled to the following amount of severance pay in respect of a continuous period of service:

Period of Continuous Service	Redundancy Payment
Less than 1 year	Nil
1 year but less than 2 years	4 weeks
2 years but less than 3 years	6 weeks
3 years but less than 4 years	7 weeks
4 years but less than 5 years	8 weeks
5 years but less than 6 years	10 weeks
6 years but less than 7 years	12 weeks
7 years but less than 8 years	14 weeks
8 years but less than 9 years	16 weeks
9 years but less than 10 years	18 weeks
10 years but less than 11 years	20 weeks
11 years but less than 12 years	22 weeks
12 years but less than 13 years	24 weeks
13 years but less than 14 years	26 weeks
14 years but less than 15 years	28 weeks
15 years and over	30 weeks

"Weeks Pay" means the ordinary weekly rate of wage for the Caregiver concerned.

- (h) For the purpose of this clause continuity of service shall not be broken on account of:
  - (i) any absence from work on account of personal sickness or accident for which a Caregiver is entitled to claim sick pay as prescribed by this award or on account of leave lawfully granted by the Employer; or



(ii) any absence with reasonable cause, proof whereof shall be upon the Caregiver; or

(iii) any absence on approved leave without pay.

Provided that in the calculation of continuous service under this subclause any time in respect of which a Caregiver is absent from work except time for which a Caregiver is entitled to claim annual leave, sick pay, long service leave and public holidays as prescribed by this Agreement shall not count as time worked.

(i) Service by the Caregiver with a business which has been transferred from another employer to the Employer and the Caregiver's service has been deemed continuous then it shall also constitute continuous service for the purpose of this clause.

(j) Redundancy shall not be payable in the event of a transmission of business where comparable alternative employment is offered and accepted.

#### **Caregiver Leaving During Notice**

(k) A Caregiver whose employment is to be terminated on the grounds of redundancy may terminate employment during the period of notice and, if so, shall be entitled to the same benefits and payments under this clause had the Caregiver remained with the Employer until the expiry of such notice. Provided that in such circumstances the Caregiver shall not be entitled to payment in lieu of notice.

#### **Alternative Employment**

(l) The Employer, in a particular redundancy case, may make application to the FWC to have the general severance pay prescription varied if the Employer obtains acceptable alternative employment for a Caregiver.

Provided that where a Caregiver is offered and accepts alternative employment at another St John of God Health Inc. facility continuity of service shall not be broken and any accrued entitlements shall be carried over to the new facility. The Caregiver shall not be entitled to the benefits prescribed in subclause (b) of this Clause.

#### **Salary Maintenance**

(m) A Caregiver who is redeployed to a lower classification shall be entitled to salary maintenance. Salary Maintenance will be made on the basis of the St John of God National policy and / or practice as it applies from time to time:

1–2 years service	3 months salary maintenance
2–5 years service	5 months salary maintenance
5–7 years service	7 months salary maintenance
7–10 years service	10 months salary maintenance
10 years and thereafter	12 months salary maintenance

### **Leave for Job Interviews**

- (n) A Caregiver who has been given notice that he or she has been, or will be, made redundant shall during the period of notice of termination be entitled to be absent from work up to a maximum of 8 ordinary hours during each week of notice without deduction of pay for the purpose of being interviewed for further employment.
- (o) A Caregiver who claims to be entitled to paid leave under paragraph (i) shall, at the request of the Employer, be required to produce reasonable proof of attendance at an interview or the Caregiver shall not receive payment for the time absent.

### **34. CHANGE OF SHIFT ALLOWANCE**

- (a) A change of shift allowance is not payable where the Employer agrees to the request of a Caregiver to change from working on one shift to working on another shift, where the time of commencement of which differs by four hours or more. This includes:
  - (i) A request in writing from a Caregiver or Caregivers for a change in shifts.
  - (ii) Where the Caregiver has requested a pattern of shifts
- (b) The change of shift allowance is not payable where there is an intervening period of 48 hours or more off duty inclusive of leave, weekends, accrued days off, rostered days off and public holidays (including substituted days off) leave, long service leave and unpaid leave.
- (c) Change of shift is also not applicable where the Caregiver applies to work in different positions and rosters across the organisation that may result in a four hour or more difference in commencement times.

### **35. ROSTERED HOURS**

- (a) By mutual agreement the rostered hours of work for a full-time Caregiver will be an average of 38 hours per week or 152 hours in a four week period (Caregivers accessing ADOs work 40 hours per week and have a 19 day month). Part-time Caregivers can work up to 20 shifts in each four week period and not work more than 148 hours per four week period
- (b) Rostering arrangements which require more than 7 and no more than 10 straight shifts to be worked in a row to deliver a desired roster structure can only be done so by agreement of the vote of a majority of Caregivers on the affected roster or in the case of an individual in writing to their manager.

### **36. PART-TIME WORK**

- (a) A "part-time Caregiver" means a Caregiver regularly employed to work less hours than those prescribed for a full-time Caregiver.
- (b) A part-time Caregiver may agree to work additional hours (i.e. un-rostered hours worked in conjunction with an existing shift) and/or additional shifts.
- (c) A part-time Caregiver shall be guaranteed a minimum number of hours of work based on a two or four week shift cycle, provided in writing
- (d) A part-time Caregiver shall be entitled to remuneration and all entitlements in the same manner as a full-time Caregiver, adjusted on a pro-rata basis at the rate of their ordinary hours per week in relation to full-time hours (38).
- (e) A part-time Caregiver who agrees to work additional hours or additional shifts within the limits of ordinary hours for full-time Caregivers shall have that additional time paid at ordinary rates (plus shift or other penalties where applicable) and shall count towards the accrual of leave entitlements. A Caregiver shall not be disadvantaged by withholding agreement, provided that where a Part time Caregiver withholds agreement to perform additional work at ordinary rates, the Employer shall be entitled to offer that work to another Caregiver. Where the Employer seeks such agreement with a Caregiver, that Caregiver shall be made aware of his/her right, and given reasonable opportunity, to contact and seek representation from the Union or other representative.
- (f) A part-time Caregiver who agrees to work additional hours or additional shifts in excess of the limits for ordinary hours for full-time Caregivers shall have those additional hours paid as overtime.

### **37. DISPUTE / GRIEVANCE RESOLUTION**

- (a) In the event of a dispute in relation to a matter arising under this Agreement or the National Employment Standard ("NES"), in the first instance the parties will attempt to resolve the matter at the workplace by discussions between the Caregiver or Caregivers concerned and the relevant supervisor and, if such discussions do not resolve the dispute, by discussions between the Caregiver or Caregivers concerned and more senior levels of management as appropriate.
- (b) A party to the dispute may appoint another person, organization (which may be a union) or association to accompany or represent them in relation to the dispute.
- (c) If a dispute in relation to a matter arising under the Agreement or the NES is unable to be resolved at the workplace, and all agreed steps for resolving it have been taken, the dispute may be referred to the Fair Work Commission ("FWC") for resolution by conciliation and, where the matter in dispute remains unresolved, arbitration.

- (d) It is a term of this Agreement that while the dispute resolution procedure is being conducted work shall continue according to the custom and practice before the grievance arose unless a Caregiver has a reasonable concern about an imminent risk to his or her health or safety.
- (e) If arbitration is necessary the FWC may exercise the procedural powers in relation to hearings, witnesses, evidence and submissions which are necessary to make the arbitration effective.
- (f) The above steps shall take place within seven days (health and safety matters are exempt from this clause).
- (g) For the avoidance of doubt, Caregiver grievances are included in the matters to be dealt with in accordance with the dispute resolution procedure of the Agreement.

### **38. USE OF MOTOR VEHICLE FOR RECALL**

Where a Caregiver is recalled to duty and uses their own vehicle to travel to work and return home, the Employer shall pay travelling allowance in accordance with the table below:

<b>Vehicle Segment</b>	<b>Average cents/km</b>
Micro	40.6
Light	48.7
Small	56.7
Small (Luxury)	75.5
Medium	69.1
Medium (Luxury)	103.1
Large	83.0
People Movers	82.2
Small SUV	62.9
Medium SUV	72.3
Large SUV	81.7
All Terrain SUV	113.0
2WD Ute	75.5
4WD Ute	89.6

**Source:** RACV Annual Vehicle Operating Cost Report, June each year

The rate provided in June of each year by the RACV is applied from the 15 of July and will be reviewed annually in line with the RACV Annual Vehicle Operating Cost Report.

### **39. MINIMUM REST BREAK (MEDICAL SCIENTIST)**

- (a) A Caregiver who works so much recall between midnight and 6:00am that the Caregiver would not have at least 8 consecutive hours off duty between midnight and the commencement of the next period of rostered duty shall be entitled to 8 consecutive hours off duty before the commencement of the next period of rostered duty, without loss of pay for rostered ordinary hours occurring during such absence.
- (b) Where a Caregiver is only recalled after 6:00am, the Caregiver shall be entitled to an hour and a half break before commencement of the next period of rostered duty, without loss of pay for rostered ordinary hours occurring during such absence.
- (c) If by agreement with the laboratory supervisor the Caregiver returns to work before completion of the rest period stipulated in clauses (a) or (b), the Caregiver shall be credited with additional "Accrued Day Off" hours at a rate of double time for the balance of the time that would have been entitled under clauses (a) or (b).

### **40. CALL IN -MINIMUM HOURS TO BE PAID**

- (a) Where a Caregiver is recalled to work a minimum of three hours payment at overtime rates shall be applied. Other call in work performed during this 3 hour period will be covered by this call in payment.

#### **Telephone work on call only.**

- (b) Where such an authorised on call arrangement is agreed and the Caregiver is called, a minimum payment of 15 minutes will be paid at the overtime rate of time and one half and thereafter in 15 minute blocks to a maximum of 60 minutes for the telephone work associated with the call. If the associated work is longer than 1 hours duration then the 3 hour call out will apply. If the call is made after 11pm and before 6am a minimum 3 hour payment will be made.

### **41. JOURNEY ACCIDENT COVER**

- (a) Any vehicle accident, vehicle theft, or personal injury arising from a Caregiver who is required to use his/her own vehicle to travel on authorised work purposes during a rostered period of duty, including recall and authorised professional development leave, shall be fully underwritten by the Employer.
- (b) A Caregiver who is required to temporarily relocate to another laboratory shall be entitled to the same benefits of subclause (a) when travelling to and from home to work.

- (c) Except for claims arising from the Accident Compensation Act, the provisions of the clause shall not apply if the accident, theft, or injury is proven to be due to the Caregiver's negligence.
- (d) The clause does not apply for side journeys for matters unrelated to work e.g. side trips for shopping, holidays, sightseeing, visiting friends and relatives in the area, etc.
- (e) The clause does not apply to personal effects.

#### **42. FLEXIBLE WORK OPTIONS**

- (a) Caregivers may elect in writing to participate in flexible working arrangements where these are offered by the Employer. These arrangements may include the facility for the Caregiver to 'purchase' additional leave, by electing to forego part of their salary in order to accrue an additional commensurate amount of leave. Such arrangements will be subject to the Employer's policy, and as stated clearly in written agreement between the Employer and Caregiver.
- (b) It will remain the responsibility of the Caregiver wishing to avail themselves of the flexibility to seek advice concerning potential implications for taxation, superannuation, salary packaging and other benefits.

#### **43. ALLOWANCES**

- (a) Allowances are as set out within the wages schedule.
- (b) The Histology allowance is paid using the NPACC guidelines for the Performance of the Pathology Surgical Cut-Up definitions for simple and non-complex specimens.

**Simple Cut-up:** continues to attract no allowance as it forms a normal part of the scientists duties.

**Non Complex Cut-up:** is to be paid at the rate of time and a half for each hour of the Caregivers ordinary rate for every hour or part thereof performing the function. Caregivers required to perform this function will be trained according to the "Training Programs" protocol detailed in the NPAAC Guidelines.

#### **Scientist Qualifications Allowances - see Schedule A - Wages for rates**

- Level 1.** Graduate Certificate in Medical Science, ASC graduate certificate where employed in cytology, or other recognised equivalent,
- Level 2.** For Graduate Diploma in Medical Science or Graduate Diploma in Health Administration, or other recognised equivalent qualification,
- Level 3.** For MAACB.M.Sc, M.App.Sc., MAIP, HGSACC, or other recognised equivalent degree or qualification from a tertiary institution,
- Level 4.** For FAACB, FAIMLS, DSc, Ph.D, FAIP, FIMLS, FHGSA or member of the Royal College of Pathologists or other recognised equivalent qualification.

#### **44. RENEGOTIATION**

The parties agree to commence negotiating three months prior to the Agreement's nominal date of expiration.

#### **45. NO FURTHER CLAIMS**

The Health Services Union undertakes that during the period of this Agreement there shall be no further claims in relation to any matters pertaining to terms and conditions of employment of the persons to whom this Agreement applies.

#### **46. RELATIONSHIP TO THE NATIONAL EMPLOYMENT STANDARDS**

Entitlements in accordance with the National Employment Standards ("NES") are provided for under the Act. Where this Agreement also has provisions regarding matters dealt with under the NES and the provisions in the NES set out in the Act are more favourable to a Caregiver in a particular respect than those provisions, then the NES will prevail in that respect and the provisions dealing with that matter in this Agreement will have no effect in respect of that Caregiver. The provisions in this Agreement otherwise apply.

**SIGNATORIES**

I am authorised to sign this Agreement on behalf of ST JOHN OF GOD HEALTHCARE INC.

**SIGNATURE:**

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**PRINT NAME:**

---

**TITLE:**

---

**ADDRESS:**

---

---

**DATE:**

---



I am authorised to sign this Agreement as a nominated employee bargaining representative on behalf of the HEALTH SERVICES UNION No. 1

SIGNATURE:

---

PRINT NAME:

---

TITLE:

---

ADDRESS:

---

---

DATE:

---

I am authorised to sign this Agreement as a nominated employee bargaining representative on behalf of the HEALTH SERVICES UNION No. 3

SIGNATURE:

---

PRINT NAME:

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TITLE:

---

ADDRESS:

---

---

DATE:

---

I am authorised to sign this Agreement as a nominated employee bargaining representative on behalf of the HEALTH SERVICES UNION No. 4

SIGNATURE:

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PRINT NAME:

---

TITLE:

---

ADDRESS:

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DATE:

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SCHEDULE A - WAGES

First Pay period on or after

		Current	14/12/2015	1/07/2016
	Increase		2.00%	1.00%
Scientist Grade 1	Yr 1	946.56	\$965.49	\$975.15
	Yr 2	1017.41	\$1,037.76	\$1,048.14
	Yr 3	1090.01	\$1,111.81	\$1,122.93
	Yr 4	1165.84	\$1,189.16	\$1,201.05
	Yr 5	1223.71	\$1,248.18	\$1,260.67
	Yr 6	1286.01	\$1,311.73	\$1,324.85
	Yr 7	1346.45	\$1,373.38	\$1,387.11
Scientist Grade 2	Yr 1	1357.77	\$1,384.93	\$1,398.77
	Yr 2	1390.39	\$1,418.20	\$1,432.38
	Yr 3	1445.25	\$1,474.16	\$1,488.90
	Yr 4	1572.52	\$1,603.97	\$1,620.01
Scientist Grade 3	Yr 1	1603.95	\$1,636.03	\$1,652.39
	Yr 2	1660.22	\$1,693.42	\$1,710.36
	Yr 3	1704.6	\$1,738.69	\$1,756.08
	Yr 4	1816.21	\$1,852.53	\$1,871.06
Scientist Grade 4	On Appt. & Yr	1880.01	\$1,917.61	\$1,936.79
	Yr 3 & 4	1980.22	\$2,019.82	\$2,040.02
	Yr 5	2158.75	\$2,201.93	\$2,223.94
Afternoon shift	27.21	\$27.75	\$28.03	
Night shift	132.38	\$135.03	\$136.38	
Permanent nights	158.99	\$162.17	\$163.79	
Change of Shift	46.02	\$46.94	\$47.41	
O/C Mon - Fri	36.28	\$37.01	\$37.38	
O/C W/E Pub Hol	72.54	\$73.99	\$74.73	

Qualifications Allowances

1 Grad Cert	35.01	\$35.71	\$36.07
2 Diploma	56.88	\$58.02	\$58.60
3 Degree	65.63	\$66.94	\$67.61
3 FAACB etc.	87.51	\$89.26	\$90.15

Medical Technician Trainee	Yr 1	406.92	\$415.06	\$419.21
	Yr 2	488.3	\$498.07	\$503.05
	Yr 3	610.38	\$622.59	\$628.81
	Yr 4	691.76	\$705.60	\$712.65
	and thereafter	732.46	\$747.11	\$754.58
Medical Technician Grade 1	Yr 1	813.83	\$830.11	\$838.41
	Yr 2	855.12	\$872.22	\$880.94
	Yr 3	896.19	\$914.11	\$923.25
	Yr 4	929.3	\$947.89	\$957.36
	Yr 5	962.6	\$981.85	\$991.67
	Yr 6	996	\$1,015.92	\$1,026.08
	Yr 7	1029.21	\$1,049.79	\$1,060.29

	Yr 8	1062.58	\$1,083.83	\$1,094.67
	Yr 9	1084.66	\$1,106.35	\$1,117.42
Medical Technician Grade 2	Yr 1	1062.58	\$1,083.83	\$1,094.67
	Yr 2	1106.93	\$1,129.07	\$1,140.36
	Yr 3	1150.91	\$1,173.93	\$1,185.67
	Yr 4	1193.04	\$1,216.90	\$1,229.07
	Yr 5	1220.63	\$1,245.04	\$1,257.49

Afternoon shift		21.55	\$21.98	\$22.20
Night shift		35.91	\$36.63	\$36.99
Change of Shift		36.45	\$37.18	\$37.55
Permanent nights		72.91	\$74.37	\$75.11
O/C Mon - Fri		28.74	\$29.31	\$29.61
O/C W/E Pub Hol		57.46	\$58.61	\$59.20
Mortuary allowance (Lab Technicians)		42.85	\$43.71	\$44.14

Wage Skill Group 1	Yr 1	723.21	\$737.67	\$745.05
	Yr 2	728.88	\$743.46	\$750.89
	Yr 3	734.92	\$749.62	\$757.11
	Yr 4	740.72	\$755.53	\$763.09
	Yr 5	753.73	\$768.80	\$776.49
Wage Skill Group 2	Yr 1	746.17	\$761.09	\$768.70
	Yr 2	751.83	\$766.87	\$774.54
	Yr 3	757.94	\$773.10	\$780.83
	Yr 4	763.74	\$779.01	\$786.80
	Yr 5	780.14	\$795.74	\$803.70
Wage Skill Group 3	Yr 1	764.36	\$779.65	\$787.44
	Yr 2	770.28	\$785.69	\$793.54
	Yr 3	776.54	\$792.07	\$799.99
	Yr 4	782.34	\$797.99	\$805.97
	Yr 5	798.75	\$814.73	\$822.87
Wage Skill Group 4	Yr 1	773.74	\$789.21	\$797.11
	Yr 2	779.67	\$795.26	\$803.22
	Yr 3	785.92	\$801.64	\$809.65
	Yr 4	791.72	\$807.55	\$815.63
	Yr 5	808.13	\$824.29	\$832.54
Wage Skill Group 5	Yr 1	795.06	\$810.96	\$819.07
	Yr 2	800.71	\$816.72	\$824.89
	Yr 3	806.76	\$822.90	\$831.12
	Yr 4	812.56	\$828.81	\$837.10
	Yr 5	828.97	\$845.55	\$854.00
Wage Skill Group 6	Yr 1	801.54	\$817.57	\$825.75
	Yr 2	807.46	\$823.61	\$831.85
	Yr 3	813.73	\$830.00	\$838.30
	Yr 4	819.53	\$835.92	\$844.28
	Yr 5	835.94	\$852.66	\$861.19
Wage Skill Group 7	Yr 1	821.95	\$838.39	\$846.77

	Yr 2	827.87	\$844.43	\$852.87
	Yr 3	834.12	\$850.80	\$859.31
	Yr 4	839.91	\$856.71	\$865.28
	Yr 5	856.33	\$873.46	\$882.19
Wage Skill Group 8	Yr 1	838.73	\$855.50	\$864.06
	Yr 2	844.65	\$861.54	\$870.16
	Yr 3	850.9	\$867.92	\$876.60
	Yr 4	856.7	\$873.83	\$882.57
	Yr 5	873.11	\$890.57	\$899.48
Wage Skill Group 9	Yr 1	861.26	\$878.49	\$887.27
	Yr 2	867.19	\$884.53	\$893.38
	Yr 3	873.44	\$890.91	\$899.82
	Yr 4	879.24	\$896.82	\$905.79
	Yr 5	895.65	\$913.56	\$922.70
Wage Skill Group 10	Yr 1	913.26	\$931.53	\$940.84
	Yr 2	919.18	\$937.56	\$946.94
	Yr 3	925.42	\$943.93	\$953.37
	Yr 4	931.23	\$949.85	\$959.35
	Yr 5	947.64	\$966.59	\$976.26
Wage Skill Group 11	Yr 1	959.81	\$979.01	\$988.80
	Yr 2	965.73	\$985.04	\$994.90
	Yr 3	971.99	\$991.43	\$1,001.34
	Yr 4	977.79	\$997.35	\$1,007.32
	Yr 5	994.2	\$1,014.08	\$1,024.22

Afternoon shift		19.78	\$20.18	\$20.38
Night shift		60	\$61.20	\$61.81
Change of Shift		34.11	\$34.79	\$35.14
Permanent nights		68.21	\$69.57	\$70.27
O/Call		26.88	\$27.42	\$27.69

## SCHEDULE B

This Schedule is based on the Health Services Union of Australia (Victoria - Private Sector – Medical Scientists, Psychologists and Pharmacists) Award 2004. Clauses that are explicitly redundant or no longer applicable have been removed. However original clause numbering has been maintained. The provisions within this Schedule apply to those Caregivers employed by the Employer as Scientists or medical technologists as reflected in Clause 4 Definitions of this Schedule.

### 3. ANTI-DISCRIMINATION

- 3.1** It is the intention of the respondents to this award to achieve the principal object in s.3(j) of the *Workplace Relations Act 1996* 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.
- 3.2** Accordingly, in fulfilling their obligations under the disputes avoidance clause, the respondents must make every endeavour to ensure that neither the award provisions nor their operation are directly or indirectly discriminatory in their effects.
- 3.3** Nothing in this clause is taken to effect:
- 3.3.1** any different treatment (or treatment having different effects) which is specifically exempted under the Commonwealth anti-discrimination legislation;
- 3.3.2** 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;
- 3.3.3** the exemptions in sections 170CK(3) and (4) of the Act.

### 4. DEFINITIONS

- 4.3** **Departments and Sections** shall be determined in the manner set out in clause 18 - Rates of pay.
- 4.8** **Higher qualification** shall mean:
- 4.8.1** Master of Science, Master of Applied Science Master of Business Administration, Graduate Diploma of Health Administration, Doctor of Philosophy, or Doctor of Science of a Victorian University or Tertiary Institution or a similar degree recognised by a Victorian University or Tertiary Institution;
- 4.8.2** Diploma of Bacteriology of London University or its equivalent as recognised by that University;
- 4.8.3** Membership or Fellowship of the Australian Association of Clinical Biochemists;
- 4.8.5** Fellowship of the Australian Institute of Medical Laboratory Scientists;
- 4.8.7** Fellow of the Institute of Medical Laboratory Scientists;
- 4.8.8** Member of the Royal College of Pathologists;
- 4.10** **Scientist or medical technologist** means a person:
- 4.10.1** who holds a degree of Bachelor of Science of a Victorian University or its equivalent as determined by any such University; or

- 4.10.2** who holds a degree of Bachelor of Applied Science from a College of Advanced Education as registered in the National Register of awards in Advanced Education; or
- 4.10.3** who is eligible for Associate Membership of the Australian Institute of Medical Laboratory Scientists (AIMLS); or
- 4.10.4** who is engaged in studies leading to the attainment of being eligible for Associate Membership of the AIMLS; or
- 4.10.5** who is eligible for ordinary membership of the Neurophysiological Sciences Society of Australia; or
- 4.10.6** who is eligible for full membership of the Australian Society of Cardio-Vascular Perfusionists; or
- 4.10.7** who is eligible for ordinary membership of the Australasian Society of Respiratory Technology
- 4.11 Section** for the purposes of clause 18 - Rates of pay, means a specific section of a unit as defined
- 4.12 Service** for the purposes of this award a year of employment shall be deemed to be unbroken notwithstanding:
- any annual leave or long service leave taken therein;
  - 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 annual leave or long service leave;
  - other than for Pharmacists, any absence from work of not more than fourteen days in the year of employment on account of sickness or accident;
  - 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 37 - Accident pay;
  - any absence on account of leave (other than annual leave or long service leave) granted, imposed or agreed to by the employer;
  - any absence on any other account not involving termination of employment
- 4.14 Trainee Scientist** means any employee engaged in studies leading to the attainment of the qualification Bachelor of Applied Science.
- 4.15 Union** shall mean the Health Services Union of Australia.
- 4.16 Unit** shall for the purposes of clause 18 - Rates of pay, include either Andrology, Biochemistry, Blood Banking, Cardiology, Cardio Vascular Perfusion, Clinical Pharmacology, Cytogenetics, Cytology, Embryology, Endocrinology, Gastroenterology, Haematology, Histopathology, IVF Sciences, Immunology, Intensive Care, Lung Function, Medical Physics, Microbiology, Neuropathology, Neurophysiology, Physical Sciences, Renal Dialysis, Renal Unit, Tissue Typing, Vascular Unit or Virology.
- 4.17 Week** for the purpose of this award a week shall be deemed to commence at midnight on a Sunday.

## **6. INCIDENCE OF AWARD**



#### **6.4 Transmission of business**

**6.4.1** Where a business is before or after the date of this award, transmitted from an employer (in this clause called **the transmitter**) to another employer (in this clause called **the transmittee**) and an employee who at the time of such transmission was an employee of the transmitter in that business becomes an employee of the transmittee:

**6.4.1(a)** the continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission; and

**6.4.1(b)** the period of employment which the employee has had with the transmitter or any prior transmitter shall be deemed to be service of the employee with the transmittee.

**6.4.2** In this clause **business** includes trade, process, business or occupation and includes any part of any such business and **transmission** includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and **transmitted** has a corresponding meaning.

### **PART 3 - DISPUTE RESOLUTION**

#### **10. DISPUTES AVOIDANCE/SETTLEMENT PROCEDURE**

##### **10.1 Grievance procedure**

**10.1.1** It is the objective of this procedure to ensure that grievances are resolved by negotiation and discussion between the parties.

**10.1.2** An employee will have the right for a grievance to be heard through all levels of line management.

**10.1.2(a)** In the first instance the employee shall attempt to resolve the grievance with the employee's immediate supervisor. The local union or other representative shall be present if desired by either party.

**10.1.2(b)** If the employee still feels aggrieved, then the matter shall be referred to the employee's Department head. The local union or other representative shall be present if desired by either party.

**10.1.2(c)** If the grievance is still unresolved then the matter will be referred to senior management and the senior local or State union or other representative.

**10.1.2(d)** If the grievance is still unresolved then the State union representative or other representative shall be advised and will be represented at the request of either party. At this stage the appropriate employer representative body should be advised and shall be present at the request of either party.

**10.1.2(e)** It is agreed that steps 10.1.2(a) to 10.1.2(d) shall take place within seven days.

**10.1.2(f)** If the grievance still exists the matter will be referred to the Commission for decision.

**10.1.2(g)** 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 clause.

## **PART 4 - EMPLOYER AND EMPLOYEE'S DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED ARRANGEMENTS**

### **11. NOTIFICATION OF CLASSIFICATION**

- 11.1** Each employer shall notify each employee in writing on commencement of their classification and terms of employment.
- 11.2** Each employer shall notify each employee of any alteration to his or her classification in writing no later than the operative date of such alteration.

### **12. TYPES OF EMPLOYMENT**

**12.1** Employees under this award shall be employed in any one of the following categories:

- 12.1.1** full-time employee;
- 12.1.2** part-time employee;
- 12.1.3** relieving employee; (other than hospitals)
- 12.1.4** sessional employee; (other than scientists)

### **13. FULL-TIME EMPLOYMENT**

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.

### **14. PART-TIME, SESSIONAL AND RELIEVING EMPLOYMENT**

#### **14.1 Part-time employment**

- 14.1.1** Employees employed on a part-time basis (except Pharmacists) shall be paid for hours worked either:
- 14.1.1(a)** at an hourly rate equal to 1/38th of the weekly rate appropriate to the employees classification; employees employed under this clause shall receive leave entitlements on a pro rata basis; or
- 14.1.1(b)** 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 clause shall not be entitled to any benefits prescribed in clause 29 - Annual leave, clause 30 – Personal leave and clause 35 - Public holidays; and
- 14.1.1(c)** the conditions of part-time work shall be agreed upon between employer and employee and shall be confirmed in writing between the two parties.
- 14.1.1(d)** 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.

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.

#### **14.2 Sessional employment**

- 14.2(a)** A sessional employee is one who is appointed as such and who is normally employed for not more than 20 hours in any one week.
- 14.2(b)** Employment shall be from week to week and subject to any individual arrangements between the employer and the sessional employees wages shall be paid weekly.
- 14.2(c)** A sessional employee shall be paid per hour worked an amount equal to one-thirty-eighth of the weekly wage prescribed herein with the addition of 25 per cent. Such employee shall not be entitled to the benefits of sick leave, annual leave, and long service leave.
- 14.2(d)** Except where the conduct of a sessional employee justifies instant dismissal, seven days' notice of termination of employment shall be given by either the employer or the sessional employee or the normal one week's wages received by the sessional employee paid or forfeited as the case may be in lieu of such notice.

#### **14.3 Relieving Employee (Full-time or Part-time only)**

A relieving employee is one employed to relieve a full-time or part-time employee during that employee's absence from work for any cause.

A relieving employee shall be paid not less than the rate applicable to his or her classification with the addition of 25 per cent, and shall not be entitled to the benefits of sick leave, annual leave and long service leave.

#### **14.4 Caring responsibilities**

- 14.4.1(i)** Subject to the evidentiary and notice requirements in clause 30.5.1, sessional or relieving employees are entitled to not be available to attend work, or to leave work:
- 14.4.1(ii)** if they need 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, or the birth of a child; or
- 14.4.1(iii)** upon the death in Australia of an immediate family or household member.
- 14.4.2** The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The employee is not entitled to any payment for the period of non-attendance.
- 14.4.3** An employer must not fail to re-engage a sessional or relieving employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a sessional or relieving employee are otherwise not affected.

### **16. NOTICE OF TERMINATION**

#### **16.1 Notice of termination by employer**

- 16.1.1** In order to terminate the employment of an employee the employer must give to the employee 4 weeks notice.

- 16.1.2** In addition to the notice in 16.1.1, employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service, are entitled to an additional week's notice.
- 16.1.3** Payment in lieu of the prescribed notice in 16.1.1 and 16.1.2 must be made if the appropriate notice period is not required to be worked. Provided that employment may be terminated by the employee working part of the required period of notice and by the employer making payment for the remainder of the period of notice.
- 16.1.4** The required amount of payment in lieu of notice must equal or exceed the total of all amounts that, if the employee's employment had continued until the end of the required period of notice, the employer would have become liable to pay to the employee because of the employment continuing during that period. That total must be calculated on the basis of:
- 16.1.4(a)** the employee's ordinary hours of work (even if not standard hours); and
  - 16.1.4(b)** the amounts ordinarily payable to the employee in respect of those hours, including (for example) allowances, loading and penalties; and
  - 16.1.4(c)** any other amounts payable under the employee's contract of employment.
- 16.1.5** The period of notice in this clause does not apply:
- 16.1.5(a)** in the case of dismissal for serious misconduct;
  - 16.1.5(b)** to employees engaged for a specific period of time or for a specific task or tasks;
  - 16.1.5(c)** to seasonal employees;
  - 16.1.5(d)** to relieving and locum employees.
- 16.1.6** Continuous service is defined in clause 32.2.

## **16.2 Notice of termination by an employee**

- 16.2.1** 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.
- 16.2.2** If an employee fails to give the notice specified in 16.1.1 the employer has the right to withhold monies due to the employee to a maximum amount equal to the amount the employee would have received under 16.1.4.

## **16.3 Job search entitlement**

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.

## **16.4 Transmission of business**

Where a business is transmitted from one employer to another, as set out in clause R - Redundancy, the period of continuous service that the employee had with the transmitter or any prior transmitter is deemed to be service with the transmittee and taken into account when calculating notice of termination. However, an employee shall not be entitled to notice of

termination or payment in lieu of notice for any period of continuous service in respect of which notice has already been given or paid for.

## **17. REDUNDANCY**

### **17.1 Definitions**

**17.1.2 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.

**17.1.4 Transmission** includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and **transmitted** has a corresponding meaning.

**17.1.5 Week's pay** means the ordinary time rate of pay for the employee concerned. Provided that such rate shall exclude:

- overtime;
- penalty rates;
- disability allowances;
- shift allowances;
- special rates;
- fares and travelling time allowances;
- bonuses; and
- any other ancillary payments of a like nature.

### **17.2 Transfer to lower paid duties**

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.

### **17.6 Job search entitlement**

**17.6.1** During the period of notice of termination given by the employer in accordance with 16.1, 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.

**17.6.2** 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.

**17.6.3** The job search entitlements under this subclause apply in lieu of the provisions of 16.3.

### **17.7 Transmission of business**

**17.7.1** The provisions of this clause are not applicable where a business is before or after the date of this award, transmitted from an employer (in this subclause called the **transmittor**) to another employer (in this subclause called the **transmittee**), in any of the following circumstances:

**17.7.1(a)** Where the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmittor and

any prior transmitter to be continuous service of the employee with the transmittee;  
or

**17.7.1(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.

**17.7.2** The Commission may vary 17.7.1(b) if it is satisfied that this provision would operate unfairly in a particular case.

### **17.8 Employees exempted**

This clause does not apply to:

- employees terminated as a consequence of serious misconduct that justifies dismissal without notice;
- probationary employees;
- employees engaged for a specific period of time or for a specified task or tasks; or
- casual employees.

### **17.9 Incapacity to pay**

The Commission may vary the severance pay prescription on the basis of an employer's incapacity to pay. An application for variation may be made by an employer or a group of employers.

## **17A. REDUNDANCY DISPUTES PROCEDURES**

**17A.1** Paragraphs 17A.2 and 17A.3 impose additional obligations on an employer where an employer contemplates termination of employment due to redundancy and a dispute arises (a **redundancy dispute**). These additional obligations do not apply to employers who employ fewer than 15 employees.

**17A.2** Where a redundancy dispute arises, and if it has not already done so, an employer must provide affected employees and the relevant union or unions (if requested by any affected employee) in good time, with relevant information including:

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

**17A.3** 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.

## **PART 5 - WAGES AND RELATED MATTERS**

### **18. RATES OF PAY**

## 18.1 Wage rates and classifications - Scientists

### 18.1.1 Trainee scientist

Percentage of the rate for the classification, "Scientist - Grade I, 1 <sup>st</sup> year of experience after qualification"	Wages Per week	
	%	\$
Adult Trainee	80	503.05
Trainee in 4th year of part time course	85	532.25
Trainee in 5th year of part time course and thereafter	90	561.40

No trainee (as defined by clause 4.14) shall be required or permitted to work in any laboratory at any time without the supervision of a qualified employee.

### 18.1.2 Scientist - Grade I

A scientist who, under direction and supervision of more senior scientific staff undertakes laboratory or scientific work.

	Per week
	\$
1st year of experience after qualification	619.80
2nd year of experience after qualification	656.70
3rd year of experience after qualification	688.30
4th year of experience after qualification	728.10
5th year of experience after qualification	758.40
6th year of experience after qualification and thereafter	789.00

Provided that:

- 18.1.2(a) A scientist who holds or is qualified to hold the degree of Bachelor of Applied Science Honours or Bachelor of Science Honours (4-year course) shall be entitled to be classified as a "Scientist - Grade I, 2nd year of experience after qualification.
- 18.1.2(b) 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 I, 3rd year of experience after qualification", provided further that a scientist so classified shall not be entitled to the higher qualification payment prescribed in clause 21.3.4(a) for a further period of two years; and
- 18.1.2(c) 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 I, 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 21.3.4(b) for a further period of two years;

### 18.1.3 Scientist - Grade II

A scientist who:

- 18.1.3(a) supervises the scientific work in a class 4 department/unit/section;
- 18.1.3(b) has at least 6 years experience, and who through exhibiting excellence in their professional skills and/or is required to apply a level of performance worthy of additional remuneration; or

- 18.1.3(c)** is engaged on specialised scientific work or work of a research or developmental nature which is not under the direct supervision of more senior scientific staff; or
- 18.1.3(d)** is a deputy to a grade III scientist.

	<b>Per week</b>
	<b>\$</b>
On appointment	789.00
2nd year after appointment	825.40
3rd year after appointment	860.60
4th year after appointment and thereafter	898.90

Provided that a “Scientist Grade I - 6th year of experience and thereafter” appointed to this grade shall be paid at the “Scientist Grade II - 2nd year after appointment” rate.

A scientist performing out of hours work and doing so alone and unsupervised shall be classified at not less than grade II for the period of time so worked.

**18.1.4 Scientist - Grade III**

A scientist who -

- 18.1.4(a)** under the broad direction of more senior staff supervises the scientific work of a class 3 department/unit/section, or
- 18.1.4(b)** is a deputy to a grade IV scientist, or
- 18.1.4(c)** has been qualified (as defined) for at least 10 years and is engaged on specialised scientific work of a research or developmental nature.

	<b>Per week</b>
	<b>\$</b>
On appointment	941.50
2nd year after appointment	970.70
3rd year after appointment	993.50
4th year after appointment thereafter	1042.10

**18.1.5 Scientist - Grade IV**

A scientist who:

- 18.1.5(a)** supervises the scientific work in class 2 department/unit/section, or
- 18.1.5(b)** is a senior specialist having advanced professional knowledge and extensive experience regularly engaged in dealing with highly complex problems in an aspect of scientific work.

<b>Per week</b>	<b>\$</b>
On appointment and during 2nd year after appointment	1084.30
During 3rd and 4th years after appointment	1136.00
Thereafter	1208.00

**18.1.6 Scientist - Grade V**

A Scientist who is appointed as a senior principal research scientist. He/she is required to have an international reputation of a high order in a significant field of research as made evident by his/her published contributions in the field as recognised by his/her peers in the international scientific community.



Per week  
\$  
1465.90

**18.1.7 Scientist Deputy Director**

A Scientist who:

**18.1.7(a)** where there is not a Scientist Director, is the senior scientist in a class 1 department/unit/section, or

**18.1.7(b)** where there is a Scientists Director, is the next most senior scientist in a class 1 department/unit/section.

Per week  
\$  
1360.20

**18.1.8 Scientist Director**

Is a Scientist who is appointed a Director of a Department in a Teaching Hospital (as defined), or is appointed to relieve the Director of a Department in a Teaching Hospital (as defined), and who assumes the same responsibilities as the Director as a result of such appointment for a period exceeding four (4) weeks.

Per week  
\$  
1510.60

**18.1.9 For the purpose of this clause -**

**18.1.9(a)** the "1st year of experience after qualification" referred to in 18.1.1 shall be deemed to commence on the 1st day of January in the year following the year during which the scientist presented himself for final examination which, if successful, would entitle the scientist to the degree of Bachelor of Science or Bachelor of Applied Science (Medical Laboratory Science).

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 such final examination was held.

Where a Scientist Grade I - 1st year of experience after qualification commences employment during the first year after qualification, such scientist shall be advanced to the classification Scientist Grade I - 2nd year of experience after qualification as from the 1st day of January in the next succeeding year.

**18.1.9(b)** Upon appointment, a scientist shall be notified in writing of his or her grading and classification within that Grade.

**Grading of Departments, Units and Sections**

**Factors to be taken into consideration**

1. Salaries budget of the relevant department/unit/section.
2. Number of units or sections in department or part of a department.
3. Degree of "final responsibility" expected to be taken by the senior scientists.
4. Whether the hospital is a teaching hospital.

### Weightings of the specific factors

1. \$ Salaries Budget x 1/1000.
2. Unit x 40  
Section x 20
3. 100 points added to final score
4. If the workplace is a teaching hospital and the scientists are performing tasks normally associated with a teaching hospital then 100 points are added to the final score.

Class 4 Department/unit/section	< 200 points
Class 3	201 350 points
Class 2	351 800 points
Class 1	> 800 points

### 18.2 Wage rates and classifications - Research Technologists

#### 18.2.1 Trainees

Year of part - time course	Percentage of Grade 1, 1 <sup>st</sup> year after qualification	Wage per week
	%	\$
1st Year	50	309.90
2nd Year	60	371.90
3rd Year	75	464.85
4th Year	85	526.85
Thereafter	90	557.80

Provided that:

- 18.2.1(a) an adult trainee shall receive not less than 80 per cent of the rate prescribed for the classification Grade 1 - 1st year of experience after qualification.
- 18.2.1(b) a trainee who, as a full-time student passed all subjects specified in the first-time year of a course approved by the employer, shall be paid not less than the rate prescribed for the third year of the course (part-time).
- 18.2.1(c) a trainee who, as a full-time student passed all subjects in the second full-time year of a course approved by the employer, shall be paid not less than the rate prescribed for fifth year and thereafter (part-time).
- 18.2.1(d) a trainee who, as a full-time student has not passed all subjects specified for the appropriate full-time year of a course approved by the employer, shall be paid a rate equivalent to the next lower part-time classification than that which would apply in 18.2.1(b) and 18.2.1(c).
- 18.2.1(e) no trainee shall be required or permitted to work in any laboratory at any time without the supervision of a qualified employee.

#### 18.2.2 Grade 1 (i.e. qualified rate)

	Per Week
	\$
1st Year of experience after qualification	619.80
2nd Year of experience after qualification	656.70

3rd Year of experience after qualification	688.30
4th Year of experience after qualification	728.10
5th Year of experience after qualification	758.40
6th Year of experience after qualification	789.00

Provided that:

- 18.2.2(a)** An employee who holds or is qualified to hold the degree of Bachelor of Science Honours shall be entitled to be classified as a UG1 - Grade 1, 2<sup>nd</sup> year of experience after qualification.
- 18.2.2(b)** An employee who holds or is qualified to hold the degree of Master of science shall be entitled to be classified as a UG1 - Grade 1, 3rd year of experience after qualification.
- 18.2.2(c)** An employee who holds or is qualified to hold the degree of Doctor of Philosophy shall be entitled to be classified as a UG1 - Grade 1, 5th year of experience after qualification.
- 18.2.2(d)** An employee who holds a four year under-graduate qualification or a three year under-graduate qualification and is required to do a 12 month internship shall be classified as or deemed to have been classified as a UG1-Grade 1, 2<sup>nd</sup> year of experience after qualification.

### **18.2.3 Grade 2**

A Research Technologist who is appointed to this grade and who under the general direction of scientific research staff, is required to perform experimental work involving more complex or more specialised activities and requiring the exercise of initiative and judgement, within the general framework of a research program.

	<b>Per week</b>
	<b>\$</b>
1st Year of experience at this level	789.00
2nd Year of experience at this level	825.40
3rd Year of experience at this level	860.60
4th Year of experience at this level	898.90

### **18.2.4 Grade 3**

A research Technologist who is appointed to this grade and who in consultation with senior scientific research staff, is required to take charge of experimental work which forms a significant component of one or more major scientific projects.

	<b>Per week</b>
	<b>\$</b>
1st Year of experience at this level	941.50
2nd Year of experience at this level	970.70
3rd Year of experience at this level	993.50
4th Year of experience at this level	1042.10

## **19. HIGHER DUTIES**

- 19.1** An employee who is authorised to assume the duties of another employee on a higher classification under this award for a period of five or more consecutive working days shall be paid for the period for which he/she assumed such duties, at not less than the minimum rate prescribed for the classification applying to the employee so relieved.

- 19.2** Provided however that where a Laboratory Manager is appointed in writing to assume the same administrative responsibilities as the Director or Pathologist in charge, for a period exceeding four weeks he or she shall be paid at the top incremental level for the classification with the addition of 31.5% of that increment.

## **20. PAYMENT OF WAGES**

- 20.1** Subject to any individual arrangements between an employer and an employee wages shall be paid no later than a Thursday.
- 20.2** On or prior to the pay day the employer shall state to each employee in writing the amount of wages to which he or she is entitled, the amount of deductions therefrom, and the net amount being paid to him or her.

## **21. DEDUCTIONS AND ALLOWANCES**

### **21.1 Meal allowance**

An employee shall be paid an allowance:

- 21.1.1** When required to work after the usual finishing hour of work beyond one hour (Monday to Friday inclusive) or in the case of shift workers when the over time work on any shift exceeds one hour - \$9.35. Provided that where such overtime work exceeds four hours a further meal allowance of \$6.44 shall be paid.
- 21.1.2** 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 employees normal meal time) \$9.35 and where such overtime exceeds four hours a further meal allowance of \$6.44 shall be paid.
- 21.1.3** The above meal allowance provisions shall not apply where a meal is supplied at the employer's expense.

### **21.3 Higher qualification allowances**

#### **21.3.4 Medical Scientists and medical technologists**

Where a Scientist has a higher qualification they shall be paid in addition to the rates prescribed by 18.1, the following:

- 21.3.4(a)** For M.A.A.C.B., Diploma of Bacteriology, M.Sc., M.App.Sc., M.A.I.P., H.G.S.A.C.C., Graduate Diploma in Health Administration (see clause 4 - Definitions) or any other recognised equivalent Degree or Diploma from a tertiary institution, the sum of 6.5% of the "Scientist grade I, 1st year of experience" rate per week;
- 21.3.4(b)** For F.A.A.C.B., F.A.I.M.L.S., D.Sc., Ph.D., F.A.I.P., F.I.M.L.S. or Member of the Royal College of Pathologists (see clause 4 - Definitions) the sum of 10% of the "Scientist grade I, 1st year of experience" rate per week.
- 21.3.4(c)** Provided such allowance shall not be cumulative in the case of multiple higher qualifications. The aforementioned allowances shall not be applicable to Scientists appointed to the positions of Director or Deputy Director of a Department or to the classification Scientist - grade V.

#### **21.5 Blood check allowance**

Any employee exposed to radiation hazards in the course of his or her work shall be entitled to a blood count as often as is considered necessary and shall be reimbursed for any out of pocket expenses arising from such test.

## **21.6 Telephone allowance**

Where an employer requires an employee to install and or maintain a telephone for the purposes of being on call the employer shall reimburse the installation costs and the subsequent six monthly rental charges on production of receipted accounts.

## **22. OCCUPATIONAL SUPERANNUATION**

Note: The *Superannuation Legislation Amendment (Choice of Superannuation Funds) Act 2005* provides that individual employees generally have the opportunity to choose their own superannuation funds. For further information see the AIRC guidance note — [Choice of Superannuation Funds and Award Provisions](#).

### **22.1 Superannuation Legislation**

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

**22.1.2** Notwithstanding 22.1.1, the following provisions shall also apply.

### **22.2 Definitions**

**22.2.1** **The Fund** for the purpose of this clause shall mean the:

**22.2.1(a)** Health Employees Superannuation Trust of Australia established and governed by a trust deed 23 July 1987, as may be amended from time to time, and includes any superannuation scheme which may be made in succession thereto; or

**22.2.1(b)** Subject to the agreement of the union and its members, an employer sponsored fund established prior to 1 July 1987, which complies with the *Superannuation Industry (Supervision) Act 1993* as amended from time to time, and set out in 22.9.4.

**22.2.2** **Ordinary time earnings** for the purposes of this clause, all references to “ordinary time earnings” shall mean and include:

**22.2.2(a)** Remuneration for a worker’s weekly number of hours of work calculated at the ordinary time rate of pay;

**22.2.2(b)** The cash value of any deduction for board and lodging;

**22.2.2(c)** Over award payments for ordinary hours of work;

**22.2.2(d)** Shift work premiums;

**22.2.2(e)** Saturday and Sunday premiums, where they are part of regular work.

### **22.3 Employers to become a party to the fund**

- 22.3.1** A respondent employer shall make application to the Fund to become a participating employer in the Fund and shall become a participating employer upon acceptance by the Trustee of the Fund.
- 22.3.2** A respondent employer shall provide each employee who is not a member of the Fund with a membership application form upon commencement of this clause and thereafter upon commencement of employment.
- 22.3.3** Each employee shall be required to complete the membership application and the employer shall forward the completed application to the Fund by the end of the calendar month of commencement of this clause or commencement of employment.

#### **22.4 Eligibility of employees**

- 22.4.1** Each employee shall be eligible to join the Fund upon commencement of employment.
- 22.4.2** Each employee shall be eligible to receive contributions from the date of eligibility, notwithstanding the date the membership application prescribed in 22.3.3 was forwarded to the Fund.

#### **22.5 Employer contributions on behalf of each employee**

- 22.5.1** A respondent employer shall contribute to the Fund such contributions as required to comply with the *Superannuation Guarantee (Administration) Act 1992* and *Superannuation Guarantee Charge Act 1992* as amended from time to time.
- 22.5.2** In accordance with the requirements of the relevant Acts, as mentioned, a respondent employer shall not be required to pay superannuation contributions in respect of employees who earn less than \$450 in a calendar month or upon reaching the age of 65.
- 22.5.3** The amount of contributions to the Fund shall be calculated to the nearest ten cents, any fraction below five cents shall be disregarded.
- 22.5.4** Such contributions shall be made monthly by the last day of the month following, the total of the weekly contribution amounts accruing in the previous month in respect of each employee.
- 22.5.5** The Fund and the amount of contributions paid in accordance with this clause and 22.8 shall be included in pay advice notices provided by employers to each employee.
- 22.5.6** Contributions shall continue to be paid in accordance with this clause during any period in respect of which any employee is entitled to receive accident pay in accordance with clause 37 - Accident pay.

#### **22.6 Unpaid absences**

Except as where specified in the rule of the Fund, contributions by respondent employers in respect of unpaid absences will be proportional to the wage received by the employee concerned in a particular pay period. For the purposes of this clause, each pay period will stand alone. Accordingly, unpaid absences in one pay period will not carry over to another pay period.

#### **22.7 Cessation of contributions**

A respondent employer's obligation to make contributions on behalf of the employee ceases on the last day of employment of the employee with the employer.

#### **22.8 Employee contributions**

- 22.8.1 An employee may make contributions to the Fund in addition to those made by the respondent employer under 22.5.
- 22.8.2 An employee who wishes to make additional contributions must authorise the respondent employer in writing to pay into the Fund, from the employee's wages, amounts specified by the employee in accordance with the Fund Trust Deed and Rules.
- 22.8.3 An employer who receives written authorisation from an employee, must commence making payments into the Fund on behalf of the employee within fourteen days of receiving the authorisation.
- 22.8.4 An employee may vary his or her additional contributions by a written authorisation and the employer must alter the additional contributions within fourteen days of receiving the authorisation. An employee may only vary his or her additional contributions once each month.
- 22.8.5 Additional employee contributions to the Fund requested under this clause shall be expressed in whole dollars.

## 22.9 Exemptions

- 22.9.1 This clause shall not apply to any employer who contributes to the Hospitals Superannuation Board Fund in respect of their employees.
- 22.9.2 A respondent employer may make application for exemption from 22.5 in respect of contributions to the Fund for employees who are not members of the union.
- 22.9.3 Applications for exemption shall be determined in accordance with the Superannuation Test Case [Print L5100] or any decision made in succession thereto.
- 22.9.4 It is recorded that the scheme specified in the first column hereunder is a scheme to which this paragraph applies and that the agreement of the union and its members has effect on or after the date correspondingly set out in the second column hereunder.

Name of Scheme	Date of Effect of Union Agreement
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## PART 6 - HOURS OF WORK, BREAKS, OVERTIME, SHIFTWORK, WEEKEND WORK

### 23. HOURS

#### 23.1 All Employees Except Pharmacists

- 23.1.1 The hours for an ordinary week's work shall be worked either - in a week of five days in shifts of not more than 7 hours and 36 minutes each; or by mutual agreement in a week of four days in shifts of not more than ten hours each; or by mutual agreement, provided that the length of any ordinary shift shall not exceed ten hours. 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.
- 23.1.2 With the exception of time occupied in having meals, the work of each shift shall be continuous.

#### 23.4 Summer time

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

**23.4.1(a)** commencing before the time prescribed pursuant to the relevant legislation for the commencement of a summer time period; and

**23.4.1(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.

**23.4.2** The expression **standard time** and **summer time** shall bear the same meaning as are prescribed by legislation, and **legislation** shall mean the *Summer Time Act 1972*, as amended or as substituted.

## **24. ROSTERS**

**24.1** A roster setting out employees' normal working hours, times of commencing duty, time off duty, times of ending duty and times "on call" shall be kept posted or affixed in some conspicuous and readily accessible place. Except in the case of sickness or other emergency, the roster shall not be altered without at least seven days' notice being given to the employee affected by such alteration.

**24.2** Where an employer requires an employee (other than a Pharmacist) without seven days notice and outside the circumstances prescribed in 24.1 above, 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 2-1/2% of the weekly rate of pay for the classification Scientist grade I - 1st year of experience after qualification.

## **25. MEAL INTERVALS AND REST INTERVALS**

### **25.1 Meal intervals**

#### **25.1.1 All employees except Pharmacists**

**25.1.1(a)** Except as provided in 25.1.1(b) or 25.1.1(c), 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.

**25.1.1(b)** 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.

**25.1.1(c)** The arrangement set out in 25.1.1(b) may also be adopted in any case where there is mutual agreement between employer and employee.

### **25.2 Rest period**

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

## **26. OVERTIME**

### **26.1 All employees except Pharmacists**



Subject to clause 26.1.1 an employer may require an employee to work reasonable overtime at overtime rates.

- 26.1.1** An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:
- 26.1.1(a)** any risk to employee health and safety;
  - 26.1.1(b)** the employee's personal circumstances including any family responsibilities;
  - 26.1.1(c)** the needs of the workplace or enterprise;
  - 26.1.1(d)** the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
  - 26.1.1(e)** any other relevant matter.
- 26.1.2** Only authorised overtime shall be paid for and the following rates of overtime shall apply:
- 26.1.2(a)** in excess of the ordinary hours' work on any one day - time and a half for the first two hours and double time thereafter.
  - 26.1.2(b)** outside a spread of twelve hours from the commencement of the rostered period of duty - double time.
  - 26.1.2(c)** except as provided for in 26.1.3 overtime shall be paid for and a Scientist shall not be allowed to take time off in lieu thereof.
- 26.1.3** A Scientist grade III, and IV and a Psychologist Grade III and above may elect in lieu of payment of overtime, to take time off equivalent to the time worked at a time mutually agreed between the employer and the employee.
- 26.1.4** The provisions of subclause 26.1.2 and 26.1.3 shall not apply to a Scientist - Director or Deputy Director.
- 26.1.5** 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.
- 26.1.6** An employee who works so much overtime between the termination of his/her previous rostered ordinary hours of duty and the commencement of his/her next succeeding period of duty such that he/she would not have had at least ten consecutive hours off duty between those times, shall, subject to this clause be released after completion of such overtime worked until he/she has had ten consecutive hours off duty without loss of pay for rostered ordinary hours occurring during such absence.
- 26.1.7** If on the instructions of his or her employer such an employee resumes or continues work without having had such ten consecutive hours off duty he or she shall be paid at the rate of double time until he or she is released from duty for such rest period and he or she shall then be entitled to be absent until he or she has had ten consecutive hours off duty without loss of pay for rostered ordinary hours occurring during such absence.

## **27. ON-CALL/RE-CALL**

### **27.1 On call allowance**

### **27.1.3 All other employees**

- 27.1.3(a)** An "on call" allowance of 2.5% of the weekly base rate of pay for Scientist grade I, 2nd year 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.
- 27.1.3(b)** The allowance shall be 5% in respect to any other 24-hour period or part thereof or any public holiday or part thereof.
- 27.1.3(c)** A Scientist Director or Deputy Director required to be on call outside ordinary hours shall be paid an allowance equal to 10% of his or her weekly wages for each week during which he or she is so required.

Provided however, that a Scientist Director or Deputy Director not already on call but who substitutes himself or herself on the normal on-call roster of the laboratory concerned, shall be paid in accordance with the provisions of 27.1.3(a) and 27.1.3(b).

### **27.2 Recall**

- 27.2.1** 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:
  - 27.2.1(a)** Within a spread of twelve hours from the commencement of the last previous period of ordinary duty - time and a half.
  - 27.2.1(b)** Outside a spread of twelve hours from the commencement of the last previous period of ordinary duty - double time.
- 27.2.2** An employee (other than a casual employee) who works so much recall between midnight and the commencement of his or her next succeeding rostered period of duty that he or she would not have at least eight consecutive hours off duty between those times, shall, subject to this clause, be released after completion of such recall worked until he or she has had eight consecutive hours off duty without loss of pay for rostered ordinary hours occurring during such absence.
- 27.2.3** If on the instructions of his or her employer such an employee resumes or continues work without having had such eight consecutive hours off duty he or she shall be paid at the rate of double time until he or she is released from duty for such rest period and he or she shall then be entitled to be absent until he or she has had eight consecutive hours off duty without loss of pay for rostered ordinary hours occurring during such absence. No employee shall present for duty on a voluntary basis unless he or she has had eight consecutive hours (within the meaning of this clause) off duty.
- 27.3** 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 his or her place of residence the employer shall provide adequate transport free of cost to the employee.
- 27.4** No employee shall be permitted to be on call in the 24 hour period prior to any change of shift.

## **28. SHIFT WORK**

### **28.1 All employees except Pharmacists**

- 28.1.1** In addition to any other rates prescribed elsewhere in this award, an employee whose rostered hours or ordinary duty finish between 6.00 p.m. and 8.00 a.m. or commence between 6.00 p.m. and 6.30 a.m. shall be paid an amount equal to 2.5% of the weekly rate applicable to the "Scientist grade I, 1st year of experience after qualification" per rostered period of duty.
- 28.1.2** 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. he or she shall be paid for any such period of duty an amount equal to 4%, of the rate applicable to the first year of experience Scientist grade I, and provided further that in the case of an employee permanently working on any such rostered hours of ordinary duty he or she shall be paid for any such period of duty an amount equal to 5% of the rate applicable to first year of experience Scientist grade I. **Permanently working** shall mean working for any period in excess of four consecutive weeks.
- 28.1.3** 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 four hours or more from that of the first he or she shall be paid an amount equal to 4% of the rate applicable to the first year of experience Scientist grade I on the occasion of each such change in addition to any amount payable under the preceding provisions of this clause.
- 28.1.4** The allowances payable pursuant to this clause shall be calculated to the nearest 5 cents, portions of a cent being disregarded.
- 28.1.5 Saturday and Sunday work**
- 28.1.5(a)** 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.
- 28.1.5(b)** 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.
- 28.1.5(c)** 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.
- 28.1.5(d)** The provisions of this subclause shall not apply to a Scientist - Director or Deputy Director.

## **PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS**

### **29. ANNUAL LEAVE**

#### **29.1 Period of leave**

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.

#### **29.2 Annual leave exclusive of public holidays**

The annual leave prescribed in 29.1 shall be exclusive of any of the holidays prescribed by clause 35 - 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 day had not been a holiday.

#### **29.3 Leave to be taken**

The annual leave provided for by this clause shall be allowed and shall be taken and except as provided by 29.7, payment shall not be made or accepted in lieu of annual leave.

#### **29.4 Time of taking leave**

**29.4.1** 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.

**29.4.2** Provided that in order to assist employees in balancing their work and family responsibilities, an employer may elect, with the consent of the employer, to accrue and carry forward any amount of annual leave for a maximum of two years from the date of entitlement.

**29.4.3** Annual leave may be taken in single day periods not exceeding ten days in any calendar year at a time or times agreed between the employer and the employee.

#### **29.5 Leave allowed before due date**

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 clause before the right thereto has accrued due 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 29.7 the employer shall not be liable to make any payment to the employee under 29.7, and shall be entitled to deduct the amount of such excess from any remuneration payable to the employee upon termination of the employment.

#### **29.6 Payment for period of annual leave**

Each employee before going on leave shall be paid for the period of such leave provided the period is not less than one week.

#### **29.7 Proportionate leave**

**29.7.1** 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 him or her, an amount equal to 1/12th of his or her ordinary pay for that period.

**29.7.2** Where the employment of an employee who has become entitled to one or more periods of annual leave provided by this award 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.

**29.7.3** Clause 29.7.2 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.

**29.7.4** Nothing in 29.7.2 or 29.7.3 affects the obligation of an employer to give or an employee to take annual leave in accordance with this award.

## **29.8 Weekend worker**

### **29.8.1 Additional leave (full-time)**

- 29.8.1(a)** For all purposes of this clause in addition to the leave herein prescribed a full-time employee as defined required to work and who worked ordinary hours as prescribed under clause 23 - Hours, on weekdays and on weekends throughout the qualifying twelve-month period of service shall be allowed 38 working hours leave.
- 29.8.1(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 29.8.1 increased by three hours 48 minutes for each month during which engaged as aforesaid.
- 29.8.1(c)** A full-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 clause for the full qualifying twelve-month period and the period so engaged.
- 29.8.1(d)** This clause shall not apply to any weekend on which the employee works four hours or less.

### **29.8.2 Part-time employees only - weekend workers**

- 29.8.2(a)** For the purposes of this award **weekend workers** shall mean any employee who in any one year of employment works portion of his or her ordinary hours on a Sunday.
- 29.8.2(b)** A weekend worker who works on ten or more Sundays during the yearly period of which his or her leave accrues shall be allowed 38 working hours leave additional to the leave herein before prescribed.
- 29.8.2(c)** This clause shall not apply to any Sunday on which the employee works four hours or less.

## **29.9 Annual leave loading**

- 29.9.1** An employee entitled to annual leave shall be paid an annual leave loading of 17-1/2% 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 calculated on the salary of a Medical Scientist Grade 3 Year 2.
- 29.9.2** Provided that where an employee would have received shift penalties or Saturday and/or Sunday penalties prescribed in clause 28 had they not been on annual leave and such shift loadings would have entitled the employee to a greater amount than under paragraph 29.9 (a) of this clause, then the shift loadings shall be paid to the employee in lieu of the 17 ½ % loading.

## **29.10 Termination**

The loading calculated according to 29.9 shall be payable on proportionate leave calculated according to 29.7.

## **29.11 Sickness during annual leave**

**29.11.1** Where an employee becomes sick, whilst on annual leave for a period of not less than five days on which s/he would otherwise have worked, and immediately forwards to the employer a certificate of a legally qualified medical practitioner, then the number of days not less than five specified in the certificate shall be deducted from any sick leave entitlement standing to the employee's credit, and shall be re-credited to his or her annual leave entitlement.

**29.11.2** The amount of annual leave loading received for any period of annual leave converted to sick leave in accordance with 29.11.1, shall be deducted from any future entitlement to annual leave loading, or if the employee resigns, from termination pay.

### **29.12 Single day leave**

**29.12.3** Access to annual leave, as prescribed in 29.4, shall be exclusive of any shutdown period provided for elsewhere under this award.

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

## **30. 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 30.7.

### **30.1 Definitions**

The term immediate family includes:

**30.1.1** spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse means a person of the opposite sex to the employee who lives with the employee as his or her husband or wife on a bona fide domestic basis; and

**30.1.2** child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

### **30.2 Amount of paid personal leave**

**30.2.1** 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.

**30.2.2** 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:

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

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

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

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

### **30.3 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.

### **30.4 Personal leave to care for an immediate family or household member**

**30.4.1** An employee is entitled to use up to 10 days personal leave, including accrued 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.

**30.4.2** 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 30.4.1, beyond the limit set out in 30.4.1. In such circumstances, the employer and the employee shall agree upon the additional amount that may be accessed.

### **30.5 Evidence supporting claim**

**30.5.1** The provisions of sub clauses 30.4.1 and 30.4.2 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.

**30.5.2** 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.

### **30.6 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 done 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 30.5.1 met

## **30A. 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 clause 30.9.

### **30A.1 Paid leave entitlement**

An employee is entitled to up to 4 days bereavement leave on each occasion of the death in Australia of either a member of the employee's immediate family or household.

**30A.2 Proof of death must be provided to the satisfaction of the employer, if requested.**

### **30A.3 Unpaid bereavement leave**

**30A.4** Where an employee has exhausted all personal leave entitlements, including accumulated entitlements, they will be entitled to 4 days per annum unpaid bereavement leave.

## **31. JURY SERVICE**

**31.1** An employee required to attend for jury service during his or her ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of his or her attendance for such jury service and the amount of wage pursuant to clause 18 - Rates of pay, he or she would have received in respect of ordinary time he or she would have worked had he or she not been on jury service.

**31.2** An employee shall notify his or her employer as soon as possible of the date upon which he or she is required to attend for jury service. Further, the employee shall give his or her employer proof of his or her attendance, the duration of such attendance and the amount received in respect of such jury service.

## **32. LONG SERVICE LEAVE**

### **32.1 Entitlement**

**32.1.1** An employee shall be entitled to long service leave with pay, in respect of continuous service with one and the same employer, or service with Institutions or Statutory Bodies, in accordance with the provisions of this clause.

**32.1.2** The amount of such entitlement shall be:

**32.1.2(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.

**32.1.2(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 1/30th of the period of his/her service since the last accrual of entitlement to long service leave under paragraph 32.1.2(a).

**32.1.2(c)** 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 1/30th of the period of service.

### **32.2 Service entitling to leave**

**32.2.1** Subject to this clause service shall also include all periods during which an employee was serving in Her Majesty's Forces or was made available by the employer for National Duty.

**32.2.2** For the purposes of this clause service shall be deemed to be continuous notwithstanding:

**32.2.2(a)** the taking of any annual leave or long service leave;

**32.2.2(b)** any absence from work of not more than fourteen days in any year on account of injury or illness or if applicable such longer period as provided in clause 30 - Personal leave;

**32.2.2(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;



- 32.2.2(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 37 - Accident pay;
- 32.2.2(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;
- 32.2.2(f) any interruption arising directly or indirectly from an industrial dispute;
- 32.2.2(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;
- 32.2.2(h) any absence from work of a female employee for a period not exceeding twelve months in respect of any pregnancy;
- 32.2.2(i) any other absence of a employee by leave of the employer, or on account of injury arising out of or in the course of his or her employment not covered by 32.2.2(d).

**32.2.3** In calculating the period of continuous service of any employee, any interruption or absence of a kind mentioned in 32.2.2(a) to 32.2.2(e) shall be counted as part of the period of his or her service, but any interruption or absence of a kind mentioned in 32.2.2(f) to 32.2.2(i) shall not be counted as part of the period of service unless it is so authorised in writing by the employer.

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

### **32.3 Payment in lieu of long service leave on the death of an employee**

Where an employee who has completed at least ten year 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 1/30th 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.

### **32.4 Payment for period of leave**

**32.4.1** Payment to an employee in respect of long service leave shall be made in one of the following ways:

**32.4.1(a)** In full in advance when the employee commences his or her leave; or

**32.4.1(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

**32.4.1(c)** In any other way agreed between the employer and the employee.

**32.4.2** Where the employment of an employee is for any reason terminated before he or she takes long service leave to which he or she is entitled, or where any long service leave accrues to an employee pursuant to 32.1.2(b) or 32.1.2(c), the employee shall be entitled to payment for such leave as at the date of termination.

**32.4.3** 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.

### **32.5 Taking of leave**

- 32.5.1** 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 date as is mutually agreed, or in default of agreement as is determined by the Commission: provided that no such determination shall require such leave to commence before the expiry of six months from the date of such determination.
- 32.5.2** Any long service leave shall be inclusive of any public holiday occurring during the period when the leave is taken.
- 32.5.3** If the employer and an employee so agree:
- 32.5.3(a)** the first six months long service leave to which an employee becomes entitled under this determination may be taken in two or three separate periods; and
  - 32.5.3(b)** 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 shall be taken in one period.
- 32.5.4** An employer may by agreement with an employee grant long service leave to the employee before the entitlement to that leave has accrued, provided that such leave shall not be granted before the employee has completed ten years service.
- 32.5.5** 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.

### **32.6 Definitions**

For the purpose of this clause the following definitions apply:

- 32.6.1** **Pay** means remuneration for an employee's normal weekly hours of work calculated at the employee's ordinary time rate of pay provided in clause 18 - Rates of pay, at the time the leave is taken or (if they die before the completion of leave so taken) as at the time of their death; and 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.
- 32.6.2** **Month** shall mean a calendar month.

### **33. PARENTAL LEAVE**

Subject to the terms of this clause employees are entitled to maternity, paternity and adoption leave and to work part-time in connection with the birth or adoption of a child.

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

An eligible casual employee means a casual employee:

- (a) 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

- (b) who has, but for the pregnancy or the decision to adopt, a reasonable expectation of ongoing employment.

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).

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.

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.

### **33.1 Definitions**

**33.1.1** For the purpose of this clause child means a child of the employee under school age or a child under school age 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

**33.1.2** Subject to 33.1.3, in this clause, spouse includes a de facto or former spouse.

**33.1.3** In relation to 33.5, spouse includes a de facto spouse but does not include a former spouse.

### **33.2 Basic entitlement**

**33.2.1** After twelve months continuous service, parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child. For females, maternity leave may be taken and for males, paternity leave may be taken. Adoption leave may be taken in the case of adoption.

**33.2.2** Subject to 33.3.6, 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:

**33.2.2(a)** for maternity and paternity leave, an unbroken period of up to one week at the time of the birth of the child;

**33.2.2(b)** for adoption leave, an unbroken period of up to three weeks at the time of placement of the child.

### **33.3 Maternity leave**

**33.3.1** An employee must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:

**33.3.1(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;

**33.3.1(b)** of the date on which the employee proposes to commence maternity leave and the period of leave to be taken - at least four weeks.

**33.3.2** When the employee gives notice under 33.3.1(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.

- 33.3.3 An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date.
- 33.3.4 Subject to 33.2.1 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.
- 33.3.5 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.

#### **33.3.6 Special maternity leave**

- 33.3.6(a) 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.
  - 33.3.6(b) Where an employee is suffering from an illness not related to the direct consequences of the confinement, an employee may take any paid sick leave to which she is entitled in lieu of, or in addition to, special maternity leave.
  - 33.3.6(c) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take any paid sick 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 sick leave, special maternity leave and parental leave, including parental leave taken by a spouse, may not exceed 52 weeks.
- 33.3.7 Where leave is granted under 33.3.4, 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.

#### **33.4 Paternity leave**

- 33.4.1 An employee will provide to the employer at least ten weeks prior to each proposed period of paternity leave, with:
- 33.4.1(a) a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement, or states the date on which the birth took place; and
  - 33.4.1(b) written notification of the dates on which he proposes to start and finish the period of paternity leave; and
  - 33.4.1(c) except in relation to leave taken simultaneously with the child's mother under 32.2.2(a), 32.2.2(b) and 32.4.1(a) a statutory declaration stating:
    - 33.4.1(c)(i) he will take that period of paternity leave to become the primary caregiver of a child;
    - 33.4.1(c)(ii) particulars of any period of maternity leave sought or taken by his spouse; and

**33.4.1(c)(iii)** that for the period of paternity leave he will not engage in any conduct inconsistent with his contract of employment.

**33.4.2** The employee will not be in breach of 33.4.1 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.

### **33.5 Adoption leave**

**33.5.1** 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.

**33.5.2** Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:

**33.5.2(a)** the employee is seeking adoption leave to become the primary care-giver of the child;

**33.5.2(b)** particulars of any period of adoption leave sought or taken by the employee's spouse; and

**33.5.2(c)** that for the period of adoption leave the employee will not engage in any conduct inconsistent with their contract of employment.

**33.5.3** An employer may require an employee to provide confirmation from the appropriate government authority of the placement.

**33.5.4** 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.

**33.5.5** 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.

**33.5.6** 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.

### **33.6 Variation of period of parental leave**

Where an employee takes leave under 33.2.1 or 33.10.1(b), unless otherwise agreed 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 as soon as possible but no less than four weeks prior to the commencement of the changed arrangements.

### **33.7 Parental leave and other entitlements**

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.

### **33.8 Transfer to a safe job**

- 33.8.1** 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.
- 33.8.2** 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.
- 33.9.1** 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.
- 33.9.2** 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 33.8, the employee will be entitled to return to the position they held immediately before such transfer.
- 33.9.3** 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.

### **33.10 Right to request**

- 33.10.1** An employee entitled to parental leave pursuant to the provisions of clause 33.2 may request the employer to allow the employee:
- 33.10.1(a)** to extend the period of simultaneous unpaid parental leave provided for in clauses 33.2.2(a) and 33.2.2(b) up to a maximum of eight weeks;
  - 33.10.1(b)** to extend the period of unpaid parental leave provided for in clause 33.2.1 by a further continuous period of leave not exceeding 12 months;
  - 33.10.1(c)** to return from a period of parental leave on a part-time basis until the child reaches school age;
- to assist the employee in reconciling work and parental responsibilities.
- 33.10.2** The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect of the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- 33.10.3** **Employee's request and the employer's decision to be in writing**
- The employee's request and the employer's decision made under 33.10.1(b) and 33.10.1(c) must be recorded in writing
- 33.10.4** **Request to return to work part-time**
- Where an employee wishes to make a request under 33.10.1(c), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

**33.11.1** Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

**33.11.1(a)** make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and

**33.11.1(b)** provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

**33.11.2** The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

**33.11.3** The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with 33.10.1.

### **33.12 Replacement employees**

**33.12.1** A replacement employee is an employee specifically engaged or temporarily promoted or transferred, as a result of an employee proceeding on parental leave.

**33.12.2** 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

## **34. EXAMINATION LEAVE**

**34.1** An employee shall be granted leave with full wages in order to attend examinations necessary to obtain a higher qualification as defined in 4.9. Provided that such examinations are held within the Commonwealth of Australia.

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

**34.2.1** to proceed to and from the place of examination; and

**34.2.2** in addition, to allow three clear days prior to the oral examination and either 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;

**34.4** Any leave granted under the provision of this clause shall be in addition to the provisions of clause 29 -Annual leave.

## **35. PUBLIC HOLIDAYS**

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

**35.1.1** New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day and Boxing Day; and

**35.1.2** the following days, as prescribed in Victoria: Australia Day, Anzac Day, Queen's Birthday, Eight Hours' Day or Labour Day; and

**35.1.3** Melbourne Cup Day or in lieu of Melbourne Cup Day, some other day as determined in a particular locality.

## **35.2 Holidays in lieu**

- 35.2.1** When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December.
- 35.2.2** When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 28 December.
- 35.2.3** 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.
- 35.3** Where in Victoria, public holidays are declared or prescribed on days other than those set out in 35.1 and 35.2, those days shall constitute additional days for the purpose of this award.

## **35.4 Substitution of public holidays by agreement**

- 35.4.1** An employer and their employees may agree to substitute another day for any prescribed in this clause. For this purpose the consent of the majority of affected employees shall constitute agreement.
- 35.4.2** An agreement pursuant to 35.4.1 shall be recorded in writing and be available to every affected employee.
- 35.4.3** The union shall be consulted about an agreement pursuant to 35.4.1.
- 35.4.4** Any disputes arising from clause 35.4.3 shall be dealt with through the Disputes Avoidance/Settlement procedures of this award.
- 35.4.5** If no resolution is achieved pursuant to 35.4.4, the employer may apply to the Commission for approval of the agreement reached with their employees. Such application must be made fourteen or more days before the prescribed holiday. After giving the employer and union an opportunity to be heard, the Commission will determine the application.

## **35.5 Payment for time worked on a public holiday**

- 35.5.1** An employee who works (excepting on recall) on any day specified in 35.1 shall:
- 35.5.1(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 herein; or
  - 35.5.1(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 to be taken at a time mutually convenient to the employer and 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 off work may be added to the employee's annual leave by mutual consent.
- 35.5.2** Where such holiday occurs on his or her rostered day off, the employee shall be entitled to receive one and a half day's 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 in lieu thereof.
- 35.5.3** Where an employee is rostered to work on a public holiday and fails to do so, such employee shall not be entitled to holiday pay for the holiday.
- 35.5.4** Where an employee, who is rostered to work on a public holiday, requests and is granted the day off such employee shall not be entitled to holiday pay for the holiday unless the



request was made by the employee at least three clear working days prior to the date of such holiday.

The provisions of this subclause 35.5.4 shall not apply to Pharmacists.

**35.5.5** In respect of Easter Saturday (Easter Eve), 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 his or her annual leave.

**35.5.6 Christmas Day, Boxing Day and New Year's Day**

**35.5.6(a)** 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 in clause 35.2, he or she shall be paid at the normal award rate for work on this day or these days.

**35.5.6(b)** In addition to the benefit provided by clause 35.5.6(a) 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.

**35.5.6(c)** This clause overrides any other provisions of the award with which it is inconsistent.

**PART 8 - TRANSFERS TRAVELLING AND WORKING AWAY FROM USUAL PLACE OF WORK**

**36. TRAVELLING TRANSPORT AND FARES**

THERE SHOULD BE NO INCREASE IN TRAVEL ALLOWANCE - AS THE CPI FIGURES FOR PRIVATE MOTORING DECREASED BY 1.8%

**36.1** An employee who is recalled to work outside the normal working hours (provided such work is not continuous with a rostered period of duty) and who uses his or her vehicle for transport to a place of work shall receive the following allowances:

	<b>A kilometre (cents)</b>	<b>A mile (cents)</b>
<b>Motor cars:</b>		
35 PMU and over	63	103
Under 35 PMU	52	83
<b>Motor cycles:</b>		
250 cc and over	30	49
Under 250 cc	22	37
<b>Bicycles</b>	8	

Note: PMU means power mass units as stated in the certificate of registration for the vehicle.

**36.2** Any employee so recalled who does not use his or her vehicle shall be provided, at the expense of the employer, with a hire car or taxi, for the inward and return journeys.

- 36.3 Should any employee be required to use his or her vehicle during normal working hours on employer business, the employee shall receive such allowance for mileage as is granted in 36.1.
- 36.4 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 employer shall be responsible for the payment of such transport.
- 36.5 The rates set out in 36.1 will be subject to regular review based on the rates issued by the Victorian Public Service Commissioner.

## **PART 9 - ACCIDENT PAY, UNIFORM AND CLOTHING**

### **37. ACCIDENT PAY**

37.1 An employer shall pay and an employee shall be entitled to receive accident pay in accordance with this clause.

#### **37.2 Definitions**

For the purposes of this clause, the following definitions shall apply:

37.2.1 **Act** means the *Workers Compensation Act (Victoria) 1958* as amended from time to time, or in respect of an injury occurring on or after 4.00 p.m. on the 1st September, 1985, the *Accident Compensation Act (Victoria) 1985* as amended from time to time.

37.2.2 **Injury** means any physical or mental injury within the meaning of the Act, and no injury shall give rise to an entitlement to accident pay under this clause unless an entitlement exists under the Act.

37.2.3 **Accident pay** means:

#### **37.3 Total incapacity**

Where an employee is or is determined to be totally incapacitated within the meaning of the Act, the term **accident pay** means a weekly payment of an amount representing the difference between:

37.3.1 the total amount of compensation, including allowances, paid to the employee during the period of incapacity under the Act for the week; and

37.3.2 the total weekly award rate, as varied from time to time, and any over award payment being paid to the employee at the date of the injury and which would have been payable for the employee's classification for the week in question if they had been performing their normal duties, provided that in making such calculation any payment for overtime earnings, shift premiums, penalty rates and any ancillary payment payable by the employer shall not be taken into account.

#### **37.4 Partial incapacity**

Where an employee is partially incapacitated within the meaning of the Act, the term **accident pay** means a weekly payment of amount representing the difference between:

37.4.1 the total amount of compensation paid to the employee during the period of incapacity under the Act for the week together with the average weekly amount they are earning.

**37.4.2** the total weekly award rate, as varied from time to time, and any weekly over award payment being paid to the employee at the date of the injury and which would have been payable for the employee's classification for the week in question if they had been performing their normal duties, provided that:

**37.4.2(a)** in making such calculation any payment for overtime earnings, shift premiums, penalty rates and any other ancillary payment payable by the employer shall not be taken into account.

**37.5 Payment for part of a week**

Where an employee is incapacitated, either totally or partially, for part of a week, such an employee shall receive pro rata accident pay for that part of the week.

**37.6 Qualifications for payment**

Subject to the terms of this clause, an employee covered by this award shall, upon receiving payment of weekly compensation and continuing to receive such payment for incapacity under the Act, be paid accident pay by their employer who is liable to pay compensation under the Act, which liability may be discharged by another person on behalf of the employer, provided that:

**37.6.1** 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 37.6.3 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.

**37.6.2** Accident pay shall only be payable to an employee whilst that employee remains in the employment of the employer by whom they were employed at the time of the incapacity and then only for such period as they received a weekly payment under the Act. Provided that if an employee who is partially incapacitated cannot obtain suitable employment from their employer but such alternative employment is available with another employer then the relevant amount of accident pay shall still be payable.

**37.6.2(a)** Provided further that in the case of the termination by an employer of an employee who is incapacitated and receiving 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.

**37.6.2(b)** In order to qualify for the continuance of accident pay on termination an employee shall if required provide evidence to the employer of the continuing payment of weekly payments of compensation.

**37.6.3** Subject to this clause, 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 compensation for that disease shall receive accident pay from the first day of incapacity.

**37.6.4** In relation to industrial diseases contracted by a gradual process or injury subject to recurrence, aggravation, or acceleration, 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.

**37.6.5** On engagement, an employee may be required to declare all workers compensation and/or accident claims made under the Act in the previous five years and in the event of defaults or inaccurate information being deliberately and knowingly declared the

employer may require the employee to forfeit their entitlement to accident pay under this award.

### **37.7 Maximum period of payment**

The maximum period or aggregate period of accident pay to be made by the employer shall be a total of 39 weeks for any one injury as defined in 37.2.

### **37.8 Absences on other than paid leave**

An employee shall not be entitled to the payment of accident pay in respect of any period of paid annual leave, or long service leave or for any paid public holiday in accordance with the appropriate award provisions.

### **37.9 Notice of injury**

Following an injury for which they claim to be entitled to receive accident pay, an employee shall give notice in writing of the injury to their employer as soon as reasonably practicable after the occurrence thereof, provided that such notice may be given by a representative of the employee.

### **37.10 Medical examination**

**37.10.1** In order to receive an entitlement to accident pay an employee shall meet the requirements of the Act for attending medical examinations.

**37.10.2** Where, in accordance with the Act, a medical referee gives a certificate as to the condition of the employee and their fitness for work or specifies work for which the employee is fit and such work is made available by the employer, and is 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.

### **37.11 Cessation or redemption of weekly payments**

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.

### **37.12 Civil damages**

**37.12.1** An employee receiving or who has received accident pay shall advise their employer of any action they may institute or any claim they 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 judgement or settlement on that injury.

**37.12.2** Where an employee obtains a judgement or settlement for damages in respect of an injury for which they have received accident pay the employers liability to pay accident pay shall cease from the 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 the employer any amount of accident pay already received in respect of that injury by which the judgement or settlement has not been so reduced.

**37.12.3** 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 or she has received accident pay, the employers liability to pay accident pay shall cease from the 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 the employer any amount of accident pay already received in respect of that injury by which the judgement or settlement has not been so reduced.

### **37.13 Insurance against liability**

Nothing in this award shall require an employer to insure against liability for accident pay.

### **37.14 Variations in compensation rates**

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

### **37.15 Death of an employee**

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

### **37.16 Commencement**

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

## **38. UNIFORMS AND CLOTHING**

**38.1** The employer shall make available at the employer's expense an adequate number of suitable laboratory coats for each employee employed in a laboratory. Pharmacists shall be provided with a minimum of two washable coats per week. Such coats shall remain the property of the employer and shall be laundered free of cost to the employee.

Where a locum pharmacist is required to provide his or her own coat, the employer shall arrange the laundering free of cost to the employee.

**38.2** Where an employee in the course of his or her employment suffers any damage to or soiling of clothing or other personal effects (excluding female hosiery), the employer shall be liable for the replacement, repair or cleaning of such clothing or personal effects, provided 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.

## **SCHEDULE C**

This Schedule is based on the Health and Allied Services - Private Sector - Victoria Consolidated Award 1998. Clauses that are explicitly redundant or no longer applicable have been removed. However original clause numbering has been maintained. The provisions within this Schedule apply to those Caregivers employed by the Employer who are described in Appendix A of this Schedule.

### **3. DEFINITIONS**

**3.2 Commission** shall mean the Australian Industrial Relations Commission.

**3.5 Experience** means for the purpose of clause 19 - Rates of pay, experience at any such work in any workplace subject to this award within the last five years, excluding any leave provisions in this award.

### **5. INCIDENCE OF AWARD**

**5.1.3** Where a business is before or after the date of this award, transmitted from an employer (in this subclause called "the transmitter") to another employer (in this subclause called "the transferee") and an employee who at the time of such transmission was an employee of the transmitter in that business becomes an employee of the transferee:

**5.1.3(a)** the continuity of the employment of the employee shall be deemed not to have broken by reason of such transmission; and

**5.1.3(b)** the period of employment which the employee has had with the transmitter or any prior transmitter shall be deemed to be service of the employee with the transferee.

## **PART 3 - DISPUTE RESOLUTION**

### **8. ANTI-DISCRIMINATION**

**8.1** It is the intention of the respondents to this award to achieve the principal object in s.3(j) of the *Workplace Relations Act 1996* through respecting and valuing the diversity of the workforce 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, natural extraction or social origin.

**8.2** Accordingly, in fulfilling their obligations under clause 9 - Disputes avoidance/ grievance procedure - the respondents must make every endeavour to ensure that neither the award provisions nor their operations are directly or indirectly discriminatory in their effects.

**8.3** Nothing in this clause is to be taken to effect:

**8.3.1** any different treatment (or treatment having different effects) which is specifically exempted under the Commonwealth anti-discrimination legislation;

**8.3.2** junior rates of pay, until 22 June, 2000 or later date determined by the Commission, in accordance with s.143(1E) of the Act;

**8.3.3** 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; and

**8.3.4** the exemptions in s. 170CK(3) and (4) of the Act.

## **9. DISPUTES AVOIDANCE/GRIEVANCE PROCEDURE**

### **9.1 Grievance procedure**

- 9.1.1** It is the objective of this procedure to ensure that grievances are resolved by negotiation and discussion between the parties. The parties to this award recognise that from time to time individual employees may have grievances which need to be resolved in the interest of good relationships.
- 9.1.2** An employee shall have the right for grievances to be heard through all levels of line management.
- 9.1.2(a)** In the first instance the employee shall attempt to resolve the grievance with their immediate supervisor. The local Union or other representative shall be present if desired by either party.
- 9.1.2(b)** If the employee still feels aggrieved, then the matter shall be referred to their department head. The local Union or other representative shall be present if desired by either party.
- 9.1.2(c)** If the grievance is still unresolved, the matter shall be referred to senior management and the senior local or state branch Union or other representative.
- 9.1.2(d)** If the grievance is still unresolved, then the state branch Union or other 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.
- 9.1.2(e)** It is agreed steps 9.1.2(a) to 9.1.2(d) shall take place within seven days.
- 9.1.2(f)** If the grievance still exists the matter shall be referred to the Australian Industrial Relations Commission for decision.
- 9.1.2(g)** 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.

## **PART 4 - EMPLOYER AND EMPLOYEE DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED ARRANGEMENTS**

### **10. NOTIFICATION OF CLASSIFICATION**

- 10.1** Every employer shall notify each employee in writing on commencement of their classification and terms of employment.
- 10.2** Every employer shall notify each of employees of any alteration to their classification in writing not later than the operative day of such alteration.

### **11. TYPES OF EMPLOYMENT**

- 11.1** Employees under this award may be employed in any one of the following categories:
- 11.1.1** full-time employees; or
- 11.1.2** regular part-time employees; or
- 11.1.3** casual employees.

**11.2** 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 or casual.

**11.3** Each employee shall be paid for a minimum of two hours, with the exception of employees eligible for payment prescribed in clause 29 - Overtime.

## **12. FULL-TIME EMPLOYMENT**

A full-time employee is one who is employed and who is ready, willing and available to work a full week of 38 hours or an average of 38 hours as per clause 25 - Hours, at the times and during the hours as may be mutually agreed upon or in the absence of such agreement as prescribed by the employer. Subject to the provisions of clause 25, such employee shall be paid the full weekly wage appropriate to the employee's classification, irrespective of the number of hours worked not exceeding 38, or an average of 38 per week as per clause 25 - Hours.

## **13. CASUAL EMPLOYMENT**

**13.1** A casual employee is one who is engaged in relieving work or work of a casual nature and whose engagement is terminable by an employer in accordance with the employer's requirements, without the requirement of prior notice by either party.

**13.2** A casual employee shall be paid for all work done on week days an amount equal to one thirty-eighth of the weekly wage appropriate to the employee's classification per hour plus 25 per cent and for all work done on Saturdays, Sundays and public holidays an amount equal to one thirty-eighth of the weekly wage appropriate to the employee's classification per hour plus 75 per cent.

**13.3** A casual employee shall be entitled to receive the appropriate uniform and other allowances contained in this award.

**13.4** The provisions of clauses 18 - Termination of employment, 33 - Annual leave, 34 - Sick leave and 35 - Compassionate leave shall not apply to a casual employee.

## **14. REGULAR PART-TIME EMPLOYMENT**

**14.1** An employer may employ regular part-time employees in any classification in this award.

**14.2** A regular part-time employee is a person who:

**14.2.1** works less than full-time hours of 38 per week (or less than 76 hours in a fortnight); and

**14.2.2** has reasonably predictable hours of work; and

**14.2.3** receives, on a pro-rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.

**14.3** At the time of engagement, the employer and the regular part-time employee will agree in writing on the following matters:

**14.3.1** a regular pattern of work, specifying at least the hours worked each day;

**14.3.2** which days of the week the employee will work; and

**14.3.3** the actual starting and finishing times each day.

**14.4** Any agreed variation to the regular pattern of work will be recorded in writing.



- 14.5** An employee who does not meet the definition of a regular part-time employee and who is not a full-time employee will be paid as a casual employee in accordance with clause 13 – Casual employment.
- 14.7** Payment in respect of any sick leave (where an employee has accumulated an entitlement) an employee may take, shall be on a pro-rata basis made according to the number of hours the employee would have worked on the day or days on which the leave was taken so as not to reduce the employee’s wage below that level which the employee would have received had the employee not been absent.
- 14.8** The payment or deduction of payment in lieu of notice of termination shall be calculated on a pro-rata basis.
- 14.9** Any period of annual leave, long service leave and sick leave to which an employee may be entitled shall accrue on a pro-rata basis according to the number of hours worked on average over the past twelve months.
- 14.10** Subject to the foregoing provisions of this clause, all the provisions of this award shall apply to regular part-time employees.
- 14.11** Notwithstanding the above, a part-time employee, employed on a regular basis for four hours or less per week shall be paid in accordance with clause 13 - casual employment.

## **15. JUNIORS**

An employer shall not pay junior employees less than the weekly base rate of pay identified in Wage/Skill Group 1 in clause 19 – Rates of pay.

## **15A. APPRENTICES**

- 15A.1** For the purposes of this award, an apprentice is an employee who is engaged under a Training Agreement registered by the relevant State or Territory Training Authority, where the qualification outcome specified in the Training Agreement is a relevant qualification from a Training Package endorsed by the National Training Framework Committee.
- 15A.2** For the purpose of this clause a “relevant qualification” is a qualification:
- 15A.2.1** from the National Training Package(s) that covers occupations or work which are covered by this Award, or is a qualification from an enterprise Training Package listed in Appendix C to this award; and
  - 15A.2.2** at Australian Qualifications Framework Certificate Level III except where the qualification can normally be completed through a Training Agreement of a duration of two years or less. (note: such qualifications would generally be covered by traineeship provisions).
- 15A.3** An apprentice shall also include an employee who is engaged under a Training Agreement or Contract of Training for an apprenticeship declared or recognised by the relevant State or Territory Training Authority.

## **15B. SCHOOL BASED APPRENTICES**

**15B.1** The following provisions apply to school based apprentices.

- 15B.1.1** A school based apprentice is a person who is undertaking an apprenticeship in accordance with this clause while also undertaking a course of secondary education.

- 15B.1.2** The hourly rates for full-time junior and adult apprentices as set out in this award shall apply to school based apprentices for total hours worked including time deemed to be spent in off the job training.
- 15B.1.3** For the purposes of 15B.1.3 above, where an apprentice is a full-time school student, the time spent in off-the-job training for which the apprentice is paid is deemed to be 25 per cent of the actual hours each week worked on-the-job. The wages paid for training time may be averaged over a semester or year.
- 15B.1.4** The school-based apprentice shall be allowed, over the duration of the apprenticeship, the same amount of time to attend of-the-job training as an equivalent full-time apprentice.
- 15B.1.5** For the purposes of this sub-clause, off-the-job training is structured training delivered by a Registered Training Organisation separate from normal work duties or general supervised practice undertaken on the job.
- 15B.1.6** The duration of the apprenticeship shall be as specified in the training agreement or contract for each apprentice. The period so specified to which the apprentice wage rates apply shall not exceed six years.
- 15B.1.7** School based apprentices shall progress through the wage scale at the rate of 12 months progression for each two years of employment as an apprentice.
- 15B.1.8** These rates are based on a standard full-time apprenticeship of four years. The rate of progression reflects the average rate of skill acquisition expected from the typical combination of work and training for a school-based apprentice undertaking the applicable apprenticeship.
- 15B.1.9** Where an apprentice converts from school-based to full-time, all time spent as a full-time apprentice shall count for the purposes of progression through the wage scale. This progression shall apply in addition to the progression achieved as a school-based apprentice.
- 15B.1.10** School-based apprentices shall be entitled pro-rata to all of the conditions of employees under this Award.

## **16. NATIONAL TRAINING WAGE**

- 16.1** A party to this award shall comply with the terms of the *National Training Wage Award 1994* [N4816 [N0277CR]], as varied, as though bound by clause 3 of that award.
- 16.2** The terms of the *National Training Wage Award 1994*, as varied, shall apply to the employment under this award for employers bound by that award.

## **17. REDUNDANCY**

### **17.1 Definitions**

- 17.1.1** **Business** includes trade, process, business or occupation and includes part of any such business.
- 17.1.2** **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.
- 17.1.3** **Small employer** means an employer who employs fewer than 15 employees.

**17.1.4** **Transmission** includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and **transmitted** has a corresponding meaning.

**17.1.5** **Week's pay** means the ordinary time rate of pay for the employee concerned. Provided that such rate shall exclude:

- overtime;
- penalty rates;
- disability allowances;
- shift allowances;
- special rates;
- fares and travelling time allowances;
- bonuses; and
- any other ancillary payments of a like nature.

## **17.2 Transfer to lower paid duties**

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.

## **17.6 Job search entitlement**

**17.6.1** During the period of notice of termination given by the employer in accordance with 17.1, 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.

**17.6.2** 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.

**17.6.3** The job search entitlements under this subclause apply in lieu of the provisions of 18.3.

## **17.7 Employees exempted**

This clause does not apply to:

- employees terminated as a consequence of serious misconduct that justifies dismissal without notice;
- probationary employees;
- apprentices;
- trainees;
- employees engaged for a specific period of time or for a specified task or tasks; or
- casual employees.

## **17.8 Transmission of business**

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

**17.8.1(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

**17.8.1(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.

**17.8.2** The Commission may vary 17.8.1(b) if it is satisfied that this provision would operate unfairly in a particular case.

### **17.9 Incapacity to pay**

The Commission may vary the severance pay prescription on the basis of an employer's incapacity to pay. An application for variation may be made by an employer or a group of employers.

### **17.10 Redundancy disputes**

**17.10.1** Paragraphs 17.10.2 and 17.10.3 impose additional obligations on an employer where an employer contemplates termination of employment due to redundancy and a dispute arises (a **redundancy dispute**). These additional obligations do not apply to employers who employ fewer than 15 employees.

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

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

**17.10.3** 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.

## **18. TERMINATION OF EMPLOYMENT**

### **18.1 Notice of termination by the employer**

**18.1.1** In order to terminate the employment of an employee the employer shall give to the employee the following notice.

<b>Period of continuous service</b>	<b>Period of notice</b>
1 year or less	1 week
Over 1 year and up to the completion of 3 years	2 weeks

Over 3 years and up to the completion of 5 years	3 weeks
Over 5 years	4 weeks

**18.1.2** In addition to the notice in 18.1.1 above, employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service, shall be entitled to an additional week's notice.

**18.1.3** Payment in lieu of the notice prescribed in 18.1.1 and/or 18.1.2 hereof shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice, and part payment in lieu of notice.

**18.1.4** The required amount of payment in lieu of notice must equal or exceed the total of all amounts that, if the employee's employment had continued until the end of the required period of notice, the employer would have become liable to pay to the employee because of the employment continuing during that period. That total must be calculated on the basis of:

**18.1.4(a)** the employee's ordinary hours of work (even if not standard hours); and

**18.1.4(b)** the amounts ordinarily payable to the employee in respect of those hours, including (for example) allowances, loading and penalties; and

**18.1.4(c)** any other amounts payable under the employee's contract of employment.

**18.1.5** The period of notice in this clause does not apply:

**18.1.5(a)** in the case of dismissal for serious misconduct;

**18.1.5(b)** to apprentices;

**18.1.5(c)** to employees engaged for a specific period of time or for a specific task or tasks;

**18.1.5(d)** to trainees whose employment under a traineeship agreement or an approved traineeship is for a specified period or is, for any other reason, limited to the duration of the agreement; or

**18.1.5(e)** to casual employees.

**18.1.6** Continuity of service shall be calculated in the manner prescribed in 5.1.3.

## **18.2 Notice of termination by employee**

**18.2.1** The notice of termination required to be given by an employee shall be the same as that required of an employer, save and except that there shall be no additional notice based on the age of the employee concerned.

**18.2.2** If an employee fails to give the notice specified in 18.1.1 the employer has the right to withhold monies due to the employee to a maximum amount equal to the amount the employee would have received under 18.1.4.

## **18.3 Job search entitlement**

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.

#### 18.4 Transmission of business

Where a business is transmitted from one employer to another, as set out in clause 17 - Redundancy, the period of continuous service that the employee had with the transmittor or any prior transmittor is deemed to be service with the transmittee and taken into account when calculating notice of termination. However, an employee shall not be entitled to notice of termination or payment in lieu of notice for any period of continuous service in respect of which notice has already been given or paid for.

### PART 5 - WAGES AND RELATED MATTERS

#### 20. SUPPORTED WAGE SYSTEM

20.1 This clause defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this agreement/award. In the context of this clause, the following definitions will apply:

20.1.1 **Supported wage system** means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in *Supported Wage System: Guidelines and Assessment Process*.

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

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

20.1.4 **Assessment instrument** means the form provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system.

#### 20.2 Eligibility criteria

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

20.2.2 This clause does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers' compensation legislation or any provision of this agreement/award relating to the rehabilitation of employees who are injured in the course of their employment.

20.2.3 This clause does not apply to employers in respect of their facility, programme, undertaking, service or the like which receives funding under the *Disability Services Act 1986* and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of or are eligible for a disability support pension, except with respect to an organisation which has received recognition under s.10 or under s.12A of the *Disability Services Act*, or if a part only has received recognition, that part.

### **20.3 Supported wage rates**

**20.3.1** Employees to whom this clause applies shall be paid the applicable percentage of the minimum rate of pay prescribed by this award/agreement for the class of work which the person is performing according to the following schedule:

<b>Assessed capacity (clause 20.4)</b>	<b>Prescribed award rate</b>
10%*	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

**20.3.2** Provided that the minimum amount payable shall be not less than \$56 per week.

**20.3.3** \* Where a person's assessed capacity is 10%, they shall receive a high degree of assistance and support.

### **20.4 Assessment of capacity**

For the purpose of establishing the percentage of the award rate to be paid to an employee under this award/agreement, the productive capacity of the employee will be assessed in accordance with the supported wage system and documented in an assessment instrument by either:

**20.4.1** The employer and a union party to the award/agreement, in consultation with the employee or, if desired by any of these;

**20.4.2** The employer and an accredited assessor from a panel agreed by the parties to the award and the employee.

### **20.5 Lodgement of assessment instrument**

**20.5.1** All assessment instruments under the conditions of this clause, including the appropriate percentage of the award wage to be paid to the employee, shall be lodged by the employer with the Registrar of the Australian Industrial Relations Commission.

**20.5.2** All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where a union which is party to the award/agreement, is not a party to the assessment, it shall be referred by the Registrar to the union by certified mail and shall take effect unless an objection is notified to the Registrar within ten working days.

### **20.6 Review of assessment**

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

### **20.7 Other terms and conditions of employment**

Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the provisions of the clause will be entitled to the same terms and

conditions of employment as all other workers covered by this award/agreement paid on a pro rata basis.

## **20.8 Workplace adjustment**

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

## **20.9 Trial period**

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

**20.9.2** During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined.

**20.9.3** The minimum amount payable to the employee during the trial period shall be no less than \$56 per week.

**20.9.4** Work trials should include induction or training as appropriate to the job being trialled.

**20.9.5** Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under 20.4 hereof.

## **21. HIGHER DUTIES**

**21.1** An employee engaged in any duties carrying a higher rate than the classification in which they are ordinarily employed in any one day or shift shall be paid at the higher rate for:

**21.1.1** the time so worked for two hours or less; or

**21.1.2** the full day or shift where the time so worked exceeds two hours.

## **22. PAYMENT OF WAGES**

**22.1** Wages shall be paid during working hours not later than Thursday following the end of the weekly or fortnightly pay period provided that:

**22.1.1** when a public holiday occurs on a Thursday or Friday, payment shall be made on the Wednesday;

**22.1.2** an employee who is rostered off on the Thursday pay day but who works any time after 9.00 a.m. on the Tuesday or any time on the Wednesday immediately preceding the Thursday, payment shall be made on the Tuesday or Wednesday as the case may be. This applies only where employees are paid by means other than Direct Bank Transfer.

**22.1.3** when an employee is paid by means other than by direct debit transfer and that employee is not rostered to work at any time between 9.00 a.m. on Monday and midnight on the Thursday, payment may be postponed upon such employee's next rostered period of duty following the Thursday but, should the employee so desire, he or she may attend and collect his or her pay on the pay day.



- 22.2** At the time of making payment to the employee, the employer shall provide to each employee a statement detailing the following information: name and classification of the employee; the period the pay relates to and the date of payment; the hourly rate of pay; the amount of payment including allowances; the amount of pay deductions; amounts of occupational superannuation contributions; and details of funds into which contributions are being paid.
- 22.3** When notice of termination of employment has been given by an employee or an employee's services have been terminated by an employer, payment of all wages and other monies owing to an employee shall be made to the employee.
- 22.4** If an employee is kept waiting for more than 24 hours, such employee shall be paid overtime rates for the duration of the period until such monies owing are paid with a minimum payment of two hours and a maximum payment of seven hours and 36 minutes per day.
- 22.4.1** Notwithstanding the above, this subclause will not come into effect if the payment of wages or other monies owed falls on a Bank Holiday or declared public holiday. This clause will come into effect upon the expiration of such a Bank Holiday or declared public holiday.
- 22.4.2** This subclause will not come into effect if any unforeseen event outside the control of the employer frustrates the employer's ability to meet the requirements of this subclause.
- 22.5** Where the system of working provides for the taking of ADOs and an employee's employment is terminated:
- 22.5.1(a)** and one or more ADOs have been granted in advance; or
- 22.5.1(b)** an ADO has been taken during the work cycle during which the employee is terminated, the wages due to that employee shall be reduced by the total of the ADOs taken in advance, and/or the total un-accrued portion of the ADO granted in that work cycle as the case may be.
- 22.5.2** and an employee has not worked a complete four week cycle or five week cycle as the case may be, he or she shall receive pro rata accrued entitlements for each day worked or regarded as having been worked in such cycle payable for the accrued day off.

## **23. DEDUCTIONS AND ALLOWANCES**

### **23.1 Deduction for board and lodging**

- 23.1.1** Where the employer provides board and lodging, the wage rates prescribed in this award shall be reduced by the following amounts per week:

	\$
Employees receiving full adult rate of pay	20.37
Juniors and trainees	9.21
and, except where the employee buys his or her meals at ruling cafeteria rates, by an additional amount of	12.70

### **23.3 Heat allowance**

- 23.3.1** Where work continues for more than two hours in temperatures exceeding 46 degrees Celsius employees shall also be entitled to twenty minutes rest after every two hours work without deduction of pay.
- 23.3.2** It shall be the responsibility of the employer to ascertain the temperature.

**23.3.3** The following amounts shall be paid to employees employed at their current place of work prior to 8 August 1991, in the prescribed circumstances in addition to any other amounts specified elsewhere in this award. Where an employee works for more than one hour in the shade in places where the temperature is raised by artificial means and:

**23.3.3(a)** exceeds 40 degrees Celsius but does not exceed 46 degrees Celsius - 37 cents per hour or part thereof;

**23.3.3(b)** exceeds 46 degrees Celsius - 40 cents per hour or part thereof.

#### **23.4 Higher qualifications**

##### **23.4.1 Certificate allowance - Pathology Technician**

Employees who have successfully completed a course entitled "Certificate for Mortuary Technician" conducted by RMIT or its equivalent shall be paid a weekly allowance of 7.5 per cent of the maximum wage rate payable for the classification Pathology Technician Grade 2 pursuant to clause 19 – Rates of pay.

##### **23.4.3 Standard of proficiency**

Apprentices will have reached the standard of proficiency in each year of the course when they have passed in the 1st, 2nd and 3rd years the subjects prescribed from time to time by the State Training Board and attained an average mark of not less than 70 per cent for those subjects. The subjects must be passed at the first attempt.

##### **23.4.4 Proficiency pay**

This scheme provides for the payment of tradesperson's rates of pay to apprentices during the 4th year of the apprenticeship where the standard of proficiency has been attained on one, two or three occasions on the following basis:

**23.4.4(a)** On one occasion only - for the first nine months of the 4th year of apprenticeship, the normal 4th year rate of pay. Thereafter, the appropriate tradesperson's award rate of pay.

**23.4.4(b)** On two occasions - for the first six months of the 4th year of apprenticeship, the normal 4th year rate of pay. Thereafter, the appropriate tradesperson's award rate of pay.

**23.4.4(c)** On all three occasions - for the entire 4th year, the appropriate tradesperson's award rate of pay.

##### **23.4.5 Computer allowance**

Any employee classified as a Hospital Attendant who is required to regularly access computers in the course of their employment shall be paid an allowance of \$18.34 per week.

#### **23.5 Infectious allowance**

**23.5.1** Employees employed at their current place of work prior to the 8 August 1991, shall in addition to the rates prescribed elsewhere in this award be paid allowances as follows whilst:

**23.5.1(c)** Handling or dressing patients suffering from venereal diseases, cancer, tuberculosis, typhoid or meningitis or patients qualified for admission to infectious diseases hospitals or wards - 8 cents per day.

**23.5.1(d)** Handling clothes, bedding or linen, rubbish bins or refuse not previously disinfected and used in connection with any patient, hospital or ward referred to in 23.5.1(a), 23.5.1(b) and 23.5.1(c) - 8 cents per day.

**23.5.1(f)** Engaged in experiments of an infectious nature or handling microscopic slides of infectious nature or slides used in connection with any of the complaints referred to in 23.5.1(a) - 8 cents per hour with a minimum of 15 cents per day.

### **23.6 Meal allowances**

**23.6.1** An employee shall be supplied with an adequate meal where an employer has adequate cooking and dining facilities or be paid meal money in addition to any overtime payment as follows:

**23.6.1(a)** When required to work after the usual finishing hour of work beyond one hour (Monday to Friday inclusive) or in the case of shift workers when the overtime work on any shift exceeds one hour - \$9.37. Provided that where such overtime work exceeds four hours a further meal allowance of \$7.52 shall be paid.

**23.6.1(b)** When required to work more than five hours overtime on a Saturday or a Sunday or more than five hours by a shift worker on a rostered day off - \$10.08 and a further \$8.05 when required to work more than nine hours on such day.

These foregoing provisions shall not apply when an employee could reasonably return home for a meal within the period allowed.

**23.6.1(c)** On request meal money shall be paid on the same day as overtime is worked.

### **23.7 Nauseous work allowance**

**23.7.1** Employees other than Nursing Attendants shall be paid an allowance of 37 cents per hour or part thereof in addition to the rates prescribed elsewhere in this award for all time during which they are engaged in handling linen of a nauseous nature other than linen sealed in airtight containers.

**23.7.3** An allowance of 37 cents per hour or part thereof shall be paid to an employee in any classification for work which is of an unusually dirty or offensive nature having regard to the duty normally performed by such employee in such classification provided:

**23.7.3(a)** that any employee who is paid the allowance prescribed by 23.7.1 shall not be entitled to be paid an allowance under 23.7.2 for the same work;

**23.7.3(b)** that any employee who is entitled to be paid an allowance under 23.7.1 or 23.7.2 shall be paid a minimum sum of \$1.89 for work performed in any week;

## **24. OCCUPATIONAL SUPERANNUATION**

### **24.1 Preamble**

#### **24.1.1 Superannuation legislation**

**24.1.1(a)** The subject of superannuation is dealt with extensively by legislation including the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993* and the *Superannuation (Resolution of Complaints) Act 1993*. This legislation, as

varied from time to time, governs the superannuation rights and obligations of the parties.

**24.1.1(b)** Notwithstanding 24.1.1(a) above, the following provisions shall also apply:

## **24.2 Definitions**

**24.2.1** "The Fund" for the purpose of this clause shall mean the:

**24.2.1(a)** Health Employees Superannuation Trust of Australia established and governed by a trust deed 23 July 1987, as may be amended from time to time, and includes any superannuation scheme which may be made in succession thereto; or

**24.2.1(b)** Subject to the agreement of the Union and its members, an employer sponsored fund established prior to 1 July 1987, which complies with the *Superannuation Industry (Supervision) Act 1993* as amended from time to time, and set out in 24.7.2.

**24.2.2** "Ordinary Time Earnings" for the purposes of this clause, all references to "Ordinary Time Earnings" shall mean and include:

**24.2.2(a)** Remuneration for a worker's weekly number of hours of work calculated at the ordinary time rate of pay;

**24.2.2(b)** The cash value of any deduction for board and lodging;

**24.2.2(c)** Over award payments for ordinary hours of work.

**24.2.2(d)** Shift work premiums;

**24.2.2(e)** Saturday and Sunday premiums, where they are part of regular work;

**24.2.2(f)** Leading hand allowance;

**24.2.2(g)** Supplementary payment;

**24.2.2(h)** Service grant;

**24.2.2(i)** Tool allowance (where it is paid as part of regular work).

## **24.3 Employers to become a party to the Fund**

**24.3.1** A respondent employer shall make application to the Fund to become a participating employer in the Fund and shall become a participating employer upon acceptance by the Trustee of the Fund.

**24.3.2** A respondent employer shall provide each employee who is not a member of the Fund with a membership application form upon commencement of this clause and thereafter upon commencement of employment.

**24.3.3** Each employee shall be required to complete the membership application and the employer shall forward the completed application to the Fund by the end of the calendar month of commencement of this clause or commencement of employment.

## **24.4 Eligibility of employees**

**24.4.1** Each employee shall be eligible to join the Fund upon commencement of employment.

**24.4.2** Each employee shall be eligible to receive contributions from the date of eligibility, notwithstanding the date the membership application prescribed in 24.3.3 was forwarded to the Fund.

#### **24.5 Employer contributions on behalf of each employee**

**24.5.1** A respondent employer shall contribute to the Fund such contributions as required to comply with the *Superannuation Guarantee (Administration) Act 1992* and *Superannuation Guarantee Charge Act 1992* as amended from time to time.

In accordance with the requirements of the relevant Acts, as mentioned, a respondent employer shall not be required to pay superannuation contributions in respect of employees who earn less than \$450.00 in a calendar month or upon reaching the age of sixty-five.

**24.5.2** The amount of contributions to the Fund shall be calculated to the nearest ten cents, any fraction below five cents shall be disregarded.

**24.5.2(a)** Such contributions shall be made monthly by the last day of the month following, the total of the weekly contribution amounts accruing in the previous month in respect of each employee.

**24.5.2(b)** The Fund and the amount of contributions paid in accordance with this subclause and 24.6 shall be included in pay advice notices provided by employers to each employee.

**24.5.2(c)** Contributions shall continue to be paid in accordance with this subclause during any period in respect of which any employee is entitled to receive Accident Pay in accordance with clause 42.

**24.5.2(d)** Unpaid absences

Except as where specified in the rule of the Fund, contributions by respondent employers in respect of unpaid absences will be proportional to the wage received by the employee concerned in a particular pay period. For the purposes of this clause, each pay period will stand alone. Accordingly, unpaid absences in one pay period will not carry over to another pay period.

**24.5.2(e)** Cessation of contributions

A respondent employer's obligation to make contributions on behalf of the employee ceases on the last day of employment of the employee with the employer.

#### **24.6 Employee contributions**

**24.6.1** An employee may make contributions to the Fund in addition to those made by the respondent employer under 24.5.

**24.6.2** An employee who wishes to make additional contributions must authorise the respondent employer in writing to pay into the Fund, from the employee's wages, amounts specified by the employee in accordance with the Fund Trust Deed and Rules.

**24.6.3** An employer who receives written authorisation from an employee, must commence making payments into the Fund on behalf of the employee within fourteen days of receiving the authorisation.

- 24.6.4** An employee may vary his or her additional contributions by a written authorisation and the employer must alter the additional contributions within fourteen days of receiving the authorisation. An employee may only vary his or her additional contributions once each month.
- 24.6.5** Additional employee contributions to the Fund requested under this subclause shall be expressed in whole dollars.

**24.7 Exemptions**

- 24.7.1** This clause shall not apply to any employer who contributes to the Hospitals superannuation Board Fund in respect of their employees.
- 24.7.2** A respondent employer may make application for exemption from 24.5 in respect of contributions to the Fund for employees who are not members of the Union.
- Applications for exemption shall be determined in accordance with the Superannuation Test Case [Print L5100] or any decision made in succession thereto.
- 24.7.3** It is recorded that the scheme specified in the first column hereunder is a scheme to which this paragraph applies and that the agreement of the union and its members has effect on or after the date correspondingly set out in the the second column hereunder.

Name of Scheme	Date of effect of Union Agreement
----------------	-----------------------------------

**PART 6 - HOURS OF WORK, BREAKS, OVERTIME, SHIFTWORK, WEEKEND WORK**

**25. HOURS**

- 25.1** The hours for an ordinary week's work shall be 38, or be an average of 38 per week in a fortnight, or in a four week period or, by mutual agreement, in a five week period in the case of an employee working ten hour shifts and shall be worked either:
- 25.1.1** in five days in shifts of not more than eight hours each; or
- 25.1.2** in a fortnight of 76 hours in 10 shifts of not more than eight hours each; or
- 25.1.3** in 152 hours per four week period to be worked as nineteen shifts each of eight hours; or
- 25.1.4** by mutual agreement:
- 25.1.4(a)** in four days in shifts of not more than ten hours each; or
- 25.1.4(b)** in fortnight of 76 hours in eight shifts of not more than ten hours each.
- 25.2** With the exception of a meal interval and one additional break, if same is required by the employer the work of each shift shall be continuous.
- 25.3** Provided that any employee required to work more than six consecutive periods of ordinary duty without 24 hours off duty shall be be paid for the seventh and any further consecutive period of ordinary duty worked at the rate of treble time until he or she has been given 24 hours off duty.
- 25.4** For the purposes of this clause the working week shall commence at midnight on a Sunday.
- 25.5** Where an employee has given or has been given notice he or she shall continue in his or her employment until the date of expiration of such notice and where an employee who has given or

has been given notice as aforesaid refuses to work or is absent from work without just cause or excuse the employee shall be deemed to have abandoned his or her employment and shall not be entitled to payment for work done within the period of notice.

**25.6** Except as provided in clause 13 - Casual employment hereof, employment shall be by the week. Any employee not specifically engaged as a casual employee shall be deemed to be employed by the week.

**25.7 Daylight saving**

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

- commencing before the time prescribed pursuant to the relevant legislation for the commencement of a summer time period; and
- commencing on or before the time prescribed pursuant to the relevant 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 this legislation.

In this case the expressions "standard time" and "summer time" shall bear the same meaning as are prescribed by legislation, and "legislation" shall mean the *Summer Time Act 1972*, as amended or as substituted.

**26. IMPLEMENTATION OF 38 HOUR WEEK**

**26.1** This clause shall only apply to employers who implement a 38 hour week after the date of operation of this award.

**26.2** The method of implementation of the 38 hour week may be any one of the following:

**26.2.1** by employees working less than eight ordinary hours each day; or

**26.2.2** by employees working less than eight ordinary hours on one or more days each week; or

**26.2.3** by rostering employees off on various days of the week during a particular work cycle so that each employee has one week day off during that cycle.

**26.3** In absence of agreement at each facility in respect to the implementation of the 38 hour week, the following procedure shall be applied without delay:

**26.3.1** Consultation shall take place within the particular facility concerned.

**26.3.2** If the matter is unresolved at the facility level, the matter shall be referred to the State Secretary of the Union or their deputy, at which level a conference of the parties shall be convened without delay.

**26.3.3** In the absence of agreement either party may refer the matter to the Commission for resolution.

**26.4** Except as provided in provided in subclauses (h) and (i) hereof, in cases where, by virtue of the arrangement of ordinary hours, an employee in accordance with paragraph (e)(iii) hereof, is entitled to a day off during their work cycle, such employee shall be advised by the employer at least four weeks in advance of the weekday they are to take off; provided that a lesser period of

notice may be agreed by the employer and the majority of employees in the facility, section or sections concerned.

**26.5** An employer, with the agreement of the majority of employees concerned, may substitute the day an employee is to take off in accordance with paragraph (e)(iii) for another day to meet the requirements of the facility or some other emergency situation.

**26.5.1** An individual employee, with the agreement of the employer, may substitute the day they are to take off for another day.

**26.6** Where the hours of work in a facility or section are organised in accordance with subclause (e)(iii) hereof an employer the Union and the majority of employees in the facility, section or sections concerned may agree to accrue up to a maximum of five rostered days off.

## **27. ROSTERS**

**27.1** A roster of at least fourteen days duration setting out employees' daily ordinary working hours, commencing and finishing times and meal intervals shall be posted at least fourteen days before it comes into operation in each work location and where it may be readily seen by employees and the Secretary or other accredited representative of the Union.

**27.2** Except as in emergency situations seven days notice shall be given of a change in roster.

**27.3.1** Where an employer requires an employee, without seven days notice and outside the expected circumstances prescribed in 27.2 above, to perform ordinary 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 per cent of the weekly base rate of pay for the wage/skill group five as defined in clause 19 - Rates of Pay.

**27.3.2** Provided that a part-time employee who agrees to work shift(s) in addition to those already rostered will not be entitled to the above specified allowance for the additional shift(s) worked.

**27.4.1** An employee, by making a request in writing to the employer, may have their roster fixed by the provisions of 27.4.2, in lieu of 27.1 to 27.3.

**27.4.2** Rosters shall be fixed by mutual agreement, subject to the provisions of this award.

**27.4.3** An employee may reject the request referred to in 27.4.1 at any time, by giving written notice to the employer. In such a case the roster for the employee shall be fixed according to the provisions of 27.1 to 27.3, from the commencement of the next full roster period being not less than five clear days after such rejection is received in writing by the employer.

**27.5** The roster or rosters shall be drawn up so as to provide at least eight hours between successive ordinary shifts.

**27.6** Notwithstanding any other provision of this award, this clause shall not apply to casual employees.

**27.7** In the event of any dispute arising as to whether a roster arrangement has been adopted in accordance with the meaning and intent of 27.4 above, it shall be referred to the Commission for resolution.

## **28. MEAL INTERVALS, REST BREAKS AND WASH UP TIME**

### **28.1 Meal intervals**



- 28.1.1 Except as provided in 28.2 hereof, a meal interval of not less than 30 minutes and not more than 60 minutes shall be allowed for each employee during each shift. Such meal interval shall not be counted as time worked.
- 28.1.2 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.
- 28.1.3 The above arrangement may also be adopted in any case where there is mutual agreement between employer and employee.

**28.2 Rest intervals**

Employees shall be entitled to a ten minute rest interval in each four hours worked or part thereof being greater than one hour. Such rest break shall be at a time suitable to the employer and shall be counted as time worked.

**28.3 Wash-up time**

Where necessary an employee shall be entitled to cease work ten minutes before their rostered finishing time to enable him or her to wash or to change their clothes.

**29. OVERTIME**

29.1 An employer may require any employee to work reasonable overtime at the appropriate overtime rate. 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.

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

29.2.1 In excess of the number of hours fixed as a day's, a week's or a fortnight's work as the case may be - time and a half for the first two hours and double time thereafter.

29.2.2 As overtime outside a spread of twelve hours from the commencement of the last previous rostered period of duty provided that the overtime is not continuous with the next succeeding period of duty - double time.

29.2.3 Outside a spread of nine hours from the time of commencing work by an employee rostered to work broken shifts - time and one half and outside a spread of twelve hours from the time of commencing work - double time.

29.3 An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer.

29.3.1 Overtime taken as time off during ordinary time hours shall be taken at the penalty time rate.

29.3.2 An employer shall provide payment at the appropriate overtime rate as specified in 29.2.1 to 29.2.3 where time off in lieu has not been taken within four weeks of accrual.

29.3.3 For the purposes of this clause, in accruing or calculating payment of overtime, each period of overtime shall stand alone.

**29.4 Rest period after overtime**

**29.4.1** An employee other than a casual employee who works so much overtime between the termination of his or her last previous rostered ordinary hours of duty and the commencement of his or her next succeeding rostered period of duty that he or she would not have at least ten consecutive hours off duty between those times, shall be released after completion of such overtime worked until he or she has had ten consecutive hours off duty without loss of pay for rostered ordinary hours occurring during such absence.

**29.4.2** If on the instructions of the employer such an employee resumes or continues work without having had such ten consecutive hours off duty the employee shall be paid at the rate of double time until he or she is released from duty for such rest period and the employee shall then be entitled to be absent until he or she has had ten consecutive hours off duty without loss of pay for rostered ordinary hours occurring during such absence.

**29.5** 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 his or her place of residence the employer shall provide adequate transport free of cost to the employee.

### **30. ON CALL/RECALL**

**30.1** All employees required to be "on call" or who return to duty when off duty shall be paid, in addition to any other amount payable, a sum equal to 2.5 per cent of the weekly base rate of pay for the wage skill group 5 as defined in clause 19 - Rates of Pay -, per period of twelve hours or part thereof.

**30.2** Any period of overtime involving a recall to duty during an off duty period and which is not continuous with the next succeeding rostered period of duty shall be paid at a minimum of three hours at the appropriate overtime rate.

**30.3** When recall work is necessary it should be so arranged that employees have at least ten consecutive hours off duty between successive shifts.

**30.4** An employee, other than a casual, who works so much recall between the termination of their previous rostered ordinary hours and the commencement of the 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 recall worked until they have had ten consecutive hours off duty without loss of pay for rostered ordinary hours occurring during such absence.

**30.5** If on the instructions of the employer, such an employee resumes or continues work without having had ten consecutive hours off duty they shall be paid at the rate of double time until they are released from duty for such rest period and they 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 absence.

**30.6** 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 his or her place of residence the employer shall provide adequate transport free of cost to the employee.

### **31. SHIFT WORK**

**31.1** In addition to any other rates prescribed elsewhere in this award an employee whose rostered hours of ordinary duty finish between 6.00 p.m. and 8.00 a.m. or commence between 6.00 p.m. and 6.30 a.m. shall be paid an amount equal to 2.5 per cent of the weekly base rate of pay for the Wage/skill group 5 as defined in clause 19 - Rates of Pay, per rostered period of duty.

**31.2** 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 4 per cent of wage/skill group

5 and provided further that in the case of an employee permanently working on any such rostered hours of ordinary duty shall be paid for any such period of duty an amount equal to 5 per cent of the said rate. Permanently working shall mean working for any period in excess of four consecutive weeks.

**31.3** 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 four hours or more than from that of the first shall be paid an amount equal to 4 per cent of the wage/skill group 5 on the occasion of each such change in addition to any amount payable under the preceding provisions of this clause.

**31.4** Notwithstanding the provisions of 31.3 above the change of shift allowance is not payable:

**31.4.1** Where an employer agrees to a request in writing made on behalf of one or more of employees for changes in shifts.

**31.4.2** Where there is an intervening period of more than 48 hours off duty, inclusive of all leave, weekends, accrued days off, rostered days off and public holidays.

**31.5** The allowances payable pursuant to this clause shall be calculated to the nearest five cents, portions of a cent being disregarded.

## **32. SATURDAYS AND SUNDAY WORK**

**32.1** All rostered time of ordinary duty performed between midnight on Friday and midnight on Sunday shall be paid for at the rate of time and a half.

**32.2** Provided that the following rate of payment shall be made where the Saturday or Sunday duty involves:

**32.2.1** Work in excess of the prescribed rostered hours - double time for the excess period;

**32.2.2** Work performed by a worker of broken shifts outside a spread of nine hours from the time of commencing work - time and three-quarters, and outside a spread of twelve hours from the time of commencing work - double time.

## **PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS**

### **33. ANNUAL LEAVE**

#### **33.1 Period of leave**

**33.1.1** Employees other than casual employees shall be entitled to four weeks annual leave on ordinary pay after twelve months of continuous service. The annual leave prescribed shall be exclusive of any holidays prescribed in clause 40 - Public Holidays.

**33.1.2** When the system of working provides for the taking of accrued days off the maximum number of accrued days off shall be thirteen in any calendar year, provided that at least one of those accrued days will be taken in conjunction with a period of annual leave for which no additional payment is to be made.

**33.2** Provided that ordinary pay for the purposes of this clause shall mean remuneration for the employee's weekly number of hours calculated at the ordinary time rate of pay and in addition shall include:

**33.2.1** the cash value of any board or lodging provided for in clause 23; and either

**33.2.1(a)** overaward payments for ordinary hours of work;

- 33.2.1(b) shift work premiums, according to roster or projected roster;
- 33.2.1(c) Saturday and Sunday premiums, according to roster or projected roster;
- 33.2.1(d) in-charge allowances; or

33.2.2 a loading equal to 17-1/2% of his or her wage pursuant to clause 19 – Rates of pay for his or her normal weekly number of hours calculated at the ordinary time rate of pay - whichever is the higher.

### **33.3 Seven day shift workers**

A shift worker who during the year in which his or her annual leave accrues is rostered to work for four hours or more on 10 or more weekends in that year, shall be entitled to one week's (seven consecutive days) annual leave in addition to the leave prescribed in 33.1.

### **33.4 Part-time entitlement**

33.4.1 A part-time employee shall be entitled to annual leave on a pro rata basis of the leave prescribed in 33.1 for a full-time employee.

33.4.2 Provided that where the ordinary hours for a regular part-time employee have varied over a period of accrual for annual leave, the average ordinary hours shall be determined and used as the basis for calculating annual leave entitlement.

### **33.5 Termination of employment**

33.5.1 Where the employment of an employee is terminated at the end of a period of employment to which this subclause applies the employer shall forthwith pay to the employee in addition to all other amounts due to him or her, an amount equal to 3/49ths of his or her ordinary pay for that period of employment prior to 1 January 1974, and an amount equal to 1/12th of his or her ordinary pay for that period thereafter.

33.5.2 Payment for pro rata leave for a regular part-time employee on termination shall be based on the average number of ordinary hours per week over the period for which a payment is to be paid.

33.5.3 A shift worker whose employment with an employer is terminated at the end of a period of employment which is less than one year computed from the date of commencement of the employment, or the date upon which the employee last become entitled to annual leave from that employer, shall be paid in addition to any other amounts due to him or her, an amount equal to 1/48th of his or her ordinary pay in respect of that period of employment.

### **33.6 Time of taking leave**

33.6.1 An employee shall not be required to go on annual leave nor request annual leave without at least one week's notice being given and wages accruing while on leave shall be paid prior to proceeding on leave.

33.6.2 An employee entitled to four weeks annual leave shall be granted such leave in either one continuous period or in two separate periods, neither of which shall be less than one week's duration unless the employee and employer come to a mutually agreed arrangement.

**33.6.3** The annual holiday shall be given by the employer and shall be taken by the employee before the expiration of a period of six months after the date upon which the right to such holiday accrues. Provided that the giving and taking of the whole or any separate period of such annual holiday may, be postponed for a period to be specified where circumstances render such postponement necessary or desirable.

**33.6.4** An employer may allow annual leave to an employee before the right thereto has accrued due but where leave is taken in such a 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.

**33.6.5** Except as provided in 33.5 hereof payment shall not be made by an employer to an employee in lieu of any annual holiday or part thereof to which the employee is entitled under this award nor shall any such payment be accepted by the employee.

**33.6.6** Where any trade or public holiday for which the worker is entitled to payment under any Act, Determination or award or under his/her contract of employment occurs during any period of an annual holiday taken by a worker under this clause, the period of the holiday shall be increased by one day in respect of that trade or public holiday.

### **33.7 Service of employees**

**33.7.1** Service before the date of this award shall be taken into consideration for the purpose of calculating annual leave.

**33.7.2** The rights of all employees in respect of any leave which may have accrued to them prior to this order shall be preserved.

### **33.8 Leave taken in advance**

**33.8.1** Where the annual leave or any part thereof has been taken in advance by an employee and:

**33.8.1(a)** the employment of the employee is terminated before he or she has completed the year of employment in respect of which such annual leave or part has been taken; and

**33.8.1(b)** 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 to the employee under 33.5;

the employer shall not be liable to make any payment to the employee under 33.5 and shall be entitled to deduct the amount of such excess from any remuneration payable to the employee upon the termination of the employment.

### **33.9 Calculation of continuous service**

**33.9.1** For the purposes of this award a year of employment shall be deemed to be unbroken notwithstanding:

**33.9.1(a)** any annual leave or long service leave taken therein;

**33.9.1(b)** 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 annual leave or long service leave;

- 33.9.1(c)** any absence from work of not more than fourteen days in the year of employment on account of sickness or accident;
- 33.9.1(d)** any absence on account of leave (other than annual leave or long service leave) granted imposed or agreed to by the employer;
- 33.9.1(e)** any absence on any other account not involving termination of employment.

and in calculating a year of employment of a kind mentioned in 33.9.1(a), 33.9.1(b) or 33.9.1(c) shall be counted as part of the year of employment but in respect of absences of a kind mentioned in 33.9.1(d) and 33.9.1(e) it will be necessary for the employee as part of his or her qualification for annual leave to serve such additional period as equals the period of such absences.

## **34. PERSONAL LEAVE**

### **34.1 Amount of paid personal leave**

**34.1.1** Paid personal leave will be 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 the employee's care due to an unexpected emergency.

**34.1.2** 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:

- 34.1.2(a)** during the first year of service – seven hours and 36 minutes for each month of service;
- 34.1.2(b)** during the second, third and fourth year of service – 106 hours and 24 minutes in each year;
- 34.1.2(c)** thereafter – 159 hours and 36 minutes in each year.

The amount of personal leave for a part-time employee is on a pro rata basis corresponding to their year of service vis-à-vis full-time employees.

### **34.2 Personal leave for personal injury or sickness**

**34.2.1** 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.

**34.2.2** In the event of an employee becoming unfit for duty due to personal injury or sickness and such personal injury or sickness is not due to misconduct (a certificate of a legally qualified medical practitioner or a Statutory Declaration signed by the employee shall be satisfactory evidence of personal injury or sickness), the employee shall be entitled to personal leave for personal injury or sickness on full pay.

**34.2.3** Provided that an employee may be absent through personal injury or sickness for one day without furnishing evidence of such sickness as provided in clause 34.2.2 hereof on not more than three occasions in any one year of service. An employee shall not be entitled to the benefit should he or she fail to notify the employer two hours before the time rostered to commence duty on the day of such absence. Provided that employees rostered for duty

prior to 11.00am on the day of such absence shall not be required to give such notice before 9.00am.

- 34.2.4** Provided further that an employee's entitlement to payment for personal leave for personal injury or sickness upon production of a Statutory Declaration shall be limited to not more than three occasions in each year in respect to absences not exceeding three consecutive working days duration.
- 34.2.5** If the full period of personal leave as prescribed in 34.1 hereof is not taken in any one year, such portion as is not taken shall, where an employee remains in the service of the same employer or any successor(s) of that employer, be cumulative from year to year; provided that, where the business of an employer is transferred on or after 2 September 1980 to a successor(s) and an employee of the employer becomes an employee of the successor(s) the amount of accumulated personal leave which exceeds 212 hours and 48 minutes shall be disregarded.
- 34.2.6** No employer shall terminate the service of an employee during the currency of any period of personal leave with the object of avoiding his or her obligations under this subclause.
- 34.2.7** Where the "one day" absences referred to in the proviso in 34.2.3 are not taken for a period of five years, an additional 38 hours personal leave shall be added to the employee's accrued entitlement.
- 34.2.8** Provided that in respect of any period of absence from employment between engagement with one employer and another re-engagement with the same employer, continuity of employment shall be deemed to be unbroken provided such period of absence does not exceed five weeks in addition to the total period of annual leave, long service leave and or personal leave which the employee actually receives on termination or for which he or she is paid in lieu.
- 34.2.9** Provided further that where any employee for the sole purpose of undertaking a course of study related to his or her employment is, with the written approval of his or her employer, absent without pay for up to but not exceeding 52 weeks, such absences shall not be deemed to have broken continuity of service but shall not be counted in aggregating service for the purpose of establishing entitlement to personal leave portability.
- 34.2.10** Employees who are absent on personal leave for personal injury or sickness either side of a public holiday without providing a medical certificate, Statutory Declaration or other evidence satisfactory to the employer within ten working days after their return to work shall not be entitled to be paid for that day absent.
- 34.2.11** Within two days of the employee's return to work, the employer shall notify the employee of the requirement that the employee provided a Statutory Declaration, medical certificate or other acceptable evidence.
- 34.2.12** Employees shall not be eligible for payment of personal leave for personal injury or sickness or part thereof, unless where they are in a position to do so, they take all reasonable steps to advise their employer of their absence from duty as near as practicable to, but no later than one hour after their normal commencement time or in the case of shifts commencing prior to 7.00am, one hour before the commencement of the shift.
- 34.2.13** Such advice shall, as far as is practicable, state the nature of the injury or illness, and the estimated duration of the absence.
- 34.2.14** Provided that if it is not practicable to inform the employer within the times specified above employees shall inform their employer as soon as practicable thereafter.

**34.2.15** Payment for personal leave for personal injury or sickness shall not be withheld by an employer until all reasonable steps have been undertaken to investigate the employee's lack of advice regarding absence from duty. Such an investigation must provide the employee with the opportunity to give reason as to why notification was not given.

**34.2.16** The employer must provide and inform employees of a procedure for the notification by employees of their inability to attend work due to illness or injury. All such notifications shall be registered, detailing the time and name of the employee.

### **35. PERSONAL LEAVE TO CARE FOR AN IMMEDIATE FAMILY OR HOUSEHOLD MEMBER**

**35.1** An employee is entitled to use up to ten days per annum of their personal leave, including accrued 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.

**35.2** 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 35.1, beyond the limit set out in 35.1. In such circumstances, the employer and the employee shall agree upon the additional amount that may be accessed.

#### **35.3 Evidence supporting claim**

**35.3.1** When taking leave to care for members of their immediate family or household who are sick and require care and support, the employee must, if required by the employer, establish by production of a medical certificate or statutory declaration, the illness of the person concerned.

**35.3.2** 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.

**35.4** The entitlement to use personal leave in accordance with this subclause is subject to:

- (a) the employee being responsible for the care of the person concerned; and
- (b) the person concerned being either a member of the employee's immediate family; or a member of the employee's household.

The term immediate family includes:

- a spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse means a person of the opposite sex to the employee who lives with the employee as his or her husband or wife on a bona fide domestic basis; and
- child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

#### **35.5 Employee must give notice**

The employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and their relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not



practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

### **35.6 Unpaid personal leave**

Where an employee has exhausted all paid personal leave entitlements, he or she is entitled to take unpaid personal leave to care for members of his or her 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 of unpaid leave per occasion, provided the requirements of 35.3 and 35.5 are met.

### **35.7 Casual employment - caring responsibilities**

**35.7.1** Subject to the evidentiary and notice requirements in 35.3 and 35.5, casual employees are entitled to not be available to attend work, or to leave work:

- if they need 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, or the birth of a child; or
- upon the death in Australia of an immediate family or household member.

**35.7.2** The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

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

### **35.8 Annual leave**

**35.8.1** To assist employees in balancing their work and family responsibilities an employee may elect, with the consent of the employer, to:

- (a) take annual leave in separate periods, including up to 10 single days; and
- (b) accrue and carry forward any amount of annual leave up to two years from the date of entitlement.

**35.8.2** Access to annual leave, as prescribed in 35.8.1 above, shall be exclusive of any shutdown period provided for elsewhere under this award.

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

### **35.9 Time off in lieu of payment for overtime**

**35.9.1** An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer.

**35.9.2** Overtime taken as time off during ordinary time hours shall be taken at the penalty time rate.

**35.9.3** An employer shall, if requested by an employee, provide payment at the rate provided for payment of overtime in the award, for any overtime worked under 35.8.1 where such time has not been taken within four weeks of accrual.

### **35.10 Make-up time**

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

### **35.11 Grievance process**

In the event of any dispute arising in connection with any part of this clause, such a dispute shall be processed in accordance with the dispute settling procedures of this award.

## **36. BEREAVEMENT LEAVE**

### **36.1 Paid leave entitlement**

An employee shall on notice be entitled on each occasion:

- of the death or serious illness within Australia of an immediate family or household member; or
- of the death only outside Australia of a spouse (including a de facto spouse), mother, father, sister, brother, child or next of kin

to leave without deduction of pay for a period not exceeding the number of hours worked by the employee in two ordinary days work. Proof of such death or in the case of serious illness, dependence for care of such relation shall be furnished by the employee to the satisfaction of the employer.

**36.2** Provided that this clause shall have no effect while the period of entitlement to leave under it coincides with any other period of entitlement to leave.

### **36.3 Unpaid bereavement leave**

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

## **37. JURY SERVICE**

**37.1** An employee required to attend for Jury Service during his or her ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of his or her attendance for such Jury Service and the amount of wage pursuant to clause 19 – Rates of pay that the employee would have received in respect of ordinary time he or she would have worked had he or she not been on Jury Service.

**37.2** An employee shall notify his or her employer as soon as possible of the date upon which he or she is required to attend for Jury Service. Further, the employee shall give the employer proof of attendance, the duration of such attendance and the amount received in respect of such Jury Service.

## **38. LONG SERVICE LEAVE**

### **38.1 Entitlement**

**38.1.2** An employee shall be entitled to long service leave with pay, in respect of continuous service with one and the same employer in accordance with the provisions of this clause.

**38.1.3** An employee shall have the following entitlement to long service leave:

- 38.1.3(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.
- 38.1.3(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 1/30th of the period of their service since the last accrual of entitlement to long service leave under 38.1.3(a).
- 38.1.3(c)** 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 1/30th the period of service.
- 38.1.3(d)** For the purpose of determining the entitlement of any employee under any provisions of this clause in respect of a period of employment beginning before 31 December 1964 and ending after the said date, so much of that service as was completed before the said date shall be reduced by one quarter.

**38.2 Service entitling to leave**

**38.2.1** Subject to this subclause service shall also include all periods during which an employee was serving in Her Majesty's Forces or was made available by the employer for National Duty.

**38.2.2** For the purposes of this clause service shall be deemed to be continuous notwithstanding:

- 38.2.2(a)** the taking of any annual leave or long service leave;
- 38.2.2(b)** any absence from work of not more than fourteen days in any one year on account of illness or injury or if applicable such longer period as provided in clause 34 – Sick leave;
- 38.2.2(c)** any interruption or ending of the employment by the employer if the interruption or ending is made with the intention of avoiding obligations in respect of long service leave or annual leave;
- 38.2.2(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 42 - Accident pay.
- 38.2.2(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;
- 38.2.2(f)** any interruption arising directly or indirectly from an industrial dispute;
- 38.2.2(g)** the dismissal of an employee, but only if the employee is re-employed within a period not exceeding two months after the dismissal;
- 38.2.2(h)** any absence from work of an employee from work for a period not exceeding twelve months or longer as agreed under clause 39.7 in respect of any pregnancy or adoption;

**38.2.2(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 his or her employment not covered by 38.2.2(d) of this subclause.

**38.2.3** In calculating the period of continuous service of any employee, any interruption or absence of a kind mentioned in 38.2.2(a) to 38.2.2(e) shall be counted as part of the period of their service, but any interruption or absence of a kind mentioned in 38.2.2(f) to 38.2.2(i) shall not be counted as part of the period of service unless it is so authorised in writing by the employer.

**38.2.4** 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.

### **38.3 Payment in lieu of long service leave on the death of an employee**

Where an employee who has completed at least ten years service dies while still in the employment of the employer, the employer shall pay to such employee's personal representative a sum equal to the pay of such employee for 1/30th 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.

### **38.4 Payment for period of leave**

**38.4.1** Payment to an employee in respect of long service leave shall be made in one of the following ways:

**38.4.1(a)** in full in advance when the employee commences his or her leave; or

**38.4.1(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

**38.4.1(c)** in any other way agreed between the employer and the employee.

**38.4.2** Where the employment of an employee is for any reason terminated before the employee takes any long service leave to which he or she is entitled or where any long service leave accrues to an employee pursuant to 38.1.3(b) hereof the employee shall subject to the provisions of 38.4.3 be entitled to pay in respect of such leave as at the date of termination of employment.

**38.4.3** Where any long service leave accrues to an employee pursuant 38.1.3 hereof the employee shall be entitled to pay in respect of such leave as at the date of termination of employment.

**38.4.4** 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.

### **38.5 Taking of leave**

**38.5.1** 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.

**38.5.2** Any long service leave shall be inclusive of any public holiday or accrued day off occurring during the period when leave is taken.

**38.5.3** If the employer and an employee so agree:

**38.5.3(a)** the first six months long service leave to which an employee becomes entitled under this award may be taken in two or three separate periods; and

**38.5.3(b)** 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.

### **38.6 Leave allowed before due date**

**38.6.1** An employer may by agreement with an employee grant long service leave to the employee before the entitlement to that leave has accrued, provided that such leave shall not be granted before the employee has completed ten years service.

**38.6.2** Where the employee of an employer 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.

### **38.7 Definitions**

**38.7.1** For the purposes of this clause the following definitions apply:

"Pay" means remuneration for an employee's normal weekly hours of work calculated at the employee's ordinary time rate of pay provided in clause 19 – Rates of pay hereof at the time the leave is taken or (if the employee dies before the completion of leave so taken) as at the time of his or her death; and 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.

"Month" shall mean a calendar month.

## **39. PARENTAL LEAVE**

Subject to the terms of this clause, employees are entitled to maternity, paternity and adoption leave and to work part-time in connection with the birth or adoption of a child.

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

An eligible casual employee means a casual employee:

(a) 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

(b) who has, but for the pregnancy or the decision to adopt, a reasonable expectation of ongoing employment.

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).

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.

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.

An eligible casual employee employed by their current employer, on or prior to 1 January, 1998, shall be entitled to parental leave under the terms of this award as of 16 January, 2003.

An eligible casual employee employed on or after 16 January, 2003 shall be entitled to parental leave under the term of the award as of 16 January, 2004.

### **39.1 Definitions**

- 39.1.1** For the purpose of this clause **child** means a child of the employee under school age or a child under school age 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.
- 39.1.2** Subject to 39.1.3, in this clause "spouse" includes a de facto or former spouse.
- 39.1.3** In relation to 39.5 below, "spouse" includes a de facto spouse but does not include a former de facto spouse.

### **39.2 Basic Entitlement**

- 39.2.1** After twelve months continuous service, parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child. For females, maternity leave may be taken and for males, paternity leave may be taken. Adoption leave may be taken in the case of adoption.
- 39.2.2** Subject to 39.6 and 39.7 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:
  - 39.2.2(a)** for maternity and paternity leave, an unbroken period of one week at the time of the birth of the child;
  - 39.2.2(b)** for adoption leave, an unbroken period of up to three weeks at the time of the placement of the child.

### **39.3 Maternity Leave**

- 39.3.1** An employee must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:
  - 39.3.1(a)** of the expected date of confinement (included in a certificate from a registered medical practitioner stating that the employee is pregnant) - at least 10 weeks;
  - 39.3.1(b)** of the date on which the employee proposes to commence maternity leave and the period of leave to be taken - at least 4 weeks.
- 39.3.2** When the employee gives notice under 39.3.1(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.

- 39.3.3** An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date.
- 39.3.4** Subject to 39.2.1, and unless otherwise agreed between the employer and employee, an employee may commence parental leave at any time within six weeks immediately prior to the expected date of the birth.
- 39.3.5** 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.
- 39.3.6** Where the pregnancy of an employee terminates after 28 weeks and the employee has not commenced maternity leave, the employee may take unpaid special maternity leave of such period as a registered medical practitioner certifies as necessary, except that where an employee is suffering from an illness not related to the direct consequences of the confinement, an employee may be entitled to paid sick leave in lieu of, or in addition to, special maternity leave.
- 39.3.7** Where leave is granted under 39.3.4, 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.

#### **39.4 Paternity Leave**

- 39.4.1** An employee will provide the employer at least ten weeks prior to each proposed period of paternity leave with:
- 39.4.1(a)** a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement, or states the date on which the birth took place; and
  - 39.4.1(b)** written notification of the dates on which he proposes to start and finish the period of paternity leave; and
  - 39.4.1(c)** a statutory declaration stating:
    - 39.4.1(c)(i)** he will take that period of paternity leave to become the primary care giver of the child;
    - 39.4.1(c)(ii)** particulars of any period of maternity leave sought or to be taken by his spouse; and
    - 39.4.1(c)(iii)** that for the period of paternity leave he will not engage in any conduct inconsistent with his contract of employment.
- 39.4.2** The employee will not be in breach of 39.4.1, 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. The employee shall immediately notify the employer of any change in the information provided to the employer pursuant to 39.4.1.

### **39.5 Adoption leave**

- 39.5.1** 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 the child takes place earlier.
- 39.5.2** Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:
- 39.5.2(a)** the employee is seeking adoption leave to become the primary care-giver of the child;
  - 39.5.2(b)** particulars of any period of adoption leave sought or taken by the employee's spouse; and
  - 39.5.2(c)** that for the period of the adoption leave the employee will not engage in any conduct inconsistent with their contract of employment.
- 39.5.3** An employer may require an employee to provide confirmation from the appropriate government authority of the placement.
- 39.5.4** Where the placement of the 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 for receipt of notification for the employee's return to work.
- 39.5.5** 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 placement of the child, the death of a spouse, or other compelling circumstances.
- 39.5.6** An employee seeking to adopt a child is entitled to take 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 paid leave instead.

### **39.6 Variation of period of parental leave**

Where an employee takes leave under clauses 39.2.1 or 39.7.1(b), unless otherwise agreed 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 as soon as possible but no less than four weeks prior to the commencement of the changed arrangements. Nothing in this clause detracts from the basic entitlement in clauses 39.2.1 or 39.7.1(b).

### **39.7 Right to request**

- 39.7.1** An employee entitled to parental leave pursuant to the provisions of clause 39.2 may request the employer to allow the employee:
- 39.7.1(a)** to extend the period of simultaneous unpaid parental leave provided for in clause 39.2.2 up to a maximum of eight weeks;
  - 39.7.1(b)** to extend the period of unpaid parental leave provided for in clause 39.2.1 by a further continuous period of leave not exceeding 12 months;



**39.7.1(c)** to return from a period of parental leave on a part-time basis until the child reaches school age;

to assist the employee in reconciling work and parental responsibilities.

**39.7.2** The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

**39.7.3 Employee's request and the employer's decision to be in writing**

The employee's request and the employer's decision made under clauses 39.7.1(b) and 39.7.1(c) must be recorded in writing.

**39.7.4 Request to return to work part time**

Where an employee wishes to make a request under clause 39.7.1(c), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

**39.8 Parental leave and other entitlements**

An employee may in lieu of or in conjunction with parental leave, access other paid leave entitlements which they have accrued, such as annual leave or long service leave, subject to the total amount of leave not exceeding 52 weeks or longer as agreed under clause 39.7.

**39.9 Transfer to a safe job**

**39.9.1** 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.

**39.9.2** 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.

**39.10 Returning to work after a period of parental leave**

**39.10.1** An employee will notify the employer of their intention to return to work after a period of parental leave at least four weeks prior to the expiration of the leave.

**39.10.2** An employee will be entitled to the position which they held immediately before proceeding on parental leave. In the case of any employee transferred to a safe job pursuant to 39.8.1, the employee will be entitled to return to the position they held immediately before such transfer.

**39.10.3** Where such position no longer exists but there are other positions available which the employee is required to qualify 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.

**39.11 Replacement Employees**

**39.11.1** A replacement employee is an employee specifically engaged or temporarily promoted or transferred, as a result of an employee proceeding on parental leave.

**39.11.2** A replacement employee will be informed of the temporary nature of the employment and of the rights of the employee who is being replaced.

## **39.12 Part - time work**

### **39.12.1 Definitions**

**39.12.1(a)** "Former position" means the position held by a female or male employee immediately before proceeding on leave or part-time employment under this subclause whichever first occurs or, if such position no longer exists but there are other positions available for which the employee is qualified and the duties of which he or she is capable of performing, a position as nearly comparable in status and pay to that of the position first mentioned in this definition.

**39.12.1(b)** "Continuous service" means service under an unbroken contract of employment and includes:

**39.12.1(b)(i)** any period of leave taken in accordance with this clause;

**39.12.1(b)(ii)** any period of part-time employment worked in accordance with this clause; or

**39.12.1(b)(iii)** any period of leave or absence authorised by the employer or by the award.

### **39.12.2 Entitlement**

With the agreement of the employer:

**39.12.2(a)** A male employee may work part-time in one or more periods at any time from the date of birth of the child until it's second birthday or, in relation to adoption, from the date of placement of the child until the second anniversary of the placement.

**39.12.2(b)** A female employee may work part-time in one or more periods while she is pregnant where part-time employment is, because of the pregnancy necessary or desirable.

**39.12.2(c)** A female employee may work part-time in one or more periods at any time from the seventh week after the date of birth of the child until it's second birthday.

**39.12.2(d)** In relation to adoption a female employee may work part-time in one or more periods at any time from the date of the placement of the child until the second anniversary of that date.

### **39.12.3 Return to former position**

**39.12.3(a)** An employee who has had at least twelve months continuous service with an employer immediately before commencing part time employment after the birth or placement of a child has, at the expiration of the period of such part-time employment or the first period, if there is more than one, the right to return to his or her former position.

**39.12.3(b)** Nothing in 39.11.3(a) hereof shall prevent the employer from permitting the employee to return to his or her former position after a second or subsequent period of part-time employment.

### **39.12.4 Effect of part-time employment on continuous service**

Commencement on part-time work under this clause, and return from part-time work to full-time work under this clause, shall not break the continuity of service or employment.

**39.12.5 Pro rata entitlements**

Subject to the provisions of this subclause and the matters agreed to in accordance with 39.11.8 hereof, part-time employment shall be in accordance with the provisions of this award which shall apply pro rata.

**39.12.6 Transitional arrangements - annual leave**

**39.12.6(a)** An employee working part-time under this subclause shall be paid for and take any leave accrued in respect of a period of full-time employment, in such periods and manner as specified in the annual leave provisions of this award, as if the employee were working full-time in the class of work the employee was performing as a full-time employee immediately before commencing part-time work under this subclause.

**39.12.6(b)** A full-time employee shall be paid for and take any annual leave accrued in respect of a period of part-time employment under this subclause, in such periods and manner as specified in this award, as if the employee were working part-time in the class of work the employee was performing as a part-time employee immediately before resuming full-time work.

**39.12.6(b)(i)** Provided that, by agreement between the employer and the employee, the period over which the leave is taken may be shortened to the extent necessary for the employee to receive pay at the employee's current full-time rate.

**39.12.7 Transitional arrangements - sick leave**

An employee working part-time under this subclause shall have sick leave entitlements which have accrued under this award (including any entitlement accrued in respect of previous full-time employment) converted into hours. When this entitlement is used, whether as a part-time employee or as a full-time employee, it shall be debited from the ordinary hours that the employee would have worked during the period of absence.

**39.12.8 Part-time work agreement**

**39.12.8(a)** Before commencing a period of part-time employment under this subclause the employee and the employer shall agree:

**39.12.8(a)(i)** that the employee may work part-time;

**39.12.8(a)(ii)** upon the hours to be worked by the employee, the days upon which they will be worked and commencing times for the work;

**39.12.8(a)(iii)** upon the classification applying to the work to be performed; and

**39.12.8(a)(iv)** upon the period of part-time employment.

**39.12.8(b)** The terms of this agreement may be varied by consent.

**39.12.8(c)** The terms of this agreement or any variation to it shall be reduced to writing and retained by the employer. A copy of the agreement and any variation to it shall be provided to the employee by the employer.

**39.12.8(d)** The terms of this agreement shall apply to the part-time employment.

**39.12.9 Termination of employment**

**39.12.9(a)** The employment of a part-time employee under this clause, may be terminated in accordance with the provisions of this award but may not be terminated by the employer because the employee has exercised or proposes to exercise any rights arising under this clause or has enjoyed or proposes to enjoy any benefits arising under this clause.

**39.12.9(b)** Any termination entitlements payable to an employee whose employment is terminated while working part-time under this clause, or while working full-time after transferring from part-time work under this clause, shall be calculated by reference to the full-time rate of pay at the time of termination and by regarding all service as a full-time employee as qualifying for a termination entitlement based on the period of full-time employment and all service as a part-time employee on a pro rata basis.

**39.12.10 Extension of hours of work**

An employer may request, but not require, an employee working part-time under this clause to work outside or in excess of the employee's ordinary hours of duty provided for in accordance with 39.11.5.

**39.12.11 Nature of part-time work**

The work to be performed part-time need not be the work performed by the employee in his or her former position but shall be work otherwise performed under this award.

**39.12.12 Inconsistent award provisions**

An employee may work part-time under this clause notwithstanding any other provision of this award which limits or restricts the circumstances in which part-time employment may be worked or the terms upon which it may be worked including provisions:

**39.12.12(a)** limiting the number of employees who may work part-time;

**39.12.12(b)** establishing quotas as to the ratio of part-time to full-time employees;

**39.12.12(c)** prescribing a minimum or maximum number of hours a part-time employee may work; or

**39.12.12(d)** requiring consultation with, consent of or monitoring by a Union;

and such provisions do not apply to part-time work under this clause.

**39.12.13 Replacement employees**

**39.12.13(a)** A replacement employee is an employee specifically engaged as a result of an employee working part-time under this subclause.

**39.12.13(b)** A replacement employee may be employed part-time. Subject to this paragraph, 39.11.5, 39.11.6, 39.11.7, 39.11.8, 39.11.9 and 39.11.12 apply to the part-time employment of replacement employees.

**39.12.13(c)** Before an employer engages a replacement employee under this paragraph, the employer shall inform the person of the temporary nature of the employment and of the rights of the employee who is being replaced.

**39.12.13(d)** Unbroken service as a replacement employee shall be treated as continuous service for the purposes of 39.11.1(b) hereof.

**39.12.13(e)** Nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.

### **39.13 Communication during parental leave**

**39.13.1** Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

**39.13.1(a)** make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and

**39.13.1(b)** provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

**39.13.2** The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

**39.13.3** The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with 39.13.1.

## **40. PUBLIC HOLIDAYS**

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

**40.1.1** New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day and Boxing Day; and

**40.1.2** The following days, as prescribed in the relevant States, Territories and localities: Australia Day, Anzac Day, Queen's Birthday, Eight Hours Day or Labour day; and

**40.1.3** Melbourne Cup day or in lieu of Melbourne Cup Day, some other day as determined in a particular locality; and

### **40.2 Holidays in lieu**

**40.2.1** When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December.

**40.2.2** When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 28 December.

**40.2.3** 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.

**40.3** Where in a State, Territory or locality, public holidays are declared or prescribed on days other than those set out in 40.1 and 40.2 above, those days shall constitute additional days for the purpose of this award.

### **40.4 Substitution of public holidays by agreement at the enterprise**

- 40.4.1** An employer and their employees may agree to substitute another day for any prescribed in this clause. For this purpose the consent of the majority of affected employees shall constitute agreement.
- 40.4.2** An agreement pursuant to 40.4.1 shall be recorded in writing and be available to every affected employee.
- 40.4.3** The Union which is party to this award shall be informed of an agreement pursuant to 40.4.1 and may within seven days refuse to accept it. The Union will not unreasonably refuse to accept the agreement.
- 40.4.4** If a Union, pursuant to 40.4.3, refuses to accept an agreement, the parties will seek to resolve their differences to the satisfaction of the employer, the employees and the Union.
- 40.4.5** If no resolution is achieved pursuant to 40.4.4, the employer may apply to the Commission for approval of the agreement reached with their employees. Such application must be made fourteen or more days before the prescribed holiday. After giving the employer and Union an opportunity to be heard, the Commission will determine the application

#### **40.5 Payment for time worked on a public holiday**

- 40.5.1** If an employee works on a public holiday he or she shall be paid double time and a half for the time worked. If a public holiday occurs on his or her rostered day off he or she shall be entitled to one and a half times the payment for his or her ordinary day; or where there is mutual consent within four weeks following the date on which such holiday occurred an employee may take a day and a half off in lieu or have one and one half days added to his or her annual leave.
- 40.5.1(a)** Provided that employees rostered to work on public holidays and who fail to do so shall not be entitled to holiday pay for the said holiday.
- 40.5.2** Notwithstanding the provisions of 40.5.1 an employee who ordinarily works Monday to Friday only 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.
- 40.6** A part-time employee who is not ordinarily required to work on the day of the week on which a public holiday is observed shall not be entitled to any benefit for such a public holiday, unless they are required to work on a public holiday.
- 40.7** Where an employee's accrued day off falls on a public holiday prescribed by this award another day shall be determined by the employer to be taken in lieu thereof, such day to be within the same four week work cycle where practical.

### **PART 8 - TRANSFERS TRAVELLING AND WORKING AWAY FROM USUAL PLACE OF WORK**

#### **41. TRAVELLING TRANSPORT AND FARES**

- 41.1** When an employee is involved in travelling on duty, if the employer cannot provide the appropriate transport, all reasonably incurred expenses in respect to fares, meals and accommodation will be met by the employer on production of receipted account(s) or other evidence acceptable to the employer.

41.2 Provided further that the employee shall not be entitled to reimbursement for those expenses which exceed the mode of transport, meals or the standard of accommodation agreed for the purpose with the employer.

41.3 Where an employer requires an employee to use their own motor vehicle in the performance of duties such an employee shall be paid the following allowances:

	<b>A kilometre cents</b>	<b>A mile cents</b>
Motor cars -		
35 PMU and over	61.1	98.4
Under 35 PMU	50.3	81.0
Motor cycles -		
250 cc and over	29.4	47.4
Under 250 cc	22.1	35.6
Bicycles	7.4	-

Note: PMU means power mass units as stated in the certificate of registration for the vehicle.

## **PART 9 - ACCIDENT PAY, CLOTHING EQUIPMENT & TOOLS ALLOWANCE**

### **42. ACCIDENT PAY**

42.1 An employer shall pay and an employee shall be entitled to receive accident pay in accordance with this clause.

#### **42.2 Definitions**

For the purposes of this clause, the following definitions shall apply:

"Act" means the *Workers Compensation Act (Victoria) 1958* as amended from time to time, or in respect of an injury occurring on or after 4.00 p.m. on 1 September 1985, the *Accident Compensation Act (Victoria) 1985* as amended from time to time.

"Injury" means any physical or mental injury within the meaning of the Act, and no injury shall give rise to an entitlement to accident pay under this clause unless an entitlement exists under the Act.

"Accident pay" means:

#### **42.3 Total incapacity**

42.3.1 Where an employee is or is determined to be totally incapacitated within the meaning of the Act, the term "accident pay" means a weekly payment of an amount representing the difference between:

42.3.1(a) the total amount of compensation, including allowances, paid to the employee during the period of incapacity under the Act for the week; and

42.3.1(b) the total weekly award rate, as varied from time to time, and any over award payment being paid to the employee at the date of the injury and which would have been payable for the employee's classification for the week in question if they had been performing their normal duties; provided that:

- in making such calculation any payment for overtime earnings, shift premiums, penalty rates and any ancillary payment payable by the employer shall not be taken into account.

#### **42.4 Partial incapacity**

**42.4.1** Where an employee is partially incapacitated within the meaning of the Act, the term "accident pay" means a weekly payment of amount representing the difference between:

**42.4.1(a)** the total amount of compensation paid to the employee during the period of incapacity under the Act for the week together with the average weekly amount they are earning;

**42.4.1(b)** the total weekly award rate, as varied from time to time, and any weekly over award payment being paid to the employee at the date of the injury and which would have been payable for the employee's classification for the week in question if they had been performing their normal duties; provided that:

- in making such calculation any payment for overtime earnings, shift premiums, penalty rates and any other ancillary payment payable by the employer shall not be taken into account.

#### **42.5 Payment for part of a week**

Where an employee is incapacitated, either totally or partially, for part of a week, such an employee shall receive pro rata accident pay for that part of the week.

#### **42.6 Qualifications for payment**

Subject to the terms of this clause, an employee covered by this award shall, upon receiving payment of weekly compensation and continuing to receive such payment for incapacity under the Act, be paid accident pay by their employer who is liable to pay compensation under the Act, which liability may be discharged by another person on behalf of the employer, provided that:

**42.6.1** 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 42.6.3 and to the the maximum period of payment prescribed elsewhere herein, accident pay shall apply only to the period of incapacity after the first two weeks.

**42.6.2** Accident pay shall only be payable to an employee whilst that employee remains in the employment of the employer by whom they were employed at the time of the incapacity and then only for such period as they received a weekly payment under the Act. Provided that if an employee who is partially incapacitated cannot obtain suitable employment from their employer but such alternative employment is available with another employer then the relevant amount of accident pay shall still be payable.

Provided further that in the case of the termination by an employer of an employee who is incapacitated and receiving 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 the employer of the continuing payment of weekly payments of compensation.



**42.6.3** Subject to this clause, accident pay shall not apply in respect of any injury during the first five normal working days of incapacity.

**42.6.4** In relation to industrial diseases contracted by a gradual process or injury subject to recurrence, aggravation, or acceleration, 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.

**42.6.5** On engagement, an employee may be required to declare all workers compensation and/or accident claims made under the Act in the previous five years and in the event of defaults or inaccurate information being deliberately and knowingly declared the employer may require the employee to forfeit their entitlement to accident pay under this award.

#### **42.7 Maximum period of payment**

The maximum period or aggregate period of accident pay to be made by the employer shall be a total of 26 weeks for any one injury as defined in 42.2 hereof, provided that in respect of an employee receiving or entitled to receive accident pay on or after 1 January 1981, the maximum period or aggregate of periods shall be a total of 39 weeks for any one injury as defined.

#### **42.8 Absences on other than paid leave**

An employee shall not be entitled to the payment of accident pay in respect of any period of paid annual leave, or long service leave or for any paid public holiday in accordance with the the appropriate award provisions.

#### **42.9 Notice of injury**

Following an injury for which they claim to be entitled to receive accident pay, an employee shall give notice in writing of the injury to their employer as soon as reasonably practicable after the occurrence thereof, provided that such notice may be given by a representative of the employee.

#### **42.10 Medical examination**

**42.10.1** In order to receive an entitlement to accident pay an employee shall meet the requirements of the Act for attending medical examinations.

**42.10.2** Where, in accordance with the Act, a medical referee gives a certificate as to the condition of the employee and their fitness for work or specifies work for which the employee is fit and such work is made available by the employer, and is 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.

#### **42.11 Cessation or redemption of weekly payments**

Where there is a cessation or redemption of weekly compensation payments under the Act, the employers liability to pay accident pay shall cease as from the date of such cessation or redemption.

#### **42.12 Civil damages**

**42.12.1** An employee receiving or who has received accident pay shall advise their employer of any action they may institute or any claim they 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 judgement or settlement on that injury.

**42.12.2** Where an employee obtains a judgement or settlement for damages in respect of an injury for which they have received accident pay the employers liability to pay accident pay shall cease from the 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 the employer any amount of accident pay already received in respect of that injury by which the judgement or settlement has not been so reduced.

**42.12.3** 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 or she has received accident pay, the employers liability to pay accident pay shall cease from the 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 the employer any amount of accident pay already received in respect of that injury by which the judgement or settlement has not been so reduced.

#### **42.13 Insurance against liability**

Nothing in this award shall require an employer to insure against liability for accident pay.

#### **42.14 Variations in compensation rates**

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

#### **42.15 Death of an employee**

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

#### **42.16 Commencement**

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

### **43. CLOTHING EQUIPMENT AND TOOLS**

**43.1** Employees required by the employer to wear uniforms shall be supplied with an adequate number of such uniforms, overalls, caps, or aprons appropriate to the occupation free of cost to employees.

**43.1.1** Uniforms, overalls, caps or aprons shall remain the property of the employer and be laundered and maintained by such employer free of cost to the employee.

**43.1.1(a)** In lieu of the provision of such caps and uniforms as the employer may, by agreement with the employee, pay such employee a uniform allowance at the rate of \$1.23 cents per day or part thereof on duty or \$6.24 per week whichever is the lesser amount. Where such employee's uniforms are not laundered by or at the expense of the employer, the employee shall be paid a laundry allowance of 32 cents per day or part thereof on duty or \$1.49 per week whichever is the lesser amount.

**43.1.1(b)** The uniform allowance but not the laundry allowance shall be paid during all absences on leave, except absences on long service leave and absence on sick leave beyond 21 days. Where, prior to the taking of leave, an employee was paid a uniform allowance other than at the weekly rate, the rate to be paid during absence on leave shall be the average of the allowance paid during the four weeks immediately preceding the taking of leave.

**43.1.2** Where an employer requires an employee to wear rubber gloves or special clothing and/or where safety appliances are required for the work performed by an employee, the employer must reimburse the employee for the cost of purchasing such special clothing or safety equipment.

**43.1.3** The provisions of this clause do not apply where the special clothing or safety equipment is paid for by the employer.

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

**43.3** A tool allowance of \$10.25 per week for the supply and maintenance of tools shall be paid to chefs and cooks who are not provided with all necessary tools by the employer.

## **PART 10 - AWARD COMPLIANCE AND UNION RELATED MATTERS**

### **44. POSTING OF AWARD**

A copy of this award shall be available for the perusal of employees.

## **APPENDIX A - SKILL LEVEL AND CLASSIFICATION DEFINITIONS**

[Appx A varied by R0710 ppc 22Dec98; corrected by R3588 ppc 22Dec98]

### **1. SKILL LEVELS**

#### **LEVEL 1**

An employee at this level:

- Works within established routines, methods and procedures.
- Has minimal responsibility, accountability or discretion.
- Works under direct or routine supervision, either individually or in a team.
- No previous experience or training is required.

Indicative tasks performed at this level are:

#### **Technical, Clinical and Personal Care**

The operation of automatic photographic processing machines; the cleaning, washing and preparation of equipment and chemicals within a laboratory and the cleaning and washing of surgical equipment within a Central or Theatre Sterilising Unit. The feeding and basic care of animals within animal houses.

Direct assistance with Technical, Clinical and Personal Care duties under supervision and direction. A Recording Technician operating a ECG/EEG or similar recording equipment. The handling, transporting of client/patients and the preparation of beds. Communication and liaison with clients/patients and directly assisting social work/welfare workers. An Orthotic Technician involved in the manufacture and fitting of orthotic devices in his or her first year of employment as such.

CSSD Attendant  
Laboratory Assistant Grade 1

## **LEVEL 2**

An employee at this level:

- Works within established routines, methods and procedures.
- Has limited responsibility, accountability or discretion.
- May work under limited supervision, either individually or in a team.
- Possesses communication skills.
- Requires on-the-job training and/or specific skills training or experience.

Indicative tasks performed at this level are:

### **Technical, Clinical and Personal Care**

An unqualified Instrument Technician within a Central or Theatre Sterilising Unit involved in the packaging or sterilisation of medical instruments. Assistant to a Allied Health Assistant (Qualified), therapist or physiotherapist or similar. An Orthotic Technician involved in the manufacture and fitting of orthotic devices in his or her second year of employment as such.

Instrument Technician Grade 1

## **LEVEL 3**

An employee at this level:

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

Indicative tasks performed at this level are:

### **General Services**

Hospital Attendant work, including patrol functions; stores work by a storeperson working alone; driving small vehicles (1.25 tonnes or less) within and between establishments.

Storeperson employed alone  
Driver 1.25 tonnes or less

### **Technical, Clinical and Personal Care**

Skilled work within a laboratory, including the taking of blood samples. An Orthotic Technician involved in the manufacture and fitting of orthotic devices in his or her third year of employment as such. A person employed to provide personal care for aged or disabled persons in the (non public) extended care sector.

Laboratory Assistant Grade 2

## **LEVEL 4**

An employee at this level:

- Is capable of prioritising work within established routines, methods and procedures. (non admin/clerical)
- Is responsible for work performed with a medium level of accountability or discretion. (non admin/clerical)
- Works under limited supervision, either individually or in a team. (non admin/clerical)
- Possesses sound communication and/or arithmetic skills. (non admin/clerical)
- Requires specific on-the-job training and/or relevant skills training or experience. (non admin/clerical)
- An admin/clerical employee who undertakes a range of basic clerical functions within established routines, methods and procedures. No or limited experience and training are required.

Indicative tasks performed at this level are:

### **Technical, Clinical and Personal Care**

Work in all facets of a multi-sectional laboratory, including the taking of blood samples. An employee under general supervision who is involved in the setting up, cleaning of and maintenance of equipment in theatre and the positioning of patients in theatre.

Laboratory Assistant Grade 3

### **Admin/Clerical Services**

Filing, collating, sorting, basic copy typing (non computer), in-house courier work (non-vehicular). A person performing admin/clerical duties under the supervision and direction of a library technician or librarian.

General Clerk  
Typist

## **LEVEL 5**

An employee at this level:

- Is capable of prioritising work within established policies, guidelines and procedures.
- Is responsible for work performed with a medium level of accountability or discretion.
- Works under limited supervision, either individually or in a team.
- Possesses good communication, interpersonal and/or arithmetic skills.
- Requires specific on-the-job training, may require formal qualifications and/or relevant skills training or experience.

Indicative tasks performed at this level are:

### **General Services**

An employee performing dedicated security functions; an employee performing transport related functions, including drivers of intermediate sized vehicles (1.25 tonnes to 3 tonnes); ambulance drivers or assistants without first aid certificates or similar relevant training.

Security Officer Grade 1  
Driver 1.25 tonnes to 3 tonnes  
Other Motor Ambulance Driver or Assistant

## **LEVEL 6**

An employee at this level:

- Is capable of prioritising work and exercising discretion within established policies, guidelines and procedures.
- Is responsible for work performed with a medium level of accountability.
- Works under limited supervision, either individually or in a team.
- Requires a basic knowledge of medical terminology and/or a working knowledge of health insurance schemes. (admin/clerical)
- Possesses well developed communication, interpersonal and/or arithmetic skills.
- Requires substantial on-the-job training, may require formal qualifications and/or relevant skills training or experience.

Indicative tasks performed at this level are:

### **Technical, Clinical and Personal Care**

A Pathology Technician (not working solely as such) assisting the Pathologist, including the preparation of equipment and work involved in the post mortem of patients.

Pathology Technician Grade 1

### **Admin/Clerical Services**

Clerical work associated with the admission and discharge of clients/patients, scheduling of appointments, completion of pro-forma letters; updating statistics; answering telephones; visitor and patient's inquiries; production of receipts; cashiering; basic switchboard operation and the use of overhead paging systems; audio typing and stenography (non medical); calculation of time sheets and payments to staff.

Switchboard Operator  
Receptionist  
Ward Clerk  
In/Out Patient Clerk  
Stenographer (Other)  
Casualty Clerk  
Medical Records Clerk  
Audio Typist (Other)  
Business Machine Operator  
Patient Fees Clerk  
Pay Clerk

### **General Services**

An employee performing transport related functions, including drivers of non-articulated vehicles over 3 tonnes; ambulance drivers or assistants possessing first aid certificates or similar relevant training.

Driver over 3 tonnes

Motor Ambulance Driver or Assistant who is required to hold a St John First Aid Certificate.

## **LEVEL 7**

An employee at this level:

- Is capable of prioritising work and exercising discretion within established policies, guidelines and procedures.
- Is responsible for work performed with a substantial level of accountability.
- Works either individually or in a team.
- Requires a basic knowledge of medical terminology and/or a working knowledge of health insurance schemes. (admin/clerical)

May require regular computer related duties, where those duties are an essential part of the function of the position and where the level of skill involved is multi-function administrative or batch processing.

- Possesses well developed communication, interpersonal and/or arithmetic skills.
- Requires substantial on-the-job training, may require formal qualifications at trade or certificate level and/or relevant skills training or experience.

Indicative tasks performed at this level are:

### **Technical, Clinical and Personal Care**

A Pathology Collector Grade 1 engaged in collecting pathology specimens.

Pathology Collector Grade 1

### **Admin/Clerical**

An admin/clerical employee whose duties involve regular computer related duties of a multi-functional or batch processing nature. A person employed within a library who is undertaking studies to qualify as a library technician.

All classifications as per admin/clerical grades 1 & 2 (wage levels 4 & 6) with computer use.

Computer Clerk

### **General Services**

A storeperson who is required to regularly access computers in the course of his or her employment; a dedicated Security Officer required to regularly access computers in the course of her or his employment and/or has been provided with relevant training; an employee performing transport related functions, including drivers of articulated vehicles.

Maintenance/Handyperson (Trade)

Storeperson (Advanced)

Driver articulated 12-13 Tonnes

## Security Officer Grade 2

### **LEVEL 8**

An employee at this level:

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

Indicative tasks performed at this level are:

#### **Admin/Clerical Services**

A person undertaking medical audio-typing or stenography or secretarial functions. Provision of Interpreting services by an unqualified Interpreter or assisting a qualified Interpreter in the performance of his or her work.

Medical Audio Typist  
Secretary  
Medical Stenographer  
Interpreter (Unqualified)

### **LEVEL 9**

An employee at this level:

- Is capable of functioning with a high level of autonomy, and prioritising his or her own work within established policies, guidelines and procedures.
- Is responsible for work performed with a substantial level of accountability and responsibility.
- Works either individually or in a team.
- May require comprehensive computer knowledge or be required to use a computer on a regular basis.



- Possesses administrative skills and problem solving abilities.
- Possesses well developed communication, interpersonal and/or arithmetic skills
- May require formal qualifications at post-trade or Advanced Certificate or Associate Diploma level and/or relevant skills training or experience.

Indicative tasks performed at this level are:

#### **Technical, Clinical and Personal Care**

A Pathology Technician working solely as such, assisting the Pathologist and required at times to work independently, including the preparation of equipment and work involved in the post mortem of patients. A Pathology Collector engaged in collecting pathology specimens, with additional responsibilities, qualifications or experience.

Pathology Technician Grade 2

Pathology Collector Grade 2

#### **Admin/Clerical Services**

A computer clerk required as a normal consequence of his or her position to perform more complex computer related duties that are outside the normal operating parameters of a dedicated software system (e.g. accessing the operating system, configuring or installing programs) or required to perform more advanced, responsible or complex functions within a dedicated software system (e.g. basic system maintenance or administration, security back-ups etc.).

Computer Clerk (Advanced)

### **LEVEL 10**

An employee at this level:

- Is capable of functioning autonomously, and prioritising his or her own work within established policies, guidelines and procedures.
- Is responsible for work performed with a substantial level of accountability and responsibility.
- Works either individually or in a team.
- May require comprehensive computer knowledge or be required to use a computer on a regular basis.
- Possesses administrative skills and problem solving abilities.
- Possesses well developed communication, interpersonal and/or arithmetic skills
- Will most likely require formal qualifications at trade or Advanced Certificate or Associate Diploma level and/or relevant skills training or experience.

Indicative tasks performed at this level are:

### **LEVEL 11**

An employee at this level:

- Is capable of functioning autonomously, and prioritising his or her own work and the work of others within established policies, guidelines and procedures.
- Is responsible for work performed with a substantial level of accountability and responsibility.

May supervise the work of others, including work allocation, rostering and guidance.

- Works either individually or in a team.
- May require comprehensive computer knowledge or be required to use a computer on a regular basis.
- Possesses developed administrative skills and problem solving abilities.
- Possesses well developed communication, interpersonal and/or arithmetic skills
- May require formal qualifications at trade or Advanced Certificate or Associate Diploma level and/or relevant skills training or experience.

Indicative tasks performed at this level are:

#### **Admin/Clerical Services**

Provision of personal secretarial support; a qualified Interpreter with NAATI accreditation; supervision, work allocation and rostering and/or guidance of staff.

Private Secretary  
Clerical Supervisor

#### **Food Services**

A Cook or Chef with relevant qualifications; supervision, work allocation and rostering and/or guidance of staff.

Chef Grade A  
Food Services Supervisor

#### **Technical, Clinical and Personal Care**

Personal Care Worker Grade 4

Supervision, work allocation and rostering and/or guidance of staff.

Technical, Therapy and Personal Care Supervisor

## **2. CLASSIFICATION DEFINITIONS**

### **Laboratory Assistant Grade 1**

An employee whose prime duties and responsibilities do not require a technical knowledge in any specific area whose duties include cleaning, washing and preparation of equipment, chemicals and similar duties.

### **Laboratory Assistant Grade 2**

An employee who in addition to duties of a Grade 1 is capable of and required to undertake skilled work in a skilled area of a laboratory, which may include the taking of blood samples.

Where an employee's sole area of work is the taking of blood samples but not on a rotation basis through other areas of the laboratory Grade 2 shall apply.

### **Laboratory Assistant Grade 3**

An employee with technical skills capable of and required to work in all facets of a multi-sectional laboratory as necessary, including the taking of blood samples.

### **Pathology Collector in Training.**

Means a person who is a State Enrolled Nurse (or has obtained qualifications equivalent thereto) employed as a Pathology Collector in Training under the general supervision of a Registered General Nurse or equivalent and who is being trained and is receiving detailed instructions of the work to be performed and is acquiring skills in all aspects of specimen collection, containerisation, labelling, transporting and storage; patient/client identification and well-being; related clerical work; and/or requires supervision on the work to be performed. A Pathology Collector in Training is supervised at all times by a person qualified in all aspects of pathology collection.

A Pathology Collector in Training will remain on this classification for a period of up to three months whilst training is undertaken and will be paid a rate equivalent to 95 per cent of the appropriate rate for Pathology Collector Grade 1, plus appropriate experience payments.

### **Pathology Collector Grade 1**

Means a person who is a State Enrolled Nurse (or has obtained qualifications equivalent thereto) employed as a Pathology Collector under the general supervision of a Registered General Nurse or equivalent and is engaged in collecting pathology specimens and performing procedures in accordance with practice instructions; the care, storage and processing of all such pathology specimens; the timely dispatch of pathology specimens to the laboratory; the accurate recording of information relating to patients/clients and specimens in accordance with practice instructions; operating VDUs; attending to the well being of patients; liaising with referrers/referees; receiving payments of accounts.

### **Pathology Collector Grade 2**

Means a person who is a State Enrolled Nurse (or has obtained qualifications equivalent thereto) is employed to perform the duties of a Grade 1 Pathology Collector and who under the general supervision of a Registered General Nurse or equivalent, undertakes additional responsibility via the supervision of staff at a collection centre or who has additional qualifications or experience as recognised by the employer.

In relation to the definition of Pathology Collector in Training or Pathology Collector Grades one or two any dispute arising out of the meaning of equivalent qualifications will be determined by the Commission with reference to the views of the Health Industry Training Board.

All Pathology Collectors employed prior to 25 February 1992 who are not State Enrolled Nurses or do not hold equivalent qualifications will be classified as per Pathology Collector Grade 1.

### **Pathology Technician Grade 1**

Is a person who assists the Pathologist, including the preparation of equipment and work involved in the post mortem of patients.

### **Pathology Technician Grade 2**

Is a Pathology Technician working solely as such, assisting the Pathologist and required at times to work independently, including the preparation of equipment and work involved in the post mortem of patients.

## **Technical, Therapy and Personal Care Supervisor**

Is a person appointed as such performing work which involves the supervision of staff within the Technical, Clinical and Personal Care stream of this award, or the supervision of staff within a Technical, Therapy and Personal Care related department or section (but excluding Pathology Collectors).

Such a person would be responsible for administrative duties such as work allocation, training, rostering and guidance of fifteen or more staff and may assist in the recruitment of staff.

## **2.2 Clerical/Administrative Stream Definitions**

### **Clerical Supervisor**

Is a person appointed as such performing work which involves the supervision of staff within the Admin/Clerical Stream of this Award or the supervision of staff within an Administrative/Clerical Services related department or section. Such a person would be responsible for administrative duties such as work allocation, training, rostering and guidance of fifteen or more staff and may assist in the recruitment of staff.

### **Computer Clerk**

Means clerical employees in the following classifications where their employment involves regular computer related duties, where those duties are an essential part of the function of the position and where the level of skill involved is "multi-function administrative" or "batch processing": General Clerk, Typist, Switchboard Operator, Receptionist, Ward Clerk, Inpatients/Out-patients Clerk, Business Machine Operator, Patients' Fee Clerk, Stenographer (Other), Audio Typist (Other), Medical Records Clerk, Casualty Clerk and Pay Clerk.

### **Computer Clerk Advanced**

Means an employee required to perform more complex computer related duties that are outside the normal operating parameters of a dedicated software system (e.g. accessing the operating system, configuring or installing programs) or is required to perform advanced, responsible or complex functions within a dedicated software system (e.g. basic system maintenance or administration, security back-ups etc.)

### **Private Secretary**

Is a person who in addition to the possessing and using secretarial skills, (e.g. word processing, stenography, reception and typing) provides services at the senior management level including attending to organisational matters: diaries, meetings, agendas, taking of minutes, liaising with other departments or divisions and involvement with routine correspondence.

## **2.3 General Services Stream Definitions**

### **Security Officer Grade 1**

Means an employee performing a dedicated security function involving the security of patients, staff or the facilities.

### **Security Officer Grade 2**

An employee as per Security Officer Grade 1 who is required to regularly access computers in the course of his or her employment and/or has been provided with relevant training.

## SCHEDULE D

This Schedule is based on the Health Services Union of Australia (Health professional Services – Private Sector Victoria) Award 2004. Clauses that are explicitly redundant or no longer applicable have been removed. However original clause numbering has been maintained. The provisions within this Schedule apply to those Caregivers employed by the Employer as Medical Laboratory Technicians.

### 3. ANTI-DISCRIMINATION

**3.1** It is the intention of the respondents to this award to achieve the principal object in s.3(j) of the *Workplace Relations Act 1996* 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.

**3.2** Accordingly, in fulfilling their obligations under the dispute avoidance and settling clause, the respondents must make every endeavour to ensure that neither the award provisions nor their operation are directly or indirectly discriminatory in their effects.

**3.3** Nothing in this clause is taken to affect:

**3.3.1** any different treatment (or treatment having different effects) which is specifically exempted under the Commonwealth anti-discrimination legislation;

**3.3.2** junior rates of pay;

**3.3.3** 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;

**3.3.4** the exemptions in s.170CK(3) and (4) of the Act.

### 4. DEFINITIONS

**4.5** **Experience** means experience at any such work in any workplace subject to this award within the last five years, excluding any leave provisions in this award.

### 6. INCIDENCE OF AWARD

#### 6.3 Transmission of business

**6.3.1** Where a business is before or after the date of this award, transmitted from an employer (in this clause called **the transmittor**) to another employer (in this clause called **the transmitttee**) and an employee who at the time of such transmission was an employee of the transmittor in that business becomes an employee of the transmitttee:

**6.3.1(a)** the continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission; and

**6.3.1(b)** the period of employment which the employee has had with the transmittor or any prior transmittor shall be deemed to be service of the employee with the transmitttee.

**6.3.2** In this clause **business** includes trade, process, business or occupation and includes any part of any such business and **transmission** includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and **transmitted** has a corresponding meaning.

## **PART 3 - DISPUTE RESOLUTION**

### **10. DISPUTES AVOIDANCE/SETTLEMENT PROCEDURE**

#### **10.1 Grievance procedure**

An employee will have the right for a grievance to be heard through all levels of line management.

**10.1.1** In the first instance the employee shall attempt to resolve the grievance with the employee's immediate supervisor. The local union or other representative shall be present if desired by either party.

**10.1.2** If the employee still feels aggrieved, then the matter shall be referred to the employee's department head. The local union or other representative shall be present if desired by either party.

**10.1.3** If the grievance is still unresolved then the matter will be referred to senior management and the senior union or other representative.

**10.1.4** If the grievance is still unresolved then the senior union representative or other representative shall be advised and will be represented at the request of either party. At this stage the appropriate employer representative body should be advised and shall be present at the request of either party.

**10.1.5** It is agreed that steps 10.1.1 to 10.1.4 shall take place within seven days.

**10.1.6** If the grievance still exists the matter will be referred to the Commission for conciliation and, if necessary, arbitration.

**10.1.7** 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 clause. The employer will formulate policies and practices in accordance with these procedures, which shall be circulated to all employees throughout each institution.

**10.2** All new employees shall be handed a copy of these procedures on commencement of employment.

## **PART 4 - EMPLOYER AND EMPLOYEES' DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED ARRANGEMENTS**

### **11. NOTIFICATION OF CLASSIFICATION**

**11.1** Each employer shall notify each employee in writing on commencement of their classification and terms of employment.

**11.2** Each employer shall notify each employee of any alteration to their classification in writing no later than the operative day of such alteration.

### **12. TYPES OF EMPLOYMENT**

**12.1** Employees under this award may be employed in any one of the following categories:

- full-time employees;
- regular part-time employees;

- fixed term or temporary employees;
- casual employees; or
- employees with limited tenure.

**12.2** 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, fixed term or temporary employees, casual employees or employees with limited tenure.

### **13. FULL-TIME EMPLOYMENT**

Except as provided in clause 25 - Hours of work, an employee ready, willing and available to work the full number of hours as required by the employer, shall be paid the full weekly wage as prescribed by this award, irrespective of the number of hours worked not exceeding 38.

### **14. REGULAR PART-TIME EMPLOYMENT**

**14.1** An employer may employ regular part-time employees in any classification in this award.

**14.2** A regular part-time employee is a person who:

- 14.2.1** works less than full-time hours of 38 per week (or less than 76 hours in a fortnight); and
- 14.2.2** has reasonably predictable hours of work; and
- 14.2.3** receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.

**14.3** At the time of engagement, the employer and the regular part-time employee will agree in writing on the following matters:

- 14.3.1** regular pattern of work, specifying at least the hours worked each day;
- 14.3.2** which days of the week the employee will work; and
- 14.3.3** the actual starting and finishing times each day.

**14.4** Any agreed variation to the regular pattern of work will be recorded in writing.

**14.5** Regular part-time employees shall be paid either:

- 14.5.1** At an hourly rate equal to 1/38th of the weekly wage appropriate to the employee's classification. Employees employed under this clause shall accrue paid leave entitlements on a pro rata basis; or
- 14.5.2** At an hourly rate equal to 1/38th of the appropriate weekly rate plus 25% of such hourly rate for work performed during weekdays and 75% of such hourly rate for work performed on weekends and public holidays. Employees employed under this clause shall not be entitled to any benefits prescribed in clause 34 - Annual leave, clause 35 - Personal/carer's leave, and clause 38 - Public holidays.
- 14.5.3** The conditions of part-time work shall be agreed upon between the employer and the employee and shall be confirmed in writing between the two parties.

### **15. FIXED TERM OR TEMPORARY EMPLOYEES**

**15.1** Provided an agreement is reached in writing, an employer may employ an employee either:

**15.1.1** as a fixed-term employee who is employed for a specific period or, in the case of an employee replacing a person on parental leave, for a specified purpose, not exceeding twelve months; or

**15.1.2** as a temporary employee who is employed on hours which may or may not be fixed for a period not exceeding three months.

**15.2** If the period of engagement exceeds that provided for in this clause or the employee engaged pursuant to this clause is re-engaged within five weeks (in addition to the total period of accrued annual leave paid on termination), the employee shall be deemed to have been originally employed under clause 13 - Full-time employment, or clause 14 - Regular part-time employment.

**15.3** Employees engaged as either fixed term employees or temporary employees pursuant to this clause shall receive the rates of pay and conditions provided for under clause 14 - Regular part-time employment, regardless of the number of hours worked, with the exception of the period of notice which for employees engaged as temporary employees under this clause, shall be one week.

## **16. CASUAL EMPLOYEES**

**16.1** A casual employee is one who is engaged in relieving work or work of a casual nature and whose engagement is terminable by an 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 under clauses 13 - Full-time employment, 14 - Regular part-time employment or 15 - Fixed term or temporary employees.

**16.2** A casual employee shall be paid for all work done on weekdays an amount equal to 1/38th of the weekly wage appropriate to the employee's classification per hour plus 25% and for all work done on Saturday, Sundays and public holidays an amount equal to 1/38th of the weekly wage appropriate to the employee's classification per hour plus 75%.

**16.3** In addition a casual employee shall be entitled to receive the appropriate uniform and other allowances contained in this award.

**16.4** The provisions of clause 18 – Termination of employment, clause 34 – Annual leave, clause 35 – Personal Leave (except in so far as it expressly applies to casual employees), and clause 37 – Long service leave, shall not apply in the case of a casual employee.

## **17. LIMITED TENURE EMPLOYMENT**

**17.1** By written agreement with an employee, a copy of which shall be provided to the Secretary of the HSUA, an employer may employ a new graduate from any of the professions covered by this award (except that of Medical Imaging Technology, Nuclear Medicine Technology, Radiation Therapy Technology) for a period of twelve months.

**17.2** At the end of the twelve months, the employment will be terminated unless the employee successfully applies for a new position with the employer in which case they will no longer be employed pursuant to this clause. A new graduate is deemed to be a person who has successfully completed their academic studies in the twelve months prior to commencing limited tenure employment. All other conditions of this award shall apply.

## **18. TERMINATION OF EMPLOYMENT**

**18.1** In the event of termination of employment, four weeks written notice shall be given by the employee or the employer, or four weeks wages paid or forfeited as the case may be.



**18.2** The period of notice of termination to be given by an employer shall increase by one week if the employee is over 45 years of age and has completed at least two years of continuous service with the employer.

**18.3** The period of notice in this clause does not apply:

**18.3(a)** in the case of dismissal for serious misconduct;

**18.3(b)** to apprentices;

**18.3(c)** to employees engaged for a specific period of time or for a specific task or tasks;

**18.3(d)** to trainees whose employment under a traineeship agreement or an approved traineeship is for a specified period or is, for any other reason, limited to the duration of the agreement; or

**18.3(e)** to casual employees.

**18.4.1** Payment in lieu of the notice will be made if the appropriate notice period is not required to be worked. Employment may be terminated by the employee working part of the required period of notice and by the employer making payment for the remainder of the period of notice.

**18.4.2** The required amount of payment in lieu of notice must equal or exceed the total of all amounts that, if the employee's employment had continued until the end of the required period of notice, the employer would have become liable to pay to the employee because of the employment continuing during that period. That total must be calculated on the basis of:

**18.4.2(a)** the employee's ordinary hours of work (even if not standard hours); and

**18.4.2(b)** the amounts ordinarily payable to the employee in respect of those hours, including (for example) allowances, loading and penalties; and

**18.4.2(c)** any other amounts payable under the employee's contract of employment.

**18.5** Where the system of work provides for the taking of accrued days off (ADO) and an employee's employment is terminated:

**18.5.1** if one or more ADOs have been granted in advance, or an ADO has been taken during the work cycle in which the employee is terminated, the wages due to that employee shall be reduced by the total of ADOs taken in advance, and/or the total unaccrued portion of the ADO granted in that work cycle as the case may be;

**18.5.2** if an employee has not worked a complete twenty-day four-week or five-week cycle, he or she shall receive pro rata accrued entitlements for each day worked or regarded as having been worked (i.e. paid leave) in such cycle payable for the accrued day off.

**18.6** If an employee fails to give the notice specified in 18.1 and 18.2 then the employer has the right to withhold monies due to the employee to a maximum amount equal to the amount the employee would have received under 18.4.2.

**18.7 Job search entitlement**

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.

## **19. REDUNDANCY**

### **19.1 Definition**

**19.1.1 Business** includes trade, process, business or occupation and includes part of any such business.

**19.1.2 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.

**19.1.4 Transmission** includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and **transmitted** has a corresponding meaning.

**19.1.5 Week's pay** means the ordinary time rate of pay for the employee concerned. Provided that such rate shall exclude:

- overtime;
- penalty rates;
- disability allowances;
- shift allowances;
- special rates;
- fares and travelling time allowances;
- bonuses; and
- any other ancillary payments of a like nature.

### **19.2 Transfer to lower paid duties**

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 and amount equal to the difference between the former ordinary rate of pay and the new ordinary rate for the numbers of weeks notice still owing.

### **19.6 Job search entitlement**

**19.6.1** During the period of notice of termination given by the employer in accordance with 18.1, 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.

**19.6.2** 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.

**19.6.3** The job search entitlements under this subclause apply in lieu of the provisions of 18.7

### **9.7 Employees exempted**

The provisions of this clause do not apply to:

- employees terminated as a consequence of serious misconduct that justifies dismissal without notice;

- probationary employees;
- apprentices;
- trainees;
- employees engaged for a specific period of time or for a specified task or tasks; or
- casual employees.

## 19.8 Transmission of business

**19.8.1** The provisions of this clause are not applicable where a business is before or after the date of this award, transmitted from an employer (in this subclause called the **transmittor**) to another employer (in this subclause called the **transmittee**), in any of the following circumstances:

**19.8.1(a)** Where the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmittor and any prior transmittor to be continuous service of the employee with the transmittee; or

**19.8.1(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 transmittor; and
- which recognises the period of continuous service which the employee had with the transmittor and any prior transmittor to be continuous service of the employee with the transmittee.

**19.8.2** The Commission may vary 19.8.1(b) if it is satisfied that this provision would operate unfairly in a particular case.

## 19.9 Incapacity to pay

The Commission may vary the severance pay prescription on the basis of an employer's incapacity to pay. An application for variation may be made by an employer or a group of employers.

## 19.10 Redundancy disputes

**19.10(a)** Paragraphs 19.10(b) and 19.10(c) impose additional obligations on an employer where an employer contemplates termination of employment due to redundancy and a dispute arises (a **redundancy dispute**). These additional obligations do not apply to employers who employ fewer than 15 employees.

**19.10(b)** Where a redundancy dispute arises, and if it has not already done so, an employer must provide affected employees and the relevant union or unions (if requested by any affected employee) in good time, with relevant information including:

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

**19.10(c)** 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.

**PART 5 - WAGES AND RELATED MATTERS**

**20. WAGE RATES**

**20.3 UG3 classification - Medical Laboratory Technician**

**20.3.1 Trainees**

<b>Year of course</b>	<b>Percentage of rate for the classification Qualified Medical Laboratory Technician 3rd year of experience after qualification</b>	<b>Rates per week – payable from the first pay period on or after 23 February 2006</b>	<b>Rates per week – payable from the first pay period on or after 23 August 2006</b>
	<b>%</b>	<b>\$</b>	<b>\$</b>
1st year	50	310.10	309.60
2nd year	60	361.32	371.52
3rd year	75	451.65	464.40
Thereafter	90	541.98	557.28

Provided that an adult trainee shall receive not less than 80% of the rate prescribed for the classification Medical Laboratory Technician Grade 1, 3rd year of experience after qualification.

**20.3.2 Grade 1 (i.e. qualified rate)**

	<b>Rates per week – payable from the first pay period on or after 23 February 2006</b>	<b>Rates per week – payable from the first pay period on or after 23 August 2006</b>
	<b>\$</b>	<b>\$</b>
1st year of experience after qualification	556.70	573.70
2nd year of experience after qualification	580.50	597.50
3rd year of experience after qualification	602.20	619.20
4th year of experience after qualification	617.80	634.80
5th year of experience after qualification	635.40	652.40
6th year of experience after qualification	653.10	670.10
7th year of experience after qualification	670.70	687.70
8th year of experience after qualification	688.30	705.30

Provided that an employee who holds an Associate Diploma of Applied Science shall be entitled to be classified as a Medical Laboratory Technician Grade 1, 3rd year of experience after qualification.

**20.3.3 Grade 2**

	<b>Rates per week – payable from the first pay period on or after 23 February 2006</b>	<b>Rates per week – payable from the first pay period on or after 23 August 2006</b>
	<b>\$</b>	<b>\$</b>
1st year of experience after qualification	688.30	705.30
2nd year of experience after qualification	711.70	728.70
3rd year of experience after qualification	735.10	752.10
4th year of experience after qualification	757.40	774.40

## **20.6 Progression through pay points**

Progression for all classifications 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 the employees practice setting(s) over such period.

## **20.7 Notes**

**20.7.1** An employee appointed to a higher grade shall be paid at the rate within that grade immediately above their previous rate of pay.

**20.7.2** For the purposes of classifying all Chief and Deputy Chief positions it will be necessary to divide the number of hours worked by relevant professionals (including interns) or total staff as the case may be, in that department by 38 with any fraction being taken to the next whole number.

## **20.8.3UG3 Definitions**

### **20.8.3(a) Medical laboratory technology**

#### **20.8.3(a)(i) Qualified Medical Laboratory Technician**

A person employed as such who holds a Certificate or Associate Diploma of Applied Science (Medical Laboratory) or equivalent as recognised by the employer.

#### **20.8.3(a)(ii) Medical Laboratory Technician Trainee**

An employee engaged in studies leading to the above qualification.

#### **20.8.3(a)(iii) Medical Laboratory Technician Grade 2**

A Medical Laboratory Technician appointed to the Grade with additional responsibilities e.g.:

- Employed on work which in the opinion of the employer requires special knowledge or depth of experience; or
- Has a teaching role.

## **21. HIGHER DUTIES**

An employee who is authorised to assume the duties of another employee on a higher classification under this award for a period of five or more consecutive working days shall be paid for the period for which he or she assumed such duties at not less than the minimum rate prescribed for the classification applying to the employee so relieved.

## **22. PAYMENT OF WAGES**

Wages shall be paid not later than Thursday following the end of the pay period. On or prior to the payday the employer shall state to each employee in writing the amount of wages to which he or she is entitled, the amount of deductions there from, and the net amount being paid to him or her.

## **23. DEDUCTIONS AND ALLOWANCES**

### **23.1 Board and lodging**

Where the employer provides board and lodging and same is utilized by the employee, the wage rates prescribed in this award shall be reduced by the following amounts per week:

	\$
Trainees and juniors	11.62
Others	26.32
Self-contained furnished accommodation	40.35

and, except where the employee buys his or her meals at ruling cafeteria rates, by an additional amount of \$17.43.

### 23.2 Meal allowance

An employee shall either be supplied with a meal or be paid an allowance of \$10.22, which is payable on and from the first pay period on or after 1 December 2006.

- 23.2.1 When overtime in excess of one hour is worked after the usual time of ceasing work for the day; or
- 23.2.2 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 hospital meal time.

### 23.3 Telephone allowance

Where the employer requires an employee to install and or maintain a telephone for the purposes of being on call the employer shall reimburse the installation costs and the subsequent six monthly rental charges on production of receipted accounts.

## 24. OCCUPATIONAL SUPERANNUATION

Note: The *Superannuation Legislation Amendment (Choice of Superannuation Funds) Act 2005* provides that individual employees generally have the opportunity to choose their own superannuation funds. For further information see the AIRC guidance note — [Choice of Superannuation Funds and Award Provisions](#).

### 24.1 Superannuation legislation

- 24.1.1 The subject of superannuation is dealt with extensively by legislation including the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993* and the *Superannuation (Resolution of Complaints) Act 1993*. This legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.
- 24.1.2 Notwithstanding 24.1.1, the following provisions shall also apply.

### 24.2 Definitions

24.2.1 **The fund** for the purpose of this clause shall mean the:

- 24.2.1(a) Health Employees Superannuation Trust of Australia established and governed by a trust deed dated 30 July 1987, as may be amended from time to time, and includes any superannuation scheme which may be made in succession thereto; or
- 24.2.1(b) Subject to the agreement of the union and its members, an employer sponsored fund which complies with the *Superannuation Industry (Supervision) Act 1993* as amended from time to time.

**24.2.2 Ordinary time earnings** for the purposes of this clause, all references to ordinary time earnings shall mean and include:

- 24.2.2(a) Remuneration for a worker's weekly number of hours of work calculated at the ordinary time rate of pay;
- 24.2.2(b) The cash value of any deduction for board and lodging;
- 24.2.2(c) Overaward payments for ordinary hours of work.
- 24.2.2(d) Shift work premiums;
- 24.2.2(e) Saturday and Sunday premiums, where they are part of regular work;
- 24.2.2(f) Supplementary payment;
- 24.2.2(g) Service grant;
- 24.2.2(h) Tool allowance (where it is paid as part of regular work).

**24.3 Employers to become a party to the Fund**

**24.3.1** A respondent employer shall make application to the Fund to become a participating employer in the Fund and shall become a participating employer upon acceptance by the Trustee of the Fund.

**24.3.2** A respondent employer shall provide each employee who is not a member of the Fund with a membership application form upon commencement of this clause and thereafter upon commencement of employment.

**24.3.3** Each employee shall be required to complete the membership application and the employer shall forward the completed application to the Fund by the end of the calendar month of commencement of this clause or commencement of employment.

**24.4 Eligibility of employees**

**24.4.1** Each employee shall be eligible to join the Fund upon commencement of employment.

**24.4.2** Each employee shall be eligible to receive contributions from the date of eligibility, notwithstanding the date the membership application prescribed in 24.3.3 was forwarded to the Fund.

**24.5 Employer contributions on behalf of each employee**

**24.5.1** A respondent employer shall contribute to the Fund such contributions as required to comply with the *Superannuation Guarantee (Administration) Act 1992* and *Superannuation Guarantee Charge Act 1992* as amended from time to time.

**24.5.2** In accordance with the requirements of the relevant Acts, as mentioned, a respondent employer shall not be required to pay superannuation contributions in respect of employees who earn less than \$450.00 in a calendar month or upon reaching the age of 65.

**24.5.3** The amount of contributions to the Fund shall be calculated to the nearest ten cents, any fraction below five cents shall be disregarded.

**24.5.4** Such contributions shall be made monthly by the last day of the month following, the total of the weekly contribution amounts accruing in the previous month in respect of each employee.

**24.5.5** The Fund and the amount of contributions paid in accordance with this clause and 24.8 shall be included in pay advice notices provided by employers to each employee.

**24.5.6** Contributions shall continue to be paid in accordance with this clause during any period in respect of which any employee is entitled to receive accident pay in accordance with clause 43 - Accident pay.

#### **24.6 Unpaid absences**

Except as specified in the Rules of the Fund, contributions by respondent employers in respect of unpaid absences will be proportionate to the wage received by the employee concerned in a particular pay period. For the purposes of this clause, each pay period will stand alone. Accordingly, unpaid absences in one pay period will not carry over to another pay period.

#### **24.7 Cessation of contributions**

A respondent employer's obligation to make contributions on behalf of the employee ceases on the last day of employment of the employee with the employer.

#### **24.8 Employee contributions**

**24.8.1** An employee may make contributions to the Fund in addition to those made by the respondent employer under 24.5.

**24.8.2** An employee who wishes to make additional contributions must authorise the respondent employer in writing to pay into the Fund, from the employee's wages, amounts specified by the employee in accordance with the Fund Trust Deed and Rules.

**24.8.3** An employer, who receives written authorisation from an employee, must commence making payments into the Fund on behalf of the employee within fourteen days of receiving the authorisation.

**24.8.4** An employee may vary his or her additional contributions by a written authorisation and the employer must alter the additional contributions within fourteen days of receiving the authorisation. An employee may only vary his or her additional contributions once each month.

**24.8.5** Additional employee contributions to the Fund requested under this clause shall be expressed in whole dollars.

#### **24.9 Exemptions**

**24.9.1** This clause shall not apply to any employer who contributes to the Hospitals' Superannuation Board Fund in respect of their employees.

**24.9.2** A respondent employer may make application for exemption from 24.5 in respect of contributions to the Fund for employees who are not members of the union.

**24.9.3** Applications for exemption shall be determined in accordance with the Superannuation Test Case [Print R7700] or any decision made in succession thereto.

**24.9.4** It is recorded that the scheme specified in the first column hereunder is a scheme to which this clause applies and that the agreement of the union and its members has effect on or after the date correspondingly set out in the second column hereunder:



**Name of Scheme**

**Date of effect of union agreement**

**PART 6 - HOURS OF WORK, BREAKS, OVERTIME, SHIFT WORK AND WEEKEND WORK**

**25. HOURS OF WORK**

**25.1** The hours for an ordinary weeks' work shall be 38, or an average of 38 per week in a two or four week period, or by mutual agreement in a five week period in the case of an employee working ten hour shifts, and shall be worked either:

**25.1.1** Subject to practicability, in 152 hours per four week period, to be worked as nineteen shifts each of eight hours; or

**25.1.2** By mutual agreement:

**25.1.2(a)** in four days in shifts of not more than ten hours each; or

**25.1.2(b)** otherwise, provided that the length of any ordinary shift shall not exceed ten hours.

**25.1.3** 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 one of such weeks.

**25.2 Averaging**

**25.2.1** For all purposes the hourly rate is deemed to be the weekly rate prescribed by clause 20 - Wage rates, divided by 38, provided that where the averaging system is used by full-time employees, an employee's ordinary wage for ordinary hours is deemed to be the weekly rate prescribed in clause 20 - Wage rates, and shall be paid each week even though more or less than 38 ordinary hours are worked in that week

**25.2.1(a)** An employee shall accrue a credit for each day in which he or she works ordinary hours in excess of the daily average of 7 hours 36 minutes. The credit is carried forward so that in each cycle an "accrued day off" is paid.

**25.2.2** All paid leave accrues the credit in 25.2.1.

**25.2.3** A paid leave day shall be identical to a worked day.

**25.2.4** The deduction from leave credits shall be the same as the actual ordinary hours which would have been worked on that day.

**25.2.5** An employee who is absent from ordinary duty on unpaid leave shall accrue the appropriate credit without pay for the accrued day off.

**26. MEAL INTERVAL**

**26.1** A meal interval of not more than 60 minutes shall be allowed during each rostered period of duty (Monday to Friday inclusive) to employees other than those working shift duty which shall not be counted as time worked.

**26.2** A meal interval of not more than 30 minutes per shift shall be allowed whenever possible for employees rostered for shift duty and shall be counted as time worked whether or not the meal interval is taken.

**27. REST PERIOD**

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

## **28. DUTY ROSTER**

A roster setting 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 within the provisions of this award shall be kept posted in some readily accessible section of the building for viewing by persons employed there and subject to this award. The roster shall be posted at least three days prior to becoming effective. It shall only be altered on account of sickness or other pressing emergency.

## **29. OVERTIME**

**29.1** An employer may require an employee to work reasonable overtime and such employee shall work overtime in accordance with such requirement.

**29.2** An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable, having regard to:

**29.2.1** any risk to employee health and safety;

**29.2.2** the employees personal circumstance;

**29.2.3** the needs of the workplace or enterprise;

**29.2.4** the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and

**29.2.5** any other reasonable matter.

**29.3** Only overtime authorised by the employer shall be paid for and the following rates of overtime shall apply:

**29.3.1** In excess of ordinary hours of work on any one day - time and a half for the first two hours and double time thereafter.

**29.3.2** Outside a spread of twelve hours from the commencement of the rostered period of duty - double time.

**29.3.3** Outside a spread of ten hours from the commencement of work by an employee rostered to work broken shifts - time and a half; and outside a spread of twelve hours - double time.

**29.3.4** 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 returning to the place from which he or she was recalled with a minimum of two hours payment for each recall, at the following rates:

**29.3.4(a)** Within a spread of twelve hours from the commencement of the last previous period of ordinary duty - time and half.

**29.3.4(b)** Outside a spread of twelve hours from the commencement of the last period of ordinary duty - double time.

**29.3.4(c)** By mutual agreement with the employer an employee shall be allowed to take time off in lieu of overtime.

- 29.4** Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of time off in lieu of overtime provided that:
- 29.4.1** An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer.
  - 29.4.2** Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is, an hour for each hour worked.
  - 29.4.3** An employer shall, if requested by an employee, provide payment at the rate provided for the payment of overtime as prescribed in 29.3, for any overtime worked under this clause where such time has not been taken within four weeks of accrual.
  - 29.4.4** Clause 29.4 is subject to the employer informing the union of its intention to introduce an enterprise system of time off in lieu of overtime flexibility, and providing a reasonable opportunity for the union to participate in negotiations.
  - 29.4.5** Once a decision has been taken to introduce an enterprise system of time off in lieu, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to regulations 131A-131R of the *Workplace Relations Regulations*.
  - 29.4.6** An employer shall record time off in lieu arrangements in the time and wages book.
- 29.5** Notwithstanding anything contained in Clause 42 -Trainee Supervision any trainee may, due to medical emergency, be required to work reasonable overtime or shift duty at the discretion of the employer. Such overtime or shift duty shall be subject to the rates and/or allowances provided for elsewhere in this award.

### **30. ON CALL/RE-CALL ALLOWANCE**

- 30.1** An on call allowance of 2-1/2% of the rate for UG1 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.
- 30.2** The allowance shall be 5% of the rate for UG1 Grade 1 year 2 in respect to any other 24 hour period or part thereof or any public holiday or part thereof.
- 30.3** When re-call work is necessary it should be so arranged that employees have at least eight consecutive hours off duty between midnight and the commencement of the next period of ordinary duty.
- 30.4** An employee who works so much re-call between midnight and the commencement of his or her next succeeding rostered period of duty that they would not have at least eight consecutive hours off duty between those times shall, subject to this clause, be released after completion of such re-call worked until he or she has had eight consecutive hours off duty without loss of pay for rostered ordinary hours occurring during such absence.
- 30.5** If on the instructions of his or her employer, such an employee resumes or continues work without having had such eight consecutive hours off duty he or she shall be paid at the rate of double time until he or she is released from duty for such rest period and he or she shall then be entitled to be absent until he or she has had eight consecutive hours off duty without loss of pay for rostered ordinary hours occurring during such absence. If an employee resumes work of his or her own volition overtime will be computed in terms of clause 29 - Overtime. An employee who resumes work voluntarily shall be entitled without loss of pay to attend to ablution and sustenance matters.

### 31. SHIFT WORK ALLOWANCE

- 31.1 In addition to any other rates prescribed elsewhere in this award an employee whose rostered hours of ordinary duty finish between 6.00 p.m. and 8.00 a.m. or commence between 6.00 p.m. and 6.30 a.m. shall be paid an amount equal to 2-1/2% of the rate applicable to first year of experience after qualifications for that employee per rostered period of duty.
- 31.2 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. he or she shall be paid for any such period of duty an amount equal to 4% of the rate applicable to the first year of experience for that employee, and provided further that in the case of an employee permanently working on any such rostered hours of ordinary duty he or she shall be paid for any such period of duty an amount equal to 5% of the rate applicable to the first year of experience for that employee. **Permanently working** shall mean working for any period in excess of four consecutive weeks.
- 31.3 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 four hours or more from that the first, he or she shall be paid an amount equal to 4% of the rate applicable to the first year of experience for that employee on the occasion of each such change in addition to any amount payable under the preceding provisions of this clause.
- 31.4 The allowances payable pursuant to this clause shall be calculated to the nearest five cents, portions of a cent being disregarded.

### 32. SPECIAL RATES FOR SATURDAYS AND SUNDAYS

- 32.1 All rostered time of ordinary duty performed on Saturday or Sunday shall be paid for at the rate of time and a half.
- 32.2 Where Saturday or Sunday duties are required to be carried out in excess of the week's work such duties are to be paid at the rate of double time.
- 32.3 Any re-call to duty on a Saturday or Sunday shall be paid in accordance with clauses 29 - Overtime or 30 - On call/re-call allowance, as applicable.
- 32.4 By mutual agreement with the employer an employee shall be allowed to take time off in lieu of overtime.

### 33. SUMMER TIME

- 33.1 Notwithstanding anything contained elsewhere in this award, where by reason of legislation summer time is prescribed as being in advance of the standard time, the length of any shift:
- 33.1.1 commencing before the time prescribed pursuant to the relevant legislation for the commencement of a summer time period; and
- 33.1.2 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.
- 33.2 In this clause the expressions **standard time** and **summer time** shall bear the same meanings as are prescribed by legislation, and **legislation** shall mean the *Summer Time Act 1972* as amended or as substituted.

## **PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS**

### **34. ANNUAL LEAVE**

#### **34.1 Period of leave**

An employee who has been in the service of the same employer for a period of not less than twelve months shall be entitled to 152 hours leave on ordinary pay.

#### **34.2 Annual leave exclusive of public holidays**

The annual leave prescribed in 34.1 shall be exclusive of any of the holidays prescribed by clause 38 - 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 day had not been a holiday.

#### **34.3 Leave to be taken**

The annual leave provided for by this clause shall be allowed and shall be taken and except as provided by 34.7, payment shall not be made or accepted in lieu of annual leave.

#### **34.4 Time of taking leave**

**34.4.1** 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.

**34.4.2** To assist employees in balancing their work and family responsibilities, an employee may elect, with the consent of the employer, to:

**34.4.2(a)** take annual leave in separate period, including up to 10 single days; and

**34.4.2(b)** accrue and carry forward any amount of annual leave for up to two years from the date of entitlement.

#### **34.5 Leave allowed before due date**

**34.5.1** An employer may allow annual leave to an employee before the right thereto has accrued due, but where leave is taken in such a 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.

**34.5.2** Where leave has been granted to an employee pursuant to this clause before the right thereto has accrued due, 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 34.7, the employer shall not be liable to make any payment to the employee under 34.7 and shall be entitled to deduct the amount of such excess from any remuneration payable to the employee upon termination of the employment.

#### **34.6 Payment for period of leave**

Each employee before going on leave shall be paid for the period of such leave provided the period is not less than one week.

### **34.7 Proportionate leave**

- 34.7.1** Where the employment of any employee is terminated at the end of a period of employment of less than twelve months the employer shall forthwith pay to the employee, in addition to all other amounts due to him, and an amount equal to 4/48ths of his or her ordinary pay for that period thereafter.
- 34.7.2** Payment for pro rata leave for a part-time employee on termination shall be based on the average number of ordinary hours per week over the period for which a payment is due.
- 34.7.3** A weekend worker whose employment with an employer is terminated at the end of a period of employment which is less than one year computed from the date of commencement of the employment, or the date upon which the employee last becomes entitled to annual leave from that employer, shall be paid in addition to any other amounts due to him or her, an amount equal to 1/48th of his or her ordinary pay in respect of that period of employment.

### **34.8 Weekend worker**

- 34.8.1** For the purposes of this award **weekend worker** shall mean any employee who in any one year of employment works a portion of his or her ordinary hours on a weekend.
- 34.8.2** A weekend worker who works on ten or more weekends during the yearly period in respect of which his or her leave accrues shall be allowed one week's leave additional to the leave hereinbefore prescribed.
- 34.8.3** Clauses 34.8.1 and 34.8.2 shall not apply to any weekend on which the employee works four hours or less.

### **34.9 Annual leave loading**

An employee entitled to annual leave (including proportionate leave) shall be paid an annual leave loading of 17-1/2% of the ordinary weekly rate of pay for the classification at which the employee is employed at the commencement of their annual leave, up to a maximum annual base salary of \$58,692.40, on or from the first pay period on or after 23 February 2006, and \$60,687.94, on or after the first pay period from 23 August 2006.

### **34.10 Sickness during annual leave**

Where an employee becomes sick whilst on annual leave for a period of not less than five days on which he or she would otherwise have worked, and immediately forwards to the employer a certificate of a legally qualified medical practitioner, then the number of days not less than five specified in this certificate shall be deducted from any sick leave entitlement standing to the employee's credit, and shall be re-credited to his or her annual leave entitlement.

## **35. PERSONAL LEAVE**

### **35.1 Amount of paid personal leave**

An employee, other than a casual employee, is entitled to the following amount of paid personal leave:

- 35.1.1** up to 91 hours and 12 minutes in the first year of service;
- 35.1.2** up to 106 hours and 24 minutes each year in the second, third and fourth year of service;
- 35.1.3** thereafter, 159 hours and 36 minutes in the fifth and following years of service.

## **35.2 Immediate family or household**

**35.2.1** The entitlement to use personal leave to care for immediate family or household members is subject to the person being either a member of the employee's immediate family or a member of the employee's household.

**35.2.2** The term **immediate family** includes:

**35.2.2(a)** spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse, in relation to a person, means a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; and

**35.2.2(b)** child or an adult child (including an adopted child, a step-child or an ex-nuptial child), parent (including parent-in-law), grandparent, grandchild or sibling of the employee or spouse of the employee.

## **35.3 Personal leave for personal injury or sickness**

**35.3.1** 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. Provided that such illness is certified by a legally qualified medical practitioner or is evidenced by the production of a statutory declaration within 48 hours of the commencement of such absence.

**35.3.2** Leave taken by an employee under 35.3.1 is deducted from the amount of personal leave under 35.1.

**35.3.3** An employee may be absent for one day on personal leave for personal injury or sickness without furnishing evidence of such sickness on not more than three occasions in any one year.

## **35.4 Cumulative personal leave**

**35.4.1** An employee is entitled to use accumulated personal leave for personal injury or sickness if the employee has already used the current year's personal leave.

**35.4.2** Personal leave entitlements which are untaken at the completion of the year shall accumulate.

**35.4.3** Accumulated personal leave shall be transferable within the field of employment in any hospital, benevolent home, community health centre, Society or Association registered pursuant to the *Health Services Act 1988* (or the former *Hospitals and Charities Act 1958*) or the Cancer Institute (constituted under the *Cancer Act 1958*). Provided that an employee shall, within two weeks of commencing employment, make a written declaration or produce a written statement acceptable to the employer as to what personal leave has been taken during the period of his or her previous employment.

**35.4.4** An employee who contracts an infectious disease in the course of his or her duties and who is entitled to receive Workers Compensation shall have any difference between Workers Compensation and his or her ordinary salary made up by the Institution up to but not exceeding three months. An employee who contracts an infectious disease in the course of his or her duties and having same certified to by the Medical Superintendent or by a Medical Practitioner approved by the Institution (and who is not entitled to receive Workers Compensation) shall receive full pay during the necessary period off duty up to but not exceeding three months. Personal leave granted under this clause shall not be

debited against any personal leave which the employee may have become entitled to under the preceding clauses.

**35.4.5** All personal leave accrued to the date of this award shall be deemed to be accumulated and transferable as in 35.3.1.

**35.4.6** For the purpose of this clause a working day shall be one of seven hours 36 minutes.

### **35.5 Personal leave to care for immediate family or household members**

**35.5.1(a)** An employee is entitled to use up to ten days per annum of their personal leave, including accrued 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. Leave may be taken for part of a single day.

**35.5.1(b)** 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 35.5.1(a), beyond the limit set out in 35.5.1(a). In such circumstances the employer and the employee shall agree upon the additional amount that may be accessed.

**35.5.2** The entitlement to use personal leave is subject to the employee being responsible for the care of the person concerned.

### **35.5.3 Evidence supporting claim**

**35.5.3(a)** When taking leave to care for members of their immediate family or household who are sick and require care and support, the employee must, if required by the employer, establish by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another.

**35.5.3(b)** 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 statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

**35.5.4** In normal circumstances an employee must not take personal leave under this clause where another person has taken leave to care for the same person.

**35.5.5** The employee must, where practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and their relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee/officer to give prior notice of absence, the employee must notify the employer by telephone of such absence at the first opportunity on the day of absence.

**35.5.6** Each day or part of a day personal leave taken in accordance with 35.5.1(a) is to be deducted from the amount of personal leave provided in 35.1 up to a maximum of 10 days per annum.

**35.5.7** An employee is entitled to use accumulated personal leave as paid personal leave to care for a family or household member, in accordance with 35.5, if the employee has used the current year's personal leave entitlement.

### **35.6 Unpaid personal leave**



Where an employee has exhausted all paid personal leave entitlements, he or she is entitled to take unpaid personal leave to care for members of his or her 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 of unpaid leave per occasion, provided the requirements of 35.5.3 and 35.5.5 are met.

### **35.7 Make-up time**

Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of make-up time provided that:

- 35.7.1** An employee may elect, with the consent of the employer, to work make-up time under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award.
- 35.7.2** Provided that the employer shall inform each union which is both party to the award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of make-up time flexibility, and the employer shall provide a reasonable opportunity for the union(s) to participate in negotiations.
- 35.7.3** An employee on shift work may elect, with the consent of the employer, to work make-up time under which the employee takes time off ordinary hours and works those hours at a later time, at the shift work rate which would have been applicable to the hours taken off.
- 35.7.4** Once a decision has been taken to introduce an enterprise system of make-up time, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to regulations 131A - 131R of the *Workplace Relations Regulations*.

### **35.8 Casual Employment: caring responsibilities**

- 35.8.1** Subject to the evidentiary and notice requirements in 35.5.3 and 35.5.5, casual employees are entitled to not be available to attend work, or to leave work:
- if they need 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, or the birth of a child; or
  - upon the death in Australia of an immediate family or household member.
- 35.8.2** The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- 35.8.3** An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

## **35A. BEREAVEMENT LEAVE**

### **35A.1 Paid leave entitlement**

An employee is entitled to up to four days paid leave on each occasion if a member of the employee's immediate family or household within Australia dies or is seriously ill or, outside of Australia, dies.

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

### 35A.2 Unpaid bereavement leave

An employee is entitled to use unpaid leave up to four days annually when a member of the employee's immediate family or household in Australia dies/is seriously ill or, outside Australia, dies, if the employee has already used the entitlement under 35A.1. An employee may take additional unpaid bereavement leave by agreement with the employer.

## 36. PARENTAL LEAVE

The provisions of this clause apply to full-time and regular part-time employees and eligible casual employees.

Subject to the terms of this clause, employees are entitled to maternity, paternity and adoption leave and to work part-time in connection with the birth or adoption of a child.

### 36.1 Definitions

**36.1.1** For the purposes of this clause an **eligible casual employee** means a casual employee 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 that the employee has, but for the pregnancy or the decision to adopt, a reasonable expectation of ongoing employment. 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).

An employer must not fail to re-engage a casual employee because:

**36.1.1(a)** the employee or employee's spouse is pregnant; or

**36.1.1(b)** the employee is or has been immediately absent on parental leave.

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

**36.1.2** For the purpose of this clause **child** means a child of the employee under school age or a child under school age 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.

**36.1.3** Subject to 36.1.4, **spouse** includes a de facto or former spouse.

**36.1.4** In relation to 36.5, **spouse** includes a de facto spouse but does not include a former spouse.

### 36.2 Basic entitlement

**36.2.1** After twelve months' continuous service, parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child. For females, maternity leave may be taken and for males, paternity leave may be taken. Adoption leave may be taken in the case of adoption.

**36.2.2** Subject to clauses 36.3.6 and 36.7 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:

**36.2.2(a)** for maternity and paternity leave, an unbroken period of up to one week at the time

of the birth of the child;

**36.2.2(b)** for adoption leave, an unbroken period of up to three weeks at the time of the placement of the child.

### **36.3 Maternity leave**

**36.3.1** An employee must provide notice to the employer in advance of the expected date of commencement of maternity leave. The notice requirements are:

**36.3.1(a)** of the expected date of confinement (including a certificate from a registered medical practitioner stating that the employee is pregnant) – at least ten weeks;

**36.3.1(b)** of the date on which the employee proposes to commence maternity leave and the period of leave to be taken – at least four weeks.

**36.3.2** When the employee gives notice under 36.3.1(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.

**36.3.3** An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date.

**36.3.4** Subject to 36.2.1 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.

**36.3.5** 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.

### **36.3.6 Special maternity leave**

**36.3.6(a)** 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.

**36.3.6(b)** Where an employee is suffering from an illness not related to the direct consequences of the confinement, an employee may take any paid personal leave to which she is entitled in lieu of, or in addition to, special maternity leave.

**36.3.6(c)** Where an employee not then on maternity leave suffers an illness related to her pregnancy, she may take any paid sick 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 sick leave, special maternity leave and parental leave, including parental leave taken by a spouse, may not exceed 52 weeks or longer as agreed under clause 36.7.

**36.3.7** Where leave is granted under 36.4, 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.

### **36.4 Paternity leave**

- 36.4.1** An employee will provide to an employer at least ten weeks prior to each proposed period of paternity leave, with:
- 36.4.1(a)** a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected dates of confinement, or states the date on which the birth took place; and
  - 36.4.1(b)** written notification of the dates on which he proposes to start and finish the period of paternity leave; and
  - 36.4.1(c)** a statutory declaration stating:
    - 36.4.1(c)(i)** he will take that period of paternity leave to become the primary care-giver of a child;
    - 36.4.1(c)(ii)** particulars of any period of maternity leave sought or taken by his spouse; and
    - 36.4.1(c)(iii)** that for the period of parental leave he will not engage in any conduct inconsistent with his contract of employment.
- 36.4.2** An employee will not be in breach of 36.4.1 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.

### **36.5 Adoption leave**

- 36.5.1** 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.
- 36.5.2** Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:
- 36.5.2(a)** the employee is seeking adoption leave to become the primary care-giver of the child;
  - 36.5.2(b)** particulars of any period of adoption leave sought or taken by the employee's spouse; and
  - 36.5.2(c)** that for the period of adoption leave, the employee will not engage in any conduct inconsistent with their contract of employment.
- 36.5.3** An employer may require an employee to provide confirmation from the appropriate government authority of the placement.
- 36.5.4** Where the placement of the 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.
- 36.5.5** An employee will not be in breach of 36.5.1 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.

**36.5.6** An employee seeking to adopt a child is entitled to take 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.

### **36.6 Variation of period of parental leave**

Where an employee takes leave under clause 36.2.1 or 36.7.1(b), unless otherwise agreed 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 is to be notified as soon as possible but no less than four weeks prior to the commencement of the changed arrangements. Nothing in this clause detracts from the basic entitlement in clause 36.2.1 or 36.7.1(b).

### **36.7 Right to request**

**36.7.1** An employee entitled to parental leave pursuant to the provisions of clause 36.2 may request the employer to allow the employee:

**36.7.1(a)** to extend the period of simultaneous unpaid parental leave provided for in clause 36.2.2 up to a maximum of eight weeks;

**36.7.1(b)** to extend the period of unpaid parental leave provided for in 36.2.1 by a further continuous period of leave not exceeding 12 months;

**36.7.1(c)** to return from a period of parental leave on a part-time basis until the child reaches school age;

to assist the employee in reconciling work and parental responsibilities.

**36.7.2** The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

### **36.7.3 Employee's request and the employer's decision to be in writing**

The employee's request and the employer's decision made under 36.7.1(b) and 36.7.1(c) must be recorded in writing.

### **36.7.4 Request to return to work part-time**

Where an employee wishes to make a request under clause 36.7.1(c), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

### **36.8 Parental leave and other entitlements**

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 or longer as agreed under clause 36.7.1.

### **36.9 Transfer to a safe job**

**36.9.1** 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.

**36.9.2** 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

### **36.10 Returning to work after a period of parental leave**

**36.10.1** 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.

**36.10.2** 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 36.9 the employee will be entitled to return to the position they held immediately before such transfer.

**36.10.3** Where such position no longer exists but there are other positions available for which the employee is qualified 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.

**36.10.4** An employer must not fail to re-engage a casual employee because:

**36.10.4(a)** the employee or employees spouse is pregnant; or

**36.10.4(b)** the employee is or has been immediately absent on parental leave.

### **36.11 Replacement employees**

**36.11.1** A replacement employee is an employee specifically engaged or temporarily promoted or transferred, as a result of an employee proceeding on parental leave.

**36.11.2** 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.

### **36.12 Communication during parental leave**

**36.12.1** Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

**36.12.1(a)** make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and

**36.12.1(b)** provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

**36.12.2** The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

**36.12.3** The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with 36.12.1.

## **37. LONG SERVICE LEAVE**

### **37.1 Entitlement**

**37.1.1** An employee shall be entitled to long service leave with pay, in respect of continuous service with one and the same employer, or service with Institutions or Statutory Bodies, in accordance with the provisions of this clause.

**37.1.2** Subject to 37.1.3 the amount of such entitlement shall be:

**37.1.2(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.

**37.1.2(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 death of the employee, an amount of long service leave equal to 1/30th of the period of his or her service since the last accrual of entitlement to long service leave under 37.1.2(a).

**37.1.2(c)** 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 willful misconduct, such amount of long service leave as equals 1/30th of the period of service.

**37.1.3** For the purpose of determining the entitlement under any provisions of this clause in respect of a period of employment beginning before 31 December 1964, and ending after the said date, so much of that service as was completed before the said date shall be reduced by one-quarter.

### **37.1.4 Long service leave - transitional provision**

**37.1.4(a)** With respect to Qualified Social Workers (as defined) in hospitals, the rate of accrual of the long service leave entitlement set out in 37.1.2 shall apply prospectively from 24 December 1991.

**37.1.4(b)** Nothing in this clause shall be deemed or construed to reduce the entitlement of any employee below that accorded to them prior to 24 December 1991.

### **37.2 Service entitling to leave**

**37.2.1** Subject to this clause, the service of an employee of an Institution or Statutory Body shall include service for which long service leave or payment in lieu has not been received in one or more Institutions including Statutory Bodies directly associated with such Institutions or Institution for the periods required by 37.1.

**37.2.2** When calculating the aggregate of service entitling to leave, any period of employment with any one of the said Institutions or Statutory Bodies of less than six month's duration shall be disregarded.

**37.2.3** For the purposes of this clause service shall be deemed to be continuous notwithstanding:

**37.2.3(a)** the taking of any annual leave or long service leave;

**37.2.3(b)** any absence from work of not more than fourteen days in any year of on account of illness or injury or if applicable such longer period as provided in clause 35 - Personal/carer's leave;

- 36.2.3(e) 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;
- 36.2.3(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 43 - Accident pay;
- 37.2.3(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.

**37.2.4** In calculating the period of continuous service, any interruption or absence due to circumstances below shall not break the continuity of service of an employee but shall not be counted as part of the period of service unless it is so authorised in writing by the employer:

- 37.2.4(a) any interruption arising directly or indirectly from an industrial dispute;
- 37.2.4(b) any period of absence from employment between one Institution or Statutory Body or another provided it is less than the allowable period of absence from employment.  
  
Provided that the allowable period of absence shall be five weeks in addition to the total period of paid annual and/or sick leave which the employee actually receives on termination or for which he or she is paid in lieu.
- 37.2.4(c) the dismissal of an employee if the employee is re-employed within a period not exceeding two months from the date of such dismissal;
- 37.2.4(d) any absence from work of a female employee for a period not exceeding 12 months or longer as agreed under 36.7.1 in respect of any pregnancy.
- 37.2.4(e) any other absence of an employee by leave of the employer, or on account of injury arising out of or in the course of his or her employment not covered by 36.2.4(d).

**37.2.5** The onus of proving a sufficient aggregate of service to support a claim for any long service leave entitlement shall at all times rest upon the employee concerned. A certificate in the following form shall constitute acceptable proof.

Certificate of Service

.....(Name of Institution)  
 .....(Date)

This is to certify that..... (Name of Employee) has been employed by this institution/society/board for a period of ..... (years/months/etc) from ..... (dates) to .....  
 Specify hereunder full details of paid or unpaid leave or absences including periods represented by payment made in lieu of leave on termination:  
 .....

Specify hereunder full details of Long Service Leave granted during service or on termination:  
 .....  
 .....

Signed .....Stamp of Institution

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



**37.3** 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 an employee for 1/30th 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.

#### **37.4 Payment for period of leave**

**37.4.1** Payment to an employee in respect of long service leave shall be made in one of the following ways:

**37.4.1(a)** in full in advance when the employee commences his or her leave; or

**37.4.1(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

**37.4.1(c)** in any other way agreed between the employer and the employee.

**37.4.2** Where the employment of an employee is for any reason terminated before he or she takes any long service leave to which he or she is entitled, or where any long service leave accrues to an employee pursuant to 37.1.2(b), the employee shall, subject to the provisions of 37.4.3, be entitled to pay in respect of such leave as at the date of termination of employment.

**37.4.3** Where any long service leave accrues to an employee pursuant to 37.1.2 (c) the employee shall be entitled to pay in respect of such leave as at the date of termination of employment.

Provided that in the case of an employee of an Institution or Statutory Body who accrues long service leave entitlement pursuant to 37.1.2(c) and who intends to be re-employed by another Institution or Statutory Body:

**37.4.3(a)** such an employee may in writing request payment in respect of such leave to be deferred until the expiry of the employee's allowable period of absence from employment, as provided in 37.2.4 (b); and

**37.4.3(b)** except where the employee gives the employer notice in writing that the employee has been employed by another Institution or Statutory Body, the employer shall make payment in respect of such leave at the expiry of the employee's allowable period of absence from employment; and

**37.4.3(c)** where the employee gives the employer notice in writing that the employee has been employed by another Institution or Statutory Body, the employer is no longer required to make payment to the employee in respect of such leave.

**37.4.4** 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.

#### **37.5 Taking of leave**

**37.5.1** 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 date as is mutually agreed, or in default of agreement as is determined by the Commission, provided that no such determination shall require leave to commence before the expiry of six months from the date of such determination.

37.5.2 Any long service leave shall be inclusive of any public holiday occurring during the period when leave is taken.

37.5.3 If the employer and an employee so agree:

37.5.3(a) the first six months long service leave to which an employee becomes entitled under this award may be taken in two or three separate periods; and

37.5.3(b) any subsequent period of long service leave to which the employee becomes entitled may be taken in two separate periods provided that the first period of long service leave shall be taken in one period.

37.5.4 An employer may by agreement with an employee grant long service leave to the employee before the entitlement to that leave has accrued, provided that such leave shall not be granted before the employee has completed ten years service.

37.5.5 Where the employment of an employee who has taken long service leave in advance is subsequently terminated for serious and willful 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.

#### 37.6 Definitions

For the purpose of this clause the following definitions apply:

37.6.1 **Institution** shall mean any hospital or benevolent home, community health centre, Society or Association registered pursuant to the *Health Services Act 1988* (or the former *Hospital and Charities Act 1958*) or the Cancer Institute (constituted under the *Cancer Act 1958*).

37.6.2 **Month** shall mean a calendar month.

37.6.3 **Pay** means remuneration for an employee's normal weekly hours of work calculated at the employee's ordinary time rate of pay in clause 20 - Wage rates, at the time the leave is taken or (if he or she dies before the completion of leave so taken) as at the time of his or her death, and shall include the amount of any increase to the employee's ordinary time 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 his or her period of leave and where a deduction is made for the rental thereof pursuant to clause 23 - Deductions and allowances, such amount shall be deducted from the pay for the period of leave.

37.6.4 **Statutory Body** means the Hospital and Charities Commission (Vic), the Health Commission of Victoria and/or the Victorian Nursing Council and successors thereto.

#### 38. PUBLIC HOLIDAYS

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

38.1.1 New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day and Boxing Day; and

38.1.2 The following days, as prescribed in the relevant States, Territories and localities: Australia Day, Anzac Day, Queen's Birthday, Eight Hour Day or Labour Day; and

**38.1.3** Melbourne Cup Day or in Lieu of Melbourne Cup Day, some other day as deemed in a particular locality.

### **38.2 Holidays in lieu**

**38.2.1** When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December.

**38.2.2** When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 28 December.

**38.2.3** When New Year's Day or Australia Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on the next Monday.

### **38.3 Additional days**

Where in the States, Territories or locality, public holidays are declared or prescribed on days other than those set out in 38.1 and 38.2, those days shall constitute additional holidays for the purpose of this award.

### **38.4 Substitution of public holidays by agreement**

**38.4.1** An employer and his or her employees may agree to substitute another day for any prescribed in this clause. For this purpose, the consent of the majority of affected employees shall constitute agreement.

**38.4.2** An agreement pursuant to 38.4.1 shall be recorded in writing and be available to every affected employee.

**38.4.3** The union which is a party to this award shall be informed of an agreement pursuant to 38.4.1.

**38.5** Employees rostered to work on public holidays and who fail to do so shall not be entitled to holiday pay for the said holiday.

**38.6** If an employee works on any of such holidays or such holiday occurs on his or her rostered day off he or she shall be paid at the ordinary time rate of pay for the time so worked, in addition to which he or she shall be entitled to receive:

**38.6.1** within four weeks following the date on which such holiday occurred:

**38.6.1(a)** one and a half extra days pay;

**38.6.1(b)** one and a half days off in lieu thereof with at least seven days notice shall be given;

**38.6.1(c)** one and a half days shall be added to his or her annual leave.

**38.6.2** in the case of an employee not qualifying for annual leave and where none of the provisions of 38.6.1 have been applied, the one and a half days pay shall be added to the payment in lieu of annual leave; and

**38.6.3** one and a half times the ordinary rate of pay for any work done in excess of eight hours.

**38.7** In respect of Easter Saturday, an employee who ordinarily works Monday to Friday only and who does not work on Easter Saturday, shall be entitled to one days 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.

- 38.8** Notwithstanding the earlier provisions of this clause a weekend worker (as defined in 34.8) who works on any of the holidays set out in 38.1 shall be entitled (in lieu of any entitlement under 38.2) to one and a half extra days pay on the first pay day following the end of the pay period during which the holiday falls.
- 38.9** If, at the end of the yearly period in respect of which his or her annual leave accrues such weekend worker does not become entitled to additional leave under clause 34 - Annual leave, he or she shall, at the option of the employer, be entitled to one and a half extra days pay or one and half extra days annual leave for each such holiday on which he or she was rostered off.
- 38.10** Where an employee's accrued day off falls on any such public holiday, a substitute day shall be determined by the employer to be taken in lieu thereof, such day to be within the same four week cycle where practical.
- 38.11** Notwithstanding the provisions of 38.2, with the exception of Easter Saturday, an employee who is ordinarily not required to work on a Sunday or Saturday shall not be entitled to any benefit for any public holidays which may fall on or are observed on a Saturday or a Sunday unless he or she is required to work on any such public holiday.

#### **39. EXAMINATION LEAVE**

- 39.1** Qualified employees shall be granted leave with full pay in order to attend examinations necessary to obtain higher qualifications relevant to award classification as approved from time to time by the respective ethical bodies representing the individual employee.
- 39.2** The amount of leave to be granted shall be such as to allow the employee to proceed to the place of examination and, in addition, to allow one clear working day other than a Saturday or a Sunday for pre-examination study if this is desired.
- 39.3** Any leave granted under the provisions of this clause shall be exempt from, and in addition to, the provisions of clause 34 - Annual leave.

#### **40. JURY SERVICE**

- 40.1** An employee required to attend for jury service during his or her ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of his or her attendance for such jury service and the amount of ordinary wage he or she would have received in respect of the ordinary time he or she would have worked had he or she not been on jury service.
- 40.2** An employee shall notify his or her employer as soon as possible of the date upon which he or she is required to attend for jury service. Further the employee shall give his or her employer proof of his or her attendance at court, the duration of such attendance and the amount received in respect of such jury service.

### **PART 8 - TRANSFERS, TRAVELLING AND WORKING AWAY FROM USUAL PLACE OF WORK**

#### **41. TRAVELLING ALLOWANCE**

- 41.1** Should an employee be required to use his or her vehicle for transport from home to place of work and return outside of normal hours, the employee is to receive such allowance corresponding with the mileage rates as determined from time to time by the Australian Public Service and set out in the *Australian Public Service Award 1998* [AW766579 Print Q7548], with a minimum payment of \$1.15 for each occasion of such use, which is payable on and from the first pay period on or after 1 December 2006, as follows:

<b>Engine capacity of motor vehicle not being a motor vehicle powered by a rotary engine</b>	<b>Engine capacity of a motor vehicle powered by a rotary engine</b>	<b>Rate of allowance per kilometre (\$)</b>
More than 3000cc	More than 1500cc	.67
More than 2000cc but not more than 3000cc	More than 1000cc but not more than 1500cc	.64
More than 1600cc but not more than 2000cc	More than 800cc but not more than 100cc	.63
1600cc or less	800cc or less	.55

**41.2** Any employee who is recalled to the employer's premises for any purpose shall be provided with transport (i.e. taxi or hire car) for the outward and return journeys at the employee's request and the employee shall not be responsible for the payment of such transport.

**41.3** Where an employee is required to travel during normal working hours on hospital business, he or she shall be provided with transport and the employee shall not be responsible for the payment of such transport.

**41.4** Notwithstanding anything contained in 41.3, where a hospital does not provide transport and an employee agrees to use his or her vehicle during normal working hours on hospital business, the employee is to receive such an allowance corresponding with the per kilometer rates as prescribed in 41.1.

**41.5** Any approved fares incurred by an employee in the performance of his or her duty shall be reimbursed by the employer.

## **PART 9 - TRAINING**

### **42. TRAINING**

Trainees, with the exception of those in their final year of training shall not be required to work at any time without supervision of a qualified person of the discipline concerned within the area of the establishment where the trainee is working.

## **PART 10 - ACCIDENT PAY, EQUIPMENT, CLOTHING AND TOOLS ALLOWANCES**

### **43. ACCIDENT PAY**

**43.1** An employer shall pay and an employee shall be entitled to receive accident pay in accordance with this clause.

#### **43.2 Definitions**

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

##### **43.2.1 Accident pay**

###### **43.2.1(a) Total incapacity**

Means, in the case of an employee who 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, a weekly payment of an amount representing the difference between the total amount of compensation payable under the Act for the week in question and the 38 hour weekly rate and weekly overaward payment for a day worker which would have been payable under this award for the employee's normal classification of work for the week in

question if he or she had been performing or her normal duties provided that such latter rate shall exclude additional remuneration by way of shift premiums, overtime payments, special rates or other similar payments.

**43.2.1(b) Partial incapacity**

Means, 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, a weekly payment of an amount representing the difference between the total amount of compensation payable under 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 Workcover Conciliation Board or as agreed between the parties) and the total 38 hour weekly rate and weekly overaward payment for the week in question if he or she had been performing his or her normal duties, provided that such latter rate shall exclude additional remuneration by way of shift premiums, overtime payments, special rates or other similar payments.

**43.2.1(c)** The total hour weekly award rate and weekly overaward payment abovementioned shall be the same as that applying for a total incapacity provided that where and employee receives a weekly payment under the Act, such reduction will not increase the liability of the employer to increase the amount of accident pay in respect of that injury.

**43.2.1(d)** For the purposes of the calculation of the total hour weekly award rate and weekly overaward payment in 43.2.1(a) and 43.2.1(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.

**43.2.1(e) Payment for part of a week**

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.

**43.2.2 Injury**

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.

**43.2.3 Act**

Means the *Accident Compensation Act 1985*, as amended from time to time, of the State of Victoria. Where an entitlement to accident make-up pay arises under this award any reference to the *Workers' Compensation Act 1958* shall be deemed to include a reference to the *Accident Compensation Act 1985* and vice versa.

**43.3 Eligibility for payment**

Subject to the terms of this clause, an employee covered by this award 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 or her employer, provided that the employer is liable to pay compensation under the Act. The employer's liability for accident pay may be discharged by another person on the employer's behalf provided that:

**43.3.1** Accident pay shall only be payable to an employee whilst such employee remains in the employment of the employer by whom he or she was employed at the time of the incapacity and then only for such period as he or she receives a weekly payment under the Act. Provided that if an employee on partial incapacity cannot obtain

suitable employment from his or her employer but such alternative employment is available with another employer then the relevant amount of accident pay will still be payable.

- 43.3.2** 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 willful 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 or her employer continuing payment of weekly workers compensation payments.
- 43.3.3** 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 43.3.5 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.
- 43.3.4** Industrial disease contracted by a gradual process or injuries subject to recurrence, aggravation or acceleration (as provided in Section 3 of the Act) 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.
- 43.3.5** Accident pay shall not apply in respect of any injury during the first five normal working days of incapacity. However, an employee who contracts an infectious disease in the course of duty and is entitled to receive worker's compensation therefore shall receive accident pay from the first day of incapacity.

#### **43.4 Maximum period of payment**

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 43.2.2.

#### **43.5 Absences on other paid leave**

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

#### **43.6 Notice of injury**

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

#### **43.7 Medical examination**

- 43.7.1** In order to receive the entitlement to accident pay an employee shall conform to the requirements of the Act as to medical examination.
- 43.7.2** When in accordance with the Act a medical referee gives a certificate as to the condition of the employee and his/her fitness to 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.
- 43.7.3** Provided that the work specified above and made available by the employer shall be suitable work within the meaning of the Act, and in the event of a dispute over the

suitability of work made available by the employer, there shall be no cessation of accident pay until the matter has been resolved by the Workcover Conciliation Board.

#### **43.8 Cessation of weekly payments**

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

#### **43.9 Civil damages claim**

**43.9.1** An employee receiving or who has received accident pay shall advise his or her employer of any action he or she may institute or any claim he or she 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.

**43.9.2** Where an employee obtains a judgment or settlement for damages in respect of an injury for which he or she 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 judgment 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 or her employer any amount of accident pay already received in respect of that injury by which the judgment or settlement has not been so reduced.

**43.9.3** Where an employee obtains a judgment or settlement for damages against a person other than the employer in respect of an injury for which he or she 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 judgment or settlement for damages is not reduced in whole or part by the amount of accident pay made by the employer the employee shall pay to his or her employer any amount of accident pay already received in respect of that injury by which the judgment or settlement has not been so reduced.

#### **43.10 Insurance against liability**

Nothing in this award shall require an employer to insure against his or her liability for accident pay.

#### **43.11 Variations in compensation rates**

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 remain unchanged.

#### **43.12 Death of an employee**

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

### **44. ALLOWANCE**

**44.1** Where the employer requires an employee to wear any special clothing or uniform, the employer must reimburse the employee for the cost of purchasing the special clothing or uniform. The provisions of this clause do not apply where the special clothing or uniform is paid for by the employer.

**44.2** Notwithstanding 44.1, the employer may, by agreement with the employee, pay an allowance of \$6.19 per week, or \$1.22 cents a day when the employee is expected to provide his or her own uniforms or coats. When such employee's uniforms or coats are not laundered



at the expense of the employer, the employee shall be paid a laundry allowance of 30 cents per day or \$1.47.

**45. DAMAGED CLOTHING ALLOWANCE**

**45.1** Where an employee, in the course of his or her employment, suffers any damage to or soiling of clothing or other personal effects, (excluding female hosiery), the employer shall be liable for the replacement, repair or cleaning of such clothing or personal effects provided immediate notification is given of such damage or soiling.

**45.2** This clause shall not apply in a case where the damage or soiling is occasioned by the negligence of the employee.

**PART 11 - AWARD COMPLIANCE**

**46. POSTING OF AWARD**

A copy of this award shall be available for the perusal of employees.

B. This award shall come into force from the beginning of the first pay period commencing on or after 9 July 2004 and shall continue in force for a period of twelve months.

**SCHEDULE E**

Note: A bonus payment will be calculated based on ordinary hours worked from 6 July 2015 until the commencement of the first full pay period on or after 14 December 2015, and will be calculated using the increment that applied to the caregiver as at 1 July 2015.

\*The lump sum payment indicated is based on full-time hours. As the bonus will be calculated on ordinary hours worked, a pro-rata amount will apply to anyone working less than full-time.

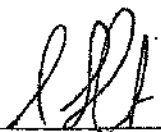
First Pay period on or  
after 14 Dec 2015

			2.00%	Variance per week	Lump sum payment*
Scientist Grade 1	Yr 1	946.56	\$965.49	\$18.93	\$454.35
	Yr 2	1017.41	\$1,037.76	\$20.35	\$488.36
	Yr 3	1090.01	\$1,111.81	\$21.80	\$523.20
	Yr 4	1165.84	\$1,189.16	\$23.32	\$559.60
	Yr 5	1223.71	\$1,248.18	\$24.47	\$587.38
	Yr 6	1286.01	\$1,311.73	\$25.72	\$617.28
	Yr 7	1346.45	\$1,373.38	\$26.93	\$646.30
Scientist Grade 2	Yr 1	1357.77	\$1,384.93	\$27.16	\$651.73
	Yr 2	1390.39	\$1,418.20	\$27.81	\$667.39
	Yr 3	1445.25	\$1,474.16	\$28.91	\$693.72
	Yr 4	1572.52	\$1,603.97	\$31.45	\$754.81
Scientist Grade 3	Yr 1	1603.95	\$1,636.03	\$32.08	\$769.90
	Yr 2	1660.22	\$1,693.42	\$33.20	\$796.91
	Yr 3	1704.6	\$1,738.69	\$34.09	\$818.21
	Yr 4	1816.21	\$1,852.53	\$36.32	\$871.78
Scientist Grade 4	On Appt. & Yr 2	1880.01	\$1,917.61	\$37.60	\$902.40
	Yr 3 & 4	1980.22	\$2,019.82	\$39.60	\$950.51
	Yr 5	2158.75	\$2,201.93	\$43.18	\$1,036.20
			2.00%	Variance per week	Lump sum payment*
Medical Technician Trainee	Yr 1	406.92	\$415.06	\$8.14	\$195.32
	Yr 2	488.3	\$498.07	\$9.77	\$234.38
	Yr 3	610.38	\$622.59	\$12.21	\$292.98
	Yr 4	691.76	\$705.60	\$13.84	\$332.04
	and thereafter	732.46	\$747.11	\$14.65	\$351.58
Medical Technician Grade 1	Yr 1	813.83	\$830.11	\$16.28	\$390.64
	Yr 2	855.12	\$872.22	\$17.10	\$410.46
	Yr 3	896.19	\$914.11	\$17.92	\$430.17
	Yr 4	929.3	\$947.89	\$18.59	\$446.06
	Yr 5	962.6	\$981.85	\$19.25	\$462.05
	Yr 6	996	\$1,015.92	\$19.92	\$478.08
	Yr 7	1029.21	\$1,049.79	\$20.58	\$494.02
	Yr 8	1062.58	\$1,083.83	\$21.25	\$510.04
	Yr 9	1084.66	\$1,106.35	\$21.69	\$520.64
Medical Technician Grade 2	Yr 1	1062.58	\$1,083.83	\$21.25	\$510.04
	Yr 2	1106.93	\$1,129.07	\$22.14	\$531.33
	Yr 3	1150.91	\$1,173.93	\$23.02	\$552.44
	Yr 4	1193.04	\$1,216.90	\$23.86	\$572.66
	Yr 5	1220.63	\$1,245.04	\$24.41	\$585.90

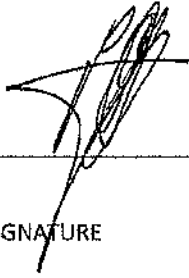
First Pay  
period on or  
after 14 Dec

			2.00%	Variance per week	Lump sum payment*
Wage Skill Group 1	Yr 1	723.21	\$737.67	\$14.46	\$347.14
	Yr 2	728.88	\$743.46	\$14.58	\$349.86
	Yr 3	734.92	\$749.62	\$14.70	\$352.76
	Yr 4	740.72	\$755.53	\$14.81	\$355.55
	Yr 5	753.73	\$768.80	\$15.07	\$361.79
Wage Skill Group 2	Yr 1	746.17	\$761.09	\$14.92	\$358.16
	Yr 2	751.83	\$766.87	\$15.04	\$360.88
	Yr 3	757.94	\$773.10	\$15.16	\$363.81
	Yr 4	763.74	\$779.01	\$15.27	\$366.60
	Yr 5	780.14	\$795.74	\$15.60	\$374.47
Wage Skill Group 3	Yr 1	764.36	\$779.65	\$15.29	\$366.89
	Yr 2	770.28	\$785.69	\$15.41	\$369.73
	Yr 3	776.54	\$792.07	\$15.53	\$372.74
	Yr 4	782.34	\$797.99	\$15.65	\$375.52
	Yr 5	798.75	\$814.73	\$15.98	\$383.40
Wage Skill Group 4	Yr 1	773.74	\$789.21	\$15.47	\$371.40
	Yr 2	779.67	\$795.26	\$15.59	\$374.24
	Yr 3	785.92	\$801.64	\$15.72	\$377.24
	Yr 4	791.72	\$807.55	\$15.83	\$380.03
	Yr 5	808.13	\$824.29	\$16.16	\$387.90
Wage Skill Group 5	Yr 1	795.06	\$810.96	\$15.90	\$381.63
	Yr 2	800.71	\$816.72	\$16.01	\$384.34
	Yr 3	806.76	\$822.90	\$16.14	\$387.24
	Yr 4	812.56	\$828.81	\$16.25	\$390.03
	Yr 5	828.97	\$845.55	\$16.58	\$397.91
Wage Skill Group 6	Yr 1	801.54	\$817.57	\$16.03	\$384.74
	Yr 2	807.46	\$823.61	\$16.15	\$387.58
	Yr 3	813.73	\$830.00	\$16.27	\$390.59
	Yr 4	819.53	\$835.92	\$16.39	\$393.37
	Yr 5	835.94	\$852.66	\$16.72	\$401.25
Wage Skill Group 7	Yr 1	821.95	\$838.39	\$16.44	\$394.54
	Yr 2	827.87	\$844.43	\$16.56	\$397.38
	Yr 3	834.12	\$850.80	\$16.68	\$400.38
	Yr 4	839.91	\$856.71	\$16.80	\$403.16
	Yr 5	856.33	\$873.46	\$17.13	\$411.04
Wage Skill Group 8	Yr 1	838.73	\$855.50	\$16.77	\$402.59
	Yr 2	844.65	\$861.54	\$16.89	\$405.43
	Yr 3	850.9	\$867.92	\$17.02	\$408.43
	Yr 4	856.7	\$873.83	\$17.13	\$411.22
	Yr 5	873.11	\$890.57	\$17.46	\$419.09
Wage Skill Group 9	Yr 1	861.26	\$878.49	\$17.23	\$413.40
	Yr 2	867.19	\$884.53	\$17.34	\$416.25
	Yr 3	873.44	\$890.91	\$17.47	\$419.25
	Yr 4	879.24	\$896.82	\$17.58	\$422.04
	Yr 5	895.65	\$913.56	\$17.91	\$429.91
Wage Skill Group 10	Yr 1	913.26	\$931.53	\$18.27	\$438.36
	Yr 2	919.18	\$937.56	\$18.38	\$441.21
	Yr 3	925.42	\$943.93	\$18.51	\$444.20
	Yr 4	931.23	\$949.85	\$18.62	\$446.99
	Yr 5	947.64	\$966.59	\$18.95	\$454.87
Wage Skill Group 11	Yr 1	959.81	\$979.01	\$19.20	\$460.71
	Yr 2	965.73	\$985.04	\$19.31	\$463.55
	Yr 3	971.99	\$991.43	\$19.44	\$466.56
	Yr 4	977.79	\$997.35	\$19.56	\$469.34
	Yr 5	994.2	\$1,014.08	\$19.88	\$477.22

I am authorised to sign this Agreement as a nominated employee bargaining representative on behalf of the HEALTH SERVICES UNION No. 3

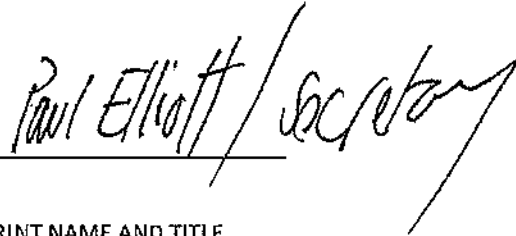
SIGNATURE:   
PRINT NAME: ANDREW HEWAT  
TITLE: ASSISTANT SECRETARY  
ADDRESS: 351 WILLIAM ST  
WEST MELBOURNE 3003  
DATE: 16 / 12 / 2015

I am authorised to sign this Agreement as a nominated employee bargaining representative on behalf of the HEALTH SERVICES UNION No. 4



A handwritten signature in black ink, appearing to be 'Paul Elliott', written over a horizontal line.

SIGNATURE



Handwritten text 'Paul Elliott / Secretary' written over a horizontal line.

PRINT NAME AND TITLE

Address:

Date 17/12/2015

I am authorised to sign this Agreement as a nominated employee bargaining representative on behalf of the HEALTH SERVICES UNION No. 1

SIGNATURE: David Eden

PRINT NAME: David Eden.

TITLE: Assistant Secretary

ADDRESS: 5/222 Kings Way South  
Melbourne 3205

DATE: 15/12/15.

## **Fair Work Commission**

**MATTER NO: AG2016/317**

### **Undertaking**

I refer to Application for approval of the St John of God Pathology Victoria – Health Services Union – Caregiver Enterprise Agreement 2015.

### **Form F17 Questions 2.4 and 2.5**

The answers to the above questions contained typographical error noting the response to 2.4 should have been the employees were provided with access to the Agreement on 04/01/2016.

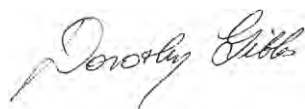
The answer to question 2.5 should have been the employees were provided with the voting information on 27/01/2016 with the ballot opening on 04/02/16

### **Clause 14 (Flexibility Term) and Clause 33 (Consultation)**

It is acknowledged that the model Flexibility and Consultation terms will be incorporated on approval into the Agreement.

### **Better Off Overall Test**

It is intended that the pre reform Awards as noted below:  
Health and Allied Services (Private Sector) Consolidated Award 1998;  
Health Services Union of Australia (Health Professional Services Private Sector Victoria) Award 2004;  
Health Services Union of Australia (Victoria – Private Sector) Medical Scientists Psychologists and Pharmacists) Award 2004) and as noted at clause 4 of the Agreement will be relied upon and incorporated into the Agreement.



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07/03/2016

## **Schedule 2.2—Model flexibility term**

(regulation 2.08)

### **Model flexibility term**

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

## **Schedule 2.3—Model consultation term**

(regulation 2.09)

### **Model consultation term**

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

#### *Major change*

- (2) For a major change referred to in paragraph (1)(a):
  - (a) the employer must notify the relevant employees of the decision to introduce the major change; and
  - (b) subclauses (3) to (9) apply.
- (3) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- (4) If:
  - (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
  - (b) the employee or employees advise the employer of the identity of the representative;the employer must recognise the representative.
- (5) As soon as practicable after making its decision, the employer must:
  - (a) discuss with the relevant employees:
    - (i) the introduction of the change; and
    - (ii) the effect the change is likely to have on the employees; and
  - (iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and

- (b) for the purposes of the discussion—provide, in writing, to the relevant employees:
  - (i) all relevant information about the change including the nature of the change proposed; and
  - (ii) information about the expected effects of the change on the employees; and
  - (iii) any other matters likely to affect the employees.
- (6) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- (7) The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- (8) If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph (2)(a) and subclauses (3) and (5) are taken not to apply.
- (9) In this term, a major change is ***likely to have a significant effect on employees*** if it results in:
  - (a) the termination of the employment of employees; or
  - (b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
  - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
  - (d) the alteration of hours of work; or
  - (e) the need to retrain employees; or
  - (f) the need to relocate employees to another workplace; or
  - (g) the restructuring of jobs.

*Change to regular roster or ordinary hours of work*

- (10) For a change referred to in paragraph (1)(b):
  - (a) the employer must notify the relevant employees of the proposed change; and
  - (b) subclauses (11) to (15) apply.
- (11) The relevant employees may appoint a representative for the purposes of the procedures in this term.

- (12) If:
- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
  - (b) the employee or employees advise the employer of the identity of the representative;
- the employer must recognise the representative.
- (13) As soon as practicable after proposing to introduce the change, the employer must:
- (a) discuss with the relevant employees the introduction of the change; and
  - (b) for the purposes of the discussion—provide to the relevant employees:
    - (i) all relevant information about the change, including the nature of the change; and
    - (ii) information about what the employer reasonably believes will be the effects of the change on the employees; and
    - (iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and
  - (c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- (14) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- (15) The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.
- (16) In this term:
- relevant employees*** means the employees who may be affected by a change referred to in subclause (1).