

WAIKIKI PRIVATE HOSPITAL REGISTERED NURSES AGREEMENT 2016**WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

PARTIES THE AUSTRALIAN NURSING FEDERATION, INDUSTRIAL UNION
OF WORKERS PERTH

APPLICANT

-v-

DR ANTHONY ROBINSON TRADING AS WAIKIKI PRIVATE
HOSPITAL

RESPONDENT**CORAM** COMMISSIONER T EMMANUEL**DATE** FRIDAY, 17 MARCH 2017**FILE NO/S** AG 48 OF 2016**CITATION NO.** 2017 WAIRC 00158**Result** Agreement registered**Representation (by correspondence)****Applicant** Ms R Weideman**Respondent** Ms N Taylor*Order*


WHEREAS the Commission has before it an application pursuant to s 41 of the *Industrial Relations Act 1979* (WA) to register an agreement as an industrial agreement;

AND WHEREAS I am satisfied that the agreement meets the requirements of the *Industrial Relations Act 1979* (WA) and that it should be registered;

AND WHEREAS the parties have consented to the Commission registering the agreement on the papers;

NOW THEREFORE I, the undersigned, pursuant to the powers conferred on me under s 41 of the *Industrial Relations Act 1979* (WA) hereby order –

THAT the agreement made between the parties filed in the Commission on 25 October 2016 entitled ‘Waikiki Private Hospital Registered Nurses Agreement 2016’ as amended by the parties on 2 February 2017 and 10 March 2017 attached hereto be registered as an industrial agreement in replacement of the ‘Waikiki Private Hospital Registered Nurses Agreement 2013’ which by operation of s 41(8) is hereby cancelled.

 (Sgd.) T. EMMANUEL
COMMISSIONER T EMMANUEL

WAIKIKI PRIVATE HOSPITAL REGISTERED NURSES AGREEMENT 2016

AG48 OF 2016

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1. TITLE

This Agreement will be known as the Waikiki Private Hospital Registered Nurses Agreement 2016.

2. PARTIES

The parties to this Agreement shall be Dr Anthony Robinson trading as Waikiki Private Hospital (ABN 48 437 579 849) ("the Employer") and the Australian Nursing Federation, Industrial Union of workers Perth (ANF).

This Agreement applies to approximately 45 employees.

3. SCOPE

This agreement shall apply to all employees employed as nurses in the classifications contained in Clause 21 - Salaries, Classifications and Career Structure by the Employer who are members of, or eligible to be members of the Union.

4. TERM

The operative date for this agreement shall be from the beginning of the first pay period commencing on or after the date of registration until 1 July 2019.

5. REPLACEMENT

- (1) This agreement replaces the Waikiki Private Hospital Registered Nurses Agreement 2013.
- (2) This is a comprehensive document. No other award or agreement will have effect in relation to employees covered by this agreement.

- (3) Notwithstanding the provisions of Clause 4 – Term, this agreement shall continue until it is replaced by a new agreement.
- (4) The parties agree to commence negotiations for a new agreement at least 3 months before this agreement expires.

6. INTERPRETATION

In this Agreement:

- (1) "Casual" means an employee engaged on an hourly basis with no guarantee of continual or additional employment.
- (2) "Fixed term contract" includes a contract of employment in which an employee is engaged for a specific project either for the duration of that project or for a specific period of time. Nothing in this sub-clause shall restrict the right of the Employer or the employee to terminate the engagement within the specified term in accordance with the provisions of Clause 9 - Separation.
- (3) "Ordinary rate" means the rate of pay prescribed in Clause 21 – Salaries, Classifications and Career Structure.
- (4) "Ordinary time earnings" means the ordinary rate and shift and weekend penalties.
- (5) "Nurse" means a person registered under the Health Practitioner Regulation National Law (Western Australia) in the nursing and midwifery profession whose name is entered on division 1 of the register of nurses kept under that Law as a registered nurse.
- (6) "Union" means the Australian Nursing Federation, Industrial Union of Workers Perth (ANF)
- (7) "Immediate Family" means the Employee's spouse or de facto partner (including same sex relationship and former spouse or de facto partner), member of the employee's household, child, step child, parent, step parent, grandparent, grandchild or sibling of the employee.

7. AIMS AND OBJECTIVES OF AGREEMENT

- (1) The basic objectives of the agreement are:
 - (a) The desire to improve wages and working conditions to reward and retain current nursing staff and attract new staff where appropriate; and
 - (b) The desire to implement work practices which increase flexibility within the hospital and further improve nursing productivity and efficiency throughout the hospital.

- (2) The parties to the 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 and dealt with.
- (3) While through the terms of the Agreement, the Employer expects nurses to be flexible where possible, it also recognises that nurses have outside interests and commitments. Accordingly mutual agreement between a nurse and the Employer is the cornerstone of the rostering flexibility provisions outlined in Clause 16 - Hours of this Agreement.

8. DUTIES

The employee will be required to work in accordance with his/her job description and the Employer's policies and procedures. The Employer may direct the employee to carry out such duties as are within the limits of the employee's skill, competence or training. Provided that where an employee is directed to work at below their classification level, they shall not incur any loss of pay.

9. SEPARATION

Employer Giving Notice

- (1) (a) The contract of service may be terminated by the Employer on any day by giving to the employee the required period of notice in writing and the contract shall expire at the end of that period of notice.
- (b) (i) the required period of notice shall be:

Employee's period of continuous service with the Employer	Period of notice
Not more than 3 years	at least 2 weeks
More than 3 years but not more than 5 years	at least 3 weeks
More than 5 years	at least 4 weeks
- (ii) subject that for a level 2 or level 3 nurse, the minimum period of notice shall be 4 weeks.
- (iii) the required period of notice is increased by one week if the employee is over 45 years old and has completed at least 2 years continuous service with the Employer.
- (c) Provided that the contract of service of an employee engaged as a casual may be terminated by the Employer giving the employee one hour's notice. Such notice need not be in writing.
- (d) Payment in lieu of the required period of notice shall be made by the Employer if the required notice is not given.

- (e) The Employer may terminate the contract of service by providing part of the required notice and payment in lieu of the balance.

Employee Giving Notice

- (2) (a) (i) the contract of service of a level 1 nurse may be terminated on any day by the nurse giving to the Employer 2 weeks' notice in writing and the contract shall expire at the end of that period of notice.
- (ii) the contract of service of a level 2 or 3 nurse may be terminated on any day by the nurse giving to the Employer 4 weeks' notice in writing and the contract shall expire at the end of that period of notice.
- (b) Provided that the contract of service of an employee engaged as a casual may be terminated by the employee giving the Employer one hour's notice. Such notice need not be in writing.
- (c) If an employee fails to give the required notice or leaves during the notice period, the Employer may, at its discretion, deduct from any monies due to the employee, an amount equal to the ordinary rate for the period of notice not given.
- (3) The employee and the Employer may agree in writing upon a longer period of notice than prescribed in this clause.
- (4) The required notice may be dispensed with, at the time the contract is terminated, by agreement in writing between the Employer and employee.
- (5) Nothing in this clause affects the Employer's right to dismiss an employee without notice for serious misconduct that justifies instant dismissal.

Certificate of Service

- (6) Where an employee whose service terminates requests a certificate of service, a certificate signed by the Employer stating the name of the employee, the period of service, whether the service was full or part time and the classifications in this Agreement in which work has been carried out, shall be provided.

10. PROBATION

The first 3 months of employment will be on a probationary basis during which time and notwithstanding the provision of Clause 9 - Separation either party may terminate the contract by giving one week's notice in writing (one hour in the case of casuals) or payment or forfeiture in lieu thereof.

The Employer shall provide the employee with an appraisal of his or her performance during the probationary period.

11. TIME NOT WORKED

The employee shall not be entitled to payment for any period of unauthorised absence.

12. RIGHT OF TRANSFER

The employee shall be required to comply with any reasonable request to transfer to another position or place of work within the hospital (within the limits of the employee's skill, competence or training).

13. CONFIDENTIALITY

Information relating to the Employer, its customers or activities may not be released or divulged by the employee to a third party other than in the proper performance of the employee's obligations under this Agreement. This shall not prevent the employee from seeking representation by an accredited Union official.

14. PART-TIME

- (1) "Part-time employee" means an employee regularly employed to work less hours than those prescribed for full-time employees in any weekly period.
- (2) A part-time employee shall receive payment for wages, annual leave, long service leave, sick leave, compassionate leave and any weekly allowances in the same ratio as ordinary hours worked relate to full-time employees.
- (3) A part-time employee may agree to work additional hours (i.e. un-rostered hours worked in conjunction with an existing shift) or additional shifts. Any additional hours or shifts are to be paid at ordinary rates unless the total number of hours worked exceeds the limits prescribed in (3) (a) or (b) or (c) below in which case overtime rates shall apply :
 - (a) Time worked in excess of 8 hours per shift, except the Operating Suite, and night duty which will be time worked in excess of 10 hours per shift, provided that in no instance will this be greater than 10 hours a shift; or
 - (b) 76 hours a fortnight; or
 - (c) 10 days a fortnight.
- (4) A part-time employee cannot be required to work additional hours.
- (5) A part-time employee who opts to work additional hours within the parameters prescribed in sub-clause (3) (a) or (b) or (c) above can elect to have those additional hours paid as follows:

- (a) Ordinary rate of pay and accrue all leave entitlements on additional hours or
- (b) Casual rate of pay based on hourly rate of pay utilising a divisor of 1/38 plus a loading of 20% in lieu of leave entitlements.
- (c) Employees will be required to elect which arrangement shall apply annually during the period of the agreement. Such election will be maintained for a period of 12 months.
- (d) Nothing in sub-clause 5 (c) shall prevent the Employer from considering requests to change the option within a 12 month period. Such requests will be considered on merit and will be determined by the Director of Nursing.

15. CASUAL

- (1) A casual shall be paid for each hour worked, 1/38th of the rate prescribed in Clause 21 - Salaries, Classifications and Career Structure, for each hour worked, plus 20% additional loading.
- (2) A casual rostered for duty on a public holiday (as defined in Clause 30 – Public Holidays) shall be entitled to ordinary rates of pay plus holiday loading of 50% for the actual time worked.
- (3) A casual shall not receive any of the leave entitlements prescribed in this agreement.
- (4) A casual who reports to work for an allocated shift and is advised that the shift has been cancelled should be paid a minimum of three hours pay plus casual loading.

16. HOURS

- (1) The ordinary hours of duty for a full-time employee shall be 76 per fortnight.
- (2) Ordinary hours may be worked over any day of the week, Monday to Sunday inclusive, and shall be arranged by the Employer to meet its needs.
- (3) An employee shall not be rostered to work more than:
 - (a) 8 ordinary hours for general nurses
 - (b) 10 ordinary hours for theatre and endoscopy nurses in any shift
- (4) Ordinary hours shall not be worked over more than 10 days in a fortnight. Except that this provision may be varied in any fortnight to provide for additional shifts to be worked in terms of the provisions of sub-clause (8) below.
- (5) A minimum of 2 days off duty in each fortnight shall be taken consecutively.

- (6) The roster shall in each case provide for a 9 hour break between shifts, except where, by mutual agreement between the Employer and employee concerned, the break between shifts may be further reduced to a minimum of 8 hours to meet operational requirements.
- (7) Notwithstanding the provisions of sub-clause (6), an employee shall not be rostered to work more than one "quick shift" (i.e. an evening shift followed by a morning shift, for example, 2300 finish with a 0700 re - start) in any period of 7 days.
- (8) By mutual agreement between the Employer and the employee concerned, the following variations to the ordinary rostered hours may be made to meet the needs of the Employer and patients:
 - (a) The hours of duty of a shift already under way may be extended up to a maximum of 10 ordinary hours and the extra hours over and above the rostered shift will be paid in accordance with clause 14 (3) & (5) – Part-time or clause 17 - Overtime;
 - (b) The hours of duty of a shift already under way may be reduced, provided that the hours will be made up at a mutually agreeable time in the current roster period; and
 - (c) One shift in each fortnightly rostered period may be cancelled, provided that the hours will be made up at a mutually agreeable time in the current roster period.
 - (d) Where rostered hours are reduced or cancelled and those rostered hours would have attracted a penalty, the employee will be paid a loading of the higher of the penalty rate applying to the cancelled shift or the penalty rate applying to the make-up shift when the hours are made up.
 - (e) If the deficit hours are unable to be made up in accordance with sub-clause (b) & (c), the employee will be paid for the time not worked.

17. OVERTIME

- (1) Time worked in excess of:
 - (a)
 - (i) 8 hours per shift for general nurses
 - (ii) 10 hours per shift for theatre and endoscopy nurses, provided that this will be 8 hours where 8 hour shifts are being rostered by the Employer due to the workload requirements of the hospital; or
 - (b) 76 hours a fortnight; or
 - (c) 10 days a fortnightshall be deemed overtime.

- (2) Subject to this clause overtime shall be paid for at:
- (a) Time and a half for the first 3 hours on any day Monday to Saturday, both inclusive and double time thereafter;
 - (b) Double time on a Sunday or public holiday;
- (3) Without limiting the right of the Employer to direct staff to perform reasonable overtime where possible any overtime arrangement will be by mutual consent.
- (4) Where the employee and the Employer agree, time off in lieu of payment for overtime may be allowed proportionate to the payment to which she/he is entitled. Such time-off to be taken at the convenience of the Employer provided that:
- (a) Such time off is in unbroken periods, according to each period of overtime worked; and
 - (b) The overtime is made up within 28 days from the time when it became due, except where it arises from the changeover from night duty to day duty or day duty to night duty.
- (5) Less than 15 minutes overtime in a week or 30 minutes overtime in a fortnight shall not be paid for.
- (6) (a) When overtime work is necessary it shall, wherever reasonably practicable, be so arranged that employees have at least 10 consecutive hours off duty between the work of successive days.
- (i) an employee who works so much overtime between the termination of his/her ordinary work on one day and the commencement of his/her ordinary work on the next day that he/she has not had at least 10 consecutive hours off duty between those times shall be released after completion of such overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
 - (ii) operating suite staff who are required to perform overtime that does not extend beyond midnight and whose next rostered shift is day duty shall be released from duty for 9 consecutive hours before commencement of the next shift without loss of pay for ordinary working time. If the Operating Suite employee cannot be released for 9 consecutive hours, the employee shall be paid at double time until released from duty for such a period and shall then be entitled to be absent until he/she has had such consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
 - (iii) provided that where an employee whose next rostered shift is day duty is required to work overtime extending beyond midnight or commencing after midnight, that employee shall, subject to sub-clause (6) (b) hereof be released from the requirement to present for day duty without loss of

ordinary wages until a period of 8 consecutive hours has elapsed since the completion of the overtime.

- (b) If, on the instruction of the Employer, such employee resumes or continues work without having had 8, 9 or 10 consecutive hours off duty, as the case may be, the employee shall be paid at double time until released from duty for such period and shall then be entitled to be absent until he/she has had such consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

Meals

- (7) An employee not notified the previous day or earlier of the requirement to work overtime shall, if working overtime for an hour or more, be provided with any of the usual meals occurring during such overtime.

18. ON CALL AND RE CALL – OPERATING SUITE

On call

- (1) For the purposes of this Agreement an employee is on call when he or she is required by the Employer to remain at such a place as will enable the Employer to readily contact him or her during the hours for which he or she has been placed on call. An employee is also on call when required to carry a mobile telephone or pager and to remain within a specified radius of the hospital.
- (2) An employee shall be paid an hourly allowance of \$5.41 whilst on call. Provided that payment in accordance with this paragraph shall not be made with respect to any period for which payment is otherwise made in accordance with the provisions of this Agreement when the employee is recalled to work.
- (3) Where an employee is recalled to work within 3 hours of starting work on a previous recall, the minimum overtime period shall commence from the time of the second or subsequent recall. Provided that the effect of this sub-clause shall not be to pay 3 hours of overtime for each and every recall within the original 3 hour period as a discrete period of overtime. In such cases the first recall will be paid up until the commencement of the second recall provided that the 3 hours has not elapsed.
- (4) An employee shall not be required to remain on call whilst on annual leave or the day before commencing leave unless by agreement between the employee and the Employer.
- (5) An employee on-call and called in to work shall be paid a minimum of 3 hours pay.
- (6) An employee on-call and called in to work shall be paid while on recall at overtime rates.

Re call

- (7) An employee not rostered to be on-call who is recalled to work will be paid 400% of the ordinary rate of pay.

Additional Leave for on call

- (8) A nurse regularly required to work on call will receive up to an extra 5 days leave per year, provided that they are available to be rostered on call Monday to Sunday, including public holidays and are rostered on call to suit operational requirements, in accordance with the following:
 - (a) Following a normal roster shift; or
 - (b) During weekend days or public holidays; or
 - (c) On days that they are not rostered for duty; and
 - (d) They are rostered to suit operational requirements on a minimum of 42 hours per 4 week cycle, over 11 cycles in an anniversary year.
- (9) An employee who is regularly placed on call can accrue such leave on a pro rata basis at the rates as follows:

No of 4 week cycles on call	No of additional days
4	1
6	2
8	3
10	4
11	5

- (10) Leave which accrues as provided in this clause is to be taken by agreement between the Employer and employee within the operational needs of the Employer.
- (11) The loading prescribed in Clause 29 – Annual Leave does not apply to leave provided in this clause.
- (12) Where a nurse qualifies for additional leave by meeting the definition of a continuous shift worker or by being regularly placed on call, the maximum combined entitlement shall be 5 days leave.

19. ROSTERS

- (1) A roster of working hours shall be posted in a convenient place where it can be readily seen by each employee concerned.
- (2) The roster shall be open for inspection by an accredited representative of the Union at all reasonable times.
- (3) The roster shall be posted at least 14 days before it comes into operation.

- (4) The roster may be altered at the Employer's discretion at any time if the Employer's requirements render such alteration necessary.
- (5) Where a rostered shift has been swapped at the request of the Employer to meet staffing gaps, the nurse will be paid penalty rates at the higher rostered rate.

20. MEAL AND MEAL HOURS

- (1) Meal breaks shall be a minimum of 30 minutes and subject to sub-clause (4) of this clause shall not be counted as time worked.
- (2) The employee shall not be required to work for more than 5 hours without a meal break provided that:
 - (a) An employee who commences work at or before 0700 may be required to work for 6 hours without having a meal break;
 - (b) An employee on a 10 hour shift may be required to work for 6 hours before having a meal break;
 - (c) An employee who is directly participating in a continuous surgical procedure that is unable to be interrupted may be required to work for 6 hours from commencement of the shift before having a meal break.
- (3) Where the employee is required to be on duty or available during his/her meal break, the employee shall be paid at ordinary rates but the period of the meal break, if the employee is not working, shall not be counted as time worked for the purposes of Clause 17 - Overtime.
- (4) One 7 minute tea break shall be allowed during each shift and shall be taken when convenient to the Employer without deduction of pay for such time.

21. SALARIES, CLASSIFICATIONS and CAREER STRUCTURE

- (1) The wage increases provided by this clause apply to all classifications and subsume any subsequent adjustments arising from Safety Net Reviews awarded by the Western Australian Industrial Relations Commission during the life of the Agreement:
 - 2.5% increase from 1 July 2016
 - 2.5% increase from 1 July 2017
 - 2.5% increase from 1 July 2018
- (2) An employee who has worked an average of 20 hours per week, or less, in a year shall be required to work a further 12 months before being eligible for advancement to the next succeeding experience increment (if any), within the level in which the employee is employed. However the employee can progress to the next increment if a total of 1,976 hours are worked over a period greater than one year and less than two years.

- (3) Part-time employees who work an average of 20 hours per week, or less and who convert to full time hours will be advanced to the next succeeding increment upon completion of twelve months service at the lower increment.
- (4)
 - (a) The fortnightly rate shall be calculated by dividing the annual rate by 313 and then multiplying by 12.
 - (b) The hourly rate shall be calculated by dividing the fortnightly rate by 76.
- (5) Classification in levels:
 - Level 1: A registered nurse in the first or subsequent years of experience as a registered nurse and not elsewhere classified.
 - Level 2: A registered nurse appointed as a clinical nurse, an area manager, a research nurse, a staff development nurse, or clinical instructor;
A registered nurse functioning in a combined role and classified at Level 2.
 - Level 3: A registered nurse appointed as a clinical nurse specialist, a nurse manager, a nursing researcher, a staff development educator, or a nurse educator.

A registered nurse functioning in a combined role classified at Level 3.
- (6) Progression for all classifications for which there is more than one wage point, shall be by annual increments, subject to a satisfactory performance appraisal. The appraisal shall be conducted within 2 months of the employee's anniversary date.
- (7) Where an employee is appointed to a position at level 1, 2 or 3, previous relevant nursing experience at that level, or in a similar level under a differing career structure, shall be taken into account for determining the appropriate increment level. Experience shall include the time spent in hospital based post basic courses, and includes midwifery and psychiatric training.
- (8) The onus of proof of previous experience shall rest with the employee.
- (9) Provided that an employee returning to the profession after an absence greater than 5 years shall commence at the first increment of Level One for a period of 3 months.
- (10) During this time the employee shall be subject to performance appraisal and review by the Director of Nursing if there is dispute. Upon satisfactory review she/he shall move to a level and increment as determined by the assessment. An employee who fails to satisfy the Director of Nursing of her/his competency to progress through the Level I increments or into another level as the case may be, may apply for reassessment after a period of 12 months from the date of employment.
- (11) An employee who for the first time commences employment as a graduate registered nurse and was previously employed as an enrolled nurse, will commence at the first increment of Level 1 for a period of not less than three months provided that in the case of a graduate registered nurse, who was previously employed as an Advanced Skills

Enrolled Nurse, commencement will be at the second increment. During this time the competencies of the employee will be reviewed. Upon satisfactory review she/he will be accelerated once in increment to no higher than the third increment. An employee who fails on the first occasion to reach the required level of competency to accelerate up the level one increments, may apply for reassessment after a period of 12 months from the date of employment.

Career Structure

- (12) Progression through the increments for registered nurses classified at Level 1 shall occur by annual increments with the exception of part-time staff who will progress in accordance with sub-clause (2).
- (13) The actual ordinary annual wage rates applicable during the term of this Agreement, including the career structure changes, will be paid in accordance with of the following table:

	Current	01/07/2016 2.5%	01/07/2017 2.5%	01/07/2018 2.5%
1.1	61,871.67	63,418.46	65,003.92	66,629.02
1.2	64,857.69	66,479.13	68,141.11	69,844.64
1.3	67,854.74	69,551.11	71,289.89	73,072.13
1.4	70,851.74	72,623.03	74,438.61	76,299.57
1.5	73,848.79	75,695.01	77,587.38	79,527.07
1.6	76,844.91	78,766.03	80,735.18	82,753.56
1.7	79,830.00	81,825.75	83,871.39	85,968.18
1.8	82,806.83	84,877.00	86,998.93	89,173.90
1.9	84,189.70	86,294.44	88,451.80	90,663.10
2.1	85,813.97	87,959.32	90,158.30	92,412.26
2.2	87,794.55	89,989.41	92,239.15	94,545.13
2.3	89,796.26	92,041.17	94,342.20	96,700.75
2.4	91,786.93	94,081.60	96,433.64	98,844.48
3.1	97,401.63	99,836.67	102,332.59	104,890.90

3.2	99,638.45	102,129.41	104,682.65	107,299.71
3.3	101,855.64	104,402.03	107,012.08	109,687.38
3.4	104,071.93	106,673.73	109,340.57	112,074.09

22. PAYMENT OF WAGES

- (1) (a) Wages shall be paid fortnightly by electronic funds transfer into one or two accounts (nominated by the employee) held at any major bank, building society or credit union.
- (b) Any costs associated with the establishment by the employee of such an account and of the operation of it shall be borne by the employee.
- (2) Where payment is not made within the nominated time the Employer shall make every reasonable endeavour to rectify the matter without further delay. Where the problem is within the control of the Employer it shall be rectified within 24 hours.
- (3) Each employee shall be provided with a pay advice slip on each day that wages are paid.

Termination Payment

- (4) Upon termination of employment, and subject to the return of Employer property, the Employer shall pay to the employee all monies earned by or payable to the employee within the next pay period, or by agreement, the day following termination.

Overpayment of Salaries

- (5) Where an employee is paid for work not subsequently performed or is overpaid in any other manner, the Employer is entitled to make adjustment to the subsequent wages or salaries of the employee.

One-off Overpayments

- (6) Subject to sub-clause (8) and (9) of this clause, one-off overpayments may be recovered by the Employer in the pay period immediately following the pay period in which the overpayment was made, or in the period immediately following the pay period in which it was discovered that overpayment has occurred.

Cumulative Overpayments

- (7) Subject to sub-clauses (8) and (9), cumulative overpayments may be recovered by the Employer at a rate agreed between the Employer and the employee, provided that the rate at which the overpayment is recovered is not at a lesser rate than the rate at which it was overpaid or \$50 per week, depending on which is the lesser amount per pay period.

- (8) In exceptional circumstances, other arrangements for the recovery of overpayments may be agreed between the Employer and the employee.
- (9) The Employer is required to notify the employee of their intention to recoup an overpayment, provide the employee with details to sufficiently establish that an overpayment has occurred and to consult with the employee as to the appropriate recovery rate.
- (10) The Employer will make no deductions from an employee's wages without having first received the employee's written authorisation.

Underpayment of Salaries

- (11) Where an employee is underpaid in any manner, the Employer will rectify the error as soon as practicable.
- (12) Notwithstanding sub-clause (11), an error shall be rectified no later than in the pay immediately following the date on which the Employer discovers, or is advised, that the error occurred.
- (13) Notwithstanding the provisions of sub-clause (12), an employee shall be paid any underpayment immediately by way of a special payment where the underpayment of wages has created serious financial hardship.

23. SHIFT WORK

- (1)
 - (a) Where on any weekday an employee works a complete rostered afternoon shift commencing at 1200 or after, and finishing after 1800, the employee shall be paid a loading of 15% on the ordinary rates of pay.
 - (b) The provisions of paragraph (a) do not apply where the employee commences her/his ordinary hours of work after 1200 and completes those hours at or before 1800 on that day.
- (2) Where on any weekday an employee works a rostered night shift between the hours of 1800 and 0730, the employee shall be paid a loading of 30% on the ordinary rates of pay.
- (3) Ordinary hours worked between midnight Friday and midnight on the following Saturday shall attract a loading of 50%.
- (4) Ordinary hours worked between midnight Saturday and midnight on the following Sunday shall attract a loading of 75%.
- (5) Where an employee works a broken shift each portion of that shift shall be considered a separate shift for the purpose of this clause.

24. CALCULATION OF PENALTIES

Where the employee works hours which would entitle him or her to payment of more than one of the penalties payable in accordance with the hours, on call, overtime, shift and weekend penalties, or public holiday provisions of this Agreement, only the highest of any such penalty shall be payable. In the case of casuals any such penalty shall be in addition to the casual loading.

25. HIGHER DUTIES

- (1) An employee who performs duties, which carry a higher minimum rate of wage than those that the employee usually performs for a complete shift, shall be paid the higher rate of wage for the whole shift.
- (2) Where an employee is required to temporarily perform only part of the duties of a higher classified position the employee shall be paid an allowance which reflects that portion of the duties performed. Such employee shall be advised of that portion prior to commencing the duties of the higher classified position.
- (3) In the absence of a rostered Clinical Nurse, a Level One nurse who acts as a designated shift co-ordinator for the majority of a shift shall be paid a higher duties allowance to Level 2 increment 1.
- (4) In the absence of the Director of Nursing or the Clinical Nurse Manager, a Level One nurse who is responsible for the site shall be paid a higher duties allowance to Level 2 increment 4 for each hour or part thereof.

26. LAUNDRY AND UNIFORMS

- (1) Where the Employer requires a uniform to be worn:
 - (a) The employee shall purchase a sufficient number of the Employer's designated uniforms; and
 - (b) The Employer shall pay an annual uniform allowance of \$256 pro rata based on hours worked for all existing staff who are eligible to receive the allowance. Payment will be made at the anniversary date for all eligible employees.
 - (c) New starters (other than casuals) who are eligible to receive payment of the allowance will be advanced two years allowance upon commencement. Should the employee resign from the Employer during this period the amount advanced will be deducted from that employee's final pay (will be calculated on a pro rata basis).
 - (d) Casual employees who work a minimum average of 16 hours per week in a completed financial year shall be paid the allowance retrospectively.

- (e) Casual employees who work less than an average of 16 hours per week in a completed financial year shall not be eligible to receive the uniform allowance.
 - (f) All casual staff will be required to dress in accordance with the colours of the Employer's designated uniform.
 - (g) This allowance will increase yearly in line with wages.
- (2) The cost of laundering uniforms shall be met by the employee.
 - (3) Employees shall be responsible for the provision of appropriate clean and safe footwear.
 - (4) The provisions of this Clause shall not detract from the Employer's obligation pursuant to s. 19 of the *Occupational Safety and Health Act 1984* to provide employees with adequate personal protective clothing and equipment where it is not practicable to avoid the presence of hazards at the workplace.

27. FARES AND MOTOR VEHICLE ALLOWANCE

- (1) An employee required to work outside the hospital during his or her normal working hours shall be paid any reasonable travelling expenses incurred except where an allowance is paid in accordance with sub-clause (2) hereof.
- (2) An employee required and authorised to use his or her own motor vehicle in the course of his or her duties (including travel to and from work when on call) shall be paid an allowance of not less than 0.92 cents per kilometer.
- (3) The rate prescribed in sub-clause (2) will increase yearly in line with wages.
- (4) Nothing in this Clause shall prevent the Employer and the employee making other arrangements as to car allowance not less favourable to the employee.

28. SUPERANNUATION

- (1) The Employer shall contribute on behalf of the employee in accordance with the requirements of the *Superannuation Guarantee (Administration) Act 1992*.
- (2) The Employer's responsibility in relation to superannuation shall be met by:
 - (a) Notifying the employees of their entitlement to nominate a complying superannuation fund or scheme into which they wish to have their contributions paid; and
 - (b) Making the required contribution into the employee's nominated fund or scheme; or

- (c) Making the required contribution in the Health Industry Plan (HIP) as the default fund if the employee does not exercise his or her option to nominate a preferred fund or scheme.
 - (d) The employee and employer will be bound by the employee's nomination unless the employee and employer agree to change the complying superannuation fund to which contributions are made. The employer shall not unreasonably refuse to agree to a change of complying superannuation fund requested by an employee.
- (3) Contributions shall be paid monthly.
- (4) Contributions on behalf of an employee in receipt of payments under the *Workers Compensation and Injury Management Act 1981* shall continue to be paid for a period of three months.

Salary Sacrifice

- (5) (a) An employee may elect in writing to receive a superannuation benefit in lieu of part of the salary to which he or she is otherwise entitled under this Agreement.
- (b) The choice of superannuation fund, for the purposes of salary sacrifice, shall be at the employee's discretion.
- (c) The salary sacrifice shall remain in force until terminated by mutual agreement or by the Employer or the employee providing one calendar month's notice.

29. ANNUAL LEAVE

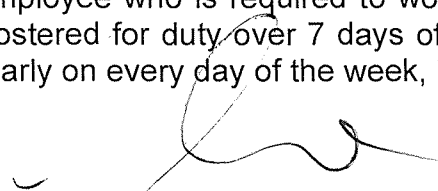
Quantum

- (1) (a) Each employee shall, after the completion of each 12 months of continuous service, be entitled to 4 weeks annual leave. Eligible employees may also be entitled to additional annual leave because of shift work arrangements or on call arrangements, up to a maximum of 1 week, and public holiday duty, up to a maximum of 2 weeks in accordance with Clause 29 (2), Clause 18 (9-12) and Clause 30(1) respectively.
- (b) The entitlement accrues *pro rata* on a weekly basis.
- (c) The entitlement to annual leave shall continue to accrue whilst an employee is on annual leave and other forms of paid leave. Annual leave shall not accrue during any period of unpaid leave except the first 3 months of unpaid sick leave and the first month of workers' compensation leave.

Shift Work

- (2) (a) An employee who is classified as a "*continuous shift worker*" shall be entitled to an additional weeks annual leave after the completion of each 12 months continuous service.

"*Continuous shift worker*" means an employee who is required to work ordinary hours of duty where the employee is rostered for duty over 7 days of the week, and is required to work and works regularly on every day of the week, including



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public holidays and Sundays. The additional week's leave may be taken at short notice, based on workload activity.

- (b) The onus will be on the Clinical Nurse Manager and employee to ensure that the requirements of the "*continuous shift worker*" definition are met. Staff rosters will be audited randomly one month in three to determine whether employees are continuing to meet this requirement. If the requirement is not being met due to operational reasons, then no further action will be taken. If however the requirement is not being met due to the personal requirements of the employee, then their status as a "*continuous shift worker*" shall be reviewed and leave entitlements adjusted accordingly.
- (c) Where a dispute arises as to the classification of a nurse as a "*continuous shift worker*" then this will be referred to the Director Clinical Services through the relevant Clinical Nurse Manager. If the matter remains unresolved recourse to the Dispute Resolution procedure provided under Clause 41 of the Agreement would be available.

Rate of Pay

- (3) (a) An employee shall be paid for any period of annual leave prescribed in this clause at the ordinary rate of wage the employee would have received as his or her payment at the time of taking the leave.
- (b) Provided that an employee performing higher duties for a period of less than one calendar month at the time of taking leave, shall be paid at the ordinary rate of wage which he/she would have received but for the higher duties.
- (c) The employee shall, in addition, be paid a loading of 17.5% on the 4 weeks of annual leave accrued in each year in accordance with sub-clause (1).

Timing of Payment

- (4) The employee is to be paid for a period of annual leave at the time payment is made in the normal course of employment, unless the employee requests in writing that he or she be paid before the period of leave commences in which case the employee is to be so paid.

Termination

- (5) If an employee's employment terminates, the employee shall be paid for any annual leave which has accrued under sub-clause (1) or (2) but which has not yet been taken. Provided that:
 - (a) Leave loading shall be paid out on outstanding annual leave balances at the time an employee's employment terminates.;
 - (b) An employee justifiably dismissed for misconduct shall not be paid for untaken leave resulting from an incomplete year of service.

Taking Annual Leave

- (6) (a) The employee may, with the approval of the Employer, be allowed to take the annual leave prescribed by this clause before the completion of 12 months' continuous service.
- (b) The annual leave prescribed in this clause may be split into portions by mutual agreement between the Employer and the employee.
- (c) When the employee requests that the annual leave be split into portions the Employer shall make every reasonable endeavour to accommodate the wishes of the employee.
- (d) Annual leave shall be taken at a time which is mutually convenient to the Employer and employee provided that the leave must be taken within 2 years following the date of accrual. Where annual leave has not been taken within 2 years of accrual, the Employer may give the employee at least 2 week's notice of the period of time when it will be convenient to the Employer for the employee to take the leave.
- (e) The Employer will respond to the employee's annual leave request within 14 days of a request being submitted.

Cashing Out

- (7) An employee may by agreement in writing with the Employer forgo part of their entitlement to accrued annual leave in exchange for payment at the rate which would have applied had the leave been taken, including the applicable leave loading.
- (8) An employee is entitled to cash out 50% of the annual leave to which the employee became entitled in relation to that year of service.

Notice of Christmas Closure

- (9) The Employer will provide six weeks notification of the intended hospital Christmas closure period. Employees will be given the option to use their leave entitlements or take unpaid leave during this period. Unpaid leave may not be used if the employee has greater than 1 year's entitlement accrued.

30. PUBLIC HOLIDAYS

- (1) Each nurse shall be entitled to 10 days public holiday leave per year with pro rata for part time staff. For the hours actually worked on a public holiday or day observed in lieu thereof, nurses shall be paid a loading of 50% for the actual time worked.
- (2) The following days, or the days observed in lieu thereof, shall be considered as public holidays: New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Labour Day, Foundation Day, Sovereign's Birthday, Christmas Day and Boxing Day.

- (3) Where an employee is not required to work on a public holiday, or day observed in lieu thereof, and as a result works fewer than her/his contracted hours in that fortnight the deficit may either:
- (a) Be deducted from the employee's annual leave entitlement (and paid to the employee); or
 - (b) Be treated as leave without pay;
- depending on the operational requirements of the Employer and subject to normal administrative processes.

31. PERSONAL LEAVE

Sick Leave

- (1) A full time employee shall accrue 76 hours paid sick leave per annum.
- (2) The entitlement shall accrue pro rata on a weekly basis.
- (3) An employee who is unable to attend or remain at work on the grounds of personal ill health or injury is entitled to be paid at ordinary rates for the period of the absence up to and including the number of hours which the employee was rostered to work on that day.
- (4) Unused portions of sick leave entitlement shall accumulate from year to year and may be taken in any subsequent year.
- (5) An employee shall advise the Employer as soon as reasonably practicable and if possible prior to the commencement of the shift of, the inability to attend work the nature of illness or injury and the estimated duration of absence.
- (6) An employee must provide the Employer evidence that would satisfy a reasonable person for any absence of more than 3 consecutive days. Where an employee has had 3 absences on paid sick leave adjacent to other days off duty within a period of 12 months (or where some other trend is noted), the Employer may request, in writing, that any further absences be accompanied by evidence that would satisfy a reasonable person.
- (7) An employee who suffers personal ill health or injury whilst on annual leave may be paid sick leave in lieu of annual leave subject to:
 - (a) Providing evidence that would satisfy a reasonable person stating the illness or injury necessitated confinement to home or hospital for 7 consecutive days or more.
 - (b) The portion of annual leave coinciding with the paid sick leave shall be taken at a time agreed by Employer and employee or added to the next period of annual leave.

- (c) Payment for replaced annual leave shall be at the rate of wage applicable at the time the leave is subsequently taken provided that the annual leave loading prescribed in Clause 29 - Annual Leave shall be deemed to have been paid with respect to the replaced annual leave.
- (8) Where an employee receives payment under this clause and subsequently receives payments in respect of the same period under the *Workers' Compensation and Injury Management Act 1981*, the employee shall reimburse to the Employer the payments made under this clause and the Employer shall reinstate the employee's sick leave or other entitlements accordingly.
- (9) An employee may, on request to the Employer, access any accrued leave entitlements to cover a period of absence due to sickness where sick leave has been exhausted.

Carers Leave

- (10) An employee is able to use all of the employee's sick leave entitlement each year for the purposes of providing care or support to any member of the employee's family or household who is ill or injured; or due to an unexpected emergency affecting a family or household member.
- (11) An employee is entitled to unpaid carer's leave of up to 2 days for each occasion on which a member of the employee's family or household requires care or support because of an illness or injury; or due to an unexpected emergency affecting a family or household member.
- (12) An employee may be required to produce a medical certificate, a statutory declaration or some other form of documentation that would satisfy a reasonable person to establish the illness or emergency of a family or household member who requires care and support.

32. LONG SERVICE LEAVE

- (1) The provisions of the *Long Service Leave Act 1958 (WA)* shall apply to employees covered by this Agreement provided that:
- (2) The leave to which an employee shall be entitled or deemed to be entitled shall be as provided in this clause:

Where an employee has completed at least 7.5 years' service the amount of leave shall be:

- (a) In respect of each 7.5 years service so completed - six and one half weeks leave.
- (b) Each period of entitlement of six and one half weeks is to be taken within two years of becoming due unless otherwise approved in writing by the Employer. If the leave due has not been taken within the required two year period, the Employer can direct that the leave be taken by the giving of one months notice to the employee.

- (3) By agreement between the Employer and employee, a part time employee or an employee whose hours have changed from part time to full 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.
- (4) Each period of entitlement can be taken as double the time on half pay.
- (5) By agreement between both the Employer and employee, within the financial constraints of the organisation, any period of long service leave is to be available at half the period on double pay, in weekly multiples.
- (6) Staff can apply to cash in all or part of the entitlement.
- (7) Long service leave shall not accrue on workers' compensation leave in excess of one month.

33. PARENTAL AND ADOPTION LEAVE

Interpretation

- (1) In this Clause:
 - (a) "Adoption", in relation to a child, is a reference to a child who:
 - (i) is not the natural child or the step-child of the employee or the employee's spouse;
 - (ii) is less than 5 years of age; and
 - (iii) has not lived continuously with the employee for 6 months or longer;
 - (b) "Continuous service" means service under an unbroken contract of employment and includes:
 - (i) any period of parental leave; and
 - (ii) any period of leave or absence authorised by the Employer or this agreement, an employee's contract of employment or the *Minimum Conditions of Employment Act (1993)*.
 - (c) "Expected date of birth" means the day certified by a medical practitioner to be the day on which the medical practitioner expects the employee or the employee's spouse, as the case may be, to give birth to a child.
 - (d) "Parental leave" means leave provided for by this clause.
 - (e) "Spouse" includes a de-facto spouse.

Entitlement to parental leave

- (2) (a) Subject to the provisions of this clause, an employee other than a casual employee, is entitled to take up to 52 consecutive weeks of parental leave in respect of:
- (i) the birth of a child to the employee or the employee's spouse; or
 - (ii) the placement of a child with the employee with a view to the adoption of the child by the employee.
- (b) An employee is not entitled to take parental leave unless he or she:
- (i) has, before the expected date of birth or placement, completed at least 12 months' continuous service with the Employer; and
 - (ii) has given the Employer at least 10 weeks' written notice of his or her intention to take the leave.

Provided that an employee shall not be in breach of these notice requirements where failure to give such notice results from confinement or adoption or placement occurring earlier than the expected date.

- (c) An employee is not entitled to take parental leave at the same time as the employee's spouse but this paragraph does not apply to one week's unpaid parental leave:
- (i) taken by the male parent immediately after the birth of the child; or
 - (ii) taken by the employee and the employee's spouse immediately after a child has been placed with them with a view to their adoption of the child.
- (d) The entitlement to parental leave is reduced by any period of parental leave taken by the employee's spouse in relation to the same child, except the period of one week's unpaid leave referred to in paragraph (c).

Maternity leave to start 6 weeks before birth

- (3) A female employee who has given notice of her intention to take parental leave, other than for an adoption, is to start the leave 6 weeks before the expected date of birth unless in respect of any period closer to the expected date of birth a medical practitioner has certified that the employee is fit to work.

Medical certificate

- (4) An employee who has given notice of his or her intention to take parental leave, other than for adoption, is to provide to the Employer a certificate from a medical practitioner stating that the employee or the employee's spouse, as the case may be, is pregnant and the expected date of birth.

Notice of spouse's parental leave

- (5) (a) An employee who has given notice of his or her intention to take parental leave or who is actually taking parental leave is to notify the Employer of particulars of any period of parental leave taken or to be taken by the employee's spouse in relation to the same child.
- (b) Any notice given under paragraph (a) is to be supported by a statement of information to the satisfaction of the Employer or a statutory declaration by the employee as to the truth of the particulars notified.

Notice of parental leave details

- (6) (a) An employee who has given notice of his or her intention to take parental leave is to give the Employer at least four weeks written notice of the dates on which the employee wishes to start and finish the leave.
- (b) The period of leave may be varied, by the employee giving not less than four weeks' notice in writing, unless a lesser period is agreed, provided that the period may be lengthened once only, save with the agreement of the Employer.
- (c) An employee shall confirm his/her intention of returning to work by notice in writing to the Employer given not less than four weeks prior to the expiration of the period of parental leave.

Special parental leave and sick leave

- (7) (a) Where the pregnancy of an employee not then on parental leave terminates after 28 weeks other than the birth of a living child then:
 - (i) she shall be entitled to such period of unpaid leave (to be known as special parental leave) as a duly qualified medical practitioner certifies as necessary before her return to work, or
 - (ii) for illness other than the normal consequences of confinement she shall be entitled, either in lieu of or in addition to special parental leave, to such paid sick leave as to which she is then entitled and which a duly qualified medical practitioner certifies as necessary before her return to work.
- (b) Where an employee not then on parental leave suffers illness related to her pregnancy, she may take such paid sick leave as to which she is then entitled and such further unpaid leave (to be known as special parental leave) as a duly qualified medical practitioner certifies as necessary before her return to work, provided that the aggregate of paid sick leave, special parental leave and parental leave shall not exceed 52 weeks.
- (c) For the purposes of this clause, parental leave shall include special parental leave.

Transfer to a Safe Job

- (8) (a) Where in the opinion of a duly qualified 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 shall, 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 parental leave.
- (b) If the transfer to a safe job is not practicable, the employee may, or the Employer may require the employee to, take leave for such period as is certified necessary by a duly qualified medical practitioner. Such leave shall be treated as parental leave for the purposes of this clause.

Return to work after parental leave

- (9) (a) On finishing parental leave, an employee is entitled to the position he or she held immediately before starting parental leave.
- (b) If the position referred to in paragraph (a) is not available, the employee is entitled to an available position:
- (i) for which the employee is qualified; and
 - (ii) that the employee is capable of performing,
 - (iii) most comparable in status and pay to that of his or her former position.
- (c) Where, immediately before starting parental leave, an employee was acting in, or performing on a temporary basis the duties of, the position referred to in paragraph (a), that paragraph applies only in respect of the position held by the employee immediately before taking the acting or temporary position.
- (d) An employee may return to work on reduced hours on either a temporary or permanent basis. The request is to be made at least 6 weeks prior to return to work.

Effect of parental leave on employment

- (10) Notwithstanding any agreement or other provision to the contrary, absence on parental leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of the agreement.

Parental Leave and Other Leave Entitlements

- (11) Subject to sub-clause (2) paragraphs (c) and (d):
- (a) An employee may, in lieu of or in conjunction with parental leave, take any annual leave or long service leave or any part thereof to which she is then entitled.

- (b) Subject to the provision of sub-clause (8) hereof, paid sick leave or other paid authorised agreement absences (excluding annual leave or long service leave), shall not be available to a worker during her absence on parental leave.

Leave without pay

- (12) (a) Subject to all other leave entitlements being exhausted an employee shall be entitled to apply for leave without pay following parental leave to extend their leave by up to two years. The Employer is to agree to a request to extend their leave unless:
 - (i) having considered the employee's circumstances, the Employer is not satisfied that the request is genuinely based on the employee's parental responsibilities; or
 - (ii) there are grounds to refuse the request relating to its adverse effect on the Employer's business and those grounds would satisfy a reasonable person. These grounds include, but are not limited to:
 - (1) cost;
 - (2) lack of adequate replacement staff;
 - (3) loss of efficiency;
 - (4) impact on the production or delivery of products or services by the Employer.
- (b) The Employer is to give the employee written notice of the Employer's decision on a request for leave without pay under subclause (12)(a) of this clause. If the request is refused, the notice is to set out the reasons for the refusal.
- (c) An employee who believes their request for leave without pay under subclause (12)(a) of this clause has been unreasonably refused may seek to enforce it as a minimum condition of employment and the onus will be on the Employer to demonstrate that the refusal was justified in the circumstances.

Termination of Employment

- (13) (a) An employee on parental leave may terminate her employment at any time during the period of leave by notice given in accordance with this agreement.
- (b) An Employer shall not terminate the employment of an employee on the ground of her pregnancy or of his or her absence on parental leave, but otherwise the rights of an Employer in relation to termination of employment are not hereby affected.

Replacement Workers

- (14) (a) A replacement worker is a worker specifically engaged as a result of a worker proceeding on parental leave.

- (b) Before an Employer engages a replacement worker under this sub-clause, the Employer shall inform that person of the temporary nature of the employment and of the rights of the worker who is being replaced.
- (c) Before an Employer engages a person to replace a worker temporarily promoted or transferred in order to replace a worker exercising her rights under this clause, the Employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the worker who is being replaced.
- (d) Provided that nothing in this sub-clause shall be construed as requiring an Employer to engage a replacement worker.
- (e) A replacement worker shall not be entitled to any of the rights conferred by this clause except where her employment continues beyond the twelve months' qualifying period.

Paid Parental Leave

- (15) Full-time and part-time employees (provided they are the primary care giver) are entitled to up to 12 weeks paid parental leave based on their length of continuous service as follows:

Completion of more than one year and less than three years	8 weeks
Completion of more than three years but less than four years	10 weeks
Completion of more than four years service	12 weeks

Paid parental leave is calculated on the base rate of pay based on contractual hours and excludes all penalties and allowances. Paid parental leave can be taken on half pay for double the period.

Casual work while on parental leave

- (16) Following a period of 6 weeks after the birth of a child an Employee may elect to work on a casual basis, subject to availability, during a period of parental leave without affecting the Employee's prior employment status. Each period of casual employment will stand alone and will not count towards the accrual of leave entitlements under this Agreement.

34. COMPASSIONATE LEAVE

- (1) An Employee is entitled to up to three (3) days compassionate leave on each occasion where either a member of the employee's immediate family or household:
 - a) Contracts or develops a personal illness that poses a serious threat to his or her life;
 - b) Sustains a personal injury that poses a serious threat to his or her life; or
 - c) Dies.
- (2) Compassionate leave is not accumulative.

- (3) An employee will be entitled to up to 3 days unpaid compassionate leave and may take further unpaid leave by agreement with the Employer.
- (4) The employee must give the Employer notice of the taking of the leave as soon as practicable, and must advise the Employer of the period, or expected period, of the leave.
- (5) The Employer may require the employee to provide evidence that the leave is taken for the purpose described in sub clause 34.1
- (6) Payment made under this clause is at the employee's ordinary rate of pay only.
- (7) Subject to sub clause 34.3 and 34.4, a casual employee may also access compassionate leave; such leave will be unpaid leave.
- (8) Employees requiring more than three (3) days companionate leave in order to travel overseas or interstate in the event of the death overseas or interstate of a member of an employee's immediate family may, with Employer's agreement and upon providing adequate proof, in addition to any compassionate leave to which the employee is eligible, have immediate access to annual leave and/or accrued long service leave in weekly multiples and/or leave without pay provided all accrued leave is exhausted.

35. TIME OFF WITHOUT PAY

Time off without pay for whatever purpose may be granted by agreement between the Employer and the employee.

36. INTRODUCTION OF CHANGE AND REDUNDANCY

Interpretation

- (1) In this Clause:
 - (a) "Employee" does not include an employee engaged on a casual or temporary basis or on a fixed term contract;
 - (b) "Redundant" means being no longer required by the Employer to continue doing a job because the Employer has decided that the job will not be done by any employee.
 - (c) For the purposes of this Clause, an action of the Employer has a "significant effect" on an employee 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 employee;
or

- (ii) there is to be elimination or reduction of a job opportunity, promotion opportunity or job tenure for the employee; or
- (iii) the employee is required to be retrained; or
- (iv) the employee is to be required to transfer to another job or work location; or
- (v) the employee's job is to be restructured.

Employee to be informed

(2) (a) Where the Employer has decided to:

- (i) take action that is likely to have a significant effect on an employee; or
- (ii) make an employee redundant,

the employee is entitled to be informed by the Employer in writing, as soon as reasonably practicable after the decision has been made, of the action or the redundancy, as the case may be including the reasons for the proposed termination.

(b) Discussions to occur

The Employer shall thereafter hold discussions with the employee affected as to:

- (i) the likely effects of the action or the redundancy in respect of the employee; and
- (ii) measures that may be taken by the employee or Employer to avoid or minimise a significant effect.

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

Union to be informed

(3) Where the Employer has made a definite decision to introduce major changes that are likely to have significant effects on employees, the Employer shall notify the union in writing and hold discussions with the union. For the purposes of these discussions the Employer will provide all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected and the period over which the terminations are likely to be carried out.

Severance Pay

(4) (a) In addition to the period of notice prescribed in Clause 9 of this Agreement, for ordinary termination, an employee 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	Severance Pay
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	11 weeks
7 years but less than 8 years	13 weeks
8 years but less than 9 years	14 weeks
9 years but less than 10 years	16 weeks
10 years and over	12 weeks

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

- (b) 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 an employee is entitled to claim sick pay as prescribed by this agreement or on account of leave lawfully granted by the Employer; or
 - (ii) any absence with reasonable cause, proof whereof shall be upon the employee; or
 - (iii) any absence on approved leave without pay.

Provided that in the calculation of continuous service under this sub-clause any time in respect of which an employee is absent from work except time for which an employee 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.

- (c) Service by the employee with a business which has been transmitted from one Employer to another and the employee's service has been deemed continuous in accordance with sub-clause (3) of Clause 2 of the Long Service Leave Provisions published in Volume 73 of the Western Australian Industrial Gazette at pages 1-4 shall also constitute continuous service for the purpose of this Clause.

Employee Leaving During Notice

- (5) An employee 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 employee remained with the

Employer until the expiry of such notice. Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

Alternative Employment

- (6) The Employer, in a particular redundancy case, may make application to the Commission to have the general severance pay prescription varied if the Employer obtains acceptable alternative employment for an employee.

Leave for Job Interviews

- (7) (a) An employee 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 hours during each week of notice without deduction of pay for the purpose of being interviewed for further employment.
- (b) An employee who claims to be entitled to paid leave under paragraph (a) shall, at the request of the Employer, be required to produce reasonable proof of attendance at an interview or the employee shall not receive payment for the time absent.

Notice to Commonwealth Employment Service or designated body

- (8) Where a decision has been made to terminate employees in circumstances of redundancy, the Employer shall, subject to the agreement of the employees concerned, notify the Commonwealth Employment Service or designated body thereof as soon as possible giving relevant information including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

37. TIME AND WAGES RECORD

- (1) A time and wages record shall be kept by the Employer.
- (2) The record shall contain the following information:
- (a) The name and address of each employee subject to this Agreement;
 - (b) The date on which each employee commenced employment with the Employer;
 - (c) The classification and increment of the employee;
 - (d) Whether the employee is employed on a full time, part-time or casual basis;
 - (e) The commencing and finishing time of work each day;
 - (f) The total number of hours worked each day;

- (g) The number of hours for which payment has been made; and
- (h) The wages and allowances paid to each employee in each pay period and any deductions there from.

38. NOTICES

The Employer shall provide notice boards in places where they may be conveniently and readily seen for the posting of Union notices.

39. AGREEMENT FLEXIBILITY

- (1) (a) The Employer, the Union and the majority of employees affected, may reach agreement to vary its provisions to meet the requirements of a particular department or unit and the aspirations of the employees concerned.
- (b) Such agreements shall be subject to the procedures in sub-clause (2).
- (2) (a) The proposed variation shall be committed to writing, and shall be the subject of negotiation between the parties in sub-clause (1)(a).
- (b) No employees shall lose any existing entitlement to earnings for working ordinary hours of work as a result of the implementation of such an agreement, provided that the Employer and employees may agree on terms and conditions in the aggregate no less favourable to the employees than those prescribed by the substantive Agreement for ordinary hours of work.
- (c) Where the agreement represents the consent of the Employer and the majority of the employees concerned, the union shall not unreasonably withhold its consent to the proposed variation.

40. LEAVE TO ATTEND UNION BUSINESS

- (1) The Employer shall grant paid leave during ordinary working hours to an employee:
 - (a) who is required to give evidence before any Industrial Tribunal;
 - (b) who as a union nominated representative of the employees is required to attend negotiations and/or conferences between the union and Employer;
- (2) Who with prior agreement between the union and Employer attends official union meetings preliminary to negotiations or industrial hearings;

- (3) Who as a union nominated representative of the employees is required to attend joint union/management consultative committees or working parties.
- (4) The granting of leave pursuant to paragraph (1) of this sub-clause shall only be approved:
 - (a) where an application for leave has been submitted by an employee a reasonable time in advance;
 - (b) for the minimum period necessary to enable the union business to be conducted or evidence to be given:
 - (c) for those employees whose attendance is essential;
 - (d) when the operation of the organisation is not being unduly affected and the convenience of the Employer impaired.
- (5) Leave of absence will be granted at the ordinary rate of pay.
- (6) The Employer shall not be liable for any expenses associated with an employee attending to union business.
- (7) Leave of absence granted under this clause shall include any necessary travelling time in normal working hours.
- (8) Nothing in this clause shall diminish the existing arrangements relating to the granting of paid leave for union business.
- (9) An employee shall not be entitled to paid leave to attend union business other than as prescribed by this clause.
- (10) The provisions of this clause shall not apply to special arrangements made between the parties, which provide for unpaid leave for employees to conduct union business.
- (11) The provisions of this clause shall not apply when an employee is absent from work without the approval of the Employer.

41. DISPUTE RESOLUTION PROCEDURE

- (1) Any matter of dispute raised by the Employer, employee or Union shall be settled in accordance with the following procedure.
 - (a) As soon as practicable after the dispute has arisen, it shall be considered jointly by the appropriate supervisor, the employee or employees concerned and where requested, by the union representative. If the dispute cannot be resolved at this level after 2 working days it should be referred to the appropriate senior representative of the Employer, the employee or employees concerned and where requested, by the union representative.

- (b) If the dispute is not resolved it shall be considered jointly by the appropriate senior representative of the Employer, the employee or employees concerned and, where requested, by the union representative and if possible resolved within 5 working days.
 - (c) If the dispute is not resolved at paragraph (b), it shall be considered jointly by the Employer, the employee concerned and, where requested, by an official of the Union and if possible resolved within 7 working days.
 - (d) Should the matter remain in dispute after the above processes have been exhausted either party may refer the matter to the Western Australian Industrial Relations Commission for conciliation and if necessary arbitration.
- (2) Arbitration will be considered binding on both parties.
 - (3) The process for settling any matters or disputes will be in accordance with the principles of natural justice and the Employer's Grievance Policy and Procedures.
 - (4) Disputes in relation to work performance will unless otherwise determined by the Director of Nursing be dealt with through the performance management process.

42. QUALIFICATION ALLOWANCE

- (1) A qualifications allowance will be paid to nurses who satisfy the criteria set out below. This allowance will be in the form of a one-off payment.
- (2) The allowance will become payable to nurses, who hold a qualification, as defined below, that is relevant to the nurses current practice or position or role. To be entitled to the allowance, nurses must be in the practice or position or role to which the qualification is relevant for a period of at least 12 months. This period of 12 months may accrue from any time from registration of this agreement until the expiry of the agreement.
- (3) The qualifications that will attract this allowance will be the following:
 - (a) Hospital based certificates which must be one year's (or 2 academic semesters) duration.
 - (b) Postgraduate certificates or diplomas which must be "articulated" with a university and must have been taken over a period of at least 2 semesters.
 - (c) Masters or PhD qualifications, which must be relevant to the area of nursing practice or position or role that, the nurse is currently working in.
- (4) Conversion degrees and non-tertiary qualifications or certificates (other than those referred to above) do not attract the allowance.
- (5) The allowance will not apply to the Employer's speciality program.

- (6) The allowance that is payable is 3% of the base salary paid to the nurse at the time of eligibility.
- (7) This payment will be a once only payment for each nurse; i.e. nurses will not be entitled to receive 2 qualification allowance payments.
- (8) Casual staff must work an average of 16 hours per week in the 12 month period preceding eligibility to be entitled to payment of the allowance.
- (9) Nothing in this clause will prevent the Employer from considering other appropriate qualifications not specifically mentioned in this clause.
- (10) If an appropriate qualification is obtained, the allowance shall be paid without the need for a further 12 month qualifying period where a nurse has already worked for a period equal to, or exceeding the qualifying condition of 12 months.

43. PROFESSIONAL DEVELOPMENT

Two days professional development leave will be granted to full time nurses with a pro rata entitlement to part time nurses. The purpose of this entitlement is to enable employees to undertake learning and development activities that fulfil professional and organisational needs.

44. JURY AND WITNESS LEAVE

- (1) Employees summoned for jury duty or as a witness in relation to their official capacity will be granted paid leave to attend the Court as required.
- (2) Employees requesting time off for jury/witness duty must notify their relevant manager upon receiving a formal request to attend.
- (3) On presentation of proof of appearance payment of salary will be made at ordinary rates through the payroll system.
- (4) The Employer will claim reimbursement from the Court.

45. BLOOD DONOR LEAVE

- (1) Subject to operational requirements, employees shall be entitled to absent themselves from the workplace in order to donate blood or plasma in accordance with the following general conditions:
 - (a) Prior arrangements with the supervisor have been made and at least three (3) days' notice has been provided; or
 - (b) The employee is called upon by the Red Cross Blood Centre.

- (2) The notification period shall be waived or reduced where the line manager is satisfied that operations would not be unduly affected by an employee's absence.
- (3) Employees shall be required to provide proof of attendance at the Red Cross Blood Centre upon return to work.
- (4) Employees shall be entitled to two (2) hours of paid leave per donation for the purpose of donating blood or plasma to the Red Cross Blood Centre.

46. FIXED TERM EMPLOYEES

- (1) The parties to this Agreement agree that permanent employment is the preferred form of engagement.
- (2) Fixed term employees may be appointed for the following situations:
 - (a) Unexpected or unplanned leave
 - (b) Parental Leave
 - (c) Annual Leave
 - (d) Long Service Leave
 - (e) Long term sick leave
 - (f) Workers compensation
 - (g) Special projects
 - (h) Employees undertaking an accredited course of study
 - (i) To fill vacancies while the recruitment process is undertaken
 - (j) Any other situations as agreed between the Employer and the ANF
- (3) An employee engaged on a fixed term contract will be notified in writing prior to the commencement of employment of the starting and finishing dates of employment, or in lieu of a finishing date, notified of the specific circumstances relating to the situation listed above.

47. AGENCY AND CASUAL EMPLOYMENT

- (1) Agency engagements are not the preferred method of delivery of services and will only be used in extraordinary circumstances, such as:
 - (a) Where there are no other suitably qualified employees available in the short term
 - (b) Where there is a bona fide emergency or urgent work requirement
 - (c) Where the skills required cannot be obtained internally in the short term
- (2) An employee may elect to work on a casual basis during a period of parental leave without affecting the prior status of employment with the Employer.
- (3) Any period of casual employment will stand-alone and will not accrue towards entitlements under this Agreement.

48. DEFERRED SALARY SCHEME

- (1) This clause will only apply to staff who work full time for the entire period of the deferred salary scheme and will not apply to part-time or casual staff.
- (2) Nurses employed full time will have access to the 4/5 pay option, whereby they work for 4 years at 80% pay and then take one year off at 80% pay in accordance with the following:
 - (a) By written agreement between Employer and employee, an employee may be paid 80% of her/his normal salary under this Agreement, and any other relevant agreement upon the expiry of this Agreement, over a 5 year period. The fifth year will then be taken as leave with pay with the accrued salary annualised over the year. The fifth year will be treated as continuous service. The leave may not be accrued unless the Employer agrees to accrual.
- (3) In deciding whether to support a particular request for this arrangement, the Employer will take into account factors such as operational requirements. To satisfy operational requirements, the number of employees allowed to work under this arrangement may be restricted at any one time and/or the timing of the arrangements may need to be staggered.
- (4) An employee may withdraw from this arrangement in writing. He/she would then receive a lump sum equal to the accrued credit, paid at a time agreed between Employer and employee but not more than 3 months from the time of the employees withdrawal from the arrangement. Provided that an employee who terminates his or her employment prior to the completion of the fourth year will be paid the accrued credit in their final payment.
- (5) Any paid leave taken during the first 4 years of the arrangements will be paid at 80% of the employee's normal salary.
- (6) It is the responsibility of the employee to investigate the impact of the arrangement on his/her superannuation and taxation.

49. ADDITIONAL LEAVE IN LIEU OF SALARY

- (1) Nurses employed on a full time basis can have a proportion of salary equivalent to a maximum of 38 hours cashed in for additional leave. This will be subject to the following:
 - (a) Must be agreed to at each July cannot be changed during each twelve month period i.e. July to June.

- (b) This portion of leave does not attract any leave loading and is not cumulative from year to year unless so authorised by the hospital.
- (c) If not taken within the specified twelve month period the Employer may pay out this portion of leave.

50. STUDY LEAVE

- (1) Where an employee is engaged in an accredited course of study which in the Employer's view:
 - (a) Is relevant to the duties being or likely to be performed by the Employer;
 - (b) Is relevant to the current and emerging business needs of the Employer;
 - (c) Enhances the career development of the employee; and
 - (d) Does not unduly affect or inconvenience the operations of the Employer.

The Employer may grant leave with or without pay to undertake the study for an approved course.

51. DAYLIGHT SAVINGS

During the change over shifts for daylight saving, nurses will be paid for the actual hours worked.

52. ACCESS TO INTERNET

All nurses can access the Internet for work and study purposes in their ward or department.

53. DISCIPLINARY PROCESS

- (1) The Employer is committed to ensuring that a high standard of quality care coupled with a harmonious and productive work environment is maintained for all employees.
- (2) Where the Employer seeks to discipline an employee or terminate an employee, the following steps will be observed.
- (3) The Employer will ensure that any suspected unsatisfactory behaviour or performance matter is managed in a timely, objective and fair manner in accordance with the Employer's grievance procedures and the principles of natural justice. Employees will be treated with respect at all times throughout the process.
- (4) All parties have the right to be given details of any complaint made against them and have the right of reply before any decision can be made.

- (5) Staff have the right to have a support person present at any disciplinary meeting. It will be the responsibility of the staff member to organise his/her support person's attendance at any such meetings.
- (6) Unless the behaviour or actions of the employee is such that the Employer determines that a final warning or termination of employment is necessary the following will apply:
 - Verbal warning will be issued
 - First Formal warning
 - Second formal warning
 - Third and final formal warning
- (7) Confirmation will be provided in writing to the employee where a formal warning is issued.
- (8) Should it be necessary, for any reason to reprimand an employee after the third and final warning has been issued, the contract of service may be terminable in accordance with the provisions of this Agreement.
- (9) The Employer may exercise its right to summarily dismiss employees for serious misconduct.
- (10) Employees will not be victimised or discriminated against for making a complaint or for having a complaint made against them.

54. WORKLOAD MANAGEMENT INITIATIVE

- (1) The Employer is committed to ensuring staffing levels are appropriate for the delivery of quality patient care.
- (2) Waikiki Private Hospital will work with the ANF to establish safe minimum staffing levels and an appropriate mechanism to address sustained and unreasonable workloads.
- (3) A collaborative review of nursing workloads will occur within 3 months of the date of registration of this Agreement.
- (4) Should the situation arise where the nursing hours provided do not meet the required hours per patient day as determined by the patient acuity system, or any nurse believes that an unreasonable and excessive workload is being imposed other than occasionally or infrequently then:
 - (a) the nurse should attempt to resolve the matter with the appropriate ward/unit Clinical Nurse Manager or after hours Clinical Nurse Manager. If appropriate action is not taken to address the workload issues within 5 working days the nurse should lodge a statement setting out the details of the situation with the Director of Nursing.
 - (b) the Director of Nursing shall respond to the nurse within five working days.

- (c) If the matter remains unresolved the nurse may seek to resolve the matter using the Dispute Resolution Clause in this agreement.
- (d) Nothing shall prevent a nurse from seeking to resolve the matter using the Dispute Resolution Clause in this agreement.

55. SIGNATORIES TO AGREEMENT

Signed for and on behalf of
Dr Anthony Robinson trading as Waikiki Private Hospital

Signed



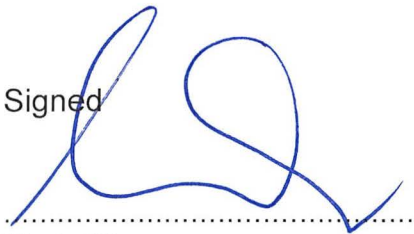
Dr Anthony Robinson
Director

In the presence of:

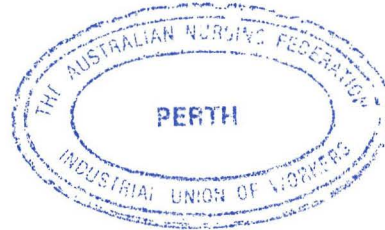


Signed for and on behalf of
Australian Nursing Federation, Industrial Union of Workers Perth (ANF)

Signed



Mark Olson
Secretary



In the presence of:

