

**WA HEALTH – LHMU - ENROLLED NURSES AND ASSISTANTS IN
NURSING INDUSTRIAL AGREEMENT 2007**

AGREEMENT NO. AG 15 of 2008

PART 1 - APPLICATION & OPERATION OF AGREEMENT

1. TITLE

This Agreement will be known as the *WA Health - LHMU - Enrolled Nurses and Assistants in Nursing Industrial Agreement 2007*. This Agreement replaces the *LHMU Enrolled Nurses and Nursing Assistants Department of Health Industrial Agreement 2004*.

2. ARRANGEMENT

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3. DEFINITIONS

- 3.1 "Accrued Day(s) Off" means the paid day(s) off accruing to an employee resulting from an entitlement to the 38 hour week as prescribed in "Clause 19. - Hours of Work" of this Agreement.
- 3.2 "Agreement" means the WA Health - LHMU - Enrolled Nurses and Assistants in Nursing Industrial Agreement 2007.
- 3.3 "AIN in Training" means an Assistant in Nursing undertaking the AIN Training Program.
- 3.4 "AIN Training Program" means the paid Certificate III training program conducted or commissioned by the Employer.
- 3.5 "Assistant in Nursing" (AIN) means an employee, other than a person registered under the *Nurses and Midwives Act 2006*, whose substantial employment in terms of the purpose to be achieved, is the provision of "care" to persons.
- 3.6 "Care" in connection with the role of an Assistant in Nursing, encompasses:
- 3.6.1 Giving assistance to persons who because of disability, illness, or decreased mobility are unable to maintain their bodily needs without frequent assistance.
- 3.6.2 Carrying out tasks which are directly related to the maintenance of persons a person's bodily needs where that person because of disability, illness, or decreased mobility is unable to carry out those tasks for themselves.
- 3.6.3 Assisting a person registered under the *Nurses and Midwives Act 2006* to carry out the work described herein or any other work directly related to a person's care.
- 3.7 "Casual Employee" means an employee engaged by the day, subject to sub-clause 15.4.
- 3.8 "Employer" means any Employer party to this Agreement as defined in sub-clause 4.2 and sub-clause 4.3 of this Agreement.
- 3.9 "Enrolled Community Nurse" means a Registered Enrolled Nurse employed to work in the community health area.
- 3.10 "Enrolled Community School Nurse" means a Registered Enrolled Nurse employed to work in a school or schools.
- 3.11 "Enrolled Nurse" means a Registered Enrolled Nurse registered as such by the Nurses and Midwives Board of Western Australia pursuant to the Nurses and Midwives Act 2006.
- 3.12 "Hospital" means any public hospital, health care facility or other facility controlled by one of the Employers' party to this Agreement.

- 3.13 "Nurse" means an employee registered as an Enrolled Nurse pursuant to the *Nurses and Midwives Act 2006* as amended or superseded from time to time.
- 3.14 "Ordinary Rate of Pay" means the weekly rate of pay as prescribed in "Clause 25 - Classification Structure and Wages" of this Agreement.
- 3.15 "Partner" means either a spouse or de facto spouse/partner. A de facto spouse/partner means a person who is in a 'marriage like' relationship with the employee and includes same sex partners.
- 3.16 "Part Time Employee" means an employee who regularly works less than an average of 38 hours per week.
- 3.17 "Union" means the Liquor, Hospitality and Miscellaneous Union, Western Australian Branch.

4. AREA, INCIDENCE AND PARTIES BOUND

- 4.1 This Agreement operates throughout the state of Western Australia and is binding on the parties and on employees to which the *Enrolled Nurses and Nursing Assistants (Government) Award No. 7 of 1978* applies.
- 4.2 The parties to the agreement are:
- 4.2.1 The Liquor, Hospitality and Miscellaneous Union, WA Branch.
- 4.2.2 The Minister for Health in his incorporated capacity under s.7 of the *Hospitals and Health Services Act 1927 (WA)* as:
- (a) the Hospitals formerly comprised in the Metropolitan Health Service Board;
 - (b) the Peel Health Services Board;
 - (c) the WA Country Health Service.
- 4.2.3 The Western Australian Alcohol and Drug Authority.
- 4.3 The Director General of Health is the delegate of the Minister for Health in his incorporated capacity under s.7 of the *Hospitals and Health Services Act 1927 (WA)*. In this capacity the Director General acts as the "Employer" for the purposes of this Agreement.
- 4.4 This Agreement will not apply to employees covered by Award Nos. 13 of 1947, 14 of 1973, 36 of 1965 or 35 of 1966 or Industrial Agreement No. 24 of 1972 or any award or Industrial Agreement issued or registered as a replacement thereto.
- 4.5 The estimated number of employees bound by this Agreement at the time of registration is 2,200.

5. PERIOD OF OPERATION

5.1 This Agreement replaces the *LHMU Enrolled Nurses and Nursing Assistants Department of Health Industrial Agreement 2004* and will operate from the date of registration until its expiry on 6 October 2010 provided that:

5.1.1 Clause 25 – Classification Structure and Wages – the 1st pay increase prescribed in this Agreement will apply on and from 7 October 2007.

5.1.2 Clause 28 – Shift Work – increases to the afternoon loading from 12.5% to 15% and to the Night Shift loading from 20% to 35% will apply on and from 7 April 2008.

6. RENEGOTIATION OF REPLACEMENT AGREEMENT

6.1 The parties agree to commence negotiations for a replacement agreement no later than three months prior to the date this Agreement expires.

6.2 The Employer will provide Union Delegates paid leave to participate in the process of negotiating a replacement agreement to this Agreement:

6.2.1 Six (6) months prior to the expiry date of this Agreement the Employer will release an agreed number of accredited delegates to attend negotiation planning meetings.

6.2.2 In the absence of any agreement on the number of delegates to be released, the maximum number to be released will be fifteen (15).

6.2.3 The Union may determine from which workplaces delegates will be drawn, provided that, if more than one delegate is drawn from any one facility, the operation of that facility will not be unduly affected.

6.2.4 Any dispute about the number to be released from any particular facility will be dealt with in accordance with “Clause 65. - Dispute Resolution Procedure” of this Agreement.

6.2.5 The conditions under which leave is granted will be same as prescribed for granting Union Training Leave pursuant to “Clause 62 – Union & Delegates Recognition & Rights” of this Agreement.

6.2.6 The maximum entitlement to leave during the prescribed period will be a total of twelve (12) hours plus the reasonable travel time required to attend meetings.

7. RELATIONSHIP TO AWARDS AND AGREEMENTS

7.1 Awards

This Agreement is comprehensive and applies to the exclusion of the *Enrolled Nurses and Nursing Assistants (Government) Award No. 7 of 1978* and the *Miscellaneous Government Conditions and Allowances Award No A4 of 1992*.

7.2 RRR Agreement

7.2.1 Except to the extent of any inconsistency with the provision of this Agreement, the provisions of the *Western Australian Government/Liquor*,

Hospitality and Miscellaneous Union Redeployment, Retraining and Redundancy Certified Agreement 2004 AG837139 PR952480 ("the RRR Agreement"), as amended or replaced, will apply as though they were express terms of this Agreement.

7.2.2 To avoid doubt the following provisions of the RRR Agreement do not apply:

- (a) Clause 1 – Title
- (b) Clause 2 – Arrangement
- (c) Clause 3 - Operation of Agreement
- (d) Clause 4 - Application of Agreement
- (e) Clause 5 - Definitions, except for the definition of "Government", "Public Sector", "Redeployment" and "Redundancy".
- (f) Clause 13 - Dispute Settling Procedure
- (g) Clause 14 - No Further Claims
- (h) Schedule B

8. AIMS OF AGREEMENT

The aims of the Agreement are to enable the parties to develop and implement strategies which recognise and achieve productivity improvements without impairing the quality of support services and of patient care; and to enhance job satisfaction, security and remuneration.

9. SCOPE OF PRACTICE

- 9.1 There will be no artificial limitations placed on the scope of enrolled nurses' practice.
- 9.2 Enrolled Nurses will to the fullest extent reasonably practicable in each clinical setting in which they are employed be afforded the opportunity to work within the scope of enrolled nursing practice.
- 9.3 Assistants in Nursing will not be required to work outside the scope of work which may appropriately be undertaken by Assistants in Nursing.
- 9.4 The Chief Nursing Officer of Western Australia (CNO) will oversee the implementation of the policy on the scope of enrolled nursing practice, published in August 2005 under the title of OC 1988/05 – Scope of Enrolled Nursing Practice and Enrolled Nurse Competencies. The policy will have uniform application in all Hospitals and give uniform effect to the Report of the Scope of Nursing Practice Project (2002), including the Decision Making Framework.
- 9.5 The Chief Nursing Officer of Western Australia (CNO) will oversee the implementation of the policy on the recognition of competencies related to the scope of enrolled nursing practice, which was published in August 2005 under the title of OC 1988/05 – Scope of Enrolled Nursing Practice and Enrolled Nurse Competencies. The policy will have uniform application in all Hospitals. Without limiting the scope of the policy, it provides for mechanisms to ensure mutual recognition of competencies amongst all Hospitals.

10. COMMITMENT TO BARGAINING

The parties agree that no employee will be offered or employed under any form of individual contract or non-union agreement made pursuant to the *Workplace Relations Act 1996* or the *Industrial Relations Act 1979*, as amended or superseded from time to time.

11. NO FURTHER CLAIMS / AGREEMENT FLEXIBILITY

11.1 Except where specifically provided for in this Agreement, it is a condition of this Agreement that the parties will not make any further claims with respect to wages and working conditions covered by this Agreement during the term of this Agreement.

11.2 Notwithstanding subclause 11.1, the Employer and the Union may agree in writing to alternative terms and conditions to be implemented in substitution of those specified in this Agreement.

12. EMERGENCIES

In the event of any emergency arising, the Director General of Health may with the consent of the Western Australian Industrial Relations Commission, take such measures as may in the Director General's opinion be necessary for the safety and protection or welfare of patients notwithstanding anything contained in this Agreement.

PART 2 – WORKLOAD MANAGEMENT

13. NURSING HOURS PER PATIENT DAY

13.1 The Employer will continue to manage nursing workloads and consult with nurses and the Union in accordance with the principles established in the Nurses (WA Government Health Services) Exceptional Matters Order 2001 (PR914193) (the EMO) relating to workloads (Nursing Hours per Patient Day) during the life of this Agreement.

13.2 The EMO is reproduced at "Schedule A – Workload Management" of this Agreement. Subject to this clause, the Employer will comply with "Schedule A – Workload Management" of this Agreement in relation to managing nursing workloads. A copy of the current NHpPD benchmarks are contained in Schedule B – NHpPD Guiding Principles of this Agreement and apply as amended from time to time.

13.3 The Employer recognises the Union and enrolled nurses as parties on equal standing with the Australian Nursing Federation and registered nurses in the disposition of nursing workload matters pursuant to the principles established in the EMO.

13.4 The Union recognises the Australian Nursing Federation and the Health Services Union as interested parties in the disposition of nursing workload matters pursuant to the principles established in the EMO. The Employer will not reach agreement with the Australian Nursing Federation or the Health Services Union on changes to established workload consultative processes other than with the concurrence of the Union. The Union will not unreasonably withhold agreement on changes to established consultative processes.

13.5 To avoid doubt, the duties imposed on the Employer under the EMO, will have effect as if the operative provisions of the EMO which are capable of contemporary application were express terms of this Agreement. The duties imposed on the unions and the employees will likewise be binding on the Union party to this Agreement and the employees covered by this Agreement.

13.6 The following grievance procedure will apply to a workload grievance in place of the procedure set out in Clause 10 of "Schedule A – Workload Management".

13.6.1 A workload grievance is a grievance stated in writing by a nurse, by the Union, or by the Employer, as a person aggrieved, about the nursing workload that a nurse is required to undertake, on the ground that:

- (a) an unreasonable or excessive patient care or nursing task work load is being imposed on the nurse other than occasionally and infrequently;
- (b) to perform nursing duty to a professional standard, a nurse is effectively obliged to work unpaid overtime on a regularly recurring basis;
- (c) the workload requirement effectively denies any reasonably practicable access to the nurse's quota of time for professional development, within 12 months of the entitlement arising;
- (d) within a workplace or roster pattern, no effective consultative mechanism and process is available in respect of the determination of bed closures or patient workload for the available nursing resources in the workplace or roster pattern;
- (e) a reasonable complaint to the appropriate hospital authority about capacity to observe professional mandatory patient care standards has not been responded to or acted upon within a reasonable time; or
- (f) a particular member or set of members of a patient care team are being consistently placed under an unreasonable or unfair burden or lack of adequate professional guidance because of the workload or the staffing skill mix of the team.

13.6.2 A workload grievance will be progressed in accordance with "Clause 65 - Dispute Resolution Procedure" of this Agreement.

PART 3 - MODES OF EMPLOYMENT

14. CONTRACT OF SERVICE

14.1 Probation

14.1.1 All employees will initially be employed on a probationary period of three months, unless otherwise specified in this clause.

14.1.2 Prior to the expiry of a probationary period of employment, the employer will:

- (a) confirm the appointment in writing; or

- (b) where performance issues have been identified and appropriate support and training to enhance performance have been documented, extend the employee's period of probation for a further period as determined by the line manager, but will not exceed a further three months.

14.1.3 Upon the expiry of the second probationary period as described under sub-clause 14.1.2(b) of this clause the employer will:

- (a) confirm the appointment in writing; or
- (b) terminate the appointment in writing due to unsatisfactory performance.

14.2 For the purpose of sub-clause 14.1.1, an AIN in Training will be on probation for the period of time taken to complete the AIN Training Program. The AIN in Training's ongoing permanent employment will be subject to satisfactory progress and completion of the AIN Training Program.

14.3 An AIN in Training who prior to engagement under this Agreement was engaged as a permanent employee under the *WA Health – LHMU – Support Workers Industrial Agreement 2007* will be entitled to return to employment under the previous engagement if the employee does not successfully complete the requisite training.

14.4 Notice of termination by the Employer

14.1.1 Subject to sub-clause 14.1.6, the employment of an employee, other than a casual employee as defined by "Clause 3. – Definitions", must not be terminated unless the Employer has given the employee the required period of notice in accordance with the following table or the Employer provided the employee with payment in lieu of notice:

Period of continuous service	Required period of notice
Not more than three years	At least two weeks
More than three years but not more than five years	At least three weeks
More than five years	At least four weeks

14.1.2 The period of notice for an employee, who at the time of being terminated is over 45 years of age and has completed at least two years' continuous service with the employer, will be increased by one week.

14.1.3 The employee may be terminated by the employer giving the employee part of the required period of notice with payment in lieu for the remainder of the required period of notice.

14.1.4 Payment in lieu of notice must equal or exceed the total 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 the employee because of the employment continuing during that period.

14.1.5 Payment in lieu of notice must be worked out on the basis of:

- (a) the employee's ordinary hours of work, even if they are not standard hours;
- (b) the amounts ordinarily payable to the employee in respect of those hours including, for example, allowances, loadings and penalties;
- (c) any other amounts payable under the employee's contract of employment.

14.1.6 Termination of an employee for serious misconduct

- (a) The Employer may terminate an employee without notice or payment in lieu of notice if the employee is guilty of misconduct. In such cases, wages will be paid up to the time of dismissal only.
- (b) "Serious misconduct" means misconduct of such a nature that it would be unreasonable to require the employer to continue the employment of the employee concerned during the required period of notice.

14.5 Notice of termination by employee

Except by agreement with the employer no employee will resign without first giving a fortnight's notice and in the absence of such notice the employer may withhold holiday or other pay up to the amount of a fortnight's wages.

14.6 An employer may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training, including work which is incidental or peripheral to the employee's main tasks or functions.

14.7 Statement of employment

An employer will, in the event of termination of employment, provide upon request to the employee who has been terminated, a written statement specifying the period of employment and the classification or type of work performed by the employee.

14.8 Job search entitlement

14.8.1 During the period of notice of termination given by the employer, an employee will 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. The time off will be taken at times that are convenient to the employee after consultation with the Employer.

14.8.2 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 will, at the request of the Employer, be required to produce proof of attendance at an interview or they will not receive payment for the time absent. For this purpose, a statutory declaration will be sufficient.

14.9 This clause will not apply to casual employees.

15. CASUAL EMPLOYEES

- 15.1 A casual employee will be paid twenty per cent (20%) over the rates specified herein for the class of work.
- 15.2 An enrolled community nurse or enrolled community school nurse will be deemed to be a casual employee if employed for a period of less than four weeks either part time or full time.
- 15.3 The minimum period of engagement of a casual enrolled community nurse or an enrolled community school nurse will be two hours.
- 15.4 Provided however that, notwithstanding the provisions of “Clause 14. - Contract of Service” of this Agreement, the contract of employment for a casual enrolled community nurse or an enrolled community school nurse will be by the hour.
- 15.5 Casual employees are not entitled to paid leave under this Agreement, unless a clause in this Agreement specifically provides the entitlement.

16. PART-TIME EMPLOYEES

- 16.1 Notwithstanding anything contained herein, an employer will be at liberty to employ part-time employees.

16.2 Enrolled Nurses and Assistants in Nursing

16.2.1 Part-time employees will be remunerated at a weekly rate pro-rata to the rate prescribed for the class of work on which they are engaged only in the proportion which their ordinary weekly hours bear to 38, provided that part-time employees who work less than 16 hours per week are not eligible to accrue ADOs.

16.2.2 Part time employees will be allowed annual leave and payment for such as prescribed in “Clause 40. Annual Leave” of this Agreement in the same ratio as their ordinary weekly hours averaged over the qualifying period, bear to 38.

16.2.3 Part time employees will be allowed personal leave and payment for such as prescribed in Clause 45. – Personal Leave in the same manner as full time employees excepting that payment for such leave will be in the same ratio as their ordinary weekly hours, averaged over the qualifying period, bear to 38.

16.2.4 Where the employer wishes to increase the ordinary hours worked by a part time employee in any roster period and the part time employee so agrees with one day’s clear notice provided, the increased hours will be deemed to be the ordinary hours for that roster period.

16.3 Enrolled Community Nurses and Enrolled Community School Nurses

16.3.1 A part time enrolled community or enrolled community school nurse means a nurse engaged on a fortnightly contract of service who regularly works less than 38 hours per week.

16.3.2 A part time enrolled community nurse who works twenty hours or less per week and part time enrolled community school nurses will be remunerated at a weekly rate pro rata to the rate prescribed for the class of work on which they are engaged only in the proportion which their ordinary weekly hours bear to thirty eight.

16.3.4 Part time enrolled community nurses who work more than twenty hours per week, other than part time school nurses, will be remunerated at a weekly rate pro rata to the rate prescribed for the class of work on which they are engaged in the proportion which their ordinary weekly hours bear to forty and such nurses will accrue time towards accrued days off, as prescribed in "Clause 19 – Hours of Work", for full time employees in the same proportion as used for calculating the weekly wage.

16.3.5 Part time nurses will be allowed sick leave and annual leave in accordance with the provisions of this Agreement, only in the proportion which their weekly hours of duty bear to 38 hours.

17. PERMANENCY OF EMPLOYMENT AND RELIEF COVER

17.1 Commitments

17.1.1 The parties to this Agreement agree that permanent employment is the preferred form of engagement for employees covered by this Agreement.

17.1.2 The parties to this Agreement agree that casual employment and agency engagements are not the preferred methods of delivery of services, and the Employer will work towards minimising the use of casual and agency Employees in Hospitals.

17.1.3 The parties to this Agreement agree that all leave will ordinarily be covered, provided that nothing in this agreement requires the Employer to provide leave cover where it can be demonstrated that such cover is not operationally necessary in a particular case.

17.1.4 Each Hospital will;

- (a) Employ permanent relief staff or ensure sufficient Full Time Equivalent (FTE) are utilised for planned annual leave and planned Accrued Day Off (ADO) relief requirements in accordance with Hospital activity; and
- (b) Maintain a pool of casual employees to be utilised for short-term work requirements.

17.2 Fixed Term Contracts

17.2.1 Fixed term employees may only be engaged for the following situations:

- (a) Unexpected or unplanned leave.
- (b) Parental Leave.
- (c) Long Service Leave.

- (d) Long term sick leave.
- (e) Worker's compensation.
- (f) Special projects.
- (g) Employees undertaking an accredited course of study.
- (h) To temporarily fill vacancies, where a decision has been made that the vacancy will be filled, while the recruitment process is undertaken.
- (i) Leave Without Pay.
- (j) Where the substantive occupant is working in another position for a temporary period which may involve higher duties.
- (k) The substantive occupant agrees to work part-time for one or more periods.
- (l) The substantive occupant is seconded to another position.
- (m) Annual Leave where staffing arrangements are such that it is impractical to maintain a pool of staff to provide annual leave cover.
- (n) Accrued Days Off where staffing arrangements are such that it is impractical to maintain a pool of staff to provide ADO leave cover.
- (o) Any other situations as agreed between the Employer and the Union, either at an industry or local level.

17.2.2 The contract of employment of a fixed term contract employee will include the starting and finishing dates of employment, or in lieu of a finishing date, the specific circumstances relating to the situations as prescribed in sub-clause 17.2.1 of this Clause.

17.2.3 The Employer will provide to the Union, on request, the particulars of fixed term contract utilisation in a particular facility or part of a facility. The Employer will provide such detail as is reasonably necessary to demonstrate that the fixed term contract utilisation is in each case consistent with the commitment given in this clause.

17.3 **Agency Employment**

17.3.1 Agency engagements are not the preferred method of delivery of services and will only be used;

- (a) If there are no other suitably qualified employees available in the short term
- (b) If there is a bona fide emergency or urgent work requirement;
- (c) If the skills required cannot be obtained internally in the short term.

17.3.2 The Employer will provide to the Union, on request, the particulars of agency utilisation in a particular facility or part of a facility as follows:

- (a) Number of individual Agency staff engaged in each classification;
- (b) Number of hours worked by Agency staff in each classification;
- (c) The name of each Agency that has supplied staff;
- (d) The amount paid per month for Agency staff in each classification.

17.4 Casual Engagement

17.4.1 The Employer will provide to the Union, on request, the particulars of casual utilisation in a particular facility or part of a facility as follows:

- (a) Number of individual casual employees engaged in each classification;
- (b) Number of hours worked by casual employees in each classification;
- (c) The amount paid per month for casual staff in each classification;

17.5 Relief Cover for Leave

17.5.1 The Employer will provide to the Union, on request, all particulars of leave cover provided in a particular facility or part of a facility. The Employer will provide such detail as is reasonably necessary to demonstrate that the leave coverage is in each case consistent with the commitment given in this clause.

17.5.2 The Employer will where practicable organise its staffing such that all relief cover is routinely provided from within the ordinary establishment of permanent staff.

17.6 The Union may negotiate for increases in the number of permanent positions where an excessive use of agency Employees, casual employment or fixed term contract employment is identified.

17.7 For the purposes of this clause “impractical” means not operationally viable because of factors such as the cost, the size or location of a facility.

17.8 The Employer will respond in writing to a request for particulars of fixed term contract, casual employment and agency utilisation within 21 days of the request being made in writing by the Union.

17.9 Existing part-time, casual and fixed term contract employees within a Hospital will be provided with the opportunity to fill vacant permanent positions. External applicants will only be considered where there is no suitable pool of existing casuals, part-time or fixed term contract employees with the required skills within the Hospital.

18. CLINIC NURSES

18.1 Notwithstanding sub-clause 19.5 of this Agreement, the following provisions will apply to Enrolled Nurses employed in clinics and departments.

18.2 Hours of Work

Enrolled Nurses employed in clinics and departments or where the service needs require them to function between 8.00am and 6.00pm Monday to Friday inclusive will be employed on the basis of 38 hours per week. There will be no accrual of days off.

18.3 Public Holidays

The provisions of "Clause 42. - Public Holidays" of this Agreement will apply.

18.4 Long Service Leave

The provisions of "Clause 43. - Long Service Leave" of this Agreement will apply.

18.5 Annual Leave

18.5.1 An Enrolled Nurse employed in clinics and departments will be entitled to 4 weeks' annual leave with payment of ordinary wages after each twelve month's continuous service.

18.5.2 A loading of 17.5% will be paid in addition to the ordinary wage payable under this sub-clause.

18.6 Overtime

The provisions of "Clause 23. – Overtime" of this Agreement will apply.

PART 4 - HOURS OF WORK

19. HOURS OF WORK

19.1 Subject to the provision of "Clause 21. - Meal and Tea Breaks" the ordinary working hours will be an average of 38 hours per week over any five days of the week, worked over any one of the following cycles.

19.1.1 A four week cycle of nineteen days of eight hours each with 0.4 of one hour each day worked accruing as an entitlement to take the twentieth day in each cycle as a day off and paid for as though worked.

19.1.2 Actual hours of 76 hours over nine days per fortnight with the tenth day to be taken as an unpaid rostered day off.

19.1.3 Actual hours of 40 per week or 80 per fortnight with two hours of each week's work accruing as an entitlement to a maximum of twelve days off in each twelve month period.

19.2 In addition to sub-clause 19.1 of this Clause by agreement between the employer and the union a work cycle of 38 hours per week or 76 hours per fortnight or any other method agreed may be worked.

19.3 Subject to the provisions of this clause where practicable, the ordinary hours of work will be rostered over not more than six consecutive days.

19.4 The provisions of this clause apply to a part-time employee in the same proportion as the hours normally worked bear to a full-time employee. In circumstances where

less than sixteen hours per week are worked an employer may pay an employee for all hours actually worked at an hourly rate based on a 38 hour week in lieu of accrual of Accrued Days Off.

- 19.5 Notwithstanding anything to the contrary in this clause and at the option of the employer, Enrolled Nurses employed in clinics or departments which function during the normal hours of duty on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday may be granted hours of duty as are generally applicable to the clerical staff employed in the said clinics or departments in accordance with "Clause 18. - Clinic Nurses" of this Agreement. The daily hours of duty will include a break of not more than one hour for lunch and such time will not be included as part of the normal working week of 38 hours.

20. ACCRUED DAYS OFF

- 20.1 Subject to this clause and to subclause 16.2.1, employees may accrue days off in accordance with "Clause 19. - Hours of Work" of this Agreement. The inclusion of this clause will not be taken of itself to imply that there is any ground for diminishing employees' entitlements to accrued days off.
- 20.2 Accrued days off will be taken in a minimum period of five consecutive days or in single day absences where the employer and employee mutually agree.
- 20.3 Accrued days off will be taken in conjunction with a period of annual leave or at a time mutually acceptable to the employer and employee.
- 20.4 A roster for accrued days off may allow an employee to take Accrued Days Off before they become due.
- 20.5 An employer and an employee may by agreement substitute the Accrued days off which the employee is entitled to take for another day in which case the accrued day off will become the ordinary working day.
- 20.6 Accrued days off may be accumulated, provided that, where an employee has accumulated 11 or more days off, the Employer may direct the employee in any year to take any number of days off in order to progressively reduce the accumulated days off to 10, provided that the Employer must give not less than:
- 20.6.1 Twenty four (24) hours' notice to the employee where one accrued day off is to be taken;
- 20.6.2 Two weeks' notice to the employee where two or more accrued days off are to be taken consecutively.
- 20.7 Accrued days off can be taken at any time where agreed to by the Employer and employee.
- 20.8 A roster for accrued days off shall be posted at least four weeks before the time it comes into operation.

20.9 Payment of Penalties

- 20.9.1 Penalties for Accrued Days Off are currently paid under the following two arrangements:

- (a) Average of Last Two Pays Method
 - (i) The same method used for calculating the shift penalties in lieu of the annual leave loading for shift workers. The average of penalties paid the two pay periods prior to the employee actually taking an accrued day off are calculated and the employee is paid the ordinary time rate plus the average penalty amount.
 - (ii) This method applies at Fremantle Hospital, Royal Perth Hospital, Osborne Park Hospital, Swan Health Service, Princess Margaret Hospital for Children.
- (b) Paid as Earned Method
 - (i) Penalties are paid on actual hours worked. For example in the case of a full time employee who works an 8 hour shift, the employee is paid 8 hours of shift penalty loading plus the ordinary time rate for 7.6 hours with the balance of time actually worked (0.4 hours) being credited toward an accrued day off. When an accrued day off is taken, payment is made at the ordinary time rate because the shift penalty loading has already been paid.
 - (ii) This method applies at Hospitals other than those cited in sub-clause 20.9.1(a)(ii) of this clause.

20.9.2 Agreement to Transfer all employees onto Paid as Earned Method

- (a) The parties agree all employees will transfer onto the Paid as Earned Method effective from the first pay period on or after the date of registration of this agreement (“the date of transfer”).
- (b) The two pay periods prior to the date of transfer will be used to calculate accrued penalties affected employees a lump sum payment of penalties accrued under the Average of Last Two Pay Method.
- (c) The affected employees will be paid out the amount referred to in paragraph (b) of this sub-clause by the fourth pay period after registration of this agreement.

20.10 An employee subject to the provisions of Clause 20.1 of this Agreement who has not taken any Accrued Days Off accumulated during a work cycle in which employment is terminated, will be paid the total of hours accumulated towards the Accrued Day Off for which payment has not already been made.

20.11 An employee who has taken any Accrued Day Off during a work cycle in which employment is terminated will have the wages due on termination reduced by the total hours for which payment has already been made but for which the employee had no entitlement toward those Accrued Days Off.

20.12 Workers' Compensation

20.12.1 20 Day Work Cycle

- (a) Where an employee is on workers' compensation for periods of less than one complete 20 day cycle, such employee will accrue towards and be paid for the succeeding Accrued Day Off following such absence.
- (b) An employee will not accrue Accrued Days Off for periods of workers' compensation where such period of leave exceeds one or more complete 20 day work cycles.
- (c) Where an employee is on workers' compensation for less than one complete 20 day work cycle and an Accrued Day Off falls within the period, the employee will not be re-rostered for an additional Accrued Day Off.

20.12.2 Twelve Months Work Cycle

- (a) Where an employee is on workers' compensation for periods less than a total of 20 consecutive work days in a work cycle such employee will accrue towards and be paid for the succeeding Accrued Days Off following such absence.
- (b) Where an employee is on workers' compensation for periods greater than a total of 20 consecutive days in a work cycle such employees will have the period of workers' compensation added to the work cycle.
- (c) Where an employee is on workers' compensation for periods greater than 20 consecutive work days and an Accrued Day Off as prescribed in sub-clause 19.1 of "Clause 19 - Hours of Work" of this Agreement falls within the period the employee will be re-rostered for another Accrued Day Off on completion of the 20 day work cycle following such absence.

20.13 Leave Without Pay

20.13.1 Twenty (20) Day Work Cycle

An employee who is absent on any form of leave without pay during a twenty (20) day work cycle will not accumulate an entitlement to an Accrued Day Off for the period of such leave nor will the employee be entitled to an Accrued Day Off whilst on leave without pay.

20.13.2 Twelve Month Work Cycle

- (a) An employee who is absent on any form of leave without pay for less than a total of five days in any work cycle will not have payment reduced when proceeding on Accrued Days Off.
- (b) An employee who is absent on any form of leave without pay for a total of five days or more in any work cycle will have such period of leave added to the work cycle.

21. MEAL AND TEA BREAKS

- 21.1 Meal breaks will not be less than 30 minutes but will not be counted as time worked. Provided that where an Enrolled Nurse is called on duty during a mealtime the period worked will be counted in the ordinary working hours of duty.
- 21.2 Where an employee is unable to access their 30 minute unpaid meal break they will be paid for a straight through shift at ordinary rates.
- 21.3 The time allowed for morning and afternoon tea will not exceed seven minutes for each such break which will be taken when convenient to the employer without deduction of pay for such time.

22 ROSTERS

22.1 Days off duty

Subject to sub-clauses 22.4, 22.5 and 22.6 of this clause, employees will be rostered off duty for a minimum of two full consecutive days per week or four full consecutive days per fortnight. Rosters may however provide for non-consecutive days off duty in the case of an emergency or by agreement between the Employer and the employee. Provided that where the days off duty as specified in this sub-clause are missed and not taken within four weeks, equivalent time will be added to the annual leave of the employee.

- 22.2 A roster of the working hours will be exhibited in such place as it may conveniently and readily be seen by each Employee concerned. The roster will be available to the Union Secretary of the Secretary's nominee for inspection at all reasonable times. Rosters may be altered at any time if the hospital exigencies render any alteration necessary.

- 22.3 Where practicable rosters will be posted at least fourteen days prior to the commencing date of the first working period in the roster. Rosters will in any event be posted not less than seven days prior to the commencing date of the first working period in the roster.

22.4 Shift change

22.4.1 An employee changing from night duty to day shift, or from day shift to night shift will be free from duty during the 20 hours immediately preceding the commencement of the changed duty, unless agreed otherwise between the employee and the Employer.

22.4.2 An employee changing from evening duty to day duty will not be required to commence such duty until a period of nine and one half hours has elapsed since ceasing evening duty except in country hospitals below Regional level, where a period of eight hours will suffice.

- 22.5 An employee other than one engaged to work part time will not be required to work a combination of shifts exceeding the following:

22.5.1 in the case of a weekly roster; all night, day or evening shifts, or both day and evening shifts.

- 22.5.2 In the case of a fortnightly roster; all night, day or evening shifts or both day and evening shifts in either or both halves of the roster.
- 22.6 The provisions of sub-clauses 22.4 and 22.5 will not apply if the employee is required to perform duty to enable the nursing services of the hospital to be carried on when an employee is absent from duty or in an emergency or where the employer and the Union mutually agree to vary the provisions of this sub-clause.
- 22.7 Shifts
- 22.7.1 No employee will be required to work in excess of five shifts per week or 10 shifts per fortnight except as provided by sub-clauses 22.7.3 and 22.7.4.
- 22.7.2 Subject to the provisions of this clause and where practicable, the ordinary hours of work will be rostered over not more than six consecutive days.
- 22.7.3 By mutual agreement between the employer and the Union the scale of shifts for employees working night duty can be varied to four shifts per week or eight shifts per fortnight.
- 22.7.4 An employee may be required to work on any day off in the case of an emergency and such time will be paid for in accordance with "Clause 23. – Overtime" of this Agreement.
- 22.8 Night duty in North West hospitals and Goldfields hospitals where the staff including the Director of Nursing is three or more, will not exceed seven consecutive nights when a majority of the employees who are required to do night duty so decide, in which case it will rotate after seven nights.
- 22.9 In addition to the time off duty hereinbefore provided, Enrolled Nurses engaged in X-ray or radium work will be allowed such other time off duty as in the opinion of the Medical Officer in charge of such work may be necessary consequent upon such work for the purpose of maintaining or restoring them to normal health, and all such time will be computed as part of the normal working time and there will be no reduction in the wage in respect thereof.
- 22.10 Where an employee is required to travel as part of their duty such travelling time will be considered as part of their working time and there will be no reduction in respect thereof.
- 22.11 Any dispute between an employer and the Union concerning rostering of employees and the operation of this clause will be dealt with in accordance with the provisions of "Clause 65 – Dispute Resolution Procedure" of this Agreement.
- 22.12 Notwithstanding anything else herein contained, the following provisions relating to hours of work will apply to employees stipulated hereunder.
- 22.12.1 The ordinary hours of work for an enrolled community school nurse will be 38 per week, with the ordinary hours worked each day to be no more than seven hours 36 minutes between Monday to Friday inclusive. Any meal or tea break during which the nurse is required to be available to work or working will be counted as time worked and included as part of the seven hours 36 minutes day.

22.12.2 The ordinary hours of duty for an enrolled community nurse will be an average of 38 per week with the hours actually worked being 40 per week to be between 8.00 a.m. and 6.00 p.m. Monday to Friday inclusive and no day will exceed eight hours without payment of overtime.

22.12.3 The ordinary hours will be worked within a twenty day, four week cycle with 0.4 of an hour for each day worked accruing as an entitlement to take the twentieth day in each cycle as an Accrued Day Off.

22.13 Review of Rostering Arrangements

22.13.1 Any change in rostering arrangements will be designed to improve productivity, efficiency and cost effectiveness in the work place.

- (a) Any proposed roster variations for each site or sub site will be explained to the employees concerned and to the union who will consider them.
- (b) The affected parties (ie. site management and employees) will then consult with each other with a view to agreeing to the proposed roster.
- (c) Where agreement cannot be reached, the issues will be referred to the Western Australian Industrial Relations Commission for conciliation and, if necessary, arbitration.

22.13.2 The following principles will apply when considering major changes relating to rostering:

- (a) New rosters will take into account the needs of the health care unit and those of employees. The emphasis will be on patient care.
- (b) When an Employer seeks to implement a new roster appropriate consultation will take place at the workplace and the Union and nominated employee representatives notified in writing. At a minimum this should involve discussions with the affected staff. Matters to be discussed with staff include impact on patient care, family needs, job satisfaction, absenteeism and loss of income.
- (c) Any proposal to alter rostering in a particular area will be put to a ballot (including those on leave or worker's compensation who can be contacted as far as reasonably practicable), and must be supported by sixty per cent of affected employees, or such other proportion as is agreed between the Employer and the Union.
- (d) The Union and nominated employee representatives will be notified in writing fourteen (14) days before the holding of the ballot and will be provided with a copy of the proposed roster.
- (e) When a new roster is agreed education and consultation with staff will occur. The purpose of consultation is to ensure that any concerns raised by affected employees are taken into account.
- (f) A minimum lead time of four (4) weeks will be provided for the implementation of the new roster. The minimum lead time may be reduced by agreement between the Employer and the employees.

- (g) During and after a six month period, meetings will be held with staff to evaluate the new roster. This will include matters referred to in paragraph (b) of this sub-clause.
- (h) A record will be kept of the process followed and the outcome by the relevant Hospital and the Union.
- (i) At no stage of the process will the Union or the Employer veto considerations of any new rostering proposal.

23. OVERTIME

23.1 Entitlement

23.1.1 Except as hereinafter provided, all time worked in excess of the ordinary working hours prescribed in "Clause 19. - Hours of Work" or "Clause 16. – Part-Time Employees" of this Agreement will be overtime and will be paid for at time and one-half for the first two hours and double time thereafter.

23.1.2 All work performed by employees on any day on which they are rostered off duty or days worked in excess of those provided in "Clause 19. - Hours of Work" or "Clause 16. – Part-Time Employees" will be paid for at the rate of double time.

23.1.3 The rates prescribed in 23.1.1 and 23.1.2 will apply to part-time employees who work outside of the employee's ordinary hours as agreed to by the employee and employer, except where the employer and the employee have agreed to a temporary variation to the employee's ordinary working hours.

23.2 Time off in lieu

23.2.1 Where the employee and the employer so agree, time off in lieu of payment for overtime may be allowed proportionate to the payment to which they are entitled.

23.2.2 Such time off to be taken at the convenience of the hospital provided that:

- (a) such time off is in unbroken periods according to each period of overtime worked; and
- (b) the time off is rostered and is granted within twenty-eight 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; or
- (c) by mutual agreement between the employer and the employee, the time off may be accumulated beyond twenty-eight days from when it accrued so as to be taken in conjunction with periods of approved annual and/or long service leave.

23.2.3 If the employer does not grant time off in lieu within twenty-eight days from the time when it accrued and no further agreement as prescribed in 23.2.2(c) is reached, the time will be paid at the appropriate overtime rate within twenty-eight days of the time when it accrued.

23.3 Meal allowance

23.3.1 Where an employee has not been notified the previous day or earlier that he/she is required to work overtime the employer will ensure that employees working such overtime for an hour or more will be provided with any of the usual meals occurring during such overtime or be paid an allowance of \$10.10 for each meal.

23.3.2 The allowance provided for in Clause 23.3.1 will be adjusted in accordance with the Consumer Price Index – Meals Out & Take Away Foods – Perth (ABS Cat. No. 6455.0.40.001).

23.4 Ten Hour Break

23.4.1 When overtime work is necessary it will, wherever reasonably practicable, be so arranged that the employee may have at least ten consecutive hours' off duty between the work of successive days.

23.4.2 An employee who works so much overtime between the termination of their ordinary work on one day and the commencement of their work on the next day that they have not at least ten consecutive hours off duty between those times will, subject to this paragraph, be released after completion of such overtime until they have had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

23.4.3 If, on the instructions of the employer, such employee resumes or continues work without having had such ten consecutive hours off duty, they will be paid at double rates until they are released from duty for such period and they will then be entitled to be absent until they have had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

23.4.4 The provisions of this sub-clause will apply in the case of shift employees who rotate from one shift to another, as if eight hours were substituted for ten hours when overtime is worked -

- (a) for the purpose of changing shift rosters; or
- (b) where a shift employee does not report for duty; or
- (c) where a shift is worked by arrangement between the employees themselves.

23.5 Enrolled Community Nurses or Enrolled Community School Nurses only

23.5.1 Work performed by an enrolled community nurse or an enrolled community school nurse at the direction of the employer outside the spread of hours, or in addition to the daily hours prescribed in sub-clause 19.5 of "Clause 19. - Hours of Work" of this Agreement or on a Saturday or Sunday will be paid or compensated for as hereunder:

- (a) one and one half times the ordinary rate for the first two hours and double time thereafter on any day Monday to Friday inclusive;
- (b) double time on Saturday or Sunday;

- (c) double time and one half on public holidays;

23.5.2 Time off in lieu

- (a) In lieu of making payment in accordance with sub-clause 23.5.1 paragraphs (a) and (b), and by agreement between the employee and the employer concerned, time off proportionate to the payment to which the employee is entitled may be taken at a time convenient to the employer, provided that such time off is in unbroken periods, according to each period of overtime worked;
- (b) In lieu of making payment in accordance with paragraph 23.5.1(c) and by agreement between the nurse and the employer, payment may be made at the rate of time and one half with equivalent time to that worked being taken off at a time convenient to the employer.

24. ON CALL & RECALL

24.1 On call

24.1.1 For the purposes of this agreement an employee is on call when the employee is directed by the employer to remain at such a place as will enable the employer to readily contact the employee during the hours when the employee is not otherwise on duty. In so determining the place at which the Employee will remain, the employer may require that place to be within a specified radius from the hospital or place of employment.

24.1.2 An employee rostered to be on call will be paid the allowance prescribed in sub-clause 24.1.3 of this clause for each hour or part thereof the employee is on call.

24.1.3 An employee rostered to be on call will be paid 18.75% of 1/38th of the rate prescribed for a Level 1.2 Registered Nurse and will be adjusted in line with the percentage wage increases prescribed in "Clause 25. - Classification Structure and Wages" of this Agreement in accordance with the following table:

Rate Payable on and from date of Registration of this Agreement	Rate payable on and from 7 October 2008	Rate payable on and from 7 October 2009
\$4.49 per hour	\$4.66 per hour	\$4.85 per hour

24.1.4 The payments referred to in sub-clause 24.1.3 of this clause will not be made in respect to any period for which overtime is paid when the employee is recalled to work.

24.1.5 If the usual means of contact between the employer and the employee is a telephone and if the employee pays or contributes towards the payment of the rental of such telephone the employer will pay the Employee an amount being a proportion of the telephone rental calculated on the basis that for each seven days on which an employee is required to be on call the employer will pay the Employee 1/52nd of the annual rental paid by the employee.

24.1.6 Provided that where the employer and the Union agree in writing, other arrangements may be made for compensation of on call work to enrolled community nurses or enrolled community school nurses.

24.1.7 Where it is determined that the means of contact is to be by pager or mobile telephone the employer will provide the employee with the device at no charge.

24.1.8 An employee will not be required to remain on call whilst on leave or the day before commencing leave, or whilst on accrued days off, or the day before commencing accrued days off, unless by mutual agreement between the nurse and employer.

24.1.9 Ten hour break for employees on call

The provisions of this subclause do not apply to casual employees.

- (a) Where an employee who is on call is recalled to perform overtime duty, the employee will be provided with a continuous break of not less than 10 hours from when the overtime duty was completed to immediately prior to the commencement of the next ordinary rostered shift.
- (b) In the event that the 10 hour break provided for in paragraph (a) of this subclause is not available between when the overtime duty was completed to immediately prior to the commencement of the next ordinary rostered shift, the employee will be entitled to be absent from duty without loss of pay for ordinary working time, until the employee has been provided with a continuous break of 10 hours.
- (c) Provided that, if instructed by the Employer the employee is required to work without the break provided for in paragraph (a) and (b) of this subclause, the employee will be paid at the overtime rate of double time until released from duty.
- (d) The preceding paragraphs of this subclause will not apply where an employee is recalled to work within three hours of the commencement of the employee's next ordinary rostered shift and the employee has had a continuous break of at least 10 hours immediately prior to the commencement of the recall overtime duty.
- (e) Notwithstanding the provisions of paragraphs (a), (b) and (c) if this subclause, where the Employer and the Union agree in writing, other arrangements may be made to ensure an adequate break for employees on call in accordance with Clause 11 of this Agreement. Such arrangement shall ensure the health, safety and welfare of the employee or employees concerned and shall take into account the safety and welfare of patients.

24.2 Recall to Work

- 24.2.1 An employee, other than a casual employee, who is recalled to work for any purpose will be paid a minimum of two hours at the appropriate overtime rate provided that the employee will not be required to work for two hours if the work for which the employee was recalled to perform is completed in less time. Provided that for part time employees who are placed on call and who are recalled to duty, the same overtime provision shall apply as applies to full time employees.
- 24.2.2 Where a casual employee, is recalled to work for any purpose payment will be made in accordance with “Clause 15 – Casual Employees” of this Agreement. Payment will commence from the time the casual employee commences the work for which they were recalled. In the event that the work for which the casual employee was recalled is cancelled for any reason, the casual employee will be paid for a minimum period of two hours.
- 24.2.3 Where an employee, other than a casual employee, is recalled to work within two 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 subclause shall not be to pay two hours of overtime for each and every recall within the original two hour period, as a discrete period of overtime.
- 24.2.4 Where an employee, other than a casual employee, is recalled to work for any purpose within two hours of commencing normal duty, the employee will be paid at the appropriate overtime rate for that period up to and until the commencement time of normal duty, but the employee will not be obliged to work for the full period if the work for which the employee was recalled is completed in less time.
- 24.2.5 Where an employee, other than a casual employee, is recalled to duty in accordance with sub-clauses 24.2.1, 24.2.3 and 24.2.4 of this clause, then the payment of the appropriate overtime rate will commence from:
- (a) in the case of an employee who is on call, from the time the employee starts work;
 - (b) in the case of an employee who is not on call, time spent travelling to and from the place of duty where the employee is actually recalled to perform emergency duty will be included with actual duty performed for the purpose of overtime payment.

Provided that where an employee is recalled within three hours of commencing normal duty, only time spent in travelling to work will be included with actual duty for the purpose of overtime payment.

PART 5 - RATES OF PAY AND ALLOWANCES

25. CLASSIFICATION STRUCTURE & WAGES

25.1 Enrolled Nurses

25.1.1 The classification structure for Enrolled Nurses will be as follows:

- (a) “Enrolled Nurse Level 1” is an Enrolled Nurse in the first year of employment.

- (b) “Enrolled Nurse Level 2” is an Enrolled Nurse in the second year of employment.
- (c) “Enrolled Nurse Level 3” is an Enrolled Nurse in the third year of employment.
- (d) “Enrolled Nurse Level 4” is an Enrolled Nurse in the fourth year of employment.
- (e) “Advanced Skill Enrolled Nurse Level 1” (ASEN 1) is an Enrolled Nurse who has:
 - (i) a post registration qualification of at least 6 months’ duration relevant to their area of clinical practice and at least 3 years’ experience as an Enrolled Nurse; or
 - (ii) sufficiently demonstrated competencies relevant to their area of clinical practice and at least 4 years’ experience as an Enrolled Nurse.
- (f) “Advanced Skill Enrolled Nurse Level 2” (ASEN 2) is an Advanced Skill Enrolled Nurse in the second year of employment as an Advanced Skill Enrolled Nurse.

25.1.2 Competencies

- (a) “sufficiently demonstrated competencies” means the employee has satisfied the competencies process contained in the Advanced Skill Enrolled Nurse Competencies Workbook.
- (b) The “Advanced Skill Enrolled Nurse Competencies Workbook” will be as agreed from time to time between the Employer(s) and the LHMU.

25.1.3 The rates of pay for Enrolled Nurses will be as follows:

Classification	Current Weekly Rate Payable from First Pay Period on or after 1 September 2006	Weekly Rate on and from 7 October 2007	Weekly Rate on and from 7 October 2008	Weekly Rate on and from 7 October 2009
EN Level 1	\$728.05	\$786.78	\$818.25	\$850.98
EN Level 2	\$741.11	\$804.26	\$836.43	\$869.90
EN Level 3	\$754.28	\$821.74	\$854.62	\$888.80
EN Level 4	\$784.90	\$839.22	\$872.81	\$907.72
ASEN 1	\$818.36	\$874.21	\$909.17	\$945.54
ASEN 2	\$855.99	\$909.17	\$945.54	\$983.36

25.2 Assistants in Nursing

25.2.1 Subject to subclause 25.6 of this clause, the weekly rates of pay for Assistants in Nursing covered by this Agreement will be as follows:

(a) Full rates

Classification	Weekly Rate Payable From First Pay Period on and from 1 July 2006	Weekly Rate on and from 7 October 2007	Weekly Rate on and from 7 October 2008	Weekly Rate on and from 7 October 2009
Year 1	\$654.00	\$699.36	\$727.33	\$756.43
Year 2	\$667.10	\$716.85	\$745.52	\$775.33
Year 3	\$684.50	\$734.33	\$763.70	\$794.25

(b) Under 19 years of age

The rate will be a percentage of the total wage prescribed for an Assistant in Nursing in his/her first year of employment in paragraph (a) of this clause per week, as follows:-

Under 17 years of age	73%
Under 18 years of age	81%
Under 19 years of age	87%

25.2.2 Where an AIN undertakes duties other than providing care those duties shall be consistent with the range of duties undertaken by nurses generally in the setting in which the AIN is employed.

25.2.3 An AIN shall work within the limits of their competency as assessed consistent with nationally recognised training and competency standards applicable to assistants in nursing.

25.2.4 An AIN shall not be required to provide care other than under the direction of a person registered under the Nurses and Midwives Act 2006 and where that nurse remains professionally accountable for the care provided.

25.2.5 An Assistant in Nursing who has completed their first year of service and who is accepted for training as an Enrolled Nurse, will be paid not less than the employee would have received had the employee continued as an Assistant in Nursing.

25.2.6 An AIN in Training is paid in accordance with subclause 25.2.1 of this clause as a Level 1 AIN.

25.3 State Wage Case Increases After Nominal Expiry Date

If, after the nominal expiry date, this agreement continues in force pursuant to section 41(6) of the Industrial Relation Act 1979, the weekly wage rates of all employees will increase at the same time and in the same amounts as provided to employees on the minimum award wage by subsequent Western Australian Industrial Relations Commission State Wage Cases. Any wage increases arising

from the operation of this Clause will be taken into account when determining wage increases in any replacement Agreement.

25.4 When the term "year of employment" is used in this clause it will mean all service whether full time or part time in any of the classifications contained in this Agreement with any hospital covered by this Agreement and will be calculated in periods of completed months from the date of commencement of work covered by this Agreement. Provided that:-

25.4.1 "Service" in this context will have the same meaning as it does in the sub-clause 43.4 of "Clause 43 - Long Service Leave" of this Agreement.

25.4.2 Subject to sub-clause 25.4.3 of this Clause, where an employee is appointed to a position, previous relevant nursing experience at that level, or in a similar level under a differing career structure, will be taken into account for determining the appropriate increment level.

25.4.3 For the purpose of determining length of service, the onus of proof of previous relevant nursing experience will rest with the employee.

25.4.3 Employees will be paid the rates shown in this clause according to their year of employment calculated in accordance with the provisions of this sub-clause.

25.4.4 Notwithstanding the provisions of paragraph (b) of this sub-clause, an Enrolled Nurse who successfully completes a re-registration course following a break in service will commence employment on the rate prescribed as follows:

- (a) Five year break in service - at EN Level 3;
- (b) Six year but less than eight year break in service - at EN Level 2;
- (c) Greater than eight year break in service - at EN Level 1.

25.4.5 A casual employee, who has worked an average of 24 hours per week or less in a year shall be required to work a further twelve months before being eligible for advancement to the next succeeding experience increment (if any), within the level in which the employee is employed.

Provided further that those employees who reach the full time equivalent hours (1976 hours) before two years have elapsed will progress to the next experience increment upon reaching the full time equivalent hours.

25.5 Minimum Wage: No employee employed under this agreement who is 21 years of age or over will receive less than the minimum wage prescribed from time to time by the Western Australian Industrial Relations Commission.

25.6 The wage rate for an enrolled community school nurse, where such a nurse is not required by the employer to present for duty on any day when the school is not open, will be calculated as follows:

Weekly wage = the normal rate for an enrolled nurse as prescribed in sub-clause 25.1.3 of this Agreement multiplied by 48.5, and divided by 52.166.

25.7 Review of salary rates

The parties will, prior to 1 July 2009, commence a review of the salary rates payable in the third year of the new industrial agreement, having regard to interstate relativities.

26. HIGHER DUTIES ALLOWANCE

26.1 Where an Enrolled Nurse is required at the request of the Director of Nursing or delegate to temporarily perform the duties of an Advanced Skill Enrolled Nurse (ASEN) for two or more hours in any one shift such employees will be paid at the ASEN 1 rate of pay for the entire shift.

26.2 Where an Enrolled Nurse is required to be on duty where the Health Service Manager/Registered Nurse is on call, the Enrolled Nurse will be paid at the ASEN 1 rate for the entire shift. Provided where the Enrolled Nurse is in receipt of the allowance in accordance with 26.1 this sub-clause will not apply.

27. PAYMENT OF WAGES

27.1 Wages will be paid fortnightly. Overtime and penalty rates, where applicable, will be paid at least monthly.

27.2 Accompanying each payment of wages a pay advice slip will be provided to the employee. The employer will retain a copy. On this slip the employer will clearly detail the gross wages, where practical its composition, the net wages payable and show details of each deduction.

27.3 Overtime will be calculated and based on the aggregate wage as provided in "Clause 25. – Classification Structure and Wages" of this Agreement before any deduction is made for board and/or lodging.

27.4 On termination of employment the employer will pay to the employee all monies payable to that employee before the employee leaves the place of employment or the same will be forwarded to the employee by post in the following week.

27.5 Wages will be paid by direct funds transfer to the credit of an account nominated by the employee at such bank, building society or credit union approved by the employer, except that payment by cheque may be made where such form of payment is impractical or where some exceptional circumstances exist and by agreement between the employer and the union.

27.6 An employee who performs shift or weekend work irregularly may be paid shift or weekend penalties during the pay period in which the work is performed.

27.7 Subject to the provisions of this clause, no deduction will be made from an employee's wages unless the employee has authorised such deduction in writing.

28. SHIFT WORK

28.1 For the purposes of this clause:

28.1.1 "Afternoon Shift" means any rostered shift, which commences on or after 12.00 noon and finishes after 6.00pm on weekdays.

- 28.1.2 "Night shift" means any rostered shift, which commences on or after 8:30pm and before 4.00am.
- 28.1.3 "Saturday shift" means ordinary hours worked between midnight on Friday and midnight on the following Saturday.
- 28.1.4 "Sunday shift" means ordinary hours worked between midnight on Saturday and midnight on the following Sunday.
- 28.1.5 "Public Holiday shift" means ordinary hours worked on any public holiday named in "Clause 42 – Public Holidays" of this Agreement.
- 28.2 The afternoon shift allowance will not apply to an employee who on any day commences his/her ordinary hours of work after 12.00 noon and completes those hours before 6pm.
- 28.3 In addition to the ordinary rate of wage prescribed in this Agreement the following will apply:
- 28.3.1 Afternoon Shift
- (a) A loading of 12.5% per hour or pro rata for part thereof will be paid to an employee rostered on Afternoon shift for each hour worked.
 - (b) In lieu of the loading specified in sub-paragraph 28.3.1(a) above of this clause, with effect on and from 7 April 2008, a loading of 15% per hour or pro rata for part thereof will be paid to an employee rostered on Afternoon Shift for each hour worked.
- 28.3.2 Night Shift
- (a) A loading of 20% per hour or pro rata for part thereof will be paid to an employee rostered on Night Shift for each hour worked.
 - (b) In lieu of the loading specified in paragraph 28.3.2(a) above of this clause, with effect on and from 7 April 2008, a loading of 35% per hour or pro rata for part thereof will be paid to an employee rostered on Night Shift for each hour worked.
- 28.3.3 A loading of 50% per hour or pro rata for part thereof will be paid to an employee rostered to work on Saturday Shift for each hour worked.
- 28.3.4 A loading of 75% per hour or pro rata for part thereof will be paid to an employee rostered to work on Sunday shift for each hour worked
- 28.3.5 A loading of 50% per hour or pro rata for part thereof will be paid to an employee rostered to work on a Public Holiday for each hour worked.
- 28.4 The rates prescribed in sub-clauses 28.3.1, and 28.3.2 will be in substitution for and not cumulative on the rates prescribed in sub-clauses 28.3.3, 28.3.4 and 28.3.5.
- 28.5 Where an employee works a broken shift each portion of that shift will be considered a separate shift for the purpose of this clause. Provided that a shift broken by a meal break of one hour or less will not constitute a broken shift.

- 28.6 Where the ordinary hours of work span 12 midnight on a Friday night or Sunday night the additional payments for shift work and work during the weekend will be made by calculating for each part of the shift according to the rate applicable for the additional payment for shift work and work during the weekend as the case may be.
- 28.7 Notwithstanding sub-clause 28.6 of this clause, an employee who commences work prior to 12 midnight on a Sunday and continues to work after midnight will continue to receive the 75% loading on ordinary hours worked up to 7.30 am on the following Monday. The provisions of this clause do not apply where the following Monday is a Public Holiday pursuant to "Clause 42 - Public Holidays" of this Agreement.
- 28.8 The provisions of this clause will not apply to community nurses or enrolled community nurses.

29. UNDERPAYMENTS

- 29.1 Where an employee is underpaid in any manner, the Employer will rectify the error as soon as practicable.
- 29.2 Notwithstanding sub-clause 29.1 of this clause, an error will be rectified no later than in the pay immediately following the date on which the Employer discovers, or is advised, that the error occurred.
- 29.3 Notwithstanding the provisions of sub-clause 29.2 of this clause, an employee will be paid any underpayment immediately by way of a special payment where the underpayment of wages has created serious financial hardship.

30. SALARY PACKAGING

- 30.1 For the purposes of this Agreement, salary packaging will mean an arrangement whereby the wage or salary benefit arising under a contract of employment is reduced, with another or other benefits to the value of the replaced salary being substituted and due to the employee.
- 30.2 An employee may, by agreement with the Employer, enter into a salary packaging arrangement.
- 30.3 The Employer will not unreasonably withhold agreement to salary packaging on request from an employee.
- 30.4 The Employer will not require an employee to enter into a salary packaging arrangement, provided that this clause will not impinge on any additional Employer provided benefits.
- 30.5 Where an employee enters into a salary packaging arrangement they will be required to enter into a separate written agreement with the Employer that sets out the terms and conditions of such salary packaging arrangement provided that the terms of such agreement will comply with the terms of this clause.
- 30.6 Such agreement will be formulated on the basis that, on balance, there will be no material disadvantage of the employee concerned, and will be cost neutral in relation to the total employment cost to the Employer.

- 30.7 The salary packaging arrangement must comply with relevant taxation laws and the Employer will not be liable for additional tax, penalties or other costs payable or which may become payable by the employee.
- 30.8 In the event of any increase or additional payments of tax or penalties associated with the employment of the employee, or the provision of Employer benefits under the salary packaging agreement, such tax, penalties and any other costs will be borne by the employee.
- 30.9 An employee may elect to cancel any salary packaging arrangement by giving a minimum of four weeks notice.
- 30.10 The Employer may elect to cancel any salary packaging arrangement by giving a minimum of four weeks notice if the Employer incurs a liability to pay fringe benefits tax or any other tax in respect of the non-cash benefits provided, provided that the Employer cannot retrospectively cancel any salary packaging arrangement.
- 30.11 Notwithstanding sub-clauses 30.9 and 30.10, the Employer and the employee may agree to forgo the notice period.
- 30.12 The cancellation of salary packaging will not cancel or otherwise effect the operation of this Agreement.
- 30.13 "Clause 65. - Dispute Resolution Procedure" of this Agreement will be used to resolve any dispute arising from the operation of this clause.
- 30.15 For the purposes of this provision, any penalty rate, loading or other wage related allowances which would ordinarily be calculated on the basis of the wage rates expressed in "Clause 25 – Classification Structure and Wages" of this Agreement will continue to be so calculated despite an election to participate in any salary packaging arrangement.

PART 6 - ALLOWANCES

31. DISTRICT ALLOWANCE

- 31.1 The terms of the District Allowance (Government Wages Employees) General Agreement 2005 ("the DAGA") or its replacement will apply in lieu of the provisions of this clause to the extent of any inconsistency.
- 31.2 For the purposes of this clause the following terms will have the following meaning:
- 31.2.1 Dependant in relation to an employee means:
- (a) a partner; or
 - (b) where there is no partner, a child or any other relative resident within the State who relies on the employee for their main support;
- who does not receive a district or location allowance of any kind.
- 31.2.2 Partial dependant in relation to an employee means:
- (a) a partner; or

- (b) where there is no partner or a child or any other relative resident within the State who relies on the employee for their main support;

who receives a district or location allowance of any kind less than that applicable to an employee without dependants under any award, agreement or other provision regulating the employment of the partial dependant.

31.2.3 For the purposes of this clause, the boundaries of the various districts will be as described in sub-clause 31.3 of this clause and as delineated in sub-clause 31.7 of this clause.

31.3 District

31.3.1 District 1

The area within a line commencing on coast; then east along latitude 28 to a point north of Talling Peak; then due south to Talling Peak; then southeast to Mt Gibson and Burracoppin; then to a point southeast at the junction of latitude 32 and longitude 119; then south along longitude 119 to coast.

31.3.2 District 2

That area within a line commencing on the south coast at longitude 119 then east along the coast to longitude 123; then north along longitude 123 to a point on latitude 30; then west along latitude 30 to the boundary of No. 1 District.

31.3.3 District 3

The area within a line commencing on coast at latitude 26; then along latitude 26 to longitude 123; then south along longitude 123 to the boundary of No. 2 District.

31.3.4 District 4

The area within a line commencing on the coast at latitude 24; then east to the South Australian border; then south to the coast; then along the coast to longitude 123; then north to the intersection of latitude 26; then west along latitude 26 to the coast.

31.3.5 District 5

That area of the State situated between the latitude 24 and a line running east from Carnot Bay to the Northern Territory border

31.3.6 District 6

That area of the State north of a line running east from Carnot Bay to the Northern Territory border.

- 31.4 An employee will be paid a district allowance at the standard rate prescribed in Column II of sub-clause 31.7 of this clause, for the district in which the employee's headquarters is located. Provided that where the employee's headquarters is situated in a town or place specified in Column III of sub-clause 31.7 of this clause, the employee will be paid a district allowance at the rate appropriate to that town or place as prescribed in Column IV of sub-clause 31.7 of this clause.
- 31.5 An employee who has a dependant will be paid double the district allowance prescribed by sub-clause 31.7 of this clause for the district, town or place in which the employee's headquarters is located.
- 31.6 Where an employee has a partial dependant the total district allowance payable to the employee will be the district allowance prescribed by sub-clause 31.7 of this clause, plus an allowance equivalent to the difference between the rate of district or location allowance the partial dependant receives and the rate of district or location allowance the partial dependant would receive if he or she was employed in a full time capacity under this Agreement or other provision regulating the employment of the partial dependant.
- 31.7 The weekly rate of district allowance payable to employees pursuant to sub-clause 31.4 of this clause, will be as follows:

COLUMN I	COLUMN II	COLUMN III	COLUMN IV
DISTRICT	STANDARD RATE	EXCEPTIONS TO STANDARD RATE	RATE
	\$ per week	Town or place	\$ per week
6	83.95	Nil	Nil
5	60.35	Fitzroy Crossing	123.90
		Halls Creek	89.25
		Nullagine	92.35
		Marble Bar	106.65
		Karratha	71.10
		Port Hedland	66.15
4	51.85	Warburton Mission	86.15
		Denham	47.90
		Carnarvon	30.85
		Eucla	80.00
3	48.95	Meekatharra	40.50
		Leonora	56.70
2	45.05	Kalgoorlie/ Boulder	20.20
		Ravensthorpe	45.95
		Esperance	24.85
1	Nil	Jerramungup	45.05

(Note: In accordance with sub-clause 31.5 of this clause, employees with dependants will be entitled to double the rate of district allowance shown.)

- 31.8 When an employee is on approved annual leave in accordance with "Clause 40. – Annual Leave" of this Agreement, the employee will for the period of such leave, be paid the district allowance to which the employee would ordinarily be entitled.

- 31.9 When an employee on long service leave or other approved leave with pay (other than annual leave), the employee will only be paid district allowance for the period of such leave if the employee, dependants or partial dependants remain in the district in which the employee's headquarters is situated.
- 31.10 When an employee leaves his or her district on duty, payment of any district allowance to which the employee would ordinarily be entitled will cease after the expiration of two weeks unless the employee's dependant/s or partial dependant/s remain in the district or as otherwise approved by the employer.
- 31.11 Except as provided in sub-clause 31.10 of this clause, a district allowance will be paid to any employee ordinarily entitled thereto in addition to reimbursement of any travelling transfer or relieving expenses or camping allowance.
- 31.12 Where an employee whose headquarters is located in a district in respect of which no allowance is prescribed in sub-clause 31.7 of this clause, is required to travel or temporarily reside for any period in excess of one month in any district or districts in respect of which such allowance is so payable, the employee will be paid for the whole of such period a district allowance at the appropriate rate pursuant to sub-clauses 31.4, 31.5 or 31.6 of this clause, for the district in which the employee spends the greater period of time.
- 31.13 When an employee is provided with free board and lodging by the employer or a public authority the allowance will be reduced to two-thirds of the allowance the employee would ordinarily be entitled to under this clause.
- 31.14 An employee who is employed on a part-time basis will be entitled to district allowance on a pro-rata basis. The allowance will be determined by calculating the hours worked by the employee as a proportion of the full-time hours prescribed by the Agreement under which the employee is employed. That proportion of the appropriate district allowance will be payable to the employee.
- 31.15 The allowance prescribed in this clause will be varied in accordance with any movement in the allowances in the Public Service Award 1992.

32. MOTOR VEHICLE ALLOWANCE

- 32.1 Where an employee is required and authorised to use their own motor vehicle in the course of their duties they will be paid an allowance not less than that provided for in the schedules set out hereunder. Notwithstanding anything contained in this sub-clause the employer and the employee may make any other arrangements as to car allowance not less favourable to the employee.
- 32.2 Where an employee in the course of a journey travels through two or more of the separate areas, payment at the rates prescribed herein will be made at the appropriate rate applicable to each of the separate areas traversed.
- 32.3 A "year" for the purpose of this clause will commence on the first day of July and end on the thirtieth day of June next following.
- 32.4 Rates of hire for use of employee's own vehicle on employer's business.

32.4.1 Motor Vehicle Allowance

	Engine Displacement (in cubic
--	-------------------------------

	centimetres)		
	OVER 2600CC	1600 2600CC	– UNDER 1600CC
Area and Details	Cents	per	Kilometre
Metropolitan Area	69.0	58.9	48.9
South West Land Division	71.5	61.1	51.0
North of 23.5° South Latitude	78.7	67.3	56.4
Rest of State	73.7	62.9	52.4

32.4.2 Motor Cycle Allowances

Distance Travelled During a Year on Official Business	Rate Cents per Kilometre
Rate Per Kilometre	23.9

32.5 Motor vehicles with rotary engines are to be included in the 1600-2600cc category.

32.6 The allowance prescribed in this clause will be varied by the parties in accordance with any movement in the allowances in the Public Service Award 1992.

33. EMPLOYEES LIVING NORTH OF THE 26 DEGREE SOUTH LATITUDE

33.1 The conditions and allowances specified in this clause will apply to all employees whose headquarters are located north of the 26 degrees south latitude.

33.2 An employee will receive an additional five day's annual leave on the completion of each twelve (12) months' continuous service in the region.

33.3 An employee who proceeds on annual leave before having completed the necessary year of continuous service may be given approval for the additional five working days' leave provided the leave is taken at the employer's convenience and provided the employee returns to that region to complete the necessary service.

33.4 Where an employee has served continuously for at least a year north of the 26 degrees south latitude, and leaves the region because of promotion or transfer, a pro rata annual leave credit to be cleared at the employer's convenience will be approved on the following basis:

Completed Months of Additional Service in the region after initial year of service	1	2	3	4	5	6	7	8	9	10	11
Pro Rata Additional annual leave(working days)	0	0	1	1	2	2	2	3	3	4	4

33.5 Where payment in lieu of pro rata annual leave is made on the death, resignation or retirement of an employee in the region, in addition to the payment calculated on a four week basis, payment may be made for the pro rata entitlement contained in sub-clause 33.4 of this clause.

33.6 Employees who are tenants occupying Government Regional Officers Housing (GROH) houses equipped with gas hot water systems are eligible for a reimbursement up to a maximum of \$29.00 per month.

- 33.7 Employees who have dependent school age children resident with them will receive an allowance of \$100 per annum per child to a maximum of \$400 per annum per family.

34. DISTANT APPOINTMENTS

34.1 Employees other than Enrolled Community Nurses or Enrolled Community School Nurses

34.1.1 Subject to sub-clause 34.1.2, when an employee is engaged for service in a hospital or place outside a radius of forty kilometres of the General Post Office, Perth, they will be entitled to first-class fare and travelling allowance as prescribed from the place of engagement to the place of employment, and their term of employment will be deemed to commence as soon as they leave their place of engagement.

34.1.2 If the employee resigns other than for a reason which in the opinion of the employer is a good and sufficient reason or is dismissed for misconduct before the completion of three months' service they will refund to the employer the cost of the fare from their place of engagement to the place of employment.

34.1.3 Except in the case of dismissal for misconduct, if an employee is dismissed before the period for which they were engaged has expired or if none is stipulated then before the period of six months from the date of their appointment, the employee will be entitled to first-class accommodation and travelling allowance as above to the place of engagement should they desire to return there. Where the employee was originally engaged in Perth and has been employed continuously at more than one public hospital without returning to Perth, then they will be entitled to first-class accommodation and travelling allowance to Perth, should they desire to return there.

34.1.4 In the circumstance described in sub-clause 34.1.3, should an employee elect to return to their place of engagement or to Perth by other conveyance than that stipulated by the employer, they will be entitled, upon production of receipts, to actual transport expenses incurred; but such transport expenses will not exceed the amount of either a first-class rail, boat, plane and/or coach fare at the employer's option, from the place of their last employment to the place of their engagement, or to Perth as the case may be.

34.1.5 Any employee whose duties will require them to travel will be entitled to travelling accommodation at the expense of their employer.

34.1.6 Any employee engaged for duty in a hospital or place outside a radius of forty kilometres from the place of engagement, who remains in that duty for at least six months, will be entitled to return fare and travelling allowance, in accordance with sub-clause 34.1.1 of this Clause, to the place of original engagement upon lawful termination of the employment.

34.1.7 Upon termination of their employment, an employee engaged under the provisions of sub-clause 34.1.1 or 34.1.6 will receive payment before they leave the hospital of all money due to them up to the termination of their employment.

34.2 Enrolled Community Nurses or Enrolled Community School Nurses Only

- 34.2.1 The provisions of this clause will apply to an enrolled community nurse or an enrolled community school nurse when such a nurse is engaged for service at a location outside a radius of 40 kilometres from the place of appointment. For the purposes of this clause the place of employment will be Perth except where the nurse is appointed at a place other than Perth.
- 34.2.2 The employment of a nurse will be deemed to have commenced at the time the nurse leaves the place of appointment.
- 34.2.3 The employer will pay the fares, travelling expenses and an amount agreed between the employer and the nurse prior to engagement for the cost of transporting the employee's personal effects from the place of appointment to the place of employment. Provided further that the employer will determine the method of public transport to be utilised by the nurse in moving from the place of appointment to the place of employment.
- 34.2.4 A nurse who elects to drive their own vehicle to the work location will be paid an allowance equal to half the rate prescribed in "Clause 32. - Motor Vehicle Allowance" of this Agreement provided that such an allowance will not exceed the cost of transport by public conveyance to the work location.
- 34.2.5 If the nurse resigns, other than for a reason which in the opinion of the employer is a good and sufficient reason or is dismissed for misconduct before the completion of three months' service the nurse will refund to the employer the cost of the fare as prescribed in sub-clause 34.2.4 of this clause.
- 34.2.6 Should a nurse be dismissed, other than for misconduct warranting instant dismissal, prior to the completion of six months, the nurse will be entitled to a return fare and travelling allowance as provided in sub-clause 34.2.4 of this clause.
- 34.2.7 A nurse will upon completion of six months' service or any lesser period for which the nurse was appointed, or when the employee has been employed continuously at more than one centre without returning to the place of employment, be entitled to return expenses as provided in sub-clause 34.2.4 of this clause.

35. RELIEVING OR SPECIAL DUTY ALLOWANCE

- 35.1 An employee who is required to take up duty away from their normal headquarters on relief duty or to perform special duty, and must reside temporarily away from their usual place of residence will be reimbursed in accordance with this clause.
- 35.2 Where the employee:
- 35.2.1 is supplied with accommodation and meals free of charge; or
- 35.2.2 is accommodated at a government institution, hostel, or similar establishment and supplied with meals,

Reimbursement will be in accordance with the rates prescribed in Column A, items 1 to 3 of "Schedule C – Scale of Allowances" of this Agreement.

- 35.3 Where the employee is fully responsible for their own accommodation, meals and incidental expenses and hotel or motel accommodation is utilised:
- 35.3.1 For the first 42 days after arrival at the new locality reimbursement will be in accordance with the rates prescribed in Column A, items 4 to 8 of "Schedule C – Scale of Allowances" of this Agreement.
- 35.3.2 For periods in excess of 42 days after arrival in the new locality reimbursement will be in accordance with the rates prescribed in Column B, items 4 to 8 of "Schedule C – Scale of Allowances" of this Agreement for employees with dependants and Column C items 4 to 8 of "Schedule C – Scale of Allowances" of this Agreement for employees without dependants.
- Provided that the period of reimbursement under this sub-clause will not exceed 49 days without the approval of the Employer.
- 35.4 Where the employee is fully responsible for her or his own accommodation, meals and incidental expenses, and other than hotel or motel accommodation is used, reimbursement will be in accordance with the rates prescribed in Column A, items 9, 10 or 11 of "Schedule C – Scale of Allowances" of this Agreement.
- 35.5 Reimbursement of expenses will not be suspended should an employee become ill whilst on relief duty, provided leave for the period of such illness is approved in accordance with this Agreement and the employee continues to incur accommodation meal and incidental expenses.
- 35.6 Where an employee who is required to relieve or perform special duties is authorised by the Employer to travel to the new locality in the employees own motor vehicle, the employee will be reimbursed for the return journey as follows:
- 35.6.1 Where the employee will not be required to maintain a motor vehicle for the performance of the relieving or special duties reimbursement will be on the basis of one half of the appropriate rate prescribed by "Clause 32 - Motor Vehicle Allowance" of this Agreement. Provided that the maximum amount of reimbursement will not exceed the cost of the fare by public transport which otherwise would be used for the journey.
- 35.7 The rate applicable to an employee with dependants under sub-clause 35.3.2 of this clause will be paid to an employee without dependants if the Employer is satisfied that the employee has to maintain a home and support dependents in a locality other than that to which they have been sent. The onus of proof rests with the employee in such a case.
- 35.8 Where it can be shown by the production of receipts or other evidence that an allowance payable under this clause would be insufficient to meet reasonable additional costs incurred, an appropriate rate of reimbursement may be determined by the Employer.
- 35.9 The provisions of this clause will not operate concurrently with the provisions of "Clause 37 - Travelling Allowance" of this Agreement. Provided that where an employee is required to travel on official business which involves an overnight stay, away from their temporary place of employment, the Employer may extend the periods in sub-clause 35.3 of this clause by the time spent in travelling.

35.10 An employee who is directed to relieve another employee or to perform special duties away from the employees usual place of employment and is not required to reside temporarily away from the employees usual place of residence will, if not in receipt of a higher duties or special allowance for such work, be reimbursed the amount of additional fares paid in travelling by public transport to and from the temporary place of duty.

36. REMOVAL, TRANSFER AND WEEKEND ABSENCE

The provisions contained in Clause 50. - Removal Allowance, Clause 52. - Transfer Allowance and Clause 56. - Weekend Absence From Residence of the *Government Officers Salaries, Allowances and Conditions Award 1989* shall apply to enrolled community nurses and enrolled community school nurses covered by this Agreement mutatis mutandis.

37. TRAVELLING ALLOWANCE

37.1 An employee who travels on official business will be reimbursed reasonable expenses in accordance with the provisions of this clause.

37.2 When a trip necessitates an overnight stay away from the employee's headquarters and the employee:

37.2.1 is supplied with accommodation and meals free of charge; or

37.2.2 attends a course, conference, etc., where the fee paid includes accommodation and meals; or

37.2.3 is accommodated at a government institution, hostel or similar establishment and supplied with meals;

reimbursement will be in accordance with the rates prescribed in column A, items 1, 2 or 3 of Schedule C – Scale of Allowances of this Agreement.

37.3 When a trip necessitates an overnight stay away from the employee's usual place of work and the employee is fully responsible for their own accommodation, meals and incidental expenses:

37.3.1 where hotel or motel accommodation is utilised reimbursement will be in accordance with the rates prescribed in column A, items 4 to 8 of "Schedule C – Scale of Allowances" of this Agreement;

37.3.2 where other than hotel or motel accommodation is utilised reimbursement will be in accordance with the rates prescribed in column A, items 9, 10 and 11 of "Schedule C – Scale of Allowances" of this Agreement.

37.4 To calculate reimbursement under sub-clauses 37.2 and 37.3 of this clause for part of a day, the following formulae will apply:

37.4.1 If departure from the usual place of work is:

(a) before 8.00 a.m. - 100% of the daily rate.

(b) 8.00 a.m. or later but prior to 1.00 p.m. - 90% of the daily rate.

(c) 1.00 p.m. or later but prior to 6.00 p.m. - 75% of the daily rate

- (d) 6.00 p.m. or later - 50% of the daily rate.

37.4.2 If arrival back at the usual place of work is:

- (a) 8.00 a.m. or later but prior to 1.00 p.m. - 10% of the daily rate.
- (b) 1.00 p.m. or later but prior to 6.00 p.m. - 25% of the daily rate.
- (c) 6.00 p.m. or later but prior to 11.00 p.m. - 50% of the daily rate.
- (d) 11.00 p.m. or later - 100% of the daily rate.

37.5 When an employee travels to a place outside a radius of 50 kilometres measured from the usual place of work and the trip does not involve an overnight stay away from the usual place of work, reimbursement for all meals claimed will be at the rate set out in column A, items 12 or 13 of "Schedule C – Scale of Allowances" of this Agreement subject to the employees' certification that each meal claimed was actually purchased.

Provided that when an employee departs from the usual place of work before 8.00 a.m. and does not arrive back at the usual place of work until after 11.00 p.m. on the same day the employee will be paid at the appropriate rate prescribed in column A, items 4 to 8 of "Schedule C – Scale of Allowances" of this Agreement.

37.6 When it can be shown to the satisfaction of the Employer by the production of receipts that reimbursement in accordance with "Schedule C – Scale of Allowances" of this Agreement does not cover the employees reasonable expenses for a whole trip the employee will be reimbursed the excess expenditure.

37.7 In addition to the rates contained in "Schedule C – Scale of Allowances" of this Agreement an employee will be reimbursed reasonable incidental expenses such as train, bus and taxi fares, official telephone calls, laundry and dry cleaning expenses, on production of receipts.

37.8 If on account of lack of suitable transport facilities an employee necessarily engages reasonable accommodation for the night prior to commencing travelling on early morning transport the employee will be reimbursed the actual cost of such accommodation.

37.9 Reimbursement of expenses will not be suspended should an employee become ill whilst travelling, provided leave for the period of such illness is approved in accordance with the provisions of this Agreement, and the employee continues to incur accommodation, meal and incidental expenses.

37.10 Reimbursement claims for travelling in excess of fourteen days in one month will not be passed for payment by a certifying officer until the Employer has endorsed the account.

37.11 An employee who is relieving at or temporarily transferred to any place within a radius of 50 kilometres measured from their headquarters will not be reimbursed the cost of midday meals purchased, but an employee travelling on duty within that area which requires their absence from the usual place of work over the usual midday meal period will be paid the rate prescribed by item 17 of "Schedule C – Scale of Allowances" of this Agreement for each meal necessarily purchased, provided that:

37.11.1 such travelling is not a normal feature in the performance of their duties; and

37.11.2 such travelling is not within the suburb in which the employee resides; and

37.11.3 the total reimbursement under this sub-clause for any one pay period will not exceed the amount prescribed by item 18 of "Schedule C – Scale of Allowances" of this Agreement.

37.12 The rates of allowances prescribed in "Schedule C – Scale of Allowances" of this Agreement will be adjusted in accordance with any movement in the relevant allowances in the *Public Service Award 1992*.

38. RURAL GRATUITIES

38.1 The Employer agrees to extend the application of Rural Gratuities to Enrolled Nurses on the same basis as provided by Clause 58 of the Registered Nurses, Midwives and Enrolled Mental Health Nurses – Australian Nursing Federation – WA Health Industrial Agreement 2007 (AG 69 of 2007).

38.2 Nothing in this Agreement prevents the Employer and an Employee from agreeing in writing to other benefits in substitution for the entitlements prescribed in this Clause.

39. LAUNDRY AND UNIFORMS

39.1 Uniform issue

39.1.1 The employer will provide free of charge the following number and type of uniforms to each employee:

(a) 2 jackets or cardigans; and

(b) 6 pairs of trousers/culottes/shorts and 6 short or long sleeved shirts;
or

(c) 6 dresses

39.1.2 The employee will choose which combination of the above best suits their needs.

39.1.3 Uniforms will be replaced as and when necessary on a fair wear and tear basis.

39.2 The employer will determine the material, colour, pattern and conditions of the uniforms issued.

39.3 At all times the uniform issued to the employee will remain the property of the employer.

39.4 No staff member will be required to wear stockings.

39.5 All staff must wear a suitably enclosed shoe, however the employer may not specify colour or brand.

39.6 The standard uniform issue may be varied by agreement between the employer and the Union where a hospital has the need for particular items of clothing to be worn. Each employee will have a sufficient number of uniforms to ensure a clean uniform daily.

39.7 By agreement between an employer and an employee and where a hospital is situated north of 26° south latitude, jackets and cardigans need not be supplied.

39.8 Enrolled Community Nurses and Enrolled Community School Nurses

39.8.1 The provisions of this sub-clause will only apply to enrolled community nurses and enrolled community school nurses only.

39.8.2 The employer will provide nurses with all uniforms that will at all times remain the property of the employer.

39.8.3 Provided further that in lieu of providing uniforms the employer may pay a weekly allowance in accordance with the following table, and the nurse will wear uniforms which conform to the uniform stipulated by the employer with respect to material, colour, pattern and conditions.

Rate Payable on and from 7 October 2007	Rate Payable on and from 7 October 2008	Rate Payable on and from 7 October 2009
\$6.50	\$6.50	\$6.63

39.8.4 Where the employer does not require the nurse to wear a uniform no allowance will be paid.

39.9 Laundry

39.9.1 All washable clothing forming part of the uniform supplied by the employer will be laundered free of cost to the employees.

39.9.2 Provided that in lieu of such free laundering the employer may pay the employee a weekly allowance in accordance with the following table:

Rate Payable on and from 7 October 2007	Rate Payable on and from 7 October 2008	Rate Payable on and from 7 October 2009
\$1.99	\$2.07	\$2.15

39.10 Laundering of jackets and cardigans issued as part of the uniform will be the responsibility of the employee. No laundry allowance will be paid for this work.

PART 7 - LEAVE

40. ANNUAL LEAVE

40.1 Entitlement

40.1.1 Except as hereinafter provided a period of seven consecutive weeks' leave will be allowed to an employee by their employer after each period of twelve months' continuous employment with such employer.

40.1.2 The entitlement in sub-clause 40.1.1 accrues pro rata on a weekly basis.

40.2 Prior to commencing leave, each employee will be paid for that period of leave:

40.2.1 Where an employee has worked less than the full time hours per week specified in Clause 19. - Hours of Work of this Agreement over the accrual period for which annual leave is being taken, the hours for which payment is made will be calculated on an average of the number of hours worked per week during the accrual period;

40.2.2 the rate of wage the employee would have received had the employee not proceeded on leave. In the case of rostered employees that wage will include the shift work and weekend penalties that employee would have received had the employee not proceeded on leave;

where it is not possible to calculate the shift and weekend penalties the employee would have received the employee will be paid the average of such payments made each week over the four weeks prior to taking leave;

OR

40.2.3 For 5/7ths of that leave, the rate of wage shown in "Clause 25. – Classification Structure and Wages" of this Agreement for their class of work and in addition be paid a loading of 18-3/4 percent of that wage and for the remaining 2/7ths of that leave due in each year, be paid according to paragraph 40.2.2 of this sub-clause;

whichever is the greater benefit to the employee. Provided that the loading prescribed by this sub-clause will not apply to pro rata annual leave on termination.

40.3 Subject as hereinafter provided:

40.3.1 If after one month's continuous employment an employee lawfully terminates their employment or their employment is terminated by the employer through no fault of the employee, the employee will be paid 5.11 hours pay at the rate prescribed by sub-clause 40.2 of this clause in respect of each completed week of continuous service for which annual leave has not already been taken.

40.3.2 In addition to any payment to which they may be entitled under this sub-clause, an employee whose employment terminates after they have completed a 12 monthly qualifying period and who has not been allowed the leave prescribed under this Agreement in respect of that qualifying period will be given payment in lieu of that leave unless they have been justifiably dismissed for misconduct and the misconduct for which they have been dismissed occurred prior to the completion of that qualifying period.

40.4 By mutual agreement between the Employer and employee annual leave may be taken in multiple portions. This may include up to 5 single days. However at least one portion taken will be not less than two consecutive weeks.

40.6 Any time in respect of which an employee is absent from work except paid sick leave or unpaid sick leave up to three months, the first twenty-six weeks of any absence on worker's compensation, annual leave, long service leave and compassionate leave, will not count for the purpose of determining annual leave entitlements.

- 40.7 Leave will be granted as soon as practicable after falling due and will not accumulate except with the consent of the employee.
- 40.8 Before going on annual leave each employee will be given at least two weeks' notice of the date leave is to be taken, unless the employee and the employer agree on a lesser period.
- 40.9 When an employee proceeds on the first four weeks of the seven weeks' annual leave prescribed by sub-clause 40.1 of this clause there will be no accrual towards an Accrued Day Off as prescribed in sub-clauses 19.1 and 19.2 of "Clause 19. - Hours of Work" of this Agreement. Accrual towards an Accrued Day Off will continue during any other period of annual leave prescribed by this clause.

40.10 Enrolled Community Nurses and Enrolled Community School Nurses

- 40.10.1 Notwithstanding anything else herein contained, the provisions of this sub-clause will only apply to enrolled community nurses and enrolled community school nurses.
- 40.10.2 Subject to the provisions of this sub-clause, each enrolled community or enrolled community school nurse will be entitled to four weeks' leave with payment of ordinary wages after each twelve months' continuous service.
- 40.10.3 A loading of 17.5% will be paid in addition to the ordinary wage payable under this sub-clause.
- 40.10.4 An enrolled community or enrolled community school nurse may, with the approval of the employer, be allowed to take the annual leave prescribed by this clause before the completion of twelve months' continuous service as prescribed by paragraph 40.10.2 of this sub-clause.
- 40.10.5 Payment upon termination
- (a) Except as provided in paragraph (b) of this sub-clause if after one month's continuous employment as an enrolled community or enrolled community school nurse lawfully terminates her/his employment or her/his employment is terminated by the employer through no fault of the nurse, the nurse will be paid 2.92 hours' pay (at the rate prescribed by paragraph 40.10.3 of this sub-clause in respect of each completed week of continuous service for which annual leave has not already been taken.
 - (b) An enrolled community or enrolled community school nurse who is dismissed for misconduct which occurred after the completion of a twelve monthly qualifying period will, subject to "Clause 14. - Contract of Service" of this Agreement, be given payment for the leave accrued but not taken.
- 40.10.6 If the service of an enrolled community or enrolled community school nurse terminates and the nurse has taken a period of leave in accordance with paragraph 40.10.4 of this sub-clause, and if the period of leave so taken exceeds that which would become due pursuant to paragraph 40.10.2 of this sub-clause, the nurse will be liable to pay the amount representing the difference between the amount received by her/his for the period of leave taken in accordance with paragraph 40.10.4 of this sub-clause and the

amount which would have accrued in accordance with paragraph 40.10.2 of this sub-clause. The employer may deduct this amount from moneys due to the nurse by reason of the other provisions of this Agreement at the time of termination.

40.10.7 An enrolled community school nurse will not be required to present for duty on any day when the school is not open. Subject to subparagraph (b) of paragraph 40.10.5 of this sub-clause, the enrolled community school nurse will be paid ordinary wages on any day of which they are relieved of the obligation to present for work.

If an enrolled community school nurse is required to work on any day observed as a school holiday they will be paid at the rate of double time and a half.

40.10.8 An enrolled community school nurse who works a minimum of four weeks continuously but less than a full school year will be entitled to payment at the ordinary rate of pay for or in lieu of the Christmas and term vacation periods related to that school year on the basis on 9.75 hours' pay for each week the enrolled community school nurse was employed to actually work in the school.

40.10.9 An enrolled community school nurse absent from work on leave without pay will lose all entitlements to payment at the ordinary rate of pay for or in lieu of Christmas and term vacation periods in accordance with the following table.

Working Days Absent	Vacation Days Lost
0-4	Nil
5-9	1
10-19	5
20-34	9
35-49	14
50-69	19
70-89	24
90-109	28
110-129	33
130-149	38
150-169	43
170-189	48
190-199	52
200 and over	All

40.10.10 An annual leave loading will be included in the last payment of ordinary wages made prior to Christmas Day or in the event of termination prior to the end of the school year, in the final payment made to the enrolled community school nurse.

Subject to paragraph 40.10.9 of this sub-clause annual leave loading will be 17.5% of four weeks' wages at the rate of pay applicable at the time of payment.

Where an enrolled community school nurse is employed for less than the full school year, the annual leave loading will be paid on a pro rata basis in the same proportions as the number of weeks which the enrolled community

school nurse was actually employed to work in the school bears to the number of weeks in the same year.

40.10.11 In addition to any payment to which the enrolled community school nurse may be entitled under subparagraph (a) of paragraph 40.10.5 of this sub-clause, an enrolled community school nurse whose employment terminates after completing a twelve monthly qualifying period and who has not been allowed the leave prescribed under this Agreement in respect of that qualifying period, will be given payment in lieu of that leave unless the enrolled community school nurse has been justifiably dismissed for misconduct and the misconduct for which the enrolled community school nurse has been dismissed occurred prior to completion of that qualifying period.

40.10.12 The annual leave prescribed in paragraph 40.10.2 of this sub-clause may, by consent between the employer and the employee, be taken in two portions provided that no portion will be less than two consecutive weeks. Provided further that enrolled community school nurses will be required to clear annual leave during periods of school vacation.

40.11 When calculating the annual leave due under this clause, no deduction will be made from such leave in respect of the period a nurse is on long service leave, annual leave, absent through sickness with or without pay except for that portion of an absence that exceeds three months, or absent on workers' compensation, except for that portion of an absence that exceeds six months.

40.12 The leave of a nurse will not accumulate except with the consent of the nurse and in no case will it accumulate for more than two years.

40.13 Before going on annual leave each nurse will be given at least two weeks' notice of the date leave is to be taken, unless the nurse and the employer agree on a lesser period.

40.14 The first four weeks of annual leave prescribed in this clause will not accrue time towards an Accrued Day Off as prescribed in sub-clause 18.2 of "Clause 18. – Clinic Nurses" of this Agreement. Accrual towards an Accrued Day Off will continue during any other period of annual leave prescribed by this clause.

40.15 The provisions of this clause will not apply to casual employees.

41. ANNUAL LEAVE TRAVEL CONCESSIONS

41.1 Employees stationed in remote areas

The travel concessions contained in the following table are provided to employees, their dependent partners and their dependent children when proceeding on annual leave from headquarters situated in District Allowance Areas 3, 5 and 6, and in that portion of Area 4 located north of 30 degrees South latitude.

41.2 Employees are required to serve 12 continuous months in these areas before qualifying for travel concessions. However, employees who have less than 12 months continuous service in these areas and who are required to proceed on annual leave to suit the Employer's convenience will be allowed the concessions. The concession may also be given to an employee who proceeds on annual leave before completing the year's service provided that the employee returns to the area

to complete the year's service at the expiration of the period of leave and should such employee not return or complete the required service the Employer may recover the value of the concession provided.

- 41.3 The Employer will provide the concession by paying or reimbursing costs of annual leave travel for the employee, his/her dependent partner and his/her dependent children travelling with him/her up to the cost of the prevailing market rate for return economy airfares to Perth inclusive of GST.
- 41.4 Where an employee elects to use transport other than their own, the Employer may require that the travel be booked through the Employer.
- 41.5 An employee travelling other than by air is entitled to payment of up to the equivalent fare calculated in accordance with this clause prior to the commencement of his / her leave.
- 41.6 Travel concessions not utilised within twelve months of becoming due will lapse.
- 41.7 Part-time employees are entitled to travel concessions on a pro rata basis according to the usual number of hours worked per week.
- 41.8 Travelling time will be calculated on a pro rata basis according to the number of hours worked.

	Approved Mode of Travel	Travel Concession	Travelling Time
(a)	Air	Air fare for the Employee, and dependent partner and/or dependent children	One day each way
(b)	Road	Full motor vehicle allowance rates, but reimbursement not to exceed the cost of the return air fare for the employee, dependent partner and/or dependent children, travelling in the motor vehicle.	On or North of 20° South Latitude - two and one half days each way. Remainder - two days each way.
(c)	Air and Road	Full motor vehicle allowance rates for car trip, but reimbursement not to exceed the cost of the return air fare for the employee. Air fares for the dependent partner and/or dependent children.	On or North of 20° South Latitude - two and one half days each way. Remainder - two days each way.

42. PUBLIC HOLIDAYS

- 42.1 For the purposes of this clause the following days, or days observed in lieu thereof, will be considered 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.
- 42.2 Where any of the days referred to in sub-clause 42.1 of this clause falls on a Saturday or a Sunday the holiday will be observed on the next succeeding Monday

and when Boxing Day falls on a Sunday or a Monday the holiday will be observed on the next succeeding Tuesday.

42.3 Where -

42.3.1 a day is proclaimed as a public holiday or as a public half-holiday under Section 7 of the Public and Bank Holidays Act, 1972; and

42.3.2 that proclamation does not apply throughout the State or to the metropolitan area of the State, that day will be a whole holiday for the purposes of this Agreement within the district or locality specified in the proclamation.

42.4 Enrolled Community Nurses and Enrolled Community School Nurses

42.4.1 Notwithstanding anything else contained in this clause, the following provisions will apply to enrolled community nurses and enrolled community school nurses.

42.4.2 The following days or the days observed in lieu thereof will be allowed as holidays with pay, New Year's Day, Australia Day, Labour Day, Good Friday, Easter Monday, Anzac Day, Foundation Day, Queens Birthday, Christmas Day and Boxing Day.

42.4.3 In any branch or department in the community health service area where the clerical and administrative staff observe additional holidays with pay, such days will be allowed to nurses as holidays with pay. The provisions of this paragraph will not apply where the nurse is required to maintain a service to other employees of a respondent to this Agreement.

42.4.4 Work performed by a nurse at the direction of the employer on a day mentioned in paragraph 42.2.2 of this sub-clause will be paid or compensated for as hereunder:

- (a) double time and one half, or
- (b) in lieu of making payment in accordance with paragraph (a) of this sub-clause, and by agreement between the nurse and the employer, payment may be made at the rate of time and one half with equivalent time to that worked being taken off at a time convenient to the employer.

43. LONG SERVICE LEAVE

43.1 Long Service Leave Entitlement

Subject to the conditions of this clause all employees will become entitled to 13 weeks long service leave.

43.1.1 after a period of ten (10) years continuous service.

43.1.2 after each further period of seven (7) years continuous service.

43.2 Notwithstanding sub-clause 43.1 of this clause, upon application by an employee, the Employer may approve an employee clearing:

- 42.2.1 any accrued entitlement to long service leave in minimum periods of one day
 - 42.2.2 double the period of long service leave on half pay, in lieu of the period of long service leave entitlement on normal pay; or
 - 42.2.3 half the period of long service leave on double pay, in lieu of the period of long service leave entitlement on normal pay; or
 - 42.2.4 any portion of their long service leave entitlement on normal pay or double such period on half pay; or half such period on double pay.
- 43.3 When an employee proceeds on long service leave there will be no accrual towards an Accrued Day Off.

43.4 Service counted for Long Service Leave

43.4.1 For the purpose of these conditions “service” means service as an employee of a Public Authority and will be deemed to include:-

- (a) absence of the employee on an annual leave or public holidays.
- (b) absence of the employee on paid sick or on an approved rostered day off.
- (c) absence of the employee on approved sick leave without pay except that portion of a continuous absence which exceeds three (3) months.
- (d) absence of the employee on approved leave without pay, without pay other than sick leave but not exceeding two (2) weeks in any qualifying period.
- (e) absence of the employee on National Service or other military training, but only if the difference between the employees’ military pay and his/her civilian pay is made up or would, but for the fact that his military pay exceeds his/her civilian pay, be made up by his/her Employer.
- (f) absence of the employee on worker’s compensation for any period not exceeding six (6) months, or for such greater period as the Employer may allow;
- (g) absence of the employee on long service leave.
- (h) absence of an employee on approved leave to attend Trade Union training courses or on approved leave to attend Trade Union business; and
- (i) employment in the service of the Commonwealth or another State of Australia as provided in sub-clause 43.16 of this clause.

43.4.2 The service of an employee will be deemed NOT to include:-

- (a) service of an employee after the day on which he/she has become entitled to 26 weeks long service leave until the day on which he/she commences the taking of thirteen (13) weeks of that leave.

- (b) any period of service with an Employer of less than twelve (12) months. Provided where an employee has service of a month or more but less than twelve (12) months immediately prior to being transferred by one State Government Employer to another; becoming redundant or qualifying for pro rata payments in lieu of leave pursuant to sub-clause 13.11 of this clause, such period of service will count;
- (c) any period during which an employee has been paid as a casual;
- (d) any other absence of the employee except such absences as are included in service by virtue of sub-clause 43.4.1 of this clause; and

43.4.3 Subject to the provisions of sub-clauses 43.4.1 and 43.4.2 of this clause, of these conditions the service of an employee will not be deemed to have been broken;

- (a) by resignation, if he/she resigns from one public authority in this State and commences with another public authority in this State within one (1) working week of the expiration of any period for which payment in lieu of annual leave and/or public holidays has been made by the Employer from which the employee resigned, or, if no such payment has been made, within one (1) working week of the day on which his resignation become effective;
- (b) if his/her employment is ended by his/her Employer for any reason other than serious misconduct, but only if -
 - (i) the employee resumes employment with the Government not later than six (6) months from the day on which his/her employment ended; and
 - (ii) payment pursuant to sub-clause 43.11 of this clause has not been made; or
- (c) by any absence approved by the Employer as leave whether with or without pay.

43.5 Application for leave without pay in respect of any absence must be made before the commencement of the absence unless the cause of the absence occurs after the employee has left the job, in which case the application must be made not later than 14 days after the day on which the employee resumes work.

43.6 **Taking of Long Service Leave**

43.6.1 Long service leave will be taken at a time convenient to the Employer but not less than thirty (30) days notice will be given to each employee on the day on which his long service leave commences, except in cases where the employee and the Employer agree to a lesser period of notice or in other exceptional circumstances.

43.6.2 Long service leave must be commenced within six (6) months of becoming due unless written permission of the Employer concerned is obtained for postponement.

43.7 **Public Holidays falling during Long Service Leave**

Any public holiday occurring during an employee's absence on long service leave will be deemed to be a portion of the long service leave and extra days in lieu thereof will not be granted.

43.8 Alternative employment during Long Service

No employee is to undertake during long service leave, without the written approval of the Employer, any form of employment for hire or reward. Contravention of this sub-clause may be followed by disciplinary action which may include dismissal.

However, an employee may work casual shifts during a period of Long Service Leave with the written approval of the relevant Employer respondent to this Agreement.

43.9 Affect of termination of employment on payment in lieu of Long Service Leave

An employee who has become entitled to long service leave in accordance with sub-clause 43.1 of this clause, of these conditions and whose employment is ended before that leave is taken will be granted payment in lieu of that leave unless he/she has been dismissed for an offence committed prior to the day on which he/she became entitled to that leave.

43.10 Entitlement to Long Service Leave on death of employee

If an employee who has become entitled to long service leave in accordance with sub-clause 43.1 of this clause, of these conditions dies before taking that leave, payment will be made to such spouse or other dependant.

43.11 Pro Rata Long Service Leave

If the employment of an employee ends before he/she has completed the first further qualifying periods in accordance with sub-clause 43.1 of this clause, payment in lieu of long service proportionate his/her length of service will not be made unless the employee:

43.11.1 has completed a total of at least three (3) years continuous service and his/her employment has been ended by his/her Employer for reasons other than serious misconduct; or

43.11.2 is not less than 55 years of age and resigns but only if the employee has completed a total of not less than twelve (12) months continuous service prior to the day from which the resignation has effect; or

43.11.3 has completed a total of not less than twelve (12) months continuous service and his/her employment has been ended by his/her Employer on account of incapacity due to old age, ill health or the result of an accident; or

43.11.4 as completed a total of not less than three (3) years' continuous services and resigns because of her pregnancy and who produces at the time of resignation or termination certificate of such pregnancy and the expected date of birth from a legally qualified medical practitioner; or

43.11.5 dies after having served continuously for not less than twelve (12) months before his/her death and leaves his/her spouse, children, parent or invalid brother or sister dependent; or

43.11.6 has completed a total of not less than three (3) years continuous service and resigns in order to enter an In Vitro Fertilisation Programme provided the employee produces written confirmation from an appropriate medical authority of the dates of involvement in the programme.

43.12 Notwithstanding the provisions of sub-clauses 43.11.1 and 43.11.3 of this clause, an employee whose position has become redundant and who refuses an offer by the Employer of reasonable alternative employment or who refuses to accept transfer in accordance with the terms of his/her employment will not be entitled to payment in lieu of long service leave proportionate to his length of service.

43.13 For the purpose of sub-clause 43.11.3 of this clause, a medical referee will, if there is disagreement between the employee's doctor and the Employer's doctor as to the employee's incapacity, be selected from an appropriate panel of doctors by agreement between the Employer and employee.

43.14 Rate of Pay During Long Service Leave

43.14.1 Subject to the provision of this clause an employee will be paid during long service leave at his/ her permanent classification rate of pay.

43.14.2 Except where otherwise approved by the Employer the rate of pay of an employee will be deemed to be the total wage applicable to the classification which, for the purpose of this clause is or is deemed to be his or her permanent classification.

43.14.3 If an employee has been employed in one or more positions each of which carries a higher rate than his/her permanent classified rate for a continuous period of twelve (12) months ending not earlier than two (2) weeks before the day on which he/she commences long service leave or is paid pro rata in lieu of leave in accordance with sub-clause 43.11 of this clause, the rate which he/she has received for the greatest proportion of that 12 month period will, for the purpose of this clause, be deemed to be in permanent classified rate.

43.14.4 If any variation occurs in the rate of wage applicable to an employee during any period when he/she is on leave will be varied accordingly and, if the employee has been paid in full for the leave before its commencement payments will be adjusted as soon as practicable after the employee resumes work.

43.14.5 District allowance will not be paid during long service leave unless the family or dependants of the employee remain in the district.

43.15 Part-time employee

43.15.1 A part-time employee, who during a qualifying period has been continuously employed on both full-time and part-time employment, may elect to take three (3) months long service leave at a rate determined by the proportion of service on a part-time basis to that on a full-time basis or to take a lesser period than three (3) months calculated by converting the part-time service to equivalent full-time service so that the employee qualifies for three (3) months long service leave at the full-time rate of pay.

43.15.2 If the hours of a part-time employee, have varied he/she will be paid a rate based on the average number of hours worked over the full qualifying period.

43.15.3 A full-time employee, who during a qualifying period has been continuously employed on both full-time and part-time employment, may elect to take 13 weeks' long service leave at the rate determined by the proportion of service on a part-time basis to that on a full-time basis or to take lesser period than 13 weeks calculated by convening the part-time service, or to work such additional time as will effectively make up the part-time service into full-time service so that the employee qualifies for 13 weeks long service leave at the full-time rate.

43.15.4 A part-time employee, who during the qualifying period has been continuously employed on both part-time and full-time employment, will be paid at a rate determined by the proportion of service on a part-time basis to that on a full-time basis.

43.16 Portability of Long Service Leave

43.16.1 Subject to sub-clause 43.16.3 of this sub-clause, where an employee was, immediately prior to being engaged, employed in the service of the Commonwealth or another State of Australia and that employment was continuous with this service as defined by this clause that employee will be entitled to long service leave determined in the following manner.

- (a) Service with the previous Employer will be converted into service for the purpose of these conditions by calculating the proportion that the service with the previous Employer bears to a full qualifying period in accordance with the provisions that applied in the previous employment and applying that proportion to a full qualifying period in accordance with the provisions of this clause.
- (b) Service with the State necessary to complete a qualifying period for an entitlement of long service leave will be calculated in accordance with the provisions of these conditions.
- (c) An employee will not become entitled to long service leave or payment for long service leave unless he has completed three (3) years continuous service with the State.
- (d) Where an employee would, but for the provisions of (c) of this sub-clause, have become entitled to long service leave before the expiration of three (3) years' continuous service with the State, service subsequent to that date of entitlement will count towards the next grant of long service leave.

43.16.2 No employee will be entitled to the benefit of this clause if service with the previous Employer was terminated for reasons which would entitle that Employer to dismiss the employee without notice.

43.16.3 Nothing in these conditions confers on any employee previously employed by the Commonwealth or another State of Australia any entitlement to a complete period of long service leave that accrued prior to the date on which the employee was employed by the State.

43.17 Employee ill during Long Service Leave

43.17.1 Where an employee, through personal ill health is confined to his place of residence or a hospital for a continuous period of fourteen (14) days or more during any period of long service leave and such confinement, is certified to by a duly qualified medical practitioner, such period will be considered sick leave and subject to the provisions of this Agreement.

43.17.2 The period during long service leave for which paid sick leave has been approved will be given as additional long service at a time convenient to the Employer.

43.18 Any period of service during which, or for which, an employee receives or has received payment, or any other compensation, in lieu of long service leave will not be counted as service for the purpose of determining any future entitlement to long service leave.

44. CASHING OUT LEAVE ENTITLEMENTS

44.1 The purposes of this clause is to allow employees the option of receiving payment in lieu of accrued entitlements to annual leave, long service leave and accrued days off when the employee's request stems from some personal circumstances which are out of the ordinary and have resulted in a particular need for money.

44.2 The inclusion of this clause will not be taken of itself to imply that there are any grounds for diminishing an employee's entitlements to annual leave, long service leave or accrued days off.

44.3 Application

44.3.1 An employee may request, in writing, to be paid out part of his or her entitlement to annual leave, long service leave or accrued days off pursuant to this clause.

44.3.2 The Employer will consider the employee's application and respond in writing.

44.4 The rate of pay at which an accrued leave entitlement is paid out will be the rate that would have been paid had the leave been taken.

44.5 The maximum amount of accrued leave which may be paid out at any time is the balance in excess of 20 days leave. The minimum 20 days leave retained can be comprised of either annual leave or accrued days off or a combination of both.

45. PERSONAL LEAVE

45.1 **Introduction**

45.1.1 The intention of Personal Leave is to give employees and Employers greater flexibility by providing leave with pay for a variety of personal purposes. Personal leave is not to be used for circumstances normally met by other forms of leave.

45.1.2 This clause does not apply to casuals with the exception of sub-clause 45.26 of this clause for the purposes of unpaid carer's leave.

45.2 Entitlement

45.2.1 The Employer will credit each permanent full time employee with 114 hours personal leave credits for each year of continuous service of which 98.8 hours are cumulative and 15.2 hours non-cumulative as follows:

	Personal Leave Cumulative	Personal leave Non-cumulative
On the day of initial appointment	49.4 hours	15.2 hours
On completion of 6 months continuous service	49.4 hours	0 hours
On the completion of 12 months continuous service	98.8 hours	15.2 hours
On the completion of each further period of 12 months continuous service	98.8 hours	15.2 hours

45.2.2 Where employees access personal leave, it will be deducted from their non-cumulative entitlement in the first instance.

45.2.3 An employee employed on a fixed term contract for a period of twelve months or more will be credited with the same entitlement as a permanent employee. An employee employed on a fixed term contract for a period less than twelve months will be credited on a pro rata basis for the period of the contract.

45.2.4 A part time employee will be entitled to the same personal leave credits as a full time employee, but on a pro rata basis according to the number of hours worked each fortnight. Payment for personal leave will only be made for those hours that would normally have been worked had the employee not been on personal leave.

45.3 In the year of accrual the 114 hours personal leave entitlement may be accessed for illness or injury, carer's leave, unanticipated matters or planned matters in accordance with the provisions of this clause. On completion of each year of accrual any unused personal leave from that year up to a maximum of 98.8 hours will be cumulative and added to personal leave accumulated from previous years. Unused non-cumulative leave will be lost on completion of each anniversary year.

45.4 Whilst employees are able to access personal leave in accordance with sub-clause 45.13 of this clause, access must be consistent with the Minimum Conditions of Employment Act 1993.

45.5 In accordance with the Minimum Conditions of Employment Act 1993 entitlement to paid sick leave, in an anniversary year the number of hours the employee is entitled to use for the purposes of carer's leave is up to 76 hours of this entitlement.

45.6 Notwithstanding sub-clause 45.5 of this clause, access to carers leave is not limited to up to 76 hours per anniversary year, where the employee has accumulated personal leave credits in excess of 76 hours.

- 45.7 Personal leave will not be debited for public holidays, which the employee would have observed.
- 45.8 Personal leave may be taken on an hourly basis.
- 45.9 Personal leave will be paid at the ordinary rate of pay.
- 45.10 Variation of ordinary working hours
- 45.10.1 When an employee's ordinary working hours change during an anniversary year personal leave credits are adjusted to reflect the pro rata portion for that anniversary year.
- 45.10.2 At the time ordinary working hours change, personal leave credits are adjusted to reflect ordinary working hours up to that point in time as a proportion of the total ordinary working hours for the anniversary year.
- 45.10.3 Personal leave is credited pro rata on a weekly basis from the time ordinary working hours change until the next anniversary date such that total hours credited for that anniversary year is on a pro rata basis according to the number of ordinary working hours for the period.
- 45.11 Reconciliation
- 45.11.1 At the completion of an anniversary year, where an employee has taken personal leave in excess of their current and accrued entitlement the unearned leave must be debited at the commencement of the following anniversary year/s.
- 45.11.2 The requirements of the Minimum Conditions of Employment Act 1993 must be met at the commencement of the following anniversary year. The remaining portion of debited personal leave, which exceeds the leave credited, is to be debited at the commencement of the subsequent and where necessary following anniversary year/s.
- 45.11.3 Where an employee ceases duty and has taken personal leave, which exceeds the leave credited for that anniversary year, the employee must refund the value of the unearned leave, calculated at the rate of salary as at the date the leave was taken. No refund is required in the event of the death of the employee.
- 45.12 Access
- 45.12.1 An employee is unable to access personal leave while on any period of parental leave or leave without pay. An employee is unable to access personal leave while on any period of annual or long service leave, except as provided for in sub-clauses 45.18 and 45.19 (Re-crediting Leave) of this clause.
- 45.12.2 If an employee has exhausted all accrued personal leave the employer may allow the employee who has at least twelve months service to anticipate up to 38 hours personal leave from next year's credit. If the employee ceases duty before accruing the leave, the value of the unearned portion must be refunded to the employer, calculated at the rate of salary as at the date the leave was taken, but no refund is required in the event of the death of the employee.

45.12.3 In exceptional circumstances the employer may approve the conversion of an employee's personal leave credits to half pay to cover an absence on personal leave due to illness.

45.13 Application for Personal Leave

Reasonable and legitimate requests for personal leave will be approved subject to available credits. Subject to sub-clause 45.2 of this clause the employer may grant personal leave in the following circumstances:

45.13.1 where the employee is ill or injured;

45.13.2 to be the primary care giver of a member of the employee's family or household who is ill or injured and in need of immediate care and attention;

45.13.3 for unanticipated matters of a compassionate or pressing nature which arise without notice and require immediate attention; or

45.13.4 by prior approval of the employer, having regard for agency requirements and the needs of the employee, planned matters where arrangements cannot be organised outside of normal working hours or be accommodated by the utilisation of flexible working hours or other leave. Planned personal leave will not be approved for regular ongoing situations.

45.14 Employees must complete the necessary application and clearly identify which of the above circumstances apply to their personal leave request.

45.15 The definition of family will be the definition contained in the Equal Opportunity Act 1984 for "relative". That is, a person who is related to the employee by blood, marriage, affinity or adoption and includes a person who is wholly or mainly dependent on, or is a member of the household of, the employee.

45.16 Where practicable, the employee must give reasonable notice prior to taking leave. Where prior notice cannot be given, the employee must advise the Employer as soon as reasonably practicable of the inability to attend for work, the nature of the illness or injury and the estimated period of absence. This advice will be provided within 24 hours of commencement of the absence, other than in extraordinary circumstances.

45.17 Evidence

45.17.1 An application for personal leave exceeding two (2) consecutive working days will be supported by evidence that would satisfy a reasonable person of the entitlement.

45.17.2 Personal leave will not be granted where an employee is absent from duty because of personal illness directly caused by the misconduct of the employee.

45.17.3 If the employer has reason to believe that an employee is in such a state of health as to render a danger to themselves, fellow employees or the public, the employee may be required to obtain and furnish a report as to the employee's condition from a registered medical practitioner nominated by the employer. The fee for any such examination will be paid by the employer.

45.18 Re-crediting Annual Leave

Where an employee is ill during the period of annual leave and produces at the time, or as soon as practicable thereafter, medical evidence to the satisfaction of the employer that as a result of the illness the employee was confined to their place of residence or a hospital for a period of at least seven (7) consecutive calendar days, the employer may grant personal leave for the period during which the employee was so confined and reinstate annual leave equivalent to the period of confinement.

45.19 Re-crediting Long Service Leave

Where an employee is ill during the period of long service leave and produces at the time, or as soon as practicable thereafter, medical evidence to the satisfaction of the employer that as a result of illness the employee was confined to their place of residence or a hospital for a period of at least 14 consecutive calendar days, the employer may grant personal leave for the period during which the employee was so confined and reinstate long service leave equivalent to the period of confinement.

45.20 Personal Leave Without Pay Whilst Ill or Injured

45.20.1 Employees who have exhausted all of their personal leave entitlements and are ill or injured may apply for personal leave without pay. Employees are required to complete the necessary application and provide evidence to satisfy a reasonable person. The employer will not unreasonably withhold this leave.

45.20.2 Personal leave without pay not exceeding a period of three months in a continuous absence does not affect salary increment dates, anniversary date of sick leave credits, long service leave entitlements or annual leave entitlements. Where a period of personal leave without pay exceeds three months in a continuous absence, the period in excess of three months is excised from qualifying service.

45.20.3 Personal leave without pay is not available to employees who have exhausted all of their personal leave entitlements and are seeking leave for circumstances outlined in paragraphs 43.13.2, 43.13.3 or 43.13.4 of this clause. However, other forms of leave including leave without pay may be available.

45.21 Other Conditions

45.21.1 Where an employee who has been retired from the Public Sector on medical grounds resumes duty therein, personal leave credits at the date of retirement will be reinstated. This provision does not apply to an employee who has resigned from the Public Sector and is subsequently reappointed.

45.21.2 Unused personal leave will not be cashed out or paid out when an employee ceases their employment.

45.22 Workers' Compensation

45.22.1 Where an employee suffers a disease or injury within the meaning of section 5 of the Workers' Compensation and Injury Management Act 1981 which necessitates that employee being absent from duty, personal leave with pay will be granted to the extent of personal leave credits. In accordance with section 80(2) of the *Workers' Compensation and Injury Management Act 1981* where the claim for workers' compensation is decided in favour of the employee, personal leave credit is to be reinstated and the period of absence will be granted as leave without pay.

45.23 Portability

The employer will credit an employee additional personal leave credits up to those held at the date that employee ceased previous employment provided:

45.23.1 immediately prior to commencing employment in the Public Sector of Western Australia, the employee was employed in the service of:

- (a) the Commonwealth Government of Australia, or
- (b) any other State of Australia, or
- (c) in a State body or statutory authority prescribed by *Administrative Instruction 611*; and

45.23.2 the employee's employment with the Public Sector of Western Australia commenced no later than one (1) week after ceasing previous employment, and

45.23.3 the personal leave credited will be no greater than that which would have applied had the entitlement accumulated whilst employed in a State body or statutory authority prescribed by *Administrative Instruction 611*.

45.24 The maximum break in employment permitted by sub-clause 45.23.2 of this clause, may be varied by the approval of the employer provided that where employment with the Public Sector of Western Australia commenced more than one (1) week after ceasing the previous employment, the period in excess of one (1) week does not exceed the amount of accrued and pro rata annual leave paid out at the date the employee ceased with the previous employer.

45.25 Travelling Time for Regional Employees

45.25.1 Subject to the evidentiary requirements set out in sub-clause 45.17 of this clause, a regional employee who requires medical attention at a medical facility in Western Australia located 240 km or more from their workplace will be granted paid travel time undertaken during the employee's ordinary working hours up to a maximum of 38 hours per annum.

45.25.2 The employer may approve additional paid travel time to a medical facility in Western Australia where the employee can demonstrate to the satisfaction of the employer that more travel time is warranted.

45.25.3 The provisions of sub-clauses 45.25.1 and 45.25.2 of this clause are not available to employees whilst on leave without pay or sick leave without pay.

45.25.4 The provisions of sub-clauses 45.20.1 and 45.20.2 of this clause apply as follows.

- (a) An employee employed on a fixed term contract for a period greater than 12 months, will be credited with the same entitlement as a permanent employee for each full year of service and pro rata for any residual portion of employment.
- (b) An employee employed on a fixed term contract for a period less than 12 months will be credited with the same entitlement on a pro-rata basis for the period of employment.
- (c) A part time employee will be entitled to the same entitlement as a full time employee for the period of employment, but on a pro-rata basis according to the number of ordinary hours worked each fortnight.
- (d) The provisions not apply to casual employees.

45.26 Unpaid Carer's Leave

45.26.1 Subject to the provisions of sub-clause 45.26.2 an employee, including a casual employee, is entitled to unpaid carer's leave of up to two (2) days for each occasion (a "permissible occasion") on which a member of the employee's family or household requires care or support because of:

- (a) an illness or injury of the member; or
- (b) an unexpected emergency affecting the member; or
- (c) the birth of a child of the member.

45.26.2 An employee is entitled to unpaid carers leave for particular permissible occasion only if the employee cannot take paid carers leave during the period.

45.26.3 The definition of family is the same as provided for at sub-clause 45.15 of this clause.

45.26.4 The employer may grant an employee unpaid carers leave in excess of two (2) days.

45.25.5 Unpaid carers leave may be taken on an hourly basis.

46. BEREAVEMENT LEAVE

46.1 Employees, including casuals, will on the death of:

- 46.1.1 a partner of an employee;
- 46.1.2 a child, stepchild or grandchild of an employee;
- 46.1.3 a parent, step-parent or grandparent of an employee;
- 46.1.4 a brother, sister, step-brother or step-sister; or
- 46.1.5 any other person who, immediately before that person's death, lived with an employee as a member of an employee's family;

be eligible for up to two days' paid bereavement leave, provided that at the request of an employee the employer may exercise discretion to grant bereavement leave to an employee in respect of some other person with whom the employee has a special relationship.

- 46.2 The two days need not be consecutive.
- 46.3 Bereavement leave is not to be taken during any other period of leave.
- 46.4 An employee will not be entitled to claim payment for bereavement leave on a day when that employee is not ordinarily rostered to work.
- 46.5 Payment of such leave may be subject to an employee providing evidence, if so requested by the employer, of the death or relationship to the deceased that would satisfy a reasonable person.
- 46.6 Employees requiring more than two days' bereavement 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, upon providing adequate proof, in addition to any bereavement leave to which the employee is eligible, have immediate access to annual leave and/or accrued long service leave and/or leave without pay, provided all accrued leave is exhausted.

47. PARENTAL LEAVE

47.1 Definitions

For the purpose of this clause the following terms will have the following meaning:

47.1.1 "Child" all references in this clause to a child should be read as including children of multiple birth or adoption.

47.1.2 "Employee" includes full time, part time, permanent and eligible casual employees, and fixed term contract employees for the duration of their contract.

47.1.3 "Eligible casual employee": A casual employee is eligible if the employee –

- (a) has been engaged in the public sector on a regular and systematic basis for a sequence of periods of employment during a period of at least twelve (12) months; and
- (b) but for an expected birth of a child to the employee or employee's spouse or defacto partner or an expected placement of a child with the employee with a view to the adoption of the child by the employee, would have a reasonable expectation of continuing engagement by the Employer on a regular and systematic basis.

47.1.4 Without limiting sub-clause 47.1.3(a) and (b) of this clause a casual employee is also eligible if the employee –

- (a) was engaged in the public sector on a regular and systemic basis for a sequence of periods during a period (the first period of employment) of less than twelve (12) months; and

- (b) at the end of the first period of employment, the employee ceased, on the Employer's initiative, to be so engaged by the public sector Employer; and
- (c) the public sector Employer later again engaged the employee on a regular and systemic basis for a further sequence of periods during a period (the second period of employment) that started not more than three (3) months after the end of the first period of employment; and
- (d) the combined length of the first period of employment and the second period of employment is at least twelve (12) months; and
- (e) the employee, but for an expected birth of a child to the employee or the employee's spouse or defacto partner or an expected placement of a child with the employee with a view to adoption of the child by the employee, would have a reasonable expectation of continuing engagement in the public sector on a regular and systematic basis.

47.1.5 "Primary care giver" means the employee who will assume the principal role for the care and attention of a newly born or newly adopted child as defined by this clause.

47.1.6 "Replacement employee" means an employee specifically engaged to replace an employee proceeding on parental leave.

47.1.7 "Public Sector" means all agencies, ministerial offices and non-SES organisation as defined in section 3 of the *Public Sector Management Act 1994*.

Entitlement to Parental Leave

47.2 Unpaid Parental Leave

47.2.1 An employee is entitled to a period of up to 52 weeks' unpaid parental leave in respect of the:

- (a) birth of a child to the employee or employee's partner; or
- (b) adoption of a child who is not the natural child or step child of the employee or employee's partner; is under the age of five (5); and has not lived continuously with the employee for six (6) months or longer.

47.2.2 An employee may request the employer to extend the period of parental leave to which the employee is entitled under sub-clause 47.2.1 for a further consecutive period of up to 52 weeks.

47.3 Paid Parental Leave

47.3.1 Subject to sub-clauses 47.3.2 and 47.7 of this clause an employee is entitled to paid parental leave as follows:

- (a) 12 weeks continuous paid parental leave from 1 July 2007; and
- (b) 14 weeks continuous paid parental leave from 1 July 2008

47.3.2 The paid parental leave entitlement provided in sub-clause 47.3.1 of this clause:

- (a) can be accessed by a pregnant employee in accordance sub-clause 47.7.1 of this clause;
- (b) can only be accessed by an employee who is the primary care giver of a newly born or newly adopted child;
- (c) can only be accessed by an employee who has completed 12 months continuous service in the Western Australian public sector;
- (d) is provided only in respect to the:
 - (i) birth of a child to the employee or the employee's partner; or
 - (ii) adoption of a child who is not the natural child or the stepchild of the employee or the employee's partner; is under the age of five; and has not lived continuously with the employee for six months or longer.
- (e) cannot be accessed by eligible casual employees; and
- (f) forms part of the 52 week unpaid parental leave entitlement provided in sub-clause 47.2.1 of this clause.

47.3.3 The quantum of paid parental leave available to an employee is determined according to the quantum that applied at the date of commencement of the employee's period of paid or unpaid parental leave.

47.4 An employee may take the paid parental leave specified in sub-clause 47.3 of this clause at half pay for a period equal to twice the period to which the employee would otherwise be entitled.

47.5 The period of paid parental leave taken by the primary care giver of a newly born or newly adopted child will not exceed the period specified in sub-clause 47.3 of this clause or its half pay equivalent.

47.6 **Qualifying Service**

47.6.1 Paid parental leave will count as qualifying service for all purposes under this Agreement.

47.6.2 Qualifying service for any purpose under this Agreement is to be calculated according to the number of weeks of paid parental leave that were taken at full pay or would have been had the employee not taken paid parental leave at half pay. Employees who take paid parental leave on half pay do not accrue Agreement entitlements beyond those that would have accrued had they taken the leave at full pay.

47.7 **Commencement of paid parental leave**

47.7.1 A pregnant employee may commence paid parental leave any time up to six weeks before the expected date of birth.

47.7.2 Provided that the period of paid parental leave is concluded within 12 months of the birth or placement of the child, an employee identified as the primary care giver of a newly born or newly adopted child may commence the period of paid parental leave from:

- (a) the child's birth date; or
- (b) for the purposes of adoption, the date of placement of the child; or
- (c) a later date nominated by the primary care giver.

47.7.3 Notwithstanding sub-clause 47.7.2 of this clause, the Employer may, in exceptional circumstances, allow an employee to take a period of paid parental leave as prescribed in sub-clause 47.3 of this clause that will result in the employee being on paid parental leave more than 12 months after the birth or placement of the employee's child.

47.7.4 The Employer may require evidence that would satisfy a reasonable person that the circumstances warrant allowing the employee to take their period of parental leave more than 12 months after the birth or placement of the employee's child.

47.8 Shared parental leave

47.8.1 Subject to sub-clause 47.8.2 of this clause, the paid parental leave entitlement may be shared between partners assuming the role of the primary care giver of a newly born or newly adopted child.

47.8.2 Where both partners work in the public sector, the total paid parental leave entitlement provided to the employee will not exceed the paid parental leave quantum for a single employee as specified in sub-clause 47.3 of this clause or its half pay equivalent.

47.8.3 The unpaid parental leave entitlement may be shared between partners.

47.8.4 An employee and their partner may only take paid and/or unpaid parental leave concurrently in exceptional circumstances with the approval of the Employer or in accordance with sub-clause 47.14.3 of this clause.

47.9.1 An employee must take parental leave in one continuous period. Where less than the standard parental leave is taken the unused portion of the period of paid or unpaid leave cannot be preserved in any way.

47.9.2 Notwithstanding sub-clause 47.9.1 of this clause:

- (a) paid parental leave may be taken in more than one continuous period by an employee who meets the requirements of sub-clause 47.14 of this clause; and
- (b) unpaid parental leave may be taken in more than one continuous period where the employee undertakes special temporary or casual employment in accordance with sub-clause 47.31 of this clause. In these circumstances, the provisions of sub-clause 47.31 of this clause apply.

47.10 Payment for paid parental leave

47.10.1 Subject to sub-clause 47.10.2 of this clause, an employee proceeding on paid parental leave is to be paid according to their ordinary working hours at the time of commencement of parental leave. Shift and weekend penalty payments and higher duties allowances are not payable during paid parental leave.

47.10.2 Payment for a part time employee proceeding on paid parental leave is to be determined according to:

- (a) an average of the hours worked by the employee over the preceding 12 months; or
- (b) their ordinary working hours at the time of commencement of paid parental leave;

whichever is the greater.

47.10.3 An employee may elect to receive pay in advance for the period of paid parental leave at the time the parental leave commences, or may elect to be paid the entitlement on a fortnightly basis over the period of the paid parental leave.

47.11.1 An employee is eligible, without concluding their parental leave and resuming duty, for subsequent periods of parental leave, including paid parental leave, in accordance with the provisions of this clause.

47.11.2 Where an employee has not concluded their period of parental leave and resumed duty, and the employee is entitled to a subsequent period of paid parental leave, the employee's paid parental leave is:

- (a) to be paid according to the employee's status and classification at the time of commencing the original period of parental leave; and
- (b) not affected by any period of special temporary or casual employment undertaken in accordance with sub-clause 47.31 of this clause.

47.12 Medical Certificates

47.12.1 An employee who has given the Employer notice of their intention to take paid or unpaid parental leave, or unpaid partner leave will provide the Employer with a medical certificate from a registered medical practitioner naming the employee, or the employee's partner, confirming the pregnancy and estimated date of birth.

47.12.2 Where an employee continues to work within the six (6) week period immediately prior to the expected date of birth, or where the employee elects to return to work within six (6) weeks after the birth of the child, the Employer may require the employee to provide a medical certificate stating that she is fit to work on her normal duties.

47.13 If the pregnancy results in other than a live child or the child dies during the period of paid parental leave, the entitlement to paid parental leave as provided in sub-clause 47.3 of this clause remains intact. Such paid parental leave cannot be taken concurrently with paid sick or personal leave in accordance with sub-clause 47.21 of this clause.

47.14 Paid parental leave when the mother is, for any period of her leave, incapable of being her child's primary care giver

47.14.1 An employee who commenced paid parental leave prior to her child's birth and:

- (a) who is incapacitated following the birth of her child and is therefore incapable of being its primary care giver; or
- (b) whose child requires hospitalisation such that the employee and her partner are not their child's primary care giver; is entitled to remain on paid parental leave, notwithstanding that she is not the child's primary care giver.

47.14.2 An employee is not entitled to access paid parental leave when they are not their child's primary care giver other than in the circumstances identified in sub-clause 47.14.1 of this clause.

47.14.3 If both parents work in the public sector and the mother is able to remain on paid parental leave in accordance with sub-clause 47.14.1(a) of this clause, the employees may choose which parent will access paid parental leave.

- (a) If the mother chooses to remain on paid parental leave, her partner may access unpaid parental leave for the period they are their child's primary care giver.
- (b) If the mother's partner is their child's primary care giver and chooses to access paid parental leave, the mother may access unpaid parental leave for the period her partner is their child's primary care giver.
- (c) Where the mother's partner accesses paid parental leave in accordance with sub-clause 47.14.3(b) of this clause, the mother is entitled to resume paid parental leave if/when she becomes her child's primary care giver, subject to the provisions of sub-clause 47.8.2 of this clause.
- (d) If the mother resumes paid parental leave in accordance with sub-clause 47.14.3(c) of this clause, her partner must cease paid parental leave.

47.14.4 An employee is not entitled to access the provisions of sub-clause 47.14.3 of this clause in the circumstances identified in 47.14.1(b) of this clause.

47.15 **Adoption of a child**

47.15.1 An employee seeking to adopt a child will be entitled to two days unpaid leave to attend interviews or examinations required for the adoption procedure. Employees working or residing outside the Perth metropolitan area are entitled to an additional day's unpaid leave. The employee may take any paid leave entitlement to which the employee is entitled in lieu of this leave.

47.15.2 If an application for parental leave has been granted for the adoption of a child, which does not eventuate, then the period of paid or unpaid parental leave is terminated. Employees may take any other paid leave entitlement to which they are entitled in lieu of the terminated parental leave or return to work.

47.16 Confirmation of primary care giver status

47.16.1 For the purposes of sub-clause 47.3 of this clause, an Employer may require an employee to provide confirmation of their primary care giver status.

47.16.2 Where an Employer requires an employee to confirm their status as the primary care giver of a newly born or newly adopted child, the employee is to provide the Employer with evidence that would satisfy a reasonable person of the entitlement to paid parental leave. Such evidence may include a medical certificate or statutory declaration.

Partner Leave

47.17.1 An employee is entitled to unpaid partner leave as prescribed by this sub-clause in respect of the:

- (a) birth of a child to the employee or the employee's partner; or
- (b) adoption of a child who is not the natural child or the stepchild of the employee or the employee's partner; is under the age of five; and has not lived continuously with the employee for six months or longer.

47.17.2 An employee who is not taking parental leave with respect to the birth of child to their partner will be entitled to a period of unpaid partner leave of up to one week at the time of the child's birth. In the case of adoption of a child this period will be increased to up to three weeks' unpaid leave.

47.17.3 The employee may request to extend the period of unpaid partner leave for a further period of not more than seven consecutive weeks.

47.17.4 The Employer is to agree to an employee's request to extend their partner leave under sub-clause 47.17.3 of this clause unless:

- (a) having considered the employee's circumstances, the Employer is not satisfied that the request is genuinely based on the employee's parental responsibilities; or
- (b) 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:
 - (i) cost;
 - (ii) lack of adequate replacement staff;
 - (iii) loss of efficiency; and
 - (iv) impact on the production or delivery of products or services by the Employer.

47.17.5 The Employer is to give the employee written notice of the Employer's decision on a request for extended partner leave. If the employee's request is refused, the notice is to set out the reasons for the refusal.

47.17.6 An employee who believes their request for extended partner leave under sub-clause 47.17.3 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.

47.17.7 The taking of partner leave by an employee will have no effect on their or their partner's entitlement, where applicable, to paid parental leave under this clause.

Other Leave Entitlements

47.18 Annual and long service leave

47.18.1 An employee proceeding on unpaid parental leave may elect to substitute any part of that leave with accrued annual leave or long service leave to which the employee is entitled for the whole or part of the period of unpaid parental leave.

47.18.2(a) An employee may elect to substitute any part of their entitlement to one week's unpaid partner leave as provided for in sub-clause 47.17.2 of this clause with accrued annual or long service leave to which the employee is entitled for the whole or part of that period of unpaid partner leave.

(b) Where an Employer agrees to an employee's request to extend their period of unpaid partner leave under sub-clause 47.17.3 of this clause, the Employer must allow an employee to elect to substitute any part of that period of unpaid partner leave with accrued annual or long service leave to which the employee is entitled for the whole or part of that period of unpaid partner leave.

47.19 Time off in lieu of overtime

An employee proceeding on unpaid parental leave or unpaid partner leave may elect to substitute any part of that leave with accrued time off in lieu of overtime to which the employee is entitled for the whole or part of the period of unpaid parental leave or unpaid partner leave.

47.20 Leave without pay

47.20.1 Subject to all other leave entitlements being exhausted an employee will 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:

(a) having considered the employee's circumstances, the Employer is not satisfied that the request is genuinely based on the employee's parental responsibilities; or

- (b) 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:
 - (i) cost;
 - (ii) lack of adequate replacement staff;
 - (iii) loss of efficiency;
 - (iv) impact on the production or delivery of products or services by the Employer.

47.20.2 The Employer is to give the employee written notice of the Employer's decision on a request for leave without pay under sub-clause 47.20.1 of this clause. If the request is refused, the notice is to set out the reasons for the refusal.

47.20.3 An employee who believes their request for leave without pay under sub-clause 47.20.1 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.

47.20.4 Any period of leave without pay must be applied for and approved in advance and will be granted on a year-by-year basis. Where both partners work for the Employer the total combined period of leave without pay following parental leave will not exceed two years.

47.21 Sick or personal leave

47.21.1 An employee on paid or unpaid parental leave is not entitled to paid sick or personal leave other than as specified in sub-clause 47.21.2 of this clause.

47.21.2 Should the birth or adoption result in other than the arrival of a living child, the employee will be entitled to such period of paid sick or personal leave to which the employee is entitled or unpaid leave for a period certified as necessary by a registered medical practitioner. Paid sick or personal leave cannot be taken concurrently with paid parental leave.

47.21.3 Where a pregnant employee not on parental leave suffers illness related to the pregnancy or is required to undergo a pregnancy related medical procedure the employee may take any paid sick or personal leave to which the employee is entitled or unpaid leave for a period as certified necessary by a registered medical practitioner.

47.21.4 An employee on unpaid partner leave is not entitled to paid sick or personal leave.

47.22 Public holidays

Any public holidays that fall during paid or unpaid parental leave, or unpaid partner leave will be counted as part of the parental or partner leave and do not extend the period of parental or partner leave.

Notice and Variation

47.23.1 The employee will give not less than four weeks notice in writing to the Employer of the date the employee proposes to commence paid or unpaid parental leave, or unpaid partner leave stating the period of leave to be taken.

47.23.2 An employee seeking to adopt a child will not be in breach of sub-clause 47.23.1 of this clause by failing to give the required period of notice if such failure is due to the requirement of the adoption agency to accept earlier or later placement of a child, or other compelling circumstances.

47.23.3 An employee proceeding on parental leave may elect to take a shorter period of parental leave to that provided by sub-clause 47.2 of this clause and may at any time during that period elect to reduce or extend the period stated in the original application, provided four weeks written notice is provided.

Modification of Duties or Transfer to a Safe Job

47.24 Part time employment during pregnancy

47.24.1 A pregnant employee may work part time in one or more periods whilst she is pregnant where she provides her Employer with a medical certificate from a medical practitioner advising that part time employment is, because of her pregnancy, necessary or preferable.

47.24.2 The terms of part time employment undertaken in accordance with sub-clause 47.24.1 of this clause will be in writing.

47.24.3 Such employment will be in accordance with the part time employment and parental leave provisions of this Agreement.

47.24.4 Unless otherwise agreed between the Employer and employee, an employee will provide their Employer with four weeks written notice of an intention to:

- (a) vary part time work arrangements made under sub-clause 47.24.2 of this clause; or
- (b) revert to full time employment during the employee's pregnancy.

47.24.5 An employee reverting to full time employment in accordance with sub-clause 47.24.4(b) of this clause will be entitled to the same position or a position equivalent in pay, conditions and status and commensurate with the employee's skill and abilities as the substantive position held immediately prior to undertaking part time employment.

47.25 If an employee gives the Employer a medical certificate from a medical practitioner containing a statement to the effect that, in the medical practitioner's opinion, the employee is fit to work, but that it is inadvisable for her to continue in her present position for a stated period because of:

47.25.1 illness, or risks, arising out of her pregnancy; or

47.25.2 hazards connected with that position;

then the Employer must modify the duties of the position or alternatively transfer the employee to a safe job at the same classification level for the period during which she is unable to continue in her present position.

- 47.26 If the Employer does not think it to be reasonably practicable to modify the duties of the position or transfer the employee to a safe job the employee is entitled to paid leave for the period during which she is unable to continue in her present position.
- 47.27 An entitlement to paid leave provided in sub-clause 47.26 of this clause is in addition to any other leave entitlement the employee has and the employee is to be paid the amount she would reasonably have expected to be paid if she had worked during that period. This entitlement also applies to eligible casual employees.
- 47.28 An entitlement to paid leave provided in sub-clause 47.26 of this clause ends at the earliest of whichever of the following times is applicable:
- 47.28.1 the end of the period stated in the medical certificate;
- 47.28.2 if the employee's pregnancy results in the birth of a living child – the end of the day before the date of birth; or
- 47.28.3 if the employee's pregnancy ends otherwise than with the birth of a living child – the end of the day before the end of the pregnancy.

Communication during Parental Leave

- 47.29.1 Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the Employer will take reasonable steps to:
- (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
- (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.
- 47.29.2 An employee will take reasonable steps to inform their Employer about any significant matter that will affect the employee's decision regarding:
- (a) the duration of parental leave to be taken;
- (b) whether the employee intends to return to work; and
- (c) whether the employee intends to return to work on a part-time or modified basis.
- 47.29.3 An employee will also notify their Employer of changes of address or other contact details that might affect the Employer's capacity to comply with sub-clause 47.29.1 of this clause.

Replacement Employee

- 47.30.1 Prior to engaging a replacement employee the Employer will inform the replacement person of:
- (a) the temporary nature of the employment;

- (b) the entitlements relating to the return to work of the employee on parental leave or that employee's capacity to undertake special temporary or casual employment during their period of unpaid parental leave; and
- (c) any consequences for the replacement employee should the employee on parental leave return early from leave or seek an extension to their period of parental leave.

47.30.2 A replacement employee may be employed part time. Such employment will be in accordance with sub-clause "Clause 16. - Part Time Employees" of this Agreement.

47.30.3 Nothing in this sub-clause will be construed as requiring an Employer to engage a replacement employee.

Employment During Parental Leave

47.31.1 The provisions of sub-clause 47.31 of this clause only apply to employment during:

- (a) unpaid parental leave; and
- (b) leave without pay taken in conjunction with parental leave as provided for in sub-clause 47.20 of this clause.

47.31.2 The Employer cannot employ an employee in special temporary or casual employment whilst the employee is on a period of:

- (a) paid parental leave; or
- (b) annual or long service leave taken concurrently with a period of unpaid parental leave.

47.31.3 Special temporary employment

- (a) For the purposes of sub-clause 47.31 of this clause, "temporary" means employment:
 - (i) of an intermittent nature;
 - (ii) for a limited, specified period;
 - (iii) undertaken during unpaid parental leave or leave without pay taken in conjunction with unpaid parental leave; and
 - (iv) excluding employment undertaken in accordance with sub-clause 47.31.4 of this clause.
- (b) Notwithstanding any other provision of the parental leave clause, an employee may be employed by their Employer on a temporary basis provided that:
 - (i) both parties agree in writing to the special temporary employment;
 - (ii) employees are employed at the level commensurate to the level of the available position under the relevant Award or Agreement;

- (iii) in the case of a fixed term contract employees, the period of temporary employment is within the period of the current fixed term contract;
- (iv) any such period of service will not change the employee's employment status in regard to their substantive employment; and
- (v) any period of special temporary employment will count as qualifying service for all purposes of this Agreement.

47.31.4 Special casual employment

- (a) For the purposes of this sub-clause, "casual" means employment:
 - (i) on an hourly basis for a period not exceeding four weeks in any period of engagement;
 - (ii) for which a casual loading is paid;
 - (iii) undertaken during unpaid parental leave or leave without pay taken in conjunction with unpaid parental leave; and
 - (iv) excluding employment undertaken in accordance with sub-clause 47.31.3 of this clause.
- (b) Notwithstanding any other provision of the parental leave clause, an employee, may be employed by their Employer on a casual basis provided that:
 - (i) both parties agree in writing to the special casual employment;
 - (ii) employees are employed at the level commensurate to the level of the available position under the relevant Award or Agreement;
 - (iii) in the case of a fixed term contract employee, the period of casual employment is within the period of the current fixed term contract;
 - (iv) any such period of service will not break the employee's continuity of service nor change the employee's employment status in regard to their substantive employment; and
 - (v) any period of special casual employment will not count as qualifying service other than with respect to entitlements a casual employee would ordinarily be entitled to for any purpose under this Agreement.

47.31.5 For every period of special temporary or casual employment, the following records must be kept:

- (a) the agreements made between the parties for periods of special temporary or casual employment;
- (b) the dates of commencement and conclusion of each period of special temporary and/or casual employment;
- (c) the hours worked by the employee during such periods; and
- (d) the classification level at which the employee is employed during such periods.

47.31.6 Effect of special temporary or casual employment on unpaid parental leave

- (a) Subject to sub-clause 47.31.6(b) of this clause, periods of special temporary and/or casual employment will be deemed to be part of the employee's period of unpaid parental leave or leave without pay taken in conjunction with parental leave as originally agreed to by the parties.
- (b) An employee who immediately resumes unpaid parental leave or leave without pay following parental leave following the conclusion of a period of special temporary or casual employment:
 - (i) is entitled, on written notice, to extend their period of unpaid parental leave or leave without pay taken in conjunction with parental leave by the period of time in which they were engaged in special temporary and/or casual employment; and
 - (ii) will give not less than four weeks notice in writing to their Employer of the new date they intend to return to work and so conclude their period of parental leave or leave without pay taken in conjunction with parental leave.
- (c) An employee who does not immediately resume their period of unpaid parental leave or leave without pay taken in conjunction with parental leave at the conclusion of a period of special temporary or casual employment cannot preserve the unused portion of leave for use at a later date.

Return to Work on Conclusion of Parental Leave

- 47.32.1(a) An employee will confirm their intention to conclude their parental leave or leave without pay following parental leave and return to work by notice in writing to their Employer not less than four weeks prior to the expiration of parental leave or leave without pay.
 - (b) An employee who intends to return to work on a modified basis in accordance with sub-clause 47.32.4 of this clause, will advise their Employer of this intention by notice in writing not less than four weeks prior to the expiration of parental leave or leave without pay.
- 47.32.2 An employee on return to work following the conclusion of parental leave or leave without pay following parental leave will be entitled to the same position or a position equivalent in pay, conditions and status and commensurate with the employee's skill and abilities as the substantive position held immediately prior to proceeding on parental leave.
- 47.32.3 Where an employee was transferred to a safe job or proceeded on leave as provided for in sub-clauses 47.24 to 47.28 of this clause, the employee is entitled to return to the position occupied immediately prior to the transfer or the taking of the leave.
- 47.32.4 Right to return to work on a modified basis
- (a) An employee may return on a part time or job-share basis to the substantive position occupied prior to the commencement of leave or to a different position at the same classification level in accordance with "Clause 16. – Part-Time Employees" of this Agreement.

- (b) An employee may return on a modified basis that involves the employee working on different days or at different times, or both; or on fewer days or for fewer hours or both, than the employee worked immediately before starting parental leave.

47.32.5 Right to revert

- (a) An employee who has returned on a part time or modified basis in accordance with sub-clause 47.32.4 of this clause may subsequently request the Employer to permit the employee to resume working on the same basis as the employee worked immediately before starting parental leave or full time work at the same classification level.
- (b) The Employer is to agree to a request to revert made under sub-clause 47.32.5(a) of this clause unless there are grounds to refuse the request relating to the adverse effect that agreeing to the request would have on the conduct of operations or business of the Employer and those grounds would satisfy a reasonable person.
- (c) An Employer is to give the employee written notice of the Employer's decision on a request to revert under sub-clause 47.32.5(a) of this clause. If the request is refused, the notice is to set out the reasons for the refusal.
- (d) An employee who believes their request to revert under sub-clause 47.32.5(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.

Effect of Parental Leave and Partner Leave on the Contract of Employment

47.33.1 An employee employed for a fixed term contract will have the same entitlement to parental leave and partner leave, however the period of leave granted will not extend beyond the term of that contract.

47.33.2(a) Absence on unpaid parental leave or unpaid partner leave will not break the continuity of service of employees.

- (b) Where an employee takes a period of unpaid parental leave or unpaid partner leave exceeding 14 calendar days in one continuous period, the entire period of such leave will not be taken into account in calculating the period of service for any purpose under this Agreement. Periods of unpaid leave of 14 days or less will, however, count for service.

47.33.3 An employee on parental leave or partner leave may terminate employment at any time during the period of leave by written notice in accordance with "Clause 14 – Contract of Service" of this Agreement.

47.33.4 An Employer will not terminate the employment of an employee on the grounds of the employee's application for parental leave or partner leave or absence on parental leave or partner leave but otherwise the rights of the Employer in respect of termination of employment are not affected.

Casual Employees

47.34.1 To avoid doubt, an eligible casual employee has no entitlement to paid leave under this clause with the exception of the entitlement to paid leave as provided under sub-clauses 47.24 to 47.28 (inclusive) of this clause.

47.34.2 Nothing in this clause confers a change in the employment status of a casual employee.

47.34.3 Service performed by an eligible casual employee for a public sector Employer will count as service for the purposes of determining 12 months continuous service as per sub-clause 47.3.2(c) of this clause where:

- (a) the eligible casual employee has become a permanent or fixed term contract employee with the same Employer; and
- (b) the break between the period of eligible casual employment and permanent or fixed term contract employment is no more than three months.

48. PURCHASED LEAVE - 48/52 SALARY ARRANGEMENT

48.1 At the request of an employee an Employer may agree to an arrangement ("the arrangement") whereby the employee accrues either 1 (51/52), 2 (50/52), 3(49/52) or 4(48/52) weeks' additional annual leave in lieu of salary of the equivalent value. Both the agreement to the arrangement and the time at which the additional leave is taken will be dependent on the operational requirements of the department where the employee works at the particular time.

48.2 Unless otherwise agreed between the employee and the Employer, an employee who enters into an arrangement under this sub clause does so in blocks of 12 months. Further, it will be assumed that, an employee having entered into the arrangement, the arrangement will be continuing from year to year unless the employee otherwise notifies the Employer in writing.

48.3 For the purposes of this sub clause and without limiting the meaning of the term, "operational requirements" may include:

48.3.1 The availability of suitable leave cover, if required;

48.3.2 The cost implications;

48.3.3 The impact on client/patient service requirements; and

48.3.4 The impact on the work of other employees.

48.4 The portion of the employee's salary to be forfeited will be calculated as a fortnightly amount and their fortnightly salary will be decreased by that amount for the duration of the arrangement.

48.5 All annual leave taken during the course of the arrangement will be paid at the reduced rate.

48.6 The additional leave will continue to accrue while the employee is on leave during the course of the arrangement.

48.7 The reduced salary will be used for all purposes during the course of the arrangement.

48.8 The additional leave will not attract leave loading

48.9 It is the responsibility of the employee to investigate the impact of any of the arrangements under this clause on her/his allowances, superannuation and taxation, and the options, if any, available for addressing these.

49. PURCHASED LEAVE - DEFERRED WAGES ARRANGEMENT

49.1 By written agreement between the Employer and the employee, an employee may enter into a deferred salary scheme over a five year period in which the employee may be paid 80% of their ordinary salary over a four year period, with the unpaid component accrued over the four years, and paid out in equal instalments during the fifth year.

49.2 The fifth year will be treated as continuous service, but will not count as service for the purpose of accruing leave entitlements

49.3 Access to the leave when it falls due will not be unreasonably refused by the Employer, but in any case the leave may only be deferred by agreement between the Employer and employee.

49.4 When deciding whether to support a particular request for this arrangement, the Employer will take into account factors such as operational requirements. In order to satisfy operational requirements, the number of employees allowed to work under the arrangement may be restricted at any one time, and/or the timing of the arrangement may need to be staggered.

49.5 By agreement the four year accrual period may be suspended. The employee will revert back to 100% of salary or access leave without pay, provided that except where longer periods of unpaid leave are otherwise prescribed by this Agreement (eg. Parental Leave), such non participatory periods will not exceed 6 months. The commencement of the leave year will be delayed by the length of the non-participatory period.

49.6 Where an employee withdraws from this arrangement in writing, or the employee's contract of employment terminates for any reason, the employee will receive a lump sum equal to the accrued credit. The payment of the lump sum may be deferred for a period of up to 3 months upon the employee's request, provided that where the contract has terminated the payment will be made in his/her final pay.

49.7 Any paid leave taken during the first four years of this arrangement will be paid at 80% of the employee's ordinary salary.

49.8 It is the responsibility of the employee to investigate the impact of any of the arrangements under this clause on her/his allowances, superannuation and taxation, and the options, if any, available for addressing these.

50. DONOR LEAVE

50.1 Blood or Plasma Donation

Subject to operational convenience, an employee will be granted paid leave for the purpose of donating blood or plasma to approved donor centres.

50.2 Organ or Tissue Donation

50.2.1 Subject to the production of appropriate evidence, an employee will be entitled to up to six (6) weeks' paid leave for the purpose of donating an organ or body tissue.

50.2.2 Provided that where this paid leave is not sufficient and upon the production of a medical certificate, an employee may access their accrued personal leave or other paid leave in order to cover their absence.

51. EMERGENCY SERVICES LEAVE

51.1 Subject to operational requirements, paid leave of absence will be granted by the Employer to an employee who is an active volunteer member of State Emergency Service, St John Ambulance Australia, Volunteer Fire and Rescue Service, Bush Fire Brigades, Volunteer Marine Rescue Services Groups or FESA Units, in order to allow for attendances at emergencies as declared by the recognised authority.

51.2 The Employer will be advised as soon as possible by an employee, the emergency service, or other person as to the absence and, where possible, the expected duration of leave.

51.3 The employee must complete a leave of absence form immediately upon return to work.

51.4 The application form must be accompanied by a certificate from the emergency organisation certifying that the employee was required for the specified period.

51.5 An employee, who during the course of an emergency, volunteers their services to an emergency organisation, will comply with sub-clauses 51.2, 51.3 and 51.4 of this clause.

52. LEAVE FOR TRAINING WITH DEFENCE FORCE RESERVES

52.1 The Employer must grant leave of absence for the purpose of defence service to an employee who is a volunteer member of the Defence Force Reserves or the Cadet Force. Defence service means service, including training, in a part of the Reserves or Cadet Force.

52.2 Leave of absence may be paid or unpaid in accordance with the provisions of this clause.

52.3 Application for leave of absence for defence service will, in all cases, be accompanied by evidence that the request for leave relates to reserve service or training. At the expiration of the leave of absence granted, the employee will provide a certificate of attendance to the Employer.

52.4 Paid leave

52.4.1 An employee who is a volunteer member of the Defence Force Reserves or the Cadet Force is entitled to paid leave of absence for the purpose of

attending a training camp, school, class or course of instruction, subject to the conditions set out hereunder.

52.4.2 Part-time employees will receive the same paid leave entitlement as full time employees but payment will only be made for those hours that would normally have been worked but for the leave.

52.4.3 On written application, an employee will be paid salary in advance when proceeding on such leave.

52.4.4 Casual employees are not entitled to paid leave for the purpose of defence service.

52.5 Attendance at a Camp for Annual Continuous Obligatory Training

52.5.1 An employee is entitled to paid leave for a period not exceeding ten 76 hours on full pay in any period of twelve months commencing on 1 July in each year.

52.5.2 If the Officer in-Charge of a military unit certifies that it is essential for an employee to be at the camp in an advance or rear party, a maximum of 30.4 extra hours leave on full pay will be granted in the twelve-month period.

52.6 Attendance at One Special School, Class or Course of Instruction

52.6.1 In addition to the paid leave granted under sub-clause 52.5 of this clause, an employee is entitled to a period not exceeding 16 calendar days in any period of twelve months commencing on July 1 in each year, provided the Employer is satisfied that the leave required is for a special purpose and not for a further routine camp.

52.6.2 In this circumstance, an employee may elect to utilise annual leave credits. However, if the leave is not taken from annual leave, salary during the period will be at the rate of the difference between the normal remuneration of the employee and the defence force payments to which the employee is entitled if such payments do not exceed normal salary. In calculating the pay differential, pay for Saturdays, Sundays, Public Holidays and special rostered days off is to be excluded and no account is to be taken of the value of any board or lodging provided for the employee.

52.7 Unpaid leave

52.7.1 Any leave for the purpose of defence service that exceeds the paid entitlement prescribed in sub-clauses 52.5 and 52.6 of this clause will be unpaid.

52.7.2 Casual employees are entitled to unpaid leave for the purpose of defence service.

52.8 Use of other leave

52.8.1 An employee may elect to use annual or long service leave credits for some or all of their absence on defence service, in which case they will be treated in all respects as if on normal paid leave.

52.8.2 The Employer cannot compel an employee to use annual leave or long service leave for the purpose of defence service.

53. CULTURAL/CEREMONIAL LEAVE

- 53.1 Cultural/ceremonial leave will be available to all employees.
- 53.2 Such leave will include leave to meet the employee's customs, traditional law and to participate in cultural and ceremonial activities.
- 53.3 Employees are entitled to time off without loss of pay for cultural /ceremonial purposes, subject to agreement between the Employer and employee and sufficient leave credits being available.
- 53.4 The Employer will assess each application for ceremonial /cultural leave on its merits and give consideration to the personal circumstances of the employee seeking the leave.
- 53.5 The Employer may request reasonable evidence of the legitimate need for the employee to be allowed time off.
- 53.6 Cultural /ceremonial leave may be taken as whole or part days off. Each day or part thereof, will be deducted from:
 - 53.6.1 The employee's annual leave entitlements (where applicable); or
 - 53.6.2 Accrued days off or time in lieu.
- 53.7 Time off without pay may be granted by arrangement between the Employer and the employee for cultural/ceremonial purposes.

54. STUDY LEAVE

- 54.1 An employee may be granted time off with pay for part-time study purposes at the discretion of the Employer.
- 54.2 Part-time employees are entitled to study leave on the same basis as full time employees.
- 54.3 Time off with pay may be granted up to a maximum of five hours per week including travelling time, where subjects of approved courses are available during normal working hours, or where approved study by correspondence is undertaken.
- 54.4 External students, who are obliged to attend educational institutions for compulsory sessions during vacation periods, may be granted time off with pay including travelling time up to the maximum annual amount allowed to an employee in the metropolitan area.
- 54.5 Employees will be granted sufficient time off with pay to travel to and sit for the examinations of any approved course of study.
- 54.7 In every case the approval of time off to attend lectures and tutorials will be subject to:

54.7.1 hospital convenience;

provided that Hospital inconvenience can not be claimed because it is necessary to replace the employee by utilising increased hours for part time staff, short term contract staff, or casual relief staff. Budgetary constraints should not factor into Hospital convenience.

54.7.2 the course being undertaken on a part-time basis;

54.7.3 employees undertaking an acceptable formal study load in their own time;

54.7.4 employees making satisfactory progress with their studies;

54.7.5 the course being relevant to the employee's career in the Health Service and being of value to the Employer; and

54.7.6 the course furthering the career of the employee.

54.8 An acceptable part-time study load should be regarded as not less than five hours per week of formal tuition, with at least half of the total formal study commitment being undertaken in the employee's own time, except in special cases such as where the employee is in the final year of study and requires less time to complete the course, or the employee is undertaking the recommended part-time year or stage, and this does not entail five hours of formal study.

54.8 In cases where employees are studying subjects which require fortnightly classes the weekly study load should be calculated by averaging over two weeks the total fortnightly commitment.

54.9 Travelling time returning home after lectures or tutorials is to be calculated as the excess time taken to travel home from such classes, compared with the time usually taken to travel home from the employee's normal place of work.

54.10 An employee will not be granted more than five hours time off with pay per week except in exceptional circumstances, where the Employer may decide otherwise.

54.11 Time off with pay for those who have failed a unit or units may be considered for one repeat year only.

54.12 Approved Courses

54.12.1 Two year full-time Certificate courses and Diploma courses provided by a registered vocational education and training institutions.

54.12.2 Secondary courses leading to the Tertiary Entrance Examination or courses preparing students for the mature age entrance conducted by the Tertiary Institutions Service Centre.

54.12.3 A degree or Associate Diploma course at a post-secondary education institution.

54.12.4 Courses recognised by the National Authority for the Accreditation of Translators and Interpreters (NAATI) in a language relevant to the needs of the Public Sector.

55. PROFESSIONAL DEVELOPMENT LEAVE

- 55.1 16 hours of professional development leave will be granted to full-time employees with pro rata entitlement to part-time employees.
- 55.2 Employees working between 200km and 400km from the GPO will receive an additional day; and nurses working more than 400km from the GPO will receive an additional two days. Employees will not receive travel time in addition to this entitlement.
- 55.3 This entitlement does not accrue from year to year.
- 55.4 The 12-month period in which the leave is assessed commences from the date of registration of this Agreement.

56. PAID LEAVE FOR ENGLISH LANGUAGE TRAINING

- 56.1 Leave during normal working hours without loss of pay will be granted to employees from a non-English speaking background who are unable to meet standards of communication to advance career prospects, who constitute a safety hazard or risk to themselves and/or fellow employees, or who are not able to meet the accepted requirements of the employee's particular occupation or the health industry, to attend English training conducted by an approved and authorised authority. The selection of employees for training will be determined by consultation between the employer and the union.
- 56.2 Leave will be granted to enable employees selected to achieve an acceptable level of vocational English proficiency. In this respect the tuition content with specific aims and objectives incorporating the pertinent factors at sub-clause 56.3 of this clause will be agreed between the employer, the union and the Adult Multicultural Education Services or other approved authority conducting the training.
- 56.3 Subject to appropriate needs assessment, participation in training will be on the basis of minimum of 100 hours per employee per year.
- 56.4 The agreed desired proficiency level will take account of the vocational needs of an employee in respect of communication, safety, welfare, and productivity within their current position as well as those positions to which they may be considered for promotion or redeployment. It will also take account of issues in relation to training, retraining and multi-skilling, award restructuring, industrial relations and safety provisions, and equal opportunity employment legislation.

57. INTERNATIONAL SPORTING EVENTS LEAVE

- 57.1 Special leave with pay may be granted by the employer to an employee chosen to represent Australia as a competitor or official, at a sporting event, which meets the following criteria:
 - 57.1.1 it is a recognised international amateur sport of national significance; or
 - 57.1.2 it is a world or international regional competition; and

57.1.3 no contribution is made by the sporting organisation towards the normal salary of the employee.

58. WITNESS AND JURY SERVICE

- 58.1 An employee subpoenaed or called as a witness to give evidence in any proceeding will, as soon as practicable, notify the manager/supervisor who will notify the employer.
- 58.2 Where an employee is subpoenaed or called as a witness to give evidence in an official capacity, that employee will be granted by the employer leave of absence with pay, but only for such period as is required to enable the employee to carry out duties related to being a witness. If the employee is on any form of paid leave, the leave involved in being a witness will be reinstated, subject to the satisfaction of the employer. The employee is not entitled to retain any witness fee but will pay all fees received into Consolidated Fund. The receipt for such payment with a voucher showing the amount of fees received will be forwarded to the employer.
- 58.3 An employee subpoenaed or called as a witness to give evidence in an official capacity will, in the event of non-payment of the proper witness fees or travelling expenses, as soon as practicable after the default notify the employer.
- 58.4 An employee subpoenaed or called as a witness on behalf of the Crown not in an official capacity will be granted leave with full pay entitlements. If the employee is on any form of paid leave, this leave will not be reinstated as such witness service is deemed to be part of the employee's civic duty. The employee is not entitled to retain any witness fee but will pay all fees received into Consolidated Fund.
- 58.5 An employee subpoenaed or called as a witness under any other circumstances other than specified in sub-clauses 58.2 and 58.4 of this clause, will be granted leave of absence without pay except when the employee makes an application to clear accrued leave in accordance with the provisions of this Agreement.
- 58.6 An employee required to serve on a jury will, as soon as practicable after being summonsed to serve, notify the supervisor/manager who will notify the employer.
- 58.7 An employee required to serve on a jury will be granted by the employer leave of absence on full pay, but only for such period as is required to enable the employee to carry out duties as a juror.
- 58.8 An employee granted leave of absence on full pay as prescribed in sub-clause 58.7 of this clause is not entitled to retain any juror's fees but will pay all fees received into Consolidated Fund. The receipt for such payment will be forwarded with a voucher showing the amount of juror's fees received to the employer.

59. LEAVE WITHOUT PAY

- 59.1 Subject to the provisions of sub-clause 59.2 of this clause, the employer may grant an employee leave without pay for any period and is responsible for that employee on their return.
- 59.2 Every application for leave without pay will be considered on its merits and may be granted provided that the following conditions are met:

59.2.1 The work of the employer is not inconvenienced; and

59.2.2 All other leave credits of the employee are exhausted.

59.3 An employee on a fixed term appointment may not be granted leave without pay for any period beyond that employee's approved period of engagement.

59.4 Leave without pay for full time study

The employer may grant an employee without pay to undertake full time study, subject to a yearly review of satisfactory performance.

Leave without pay for this purpose will not count as qualifying service for leave purposes.

59.5 Leave without pay for Australian Institute of Sport scholarships

Subject to the provisions of sub-clause 59.2 of this clause, the employer may grant an employee who has been awarded a sporting scholarship by the Australian Institute of Sport, leave without pay.

PART 8 – CHANGE MANAGEMENT

60. INTRODUCTION OF CHANGE

60.1 Where an employer has made a definite decision to introduce major changes in production, programme, organisation, structure or technology that are likely to have a significant effect on employees, the employer will notify the employees who may be affected by the proposed changes and the union.

"A significant effect" includes termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and restructuring of jobs.

60.2 The employer will discuss with the employees affected and the union, among other things, the introduction of the changes referred to in sub-clause 60.1 of this clause, the effects the changes are likely to have on employees, measures to avert or minimise the adverse a significant effect and will give prompt consideration to matters raised by the employees and/or the union in relation to the changes. Where an employee is to be made redundant, the matters to be discussed also include the likely effects of the redundancy.

60.3 The discussion will commence as soon as reasonably practicable after a decision has been made by the employer to make the changes referred to in sub-clause 60.1 of this clause.

60.4 For the purposes of such discussion, the employer will provide to the employees concerned and the union, all relevant information about the changes including the nature of the changes proposed; the expected effects of the changes on employees and any other matters likely to affect employees provided that any employer will not be required to disclose information which may seriously harm the employer's

business undertaking or the employer's interest in the carrying on, or disposition, of the business undertaking.

61. CONSULTATION

61.1 The parties recognise the need for effective communication to improve the business/operational performance and working environment in organisations. The parties acknowledge that decisions will continue to be made by the employer, who is responsible and accountable to Government for the effective and efficient operation of the organisation.

61.2 The parties agree that:

61.2.1 Where the employer proposes to make changes likely to affect existing practices, working conditions or employment prospects of the employees, the union and employees affected will be notified by the employer as early as possible.

61.2.2 For the purposes of such discussion, the employer will provide to the union and employees concerned relevant information about the changes, including the nature of the changes on the employees provided that the employer will not be required to disclose information which may seriously harm the employer's business undertaking or the employer's interest in the carrying on, or disposition, of the business undertaking.

61.2.3 In the context of such discussion the union and employees are able to contribute to the decision making process.

PART 9 - UNION MATTERS

62. UNION & DELEGATES RECOGNITION & RIGHTS

62.1 Recognition

62.1.1 The Employer recognises the rights of the Union to organise and represent its members. Union representatives ("Delegates") in the Hospital have a legitimate role and function in assisting the Union in the tasks of recruitment, organising, communication and representing members interests in the workplace.

62.1.2 The Employer will distribute, with any pre-employment and/or orientation package the Employer ordinarily distributes to new employees, a flyer/information sheet provided by the Union. The flyer/information sheet will provide information regarding Union membership, pay and conditions and representation of Union members within the workforce.

62.1.3 All management representatives will treat Union Delegates with respect and without victimisation, and this respect will be mutually reciprocated.

62.2 Union Delegates will be granted:

62.2.1 An assurance that issues raised will be promptly dealt with in accordance with "Clause 65. - Dispute Resolution Procedure" of this Agreement.

62.2.2 Genuine consultation by the Employer for decisions impacting on Union members or employees eligible to be Union members.

62.2.3 Paid time to communicate during the Delegates' ordinary working hours with Union members and attend to Union business in the workplace. This will be negotiated at each Hospital. For example, the total pool of time available to all delegates at Royal Perth Hospital & Sir Charles Gardiner Hospital will be eight (8) hours per fortnight, which may be increased by agreement between the parties for the incidence of site or broader industrial issues.

62.2.4 Delegates will consult with the Employer when paid time off is required. Any disagreements will be dealt with in accordance with "Clause 65. - Dispute Resolution Procedure" of this Agreement.

62.3 The Union will give the names of Union Delegates to the relevant Employers in writing.

62.4 Facilities

62.4.1 Information

- (a) The relevant Awards and Agreements will be displayed on notice boards in the workplace where it is easily accessible to employees
- (b) Employees on request will be provided with a copy of this Agreement by the Employer. The Employer will make sufficient copies available for this purpose.

62.4.2 Union Delegates will be provided with:

- (a) Access to facilities including basic communication and information resources such as telephone, fax, e-mail, photocopier, stationery and access to meeting rooms to meet with individual or groups of members and perform Union business.
- (b) Access to all relevant information, including appropriate awards, agreements, job descriptions and policies.
- (c) Lockable notice boards in the ratio of one (1) notice board for every 200 beds or part thereof. Access to the Notice Board will be restricted to authorised Union Delegates. It is the responsibility of the Delegate to ensure that only authorised Union material is placed on the notice board.
- (d) A lockable cabinet.

62.5 Organising the Workplace

62.5.1 Provided appropriate notice is given and the operation of the organisation is not unduly affected, Union Delegates will have:

- (a) A list of new employees, provided by the Employer each month, which identifies the time of commencement of new employees, their employment status, occupation, hours of work and work location.
- (b) Time to discuss the benefits of Union membership with a new employee as part of their induction.
- (c) Where the Employer conducts a group induction, which may be on or off site, the Union will be given at least 14 days notice of the time and place of the induction. The Union will be entitled to at least thirty minutes to address new employees without Employer representatives being present.

62.5.2 Access to a private sheltered area for meetings of members. Details to be decided by local arrangement.

62.5.3 Access to rosters providing information regarding work location and shifts of employees. The rosters will be provided within five working days of request.

62.5.4 Quarterly paid general Union meetings, to a maximum duration of 1 hour. These meetings are to be arranged at a local level.

62.5.5 Delegate meetings

- (a) Paid monthly Union delegate meetings for each Hospital to a maximum of two (2) hours.
- (b) Quarterly paid regional delegate meetings to a maximum of two hours (plus reasonable travel time).
- (c) The option to aggregate the time available for meetings, pursuant to subparagraphs (a) and (b) of this paragraph, to meet the needs of country delegates.
- (d) Where agreement is reached between the employer and the union, the option for delegates within the Perth Metropolitan area to convene for meetings pursuant to subparagraph (a) at one Hospital site.

62.5.6 Subject to compliance with the relevant clinical protocols at each facility, the right to enter the Employer's premises during working hours, including meal breaks, for the purpose of discussing with employees covered by this Agreement the legitimate business of the Union, or for the purpose of investigating complaints concerning the application of this Agreement, but will in no way unduly interfere with the work of the employees.

62.5.7 Subject to compliance with the relevant clinical protocols at each facility, the Secretary or authorised Union representative will be able to move freely within the Hospital, and will not be required to be accompanied by any employee or agent of the Employer, but will in no way unduly interfere with the work of the employees.

62.6 Representation

62.6.1 The Employer will 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;
- (c) When prior agreement between the Union and Employer has been reached for the employee to attend official Union meetings preliminary to negotiations or industrial hearings;
- (d) Who as a Union nominated representative of the employees is required to attend joint Union/management consultative committees or working parties.

62.7 Union Dues

The Employer agrees, upon receiving written authorisation from an employee, to provide to the Union within five (5) working days the employee's bank account details and subsequent changes from time to time for the purpose of enabling the employee to establish direct debit facility for the payment of Union dues.

62.8 Paid Leave for Union Training

62.8.1 The Employer will grant paid leave of absence to employees who are nominated by their Union to attend short courses conducted by the Union.

62.8.2 Paid leave of absence will also be granted to attend similar courses or seminars as from time to time approved by agreement between the parties.

62.8.3 An employee will be granted up to six (6) days paid leave each calendar year for Union training or similar courses or seminars. However, leave in excess of six days, and up to twelve days, may be granted in any one calendar year, provided that the total leave being granted in that year and in the subsequent year does not exceed twelve (12) days.

62.8.4 Country delegates will be paid travel time during normal working hours at the ordinary rate of pay to attend such training.

62.9 Rates of Pay During Absence on Union Training

62.9.1 Leave of absence will be granted at the ordinary rate of pay the employee would have received had they not been on leave.

62.9.2 Where a public holiday or rostered day off (including a rostered day off as a result of working a 38 hour week) falls during a Union Training course or seminar, a day off in lieu of that day will be granted.

62.10 Shift employees attending a Union Training course or seminar will be deemed to have worked the shifts they would have worked had leave not been taken, and payment for such leave will include shift penalties.

62.11 Application for Union Training Leave

62.11.1 Any application by an employee will be submitted to the Employer for approval at least four (4) weeks before the commencement of the leave, provided that the Employer may agree to a lesser period of notice.

62.11.2 The Employer will not be liable for any expenses associated with an employee's attendance at Union training.

62.11.3 Leave of absence granted under this clause will include any necessary travelling time in normal working hours immediately before or after the training.

62.12 Application

62.12.1 An employee will not be entitled to paid leave to attend Union business other than as prescribed by this clause.

62.12.2 The provisions of this clause will not apply to special arrangements made between the parties, which provide for unpaid leave for employees to conduct Union business.

62.12.3 The provisions of this clause will not apply when an employee is absent from work without the approval of the Employer.

PART 10 – EMPLOYMENT RECORDS AND RIGHT OF ENTRY

63. EMPLOYMENT RECORDS

63.1 In this clause, “relevant person” means:

63.1.1 the employee concerned;

63.1.2 if the employee is a represented person, their representative. The term representative includes the Secretary and duly accredited officials of the union;

63.1.3 a person authorised in writing by the employee;

63.1.4 the Secretary or duly accredited official of the union; and

63.1.5 an officer referred to in section 93 of the Industrial Relations Act 1979 authorised in writing by the Registrar.

63.2 Keeping of employment records

The employer will ensure that employment records are kept showing:

63.2.1 the employee's name and, if the employee is under 21 years of age, their date of birth;

63.2.2 any industrial instrument that applies;

63.2.3 the date on which the employee commenced employment with the employer;

63.2.4 for each day:

- (a) the time at which the employee started and finished work, including roster details if applicable;
- (b) the period or periods for which the employee was paid; and
- (c) details of work breaks including meal breaks;

63.2.5 for each pay period:

- (a) the employee's designation;
- (b) the gross and net amounts paid to the employee under the industrial instrument; and
- (c) all deductions and the reasons for them;

63.2.6 all leave taken by the employee, whether paid, partly paid or unpaid;

63.2.7 the information necessary for the calculation of the entitlement to, and payment for long service leave under the industrial instrument;

63.2.8 any other information in respect of the employee required under this Agreement to be recorded; and

63.2.9 any information, not otherwise covered by this clause, that is necessary to show that the benefits received by the employee comply with the industrial instrument.

63.3 The employer must ensure that:

63.3.1 the employment records are kept in accordance with the Industrial Relations (General) Regulations 1997 as amended or superseded from time to time;

63.3.2 each entry in relation to long service leave is retained:

- (a) during the employment of the employee; and
- (b) for not less than 7 years after the employment terminates; and

63.3.3 each other entry is retained for not less than 7 years after it is made.

63.4 Form of records

An employer is to ensure that the employment records of the employer are kept:

63.4.1 by:

- (a) making entries in the English language in or on a separate page of a bound or loose-leaf book kept specifically for that purpose; or
- (b) recording or storing the particulars required to be entered in the employment records by means of a mechanical, electronic or other device, but so that the particulars so recorded or stored will remain in

the form in which they were originally recorded or stored and will be capable of being reproduced in written form in the English language;

63.4.2 with only one employee's records appearing on any one page;

63.4.3 so that the record for each pay period of each employee is identifiable; and

63.4.4 in a manner that enables compliance with subclauses (2) and (3) of this clause to be readily ascertained.

63.5 A person is not to alter employment records unless the alteration is annotated so as to identify:

63.5.1 the nature of the alteration;

63.5.2 the person making the alteration; and

63.5.3 the date on which the alteration was made.

63.6 Access to employment records

An employer, on written request by a relevant person, must:

63.6.1 produce to the person the employment records relating to an employee; and

63.6.2 let the person inspect the employment records.

63.7 The duty placed on an employer by subclause 63.6:

63.7.1 continues so long as the records are required to be kept under subclause 63.3;

63.7.2 is not affected by the fact that the employee is no longer employed by the employer or that the industrial instrument no longer applies to them;

63.7.3 includes the further duties:

(a) to let the relevant person enter premises of the employer for the purpose of inspecting the records; and

(b) to let the relevant person take copies of or extracts from the records; and

63.7.4 must be complied with not later than:

(a) at the end of the next pay period after the request is received; or

(b) the seventh day after the day on which the request was made to the employer.

63.8 If the employer maintains a personal or other file on an employee, the employee shall be entitled to examine all material contained on that file and take copies at a time that does not result in the employer's business being unduly interrupted or otherwise hampered.

64. RIGHT OF ENTRY

64.1 Right of entry for discussions with employees

64.1.1 Definitions

In this clause:

- (a) “authorised representative” means a person who holds an authority in force under the *Industrial Relations Act 1979*;
- (b) “relevant employee”, when used in connection with the exercise of a power by an authorised representative of the union, means an employee who is a member of the union or who is eligible to become a member of the union.

64.1.2 An authorised representative of the union may, on notification to the employer, enter during working hours, any premises where relevant employees work, for the purpose of holding discussions at the premises with any of the relevant employees who wish to participate in those discussions.

64.2 Right of entry to investigate breaches

64.2.1 An authorised representative of the union may, on notification to the employer, enter during working hours, any premises where relevant employees work, for the purpose of investigating any suspected breach of an award, industrial agreement or order that applies to any such employee, or the *Industrial Relations Act 1979*, the *Minimum Conditions of Employment Act 1993*, or the *Occupational Safety and Health Act 1984*.

64.2.2 An “authorised representative” and “relevant employees” have the same meaning as in subclause 64.1.1.

64.2.3 For the purpose of investigating a suspected breach in accordance with this clause, the authorised representative:

- (a) subject to subclause 64.2.4, may require the employer to produce for the representative’s inspection, during working hours at the employer’s premises or at any mutually convenient time and place, any employment records of employees or other documents kept by the employer that are related to the suspected breach;
- (b) shall not conduct interviews during normal working hours in the circumstances that will result in the employer’s business being unduly interrupted or otherwise hampered;
- (c) may make copies of the entries in the employment records or documents related to the suspected breach;
- (d) shall treat with confidentiality any information obtained from employment records; and
- (e) may, during working hours, inspect or view any work, material, machinery, or appliance that is relevant to the suspected breach.

64.2.4 In exercising a power under subclause 64.2.1, an authorised representative is not entitled to require the production of employment records or other documents unless, before exercising the power, the authorised representative has given the employer concerned:

- (a) at least 24 hours' written notice, if the records or other documents are kept on the employer's premises; or
- (b) at least 48 hours' written notice, if the records or other documents are kept elsewhere.

64.2.5 The provisions of subclause 64.2.4 apply except where, in accordance with section 49I (7) of the *Industrial Relations Act 1979*, the Commission has waived the requirement for the authorised representative to give the employer concerned notice.

64.2.6 Where the Commission has waived the requirement to give the employer concerned notice of an intended exercise of a power, the authorised representative must, after entering the premises and before requiring the production of the records or documents, give the person who is apparently in charge of the premises the certificate or a copy of the certificate provided by the Commission under section 49I (8) of the *Industrial Relations Act 1979* authorising the authorised representative's exercise of a power without notice.

64.3 If:

64.3.1 a person proposes to enter, or is on, premises in accordance with subclauses 64.1 or 64.2; and

64.3.1 the occupier, including a person in charge of the premises, requests the person to show their authority;

the person is not entitled to enter or remain on the premises unless they show the occupier the authority in force under the *Industrial Relations Act 1979*.

64.4 The occupier of premises must not refuse, or intentionally and unduly delay, entry to the premises by a person entitled to enter the premises under subclauses 64.1 or 64.2.

64.5 A person must not intentionally and unduly hinder or obstruct an authorised representative in the exercise of the powers conferred by this clause.

64.6 A person must not purport to exercise the powers of an authorised representative under this clause if the person is not the holder of a current authority issued by the Registrar under Division 2G of Part II of the *Industrial Relations Act 1979*.

64.7 The parties shall comply with the terms of Division 2G of Part II of the *Industrial Relations Act 1979*.

PART 11 - DISPUTE RESOLUTION

65. DISPUTE RESOLUTION PROCEDURE

65.1 Preamble

65.1.1 Subject to the provisions of the Industrial Relations Act 1979 (as amended) any grievance, complaint or dispute, or any matter raised by the Union, Employer or employee(s), will be settled in accordance with the procedures set out herein.

65.1.2 The parties agree that no bans, stoppages or limitations will be imposed prior to, or during the time this procedure is being followed.

65.2 Procedure

65.2.1 Any grievance, complaint or dispute arising under the Agreement or in the course of the employment of employees covered by the Agreement will be dealt with in accordance with this clause.

65.2.2 The employee/s and the manager with whom the dispute has arisen will discuss the matter and attempt to find a satisfactory solution, within three (3) working days. An employee may be accompanied by a Union representative.

65.2.3 If the dispute cannot be resolved at this level, the matter will be referred to and be discussed with the relevant manager's superior and an attempt made to find a satisfactory solution, within a further three (3) working days. An employee may be accompanied by a Union representative.

65.2.4 If the dispute is still not resolved, it may be referred by the employee/s or Union representative to the Chief Executive Officer or his/her nominee.

65.2.5 Where the dispute cannot be resolved within five (5) working days of the Union representatives' referral of the dispute to the Chief Executive Officer or his/her nominee, either party may refer the matter to the Commission for conciliation and arbitration as required.

65.2.6 The period for resolving a dispute may be extended by agreement between the parties.

65.2.7 At all stages of the procedure the employee may be accompanied by a Union representative.

65.2.8 Notwithstanding the above the Union may raise matters directly with representatives of the Employer. In each case the Union and the Employer will endeavour to reach agreement. If no agreement is reached either party may refer the dispute to the Commission for conciliation and/or arbitration.

65.2.9 The status quo (ie the condition applying prior to the issue arising) will remain until the issue is resolved in accordance with the procedures outlined above.

65.3 Disciplinary Procedure

65.3.1 Where the Employer seeks to discipline an employee, or terminate an employee, the following steps will be observed:

- (a) In the event that an employee commits a misdemeanour, the employee's immediate supervisory or any other officer so authorised,

may exercise the Employer's right to reprimand the employee so that the employee understands the nature and implications of his/her conduct.

- (b) The first two reprimands will take the form of warnings, and if given verbally, will be confirmed in writing as soon as practicable after the giving of the reprimand.
- (c) Should it be necessary, for any reason, to reprimand an employee three times in a period not exceeding twelve months continuous service, the contract of service will, upon the giving of that third reprimand, be terminable in accordance with the provisions of this Agreement.
- (d) The above procedure is meant to preserve the rights of the individual employee, but it will not, in any way, limit the right of the Employer to summarily dismiss an employee for gross misconduct.

65.4 Access To The Western Australian Industrial Relations Commission

65.4.1 The settlement procedures contained within this clause will be applied to all manner of disputes, including those arising under this agreement, referred to in sub-clause 65.1 of this clause, and no party, or individual, or group of individuals, will commence any other action, of whatever kind, which may frustrate a settlement in accordance with its procedures. Observance of these procedures will in no way prejudice the right of any party in dispute to refer the matter for resolution in the Western Australian Industrial Relations Commission, at any time.

65.4.2 The status quo (ie. the condition applying prior to the issue arising) will remain until the issue is resolved in accordance with the procedure outlined above.

65.5 Provision Of Services

65.5.1 The Union recognises that the Health Service has a statutory and public responsibility to provide health care services without any avoidable interruptions.

65.5.2 This grievance procedure has been developed between the parties to provide an effective means by which employees may reasonably expect problems will be dealt with as expeditiously as possible by the Hospital management.

65.5.3 Accordingly, the Union hereby agrees that during any period of industrial action, sufficient labour will be made available to carry out work essential for life support within the Hospital.

65.6 Definitions

For the purpose of this procedure:

“Employer” includes an authorised officer nominated by the Employer.

“Senior Officer” means an officer nominated by management.

66. SIGNATORIES

Signed

Marshall Warner
Director
Health Industrial Relations Service

____/____/____
Date

Signed

Common Seal

David Kelly
Secretary
Liquor Hospitality Miscellaneous Union
Western Australian Branch

____/____/____
Date

SCHEDULE A – WORKLOAD MANAGEMENT

PR914193

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Workplace Relations Act 1996
s.99 notification of industrial dispute
s.120A application for orders of Commission on exceptional matters

Australian Nursing Federation and Others

and

The Honourable Minister for Health and Others (C2001/1910)

Various employees

Health and welfare services

JUSTICE MUNRO
SENIOR DEPUTY PRESIDENT O'CALLAGHAN
COMMISSIONER O'CONNOR

SYDNEY, 11 FEBRUARY 2002

EXCEPTIONAL MATTERS ORDER

- A. Further to the decision issued by the Commission on 17 December 2001 [Print PR912571], and the supplementary decision issued on 11 February 2002 [Print PR914192], the following order is made:

TITLE

This Order will be known as the Nurses (WA Government Health Services) Exceptional Matters Order 2001.

PARTIES

The parties to this order are the Minister for Health in the State of Western Australia, (the Minister), the Australian Nursing Federation, (the ANF), and the employer respondents corresponding to those listed in Appendix 2 of the Nurses (WA Government Health Services) Agreement 2001, (the employer respondents), as identified in Attachment 1 to this Order.

APPLICATION

This Order applies to the employment in Western Australian Government Health Services by the Minister or by the employer respondents of employees, who are eligible to be members of the ANF and engaged within a classification provided for in clauses 9, 10, 11 and Appendix 1 of the Nurses (WA Government Health Services) Agreement 2001, and to work performed for each such employer that is work within the scope of the definitions for those classifications in clause 31 of the Nurses (ANF - WA Public Sector) Award 1994, (the Award), being work performed by an employee of the respondent employers.

PERSONS BOUND

This Order is binding upon the parties, and upon the officers and employees of each of the parties and upon employees who are the members of the ANF, or eligible to be members of the ANF.

DUTY TO PREVENT SUSTAINED UNREASONABLE WORKLOAD

5.1 Each respondent employer will ensure that the work to be performed by an employee to whom this Order applies:

5.1.1 is of a nature that is reasonably consistent with the performance, over the ordinary time hours of a regular periodic roster, of duties and tasks within the employee's classification description at the standard required for observance of the Nurses' Code of Conduct requirement that the nursing care provided or about to be provided to a patient will be adequate, appropriate, and not adversely affect the rights, health or safety of the patient client; and,

5.1.2 constitutes a workload that is not a sustained manifestly unfair or unreasonable workload having regard to the skills, experience and classification of the employee and the period over which the workload is imposed.

Provided that this clause will not operate in respect of work that a respondent employer directs in order to meet emergency or extra-ordinary circumstances of an urgent kind so long as such work is not work regularly added to the employee's weekly or daily roster.

DUTY TO ALLOCATE AND ROSTER NURSES IN ACCORDANCE WITH PROCESS CONSISTENT WITH REASONABLE WORKLOAD PRINCIPLES

6.1 The respondent employers will, from no later than 1 April 2002, implement in the allocation and rostering of nurses a developed form of the staffing model described as the "nursing hours per patient day model" (NHPPD), the main premises of which are set out in Attachment 2 to this Order.

6.2 Subject to clause 6.3, the premises of the NHPPD model will be developed to include criteria and benchmarking measures for nursing work in wards or units not covered by a ward category and associated criteria specified in Attachment 2 and in particular for:

6.2.1 intensive care units;

6.2.2 surgical operating theatres;

6.2.3 cardiac/coronary units;

6.2.4 mental health units; and

6.2.5 emergency and accident departments.

6.3 The implementation of the NHPPD model by the respondent employers will be undertaken in a way that allows for ongoing development and refinement of the model consistent with overall allocation and rostering outcomes determining nursing staff resources to meet estimated workloads in accordance with the following key principles:

- 6.3.1 clinical assessment of patient needs;
- 6.3.2 the demands of the environment such as ward layout;
- 6.3.3 statutory obligations including workplace safety and health legislation;
- 6.3.4 the requirements of nurse regulatory legislation and professional standards; and
- 6.3.5 reasonable workloads.

DUTY TO CONSULT, COMMUNICATE AND CONSTRUCTIVELY INTERACT ABOUT HEALTH SERVICE PROVISION TO PATIENTS

7.1 General duties

- 7.1.1 Each respondent employer and the ANF will together constitute and participate in a process for consultation and communication at industry level and at hospital level about overall nursing workload issues as an element in the provision of health services to patients.
- 7.1.2 The ANF will not unreasonably oppose the best use being made of all available and appropriately skilled staff to bring about the most effective team for the optimal provision of health services to patients at general and ward level, without unnecessary conditions or task demarcations.

7.2 Nursing Workloads Consultative Process Committee

- 7.2.1 For the purpose of complying at industry level with the duties in clause 7.1, the Minister acting generally for Western Australian Government Health Industry (the WAGHI) respondent employers will establish a Nursing Workloads Consultative Process Committee (the NWCP Committee). The founding membership of the NWCP Committee will be four senior level representatives of the WAGHI respondent employers, including a chairperson, and two representatives from the ANF; plus a representative each from the Australian Liquor, Hospitality and Miscellaneous Workers Union (the LHMU), and the Health Services Union of Australia (the HSUA), if those organisations elect to nominate a representative for the purposes of representation on the NWCP Committee only in relation to that part of their memberships that deal with nursing and/or nursing care related issues directly. The NWCP Committee may by agreement increase or decrease its membership.
- 7.2.2 For the duration of this Order, every six months the Minister on behalf of WAGHI employers will provide a detailed report to the NWCP Committee in relation to the steps being taken and the evaluation of progress in minimising adverse effects on workloads or patient service capacity in public hospitals. Such reports will:
 - 7.2.2.1 provide available data about levels and changes in levels of workloads of employees eligible to be members of the ANF, the LHMU or the HSUA;
 - 7.2.2.2 outline measures the employers have taken to address and/or relieve the workload of the relevant employees, including specific steps taken;

7.2.2.3 provide information as to the progress achieved in implementing these or other similar steps, or to generally relieve or alleviate the workload of these employees, and

7.2.2.4 provide information as to future plans or intentions in relation to proposals to address the question of workloads of these employees.

7.2.3 As far as practicable, the reports made under clause 7.2.2 will be provided in writing. The first such report will be provided to each member of the NWCP Committee on 22 March 2002. Reports will be provided every six months after that date for the duration of this Order.

7.2.4 A meeting of the NWCP Committee will be held on 29 March 2002 and thereafter meetings will be held at the discretion of the NWCP Committee timed in broad conformity with the provision of reports.

7.3 Hospital Nursing Workload Consultative Committees And Area Nursing Workload Consultative Committees

7.3.1 For the purpose of complying at metropolitan hospital level with the duties in clause 7.1, the respective respondent employer for each metropolitan hospital (as set out in Attachment 3 to this Order) will establish a Hospital Nursing Workload Consultative Committee (the HNWC Committee) to have an advisory role in reviewing, assessing and making recommendations to the Executive Nursing Team of each respective metropolitan hospital, on an as needs basis, regarding:

- nursing workloads generally;
- admissions, discharges and patient movements generally, including transfers;
- bed usage and management generally; and
- planning for bed or ward closures during downtimes or other exigencies (including a refusal by the Executive Nursing Team for the hospital to ratify the level of nursing care for a given patient load against nursing professional standards).

In establishing HNWC Committees, the respondent employer will allow for the participation of up to 6 ANF representatives on each HNWC Committee and a corresponding number of WAGHI representatives.

7.3.2 For the purposes of complying at regional and rural hospital and health care facility level with the duties in clause 7.1, the respective respondent employer for each Area Health Authority will establish an Area Nursing Workload Consultative Committee (the ANWC Committee) to have an advisory role in reviewing, assessing and making recommendations to the Executive Nursing Team of each hospital or health care facility for which each respective Area Health Authority has responsibility, on an as needs basis, regarding:

- nursing workloads generally;

- admissions, discharges and patient movements generally, including transfers;
- bed usage and management generally; and
- planning for bed and ward closures during downtimes or other exigencies (including a refusal by the Executive Nursing Team for the hospital to ratify the level of nursing care for a given patient load against nursing professional standards.

In establishing the ANWC Committees, the Area Health Authority will allow for the participation of one ANF representative per health care facility for which it has responsibility and a corresponding number of WAGHI representatives.

7.3.3 If there is no Area Health Authority in existence that is responsible for a hospital or health care facility, the respective respondent employer for each such hospital or health care facility will establish an appropriate NHWC Committee, with the same membership and role as that detailed in clause 7.3.1 of this Order.

7.3.4 If an Area Health Authority comes into existence and becomes responsible for a hospital or health care facility, the individual HNWC Committee at all of the hospitals or health care facilities for which that Area Health Authority has responsibility, will cease, and an ANWC Committee, with the same membership and role as that detailed in clause 7.3.2 of this Order will be established for that Area Health Authority.

7.4 Each of the consultative processes established under this clause will operate as far as practicable without formality with a view to reaching a consensus about matters to be considered. By agreement of the relevant Committee, the matters to be considered may also include issues such as patient transfers to or from hospital through liaison with community health services units, the trauma service and the ambulance service, the refinement of the admissions and discharge policy for a hospital, and measures necessary to bring about the most effective team for the optimal provision of health services to patients at general ward level. Unless otherwise provided by this Order, the processes established under this clause are advisory. A respondent employer in relation to a particular matter referred to a committee may elect to be bound by any agreement reached at the relevant committee in respect of the matter referred.

VISIBILITY OF IMPLEMENTATION OF NHPPD MODEL AT WARD OR UNIT LEVEL

8. In giving effect to the duty in clause 6, each respondent employer will ensure for the duration of this Order that the implementation of the NHPPD model, and any other mechanisms that may be in place to manage the workloads of nurses, will be made clearly visible to and readily understood by, nurses at the ward or unit level. The precise mechanism for ensuring that this visibility and/or understanding is achieved may vary from site to site, health service to health service, but will result in the NHPPD being applied to identify a work roster that may be clearly understood by nurses at the ward or unit level.

MEASURES TO ENCOURAGE RE-ENTRY TO THE NURSING WORKFORCE

9. For the purpose of giving effect to the duties created by this Order, the parties will take into account a commitment by the Department of Health of Western Australia and the

respondent employers to continue to provide for the duration of this Order, free re-registration and refresher courses for nurses seeking to re-enter the nursing workforce; and for the Department of Health to continue to co-ordinate statewide recruitment for nurses to enter into these courses. The ANF will encourage use of such courses.

GRIEVANCE PROCEDURE

- 10.1** Notwithstanding clause 30 of the Award and clause 19 of the Nurses (WA Government Health Services) Agreement 2001, the following grievance procedure will apply to a workload grievance under this clause.
- 10.2** A workload grievance is a grievance stated in writing by an employee bound by this Order performing work to which this Order applies, by the ANF, or by a respondent employer, as a person aggrieved, about the nursing workload that a nurse is required to undertake, on the ground that:
- 10.2.1** an unreasonable or excessive patient care or nursing task work load is being imposed on the nurse other than occasionally and infrequently;
 - 10.2.2** to perform nursing duty to a professional standard, a nurse is effectively obliged to work unpaid overtime on a regularly recurring basis;
 - 10.2.3** the workload requirement effectively denies any reasonably practicable access to the nurse's quota of time for professional development, within 12 months of the entitlement arising;
 - 10.2.4** within a workplace or roster pattern, no effective consultative mechanism and process is available in respect of the determination of bed closures or patient workload for the available nursing resources in the workplace or roster pattern;
 - 10.2.5** a reasonable complaint to the appropriate hospital authority about capacity to observe professional mandatory patient care standards has not been responded to or acted upon within a reasonable time; or
 - 10.2.6** a particular member or set of members of a patient care team are being consistently placed under an unreasonable or unfair burden or lack of adequate professional guidance because of the workload or the staffing skill mix of the team.
- 10.3** Before initiating the formal grievance process under this clause, the person aggrieved will attempt to resolve with the appropriate and responsible employee, employer or organisation the matter giving rise to the grounds of the grievance. After such an attempt has failed, or if the attempt is manifestly likely to be unproductive of a resolution of the matter, the person aggrieved will lodge a statement setting out details of the grievance with the Director of Nursing at the work location, and in the case of an aggrieved employee, with the ANF.
- 10.4** Where the grievance is not resolved within five working days, the Director of Nursing will inform the Chief Executive Officer (CEO) of the Area Health Authority (or if one has not been established, the CEO or General Manager of the relevant hospital of health service as the case may be) responsible for the work location of the grievance and supply as soon as practicable a statement outlining the grievance and setting out the principal reasons why it has not been or cannot be resolved. Thereupon, the CEO of the Area Health Authority and

one person nominated by the ANF, will form a conciliation committee to attempt to resolve the grievance.

- 10.5** Where the grievance is not resolved within five working days of being brought to the Area Health Authority's CEO, the CEO of the Area Health Authority will inform the Director General of Health of the grievance and supply as soon as practicable a statement outlining the grievance and setting out the principal reasons why it has not been or cannot be resolved. Thereupon, the Director General of Health or one person nominated by the Director General of Health and one person nominated by the ANF, will form a conciliation committee to attempt to resolve the grievance.
- 10.6** A grievance will be resolved where the parties to the grievance reach agreement. Where agreement is reached the parties at the work location will be informed of the grievance resolution in writing including an implementation timetable and method of implementation.
- 10.7** The implementation of these procedures will take place without delay and be completed as soon as practicable. The employer and the ANF will each as far as practicable avoid action which may exacerbate the dispute or predetermine the outcome of an attempt to resolve the grievance.
- 10.8** A grievance that remains unresolved for a period of more than 15 working days Monday to Friday may be referred by the ANF or a respondent employer to a Board of Reference.
- 10.9** A Board of Reference under this clause will be constituted comprising two nominees of the ANF and two nominees of the employer, and a member of the Australian Industrial Relations Commission as Chairperson.
- 10.10** The function of the Board of Reference will be to resolve the grievance if practicable, without making a formal determination. If the Board of Reference is:
- 10.10.1** unable to resolve the grievance, but,
 - 10.10.2** is satisfied that the ground for the grievance has been established; and
 - 10.10.3** is satisfied that a determination on the basis of the grievance is necessary;
- the Board of Reference may make a determination in conformity with clause 10.11.
- 10.11** Subject to clause 10.10, a Board of Reference may determine:
- 10.11.1** in relation to a grievance under clause 10.2.1, 10.2.5, or 10.2.6, a principle to be applied for determining the workload relevant to the ground of the grievance being a principle capable of remedying the ground of grievance if applied by the responsible employer;
 - 10.11.2** in relation to a grievance under clause 10.2.2 or 10.2.3, a right for the employee or employees affected to, or a duty on the employer to grant an entitlement which, if granted or enforced, would remedy in part or whole the ground of the grievance;
 - 10.11.3** in relation to a grievance under clause 10.2.4, a process for consultation and reporting upon management decisions about patient workload or bed closures, not being a process inconsistent with clause 7 of this Order, that if introduced, would be appropriate to remedy the ground of the grievance.

10.11 In the event of representative members of the Board being equally divided in opinion, the Chairperson will cast his or her vote to give a majority decision.

10.12 A determination by the Board will be binding upon the parties and the parties will abide by any such determination as though it is a provision of this Order having a term co-extensive with the duration of this Order.

COMMENCEMENT DATE OF ORDER AND PERIOD OF OPERATION

This Order commences on 1 March 2002 and will expire on 28 February 2004.

BY THE COMMISSION:

JUSTICE P.R. MUNRO

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SCHEDULE B - NHPPD GUIDING PRINCIPLES

Ward	NHPPD	Criteria for measuring diversity, complexity and nursing tasks required
ED		ED Nursing Hours per Patient Presentation (NHpPP) Formula (Assessment Time) + (Ongoing Care component x ALOS) + (Observation Ward Occupied Bed Days x 5.75 hours where appropriate)
ICU	31.60	<ul style="list-style-type: none"> • Tertiary designated ICU.
CCU	14.16	<ul style="list-style-type: none"> • Designated stand alone CCU.
HDU	12.00	<ul style="list-style-type: none"> • Designated stand alone HDU • High Dependency Unit @ >6 beds.
A	7.5	<ul style="list-style-type: none"> • High Complexity • High Dependency Unit @ or < 6 beds within a ward • Tertiary Step Down ICU • High Intervention Level • Specialist Unit/Ward Tertiary Level 1:2 staffing • Tertiary Paediatrics • Mental Health (MH) Secure Beds <ul style="list-style-type: none"> ▪ Seclusion used as per Mental Health Act (1996) ▪ High risk of self harm and aggression ▪ Intermittent 1:1 /2 Nursing ▪ Patients frequently on 15 minutely observations
B	6.0	<ul style="list-style-type: none"> • High Complexity • No High Dependency Unit • Tertiary Step Down CCU/ICU • Moderate/High Intervention Level • Special Unit/Ward including Mental Health Unit • High Patient Turnover⁽¹⁾ > 50% • FHHS Paediatrics⁽²⁾ • Secondary Paediatrics • Tertiary Maternity • MH – High risk of self harm and aggression <ul style="list-style-type: none"> ▪ Patients frequently on 30 minute observations ▪ Occasional 1:1 nursing ▪ Mixture of open and closed beds ▪ Seclusion used as per Mental Health Act (1996)

C	5.75	<ul style="list-style-type: none"> • High Complexity Acute Care Unit/Ward • Moderate Patient Turnover > 35%, OR • Emergency Patient Admissions > 50% • MH – Moderate risk of self harm and aggression <ul style="list-style-type: none"> • Psychogeriatric Mental Health Unit • Mental Health unit incorporating ECT Facility
D	5.0	<ul style="list-style-type: none"> • Moderate Complexity Acute Rehabilitation Secondary Level • Acute Unit/Ward • Emergency Patients Admissions > 40% OR • Moderate Patient Turnover > 35% • Secondary Maternity • MH – Medium to low risk of self harm and aggression <ul style="list-style-type: none"> • Mental Health Forensic Patients in open beds
E	4.5	<ul style="list-style-type: none"> • Moderate Complexity • Moderate Patient Turnover > 35% • Sub Acute Unit/Ward • Rural Paediatrics • Rural Maternity
F	4.0	<ul style="list-style-type: none"> • Moderate/Low Complexity • Low Patient Turnover < 35% • Care Awaiting Placement/Age Care • Sub Acute Unit/Ward • MH Slow stream rehabilitation
G	3.0	<ul style="list-style-type: none"> • Ambulatory Care including: • Day Surgery Unit
Renal (T)	3.02	<ul style="list-style-type: none"> • Stand alone Tertiary Renal Unit
Renal (S)	2.18	<ul style="list-style-type: none"> • Stand alone Satellite Renal Unit

SCHEDULE C – SCALE OF ALLOWANCES

Travelling, Relieving or Special Duty Allowances

Item Particulars	Column A Daily Rate	Column B Daily Rate Officers with dependents relieving allowance for period in excess of 42 days (sub-clause 35.3.2)	Column C Daily Rate Officers without dependents relieving allowance for period in excess of 42 days (sub-clause 35.3.2)
	\$	\$	\$
Allowance to meet incidental expenses			
1. WA – South of 26 ⁰ South Latitude	12.80		
2. WA – North of 26 ⁰ South Latitude	18.30		
3. Interstate	18.30		
Accommodation involving an overnight stay in a hotel or more			
4. WA – Metropolitan Hotel or Motel	239.50	119.75	79.85
5. Locality South of 26 ⁰ South Latitude	183.80	91.90	61.25
6. Locality North of 26 ⁰ South Latitude			
Broome	392.80	196.40	130.95
Carnarvon	224.50	112.25	74.85
Dampier	323.80	161.90	107.95
Derby	258.80	129.40	86.25
Exmouth	279.30	139.65	93.10
Fitzroy Crossing	346.80	173.40	115.60
Gascoyne Junction	156.30	78.15	52.10
Halls Creek	245.30	122.65	81.75
Karratha	500.80	250.40	166.95
Kununurra	291.80	145.90	97.25
Marble Bar	224.80	112.40	74.95
Newman	268.55	134.25	89.50
Nullagine	198.30	99.15	66.10
Onslow	240.75	120.40	80.25
Pannawonica	185.95	92.95	62.00
Paraburdoo	236.70	118.35	78.90
Port Hedland	319.50	159.75	106.50
Roebourne	138.70	69.35	46.25
Sandfire	163.30	81.65	54.45
Shark Bay	184.30	92.15	61.45
Tom Price	261.25	130.60	87.10
Turkey Creek	197.80	98.90	65.95
Wickham	415.80	207.90	138.60
Wyndham	231.30	115.65	77.10
7. Interstate – Capital City			
Sydney	269.50	134.75	89.80

Melbourne	256.80	128.40	85.60
Other Capitals	230.50	115.25	76.75
8. Interstate – Other than Capital City	183.80	91.90	61.25
Accommodation involving an overnight stay at other than hotel or motel			
9. WA – South of 26 ⁰ South Latitude	83.90		
10. WA – North of 26 ⁰ South Latitude	111.00		
11. Interstate	111.00		
Travel not involving an overnight stay, or travel involving an overnight stay where accommodation only is provided			
12. WA – South of 26 ⁰ South Latitude			
Breakfast	15.50		
Lunch	15.50		
Dinner	40.10		
13. WA – North of 26 ⁰ South Latitude			
Breakfast	18.10		
Lunch	30.60		
Dinner	44.00		
14. Interstate			
Breakfast	18.10		
Lunch	30.60		
Dinner	44.00		
Deduction for normal living expenses			
15. Each Adult	24.95		
16. Each Child	4.30		
Midday Meal			
17. Rate per meal	6.05		
18. Maximum reimbursement per pay period	30.25		