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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984
s23 application for award or variation of award

Tasmanian Trades and Labor Council
(T12940 of 2007)
Private Sector Awards
Public Sector Awards

FULL BENCH:

PRESIDENT P L LEARY
DEPUTY PRESIDENT P C SHELLEY
COMMISSIONER T J ABEY

Wage Rates – State Wage Case 2007 – application amended - application to vary private and public sector awards – award wage rates to be increased by \$22.70 per week - wage related allowances to be increased by 3.8% – meal allowance increased to \$14.10 - State Minimum Wage rate determined at \$527.10 - s.35(1)(b) – operative date ffpp 1 August 2007

NURSES (TASMANIAN PUBLIC SECTOR) AWARD 2005

ORDER –

**No. 2 of 2007
(Consolidated)**

AMEND THE **NURSES (TASMANIAN PUBLIC SECTOR) AWARD 2005** BY DELETING ALL CLAUSES CONTAINED THEREIN AND INSERTING IN LIEU THEREOF THE FOLLOWING; AND THE AWARD IS CONSOLIDATED:

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PART I – APPLICATION AND OPERATION OF AWARD

1. TITLE

This award shall be known as the "Nurses (Tasmanian Public Sector) Award 2005".

2. INDEX

<u>SUBJECT MATTER</u>	<u>CLAUSE NO.</u>
Part I – Application and Operation Of Award	
Title	1
Index	2
Scope	3
Date of Operation	4
Supersession	5
Award Interest	6
Definitions	7
Part II – Employment Relationship and Related Matters	
Contract of Employment	1
Part III – Salaries and Related Matters	
Salaries	1
Salary Increments	2
Accelerated Advancement	3
New Appointments and Promotions	4
Classifications	5
Calculation of Fortnightly Wages	6
Payment of Wages	7
Part IV - Allowances	
In Charge of Shift	1
Risdon Prison	2
X-Ray	3
Extra Duties	4
District allowance	5
Higher Duties	6
Licence	7
Uniforms	8
Meals	9
Kilometerage	10
Travelling	11
Training Courses and conferences	12

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Leave Expenses - Bass Strait Islands	13
Excess Fares	14

Part V – Hours of Duty

Day Work	1
Shift Work	2
Overtime	3
Breaks	4
Call Arrangements	5

Part VI – Leave and Holidays With Pay

Annual Leave	1
Public Holidays	2
Personal Leave	3
Sick Leave	4
Bereavement Leave	5
Carer's Leave	6
Parental Leave	7

Part VII – Provision of Employee Accommodation and Meals

Board and Lodging	1
Meal Charges	2

Part VIII – Consultation and Dispute Settling Procedures

Procedure to Avoid Industrial Disputation	1
Enterprise Flexibility	2

Part IX – Miscellaneous

Notice-Board	1
Workplace Representative Training	2

Schedule A – Burnie Hospital Operating Theatre - Rosters

3. SCOPE

This award is established in respect of employees employed under the terms of the *State Service Act 2000* and who occupy positions whose duties are encompassed by the classification definitions of this award.

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4. DATE OF OPERATION

This award shall come into operation from the first full pay period to commence on or after 1 August 2007.

5. SUPERSESION

This award supersedes the Nurses (Tasmanian Public Sector) Award 2005, No. 1 of 2007 (Consolidation).

6. AWARD INTEREST

(a) The following employee organisations are deemed to have an interest in this award pursuant to Section 63(10) of the *Industrial Relations Act 1984*:

The Australian Nursing Federation (Tasmania Branch);

The Health Services Union of Australia (Tasmania No. 1 Branch).

(b) The employer deemed to be an employer organisation having an interest in this award, under Section 62(4) of the *Industrial Relations Act 1984* is:

The Minister Administering the *State Service Act 2000*.

7. DEFINITIONS

Afternoon shift means a shift terminating after 6.00 p.m. and at or before midnight.

Casual employee means a person employed to work on an irregular basis whether full-time or part-time for a period not exceeding one month. A casual employee for working ordinary time shall be paid per hour 1/38th of the weekly rates prescribed for the work which he/she performs, plus 20%, such additional amount to be payment in lieu of annual leave, sick leave and public holidays.

Clinical unit means for the purposes of these definitions an area of nursing practice and, without limiting the foregoing, shall include a ward, area or place of nursing practise with a patient/client population.

Day worker means an employee whose weekly ordinary hours of work are performed within the days Monday to Friday inclusive.

District hospital means King Island District Hospital, New Norfolk District Hospital, North Eastern Soldiers Memorial Hospital, Ouse District Hospital, Smithton District Hospital, St Mary's Hospital, St Helens District Hospital, and West Coast District Hospital.

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Employee means a person employed under the provisions of the *State Service Act 2000*.

Employer means the Minister administering the *State Service Act 2000*.

Enrolled nurse shall mean an employee who has completed an approved course of training and is enrolled by the Nursing Board of Tasmania under the provisions of the *Nursing Act 1995*.

FFPP means first full pay period.

Holiday or **public holiday** means any day which is a bank holiday or bank part holiday under the *Statutory Holidays Act 2000* either throughout the State or in any particular locality thereof or any specified day or specified part day appointed by the Governor.

Isolated area means any area, centre, district or location embraced by the Commonwealth Taxation Zone B prescription together with such other areas, centres, districts or locations as may be approved by the Commission but in any case including the following - King Island, Flinders Island, Cape Barren Island, Maria Island and Bruny Island.

Management unit means, for the purposes of these definitions, a grouping of clinical units.

Mothercraft nurse means an employee who is enrolled as a Mothercraft nurse by the Nursing Board of Tasmania under the provisions of the *Nursing Act 1995*.

Night shift means a shift commencing at or after 4.00 p.m. and before 6.00 a.m.

Part-time employee shall mean an employee employed to regularly work for less hours per day or week than those prescribed for full-time employees.

Registered nurse shall mean an employee registered by the Nursing Board of Tasmania under the provisions of the *Nursing Act 1995*.

Shift worker means an employee whose ordinary weekly hours of work are performed in accordance with a roster which regularly includes Saturdays and Sundays. Provided always that to qualify as a shift worker for the purposes of annual leave an employee shall be rostered to perform work on not less than ten Saturdays and ten Sundays during any one leave year.

Show day means not more than one local show day observed on an employee's ordinary working day other than a Saturday or a Sunday in the city, town or district in which the employee is employed or such other day which in the absence of such a local show day is agreed on by the employee and the employer thereby making a total of eleven paid public holidays per year.

Standard time and **Summer time** shall bear the same meanings as are prescribed by the *Daylight Saving Act 1968*.

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Workplace means a hospital, nursing centre, community health centre, multi-purpose health centre or other place where the employer employs nurses covered by the award.

Year of service means a minimum of 365 days of employment including rostered days off, public holidays, paid annual leave and paid sick leave.

PART II - EMPLOYMENT RELATIONSHIP AND RELATED MATTERS

1. CONTRACT OF EMPLOYMENT

- (a) Except as hereinafter provided, employment shall be by the fortnight. Any employee not specifically engaged as a casual employee shall be deemed to be employed by the fortnight.
- (b) An employee (other than a casual employee) willing to work, who works for less than his/her normal working fortnight, shall be entitled to his/her normal fortnight's wages.
- (c) Employment shall be terminated by two weeks' notice given by either side or by the payment or forfeiture of two weeks' wages as the case may be. In the case of executive staff the period of notice shall be one month given by either side. This shall not affect the right of the employer to dismiss an employee for serious misconduct or serious neglect of duty, in which case wages shall be paid up to the time of dismissal only.

PART III – SALARIES AND RELATED MATTERS

1. SALARIES

An employee appointed or promoted to a position within a classification or level prescribed by this award shall be paid at the salary rate determined for the relevant classification or level as hereinafter set forth.

	\$
(a) Student Enrolled Nurse	
1st year of training	29746
2nd year of training	30169
(b) Student Nurse	
1st year of training	30274
2nd year of training	30696
3rd year of training	31119

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PROVIDED that a student nurse, who has successfully completed the examination prescribed by the Nursing Board for the Certificate of General Nursing, Geriatric Nursing, Psychiatric Nursing or Mental Deficiency Nursing, shall be paid from the beginning of the first full pay period to commence after the date of passing the said examination and until such time as registration is granted, a salary rate of \$30854 per annum.

(c) Enrolled Nurse	
Pay point Y1	32094
Pay point Y2	32585
Pay point Y3	33077
Pay point Y4	33571
Pay point Y5	33958

PROVIDED that the employee in receipt of a rate of pay attaching to a year of service provided by this award immediately prior to the first pay period to commence on or after 10 July 1992 shall from that date be paid at the salary attaching to the year of service to this award in accordance with the translation provided therein.

(d) Registered Nurse - Level 1	
1st year of service	34174
2nd year of service	35435
3rd year of service	36665
4th year of service	37895
5th year of service	39124
6th year of service	40354
7th year of service	41584
8th year of service and thereafter	42712

(e) Registered Nurse - Level 2	
1st year of service	43942
2nd year of service	44657
3rd year of service	45476
4th year of service and thereafter	46295

(f) Registered Nurse - Community Health, Family and Child Health	
1st year of service	40354
2nd year of service	42712
3rd year of service	43942
4th year of service	44657
5th year of service	45476
6th year of service	46295

PROVIDED the commencing salary of an employee with more than 6 or 7 years relevant experience shall be not less than the 1st or 2nd year of service respectively.

PROVIDED FURTHER that in addition to the above salary rates an allowance of \$1302.80 per annum may be paid if, in the opinion of the employer, the duties and responsibilities of such employee warrant such allowance.

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(g)	Registered Nurse - Level 3	
	1st year of service	47834
	2nd year of service	48757
	3rd year of service	49680
	4th year of service and thereafter	50603
(h)	Registered Nurse - Level 4 Assistant Director of Nursing	
	Grade 1	55520
	Grade 2	59108
	Grade 3	62696
(i)	Registered Nurse - Level 5 Director of Nursing	
	Grade 1	55519
	Grade 2	58598
	Grade 3	62696
	Grade 4	66796
	Grade 5	73969
	Grade 6	81146
(d)	Nurse undertaking postgraduate training	

For all Registered Nurses who elect to undertake a course of post-basic training, salary will be at the Level 1 rate according to the employee's year of experience.

PROVIDED that where employees are required by the employer to undertake a course of study, salary will be maintained at the employee's award rate.

PROVIDED FURTHER where an Enrolled Nurse elects to undertake a course of post-basic training, that employee will be paid at his/her existing salary rate whilst undergoing such training.

2. SALARY INCREMENTS

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

- (a) Full-time employees
 - (i) Except where otherwise specifically determined by this award, or subject to the provisions of the *State Service Act 2000*, an employee, while holding a position within a classification or level in respect of which a salary is prescribed by this award and who for not less than twelve months has been in receipt of a salary less than the maximum salary prescribed for such classification, shall be entitled to receive the annual increment prescribed for such classification until the maximum salary is reached.

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PROVIDED that an employee who was an employee on the date of this award shall be entitled to receive such increment on the anniversary of the date upon which she/he received her/his last salary increment in respect of her/his present position.

- (ii) An employee whilst continuing to hold the same office or position shall, unless the employer otherwise determines, be deemed for the purposes of this clause, to have been in receipt of a salary during any period of leave without pay in the twelve months immediately following the date upon which the employee's previous salary increment was awarded.
- (iii) Notwithstanding anything contained in this award, no employee shall be entitled to receive any increase in salary by virtue of this clause unless, in the opinion of the employer, his/her conduct, diligence and efficiency during the twelve months immediately prior to the date from which such increase would be payable shall have been satisfactory.

(b) Part-time employees

The appropriate weekly rate shall be in accordance with the salary prescribed, in accordance with the actual experience of the employee in the field in which the employee is employed. Otherwise the granting of increments shall be subject to the same restrictions as apply to full-time staff.

3. ACCELERATED ADVANCEMENT

(a) Registered nurses

- (i) Subject to 3(a)(ii), a Registered nurse level 1 shall be entitled to progress one increment on that person's first appointment following registration with the Nursing Board of Tasmania, or at any one time during the person's employment history as a Registered nurse level 1, on attainment of the following:
 - (1) a UG1 degree in nursing; or
 - (2) registration in another branch of nursing or on another nursing register maintained by the Nursing Board of Tasmania where the employee is working in a particular practice setting which requires the additional registration; or
 - (3) successful completion of a post-registration course of at least twelve months duration, by an employee required to perform the duties of a position to which the course is directly relevant.
- (ii) A Registered nurse level 1 who has been advanced once in accordance with 3(a)(i) shall not be entitled to further advancement under this clause.

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- (iii) Existing incremental dates shall not be affected by progression in accordance with the above clause.
- (b) Enrolled nurses
 - (i) Pay point progression
 - (1) Must be based on a change in work value, having regard to the acquisition and utilisation of skills and knowledge through experience in his or her practice setting/s over such period.
 - (2) Provided an employee's progression may be deferred or refused by the employer, provided that any such deferral or refusal is referable only to the terms specified for each Pay point in Clause 5 - Classification herein, and is not unreasonably nor arbitrarily imposed by the employer. It shall be considered unreasonable if the employer has refused to provide training and/or opportunities to work in various practice settings in the employer's establishment.
 - (3) Appeal and review

An employee may appeal a deferral or refusal imposed under 3(b)(i)(2) herein, provided that where such appeal results in a revocation of the employer's decision, Pay point progression shall be deemed to operate and be payable from the employee's anniversary date for such progression pursuant to 3(b)(i)(1) of this subclause.
 - (4) Paragraph 3(b)(i)(2) herein, shall not operate to prevent:
 - (A) a review, initiated by either the employer or employee, of a deferral or refusal imposed pursuant to 3(b)(i)(2); and/or
 - (B) the lifting of such a deferral or refusal at and operative from such date;

where circumstances have changed such that the employee appropriately falls within the terms specified for his/her next Pay point (as defined).
 - (5) An appeal or review, for the purposes of this subclause, shall be undertaken and resolved in accordance with Part VIII – Consultation and Dispute Settling Procedures, Clause 1.

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(ii) Accelerated advancement

(1) Subject to 3(b)(ii)(B) of this subclause, an employee (other than an enrolled nurse appointed in his/her first year of experience at Pay point Y2 pursuant to Clause 5(p)(i)(6) in this Part, shall be entitled to accelerated advancement by one Pay point:

(A) for possession of a post-enrolment qualification recognised by the employer; or

(B) on completion of a post-enrolment course of at least six months duration;

where such an employee is required to perform duties to which such training is directly relevant.

(2) An employee who has advanced in accordance with 3(b)(ii)(1) of this subclause shall not be entitled to further accelerated advancement pursuant to this subclause.

(3) Recognition of training experience and skill

All relevant training, experience and skills as an enrolled nurse, other than such experience pre-dating any break of five or more consecutive years, shall be counted for the purposes of:

determining the appropriate Pay point on appointment for employees appointed thereafter.

4. NEW APPOINTMENTS AND PROMOTIONS

Except where otherwise specifically determined in this award, the commencing salary of an employee either on first appointment or on promotion to a position within a classification or level in respect of which a salary scale is prescribed by this award shall be the minimum salary for that position on the appropriate scale, except in any case where, in the opinion of the employer the qualifications and the practical experience in nursing duties of such person or employee, justify a higher salary.

5. CLASSIFICATIONS

(a) **Registered nurse - level 1** shall mean a registered nurse who is not otherwise classified within a level of registered nurse positions.

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- (b) **Registered nurse - level 2** shall mean a registered nurse who:
- (i) has demonstrated competence in basic nursing practice and the ability to provide direct care in more complex nursing care situations; and
 - (ii) has the ability and skills to provide guidance to Registered nurses - level 1; and
 - (iii) is appointed as such; and
 - (iv) is employed within a clinical unit.
- (c) **Registered nurse - community health/family and child health** shall mean a Registered nurse employed in one of these settings and who is not otherwise classified.
- (d) **Registered nurse - level 3** shall mean a registered nurse who may be referred to as **Clinical nurse consultant, Nurse manager, or Staff development nurse**. A Registered nurse - level 3 shall be appointed to the Clinical, Management or Staff Development stream:
- (i) **Clinical nurse consultant**

A nurse who coordinates the delivery of care in a clinical unit and may provide direct care to selected patients/clients with complex care requirements and is accountable for standards of nursing care in a clinical unit.
 - (ii) **Nurse manager**

A nurse who is responsible and accountable for the management of resources within a management unit.
 - (iii) **Staff development nurse**

A nurse who is responsible for the conduct, evaluation and planning of education programs and/or staff development for a specified group of nurses or education programs for patients/clients and others.
 - (iv) **Registered nurse level 3** shall include the following specialist nurse classifications:

Cardiac rehabilitation coordinator;

Clinical nurse educator;

Discharge planning nurse/coordinator;

Infection control nurse/coordinator;

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Palliative care nurse;

Stomal therapy nurse;

Total parental nutrition nurse;

Wound care coordinator.

(e) Registered nurse - level 4 shall mean a registered nurse who may be Assistant director of nursing - clinical, Assistant director management, Assistant director of nursing - staff development.

(i) Assistant director of nursing - clinical

A nurse who is responsible for the formulation, coordination and direction of policies for clinical nursing practice and is accountable for the standards of nursing care in an assigned number of clinical units.

(ii) Assistant director of nursing - management

A nurse who is responsible and accountable for management resources in an assigned number of management units.

(iii) Assistant director of nursing - staff development

A nurse who is responsible for the coordination and development of education programs, namely pre-registration courses or post-basic courses approved by the Nursing Board of Tasmania, or staff development programs.

(f) **Registered nurse - level 4 - grade 1** means a Registered nurse - level 4 employed in or in connection with the delivery of nursing services in the, North-West Regional Hospital, Mental Health Services, Disability Services or WP Holman Clinics.

(g) **Registered nurse - level 4 - grade 2** means a Registered nurse - level 4 employed in or in connection with the delivery of nursing services at the Royal Hobart Hospital or Launceston General Hospital.

(h) **Registered nurse - level 4 - grade 3** means a Registered nurse - level 4 appointed or promoted to a grade 3.

(i) **Registered nurse - level 5** shall mean a Registered nurse appointed as the Chief Nursing Officer or as a Director of Nursing responsible and accountable for the overall coordination of the Nursing Division.

(j) **Registered nurse - level 5 - grade 1** means a Registered nurse - level 5 employed in or in connection with the delivery of nursing services at King Island District Hospital, Risdon Prison Hospital and Ouse District Hospital.

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- (k) **Registered nurse - level 5 - grade 2** means a Registered nurse - level 5 employed in or in connection with the delivery of nursing services at, North Eastern Soldiers Memorial Hospital, West Coast District Hospital, Smithton District Hospital and St Helens District Hospital.
- (l) **Registered nurse - level 5 - grade 3** means a Registered nurse - level 5 appointed or promoted as such.
- (m) **Registered nurse - level 5 - grade 4** means a Registered nurse - level 5 employed in or in connection with the delivery of nursing services at North-West Regional Hospital.
- (n) **Registered nurse - level 5 - grade 5** means a Registered nurse - level 5 employed in or in connection with the delivery of nursing services at, Royal Hobart Hospital or Launceston General Hospital or the Chief nursing officer.
- (o) **Registered nurse - level 5 - grade 6** means a Registered nurse - level 5 appointed or promoted as such.
- (p) Enrolled nurse
 - (i) **Enrolled nurse** means an employee:
 - (1) whose training or education is deemed satisfactory for the purposes of enrolment on a register or roll as a nurse other than as a registered nurse (as defined); and
 - (2) who is subject to the regulations and/or by-laws of the Nursing Board of Tasmania and who holds a current practising certificate as such.
 - (3) **In service training** means the formal and/or informal work related learning activities undertaken by an employee through opportunities provided by the employing agency, which contribute to an employee's professional development and efficiency by:
 - (A) the acquisition and updating of skills and knowledge beneficial to effective performance within a team; and/or
 - (B) reducing the degree of direct supervision required by the employee; and/or
 - (C) enhancing the breadth and/or depth of knowledge and skills required by an employee in a specific area and/or range of areas of nursing practice, as the case may be.

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- (4) **Supervision** means the oversight, direction, instruction, guidance and/or support provided to an employee by the registered nurse responsible for ensuring such an employee is not placed in situations where required to function beyond his or her preparation and competence. Specifically:
- (A) **direct supervision** means the employee works side by side continuously with a registered nurse responsible for observing and directing his or her activities in circumstances where, in the judgement of the registered nurse, such an arrangement is warranted in the interests of safe and/or effective practice;
 - (B) **indirect supervision** means such other supervision provided to an employee assuming responsibility for functions delegated by a registered nurse in circumstances where, in the judgement of the registered nurse accountable for such delegation, direct supervision of the employee is not required.
- (5) **Pay point YI** means the Pay point to which an employee shall be appointed as an enrolled nurse, where the employee possesses and may be required to utilise a level of nursing skill and knowledge based on:
- (A) Training and experience
 - (aa) the satisfactory completion of a hospital based course of training in nursing of not more than twelve months duration leading to enrolment as an enrolled nurse (as defined);
 - (bb) the satisfactory completion of a course of training of twelve months duration in a specified branch of nursing leading to enrolment on a register or roll maintained by a State/Territory nurses registration board; or
 - (cc) the satisfactory completion of a course of training of twelve months duration in a branch of nursing leading to the possession of a qualification required by the employer in the employee's employment;
 - (dd) and practical experience of up to but not more than twelve months in the provision of nursing care and/or services, and, the undertaking of in-service training, subject to its provision by the employing agency, from time to time.
 - (B) Skill indicators

The employee has:

 - (aa) limited or no practical experience of current situations; and

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- (bb) limited discretionary judgement, not yet developed by practical experience.
- (6) **Pay point Y2** means the Pay point to which an employee shall be appointed or shall progress from Pay point Y1, having been assessed as being competent at Pay point Y1, where the employee possesses and may be required to utilise a level of nursing skill and knowledge based on:
- (A) Training and experience
 - (aa) The satisfactory completion of a hospital based course of general training in nursing of more than twelve months duration and/or 500 or more hours theory content or a course accredited at advanced certificate level leading to enrolment as an enrolled nurse; or
 - (bb) in addition to the experience, skill and knowledge requirements specified for Pay point Y1 (as defined), not more than one further year of practical experience in the provision of nursing care and/or services; and
 - (cc) the undertaking of in-service training, subject to its provision by the employing agency, from time to time.
 - (B) Skill indicators

An employee is required to demonstrate some of the following in the performance of his or her work:

 - (aa) a developing ability to recognise changes required in nursing activity and in consultation with the registered nurse, implement and record such changes, as necessary; and/or
 - (bb) is able to relate theoretical concepts to practice; and/or
 - (cc) requires assistance in complex situations and in determining priorities.
- (7) **Pay point Y3** means the Pay point to which an employee shall be appointed or progress from Pay point Y2, having been assessed as being competent at Pay point Y2, where the employee possesses and may be required to utilise a level of nursing skill and knowledge based on:

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(A) Training and experience

In addition to the experience, skill and knowledge requirements specified for Pay point Y2 (as defined), not more than one further year of practical experience in the provision of nursing care and/or services; and the undertaking of in service training, subject to its provision by the employing agency, from time to time.

(B) Skill indicators

An employee is required to demonstrate some of the following in the performance of his or her work:

(aa) an ability to organise, practise and complete nursing functions in stable situations with limited direct supervision; and/or

(bb) the use of observation and assessment skills to recognise and report deviations from stable conditions; and/or

(cc) demonstrated flexibility in the capacity to undertake work across a broad range of nursing activity and/or competency in a specialised area of practice; and/or

(dd) uses communication and interpersonal skills to assist in meeting psychosocial needs of individuals/groups.

- (8) **Pay point Y4** means the Pay point to which an enrolled nurse (as defined) shall be appointed or progress from Pay point Y3, having been assessed as being competent at Pay point Y3, where such an employee possesses and may be required to utilise a level of nursing skill and knowledge based on:

(A) Training and experience

In addition to the experience, skill and knowledge requirements specified for Pay point Y3 (as defined), not more than one further year of practical experience in the provision of nursing care and/or services; and the undertaking of in-service training, subject to its provision by the employing agency, from time to time.

(B) Skill indicators

An employee is required to demonstrate some of the following in the performance of his or her work:

(aa) demonstrable speed and flexibility in accurate decision making; and/or

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- (bb) organises own workload and sets own priorities with minimal direct supervision; and/or
 - (cc) uses observation and assessment skills to recognise and report deviations from stable conditions across a broad range of patient and/or service needs; and/or
 - (dd) uses communication and interpersonal skills to meet psychosocial needs of individual/groups.
- (9) **Pay point Y5** means the Pay point to which an enrolled nurse (as defined) shall be appointed or shall progress from Pay point Y4, having been assessed as being competent at Pay point Y4, where such an employee possesses and may be required to utilise a level of nursing skill and knowledge acquired on the basis of:

(A) Training and experience

In addition to the experience, skill and knowledge requirements specified for Pay point Y4 (as defined), not more than one further year of practical experience in the provision of nursing care and/or services; and the undertaking of relevant in-service training, subject to its provision by the employing agency, from time to time.

(B) Skill indicators

An employee is required to demonstrate all of the following in the performance of his or her work:

- (aa) contributes information in assisting the registered nurse/s with development of nursing strategies/improvements within the employee's own practice setting and/or nursing team, as necessary; and
- (bb) responds to situations in less stable and/or changed circumstances resulting in positive outcomes, with minimal direct supervision; and
- (cc) demonstrates efficiency and sound judgement in identifying situations requiring assistance from a registered nurse.

6. CALCULATION OF FORTNIGHTLY WAGES

The fortnightly equivalents of the annual salary prescribed by this award shall be calculated by dividing the total salary payable by 26 in accordance with Regulation 7(2)(a) of the *Financial Management and Audit Regulations 1990*.

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(a) Casual employees

A casual employee for working ordinary time shall be paid per hour 1/38th of the weekly rates prescribed for the work which he/she performs, plus 20% loading, such additional amount to be payment in lieu of annual leave, sick leave and public holidays.

(b) Part-time employees

For each hour worked a part-time employee shall be paid 1/38th of the weekly rate set out for the classification covering persons performing similar work on a full-time basis under the terms of this award. An additional 20% loading shall be paid to those engaged to work less than twenty hours per week in lieu of sick leave, annual leave and public holidays.

7. PAYMENT OF WAGES

(a) Time and interval of payment

- (i) Wages, including overtime, shall be paid during working hours, at intervals of not more than two weeks and not later than the end of rostered day shift on Wednesday.
- (ii) When a public holiday falls on a normal pay day wages shall be paid on the last working day prior to the public holiday.
- (iii) Payment of wages shall be by direct deposit to a bank or credit institution nominated by the employee or by another method agreed to between the employer and the employee where direct deposit facilities are not available.
- (iv) The present pay day and time of payment, or method of payment shall not be varied, except after consultation with the employee(s) concerned and an agreed phasing-in period.

(b) Late payment of wages

- (i) Except in circumstances beyond the employer's control and subject to 7(b)(ii) an employee kept waiting for his/her wages on a normal pay day for more than a quarter of an hour after the end of rostered day shift on that day shall be paid at overtime rates after that quarter of an hour with a minimum payment of a quarter of an hour.
- (ii) Subject to 7(b)(iii), the provisions of 7(b)(i) shall have no effect in circumstances whereby payment cannot be effected on pay day and the employer and employee agree to an alternative arrangement for payment.

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- (iii) Should however, the employer fail to effect payment in accordance with the terms of the alternatively agreed arrangement, as provided in 7(b)(ii) the employee shall be deemed to have been kept waiting for his/her wages since pay day and shall therefore be entitled to payment in accordance with 7(b)(i) until such time as payment is effected.
- (c) Payment on termination
- (i) Where employment is terminated, all wages due shall, where, practicable, be paid to the employee on the day of termination.
 - (ii) If payment on the day of termination is not practicable, the controlling authority shall, on the next working day of the pay office, forward all wages due to the employee to the employee's recorded home address, or any other arrangement for payment as may be agreed between the controlling authority and the employee.

PART IV – ALLOWANCES

In addition to the salary rates prescribed in Part III – Salaries and Related Matters, Clause 1, the following allowances shall be paid.

1. IN CHARGE OF SHIFT

- (a) Registered nurse level 1

A Registered nurse level 1 who is directed or required to take charge of a clinical or management unit for more than half a shift, shall be paid \$11.40 for each shift worked.

- (b) Registered nurse level 2

A Registered nurse level 2 who is required to manage another level 2 nurse in clinical or management unit for more than half a shift, an allowance of \$6.85 shall be paid for each shift worked.

2. RISDON PRISON

On the determination of the employer an allowance of \$1710.00 per annum may be paid to Registered nurses at Risdon Prison Hospital whilst performing duties which warrant special consideration and for which no payment is already made.

3. X-RAY

A Registered nurse who is the holder of a permit issued by a Radiographers Registration Board and is required to take X-rays shall be paid \$4.32 per X-ray.

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4. EXTRA DUTIES

Where the employer requires an employee to temporarily perform duties which are additional to, or are of a more responsible nature than the ordinary duties of the employee's position, the employer may authorise payment of additional remuneration at a rate and for such period of time as extra duties are performed.

5. DISTRICT ALLOWANCE

- (a) The purpose of this general allowance is to compensate for excess costs necessarily incurred by an employee living in an **isolated area** and without limiting the foregoing includes partial reimbursement for long distance phone calls, freight, fuel and depreciation costs.
- (b) Where a person is stationed permanently in one or other of the following districts he/she may, on the determination of the employer, be paid an allowance in accordance with the following rates, viz.:
 - (i) Category R - remote locations approved as such by the Commission but in any case including Bass Strait Islands, Maria Island and Bruny Island:
 - (1) person with dependent relatives residing with him/her - \$2385.25 per annum;
 - (2) other (no dependents) - \$1349.47 per annum.
 - (ii) Category B - locations under the Commonwealth Taxation Zone B prescription:
 - (1) person with dependent relatives residing with him/her - \$1349.47 per annum;
 - (2) other (no dependents) - \$676.38 per annum.
 - (iii) Category S - special locations as may be approved by the Commission:
 - (1) person with dependent relatives residing with him/her - \$679.65 per annum;
 - (2) other (no dependents) - \$341.53 per annum.

PROVIDED that an employee with dependents residing with him/her shall be regarded as an employee without dependents if his/her spouse, of entitlement arising from employment, is in receipt of a district allowance.

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(c) District allowance - part-time employees

The district allowance payable to full-time employees under the provisions of this award shall be paid to part-time employees on the following basis:

less than ten hours per week - 1/4 of the rates prescribed for similar full-time employees;
ten hours but less than twenty hours per week - 1/2 of the rates prescribed for similar full-time employees;
twenty hours but less than 30 hours per week - 3/4 of the rates prescribed for similar full-time employees;
30 hours or more per week - the full amount of the rates prescribed for similar full-time employees.

6. HIGHER DUTIES

Except where otherwise prescribed by this award, an employee, who, for a period of five or more days, continuously performs the duties of a position higher than that in which he/she is normally employed and satisfactorily performs the duties and assumes the full responsibilities of such higher position he/she shall be paid for the full period he/she is performing such duties, the minimum salary prescribed for such higher position.

7. LICENCE

An employee directed by the employer to drive vehicles requiring a licence issued by the Transport Commission shall, upon presentation of his/her current licence to the employer, be reimbursed the cost of the driver's licence fee. This provision shall not apply to employees who drive on an occasional basis only.

8. UNIFORMS

Where an employer requires an employee to wear a uniform the employer must reimburse the employee for the cost of purchasing such uniform by way of payment of the uniform allowances below:

- (a) the sum of \$6.62 per week except for periods of absence in excess of three working days, but inclusive of public holiday not worked; or
- (b) the sum of \$5.48 per week, as an allowance not subject to premium or penalty addition, for each week or part thereof of paid employment, including periods of approved leave with pay.
- (c) The provisions of this clause do not apply where the uniform is provided by the employer free of cost.

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- (i) No allowance shall be payable during approved periods of leave without pay exceeding three working days.
- (ii) An employee, on leaving the service of the employer, shall return any uniform or part thereof provided by the employer which is still in use immediately prior to the employee leaving.

9. MEALS

- (a) Where an employee is required to commence duty at his/her headquarters not less than one and a half hours before, or to remain on duty for not less than one and a half hours after, the normal hours of duty, and that requirement necessitates his/her obtaining a meal away from home, that employee shall, subject to this subclause, be paid a meal allowance at the following rates:

Meal	Rate of allowance
	\$
Breakfast	7.55
Lunch (or midday meal)	8.33
Dinner (or evening meal)	14.69

PROVIDED that where an employee who is required to work overtime on a Saturday, Sunday or public holiday, has been given prior notice thereof the previous day or earlier, he/she shall not be entitled to the payment of meal allowances but where such prior notice has not been given he/she shall attract such payment.

- (b) Where the duties of an employee require him/her to travel from his/her headquarters and he/she is more than sixteen kilometres therefrom at his/her normal meal hour, that employee shall subject to this subclause, be paid:
 - (i) in the case of a meal purchased by the employee at any hotel, boarding house, or public eating place, a meal allowance at the following rates:

Meal	Rate of allowance
	\$
Breakfast	7.55
Lunch (or midday meal)	8.33
Dinner (or evening meal)	14.69

- (ii) In case of a meal provided by the employer a meal allowance of \$2.40 for each meal so provided.
- (iii) A meal allowance in excess of or at variance with the rates set forth in this subclause may be paid if, on the determination of the employer concerned, special circumstances existed which justified the excess or variation.

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(iv) Unless agreed between the employer and employee a day worker who is unrelieved for the period of a meal break and until such relief is available shall be paid at the appropriate overtime rate.

(c) Meals on duty

Subject to the determination of the employer, a replacement meal shall be provided or a cash payment made in accordance with Part VII – Provision of Employee Accommodation and Meals, Clause 2 - Meal Charges to an employee whose meal (normally taken on hospital premises) is spoiled or missed due to the intervention of a situation beyond his/her control.

10. KILOMETREAGE

(a) Required user category

(i) Where an employee is required in writing by the employer to have available on a regular basis a private motor vehicle which the employee will be required to use for official purposes, and the employee agrees in writing so to do an allowance shall be paid for such use in accordance with the following rates:

Annual kilometreage travelled on duty in a financial year	Cents per kilometre	
	Rate 1 2 litres and above	Rate 2 less than 2 litres
First 10,000 kilometres	63.91 (100%)	54.96 (86%)
Any additional kilometres	33.87 (53%)	29.40 (46%)

(ii) Provided that where the employer wishes to withdraw the requirement to provide a private motor vehicle then, except where special circumstances exist, at least one year's notice in writing shall be given, and the notice period shall be specified to end on 30 June.

(b) Occasional user category

Where an employee is not required to provide a private motor vehicle for official use as prescribed in 10(a) but otherwise receives approval from the employer to use a private motor vehicle for official purposes on an occasional basis, an allowance shall be paid in accordance with the following rates:

Annual kilometreage travelled on duty in a financial year	Cents per kilometre	
	Rate 3 2 litres and above	Rate 4 less than 2 litres
First 10,000 kilometres	42.61 (100%)	36.64 (86%)
Any additional kilometres	22.58 (53%)	19.60 (46%)

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- (c) The rates specified in 10(a) and 10(b) shall not be varied as a consequence of National Wage Case decisions. The rates shall be varied upon application subsequent to 30 March and 30 September of each year after the Hobart Transportation, Private Motoring subgroup, Consumer Price Index numbers for the quarters ending 30 March and 30 September respectively, become available. The Rate 1 and Rate 3 variations for the first 1000 kilometres travelled shall be calculated in accordance with the formula specified in decision T33 of 1985 of the Tasmanian Industrial Commission dated 13 June 1985.

Variations to the other rates specified in the tables in 10(a) and 10(b) shall be calculated by applying the percentage shown in brackets to the relevant first 1000 kilometres rate (as varied) shown as 100%.

- (d) An employee shall not receive an allowance for kilometres travelled in excess of 16000 kilometres in any one financial year unless authorised by the employer concerned on the recommendation of the Head of Agency, to travel a greater distance in that year.
- (e) In addition the following allowances shall be paid to employees:
- (i) where stationed in Category R as provided in Part IV, Clause 5(b)(i) district allowance - \$30.49 per month plus \$12.21 per 1600 km travelled on duty;
 - (ii) where stationed in Category B as provided in Part IV Clause 5(b)(ii) district allowance - \$20.18 per month plus \$12.21 per 1600 km travelled on duty;
 - (iii) where authorised to use a utility, four-wheel drive motor vehicle or any other special type of motor vehicle approved by the employer - \$12.21 per month;
 - (iv) where authorised to use a trailer attached to the motor vehicle 3.65 cents for each kilometre travelled on duty with the trailer attached;
 - (v) where authorised to use a motor vehicle on work involving the regular carrying of heavy equipment - \$12.21 per month;
 - (vi) where authorised to use a motor cycle 11.90 cents for each kilometre travelled on duty.
- (f) Where an employee is required to provide a private motor vehicle in accordance with 10(a) and the distance travelled on duty in any financial year does not exceed 4000 kilometres, the employee shall be paid an allowance calculated by multiplying the appropriate rate per kilometre by the difference between the actual number of kilometres travelled on duty during that year and 4000 kilometres.
- (g) Where a part-time employee is eligible for any payment under 10(g), such allowance shall be calculated on the proportion of the total hours worked in that year by the part-time employee to the annual standard hours for a full-time employee of the same classification.

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- (h) Unless otherwise directed by the employer, kilometreage on duty shall be the distance travelled from an employee's place of employment to his or her destination and return to his or her place of employment.
 - (i) Required and occasional users should be advised in writing of their normal place of employment. If a nurse is not so advised the nearest designated place of employment is to be assumed.
 - (ii) Where the employer and employee agree that it is mutually beneficial for the employee to travel directly to a destination from home or from a destination to home, that destination shall be deemed to be the place of employment in terms of this sub clause.
 - (iii) If the distance travelled in 10(h) is in excess of the distance that would be travelled to or from the employee's normal place of employment, then the allowance shall be payable on the excess distance travelled. The employees times of starting and finishing work shall take into account the extra distance travelled.
- (i) A kilometreage allowance in excess of, or at variance with, those set forth in 10(a) and 10(b) may be paid if, on the determination of the employer concerned, special circumstances exist which justify such excess or variation.
- (j) Kilometreage allowances prescribed for full-time employees under this award shall be paid in full to part-time employees.

11. TRAVELLING

- (a) An employee travelling on duty who is required to remain away from his/her normal place of residence overnight, shall be paid an allowance in accordance with the following components:

Component	Within Tasmania \$	Outside Tasmania \$	Sydney \$
Overnight absence from normal place of residence.	86.90	121.50	141.90
Breakfast (preceding or following an overnight absence) applicable hours 7.00 a.m. - 8.00 a.m.	14.20	14.20	14.20
Lunch (preceding or following an overnight absence) applicable hours 12.30 p.m. - 2.00 p.m.	12.65	12.65	12.65
Dinner (preceding or following an overnight absence) applicable hours 6.00 p.m. - 7.30 p.m.	26.95	26.95	26.95

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PROVIDED that if the employee so wishes, he or she shall be allowed advance payment of the estimated allowance payable for the period of travel in question.

- (b) In addition to the allowance available in accordance with 11(a) of this clause and provided the employer is satisfied that the employee did incur the expense claimed, an employee shall be entitled to reimbursement of reasonable expenses incurred, as a result of his/her absence from the normal place of residence, for the following purposes:
 - (i) a telephone call to the employee's spouse or children each 24 hours;
 - (ii) dry cleaning or laundry required as the result of an extended absence.
- (c) Notwithstanding 11(a) hereof, where the employer is satisfied that no reasonable alternative accommodation is available, the employee may be reimbursed for actual expenses incurred.
- (d) Where an employee travels with a Judge or Minister, or in a representative capacity for the State, or on special duties as determined by the employer and thereby incurs additional expense, the employee may be paid such travelling allowance as may be determined by the employer.
- (e) Where public transport is not conveniently available and an employee in the performance of his/her duties, finds it necessary to hire other forms of transport, he/she shall, subject to the approval of the employer, be reimbursed the actual costs incurred in the hiring of such transport.
- (f) Where an employee, in the performance of his/her duties is required to be stationed temporarily at any place other than his/her usual headquarters for a period exceeding three weeks and is absent from his/her normal place of residence, and has to procure board and lodging whilst so stationed, he/she shall be paid travelling allowance at the following rates:
 - (i) for the first three weeks in accordance with the rates set forth in 11(a) hereof; and
 - (ii) thereafter, at such rate as the employer may determine.
- (g) Where the employer certifies that the duties of an employee involve systematic travelling, the employer shall determine the rate to be paid to such employee within the limits of the rates set forth in 11(a) hereof.
- (h) Where an employee in the performance of his/her duties is required to travel:
 - (i) within Australia Papua New Guinea and New Zealand - by ship, aircraft, railway train, or other means of conveyance where he/she is provided with meals and sleeping quarters, that employee while so travelling shall be paid a travelling allowance at the rate of:

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- (1) within this State - \$13.50 per day;
 - (2) outside this State - \$18.95 per day.
- (ii) outside Australia, Papua New Guinea and New Zealand - that employee, while so travelling, shall be paid a travelling allowance at such rate as the employer may approve.
- (i) Travelling allowances prescribed for full-time employees under this award shall be paid in full to part-time employees.

12. TRAINING COURSES AND CONFERENCES

An employee who is required or is authorised to attend either a training course, conference or other similar function where full accommodation is provided at no cost to such employee, shall be paid an allowance for incidental expenses for each day of such attendance at the rate of:

- (a) Within Tasmania - \$13.40 per day;
- (b) Outside of Tasmania - \$21.95 per day.

13. LEAVE EXPENSES - BASS STRAIT ISLANDS

- (a) Where an employee is permanently stationed on the Bass Strait Islands and enters upon leave of absence he/she may, three times in every year, on the determination of the employer, be paid the return fares reasonably incurred by him/her and for any dependent member of his/her family, permanently resident on the Bass Strait Islands, travelling from his/her station to the nearest seaport or airport on the mainland of this State. Such travel shall include travel via Melbourne when such indirect travel is the most expedient means of travelling to or returning from the nearest seaport or airport on the mainland of this State.
- (b) **PROVIDED** that:
- (i) with the approval of the controlling authority an employee may, in substitution for travel to the nearest seaport or airport in this State, travel to any other seaport or airport in this State or to Melbourne;
 - (ii) for the purposes of obtaining emergency medical or dental treatment for an employee or dependent member of his/her family, permanently resident on the Bass Strait Islands, an employee may by way of reimbursement and, with the approval of the controlling authority be paid the return fare reasonably incurred for travel from her/his station to the nearest centre in this State or to Melbourne, where at such treatment can be obtained. Such reimbursement shall be in substitution for one or all of the return fares for the person concerned, more particularly set forth in this subclause;

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- (iii) the above entitlement is not cumulative, each year standing alone;
- (iv) no employee shall be eligible to receive payment for the return fares as set forth above unless such employee has first completed three months' continuous service on one or other of the Bass Strait Islands.

14. EXCESS FARES

- (a) Employees required to attend for work at a place other than their regular place of employment shall be paid such additional fares as they may incur.
- (b) An employee required to cease work after 7.00 p.m. or 30 minutes after sunset, whichever is the later and who would be required to wait in excess of 30 minutes for public transport or who is unable to park his/her private transport within reasonable proximity of the hospital premises shall be provided with transport from work to home or vehicle (whichever is the closer).
- (c) An employee required to commence after 7.00 p.m. or 30 minutes after sunset whichever is the later and at or before 6.30 a.m., provided public transport is not available, shall, if necessary, be provided with suitable transport to work.
- (d) In either case the employee shall pay to the employer the amount of the fare that would normally have been payable had regular transport services been available.

PART V HOURS OF DUTY

1. DAY WORK

- (a) Hours of work
 - (i) The ordinary hours of work for day workers shall be an average of 38 hours per week to be worked on one of the following bases:
 - (1) 76 hours within a period of fourteen consecutive days; or
 - (2) 152 hours within a period not exceeding 28 consecutive days.
 - (ii) The ordinary hours of work prescribed herein shall be worked on any day or all of the days of the week, Monday to Friday.
 - (iii) The ordinary hours of work prescribed herein shall be worked in continuous periods of not more than nine hours per day, except for a meal break of not more than one hour's duration to be taken between 7.00 a.m. and 5.30 p.m. on such days.

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- (iv) Work performed by day workers prior to 7.00 a.m. and after 5.30 p.m. shall be paid for at overtime rates but shall be deemed, for the purposes of this subclause, to be part of the employee's ordinary hours of work where ordinary hours of work within the period 7.00 a.m. to 5.30 p.m. in any fortnightly period have been less than 76, or less than 152 hours within a period of 28 consecutive days.

(b) Spread of hours

The spread of ordinary hours prescribed for day work nurses may be extended to 7.00 p.m. as to all, or a section of, employees by mutual agreement of the employer, and the majority of employees affected, but not so as to require any person to work more than nine hours in any one day or more than 152 hours in two consecutive fortnightly periods.

2. SHIFT WORK

(a) Ordinary hours

- (i) The ordinary hours of shift workers shall not exceed:

- (1) eight in any one day; nor
- (2) 48 in any one week; nor
- (3) 88 in any fourteen consecutive days; nor
- (4) 152 in the 28 days accounting period.

- (ii) Shift workers shall work such time as the controlling authority may require, subject to the following conditions:

- (1) a shift for nurses shall consist of not more than eight hours, exclusive of meal breaks;
- (2) except at the regular change-over of shifts an employee shall not be required to work more than one shift in each 24 hours;
- (3) by arrangement with the employees an unpaid meal break shall be allowed on each day or shift, of a duration of not less than 30 minutes but not more than 60 minutes;
- (4) provided further that in acute areas of general hospitals, by mutual agreement between the controlling authority and the representatives of employees concerned, the hours of work for night shift employees may be extended up to ten per day (exclusive of an unpaid meal break of not less than 30 minutes but not more than 60 minutes) to be paid for at the appropriate shift rate.

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(b) Rosters

(i) There shall be a roster for shifts which shall:

- (1) provide for a rotation unless all the employees concerned desire otherwise;
- (2) provide for not more than eight shifts to be worked in any nine consecutive days;
- (3) not be changed until after four weeks notice, provided that an employee's place on such roster shall not be changed, except on one week's notice of such change or payment of the penalty rates more particularly set forth in 3(c)(ii) hereof. So far as employees present themselves for work in accordance therewith, shifts shall be worked according to the roster;
- (4) provide for a minimum of two consecutive days off duty except where, by mutual agreement between the employer and the employee(s) concerned alternative arrangements are made;
- (5) clearly stipulate a 28 day accounting period which shall include a leisure day off in addition to eight rostered days off.

(c) Howard Hill rosters

(i) For the purpose of shift rosters at the Howard Hill Centre 2(b)(i)(1), 2(b)(i)(2), 2(b)(i)(3) and 2(b)(i)(4) above shall apply in respect of those nurses.

(ii) Further:

- (1) there will be a roster for 76 ordinary hours per fortnight. Each fortnight shall stand alone;
- (2) employees shall not be required to work more than three shifts on consecutive days and no more than seven shifts within the fourteen day accounting period;
- (3) the ordinary hours of work for nurses at Howard Hill Centre shall be 10 hours 51 minutes per day (exclusive of meal breaks) for 6 shifts each fortnight and 10 hours 54 minutes per day or 1 shift (exclusive of meal breaks) each fortnight within a spread of 12 hours 10 minutes.

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(d) Meal Breaks

Employees unpaid meal break shall be taken between the beginning of the fourth hour and the end of the sixth hour provided that on a day shift a worker shall have his/her meal break not later than between the hours of 12.00 midday and 2.00 p.m.

Provided agreement may be reached between the employer and the employee to allow for special circumstances.

(e) Shift penalties

Subject to existing custom and practice:

- (i) shift workers, other than Registered nurses level 4 and level 5, whilst working afternoon shifts shall be paid 12.5% more than the ordinary rate for such shifts;
- (ii) shift workers, other than Registered nurses level 4 and level 5, whilst working night shift shall be paid 15% more than the ordinary rate for such shifts;
- (iii) an employee:
 - (1) during a period of engagement on shifts, works night shift only; or
 - (2) remains on night shift for a longer period than four consecutive weeks; or
 - (3) works on a night shift which does not rotate or alternate with another shift or with day work so as to give such employee at least one third of their working time off night shift in each shift cycle;

shall during such engagement period or cycle be paid (other than registered nurses levels 4 and 5) 15% more than the ordinary rate for all time worked during ordinary working hours on such night shift.

- (iv) Provided always that notwithstanding the provisions of 2(e)(i) and 2(e)(ii) hereof, where a shift worker, by mutual arrangement with the employer works permanently on either an afternoon shift or a night shift, and where but for such arrangement a rotating or alternating roster would need to be worked such employee shall be paid 12.5% more than the ordinary salary rate for each permanent afternoon shift and 15% more than the ordinary rate for each permanent night shift so worked.

(f) Shift penalties and Howard Hill centres

Nurses employed at Howard Hill Centre who are working **long shifts** of 10 hours 51 or 54 minutes per day shall be paid 10% more than the ordinary rate for each shift so worked.

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(g) Saturday shifts

For work on a rostered shift, the major portion of which falls on a Saturday, a shift worker, other than Registered nurses level 4 and level 5, shall be paid at the rate of time and one half of the employee's normal salary rate, but such rates shall be in substitution for and not cumulative upon the shift allowances more particularly set forth in 2(e) hereof. The provisions of this subclause shall not prejudice any right of an employee to obtain alternatively any higher rate in respect of that work by virtue of any provision of this clause.

(h) Sunday and holiday shifts

(i) Shift workers (other than Registered nurses levels 4 and 5) for work on a rostered shift, the major portion of which falls on a Sunday or public holiday, shall be paid at a rate of time and three quarters in the case of Sundays and double time in the case of a public holiday. Such rate shall be in substitution for, and not cumulative upon the shift allowances more particularly set forth in 2(e) hereof.

(ii) **PROVIDED** that:

- (1) where shifts commence between 11.00 p.m. and midnight on a Sunday or a holiday the time so worked before midnight shall not entitle an employee employed on such a shift to the Sunday or holiday rate, provided that the time worked by an employee on a shift commencing before midnight on a day preceding a Sunday or holiday and extending into such Sunday or holiday the time worked before midnight shall be regarded as time worked on such Sunday or holiday;
- (2) where shifts fall partly on a holiday that shift, the major portion of which falls on a holiday, shall be regarded as the holiday shift;
- (3) where a shift worker is required to work on a public holiday as herein defined and is granted time off in lieu thereof, the above penalty rate shall not apply.

(i) Holiday penalties - part-time employees

A part-time employee who receives a 20% loading in lieu of sick leave, annual leave and public holidays shall be paid at the rate of 1.7 times the relevant award rate for work on a public holiday.

(j) Broken shifts

(i) Subject to the proviso hereto broken shifts shall not be worked.

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- (ii) **PROVIDED** that in an emergency situation a broken shift may be worked by mutual agreement between the employer and the employee. All work performed in excess of a spread of nine hours shall be paid at the rate of double time.
- (k) Night duty
- (i) Except in the case of an employee relieving on night duty for a period of less than one week, for which no penalty is payable, any employee required to work night duty in excess of thirteen weeks in any six monthly period shall be paid at the rate of double time for the night duty so performed.
 - (ii) After a period of continuous night duty an employee, except as prescribed in 2(k)(i) hereof, shall not be engaged on night duty until a period of thirteen consecutive weeks has elapsed.
 - (iii) The provisions of this subclause, may be varied by mutual consent of the employer and the employee concerned to suit the circumstances of the work in which case the penalty rate prescribed by 2(k)(i) hereof shall not be payable for time on night duty in excess of thirteen weeks.
 - (iv) For the purposes of staff working **long shifts** of 10 hours 51 or 54 minutes at Howard Hill Centre the minimum period between consecutive periods of night duty shall be eight weeks unless otherwise agreed.
- (l) Daylight saving
- (i) Notwithstanding anything contained elsewhere in this clause where, by reason of the *Daylight Savings Act 1968*, summer time is prescribed as being in advance of standard time the length of any shift:
 - (1) commencing before the time prescribed by the Act for the commencement of a summer time period; and
 - (2) commencing on or before the time prescribed by such Act for the termination of a summer time period;shall be deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the end thereof, the time of the clock in each case to be set to the time fixed pursuant to the Act.
 - (ii) For the purpose of this subclause:
 - (1) the Act means the *Daylight Saving Act 1968*;
 - (2) standard time and summer time shall bear the same meanings as prescribed by the Act.

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(m) Part-time employees

An employer is required to roster a part-time employee for a minimum of two consecutive hours work.

3. OVERTIME

(a) Allowances for overtime purposes

- (i) Allowances, other than higher duties allowance, shall not be taken into account in the compilation of overtime and penalty rates.
- (ii) Notwithstanding the foregoing the 20% loading payable to casual and part-time employees working less than twenty hours per week shall be taken into account before calculating penalty rates payable for weekend and public holiday shifts, but shall not be taken into account when calculating overtime payments.

(b) Requirement to work reasonable overtime

- (i) The employer may require any employee to work reasonable overtime at overtime rates and such employee shall work in accordance with such requirement. No overtime shall be worked without the prior approval of the employer.

An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:

- (1) any risk to employee health and safety;
- (2) the employee's personal circumstances including any family responsibilities;
- (3) the needs of the workplace or enterprise;
- (4) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
- (5) any other relevant matter.

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(c) Overtime rates

(i) Day Workers

- (1) For all overtime worked, in excess of the ordinary hours of work Monday to Saturday inclusive, other than Registered nurses level 4 and level 5, payment shall be made at the rate of time and a half for the first two hours and double time thereafter. For overtime worked on a Sunday, other than Registered nurses level 4 and level 5, payment of double time and overtime performed on a public holiday, other than Registered nurses level 4 and level 5, to be paid at double time and a half.

PROVIDED that an employee who holds a position which regularly requires him/her to work on public holidays shall, where mutually agreeable, be paid, in addition to any paid time off in lieu granted by the employer, at the rate of time and a half of the ordinary salary rate for the first eight hours worked during the normal spread of hours and thereafter in accordance with the overtime rates set forth in 3(c)(3) hereof. Provided that no employee shall receive in the aggregate more than the equivalent of double time and a half of his/her ordinary rate.

- (2) Registered nurses level 5 shall not be entitled to receive payment for overtime.

PROVIDED that where circumstances so require and with the approval of the employer, Directors of Nursing at District Hospitals who work overtime on rostered nursing duties in excess of their ordinary duties as Directors of Nursing, shall be entitled to receive overtime payment at the maximum overtime rate applicable to an employee classified as a Registered nurse for all time worked on such nursing duties.

- (3) Employees engaged to work in a day work situation but outside the spread of hours applicable to day work employees in this award, shall receive penalty rates as follows:

Monday to Saturday – time and one half for the first hours and double time thereafter;

Sunday – double time;

Public Holidays – double time and a half.

(ii) Shift workers

- (1) For work performed by a shift worker outside the ordinary hours of his/her shift, double time shall be paid. But such payment shall not apply in those cases where arrangements have been made between the employees themselves or in cases due to rotation of shifts.

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- (2) **PROVIDED ALWAYS** that in cases where the employer has been given less than four hours notice that an employee, rostered to relieve an afternoon or night shift worker, will not attend to do so at the proper time, such unrelieved shift worker shall be paid, for the extra time worked, at the rate of time and one half until the four hours have elapsed from the time notice was first given to the employer. For all time worked beyond the four hour spread referred to herein, the unrelieved shift worker shall be paid at the rate of double time. In all other cases the unrelieved shift worker shall be paid at the rate of double time, until relieved.
 - (3) An employee required to work overtime for more than two hours without being notified on the previous day or earlier that he/she will be so required and such period of overtime occurs at a time when a meal would customarily be taken, shall either be supplied with a meal by the employer or paid the amount of \$8.78 in lieu thereof.
- (d) Rest period after overtime
- (i) When overtime work is necessary it shall, wherever reasonably practicable, be so arranged that employees have at least eight consecutive hours off duty between the work of successive days.
 - (ii) An employee (other than a casual employee) who works so much overtime between the termination of his/her ordinary work on one day and the commencement of his/her ordinary work on the next day that he/she has not had at least eight consecutive hours off duty between those times shall, subject to this section, be released after completion of such overtime until he/she has had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
 - (iii) If on the instructions of the employer such an employee resumes or continues work without having had such eight consecutive hours off duty he/she shall be paid at double the ordinary salary rate until he/she is released from duty for such period and he/she shall then be entitled to be absent until he/she has eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absences.

4. BREAKS

- (a) Meal breaks - shift workers
 - (i) By arrangement with the employees an unpaid meal break shall be allowed on each day or shift, of a duration of not less than 30 minutes but not more than 60 minutes.

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- (ii) Where an employee is interrupted during a meal break by a call to duty, such meal break shall be counted as time worked and the employee shall be allowed a meal break as soon as practicable. Should it be impracticable for the employee to have a meal break during the remainder of his or her ordinary working hours, he or she shall receive overtime pay for the interrupted meal break.
- (iii) Unless agreed between the employer and the employee a shift worker who is unrelieved for the period of the meal break and until such relief is available shall be paid at the appropriate overtime rate.

(b) Day Workers

A day worker shall have his/her meal break not later than between the hours of 12.00 midday to 2.00 p.m. unless agreement is reached between the employer and employee to allow for special circumstances.

(c) Work during meal breaks (Day Worker)

Subject to existing customs and practices a day worker, who is directed to work during a recognised meal break shall, for all work performed during such period and thereafter until a meal break is allowed, be paid at the rate of time and a half of the normal salary rate.

(d) Unrelieved meal break (Shift Worker)

- (i) Unless agreed between the employer and the employee a shift worker who is unrelieved for the period of the meal break and until such relief is available shall be paid at the appropriate overtime rate.
- (ii) An employee required to work overtime for more than two hours without being notified on the previous day or earlier that he/she will be so required and such period of overtime occurs at a time when a meal would customarily be taken, shall either be supplied with a meal by the employer or paid the amount of \$8.78 in lieu thereof.

(e) Meal breaks on overtime

- (i) Unless the period of overtime is one and a half hours or less, an employee before starting overtime shall be allowed a meal break of twenty minutes which shall be paid for at ordinary rates. The employer and an employee may agree to any variation of this provision to meet the circumstances of the work in hand, provided that no employee shall be required to work more than five hours without a break for a meal.
- (ii) An employee required to work for more than two hours without being notified on the previous day or earlier that he/she will be so required shall either be supplied with a meal by the employer or paid \$8.78 in lieu thereof.

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5. CALL ARRANGEMENTS

(a) Close call

- (i) An employee may be required by the employer to remain on **close call** (that is, on call for duty and not allowed to leave his/her place of employment).
- (ii) An employee held on close call shall:
 - (1) if not required to commence work be paid a minimum payment equivalent to six hours at the employee's normal salary; or
 - (2) if required to commence work - be paid in accordance with the appropriate overtime rate, provided that such payment shall be at least equivalent to the minimum payment set forth in 5(a)(ii)(1) hereof.

(b) Remote call

An employee who is rostered to remain on **remote call** (that is, on call or duty and allowed to leave his/her place of employment) shall be paid an allowance of \$1.06 cents per hour for each hour he/she is required to be so available with a minimum payment of \$12.40 per day or shift when so rostered.

(c) Call back

- (i) Where a rostered employee is recalled to work overtime after leaving his/her place of employment (whether notified before or after leaving such premises) the employee shall be paid:
 - (1) for the first recall a minimum payment of four hours' work at the overtime rate applicable to the employee's salary; and
 - (2) for each subsequent recall a minimum payment of three hours work at the appropriate overtime rate applicable to the employees salary.
- (ii) Provided always that time reasonably spent in getting to and from work shall be regarded as time worked.
- (iii) An employee recalled to work shall be entitled to receive in addition, payment for time on call under 5(a) and 5(b).

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PART VI - LEAVE AND HOLIDAYS WITH PAY

1. ANNUAL LEAVE

(a) Period of leave

(i) Day workers

Except for casual employees and part-time employees who attract the 20% loading, a period of 152 hours leave, to be taken in a period of 28 consecutive days shall be allowed annually to an employee after twelve months' continuous service (less the period of annual leave).

(ii) Shift workers

In addition to the leave hereinbefore prescribed shift workers (as defined) shall be allowed 38 hours' leave to be taken in a period of seven consecutive days including non-working days. Where an employee with twelve months continuous service is engaged for part of the twelve monthly period as a shift worker, he/she shall be entitled to have the period of annual leave hereinbefore prescribed increased by 7.6 hours for each two months he/she is continuously engaged as aforesaid.

(iii) Part-time employees

Part-time employees (excluding employees who attract the 20% loading) shall be entitled to annual leave based on the number of ordinary hours worked in the leave year. The leave entitlement shall be calculated as follows:

$$\begin{array}{r} \text{Part-time hours worked per annum} \\ \text{(including any periods of annual leave)} \\ \text{full-time hours per annum} \\ \times \\ \hline \text{Full-time leave entitlement} \\ \hline 1 \end{array}$$

(b) Annual leave exclusive of public holidays

(i) Subject to this subclause the annual leave prescribed by this clause shall be exclusive of any of the holidays prescribed by Clause 2 Public holidays and if any such holiday falls within an employee's period of annual - leave and is observed on a day which in the case of that employee would have been an ordinary working day there shall be added to the period of annual leave time equivalent to the ordinary time which the employee would have worked if such day had not been a holiday.

(ii) Notwithstanding the foregoing provisions, a shift worker shall have added to his/her period of annual leave one day for each statutory holiday mentioned

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in clause 2 of this Part, whether or not such holiday is observed on a day which, for that employee would have been a rostered day off.

(iii) This shall not apply to a statutory holiday which is observed on a Saturday or Sunday.

(c) Broken leave

Leave allowed under the provisions of this clause shall be given and taken in not more than two separate periods unless the employer and the employee otherwise agree.

(d) Time of taking leave

Annual leave shall be given at a time fixed by the employer within a period not exceeding six months from the date when the right to annual leave accrued and after not less than two weeks' notice to the employee.

(e) Payment in lieu prohibited

Except as provided in 1(g) payment shall not be made or accepted in lieu of annual leave.

(f) Payment for period of leave

(i) Each employee before going on leave shall be paid the amount of wages he/she would have received in respect of the ordinary time which he/she would have worked had he/she not been on leave during the relevant period and no deduction shall be made for board and lodging. Payment calculated in accordance with the provisions of this clause should be made for the full weeks of leave at the time, unless otherwise specified by the employee.

(ii) Payment shall be made not later than 12.00 noon on the last day of work prior to going on leave.

(g) Proportionate leave on ending service

If after one month of continuous service in respect of weekly employees in any qualifying twelve-monthly period an employee lawfully leaves his/her employment or his/her employment is terminated by the employer through no fault of the employee, the employee shall be paid at his/her ordinary rate of wages as follows:

(i) Day workers

(1) for each completed month of service - 12.67 hours;

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- (2) shift workers and executive staff who are entitled to five weeks' leave in a full year - 15.83 hours;

for each completed month of continuous service in addition to such entitlements established under the provisions of 1(b) hereof.

- (ii) Part-time employees

Shift workers - 9.6% of the normal hours worked in each completed month of continuous service in addition to such entitlements established under the provisions of 1(b) hereof:

- (1) day workers - 7.7% of the normal hours worked in each completed month of continuous service;
- (2) service shall be deemed to be continuous if the employee was engaged as a part-time employee (as defined) during the relevant period.

- (h) Calculation of continuous service

- (i) For the purpose of this clause, service shall be deemed to be continuous notwithstanding any absence from work on account of personal sickness or accident.
- (ii) In calculating the period of twelve months continuous service any such absence as aforesaid shall not, except to the extent of not more than 91 days in any twelve-monthly period, be taken into account in calculating the period of twelve months continuous service.

- (i) Annual leave allowance

During the period of annual leave an employee shall be paid an allowance by way of additional salary, calculated at the rate of salary prescribed for the relevant classification as outlined in Part III – Salaries and Related Matters, Clause 1 as follows.

- (i) Day workers

An employee who, during the period of such annual leave, would have worked on day work only an allowance calculated at the rate of 17.5% of his/her normal salary, including any higher duty allowance or all purpose payments payable to the employee concerned.

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(ii) Shift workers

An employee who, but for the period of annual leave would have worked shift work an allowance calculated at the rate of 17.5% of his/her normal salary including any higher duty allowance or all purpose payments payable to the employee concerned. Provided that an employee who would have received shift payments as prescribed by Clause 2(d) of this Part had he/she not been on annual leave during the relevant period, and where such shift payments would have entitled him/her to a greater monetary amount than an allowance of 17.5% of his/her normal salary, his/her annual leave allowance shall be calculated as an amount equivalent to the shift payment he/she would have received in accordance with his/her projected shift roster.

(iii) Provided always that such allowance shall:

be calculated on the basis of a maximum period in any one leave year as follows:

- (1) in the case of a shift worker a period of five weeks' annual leave; and
- (2) in all other cases a period of four weeks' annual leave;

where in the case of a shift worker, more than five weeks' annual leave accrues per annum the excess above five weeks shall be paid only as per projected shift roster;

- (3) the allowance shall be calculated on the basis of 17.5% of normal salary, with a limitation that in no case shall the allowance exceed the amount that would be payable to a registered nurse level 2 Year 2.
- (4) be calculated in the case of:
 - (A) a non-shift worker, at the salary rate applicable to the employee concerned, on the day of annual leave accrual in the year in which the annual leave is credited; and
 - (B) a shift worker, where the allowance is calculated as to projected shift roster, at the salary rate applicable to the employee concerned as at the date of commencement of annual leave; and
 - (C) a shift worker, where the allowance is calculated at 17.5% of his/her normal salary, at the salary rate applicable to the employee concerned on the day of annual leave accrual in the year in which the annual leave is credited;
- (5) not be cumulative. Any balance of such allowance due to an employee at the expiration of a period of one year following the date upon which the annual leave was credited shall be paid to such employee as soon as is practicable after the date of the expiration of such period.

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(6) Provided always that this clause shall not apply in cases where payment has already been made for the current leave year.

(iv) Proportionate annual leave allowance on ending service

The annual leave allowance shall not apply to proportionate annual leave accrued by an employee in the leave year of the year of termination of service where such employee voluntarily resigns or whose services are terminated for disciplinary or other good reason.

(j) Part-time employees - annual leave without pay

(i) An employee working less than twenty hours per week who receives a loading in lieu of public holidays, annual leave and sick leave shall be entitled to elect to take up to four weeks leave without pay in any one leave year. Leave under this provision shall not be cumulative.

(ii) Leave allowed under this provision may be taken by mutual agreement in not more than two separate periods.

2. PUBLIC HOLIDAYS

(a) All employees, other than shift workers, casual employees and part-time employees engaged to work less than twenty hours per week shall be entitled to the following holidays without deduction from their weekly wages:

- Christmas Day;
- Boxing Day;
- New Year's Day;
- Australia Day;
- Cup Day (half day);
- Hobart Regatta Day (south of Oatlands);
- Eight Hour Day;
- Good Friday;
- Easter Monday;
- Anzac Day;
- Queen's Birthday;

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- Show Day (as defined in Part I Clause 7 of this award) and the first Monday in November in those districts where Hobart Regatta Day is not observed; or such other day as may be observed in the locality in lieu of any of the aforementioned holidays.
- (b) Payment for the holidays mentioned in 2(a) which are taken and not worked, shall be at the normal rate of pay which would have applied to the employee concerned, when if it were not for such holiday, he/she had been at work.
- (c) Where an employee who is entitled to holidays in accordance with 2(a) hereof is required to work on any of the holidays mentioned in that subclause, either for part or the whole of such day he/she shall in the case of a shift worker be paid at the rate prescribed in Part V - Hours of Duty, Clause 3(c)(ii) Overtime and in the case of a day worker be paid at the overtime rate prescribed in Part V - Hours of Duty, Clause 3(c)(i) .
- (d) An employee required to work on any of the holidays mentioned in 2(a) where such holiday applies at his/her normal place of work but because his/her duties require the employee to work at a place where the holiday does not apply, shall have the time in lieu of such holiday added to his/her annual leave entitlement.

3. PERSONAL LEAVE

- (a) Amount of paid personal leave

Paid personal leave will be available to an employee when they are absent due to:

sick leave - personal illness or injury as per clause 4; or

carers leave - for the purposes of caring for an immediate family or household member who is sick and requires the employee's care and support; or

bereavement leave - on the death of an immediate family or household member as per clause 5.

- (b) Immediate family or household

The entitlement to use personal leave for the purposes of carer's or bereavement leave is subject to the person being either:

- (i) a member of the employee's immediate family; or
- (ii) a member of the employee's household.

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(c) The term immediate family includes:

- (i) a spouse (including a former spouse, a de facto and a former de facto spouse) of the employee. A de facto spouse, in relation to a person, means a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; and
- (ii) a child or an adult child (including an adopted child, a stepchild or an ex nuptial child, parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

4. SICK LEAVE

(a) Full-time

A full-time employee is entitled to use up to 12 hours 40 minutes (for each completed month of service) in the first year of service and 152 hours per year in the second and subsequent years of service.

(b) Part-time

- (i) A part-time employee who works between 20-30 hours per week is entitled to use up to 114 hours per annum. Part-time employee who works 30 hours or more per week is entitled to use up to 152 hours per annum.
- (ii) Provided that in determining the amount of sick leave to which a part-time employee is entitled at any time (other than leave which has been accumulated) the average hours worked per week in the preceding three months shall be used except where that employee has less than three months service, the period per week for which he/she was engaged shall be used.
- (iii) An employee who is absent from work on account of personal illness or on account of injury by accident, shall be entitled to leave of absence on full pay (excluding shift or weekend allowances or overtime penalties) subject to the following conditions and limitations.
- (iv) An employee shall:
 - (1) not be entitled to paid leave of absence for any period in respect of which he/she is entitled to workers' compensation;
 - (2) within the 24 hours of the commencement of such absence, inform the employer of his/her inability to attend for duty and as far as practicable, state the nature of the injury or illness and the estimated duration of absence;

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- (3) prove to the satisfaction of the employer that he/she was unable, on account of such illness or injury, to attend for duty on the day or days on which sick leave is claimed;
 - (4) not, except as prescribed in 4(c) hereof, be entitled in any one year (whether in the employ of one employer or of several) to leave in excess of 152 hours, provided that in the first year of service an employee shall only be entitled to 12 hours 40 minutes for each completed month of service.
- (c) If the full period of sick leave, as prescribed in 4(a) and 4(b) hereof, is not taken in any year, such proportion as is not taken shall be cumulative from year to year without limitation.
 - (d) Notwithstanding any other provisions in this clause, an employee who contracts an infectious disease and/or who on examination reveals a changed Mantoux reaction in the course of his/her duties and same having been certified to by the medical superintendent or medical practitioner approved by the employer shall receive full pay during the period of duty up to but not exceeding twelve weeks and during this time he/she shall be regarded as remaining in the employ of the employer for the purposes of the *Workers' (Occupational Diseases) Relief Fund Act 1954*.
 - (e) An employee who is certified as unfit for duty because of personal illness by the medical superintendent or medical practitioner approved by the employer during a period of paid annual leave, shall be given credit for the time so certified and the paid annual leave shall be extended by the number of days that the employee has been so certified as unfit for duty.
 - (f) An employee who falls sick by reason of his/her work shall, subject to the recommendation of the medical superintendent, be paid an amount of wages not less favourable than that prescribed by the *Workers' (Occupational Diseases) Relief Fund Act*.
 - (g) **A year** for the purposes of this clause, shall mean 365 days employment including rostered days off, public holidays, paid annual leave and paid sick leave.
 - (h) If an employee is absent on sick leave on the day immediately preceding or immediately following the leisure day off, he/she shall provide a medical certificate in support of such absence.

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5. BEREAVEMENT LEAVE

- (a) An employee is entitled to use up to three days (up to and including the day of the funeral) personal leave as compassionate leave on the death of a spouse, father, mother, child, stepchild, brother, sister, mother-in-law, father-in-law, stepmother, stepfather, grandfather and grandmother. Leave will be without deduction of pay not exceeding the number of ordinary hours worked by the employee in three ordinary days, provided that no payment will be made in respect of an employee's rostered days off.
- (b) For the purpose of this clause the word spouse shall include a former spouse, a de facto and a former de facto spouse of the employee.
- (c) Proof of such death, in the form of a death notice or other written evidence, shall be furnished by the employee to the satisfaction of the employer, provided furthermore that this clause shall have no operation while the period of entitlement to leave under it coincides with any other period of entitlement to leave carer's leave

6. CARER'S LEAVE

- (a) An employee is entitled to use an unrestricted amount of sick leave as carer's leave.
- (b) The employee shall, if required, establish by production of a medical certificate or statutory declaration, the illness of the person concerned.
- (c) An employee may take unpaid carer's leave by agreement with the employer. In addition the employee can seek approval to take annual leave, time off in lieu of payment for overtime and make up time for the purpose of carer's leave subject to the following conditions.

- (i) Unpaid leave for family purpose

An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care to a family member who is ill.

- (ii) Annual leave

- (1) Notwithstanding the provisions of this clause, an employee may elect, with the consent of the employer, to take annual leave in single day periods not exceeding five days in any calendar year at a time or times agreed between them.
- (2) Access to annual leave, as prescribed in 6(c)(ii)(1) above, shall be exclusive of any shutdown period provided for elsewhere under this award.

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- (3) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive days are taken.
- (iii) Time off in lieu of payment for overtime
- (1) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer.
 - (2) Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked.
 - (3) An employer shall, if requested by an employee, provide payment, at the rate provided for the payment of overtime in the award, for any overtime worked under 6(c)(iii)(1) of this subclause where such time has not been taken within four weeks of accrual.
- (iv) Make-up time

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

7. PARENTAL LEAVE

(a) Definitions

For the purpose of this clause **child** shall mean a child of the employee under the age of one year except for adoption of a child where 'child' means a person under the age of five years who is placed with the employee for the purposes of adoption, other than a child or step child of the employee or of the spouse of the employee or a child who have previously lived continuously with the employee for a period of sixth months or more.

(b) Entitlement

- (i) After twelve months of continuous service, parents are entitled to 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child. For females, maternity leave is taken and for males, paternity leave is taken. Adoption leave is taken in the case of adoption.

PROVIDED that such leave shall not extend beyond the child's first birthday in the case of maternity and paternity leave or the first anniversary of placement in the case of adoption leave.

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- (ii) Parental leave is to be available to only one parent at a time, except both parents may access the leave in the following circumstances:
 - (1) for maternity and paternity leave, an unbroken period of one week at the time of the birth of the child;
 - (2) for adoption leave, an unbroken period of up to three weeks at the time of placement of the child.
 - (iii) Subject to 7(c) and 7(h) maternity leave shall be unbroken leave and shall, immediately following birth, include a period of six weeks compulsory leave.
 - (iv) Any period of paternity leave or adoption leave taken in accordance with 7(b) shall be unbroken.
- (c) Maternity leave
- (i) An employee shall provide to the employer at least ten weeks in advance of the expected date of confinement, a certificate from a registered medical practitioner stating that she is pregnant and the expected date of confinement.
 - (ii) An employee shall:
 - (1) notify the employer in writing at least four weeks in advance of the date she proposes to commence maternity leave of the period of leave to be taken; and
 - (2) at the same time provide the employer with a statutory declaration stating particulars of any period of paternity leave sought or taken by her spouse and that for that period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.
 - (iii) An employer, by not less than fourteen days notice in writing to the employee, may require her to commence maternity leave at any time within the six week immediately prior to her presumed date of confinement.
 - (iv) Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child then:
 - (1) she shall be entitled to such a period of unpaid leave (to be known as special maternity leave) as a registered medical practitioner certifies as necessary before her return to work; or
 - (2) for illness other than the normal consequences of confinement she shall be entitled, either in lieu of or in addition to special maternity leave, to such sick leave as to which she is then entitled and which a registered medical practitioner certifies as necessary before her return to work.

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- (v) Where an employee has not yet commenced maternity leave, but suffers from an illness related to her pregnancy, the employee may be granted paid sick leave to which she is entitled and further unpaid leave (to be known as special maternity leave) as a registered medical practitioner certifies as necessary. Provided that the aggregate of paid sick leave, special maternity leave and maternity leave shall not exceed the period to which the employee is entitled under 7(b).
 - (vi) An employee shall not be in breach of this clause if they fail to give the required notice because the birth occurred earlier than expected.
 - (vii) For the purposes of 7(e) and 7(c) parental leave shall include special maternity leave.
- (d) Paternity leave

An employee shall provide to the employer at least ten weeks prior to each proposed period of paternity leave:

- (i) a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement, or states the date on which the birth took place; and
 - (ii) written notification of the dates on which he proposes to start and finish the period or periods of paternity leave; and
 - (iii) a statutory declaration stating:
 - (1) he will take that period of paternity leave to become the primary caregiver of the child;
 - (2) particulars of any period of maternity sought or taken by his spouse; and
 - (3) that for the period of the paternity leave he will not engage in any conduct inconsistent with his contract of employment.
 - (iv) An employee shall not be in breach of this clause if they fail to give the required notice because the birth occurred earlier than expected or because of other compelling circumstances.
- (e) Adoption leave
- (i) The employee shall notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An employee shall not be in breach of this clause if they fail to give the required notice through circumstances beyond the control of the employee, the adoption of a child takes place earlier than expected or because of other compelling circumstances.

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- (ii) Before commencing adoption leave, an employee shall provide the employer with a statutory declaration stating:
 - (1) the employee is seeking adoption leave to become the primary caregiver of the child;
 - (2) particulars of any period of adoption leave sought or taken by the employee's spouse;
 - (3) that for the period of adoption leave the employee will not engage in any conduct inconsistent with his or her contract of employment.
 - (iii) An employer may require an employee to provide confirmation from the appropriate government authority of the placement.
 - (iv) Where the placement of the child for adoption with an employee does not proceed or continue, the employee shall notify the employer shall nominate a time not exceeding four weeks from the receipt of notification for the employees to return to work.
 - (v) The employer shall grant leave to any employee who is seeking to adopt a child, such unpaid leave not exceeding two days, as is required by the employee to attend compulsory interviews or examinations as are necessary as part of the adoption procedure. Where paid leave is available to the employee the employer may require the employee to take such leave in lieu of special leave.
- (f) Variation of period of parental leave
- (i) Unless otherwise agreed between the employer and the employee, the period of parental leave may be lengthened once only by the employee giving not less than fourteen days notice in writing stating the period by which the leave is to be lengthened. Provided that the maximum period of parental leave does not exceed the period to which the employee is entitled under 7(b).
 - (ii) The period of parental leave may, with the consent of the employer, be shortened by the employee giving no less than fourteen days notice in writing stating the period by which leave is to be shortened.
- (g) Parental leave and other entitlements

An employee may, in lieu of or in conjunction with parental leave access any annual leave or long service leave which they have accrued, subject to the total amount of leave not exceeding 52 weeks.

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(h) Transfer to a safe job

- (i) Where an employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee shall, if the employer deems it practicable, be transferred to a safe job and at the rate and on the conditions attaching to that job until the commencement of maternity leave.
- (ii) If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee, to take leave for such period as is certified necessary by a registered medical practitioner. Such leave shall be treated as maternity leave for the purposes of 7(b) and 7(i).

(i) Returning to work after a period of parental leave

- (i) An employee shall notify the employer in writing of their intention to return to work after a period of parental leave at least four weeks prior to the expiration to the leave.
- (ii) An employee shall be entitled to the position which they held immediately before proceeding on parental leave. In the case of an employee transferred to a safe job pursuant to 7(h) the employee shall be entitled to return to the position they held immediately before such transfer. In the case of an employee who has worked part-time during the pregnancy the position she held immediately before commencing such part-time work.
- (iii) Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee shall be entitled to a position as nearly comparable in status and pay to that of their former position.

(j) Replacement employees

- (i) A replacement employee is an employee specifically engaged to temporarily replace another employee who has been temporarily promoted or transferred as a result of an employee proceeding on parental leave.
- (ii) Prior to engagement, a replacement employee shall be informed of the temporary nature of the employment and of the rights of the employee who is being replaced.

(k) Cancellation of parental leave

- (i) Maternity leave and paternity leave, applied for but not commenced, shall be cancelled when the pregnancy of an employee, or an employee's spouse, whichever is applicable, terminates other than by the birth of a living child. Adoption leave, applied for but not commenced shall be cancelled should the placement of the child not proceed.

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- (ii) Where the pregnancy of an employee then on maternity leave terminates other than by the birth of a living child, it shall be the right of the employee to resume work at a time nominated by the employer which shall not exceed four weeks from the date of notice in writing by the employee to the employer that she desires to resume work.
 - (iii) Where the placement of a child for adoption purposes with an employee then on adoption leave does not proceed, or continue, the employee shall notify the employer forthwith and the employer shall nominate a time not exceeding four weeks from receipt of notification for the employee's resumption of work.
- (l) Part-time work to meet family responsibilities

For the purpose of meeting family responsibilities and with the agreement of the employer, an employee may work part-time in the following circumstances.

- (i) A male employee may work part-time in one or more periods at any time from the date of birth of the child until its second birthday or, in relation to adoption, from the date of placement of the child until the second anniversary of the placement.
- (ii) A female employee may work part-time in one or more periods while she is pregnant where part-time employment is, because of the pregnancy, necessary or desirable.
- (iii) A female employee may work part-time in one or more periods at any time from the seventh week after the date of the birth of the child until its second birthday.
- (iv) In relation to adoption a female employee may work part-time in one or more periods at any time from the date of the placement of the child until the second anniversary of that date.
- (v) An employee who has had at least twelve months continuous service with an employer immediately before commencing part-time employment after the birth or the placement of a child has, at the expiration date of the period of such part time employment or the first period, if there is more than one, the right to return to his/her former position.
- (vi) Nothing in 7(l)(v) shall prevent the employer from permitting the employee to return to his or her former position after a second or subsequent period of part-time employment.

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PART VII - PROVISION OF EMPLOYEE ACCOMMODATION AND MEALS

1. BOARD AND LODGING

- (a) An employee who is provided by the employer with board and/or lodging shall have deducted from his/her salary the following amounts in respect of such board and lodging:
 - (i) where both board and lodging is provided - \$100.60 deduction per week;
 - (ii) where lodging but no board is provided - \$18.45 deduction per week;
 - (iii) where board but no lodging is provided - \$82.15 deduction per week;
 - (iv) where a self contained flat is provided - \$19.20 deduction per week.
- (b) An employee who, if board and lodging were available, would normally be required to live in, but for whom board and lodging is not made available by the employer shall receive, in addition to the salary rates prescribed by Part III – Salaries and Related Matters, Clause 1, an allowance of \$7.40 per week and shall be provided with one meal per day. This subclause shall not apply to any employee living out during periods of annual leave or long service leave.
- (c) The amount that may be deducted where meals only are prescribed shall be as follows:

	Rate per meal \$
Lunch/evening	
Three course (soup, main and sweet)	4.50
Two course (main, soup or sweet)	3.30
Single main - hot or cold	2.15
Single course other than main course	1.20
All breakfasts - full	4.50
Continental breakfast	2.70

- (d) **PROVIDED ALWAYS** that:
 - (i) a minimum of \$1.20 applies for each meal taken;
 - (ii) in each case where a one, two or three course meal is ordered and charged for as above, no extra charge is to be levied for either beverages, toast, bread, butter or condiments.

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2. MEAL CHARGES

- (a) The amount that may be deducted or charged where meals only are prescribed shall be as follows:

	Rate per meal \$
Lunch/evening	
Three course (soup, main and sweet)	4.50
Two course (main, soup or sweet)	3.30
Single main - hot or cold	2.15
Single course other than main course	1.20
All breakfasts - full	4.50
Continental breakfast	2.70

- (b) **PROVIDED ALWAYS** that:

- (i) a minimum of \$1.20 applies for each meal taken;
- (ii) in each case where a one, two or three course meal is ordered and charged for as above, no extra charge is to be levied for either beverages, toast, bread, butter or condiments.

PART VIII – CONSULTATION AND DISPUTE RESOLUTION

1. PROCEDURE TO AVOID INDUSTRIAL DISPUTATION

In the event of a dispute arising in the workplace the procedure to be followed to resolve the matter will be as follows:

- (a) the employee and his/her supervisor will meet and confer on the matter; and
- (b) if the matter is not resolved at such a meeting, further discussions between the employee and his or her nominated representative, if any and more senior levels of management shall be arranged;
- (c) if the matter is still not resolved a discussion shall be held between representatives of the Department of Health and Human Services or other representatives of the employer and a representative of a Union or other employee representative;
- (d) if the matter cannot be resolved it may be referred to the Tasmanian Industrial Commission for settlement;
- (e) while attempts are made to resolve the matter work will continue as normal unless an employee has a reasonable concern about an imminent risk to his or her health and safety.

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2. ENTERPRISE FLEXIBILITY

Where an employer or employees wish to pursue an agreement at the enterprise or workplace about how the award should be varied to make the enterprise or workplace operate more efficiently according to its particular needs the following process shall apply:

- (a) A consultative mechanism and procedures appropriate to the size, structure and needs of the enterprise or workplace shall be established.
- (b) For the purpose of the consultative process the employees may nominate a union representative or another person to represent them.
- (c) Where agreement is reached an application shall be made to the Tasmanian Industrial Commission.

PART IX - MISCELLANEOUS

1. NOTICE-BOARD

The employer shall permit employees and employee organisations to post formal notices on a designated notice board within the establishment.

2. WORKPLACE REPRESENTATIVE TRAINING

An employee nominated by the union who has had six months continuous service whether full-time or part-time with the employer to whom the application for leave is made shall be allowed leave without loss of pay to attend an approved trade union training course subject to the following conditions:

An accredited union representative shall, upon application in writing from the union, be granted up to five days leave with pay each calendar year, non-cumulative to attend trade union training courses.

The following scale shall apply:

No. of weekly employees covered by this award	Max. No. of employees eligible to attend per year	Max. No. of days permitted per year
5 - 15	1	5
16 - 30	2	10
31 - 50	3	15
51 - 100	4	20
101 & over	5	25

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At workplaces (as defined) where there are less than five employees the union may apply to the employer for an employee to be granted leave. The employer in considering the application shall have regard to the benefits which are likely to flow from the attendance at the relevant course.

Approval to attend such training shall be subject to the following conditions:

The scope, content and level of the courses are directed to the enhancement of the operation of the settlement of dispute/dispute resolution procedure;

Reasonable notice is given by the union and the workplace representative;

The taking of leave is arranged having regard to the operational requirements of the employer;

The workplace representative taking such leave shall be paid at the rate they would be paid had they not attended such training; and

Leave of absence granted pursuant to this clause shall count as service for all purposes of this award.

The employer shall not be liable for any additional expenses associated with the employee's attendance at a course other than the payment of ordinary time earnings for such absence. For the purposes of this clause ordinary time earnings shall be defined as the relevant award classification rate including shiftwork loadings where applicable.

Leave rights granted in accordance with this clause will not result in an additional payment or alternative time off to the extent that the course attended coincides with the employee's day off in a 19 day month cycle or with any other concessional leave.

James P McAlpine
COMMISSIONER

30 July 2007

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SCHEDULE A - BURNIE HOSPITAL OPERATING THEATRE - ROSTERS

The terms of this Schedule to this award shall apply to the employment identified therein at the North West Regional Hospital, Burnie Division.

To the extent that the provisions of this Schedule are inconsistent with any other condition of employment provided in this award then the relevant provision of this Schedule shall prevail to the extent only of the inconsistency.

(a) APPLICATION

The provisions of this Schedule shall apply:

- (i) To the employment of the persons being Registered and enrolled nurses who have agreed in writing addressed to the employer to be rostered in accordance with the provisions of this Schedule, and have been provided with a copy of, and afforded a reasonable opportunity to read, this Schedule and have had an opportunity to consult her/his union.
- (ii) To the employment of persons referred to in (a)(i) above while rostered in the Operating Theatre Suite (excluding Day Surgery Theatre) at North West Regional Hospital, Burnie Division (the hospital theatre suite) and not otherwise.

(b) ROSTER ARRANGEMENT

The following roster arrangements shall apply to persons which this Schedule relates employed in the hospital theatre suite:

A Registered or Enrolled nurse may be rostered to work ordinary rostered hours of duty of ten hours on any day inclusive of an unpaid meal break of at least 30 minutes, but in no circumstances shall such ten hour period be exceeded.

(c) TERMINATION OF ROSTER ARRANGEMENT

The provisions of the Schedule shall cease to apply:

- (i) In the case of a person referred to in clause (a) - Application, within five working days of the Director of Nursing of the hospital receiving written notice from that employees of her/his withdrawal of agreement to be rostered under this Schedule.
- (ii) When a majority of persons at the worksite to which this award applies vote to terminate the application of the Schedule in which case management reserves the right to pursue other efficiencies in consultation with staff and unions.

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- (iii) When fewer than six full-time equivalent employees of an appropriate skill mix (as determined by the employer) have agreed to work pursuant to the Schedule and are in fact doing so.
- (iv) When a party to the award considers on reasonable grounds that a genuine risk to the health, safety and/or well being of the employees concerned, patients and other employees of the worksite is posed by the continued operation of this Schedule and has given written notice to that effect to the other parties to the award.
- (v) In the event that justification in writing can be provided by hospital management to the parties to the award that the operation of the Schedule is not effective and/or efficient.
- (vi) In the event of an extended reduction in surgical activity of which fact including the details thereof the employer has given to the union parties to the award at least one month's written notice.
- (vii) When a majority of the nurses in fact rostered under the provision of this Schedule resolve to terminate the arrangement and advise the Director of Nursing of that fact; or
- (viii) The provision of this Schedule shall cease to apply on the date twelve months from the date of the award variation.

(d) STAFFING LEVELS

It is a term of this Schedule that the approved full-time equivalent staffing levels of Registered and Enrolled nurses for the hospital theatre suite shall not be reduced by reason only of the coming into operation of this Schedule.

(e) MONITORING

It is a term of this Schedule that the operation of the rosters provided for herein will be monitored by the Monitoring Committee established under clause (i) - Monitoring committee.

(f) Availability of Schedule

- (i) Any employee who proposes to agree to being rostered under the terms of this Schedule shall be provided with a copy of it by the Director of Nursing of the hospital prior to such agreement being effective;
- (ii) The employer shall make available to all nursing employees in the hospital theatre suite a copy of this Schedule upon its coming into force and upon request a copy shall be made available to each nursing employee at the worksite.

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(g) No Prejudice on Termination of Arrangement

In the event of this Schedule ceasing to apply under clause (c) - Termination of roster arrangement, or otherwise then the employee or employees concerned shall be returned to the pre-existing roster arrangement and shall not suffer thereby any loss of entitlement or prejudice in employment whatsoever.

(h) Efficiencies

Efficiencies delivered as a consequence of the application of this Schedule may be accounted for in any enterprise bargaining arrangements pursued in respect of employees under this award.

(i) Monitoring Committee

(i) There shall be established a monitoring committee comprising equal representatives nominated by the ANF, HSUA and the Minister. One person from the committee acceptable to all parties shall be the secretary to the committee, and shall have responsibility for convening meetings and keeping records of meetings. The name of the secretary shall be provided to all nurses subject to this agreement. The committee shall consider the following items:

- (1) occupational health and safety issues arising from the increased length of the working day (if any);
- (2) all recorded incidents affecting patient and staff safety;
- (3) sick leave and other absenteeism in relation to the longer working hours;
- (4) the extent of cost savings resulting from the application of the roster;
- (5) other issues deemed relevant by the committee.

(ii) The parties agree that the monitoring committee will meet on at least a monthly basis during the first three months of the life of the agreement, or more often if requested by either party or its nominees.

(iii) A Nurse and/or the Occupational health and safety officer serving on the Occupational Health and Safety Committee shall be available to meet with the committee at the request of the committee.

(iv) Nothing in this clause or this Schedule affects the rights or responsibilities of any party in respect of occupational health and safety.

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- (j) No employee, or prospective employee, in the hospital theatre suite shall be required by the employer as a condition of employment or engagement to agree to employment under the provisions of this Schedule and further the employer shall not grant preference of employment or continued employment on the basis of an employee or prospective employee's preparedness or otherwise to agree to employment under this Schedule.