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Subject: AM2020/99 & Ors – Aged Care Work Value Case – Nurses Award Rates

OFFICIAL

Dear parties,

In relation to the above matter, the Expert Panel as part of its decision-making process is considering the manner in which the entry-level rate for a degree-qualified registered nurse under the Nurses Award was arrived at when the modern award was first made as part of the award modernisation process in 2009.

The pre-modern award which served as the primary source for the modern award's classifications and rates appears to have been the [Nurses \(ANF – South Australian Private Sector\) Award 2003](#) (SA Private Sector Award) (noting that federal nursing awards had largely aligned rates of pay at the time). The effect of clause 5.3.6(a) of the SA Private Sector Award was that the entry rate for a degree-qualified registered nurse was at Level 1, 2nd year of service. The Expert Panel has attempted to calculate this rate as it was at the time immediately before the modern Nurses Award was made. Converting the 2005 salary rate of \$34,125 into a weekly rate, and taking into account the wage increases resulting from Australian Fair Pay Commission decisions in 2006, 2007 and 2008, the Expert Panel has calculated that the rate was \$713.42 per week.

The Expert Panel invites the ANMF to comment upon the correctness of this calculation. The Expert Panel considers that this issue is of some significance given that the entry rate for a degree-qualified registered nurse in the Nurses Award when it was first made on 3 April 2009 was \$697.00 per week. The Expert Panel also notes the submissions made by the Australian Nursing Federation in the award modernisation process in October 2008 (see pg. 98 of [attached](#)).

The Expert Panel would be assisted if any comments could be sent to chambers by **11 March 2024**.

Regards,

Mahmoud Al Rifai (he/him)
Associate to Justice Hatcher, President



Fair Work Commission

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australian
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Award Modernisation

October 2008

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1. Introduction

The Australian Nursing Federation (ANF) makes the following submission to the Australian Industrial Relations Commission (AIRC) for the purpose of deliberations on the shape and scope of modern awards covering nursing employees in the health and welfare industries as part of the second stage of the award modernisation processes.

This submission is to be read in conjunction with our earlier submissions filed with the industrial registry in June 2008 as part of the initial award modernisation consultations by the AIRC.

This submission and those filed earlier support the continuation of historical arrangements of occupational awards for nurses. It is the firm view of the ANF that the health and welfare industries are best served by maintaining the status quo of covering nursing work by nursing occupational awards.

1.1 Executive Summary

It is the submission of the ANF and the strong view of the nursing profession that nurses, recipients of care and the community generally will benefit from the continuation of nursing occupational awards.

Conversely it is the submission of the ANF that new modern awards made on an industry basis will have a negative effect on parts of the industries, will create artificial distortions in the labour market and consequently hamper the ability to provide the levels of services the public expects.

The proposal by the ANF for a new modern occupational nursing award to replace around 100 federal awards and NAPSA's is consistent with the Ministerial Request, accords with the requirements of Part 10A of the Workplace Relations Act 1996 and meets the limited principles and guidelines in the Full Bench Decision of 20 June 2008.

In the 30 years that nursing federal awards (and much longer for the previous state instruments) have operated there has been little disputation regarding their interpretation

and application. Further there has been minimal if any attempts by employers to alter the content of the awards.

This history in part demonstrates that there is an acceptance by nurses and their employers that the extant nursing safety net awards reflect appropriate minimum conditions and are understood and applied in workplaces across industries where nurses are employed.

Nursing makes up 55% of the health and welfare workforce and is recognised as highly mobile across all sectors of nursing employment.

There is no feature of the nursing workforce that is currently demarcated on the business of the employer. Educational, clinical, registration and training standards are consistent wherever nurses may be employed. The agreement of the commonwealth and all state and territory governments for national nursing registration in 2010 is characteristic of the community and industry view that “a nurse is a nurse is a nurse”.

In the submission of the ANF there is no case to support a different award safety net for nurses based on the business of the employer.

1.2 [The role and interests of ANF and its members](#)

The ANF has the most extensive interest and coverage of all of the employee and employer organisations who have indicated an interest in the making of new modern awards in the health and welfare industries. The ANF represents as members over 170,000 nursing staff employed across the breadth of nursing in all the states and territories. Our membership is aware of the award modernisation processes and supports their unions' approach and preferred outcomes. Their view is evidenced in the resolutions of annual branch conferences which form Attachment 1 to this submission and by the 7,320 nurses who have signed a petition calling for the continuation of nursing occupational awards.

2. [An exemplar nursing occupational award](#)

Attachment 2 to this submission is an exemplar nursing occupational award prepared on a without prejudice basis by the ANF to illustrate one approach to the scope and content of a new modern nursing occupational award. The draft award has been prepared to

facilitate discussions between the industrial parties and to negate a number of claims in opposition to an occupational award.

The list of awards used in the drafting of the exemplar award forms Attachment 3 to this submission. Federal awards and NAPSAs from each state and territory have been used.

The draft award reflects existing safety net provisions and where this is not possible establishes new safety net provisions and identifies the extent of the differences in the current safety net provisions.

3. [The demographics of nursing and nursing services](#)

In this part of the submission we provide demographic information regarding the nursing workforce and the industries in which nurses are employed.

In our submission an understanding of the relevant demographics and the associated industrial and workforce trends is relevant to the criteria in section 576B(2) and paragraph 3 of the Ministerial Request and is important to the broader deliberations by the AIRC of a move away from occupational awards to industry arrangements.

3.1 [Who are Nurses?](#)

Nurses form the largest health profession, providing health care to people across their lifespan. They work independently or as collaborative members of a health care team in settings which include hospitals, rural and remote nursing posts, indigenous communities, schools, prisons, aged care homes, the armed forces, universities, mental health facilities, statutory authorities, general practice offices, businesses, professional organisations and peoples' homes.

Nurses work to promote good health, prevent illness, and provide care for the ill, disabled and dying. Nurses also work in non-clinical roles to educate new nurses, conduct research into nursing and health related issues and participate in developing health policy and systems of health care management.

3.2 [Nursing practice in Australia](#)

Nursing is a regulated profession. By law, before nurses may practise, they must be registered, enrolled, endorsed or authorised by their state or territory nursing and

midwifery regulatory authority (NMRA). The titles of 'registered nurse', 'enrolled nurse', 'midwife' and 'nurse practitioner' are protected by legislation, and these titles may only be used when permitted by the state or territory NMRAs.

Another group of health care worker, assistants in nursing (AINs)¹, also delivers aspects of nursing care and are an integral part of the nursing workforce. Assistants in nursing do not yet have a consistent minimum standard of educational preparation and are not regulated by the NMRAs however their relationship with others is regulated.

3.3 Nursing Education

Registered nurses must complete a three year bachelor degree at university before they are eligible to register with their NMRA. They undertake a period of post-registration graduate support in a hospital, usually a year, and then go into general nursing practice. They may also undertake postgraduate study to specialise in one of many clinical practice areas.

Enrolled nurses are educated in the vocational education and training (VET) sector for one year to eighteen months, to either a Certificate IV or Diploma level, before being qualified to enrol with their NMRA. They may also undertake additional study to work at a more advanced level. In some states and territories, they are able to gain a qualification which enables them to administer some medications to patients.

Midwives either undertake a bachelor degree in midwifery, or are registered nurses who hold a recognised post-graduate midwifery qualification.

It is estimated that over 65% of the AIN workforce hold a Certificate III or IV related to their responsibility to assist in the provision of nursing care.

3.4 Nursing Workforce Numbers

With a combined total of 244,360, registered and enrolled nurses comprise over 55% of the entire health workforce².

A census of the nursing workforce is conducted every two years. The most recent figures were released in 2008, and cover the year 2005³: In 2005 there were:

¹ Assistants in nursing and other unlicensed workers, however titled.

² Australia's Health 2006, p 317.

³ Australian Institute of Health and Welfare (2008). Nursing and Midwifery Labour Force 2005. Canberra, pp 2, 6.

198315	Registered Nurses
46044	Enrolled Nurses
18297	Midwives
200	Nurse Practitioners

There are also around 68,500 AINs⁴ in Australia, who are mostly employed in the aged care sectors.

3.5 Other Nurse Demographics⁵

Over 62% or 152,890 nurses work in major cities. Just over 31%, or 76,270 work in regional and rural areas, and 6%, or 5,480 nurses work in remote or very remote areas.

The average age of nurses is increasing. The average age of employed nurses in 2005 was 45.1 years, up from 42.2 years in 2001. The proportion of nurses aged over 50 is 35.8%.

3.6 Occupational Identity

Diversity in nursing work is characteristic of the occupation, across an extraordinary range of employment/practice contexts with a primary and shared identity with the profession and discipline of nursing.

All licensed nurses are prepared for professional practice through nursing-specific courses and programs derived from the discrete knowledge base and discipline of nursing. This is well established in tertiary, post-secondary (TAFE) and accredited hospital/health service training institutes and centres.

Professional and industrial association for nurses is almost universally with discrete nursing bodies (Australian Nursing Federation, Royal College of Nursing Australia, Coalition of National Nursing Organisations, etc) preoccupied with the common occupational concerns of nurses, nursing work, health and health delivery systems.

All contexts of practice/employment for nurses constitute similar occupational habitat concerns for example: role development; ongoing education; research and knowledge generation; service delivery models and innovation in the delivery of nursing; safe, quality professional practice environments (reasonable workloads, safe skill mix, adequate

⁴ Australian Institute of Health and Welfare (2006). Australia's Health 2006. Canberra: AIHW, p 316.

⁵ Nursing and Midwifery Labour Force 2005, pp viii, 12.

recruitment and retention of licensed workers, safe workplaces; participatory mechanisms, nursing models).

It is recognised that nursing identity derives from the core beliefs/values central to the role of nurse/midwife whatever the practice context. These are widely agreed and evidenced (in role statements, occupational research, international professional codes, statutes and regulations, policy and practice references) as knowledgeable human caring, professionalism, advocacy, and holism.

These tenets of the definition, intention, and outcomes of nursing identify the idea of the 'nurse', the role of 'nurse' and the discourses maintaining the existence, relevance, and the social contribution of the occupation of nursing.

The nursing discipline as a discrete and distinguishable body of knowledge, practice standards and work in various practice domains and specialisations, is the source of the nursing identity, its occupational existence, and its potential in meeting the nursing needs of people - individuals, families, and communities.

Nursing's professional obligation derived from nursing's collective ethic of care is first before all, to reproduce itself occupationally. This is essential in meeting the existing and increasing demand for the complex, knowledgeable, human caring that nursing provides for those who need nursing throughout their lives.

Nursing work, while flexible across professional boundaries and in meeting the unique needs of particular health service delivery contexts, (for example, remote, residential, clinic, outreach) can be regulated and managed precisely because it is distinguishable from the work of other health care providers. This is reinforced within a clear occupationally identified scope of practice with transparent processes of professional and public accountability. Nursing as an occupation is known and can be known as 'nursing'.

Nursing occupationally is recognised by the community as a highly regarded identity individually and collectively.

Nursing occupationally is recognised as highly mobile across employment sites.

Nursing occupationally is recognised as highly unionised with a well established capacity for professional and industrial mobilisation.

National and State/Territory regulation and professional governance is directed by bodies that are entitled (by State regulation and by professional entities) to govern both nursing and midwifery, for example, State Government Offices of Nursing and Midwifery; Australian Nursing and Midwifery Council.

4. [The nursing shortage](#)

Section 576B(2)(a) requires the AIRC to have regard to *“promoting the creation of jobs, high levels of productivity, low inflation, high levels of employment and labour force participation, national and international competitiveness, the development of skills and a fair labour market;”*

Aspects of s.576B(2)(a) are relevant to the consideration of the nursing labour shortage in the context of award modernisation.

Over the past decade a number of reports have been produced examining the nursing workforce and various specialist nurse workforces.

Although each of the national nursing workforce reports differs slightly in its findings due to the various data sources and methodologies, there are consistencies in both identification of key drivers of supply and demand and findings in terms of projected supply and demand. Essentially the “sign posts” are pointing in the same direction and each of the reports highlight the same factors. These include:

- the general inadequacy of numbers of nursing graduates produced over recent years to meet demand (in terms of both replacement and growth in demand for health services);
- the ageing of the nursing workforce (and projected retirements), decreasing hours worked and turnover and the effect on the ability of the nursing workforce supply to replace itself; and
- growth in demand for health services expected to increase especially in the aged care sectors but also across acute care sectors.

While there is some variation in the projected supply and demand in each report, they all show this shortage becoming more marked.

The reports also find that there is a shortage across all states and one which is more significant in the aged care sectors. The preference of nurses to work in acute hospital sectors with a younger workforce, the existence of comparatively low rates of pay (ie comparable EBA wage levels) and heavy work load requirements are factors which make nursing less attractive in the aged care sector.

Assessing the level of demand and the numbers of workers that are needed is not straightforward. While it requires sophisticated modelling, the estimated shortage for 2006 was between 10,000 and 12,000 nurses, rising to an expected shortage of between 10,000 and 13,000 in 2010 (AHWAC 2004).

5. [The health and welfare industry](#)

The term 'health and welfare industry' is a misnomer as it is rarely used and has little relevance beyond the AIRC panel system. A more accurate term to describe services and the coverage of awards within the grouping is the health and community services industry.

This is the term used by the Australian government, the Industry Skills Council and various state and territory instrumentalities.

The DEEWR divides the health and community industry into six broad sectors:

- Hospitals and Nursing Homes,
- Medical and Dental Services
- Other Health services (including Pathology , Optometry Ambulance Services, Physiotherapy , and Chiropractic)
- Veterinary Services
- Child Care Services and
- Community Care Services.

On the basis of this definition in February 2008 the health and community services industry employed 1,124,500 people or 10.6 percent of the total workforce and was the third largest industry in Australia.

The July 2008 DEEWR industry report on the employment demographics of the industry forms Attachment 4 to this submission and can also be found at www.skillsinfo.gov.au.

6. Aged care

Aged care services play a central role in the delivery of health care services in Australia. Aged care covers a number of services ranging from those provided in residential aged care facilities and acute hospitals, through to community health services such as home and community aged care programs (eg home help, home nursing services and home and centre based respite care) .

Arrangements for the provision of aged care services are complex and varied with all tiers of government involved either as regulators, providers of care services, or both.

As the table below shows in 2007 the main providers of residential aged care services were religious organisations (29%), private for profit providers (27%), community based providers (17.5%) and charitable organisations (15%).⁶ In addition the federal government, state and territory governments and local governments also provided over 11% of the total number of aged care services.

Table 2.4 Ownership of residential aged care facilities

As at 30 June 2007

	Number of facilities	Per cent
Private not-for-profit	1762	61.4
Religious	827	28.8
Community-based	504	17.5
Charitable	431	15.0
Private for-profit	773	26.9
Government	337	11.7
State/ Territory	262	9.1
Local	75	2.6
Total	2872	100.0

Source: AIHW (2008d).

⁶ Productivity Commission 2008, *Trends in Aged Care Services: some implications*, Commission Research Paper, Canberra, page 16

In 1995 there were 134,810 residential aged care places, 2005 161,765 places and in 2006 there were 166,291 places.

This growth is expected to continue as a consequence of the aging population . During this period there was also a steady increase in the proportion of residents classified as requiring high levels of nursing and medical care. Between June 1998 and June 2007 the proportion of high care residents increased from 58% to 70%.⁷

These trends demonstrate that residential care places have been progressively provided to more people and those people are more dependent on nursing care.

The numbers of registered and enrolled nurses employed in aged care has fallen by 42112 in 1995 to 34031 in 2005 a decline of around 20%. Over the same time the number of residential aged care places has increased by 23%.

The decline in the number of registered nurses was highlighted in the AIHW Nursing Labour Force 2001 based on 1999 figures. It reported that the substantial skill loss resulting from the loss of registered nurses from this sector and the increase in dependency levels places further pressure on the residential aged care sector.

During this same period, the supply of Community Aged Care Packages, aimed at providing the equivalent of low care residential support to people living in their homes, has expanded significantly and now represents around 16% of all aged care services.⁸

This pattern is in keeping with established bi-partisan government policy, which aims to provide a greater proportion of aged services to people in their homes.

6.1 [The nursing workforce in aged care](#)

Provision of nursing care in residential aged care ranges from the provision of basic care, such as the washing and dressing of residents, feeding, toileting, changing linen and the maintenance of skin integrity, to more complex or technical care such as medication delivery, continence care, oxygen therapy and tube feeding, stoma management,

⁷ AIHW Residential aged care in Australia 2006-07 at page 48

⁸ Productivity Commission 2008, *Trends in Aged Care Services: some implications*, Commission Research Paper, Canberra, p.22

insertion of intravenous and naso-gastric tubes, dialysis management and complex pain management. The range of duties performed by the nursing care team can be extensive. The demand for more intense nursing care increases with more complex cases and the increasing demand for beds.

Most aged care facilities operate by reference to a “Nursing Care Plan” or “Care Plan” identifying the nature of care to be provided to an individual resident and the most appropriate manner of the delivery of care. The “Plan” approach is adopted to ensure that a consistent and holistic approach is undertaken to the delivery of the care by all persons providing nursing care or services. Such a plan also enables the identification of any change or increase in the need for care.

6.2 Nursing skills mix in aged care

In the aged care sectors the work of registered and enrolled nurses is progressively being substituted by unlicensed workers, which now represent the bulk of the workforce providing aged care services.

A recent Australian study found skill mix was a significant predictor of patient outcomes. Reinforcing the findings of other international studies, a skill mix with a higher proportion of registered nurses produced statistically significant decreased rates of negative patient outcomes such as decubitus ulcers; gastrointestinal bleeding; sepsis; shock; physiologic/metabolic derangement; pulmonary failure; and failure to rescue.

The study found one extra registered nurse per day would reduce the incidence of decubitus ulcers by 20 per 1000 patients; one extra registered nurse per day would reduce the incidence of pneumonia by 16 per 1000 patients; one registered nurse per day would reduce the incidence of sepsis by 8 per 1000 patients. Patients are also less likely to fall and suffer injury as registered nursing hours increase.⁹

Altering the skill mix of nursing staff in the aged care sectors is a practice which is clearly only motivated by desire among many aged care employers to drive down one of their major costs – that of staffing.

⁹ Duffield, C. et al. 2007. *Glueing it together: Nurses, their work environment and patient safety*, Centre for Health Services Management, University of Technology Sydney, Final report

It is in this context that many employers view the formal severing of the award safety net in aged care from the rest of the health sector as strengthening and legitimising their view that nursing care of the aged and infirmed can be provided at levels less than that provided in the acute sector.

In the absence of sound and robust evidence as to how aged care residents would benefit and how the community's expectations would be met by the establishment of an aged care industry award, this approach should be rejected.

6.3 Decline in the award safety net

Despite the notional obligation on the AIRC to establish and maintain a safety net of fair minimum wages and conditions of employment, award entitlements have been in decline.

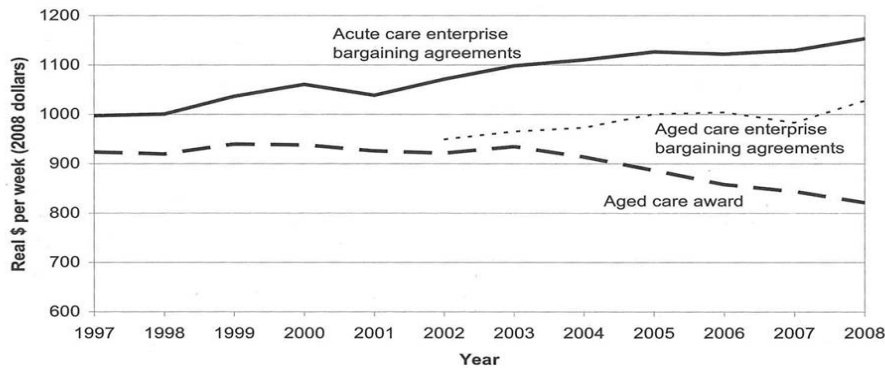
For the thousands of nurses who continue to rely on safety net awards the award modernisation exercise provides some hope that the deterioration in their award wages and conditions of employment that has occurred principally over the last decade will be curtailed.

This decline accelerated upon the introduction of "WorkChoices" which radically altered the role of awards. WorkChoices introduced new legislative objects concerning the function of awards and the role of the Commission in relation to them. It significantly limited the extent to which awards could act as a comprehensive safety net of minimum working conditions by removing any reference to fairness and requiring that awards provide only 'a safety net of minimum entitlements'.

For nurses particularly those employed in the aged care sectors who have also been unable to reach an agreement with their employer the impact of the decline in the awards has been significant.

As the table below¹⁰ demonstrates the Productivity Commission has concluded that real weekly award wage rates (as adjusted by the GDP deflator) for a nurse (level 1 Year 8) employed in the aged care sector, are less in 2008 than they were in 1997.

¹⁰ Productivity Commission 2008, *Trends in Aged Care Services: some implications*, Commission Research Paper, Canberra, p.44

Figure 6.2 Comparison of registered nurse remuneration^a

^a Median national Registered Nurse (Level 1, year 8) wage in January of each year, adjusted using the GDP deflator.

Data sources: ABS (*Australian National Accounts: National Income, Expenditure and Product, March 2008*, Cat. no. 5206.0); ANF (Melbourne, pers. comm. 21 May 2007 and 16 June 2008).

As submitted earlier there has been a general unwillingness by aged care employers to embrace enterprise bargaining and one consequence of this, as demonstrated in the table, is a growing wages gap.

The structural labour cost advantages that aged care employers enjoy is something they wish to now embed through a new modern aged care industry award. They can confidently hold this view because there is nothing in the policies of the federal government that suggests that in future they will have to bargain with their employees.

A new modern aged care industry award will provide comfort to aged care employers that they can continue to decline to engage with their employees in bargaining.

In the respectful submission of the ANF such an outcome would be inconsistent with the Ministerial Request as well as s576A (2) (d) as it would not promote collective enterprise bargaining.

6.4 Bargaining in aged care

The extent, scope and content of agreements in the aged care sectors is relevant to the making of new modern awards for employers and employees in these industries.

Bargaining outcomes in the aged care sectors can be best described as patchy with collective agreements generally providing remuneration arrangements that fall well short of those provided for in both public and private acute health care settings.

While the content of federal safety net awards covering nursing staff in both the acute and aged care sectors remains broadly comparable, enterprise bargaining outcomes have led to significant differences in remuneration levels.

This difference is primarily due to the inability of aged care employees, including nurses, to secure comparable agreements to those in the acute sectors.

For example in NSW, where a State common rule award has been in place, that NAPSA still applies to approximately two thirds of aged care nurses and only a limited number of employers have engaged in bargaining. Those employers are mainly from the charitable sector with minimal participation by the private for profit sector.

In response to claims by employees and unions, employers have argued that enterprise bargaining is unsuited to the sector due to the lack of funding and the strict controls on the employers ability to raise revenue.

The aged care industry is primarily funded by the commonwealth and such funding does not recognise agreement outcomes.

The constraints of the funding arrangements and the employer's slavish reliance on such arrangements to decline to participate in meaningful bargaining with their employees have been subject to comment by the AIRC.

In granting a claim to adjust wages for nurses employed in aged care in the Northern Territory in 1999 a Full Bench of Munro J, Duncan DP and Eames C in decision Print S6646 stated :

“The evidence before us in this matter justifies an observation that the RACFs in the Northern Territory are a particularly cogent example of not-for-profit private organisations partially dependent on public sector expenditure serving what is accepted to be a public purpose. There is an exigent and precarious character to these RACF's operations. In our view those considerations demand a close and sympathetic examination of the adequacy of the funding formula in application to these institutions.

The circumstances in which these RACFs operate, and the needs that they alone provide services to satisfy, should attract a practical level of support. It is not consistent with equity and good conscience for a society, or for

that matter a government, to impose on those who staff such institutions an undue degree of responsibility for the dilemmas of funding and services that appear to be chronic. Nor is it consistent with good conscience to fail to address patent incapacity to deliver a relatively equivalent level of remuneration for work of equal value. Substantial differences which appear to exist in the effective remuneration available to professional aged care service providers in such institutions and comparable staff in other health and human services institutions in the public or private sectors. That circumstance should either be justified or redressed: it should not be simply ignored”

(at page 17)

and further

It is essentially unjust for the community to be so dependent on not-for-profit service providers and essential service nursing staff, but to fail to supply adequate funding to meet what we consider to be a base level movement in the rates of pay to ensure equitable treatment between comparable groups of nursing staff.

(at page 23)

That said it should also be noted that since 2002 there have been a range of funding initiatives by the commonwealth government directed at enhancing the capacity of aged care employers to offer competitive wages. These initiatives include \$211 million over four years in the 2002-03 budget and a further \$877.8 million in 2004. Unfortunately these additional amounts were not tied to wages and much of the money was used for other purposes.

The parlous state of bargaining in the sector has led to an inability of employers to fully compete in the labour market and they have struggled to recruit and retain nurses and other health professionals.

Establishing a new modern industry aged care award would be the antithesis to the promotion of enterprise bargaining. It would entrench a different and inferior set of employment conditions for aged care employees.

6.5 Award Modernisation in aged care

The wide ranging services provided within the aged care sectors, the reduction in the numbers of nurses employed and the changing skills mix are all relevant considerations in the processes of award modernisation, in particular section 576B(2) and the terms of the Ministerial Request.

In our respectful submission the AIRC should not make new modern awards that will dissuade employees from entering or remaining within part of an industry. To do so would be inconsistent with promoting employment and workforce participation and therefore inconsistent with s576B(2)(a) & (f).

The making of a new industry award in aged care would accelerate and entrench the loss of qualified nurses, the inadequate skills mix and poor resident outcomes.

As previously noted aged care residents are increasingly requiring high levels of nursing care; they are frail, vulnerable people with multiple chronic illnesses and at a high risk of injury and side effects, who require complex medication and health care treatment regimes.

With the reduction in nurses and the consequent changes to skills mix, this is leading to a lower level of safety and quality of care and putting these vulnerable residents at risk.¹¹

The aged care accreditation data on failed standards reveals that this has led to a decline in quality of care with residents exposed to serious risk from neglect, poor infection control, malnutrition and dehydration, and assault.¹²

The community's increasing alarm with this situation can be seen not only in the regular media reports but also from the following figures: in just six months last year, the federal government's Office of Aged Care Quality and Compliance received nearly 4,000 complaints (more than triple the number of complaints lodged in the previous twelve month period) about the treatment of people that potentially breached the *Aged Care Act 1997*. This included 418 reportable assaults.¹³

¹¹ Richardson, S. and Martin, B. 2004. *The Care of Older Australians: A Picture of the Residential Aged Care Workforce*, National Institute of Labour Studies, Flinders University, Adelaide.

¹² Department of Health and Ageing, Report on the operation of the Office of Aged Care Quality and Compliance, 1 July – 31 December 2007.

¹³ Ibid.

There is a substantial body of research which demonstrates clear links between nurse staffing levels and the quality of nursing home care.¹⁴

The range of findings are summarised well in the 2005 study by Horn et al which found care delivered by registered nurses in aged care facilities was strongly associated with better resident outcomes: fewer pressure ulcers (a major risk factor for the frail aged); fewer hospitalisations; lower incidence of urinary tract infections (thus reducing the requirements for more intensive care, catheterisation, and antibiotic therapy); less weight loss; and a much lower risk of deterioration in the resident's ability to perform activities of daily living – vital to optimising wellbeing and health status.¹⁵

7. [A nursing occupational award and pay equity](#)

The continuation of nursing occupational awards is an important consideration for pay and gender equity.

S576B(2) (e) requires the Commission to have regard to “*the need to help prevent and eliminate discrimination on the grounds of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, and to promote the principle of equal remuneration for work of equal value*”.

The undervaluing of women's work in general is a critical factor in the many battles for fair wages and conditions for nurses across the different areas of nursing employment. Nursing work remains under-valued despite various wage cases, industrial campaigns, the widespread shortage of nurses and the numerous reports, inquiries and reviews into nursing and workforce issues identifying improvements in wages and conditions as key issues in recruitment and retention of nurses and attracting students to nursing education.

In nursing, the under-valuing of women's work is one part (albeit a significant one) of the gender pay gap that has yet to be addressed.

Although highly regarded by the community, nurses are chronically undervalued by employers.

¹⁴ Zhang, N.J. et al. 2006. Minimum nurse staffing ratios for nursing homes, *Nursing Economics*, 24(2):78-95.

¹⁵ Horn, S., et al. 2005. RN staffing and outcomes of long term nursing home residents, *American Journal of Nursing*, 105(11):58-70.

The enduring failure to remedy the situation has entrenched nursing recruitment and retention problems in all states and territories across the country, particularly in the aged care sectors.

The nature, size and distribution of the industry and profession also has led to limitations on the adjustment of nurses' wages because, unfortunately, the issue of costs has repeatedly been a feature in the fixation of nurses' wages, often regardless of other factors attaching to the valuation of their work. The fact that they are the largest single group within the health system has often put the brake on increases in award/agreements rates.

The acknowledgement of this by industrial tribunals is reflected in the history of the establishment and maintenance of awards and is significant because the history in part reflects the insistence of the industrial tribunals (particularly the AIRC) to establish and preserve distinct national nursing industrial standards.

While problems do remain many of the pay and gender advances for nursing that have occurred will be lost if nursing classifications are buried in generic industry awards where nurses become a shrinking minority.

The issues and concerns raised in this submission are similar to those raised by a number of significant women's organisations who jointly supported a statement that appeared in a number of daily newspapers on 30 October 2008. A copy of that statement forms Attachment 5 to this submission.

Finally on this point we recognise that the AIRC is to have regard to the needs of the low paid consistent with s576B(2)(c). And we note that a significant proportion of Assistants in Nursing employed in aged care are in this category. They earn as little as \$16 per hour and are predominately female.

8. [The nursing vs care debate & avoiding the overlap](#)

A number of organisations have sought to portray the ANF support for nursing occupational awards as an attempt by the ANF to extend the scope of our traditional award coverage.

This claim doesn't stand up to even a cursory examination.

In the initial submissions of the ANF the following scope for a new modern nursing award was proposed:

The scope of an award to apply to the occupation of nursing shall apply to all persons who are primarily employed to provide or assist in the provision of nursing care and/or nursing services. Nursing care and nursing services encompass any care or services provided in the course of the provision of care to persons in need of medical or health care and/or in need of assistance in daily living.

As stated in the initial submission the draft scope was intended to encompass employees who are primarily employed to provide or assist in the provision of nursing care and not to apply to employees who may undertake tasks or responsibilities that are subsidiary to providing nursing care or nursing service. It was also stated that such employees are registered nurses, enrolled nurses, and assistants in nursing.

These employees are currently covered by nursing federal and state awards to which the ANF is a respondent.

The terms of the draft scope are consistent with a number of decisions of the AIRC and the courts generally. Examples are set out below:

In an application pursuant to s.111(g) the Health Services Union sought the dismissal of an application by the ANF under s204 in part on the grounds that ;

“The HSUA contended that there are two instances of ambiguity in the proposed alteration. Firstly, it alleged that it is unclear what is meant or intended by the terms “nursing care” and “nursing services” when read in the context of the eligibility rule as a whole. The eligibility rules provide for membership for persons who are nurses. If “nursing care” and “nursing services” are intended to mean something other than the work that nurses do, then that needs to be defined and the proposed rule alteration does not define it.

Secondly, it alleged that it is unclear what is meant by the term “to assist”. That term is not defined even in terms of the proportion of time that a person is to spend on “assisting”. Taken at its broadest, every employee at an establishment

wherein professional nurses carry out their profession might be said to assist in the provision of nursing care or nursing services by keeping the facility going.”

(Print R7043 at paras 8 and 9)

In rejecting the application the AIRC observed:

“Further, in this particular case, there is nothing obviously vague or ambiguous about the proposed rule alteration. The terms and language used are not unusual and are capable of being given meaning. I cannot accept that the proposed alteration is lacking in precision merely because the HSUA may have

some difficulty in deciding upon its meaning. The mere fact that the terms of a proposed rule may mean different things to different people is insufficient “

(Print R7043 at para 14)

In deciding the substantive application the AIRC made the following observations on the appropriate industrial interpretations of the term “nursing, nursing care and nursing services”.

- [37) *Having considered all the material before me, I am of the view that the appropriate approach, for the purposes of determining this application, is to give the terms contained in the proposed alteration a broad interpretation, constrained only by the context in which those terms appear. For that reason, I intend to interpret the term “nursing” as meaning providing care to the sick, infirm and/or those who, for any reason, are unable to look after themselves. I include amongst such persons those who are not only in need of medical care but also those who are in need of assistance for the purposes of daily living. Without attempting to provide an exhaustive list, I would identify the tasks performed by such persons as including bathing, showering, ensuring the hygiene of the immediate environment, changing beds and toileting, implementing nursing care plans, implementing appropriate behaviour management, dementia management, dressing and assisting in the dressing of wounds, identifying skin lesions or damage, identification of behavioural or health changes, observation of patients/residents and observation and supervision of other staff providing such care. Many of these tasks are, in my view, basic nursing tasks. They are tasks that may be performed by a registered nurse wheresoever employed. The terms “nursing care” and “nursing services”, would therefore encompass any care or services provided in the course of the provision of care to such persons whatever title is given to the person providing such care.*

[38] *For the purpose of industrial or workplace relations, in the context of the provision of nursing care and/or nursing services to the residents of aged care facilities, it is, in my view, neither possible nor appropriate to distinguish between the nursing care and personal care. Such a distinction may well be made for the purposes of determining the levels of funding of residential aged care facilities.*

However, the evidence before me demonstrates that, for the purpose of the actual provision of care, the distinction is artificial. In this context, nursing care cannot be properly described as being limited to care of a medical nature. Personal care, or, as it was described by some witnesses, the provision of assistance with daily living needs, is but a part of the provision of nursing care.

(Print T4652 at paras 37 and 38)

There have been a number of decisions coming to the same or similar conclusions including: RANF ex parte NSW & Ors 167 IR 185, RANF v. Private Hospitals etc 1984 11 IR 220 and Decisions PR 953970 and R9776.

9. [The span of businesses in the health and welfare industries](#)

The claims by employers that parts of the health and welfare industries may be neatly segmented into clean and separate entities based on the industry of the employer is perniciously inaccurate.

It is the rule rather than the exception that employers in these industries have inter state/territory business interests spanning different parts of the industries.

Set out below are examples of the current range of services provided by major employers in the industries.

[Healthscope](#)

Healthscope is one of Australia's leading private healthcare operators and is the second largest private hospital provider. It manages hospitals within every state and territory within Australia. Healthscope owns and operates psychiatric, medical/surgical rehabilitation and psychiatric hospitals. It has 2,400 beds and 2,000 employees. In addition, it operates a leading pathology business with facilities throughout Australia, New Zealand, Singapore and Malaysia.

Ramsay

Ramsay Health Care operates over 100 hospitals and day surgery facilities nationally and internationally and is Australia's largest private hospital operator.

Ramsay Health Care facilities provide a range of health care needs from day surgery procedures to highly complex surgery, as well as psychiatric care and rehabilitation. With over 8000 beds, the Company employs almost 25,000 staff across three countries.

Little Company of Mary

Little Company of Mary Health Care (LCM Health Care) is a Catholic not-for-profit national health provider that offers a broad range of health and aged care services in five States and Territories - NSW, Victoria, Tasmania, South Australia and the Australian Capital Territory (ACT). There are about 3,600 full time and part time staff.

LCM health care services include public and private hospital care, acute and sub-acute care, and retirement and aged care services. Other health care services include specialist, sub-specialist and general medical and surgical services, maternity, rehabilitation, alcohol and other drugs, breast screening, outpatient medical and allied health services, emergency departments, inpatient and outpatient mental health services, community based palliative care and rehabilitation, respite care, artificial limbs services, community nursing and other outreach services.

Catholic Health Care

Catholic Health Care, is the largest non-government provider grouping of health community and aged care services in Australia. Catholic Health Care represents about 13 per cent of the health care industry – 21 public hospitals, 54 private hospitals, and more than 550 aged care services.

Uniting Care Australia

The UnitingCare network is one of the largest providers of community services in Australia, providing services to 1.8 million Australians each year, employing 35,000 staff and 24,000 volunteers nationally. It provides services to older Australians, children, young people and families, Indigenous Australians, people with disabilities, the poor and disadvantaged, people from culturally diverse backgrounds and older Australians in urban, rural and remote communities.

In NSW there are about 2000 nurses under the Public Health System Nurses' and Midwives' (State) Award who work in hospitals/facilities known as Affiliated Health Organisations (AHO) There are currently 16 AHOs.

These AHO hospitals/facilities are considered part of the NSW public health system but are in the federal system. They include: St Vincent's Hospital Sydney Limited; The Sacred Heart Hospice; St Joseph's Hospital Limited; Karitane; Calvary Health Care Sydney Limited; Mercy Care Centre Young; Newcastle Mater Misericordiae Hospital, Waratah; Hope Healthcare [trading as: Neringah Hospital, Wahroonga, Greenwich Hospital, Greenwich, Graythwaite Nursing Home, North Sydney, Braeside Hospital, Prairiewood, Northern Beaches Palliative Care Service, Mona Vale]; Mercy Health Service Albury Limited; Royal Society for the Welfare of Mothers and Babies (known as Tresillian Family Care Centres, Belmore, Nepean, Willoughby, Wollstonecraft) and others.

NSW Health Policy Directives, Determinations and State legislation operate in conjunction with the state award. These instruments comprise their safety net of minimum conditions.

There is a Subsidy Agreement between NSW Health and each the AHOs which in part provides that employees are to be paid no more or no less than public hospital employees.

Victoria public sector

All Melbourne metropolitan public health services have acute and aged care , psychiatric and palliative beds.

The majority of aged care in rural Victoria is delivered by public sector health services or not-for-profit hospitals (bush nursing) in conjunction with acute and mental health.

A list of public health entities in Victoria which also operate residential aged care facilities forms Attachment 6 to this submission.

Victorian private sector

Several metropolitan, private hospitals provide additional services, including Cabrini, The Bays, Vaucluse, and Mercy Health & Aged Care which are major providers of aged and acute services across Victoria.

10. Conclusion

In conclusion this submission, along with materials filed by the ANF earlier in these proceedings provide, in our view a number of convincing reasons why the AIRC should support a new modern occupational award for nurses.

It appears to our union that the principal argument of employers in their support of industry awards is that this may reduce the number of awards applying to their particular business. While a reduction in the numbers of awards is one object in the award modernisation processes this does not , and should not , take precedence over the industrial and public interest benefits of an occupational award for nurses across all settings, which provides a consistent and fair safety net of minimum terms and conditions of employment..

Exemplar Nursing Occupational Award

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Please Note: Any existing safety net entitlements above the provisions contained in this draft will need to be identified and dealt with to ensure no employee is disadvantaged as part of this process.

Part 1 – Application and Operation

1. Title

Exemplar Nursing Occupational Award.

2. Commencement Date

This award commences on 1 January 2010.

3. Definitions and Interpretation (This clause to be completed. Definitions will be included for specific classifications of nurses such as nurse practitioners, midwives, occupational health nurses, and others).

3.1 In this award, unless the contrary intention appears:

Continuous service means (to be inserted)

Standard rate means the minimum weekly wage for a RN level 1 year 1 prescribed in clause

Transmission of business means (to be inserted)

4. Application

This award applies to the occupation of nursing and shall apply to all persons employed in the classifications listed in Schedule A of this award and who are primarily employed to provide or assist in the provision of nursing care and/or nursing services. Nursing care and nursing services encompass any care or services provided in the course of the provision of care to persons in need of medical or health care and/or in need of assistance in daily living.

5. The National Employment Standards and this award

The NES along with this award combine to form the minimum conditions of employment for employees covered by this award.

X. Award Flexibility

x.1 An employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of are those concerning:

(a) arrangements for when work is performed;

(b) overtime rates;

(c) penalty rates;

(d) allowances; and

(e) leave loading.

- x.2** The employer and the individual employee must have genuinely made the agreement without coercion or duress.
- x.3** The agreement between the employer and the individual employee must:
- (a) be confined to a variation in the application of one or more of the terms listed in sub-clause 1; and
 - (b) not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment.
- x.4** For the purposes of sub-clause **x.3(b)** the agreement will be taken not to disadvantage the individual employee in relation to the individual employee's terms and conditions of employment if:
- (a) the agreement does not result, on balance, in a reduction in the overall terms and conditions of employment of the individual employee under this award and any applicable agreement made under the Workplace Relations Act 1996 (Cth), as those instruments applied as at the date the agreement commences to operate; and
 - (b) the agreement does not result in a reduction in the terms and conditions of employment of the individual employee under any other relevant laws of the Commonwealth or any relevant laws of a State or Territory.
- x.5** The Agreement between the employer and the individual employee must also:
- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
 - (b) state each term of this award that the employer and the individual employee have agreed to vary;
 - (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
 - (d) detail how the agreement does not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment; and
 - (e) state the date the agreement commences to operate.
- x.6** The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.
- x.7** The employer must give the employee up to seven working days to enable the employee to seek advice, where appropriate, from her/his union.
- x.8** The agreement may be terminated:
- (a) by the employer or the individual employee giving four weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or

- (b) at any time, by written agreement between the employer and the individual employee.
- x.9** The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

Part 2 – Consultation and dispute resolution

X Consultation

x.1 Employer to notify

- (a) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (b) **Significant effects** include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs. Provided that where the award makes provision for alteration of any of the matters referred to herein an alteration is deemed not to have significant effect.

x.2 Employer to discuss change

- (a) The employer must discuss with the employees affected and their representatives the introduction of the changes referred to in clause **x.1**, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
- (b) The discussion must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause **x.1**.
- (c) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the interests of the employer.

X Dispute resolution

- x.1** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.

- x.2** In the event of a dispute in relation to a matter arising under this award, the NES, or in respect to any industrial matter in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor who shall respond to such request as soon as reasonably practicable under the circumstances. Where the dispute concerns alleged actions or allegations of unlawful discrimination by a supervisor, the employee or employees may refer the matter to the next higher level of management for discussion.
- x.3** If such discussions do not resolve the dispute, the parties must endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- x.4** If a dispute in relation to a matter arising under this award is unable to be resolved at the workplace, and all appropriate steps under clauses **x.2** and **x.3** have been taken, a party to the dispute may refer the dispute to the Commission for conciliation and arbitration if necessary.
- x.5** While the dispute resolution procedure is being conducted
- (a)** work must continue normally unless an employee has a reasonable concern about an imminent risk to their health or safety. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform other available work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.
 - (b)** The status quo existing before the emergence of the grievance or dispute is to continue whilst the above procedure is being followed.

X. Dispute resolution procedure training leave

- x.1** Subject to clauses **x.7**, **x.8** and **x.9**, an eligible employee representative is entitled to, and the employer must grant, up to five days training leave with pay to attend courses which are directed at the enhancement of the operation of the dispute resolution procedure including its operation in connection with this award and with the Act, or with any relevant agreement which provides it is to be read in conjunction with this award.
- x.2** An eligible employee representative must give the employer six weeks' notice of the employee representative's intention to attend such courses and the leave to be taken, or such shorter period of notice as the employer may agree to accept.
- x.3** The notice to the employer must include details of the type, content and duration of the course to be attended.
- x.4** The taking of such leave must be arranged having regard to the operational requirements of the employer so as to minimise any adverse effect on those requirements.
- x.5** An eligible employee representative taking such leave must be paid the wages the employee would have received in respect of the ordinary time the employee would have worked had they not been on leave during the relevant period.
- x.6** Leave of absence granted pursuant to clause X - Dispute resolution procedure training leave counts as service for all purposes of this award.
- x.7** For the purpose of determining the entitlement of employee representatives to dispute resolution procedure training leave, an **eligible employee representative** is an employee:

- (a) who is a shop steward, a delegate, or an employee representative duly elected or appointed by the employees in an enterprise or workplace generally or collectively for all or part of an enterprise or workplace for the purpose of representing those employees in the dispute resolution procedure; and
- (b) who is within the class and number of employee representatives entitled from year to year to take paid dispute resolution procedure training leave according to the following quota table:

Number of employees employed by the employer in an enterprise or workplace	Maximum number of eligible employee representatives entitled per year
5–15	1
16–30	2
31–50	3
51–90	4
More than 90	5

- x.8 Where the number of eligible employee representatives exceeds the quota at any particular time for a relevant enterprise or workplace, priority of entitlement for the relevant year must be resolved by agreement between those entitled or, if not agreed, be given to the more senior of the employee representatives otherwise eligible who seeks leave.
- x.9 For the purpose of applying the quota table, **employees employed by the employer in an enterprise or workplace** are full-time and part-time employees, and casual employees with six months or more service, covered by this award who are employed by the employer and engaged in the enterprise or workplace to which the procedure established under clause X - Dispute resolution applies.

*Notes:
From Metals Exposure draft except for clause x..4*

Part 3 – Types of employment and termination of employment

X General

Employees under this award will be employed in one of the following categories:

Full-time employment; or
Part-time employment; or
Casual employment.

At the time of engagement an employer will inform each employee in writing of the terms of engagement and indicate whether the employee is a full-time, part-time or casual employee.

x.1 Full-time employment

A full-time employee is one engaged as such and who works 38 hours per week or an average of 38 hours per week as per clause Hours of work.

x.2 Part-time employment

A part-time employee is an employee engaged as such who works a regular pattern of hours which average less than 38 hours per week or 76 in a fortnight.

x.2.1 At the time of engagement, the employee and the employer will agree in writing upon the hours to be worked by the employee and the rostering arrangements which will apply to those hours.

x.2.2 The number of hours worked by a part-time employee may be varied by mutual agreement between the employee and the employer and must be recorded in writing.

x.2.3 A part-time employee's roster may be changed in accordance with clause..... Rosters, provided that the agreed number of ordinary hours per week or fortnight can only be amended in accordance with clause **x.2.2**.

x.2.4 For ordinary working hours part-time employees shall be paid at an hourly rate equal to 1/38th of the weekly rate appropriate to the employee's classification and entitled, on a pro rata basis to:

(a) Annual leave, Personal leave, long service leave, parental leave and community service leave and;

(b) Such allowances, penalty rates and benefits as apply to full time employees where applicable.

2.6 In relation to the accumulation of pro rata entitlements, all authorised time worked in excess of rostered hours but within ordinary hours of work will be counted towards the accrual of pro rata entitlements.

X.3 Casual employment

x.3.1 A casual employee is one engaged on an hourly basis in relieving work or work of a casual nature but does not include an employee who could be properly classified as full-time or part-time.

- x.3.2** A casual employee shall be paid an hourly rate equal to 1/38th of the weekly rate appropriate to the employee’s classification plus a casual loading of 25% in lieu of payment for annual leave and sick leave and payment for not working a public holiday.
- x.3.3** A casual employee shall receive a minimum payment equivalent to 2 hours work at the casual rate specified in clause **x.3.2** for each occasion required to attend work.
- x.3.4** A casual employee is entitled to receive appropriate penalties and allowances in accordance with this award.
- x.3.5** For purposes of calculating penalties, including shift allowances, the penalty rate will be calculated on the ordinary rate of pay excluding the casual loading, with the casual loading component added to the penalty rate of pay. (see notes below)

OR

- x.3.5** For purposes of calculating penalties, including shift allowances, the ordinary rate for a casual employee is the ordinary rate of pay plus the 25% casual loading.

Notes:

*In WA TAS and VIC (except for VIC ENs re public holidays), the ordinary rate for casuals includes the casual loading and the penalty is applied to that rate.
In NSW and ACT, the standard weekend shift penalties apply with no casual loading.
In the middle is the situation in QLD, SA and NT where penalties are calculated on ordinary time with the casual loading component added. Eg. NT Private sector award:*

24 *The additional penalty rates referred to in 24.3 and 24.4 do not include any percentage addition by reason of the fact that an employee is a casual employee. That is, the shift penalty is calculated upon the ordinary rate, prior to the addition of the 20% casual loading. For example, if the ordinary rate = \$8.00, the payment is calculated as follows:*

$$\$8.00 + 15\% = \$9.20 + \$1.60 (\$8.00 \times 20\%) = \$10.80$$

X. Termination of employment

x.1 Termination by employer

- x.1.1** An employer may terminate the employment of an employee only if the employee has been given the following notice:

Period of Continuous Service	Period of Notice
Not more than 1 year	At least 1 week
More than 1 year but not more than 3 years	At least 2 weeks
More than 3 years but not more than 5 years	At least 3 weeks
More than 5 years	At least 4 weeks

- x.1.2** In addition to the notice above, employees 45 years old or over and who have completed at least 2 years’ continuous service with the employer shall be entitled to an additional week’s notice.
- x.1.3** Payment in lieu of notice shall be made if the appropriate notice is not given, provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

- x.1.4** Payment in lieu of notice will be at least the total of the amounts the employer would have been liable to pay the employee if the employee's employment had continued until the end of the required notice period. The total must be worked out on the basis of:
- x.1.4(a)** the ordinary working hours to be worked by the employee; and
 - x.1.4(b)** the amounts payable to the employee for the hours including for example allowances, loadings and penalties; and
 - x.1.4(c)** any other amounts payable under the employee's employment contract.
- x.1.5** The period of notice in this clause does not apply:
- x.1.5 (a)** in the case of dismissal for serious misconduct;
 - x.1.5 (b)** to employees engaged for a specific period of time or for a specific task or tasks;
 - x.1.5 (c)** to trainees whose employment under a traineeship agreement or an approved traineeship is for a specified period or is, for any other reason, limited to the duration of the agreement; or
 - x.1.5 (d)** to casual employees.
- x.1.6** For purposes of this clause, continuity of service shall be calculated in the manner prescribed in clause 3 Definitions.
- x.1.7** Where an employee's employment terminates, and the employee has accrued credits which have not been utilised under the ADO system, such credits shall be paid to the employee on termination. Where an ADO has been taken in anticipation of credits, any shortfall at the date of termination shall be recovered from the employee. The shortfall may be recovered from any final monies payable to the employee on termination.
- x.1.8** In the absence of mutual agreement between the employer and the employee annual leave or any part of annual leave shall not be deemed to be or nominated as notice by the Employer for the purpose of termination of employment.
- x.2 Notice of termination by employee**
- x.2.1** An employee (other than a casual) shall give one week's notice to the employer of the termination of service.
- x.2.2** If an employee fails to give notice, the employer shall have the right to withhold monies due to the employee with the maximum being an amount equal to the ordinary time rate for the period of notice.
- x.3 Casual employees**

The employment of a casual employee may be terminated by giving or receiving of one hour's notice or payment thereof.

x.4 Time off during notice period

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

x.5 Statement of employment

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

X. Redundancy

x.1 Definitions relating to redundancy

x.1.1 Business includes trade, process, business or occupation and includes part of any such business.

x.1.2 Redundancy occurs where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone and that decision leads to the termination of employment of the employee, except where this is due to the ordinary and customary turnover of labour.

x.1.3 Small employer means an employer who employs fewer than 15 employees.

x.1.4 Transmission includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and **transmitted** has a corresponding meaning.

x.1.5 Week's pay means the ordinary time rate of pay for the employee concerned. Provided that such rate shall exclude:

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

x.2 Transfer to lower paid duties

Where an employee is transferred to lower paid duties by reason of redundancy the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary rate of pay and the new ordinary time rate for the number of weeks of notice still owing.

x.3 Severance pay

x.3.1 Severance pay - other than employees of a small employer

An employee, other than an employee of a small employer as defined in **x.1.3**, whose employment is terminated by reason of redundancy is entitled to the following amount of severance pay in respect of a period of continuous service:

Period of continuous service	Severance pay
Less than 1 year	Nil
1 year and less than 2 years	4 weeks' pay*
2 years and less than 3 years	6 weeks' pay
3 years and less than 4 years	7 weeks' pay
4 years and less than 5 years	8 weeks' pay
5 years and less than 6 years	10 weeks' pay
6 years and less than 7 years	11 weeks' pay
7 years and less than 8 years	13 weeks' pay
8 years and less than 9 years	14 weeks' pay
9 years and less than 10 years	16 weeks' pay
10 years and over	12 weeks' pay

* **Week's pay** is defined in **x.1.5**

x.3.2 Severance pay - employees of a small employer

An employee of a small employer as defined in **x.1.3** whose employment is terminated by reason of redundancy is entitled to the following amount of severance pay in respect of a period of continuous service:

Period of continuous service	Severance pay
Less than 1 year	Nil
1 year and less than 2 years	4 weeks' pay*
2 years and less than 3 years	6 weeks' pay
3 years and less than 4 years	7 weeks' pay
4 years and over	8 weeks' pay

* **Week's pay** is defined in **x.1.5**

x.3.3 Provided that the severance payments shall not exceed the amount which the employee would have earned if employment with the employer had proceeded to the employee's normal retirement date.

x.3.4 Application may be made for variation of the severance pay provided for in this clause in a particular redundancy situation in accordance with the *Redundancy Case Decision* [**PR032004**, 26 March 2004] and the *Redundancy Case Supplementary Decision* [**PR062004**, 8 June 2004].

x.4 Employee leaving during notice period

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

x.5 Alternative employment

x.5.1 An employer, in a particular redundancy case, may make application to the Commission to have the general severance pay prescription varied if the employer obtains acceptable alternative employment for an employee.

x.5.2 This provision does not apply in circumstances involving transmission of business as set in **x.7**.

x.6 Job search entitlement

x.6.1 During the period of notice of termination given by the employer, an employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.

x.6.2 If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or he or she shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

x.6.3 The job search entitlements under this subclause apply in lieu of the provisions of 31.4.

x.7 Transmission of business

x.7.1 The provisions of this clause are not applicable where a business is before or after the date of this award, transmitted from an employer (in this subclause called the **transmittor**) to another employer (in this subclause called the **transmittee**), in any of the following circumstances:

x.7.1(a) Where the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmittor and any prior transmittor to be continuous service of the employee with the transmittee; or

x.7.1(b) Where the employee rejects an offer of employment with the transmittee:

- in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the employee at the time of ceasing employment with the transmittor; and

- which recognises the period of continuous service which the employee had with the transmitter and any prior transmitter to be continuous service of the employee with the transmittee.

x.7.2 The Commission may vary **x.7.1(b)** if it is satisfied that this provision would operate unfairly in a particular case.

x.8 Employees exempted

Redundancy entitlements do not apply to:

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

x.9 Incapacity to pay

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

x.10 Redundancy Disputes Procedure

x.10.1 Sub-clauses **x.10.2** and **x.10.3** impose additional obligations on an employer where an employer contemplates termination of employment due to redundancy and a dispute arises ('a redundancy dispute').

x.10.2 Where a redundancy dispute arises, and if it has not already done so, an employer must provide affected employees and the relevant union or unions (if requested by an affected employee) in good time, with relevant information including:

x.10.2 (a) the reasons for any proposed redundancy;

x.10.2 (b) the number and categories of workers likely to be affected; and

x.10.2 (c) the period over which any proposed redundancies are intended to be carried out.

x.10.3 Where a redundancy dispute arises and discussions occur in accordance with this clause the employer will, as early as possible, consult on measures taken to avert or to minimise any proposed redundancies and measures to mitigate the adverse affects of any proposed redundancies on the employees concerned.

Part 4 – Rates of pay and related matters

X. Classifications

x.1 The definitions for the classifications below are contained in Schedule A of this award.

X. Minimum weekly wage rates

Assistant in Nursing	
Level 1	
Level 2	
1 st Year	
2 nd Year	
Level 3	
Student Enrolled Nurse	
Less than 21 years of age	
21 years of age and over	
Enrolled Nurse	
1 st year	
2 nd year	
3 rd year	
4 th year	
5 th year	
Mothercraft Nurse	
1 st year	
2 nd year	
3 rd year	
4 th year	
5 th year and thereafter	
Undergraduate student Registered Nurse	
Registered Nurse (Level 1)	
1 st year	
2 nd year	
3 rd year	
4 th year	
5 th year	
6 th year	
7 th year	
8th year and thereafter	
Registered Nurse (Level 2)	
1 st year	
2 nd year	
3 rd year	
4 th year and thereafter	

Registered Nurse (Level 3)	
1 st year	
2 nd year	
3 rd year	
4 th year and thereafter	
Registered Nurse (Level 4)	
Grade 1	
Grade 2	
Grade 3	
Registered Nurse (Level 5)	
Grade 1	
Grade 2	
Grade 3	
Grade 4	
Grade 5	
Grade 6	
Nurse Practitioner	
Level One Occupational Health Nurse	
1 st year	
2 nd year	
3 rd year	
4 th year	
5 th year	
Level Two Occupational Health Nurse	
1 st year	
2 nd year	
3 rd year	
4 th year	
Senior Occupational Health Clinical Nurse	
Level Three Occupational Health Nurse	
1 st year	
2 nd year	
3 rd year	
4 th year and thereafter	

x.1 Incremental payments

An employee is entitled to increments for service in their classification as follows:
On the accumulation of 1200 hours or 12 months service which ever occurs later.

x.2 Progression through paypoints

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 settings(s) over such period.

x.3 Salary on appointment

- x.3.1** An RN, on appointment will be paid a rate of salary by reference to the employee's relevant continuous experience since becoming an RN.
- x.3.2** Any employee who was employed as a Nurse attendant/direct client contact services employee immediately prior to undertaking a recognised course of study to become an EN and who is recognised as an EN by the relevant Nurses Board must, on appointment as an EN, receive a rate of pay within the EN salary scale which is consistent with the recognition of relevant training, experience and skill gained immediately prior to undertaking the recognised EN training course.
- x.3.3** For the purpose of **x.3.1** and **x.3.2**, in determining relevant continuous experience:
- x.3.3.(a)** any period of service prior to an absence of less than five years from active nursing duties relevant to the classification in which the employee is employed, or is to be employed, will be taken into account;
 - x.3.3.(b)** any period of service prior to an absence of five years or more from active nursing duties relevant to the classification in which the employee is employed or is to be employed, will be taken into account where the employee has successfully completed a refresher course approved by the relevant Nurses Board but will be subject to a reduction of one year on the relevant incremental scales;
 - x.3.3.(c)** completed months will be taken into account;
 - x.3.3.(d)** recognised service averaging less than fifteen hours per week in any year will not count, but be regarded as establishing continuous employment;
 - x.3.3.(e)** recognised service in a classification higher than that in which the employee is employed or is to be employed is that service directly relevant to the duties performed or to be performed;
 - x.3.3.(f)** the onus of proof of previous continuous employment will be on the employee and will be established at the time of employment. An employer will, when provided with evidence by an employee, accept, reject or request further particulars to establish continuous experience; and

- x.3.3(g)** if an employee deliberately misrepresents previous continuous experience, such action will amount to misconduct and any service misrepresented will be disregarded in calculating the employee's position on the relevant incremental scale. When non-disclosure is not by virtue of deliberate misrepresentation, previous continuous experience will only be taken into account in determining the employee's position on the relevant scale from the time.

Notes:

AIN structure from ACT Private Award and Qld aged care State award

Remaining structure and classification definitions from Nurses SA Private Sector Award

X. HIGHER DUTIES

- x.1** An employee engaged in any one day or shift for more than two hours on duties carrying a higher rate than the classification in which she/he is ordinarily employed shall be paid for the full day or shift at the minimum rate for that higher classification but if so engaged for two hours or less only the time so worked shall be paid for at that higher rate.
- x.2** Notwithstanding the provisions of **x.1**, Employees whose permanent position has an Award classification preceded by "Deputy" or Associate" are deemed to include the performance of the higher duties during the off duty periods of the employee to whom they are appointed as Deputy or Associate up to and including five days For absences in excess of five days, the relieving "Deputy" or Associate" shall be paid higher duties for the entire period of relief
- x.3** Notwithstanding the provisions of **x.1**, Employees whose permanent position is not that of "Deputy" or Associate" and are required to relieve a "Deputy" or Associate" such employees are to be paid higher duties for the entire period of relief to the position of the employee to whom they are Deputy or Associate.

X. ALLOWANCES

x.1 Qualifications

x.1.1 Continuing education allowance

- (a) A registered nurse or enrolled nurse who holds a continuing education qualification in a clinical field, in addition to the qualification leading to registration or enrolment, shall be paid an allowance subject to the conditions set out in this clause.
- (b) The qualification must be accepted by the employer to be directly relevant to the competency and skills used by the employee in the duties of the position.
- (c) The allowance is not payable to Deputy Directors of Nursing or Directors of Nursing unless it can be demonstrated to the satisfaction of the employer that more than fifty per cent of the employees time is spent doing clinical work.
- (d) The allowance is not payable to Clinical Nurse Specialists, Clinical Nurse Consultants or Clinical Nurse Educators.

- (e) An RN or EN holding more than one relevant qualification is only entitled to the payment of one allowance, being the allowance of the highest monetary value.
- (f) The employee claiming entitlement to a continuing education allowance must provide evidence to the employer that they hold that qualification.
- (g) An RN who holds a relevant postgraduate certificate in a clinical field (not including a hospital certificate) that is accepted by the employer to be directly relevant to the competency and skills used by the RN in carrying out the duties of the position shall be paid a weekly allowance as set out in Item 1 of Clause **x.1.2**, Allowance Rates.
- (h) An RN who holds a relevant postgraduate diploma or degree in a clinical field (other than a nursing undergraduate degree) that is accepted by the employer to be directly relevant to the competency and skills used by the RN in carrying out the duties of the position shall be paid a weekly allowance as set out in Item 2 of Clause **x.1.2**, Allowance Rates.
- (i) An RN who holds a relevant masters degree or doctorate in a clinical field that is accepted by the employer to be directly relevant to the competency and skills used by the RN in carrying out the duties of the position shall be paid a weekly allowance as set out in Item 3 of Clause **x.1.2**, Allowance Rates.
- (j) An EN who holds a relevant certificate IV qualification in a clinical field (not including a certificate IV qualification which has the effect of upgrading the qualification leading to enrolment) that is accepted by the employer to be directly relevant to the competency and skills used by the EN in carrying out the duties of the position shall be paid a weekly allowance as set out in Item 4 of Clause **x.1.2**, Allowance Rates..
- (k) The allowances set out in sub-clauses (g), (h), (i) and (j) hereof are not included in the employee's ordinary rate of pay and will not constitute part of the all-purpose rate.
- (l) A registered nurse or enrolled nurse who is employed on a part-time or casual basis shall be paid these allowances on a pro rata basis.
- (m) The rates for these allowances shall be adjusted in accordance with increases in other wage- related allowances contained in this award.
- (n) Disagreement or disputes arising about the eligibility of an employee for payment of a continuing education allowance will be dealt with through the dispute resolution process in clause X.

x.1.2 – Allowance rates:

Item No.	Brief Description	Clause No	(\$)
1	Continuing education allowance: RN	x.1.1(g)	15.90 per week
2	Continuing education allowance: RN	x.1.1(h)	26.50 per week
3	Continuing education allowance: RN:	x.1.1(i)	31.80 per week
4	Continuing education allowance: EN	x.1.1(j)	10.60 per week

Notes:

Awards with provision:

Nurses (Northern Territory) Private Sector Award 2002

Nurses (Victorian Health Services) Award 2000 [Transitional]

Nursing Homes, &C., Nurses' (State) Award

Summary:

Three out of the ten awards have a qualification allowance. The rate in the NT Award provides for \$450 per annum maximum. The Victorian Award provides for an allowance for ENs only. The NSW Award is the most comprehensive and provides allowances for both RNs and ENs.

The purpose of creating model clauses is not to create additional benefits for nurses but to average out conditions across Australia. Bearing this in mind a savings provision should be sought to protect these award conditions for a length of 3-5 years before they are removed from the Award.

x.2 Nurse in-charge allowance

An RN Level 1 or an RN2 Level 2 directed by the employer to take charge of a health unit, on a Saturday, Sunday, public holiday, or between the hours of 6.00 p.m. and 8.00 a.m. on any day, will:

- x.2.1** If in charge of a worksite of 180 beds or greater, be paid an allowance to bring the employee's substantive rate of pay per hour to that of an RN-3 1st year of service.
- x.2.2** If in charge of a worksite of 100 beds or more but less than 180 beds, be paid an allowance to bring the employee's substantive rate of pay per hour to that of an RN-2, 3rd year of service.
- x.2.3** If in charge of a worksite of greater than 60 beds but less than 100 beds, be paid an allowance to bring the employee's substantive rate of pay per hour to that of an RN-2, 2nd year of service.
- x.2.4** If in charge of a worksite of less than 60 beds, be paid an allowance to bring the employee's substantive rate of pay per hour to that of an RN-2, 1st year of service.

OR

In-Charge Allowance – NSW Nursing Homes

In-Charge Allowance – NSW Private Hospital Industry

In-Charge Allowance – SA Private Sector

Notes:

The final wording of these above clauses would be dependent on how the Award is phrased with respect to classifications

Awards with provision:

*Nurses' Aged Care Award – State 2005 (Night Shift only) **

*Nurses Private Employment (A.C.T.) Award 2002 (payable at 2 facilities only) **

Nurses (Victorian Health Services) Award 2000 [Transitional] (payable at Vision Australia only)

Nurses (ANF – South Australian Private Sector) Award 2003 [Transitional] (nights, public holidays and weekends only)

*Nursing Homes, &C., Nurses' (State) Award **

*Private Hospital Industry Nurses' (State) Award **

** = flat allowance paid on a per shift basis*

Background:

Six out of the ten awards have an In Charge or Additional Responsibilities allowance. Of those six four pay it as a flat amount per shift. Only the Nurses (Victorian Health Services) Award 2000 provides any allowance for ENs. Only the NSW awards allowance provide for payment at any time or day. South Australia is restricted to nights, weekends and public holidays.

x.3 On-call Allowance and Payment for Re-call to duty

x.3.1 On-call Allowance

An employee required by the employer to be on-call at their private residence, or at any other mutually agreed place is entitled to receive the following additional amounts for each 24 hour period or part thereof:

x.3.1(a) Between rostered shifts of ordinary hours Monday to Friday inclusive - \$16.42

x.3.1(b) Between rostered shifts of ordinary hours on a Saturday - \$24.67

x.3.1(c) On a Sunday, public holiday or any day when the employee is not rostered to work - \$28.78

x.3.1(d) For purpose of this clause the whole of the on call period is calculated according to the day on which the major portion of the on call period falls.

x.3.2 Recall to duty

An employee required to be on call who is recalled to duty must be paid at the appropriate overtime rate set out in clause Overtime for a minimum period of three hours for each time recalled to duty.

x.3.3 Employees not required to be on call – recall to duty

An employee who is not required to be on call and who is recalled to duty must be paid at the appropriate overtime rate set out in clause Overtime for a minimum period of 3 hours for each time recalled to duty. The time spent travelling to and from the place of duty shall be deemed to be time worked.

Provided that where an employee is recalled within 3 hours of rostered commencement time and remains at work, only time spent in travelling to work shall be included with actual time worked for the purpose of payment for the period of overtime.

x.3.4 Employees recalled to duty – travel expenses

Any employee recalled to duty (whether or not the employee was required to be on call), will be provided with transport to and from duty or reimbursed all expenses incurred in attending for duty and returning home or if using a private vehicle, paid travel allowance in accordance with Clause Travel allowance.

Notes:

The majority of on call provisions in the 10 awards, (not Vic, Tas and ACT) exclude RN levels 4 and 5, or in NSW its DON/DDON/ADON. The above clause does not include any exclusions at this stage.

Re the allowance rates – 2x Qld awards, NT, SA and WA have similar allowance rates. NSW has a higher rate (\$33.78) for on-call on days off. Tas has a “close call” arrangement which provides a minimum payment of 6 hours @ ord. rate if not required for duty. ACT silent on allowance rates.

Have adopted the majority provision in the Qld awards. NT uses rate for day on which on call period commences; WA and SA get the higher rate. Others appear to be silent.

Recall payment arrangements:

Above clause provides payment at OT rates for min. of 3 hours as provided in 2xQld awards, ACT and NT. Vic provides for min of 2 hours while Tas and NSW provide for min. of 4 hours payment.

Not included in the clause is provision in 2xQld awards that e/ee is not obliged to work the 3 hours if work is completed in a shorter time. The other awards are silent re this matter.

Payment for travel time has been included only for e/ees not rostered but are recalled to duty as per 2x Qld awards, NT, SA, TAS. This matter is silent in Vic WA, ACT and 2x NSW awards.

When rostered on call and re called, TAS and SA include payment for travel time. This is not included in the above clause.

Also not included is provision for e/er to contribute to telephone related expenses provided in the Vic and WA awards.

X.4 Uniform and Laundry Allowance

x.4.1 Uniform Allowance

Where an employer requires an employee to wear a uniform, the employee must be paid a uniform allowance of \$5.00 per week. This allowance does not apply where the employer reimburses the employee for the cost of purchasing. This allowance does not apply where the employer supplies a uniform to an employee.

Where the employer supplies uniforms to an employee, in the absence of a good reason (fair wear and tear constitutes a good reason), an employee will not be entitled to have the uniforms replaced by the employer without reasonable cost to him or herself.

x.4.2 Where an employer provides an employee with uniforms, all articles so provided remain the property of the employer. Upon termination all uniforms supplied by the employer are to be returned to the employer.

x.5 Laundry Allowance

x.5.1 Where the uniforms of any employee are not laundered by the employer, free of cost to the employee, an allowance of \$2.31 per week will be paid to the employee.

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Notes: Clause based on:

Nurses (Northern Territory) Private Sector Award 2002

Nurses (Victorian Health Services) Award 2000 [Transitional]

Nurses' (ANF - WA Private Hospitals and Nursing Homes) Award 1999 [Transitional]

All awards provide for the payment of uniform and/or laundry allowance where a uniform is not supplied and laundered. The awards and their respective amounts are listed below.

In the Model Clause uniform allowance and laundry allowance have been kept separate as this is how the Awards have been constructed in most cases. As such the averaged amount has been split to reflect the common position of uniform allowance being higher than laundry allowance.

Rates for Uniform and Laundry Allowances

Nurses' Aged Care Award – State 2005: \$3.05/week (uniform) + \$1.85/week (laundry) = \$4.90/week

Private Hospital Nurses' Award – State 2003: \$3.05/week (uniform only)

Nurses Private Employment (A.C.T.) Award 2002: \$5.70/week (\$0.15/hour)

Nurses (Northern Territory) Private Sector Award 2002: \$6.58/week (\$0.14/hour)

Nurses' (ANF – WA Private Hospitals and Nursing Homes) Award 1999 [Transitional]: \$1.05/week (laundry) + \$4.00/week (uniform) = \$5.05/week

Nurses (Victorian Health Services) Award 2000 [Transitional]: \$5.05/week (uniform) + \$1.30/week (laundry) = \$6.35/week for RNs and ENs. \$4.84/week (uniform) + \$0.95/week (laundry) = \$5.79/week for Mothercraft Nurses

Nurses (ANF – South Australian Private Sector) Award 2003 [Transitional]: \$5.24/week (uniform) + \$0.67/week (socks) + \$1.33/week (stockings/pantyhose) + \$1.51/week (footwear) = \$8.75/week

Nurses (Tasmanian Private Sector) Award 2005 [Transitional]: \$4.71/week or \$4.08/week dependent on whether leave is taken

Nursing Homes, &C., Nurses' (State) Award: \$5.40/week (uniform) + \$1.68/week (Shoes) + \$1.62/week (cardigan/jacket) + \$2.80/week (stockings) + \$0.55/week (socks) + \$4.50/week laundry = \$16.55/week

Private Hospital Industry Nurses' (State) Award: \$5.31/week (uniform) + \$1.64/week (Shoes) + \$1.60/week (cardigan/jacket) + \$2.75/week (stockings) + \$0.54/week (socks) + \$4.42/week laundry = \$16.26/week

Average of above = \$87.77 ÷ 12 = \$7.31

x.6 Travelling expenses and vehicle allowance

- x.6.1** An employee required and authorised to use his or her own motor vehicle in the course of his/her duties will be paid an allowance of not less than 60 cents per kilometre.

Awards with no provision:

Nurses' Aged Care Award – State 2005
 Private Hospital Nurses' Award – State 2003
 Nurses Private Employment (A.C.T.) Award 2002

Background information:

Two awards provide for a cents/kilometre re-imburement only, whilst the other 5 provide for scenarios including fares re-imburements and the like.

Only one award deals with the issue of employees working overtime being reimbursed when public transport ceases to operate.

Rates for cents/kilometre re-imburement

Nurses (Northern Territory) Private Sector Award 2002: 53c/km
 Nurses' (ANF – WA Private Hospitals and Nursing Homes) Award 1999 [Transitional]: 54.9c/km
 Nurses (Victorian Health Services) Award 2000 [Transitional]:

		A kilometre (cents)
Motor Cars	35 PMU and over	80
	Under 35 PMU	70
Motor Cycles	250cc and over	40
	Under 250cc	30
Bicycles		10

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

Provided that there be a minimum payment of (60) cents for each occasion of use.

Nurses (ANF – South Australian Private Sector) Award 2003 [Transitional]

Vehicles with an engine of 4 cylinders or less	47.6 cents per kilometer
Vehicles with an engine of more than 4 cylinders or with rotary engine	61 cents per kilometer
For motorcycles or motor scooters	24.5 cents per kilometer

Nurses (Tasmanian Private Sector Award 2005 [Transitional]: (Public sector parity)		
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%)
Nursing Homes, &C., Nurses' (State) Award: 55.57c/km		
Private Hospital Industry Nurses' (State) Award: Public Sector		
REFER TABLE BELOW		

Allowances in Public Health System for Private Use of Vehicle								
Rate	Cents/km	Source of Entitlement	Written Approval required	Employer Approval required	No official vehicle available	No other transport available	Essential Neccessary	Employee Agreeable
Official Business Rate		PD2005_619: Travel - Official & PEO Circular C2007-37	X	X	X	X	X	
Over 2601cc	86.2							
1601-2600cc	80.3							
1600cc or less	57.5							
Transport Rate		Award: Car Allowance [CI.21];		X	X			X
Over 1600cc	36.8	PD2005_619: Travel - Official & PEO Circular C2007-37						
1600cc and under	30.8							
Motor Cycle Allowance		PD2005_619: Travel - Official & PEO Circular C2007-37		X	X			X
One rate	37.8							
Report Alternate place of work (Excess kms)		Award: Mobility, Excess Fares & Travelling [CI.20];		X				
Over 2700cc	86.2	Pub Sec Man (Gen) Reg & PEO Circular C2007-37						
1600-2700cc	80.3							
Under 1600cc	57.5							
Note: 'Regular relievers' receive excess kms minus \$5.20 [Award: 20(iv)(c)]								As at 16/9/08

x.7 Location allowances

(Still to be included)

X. Payment of wages

x.1 Salaries must be paid fortnightly, unless there is a written contract to the contrary in which case the period is limited to a monthly maximum period.

x.2 All employees shall be paid by electronic funds transfer provided there is reasonable geographical access to a facility which enables the employee to withdraw some or all of their wages on the usual pay day. Any alternative arrangement of paying wages shall be at the discretion of the employer.

- x.3** Employers must provide each employee in a written form at the time when salaries are paid, particulars as follows:
- (a) gross earnings of salaries including overtime and other earnings;
 - (b) the amount paid as overtime;
 - (c) the amount deducted for tax;
 - (d) particulars of other deductions;
 - (e) the net amount paid;
 - (f) the number of hours worked during that pay period and the hourly or fortnightly rate paid; and
 - (g) the amount of superannuation contributions.
- x.4** When notice of termination of employment has been given by an employee or an employee's services have been terminated by an employer, payment of all wages and other moneys owing to an employee shall be made to the employee.
- x.5** If an employee is kept waiting for more than 24 hours such employee shall be paid overtime rates for the duration of the period until such moneys owing are paid with a minimum payment of two hours and a maximum payment of 7 hours and 36 minutes per day.
- x.6** Notwithstanding the above, this subclause will not come into effect if the payment of wages or other moneys owed falls on a bank holiday or declared public holiday. This clause will come into effect upon the expiration of such a bank holiday or declared public holiday.
- x.7** This subclause will not come into effect if any unforeseen event outside the control of the employer prevents the employer's ability to meet the requirements of this subclause.
- x.8** An employee who is rostered off duty on a pay day will be paid either during working hours before completing duty prior to the pay day or on the employee's next rostered period of duty, or if pay is not provided in the normal manner, the employees' salary must be available for collection on the pay day when requested by the employee.

X. Superannuation

x.1 Superannuation legislation

- (a) Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a superannuation fund, the superannuation fund nominated in the award covering the employee applies.
- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

x.2 Employer contributions

- (a) An employer must make such superannuation contributions to a superannuation fund for the benefit of an employee as will avoid the employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that employee; and
- (b) Contributions into the nominated fund shall be paid monthly and within 30 days of the end of each month.

x.3 Voluntary employee contributions

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause **x.2**.
- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
- (c) The employer must pay the amount authorised under (a) or (b) at the same time as the employer makes the superannuation contributions provided for in clause **x.2**.

x.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause **x.2** to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause **x.2** and pay the amount authorised under clauses **x.3(a)** or **x.3(b)** to HESTA.

x.5 Absence from work

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions provided for in clause **x.2** and pay the amount authorised under clauses **x.3(a)** or **x.3(b)**:

- (a) **Paid leave** While the employee is on any paid leave.
- (b) **Work related injury or illness** For the period of absence from work (subject to a maximum of 52 weeks in total) of the employee due to work related injury or work related illness provided that:
 - (i) the employee is receiving workers' compensation payments or is receiving regular payments directly from the employer in accordance with statutory requirements; and
 - (ii) the employee remains employed by the employer.

Notes:

The above exemplar clauses mirrors the best case scenario contained in Exposure Drafts released to date. The “Absence from work” clause is not contained in all Exposure Drafts.

Most private sector nursing awards make provision for a superannuation clause of some kind, although the content can vary. Only NSW awards appear to provide for SGC contributions to be paid on the amount before salary sacrificing, so this has not been translated into the exemplar award.

The Private Hospital Nurses’ Award - State 2003, Nurses’ (ANF - WA Private Hospitals and Nursing Homes) Award 1999 and Nurses (Victorian Health Services) Award 2000 provide for monthly payments.

Nurses’ (ANF - WA Private Hospitals and Nursing Homes) Award 1999 (3%), Nurses’ Aged Care Award - State 2005 (3%), Nurses Private Employment (A.C.T.) Award 2002 provide for payment of superannuation whilst on workers’ compensation.

DRAFT

Part 5 – Hours of work and related matters

X. Ordinary hours of work

x.1 (Subject to the clauses following this clause) The hours for an ordinary week's work shall be 38, or be an average 38 per week in a fortnight or in a four week period and must be worked either:

- (a) in a week of not more than five days in shifts of not more than eight hours each; or
- (b) by mutual agreement, in a week of four days in shifts of not more than ten hours each; or
- (c) by mutual agreement, provided that the length of any ordinary shift shall not exceed ten hours¹; or
- (d) in 76 hours per fortnight to be worked as not more than ten days of not more than eight hours each; or
- (e) in 152 hours per four week period to be worked as nineteen days each of eight hours, with a twentieth day taken as an additional paid day off (ADO).²

x.2 Except for meal breaks, the hours of work on any day will be continuous.³

x.3 Each employee shall be free from duty for not less than two full days in each week or four full days in each fortnight or eight full days in each 28-day cycle. Where practicable, days off shall be consecutive.⁴

x.4 The employer shall consult with employees over the most appropriate means of implementing and working a 38 hour week.

x.5 The objective of such consultation shall be to reach agreement on the method of implementing and working the 38 hour week in accordance with clause xx.

x.6 The outcome of such consultation shall be recorded in writing.

x.7 Either party may request the assistance or advice of their relevant employee or employer organisation.

x.8 After implementation of the 38 hour week, upon giving 7 days' notice or such shorter period as may be mutually agreed upon, the method of working the 38 hour week may be altered, from time to time, following negotiations between the employer and employees concerned utilising the foregoing provisions.⁵

Maximum accumulation of ADOs (& taking of)

x.9 Employees who receive an accrued day off may, with the consent of the employer, accumulate such ADOs up to a maximum of **six** in any one year. The ADOs shall be taken within 12 months of the date on which the first ADO accrued. In the case of termination of employment for whatever reason, accumulated ADOs will be paid to the employee by the employer.⁶

Notes:

¹ Most awards provide for 10 hour maximum shifts, some with additional protections, eg. SA – research and trials required if above 8. NSW awards provide for 11 hour night shifts, and NSW Private allows intro of 12 hour shifts if certain requirements are met.

² Mainly adapted from Vic and NT clauses

³ Note NSW awards provide for broken shifts in some circumstances.

⁴ Mainly adapted from NSW awards. WA has something similar. Vic – no more than 6 consecutive periods of ord duty without 24 hours off duty, otherwise treble time.

⁵ Adapted from Qld private award

⁶ NSW, Vic max 6, Qld max 5, ACT 13.

X. Meal and rest breaks

x.1 Meal Breaks:

- x.1.1** Each employee who works in excess of 5 hours shall be entitled to an unpaid meal break of not less than 30 minutes and not more than 1 hour's duration, to be taken between the 3rd and 5th hour after commencing work.
- x.1.2** Where an employee is required to remain available or on duty during a meal break the employee shall be paid at ordinary rates for the period of the meal break and the period counted as time worked for the purposes of clause overtime.
- x.1.3** The meal break on night shift must not exceed 30 minutes and is counted as time worked. Employees on night shift not relieved from duty during the meal break will be provided with a break of no less than 20 minutes to be taken after completing 3 hours and not more than 5 hours of duty.

x.2 Rest Breaks:

- x.2.1** All employees shall be entitled to a rest break of 10 minutes duration in each 4 hours worked or part thereof being greater than 1 hour. Such breaks shall be counted as time worked.
- x.2.2** Subject to agreement between the employee and employer such break may be taken as one 20 minute rest period or, as one 10 minute break with the employee entitled to proceed off duty 10 minutes before the completion of the normal finishing time.

Notes:

Main differences:

Old Private and aged care award provisions requires a min. period of 6 hours to be worked before an entitlement to a meal break. Where there is an entitlement the break must be taken between the 4th and 6th hour after commencing.

Most other provisions just state e/ees are not required to work more than 5 hours without a meal break (6 in WA private).

Working during the meal break is variable. 2xOld awards provide for payment of double time until released from duty for a meal break. TAS, SA and NSW aged care and private awards paid OT rate at time and half if have to work through break. They also provide for an allowance if required to remain on call during a meal break.

Rest breaks generally 2 X 10 mins but 1X 7 in WA, and 2x15 in NT

X. Rosters and breaks between rostered duty

x.1 Rosters

- x.1.1** A fortnightly roster setting out the employee's daily ordinary working hours and starting and finishing times shall be displayed in a place accessible to employees at least 7 days before the commencement of the roster period.
- x.1.2** Except as in emergency situations including absence due to illness, seven days notice shall be given by an employer of a change of roster.

- x.1.3** A part-time employee who agrees to work shift(s) in addition to those already rostered will not require the seven day notice period in clause x.1.2.
- x.1.4** Except as in emergency situations including absence due to illness or unless the employer otherwise agrees, an employee shall give the employer 7 days notice of a desired rostered change.

x.2 Self rostering

- x.2.1** Notwithstanding any other provision of this clause, employees in a particular establishment or work location may, with the consent of the employer or her/his nominated representative, perform their ordinary hours of duty on a self rostering system.
- x.2.2** A **self rostering system** means a system of rostering whereby employees undertake responsibility for the designation of shift arrangements, working days and days off, ensuring always that such system provides an adequate and safe level of appropriate qualified staff such that quality nursing care is maintained at all times.
- x.2.3** Employees in a particular establishment or work location, who elect to perform ordinary hours of duty on a self rostering system, must develop appropriate guidelines for the implementation and operation of the said system. Without limiting the guidelines, these will include:
 - x.2.3(a)** number and mix of staff required by hospital policy and government legislation/ regulation to provide quality nursing care to the patients on each shift during the roster period; and
 - x.2.3(b)** periodic review of rosters, to avoid conflicts that may result in under or over staffing; and
 - x.2.3(c)** the distribution of shifts should be evenly spread amongst the staff; and
 - x.2.3(d)** significant input by staff such that the need to change rosters is reduced to a minimum; and
 - x.2.3(e)** where changes to the roster are necessary, the obligation to find replacement staff rests with the employee requiring the change. Such replacement staff must be suitably qualified and of equivalent grade; and
 - x.2.3(f)** rosters should ensure maximum continuity of staff; and
 - x.2.3(g)** rosters must ensure that all off duty periods of the Charge Nurse are covered by in charge personnel; and
 - x.2.3(h)** rosters should include provision for attendance at meetings, seminars and in-service education.
- x.2.4** An employee working in accordance with a self rostering system, may cease to work in accordance with such system, by providing the employer or her/his nominated representative, seven days notice in writing. The provisions of **X.1** will commence to apply at the expiration of the seven days.

- x.2.5** The provisions of **X.1** will not apply to employees who elect to work ordinary hours on a self rostering system. Provided that clauses **x.1.2** and **x.3** will apply in circumstances where a roster change is required without the consent or participation of the employee(s) affected.

x.3 Rest between periods of rostered work

- x.3.1** An employee shall be allowed a break of not less than 10 hours between the termination of one shift and the commencement of another.
- x.3.2** the 10 hour break may be reduced to 8 hours by agreement between the employer and the employee in circumstances where they are of the opinion the employee will not be unduly fatigued and the employee's professional competence will not be adversely affected.
- x.3.3** Clause **x.3.2** shall not apply in the instance of an employee rostered to work following a 10 hour shift.
- x.3.4** An employee changing from night to day shift or from day shift to night shift shall not be rostered on duty during the twenty hours immediately preceding the changed shift.

Notes:

In terms of the period of the roster, Qld x2 and Vic contained clauses with 14 days. Others are silent.

All except Vic required 7 days notice before commencement. Vic requires 14 days

7 days notice of a change is consistent except for WA and NSWx2 which can be at any time for operational reasons. Most of the others allow changes without the 7 day notice for emergency situations etc.

The self-rostering arrangement from the Vic award is included as it requires employer agreement before it can be implemented.

Not included is the provision for 12 hour shifts (under specific conditions) in the NSW Private Hospitals award and a limitation on the period of night duty (no longer than 8 consecutive weeks) in the NSW aged care award.

Breaks between rostered duty is 8 in Vic SA and NSWx2; 10 but can be 8 in Qld x2 and 8 but should be 10 in ACT; and 9.5 in NT and WA.

The WA provision re changing from day to night and vice versa is included. No other awards contained any reference to this except in NSW where there is a restriction on the number of quick shifts changes where break is less than 10 hours.

X. Overtime

x.1 *Reasonable additional hours & refusal*

[NES clause 12 provides that an employer may require an employee to work reasonable additional hours. The employee may refuse to work additional hours if they are unreasonable, with various factors considered in determining reasonableness.]

x.2 *Overtime rates*

An employee will be paid the following payments for all work done in addition to his or her rostered ordinary hours on any day:⁷

- (a) for all authorised overtime on Monday to Saturday, payment shall be made at the rate of **time and a-half** for the first **2 hours** and **double** time thereafter⁸
- (b) for all authorised overtime on a Sunday, payment shall be made at the rate of **double** time
- (c) public holiday, payment shall be made at the rate of **double time and a half**.

x.3 *Time in lieu*

In lieu of receiving payment for overtime, an employee may take time off at times agreed with the employer.

x.3.1 The employee may take one hour of time off for each hour of overtime, plus a period of time equivalent to the overtime penalty incurred

x.3.2 An employee is required to clear accumulated time off in lieu within **2 months** of the overtime being worked. If the accrued time has not been taken within this period,⁹ the employee will be paid in accordance with the overtime rate of pay which applied on the day the overtime was worked.

x.4 *Rest/meal breaks during overtime*

An employee required to work overtime following on the completion of his or her normal shift for more than two hours shall be allowed 20 minutes for the partaking of a meal and a further 20 minutes after each subsequent four hours overtime. All such time shall be counted as time worked.¹⁰

Notes

⁷ does this also need to refer to time worked in excess of the total ordinary hours in the work cycle?

⁸ Vic, Tas, NSW refer to 2 hours. Qld, ACT, NT, WA, SA refer to 3. ACT is immediately double time on Saturday (unlike others). Tas has double time for shift workers on all days (with exceptions).

⁹ Variations – Qld 3 months, ACT 4 weeks, NT 2 weeks, Vic 28 days, NSW 3&4 months

¹⁰ Only some awards appear to refer to the actual break, eg NSW. See Allowances – Meal clause for provision of a meal during overtime or a meal allowance.

x.5 *Minimum break after overtime*

- x.5.1** When overtime work (including recall to duty) is necessary it shall, wherever reasonably practicable, be so arranged that employees have at least **ten** hours continuously off duty between the work of successive shifts.
- x.5.2** An employee (other than a casual employee) who works so much overtime between the termination of her/his last previously rostered ordinary hours of duty and the commencement of her/his next succeeding rostered period of duty that she/he would not have had at least **ten** hours continuously off duty between those times, shall subject to this subclause, be released after completion of such overtime worked until she/he had ten hours continuously off duty without loss of pay for rostered ordinary hours occurring during such an absence.
- x.5.3** If on the instructions of her/his employer such an employee resumes or continues work without having had such ten hours continuously off duty she/he shall be paid at the rate of **double** time until she/he is released from duty for such rest period and she/he shall be entitled to be absent until she/he has had ten hours continuously off duty without loss of pay for rostered ordinary hours occurring during such an absence.¹¹
- x.5.4** In the event of any employee finishing any period of overtime or recall at a time when reasonable means of transport are not available for the employee to return to her/his place of residence the employer shall provide adequate transport free of cost to the employee.¹²

x.6 *Part-timers and casuals*¹³

All authorised time worked in excess of rostered ordinary hours of work on any day shall be deemed to be overtime and shall be paid as prescribed in clause **x.2** .

X. *Shift allowances and penalty rates*

- x.1** Where on any weekday an employee works a complete rostered afternoon shift commencing at 12 noon or after, and finishing after 6 p.m., the employee shall be paid a loading of 12.5% on the ordinary rates of pay.
- x.2** Where on any weekday an employee works a complete rostered night shift between the hours of 6 p.m. and 7.30 a.m., the employee shall be paid a loading of 15% on the ordinary rates of pay.
- x.3** The provisions of this clause do not apply where the employee commences her/his ordinary hours of work after 12.00 noon and completes those hours at or before 6.00 p.m. on that day.

Notes

¹¹ Vic. Qld is also 10. NT is 9.5. WA, SA, Tas and NSW are 8. ACT is silent?

¹² Only in a couple of awards, eg. Vic, SA?

¹³ Variation re this: OT for above rostered part-time hours: both Qld awards (as above), ACT except listed homes (?). OT only where above full-time hours: NT, SA, both NSW awards (above clause from NSW private). Unsure about WA, Vic, Tas. Re casuals, SA has entitlement (although PT doesn't??). Other states that I have found reference to do not have entitlement for casuals.

- x.4** Where an employee is rostered to work ordinary hours between midnight Friday and midnight Saturday, the employee shall be paid a loading of 50% on the ordinary rates of pay for the actual hours worked during this period.
- x.5** Where an employee is rostered to work ordinary hours between midnight Saturday and midnight on the following Sunday, the employee shall be paid a loading of 75% on the ordinary rates of pay for the actual hours worked during this period.
- x.6** The provisions of this clause shall not apply to any registered nurse level 4 or 5.

<i>Notes:</i>	
<i>Victorian penalty rates are different to all other states. See table below:</i>	
Allowance rate	%
Morning shift	2.5
Afternoon shift	2.5
Night shift	4.0
Permanent night shift	5.0
Change of shift	4.0
<i>Does not apply to DON or DDON</i>	
<i>Is paid in addition to any other rates eg. Weekend penalty and PH penalties</i>	

Part 6 – Leave and public holidays

X. Annual leave

x.1 Service entitling annual leave

x.1.1 All employees, other than casual employees, shall at the end of each year of employment become entitled to annual leave.

x.2 For the purposes of this clause a year of employment shall be deemed to be unbroken notwithstanding:

x.2(a) any annual leave or long service leave taken therein;

x.2(b) any interruption or ending of the employment by the Employer if such interruption or ending is made with the intention of avoiding obligations in respect of annual leave or long service leave;

x.2(c) any absence from work of not more than fourteen days in the year of employment on account of sickness or accident;

x.2(d) any absence on account of leave (other than annual leave or long service leave) granted, imposed or agreed to by the Employer;

x.2(e) any absence on any other account not involving termination of employment:

x.3 In calculating a year of employment any absence of a kind mentioned in **sub-clauses (a) through (c)** shall be counted as part of the year of employment but in respect of absences of a kind mentioned in **sub-clauses (c) and (d)** it will be necessary for the Employee as part of her/his qualification for annual leave to serve such additional period as equals the period of such absences.

x.2 Quantum of Annual Leave

x.2.1 All employees are entitled to 5 weeks of annual leave¹⁴.

x.2.2 An¹⁵ employee whose roster may require that employee to work on a weekend day during the qualifying twelve months period of service shall be granted an additional 1 week. This applies on a pro-rata basis where the employee has not been employed for the full 12 months, or where the employment arrangements of the employee change during the 12 month period.

x.3 Payment for Annual Leave

x.3.1 Employees shall receive their ordinary pay during all periods of annual leave and, before going on leave, may on request be paid in advance for the period of such leave.

x.3.2 **“Ordinary pay”** means remuneration for the Employee’s normal weekly number of hours of work calculated at the ordinary time rate of pay.

¹⁴ This is based on the assumption that public holidays are paid at double time, and shift and weekend penalties are in addition to public holiday penalties.

¹⁵ As above

- x.3.3** Part-time employees 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:

$$\frac{\text{Part-time hours worked per annum}}{\text{(including any periods of annual leave)}} \times \frac{\text{full-time hours per annum}}{1}$$

x

Full-time leave entitlement

1

- x.3.4** An employee whose employment is terminated prior to the expiration of a full year of employment shall be entitled to a pro rata equivalent of annual leave as provided for above.

- x.3.5** In addition to ordinary pay all Employees shall receive either the higher of:

x.3.5(a) a loading of 17½ % of ordinary pay

OR

x.3.5(b) in respect of each week of leave granted an amount comprising the following:

- shift work premiums according to roster or projected roster;
- Saturday, Sunday premiums according to roster or projected roster;
- All Allowances (excluding laundry allowance)
- higher duties
- or all purpose payments

x.3.5(c) Cap on Leave Loading

Provided that the loading shall be on a maximum of 152 hours in respect of any year of employment.

x.3.5(d) the annual leave loading shall apply to payment of leave on termination of employment.

x.4 Payment in lieu of annual leave

Except on termination, payment shall not be made or accepted in lieu of annual leave.

x.5 Public Holidays Occurring During Annual Leave

Where a public holiday occurs during any period of annual leave the Employee's annual leave accrual will be increased by one day in respect of that public holiday.

x.6 Accrued days off and annual leave

Where the system of working provides for the taking of accrued days off, the maximum number of accrued days off shall be thirteen in any calendar year. One day of a year's annual leave period shall be regarded as an accrued day off for which no additional payment is to be made.

x.7 Taking of leave

x.7.1 Annual leave shall be given and shall be taken within a period of 6 months after the date when the right to annual leave accrued; provided that the giving and taking of such leave may be postponed, by mutual agreement between the parties for a further period not exceeding 6 months.

x.7.2 An Employee is entitled to apply to take annual leave at anytime and the Employer shall not unreasonably refuse such an application, provided that not less than two weeks notice of the date from which an Employee shall commence his or her annual leave shall be given unless otherwise mutually agreed upon between the parties concerned.

x.7.3 Annual leave, by mutual agreement between the Employer and employee, may be taken in one or more parts of not less than one week's duration

x.7.4 On application by the Employee and by agreement with the Employer a maximum of ten days annual leave may be taken as single days in each year of employment. These ten days may be taken consecutively. Annual leave taken under this **sub-clause** shall be exempt from **payment in advance** and shall be paid in the next pay period.

x.7.5 An employee by agreement with the employer may take annual leave before the right to that leave has accrued. Where leave is taken in such a case a further period of annual leave will not commence to accrue until the expiration of the 12 months in respect of which annual leave was taken before it accrued.

x.8 Sickness while on annual leave

x.8.1 Where an Employee becomes sick whilst on annual leave, and immediately forwards to the Employer a certificate of a legally qualified medical practitioner, then the number of days specified in the certificate shall be deducted from any paid personal leave entitlement standing to the Employee's credit, and shall be re-credited to the employee's annual leave entitlement.

x.8.2 The amount of annual leave loading received for any period of annual leave converted into paid personal leave in accordance with **sub-clause x.8.1** shall be deducted from any future entitlement to annual leave loading or if the Employee resigns, from termination pay.

X. Personal carers leave and compassionate leave

Personal/carer's leave and compassionate leave are provided for in the NES.

The provisions of this clause apply to full-time and part-time employees (on a pro rata basis) but do not apply to casual employees. The entitlements of casual employees are set out in **x.11**.

x.1 Definitions

References to immediate family and members of the employee's household include:

- (a) the person concerned being:
- a spouse of the employee; or
 - a de facto spouse, who, in relation to a person, is 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; or
 - a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
 - a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
 - a relative of the employee who is a member of the same household where, for the purposes of this subparagraph:
 - (1) "relative" means a person related by blood, marriage or affinity;
 - (2) "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and
 - (3) "household" means a family group living in the same domestic dwelling.

x.2 Entitlement to paid personal/carer's leave

- (a) Subject to subclause (b), for each year of service with the employer, an employee is entitled to 106 hours and 24 minutes of paid personal/carer's leave.
- (b) An employee's entitlement to paid personal/carer's leave accrues progressively during a year of service according to the employee's ordinary hours of work and shall be cumulative year to year.
- (c) Subject to the evidentiary and notice requirements payment for paid personal/carer's leave must be paid at the employee's full rate of pay for the employee's ordinary hours of work in the period.

x.3 Taking paid personal leave

- (a) An employee may take paid personal/carer's leave if the leave is taken:
- Because the employee is unfit for work because of a personal illness or personal injury, affecting the employee; or
 - To provide care or support to a members of the employee's immediate family, or a member of the employee's household, who requires care or support because of:
 - A personal illness, or personal injury, affecting the member; or
 - An unexpected emergency.

x.4 Continuity of Service

- (a) For the purpose of this clause, "service" and "continuity of service" is calculated in accordance with provisions in clause 3 definitions.

x.5 Reimbursement while on other forms of leave

- (a) Where an employee who is eligible for sick leave and who produces satisfactory evidence to the effect that they have been incapacitated for a period of at least one week's duration while on annual or long service leave, the employer may re-credit such employee with an equivalent period of annual or long service leave, provided that no such re-crediting shall be granted to an employee on leave prior to retirement, resignation or termination of services and provided further the employer is satisfied on the circumstances and the nature of the incapacity.

Unpaid Personal/Carer's leave

x.6 Entitlement to unpaid carer's leave

- (a) An employee is entitled to 2 days of unpaid carer's leave for each occasion (*a permissible occasion*) when the employee is required to give care or support to a class of person set out in subclause **x.1** Definitions because of:
- a personal illness, or personal injury, affecting the member; or
 - an unexpected emergency affecting the member.

x.7 Taking unpaid carer's leave

- (a) An employee may take unpaid carer's leave as:
- a single continuous period of up to 2 days; or
 - any separate periods to which the employee and the employer agree.
- (b) An employee cannot take unpaid carer's leave during a particular period if the employee could instead take paid personal/carers' leave.

x.8 Personal Carers Entitlement for casual employees

- (a) Subject to the evidentiary and notice requirements casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

Compassionate leave

x.9 Entitlement to compassionate leave

- (a) An employee is entitled to 2 days of compassionate leave for each occasion (a *permissible occasion*) when a member of the employee's immediate family, or a member of the employee's household:
- contracts or develops a personal illness that poses a serious
 - threat to his or her life; or
 - sustains a personal injury that poses a serious threat to his or
 - her life; or
 - dies.
- (b) Provided that, where the employee is involved in funeral arrangements, travelling, etc., leave may be allowed for up to three days.
- (c) Payment for compassionate leave must be paid at the employee's full rate of pay for the employee's ordinary hours of work in the period.

x.10 Taking compassionate leave

- (a) An employee may take compassionate leave for a particular permissible occasion if the leave is taken:
- for the purpose of spending time with the member of the employee's immediate family or household who has contracted or developed the personal illness, or sustained the
 - personal injury, or
 - after the death of the member of the employee's immediate family or household.
- (b) An employee may take compassionate leave for a particular permissible occasion as:
- a single continuous period of 2 days; or
 - 2 separate periods of 1 day each; or
 - any separate periods to which the employee and the employer agree.
- (c) If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the employee may take the compassionate leave for that occasion at any time while the illness or injury persists.

x.11 Compassionate entitlements for casual employees

- (a) Subject to the evidentiary and notice requirements casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause **x.1** Definitions.
- (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance

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

Notice and evidence requirements

x.12 Notice

- (a) An employee who wants an absence from their employment must give the employer notice of the absence.
- (b) The notice:
 - must be given to the employer as soon as is reasonably practicable (which may be a time after the leave has started); and
 - must advise the employer of the period, or expected period, of the leave.

x.13 Evidence

- (a) An employee who has given his or her employer notice of the taking of leave under this clause must, if required by the employer, give the employer evidence that would satisfy a reasonable person that:
 - if it is paid personal/carer's leave—the leave is taken for a reason specified; or
 - if it is unpaid carer's leave—the leave is taken for a permissible occasion in circumstances specified; or
 - if it is compassionate leave—the leave is taken for a permissible occasion in circumstances specified.
- (b) Such evidence, if required, may be in the form of either:
 - a certificate by a legally qualified medical practitioner or,
 - on the production of a Statutory Declaration signed by the employee.
- (c) An employee is entitled to a maximum of two single day absences per year for such leave, concerning unfitness for work because of personal illness or injury, without being required to produce to the employer a medical certificate or a statutory declaration.

X. Community service leave

Subject to the terms of this clause employees are entitled to community services leave, which includes:

- Jury service (including attendance for selection) required by a law of the Commonwealth or State or Territory; or
- voluntary emergency management activity.

x.1 Jury Service

- x.1.1** An employee, other than a casual employee, required to attend for jury service during their ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the ordinary pay the employee would have been paid if the employee was not absent on jury service.

- x.1.2** Alternatively, by agreement, fees (other than meal allowance) received by the employee to attend jury service will be paid to the employer and the employer will continue to pay the employee their ordinary pay for the time the employee was absent on jury service.
- x.1.3** Employees shall notify their employer as soon as practicable of the date upon which they are required to attend for jury service and shall provide their employer with proof of such attendance, the duration of such attendance and the amount received in respect thereof.
- x.1.4** If the employee is not required to serve on a jury for a day or part of a day after attending for jury service and the employee would ordinarily be working for all or part of the remaining day, the employee must, if practicable, present for work at the earliest reasonable opportunity.
- x.1.5** 'Ordinary pay' means the rate of pay that an employee would normally expect to receive for working ordinary hours on an ordinary day of the week, including any over-award payment. 'Ordinary pay' excludes overtime, penalty rates of all types - including those attaching to working ordinary hours (for example) on a Saturday, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and other ancillary payments of a like nature.

x.2. Voluntary Emergency Management Activity

x.2.1 Meaning of *eligible community service activity*

- (a) Each of the following is an *eligible community service activity*:
- (i) carrying out a voluntary emergency management activity (within the meaning of section 659); or
 - (ii) an activity prescribed in regulations made for the purpose of subsection (b).
- (b) The regulations may prescribe an activity that is of a community service nature as an eligible community service activity for the purpose of this Division.

x.2.2 Entitlement to be absent from employment for engaging in eligible community service activity

- (a) An employee who engages in an eligible community service activity is entitled to be absent from his or her employment for a period if:
- (i) the period consists of one or more of the following:
 - time when the employee engages in the activity;
 - reasonable travelling time associated with the activity;
 - reasonable rest time immediately following the activity; and
 - (ii) unless the activity is jury service—the employee's absence is reasonable in all the circumstances.

x.2.3 Notice and evidence requirements

Notice

- (a) An employee who wants an absence from his or her employment to be covered by this Division must give his or her employer notice of the absence.
- (b) The notice:
 - (i) must be given to the employer as soon as reasonably practicable (which may be a time after the absence has started); and
 - (ii) must advise the employer of the period, or expected period, of the absence.

Evidence

- (c) An employee who has given his or her employer notice of an absence under subsection (1) must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the absence is because the employee has been or will be engaging in an eligible community service activity.

Compliance

- (d) An employee's absence from his or her employment is not covered by this Division unless the employee complies with this section.

Notes:

Based on Nurses' Aged Care Award - State 2005 and Principles from Metals Exposure Draft Award

NES jury service has a cap of 10 days

Re, Voluntary Emergency Management Activity NES-Awards silent

X. Public holidays

x.1 All Employees shall be entitled to holidays on the following days:

x.1.1 New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day and Boxing Day, Australia Day, Anzac Day, Queen's Birthday and Labour Day; and

x.1.2 In addition to those public holidays prescribed in subclause **x.1.1**, there shall be an extra public holiday each year being Melbourne Cup Day, a local Cup Day, May Day, Picnic Day, Hobart Regatta Day, Canberra Day, Foundation Day, Show Day, Proclamation Day or another day as may be observed in the locality in lieu thereof.

x.2 Substitution

x.2.1 Provided that for employees who work only between Monday to Friday inclusive:

- x.2.1(a)** When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December.
- x.2.1(b)** When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 28 December.
- x.2.1(c)** When New Year's Day or Australia Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on the next Monday.

x.2.2 Provided that for all other employees, including casuals:

- x.2.2(a)** Christmas Day shall be observed on 25 December.
- x.2.2(b)** Boxing Day shall be observed on 26 December.
- x.2.2(c)** New Year's Day shall be observed on 1 January.
- x.2.2(d)** When Australia Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on the next Monday.

x.2.3 Where public holidays are declared or prescribed in accordance with State or Territory legislation on days other than those set out in **sub-clauses x.1**, those days shall constitute additional holidays for the purpose of this Award in the localities to which the declaration or gazettal relates.

x.3 Payment for work performed on a public holiday¹⁶

x.3.1 Any Employee required to be on duty on a day referred to in **sub-clause x.1** or **x.2.3** shall receive an additional sum equal to a day's ordinary pay for that day. Such payment shall be in addition to any rate for shift work or weekend work which would otherwise be payable had the day not been a public holiday.

x.3.2 Provided that Employees rostered to work on public holidays and who fail to do so shall not be entitled to holiday pay for the said holiday.

x.3.3 Casual employees shall not have an entitlement to pay or leave for public holidays not worked. However the ordinary rate of pay for a casual performing work on public holidays shall be 250% for weekday public holidays and 312.5% for public holidays occurring on a weekend.

x.4 Accrued days off on public holidays

Where an Employee's accrued day off falls on a public holiday on which the Employee would have been required to be on duty, another day shall be determined by the Employer to be taken in lieu thereof, such day to be within the same four week (or five week) work cycle where practical, as the case may be.

x.5 Public holidays occurring on rostered days off

x.5.1 All full time employees shall receive a sum equal to a day's ordinary pay for public holidays that occur on their rostered day off, excepting holidays falling on Saturday or Sunday with respect to Monday-Friday employees

¹⁶ Some awards provide for double time and a half eg. WA Private Sector, Vic Award re ENs

x.5.2 Provided that part-time continuous shift nurses are entitled to be paid for **11 public holidays per annum** on a proportionate basis according to the ratio between full time hours of work and that employee's average hours in the pay period during which the public holiday falls.

x.5.3 Where a public holiday occurs on a day that a part-time employee would normally work, but the employee is not required by the Employer to work, the part-time Employee is entitled to receive the public holiday benefit prescribed in **sub-clause x.6**.

x.6 Public Holiday resulting in not being required to attend for work

A public holiday occurring on an ordinary working day shall be allowed to employees without loss of pay

x.7 Night Shift Workers

x.7.1 Shift workers who work a night shift which commences on one day and concludes on the next following day, the public holiday shift will be regarded as being the shift on which more than half of the total rostered shift hours falls on the public holidays.

x.7.1(a) For example: If a rostered shift of eight hours commences at 10.00 p.m. on a public holiday, that shift is not be regarded as a public holiday shift.

x.7.1(b) If a rostered shift commences at 10.00 p.m. on the day before a public holiday and finishes at 6.00 a.m. on the public holiday, such shifts will be regarded as a public holiday shift.

X. Parental Leave

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

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

An **eligible casual employee** means a casual employee:

- employed by an employer on a regular and systematic basis for several periods of employment or on a regular and systematic basis for an ongoing period of employment during a period of at least 12 months; and
- who has, but for the pregnancy or the decision to adopt, a reasonable expectation of ongoing employment.

For the purposes of this clause, **continuous service** is work for an employer on a regular and systematic basis (including any period of authorised leave or absence).

An employer must not fail to re-engage a casual employee because:

- the employee or employee's spouse is pregnant; or
- the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

x.1 Definitions

x.1.1 For the purpose of this clause **child** means a child of the employee under the age of one year except for adoption of a child where 'child' means a person under the age of eighteen years who is placed with the employee for the purposes of adoption, other than a child or step-child of the employee or of the spouse of the employee or a child who has previously lived continuously with the employee for a period of six months or more.

x.1.2 Subject to **x.1.3**, in this clause, **spouse** includes a de facto or former spouse.

x.1.3 In relation to **x.5**, **spouse** includes a de facto spouse but does not include a former spouse.

x.2 Basic entitlement

x.2.1 After twelve months continuous service, parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child. For females, maternity leave may be taken and for males, paternity leave may be taken. Adoption leave may be taken in the case of adoption.

x.2.2 Subject to **x.4**, parental leave is to be available to only one parent at a time, in a single unbroken period, except that both parents may simultaneously take:

x.2.2(a) for maternity and paternity leave, an unbroken period of up to one week at the time of the birth of the child;

x.2.2(b) for adoption leave, an unbroken period of up to three weeks at the time of placement of the child.

Entitlement to Paid Maternity Leave

x.2.3 An eligible employee is entitled to nine weeks at the ordinary rate of pay from the date maternity leave commences. This leave may commence up to nine weeks prior to the expected date of birth.

x.2.4 It is not compulsory for an employee to take this period off work. However, if an employee decides to work during the six weeks prior to the expected date of birth it is subject to the employee being able to perform satisfactorily the full range of normal duties.

x.2.5 Paid maternity leave may be paid:

- on a normal fortnightly basis; or
- in advance in a lump sum; or
- at the rate of half pay over a period of twenty-eight weeks on a regular fortnightly basis.

x.2.6 Annual and/or long service leave credits can be combined with periods of maternity leave on half pay to enable an employee to remain on full pay for that period.

Unpaid Maternity Leave

- x.2.7** Full time and permanent part time employees who are entitled to paid maternity leave are entitled to a further period of unpaid maternity leave of not more than 12 months after the actual date of birth.
- x.2.8** Full time and permanent part time employees who are not eligible for paid maternity leave are entitled to unpaid maternity leave of not more than 12 months.
- x.2.9** Full time and permanent part time employees may also apply for additional unpaid maternity leave as provided for in subclause **x.12** Right to Request of this clause.

x.3 Maternity leave

- x.3.1** An employee must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:
 - x.3.1(a)** of the expected date of confinement (included in a certificate from a registered medical practitioner or Registered Midwife stating that the employee is pregnant) - at least ten weeks;
 - x.3.1(b)** of the date on which the employee proposes to commence maternity leave and the period of leave to be taken - at least four weeks.
 - x.3.1(c)** 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 weeks immediately prior to her presumed date of confinement.
 - x.3.1(d)** An employee shall not be in breach of this clause as a consequence of failure to give the stipulated period of notice in accordance with **x.3.1** if such failure is occasioned by the confinement occurring earlier than the presumed date.
- x.3.2** When the employee gives notice under **x.3.1(a)** the employee must also provide a statutory declaration stating particulars of any period of paternity leave sought or taken by her spouse and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.
- x.3.3** An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date.
- x.3.4** Subject to **x.2.1** and unless agreed otherwise between the employer and employee, an employee may commence parental leave at any time within six weeks immediately prior to the expected date of birth.
- x.3.5** Where an employee continues to work within the six week period immediately prior to the expected date of birth, or where the employee elects to return to work within six weeks after the birth of the child, an employer may require the employee to provide a medical certificate stating that she is fit to work on her normal duties.

x.4 Special maternity leave and sick leave

x.4.1 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:

x..4.1(a) she shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a registered medical practitioner or registered midwife certifies as necessary before her return to work; or

x..4.1(b) 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 paid sick leave as to which she is then entitled and which a registered medical practitioner or registered midwife certifies as necessary before her return to work.

x.4.2 Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take such paid sick leave as to which she is then entitled and such further unpaid leave (to be known as special maternity leave) as a registered practitioner or registered midwife certifies as necessary before her return to work, 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 **x.2.1**.

x..4.3 For all award purposes maternity leave shall include special maternity leave.

x.5 Paternity leave

x..5.1 An employee will provide to the employer at least ten weeks prior to each proposed period of paternity leave, with:

x.5.1(a) a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement, or states the date on which the birth took place; and

x.5.1(b) written notification of the dates on which he proposes to start and finish the period of paternity leave; and

x.5.1(c) a statutory declaration stating:

21.5.1(c)(i) he will take that period of paternity leave to become the primary care-giver of a child;

21.5.1(c)(ii) particulars of any period of maternity leave sought or taken by his spouse; and

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

x.5.2 The employee will not be in breach of **x.5.1** if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances.

x.6 Adoption leave

- x.6.1** The employee will notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An employee may commence adoption leave prior to providing such notice, where through circumstances beyond the control of the employee, the adoption of a child takes place earlier.
- x.6.2** Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:
- x.6.2(a)** the employee is seeking adoption leave to become the primary care-giver of the child;
 - 21.6.2(b)** particulars of any period of adoption leave sought or taken by the employee's spouse; and
 - 21.6.2(c)** that for the period of adoption leave the employee will not engage in any conduct inconsistent with their contract of employment.
- x.6.3** An employer may require an employee to provide confirmation from the appropriate government authority of the placement.
- x.6.4** Where the placement of child for adoption with an employee does not proceed or continue, the employee will notify the employer immediately and the employer will nominate a time not exceeding four weeks from receipt of notification for the employee's return to work.
- x.6.5** An employee will not be in breach of this clause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of a spouse, or other compelling circumstances.
- x.6.6** An employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The employee and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to two days unpaid leave. Where paid leave is available to the employee, the employer may require the employee to take such leave instead.

x.7 Variation of period of parental leave

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

x.8 Parental leave and other entitlements

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

x.9 Transfer to a safe job

x.9.1 Where an employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee shall, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.

x.9.2 If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee to commence parental leave for such period as is certified necessary by a registered medical practitioner or registered midwife. Such leave shall be treated as maternity leave for all award purposes.

x.10 Returning to work after a period of parental leave

x.10.1 An employee will notify of their intention to return to work after a period of parental leave at least four weeks prior to the expiration of the leave.

x.10.2 An employee returning to work after a period of parental leave is entitled to be employed in:

- (a) the position held by the employee immediately before proceeding on that leave, or
- (b) if the employee worked part-time or on a less regular casual basis because of the pregnancy before proceeding on maternity leave--the position held immediately before commencing that part-time work or less regular casual work, or
- (c) if the employee was transferred to a safe job before proceeding on maternity leave--the position held immediately before the transfer.

x.10.3 Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee will be entitled to a position as nearly comparable in status and pay to that of their former position.

x.10.4 In this clause, a reference to employment in a position includes, in the case of a casual employee, a reference to work for an employer on a regular and systematic basis.

x.11 Replacement employees

x.11.1 A replacement employee is an employee specifically engaged or temporarily promoted or transferred, as a result of an employee proceeding on parental leave.

x.11.2 Before an employer engages a replacement employee the employer must inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

x.11.3 A reference in this clause to an employee proceeding on parental leave includes a reference to a pregnant employee exercising a right to be transferred to a safe job.

x.12 Right to request

x.12.1 An employee entitled to parental leave pursuant to the provisions of clause **X** may request the employer to allow the employee:

x.12.1(a) to extend the period of simultaneous unpaid parental leave provided for in clause **x.2.2(a)** up to a maximum of eight weeks;

x.12.1(b) to extend the period of unpaid parental leave provided for in clause **x.2.1** by a further continuous period of leave not exceeding 12 months;

x.12.1(c) to return from a period of parental leave on a part-time basis until the child reaches school age;

to assist the employee in reconciling work and parental responsibilities.

x.12.2 The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect of the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

x.12.3 Employee's request and the employer's decision to be in writing. The employee's request and the employer's decision made under **x.12.1(b)** and **x.12.1(c)** must be recorded in writing

x.12.4 Request to return to work part-time

Where an employee wishes to make a request under **x.12.1(c)**, such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

x.13 Communication during Parental Leave

x.13.1 Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

x.13.1(a) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and

x.13.1(b) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

- x.13.2** The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.
- x.13.3** The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with **x.13.1**.

Notes

Mainly based on Nurses (Victorian Health Services) Award 2000 [Transitional]

Definitions Clause variations - NSW IR ACT 18 yrs for adoption, Vic award 5 yrs

Transfer to safe job and Returning to work after leave contains some NSW IR Act ref

DRAFT

X. CLASSIFICATION DEFINITIONS**x.1 Assistant in Nursing****x.1.1 Definitions**

The Assistant in Nursing (however titled) shall mean an employee engaged to assist in the performance of nursing duties together with such other duties as may be required by the employer being duties incidental and related to the provision of nursing care services. The Assistant in Nursing at all times assists in the provision of nursing care under the direct or indirect supervision of a registered nurse.

x.1.2 Supervision

“Direct supervision” is that which allows direct and continuous observation by a registered nurse of an employee undertaking delegated activities, in circumstances where, in the judgment of the registered nurse accountable for such delegation, direct supervision is warranted in the interests of safe and effective practice.

x.1.3 Indirect Supervision

“Indirect supervision” means such other supervisions provided to an employee assuming responsibility for functions delegated by a registered nurse in circumstances where, in the judgment of the registered nurse accountable for such delegation, direct supervision of the employee is not required, provided there is immediate onsite access to a registered nurse at all times.

x.1.4 Assistant in Nursing Level 1

An employee at this level shall be working towards the attainment of a Level III Certificate in Community Services or may be deemed equivalent through recognition of prior learning assessment.

An employee at this level is required to:

- work under the direct or indirect supervision of a registered nurse when providing care; and
- demonstrate an understanding of standards of conduct and care required.

Indicative tasks/skills of this level may include but not be limited to the following:

- provide input into care assessments within their scope of knowledge and experience; and
- record care delivery by self on standard structured forms.

¹⁷ Further work is required to complete the classification definitions and ensure the classification structure is consistent with state and territory regulations.

x.1.5 Assistant in Nursing Level 2

An employee at this level shall have obtained proficiency and qualifications to perform work at this level.

An employee at this level has all the skills of a Level 1 and is required to:

- have obtained a Level III Certificate in Community Services or equivalent;
- operate under the direct or indirect supervision of a registered nurse when providing care;
- exercise discretion and judgment within their level of skill and training; and
- demonstrate an understanding of standards of conduct and care as required in the facility and the sector as a whole.

Indicative tasks/skills of this level may include but not be limited to the following:

- provide input into care assessments within their scope of knowledge and experience;
- implement care plans as delegated by a registered nurse;
- document care using relevant charts; and
- operate under the direct or indirect supervision of a registered nurse; and

x.1.6 Assistant Nurse Level 3

An employee appointed to this level shall perform work above and beyond the skills of a Level 2 and shall have obtained proficiency and qualifications to perform work at this level.

x.1.6.1 An employee at this level is required to:

x.1.6.1(a) have obtained a Level IV certificate in Residential Age Care or equivalent qualification or level of experience and competency;

x.1.6.1(b) exercise discretion and decision making/responsibility within their level of skill and training;

x.1.6.1(c) demonstrate the effective application of standards required in the age care Industry;

x.1.6.1(d) provide on the job and In Service training as directed;

x.1.6.1(e) work under direct or indirect supervision.

x.1.6.2 Indicative tasks/skills of this level, in addition to Level 2, may include but not limited to:

x.1.6.1(a) team leader

x.1.7 Labour Flexibility

Assistants in Nursing may be employed under this award to perform mixed functions, provided that:

- (a) The primary duties performed by the Assistant in Nursing being the delivery of direct care to occupy no less than the majority of the hours for which they are employed in any 28 day cycle;
- (b) The Assistant in Nursing shall be paid at the appropriate rate for an assistant in nursing for all work performed;
- (c) an Assistant in Nursing shall not be required to perform mixed functions where the employer does not provide adequate staff to ensure that the level of the quality of the service that would have otherwise been provided if the Assistant in Nursing did not perform mixed functions, is in fact provided;
- (d) Subject to paragraph (a), an Assistant in Nursing may perform duties associated with a residents well being and comfort, including functions of a laundry, kitchen or other personal support nature.

x.2 Enrolled nurses

x.2.1 Pay point Y1 means the pay point to which an employee will be appointed as an EN, based on:

x.2.1(a) Training and experience, which includes:

- having satisfactorily completed a hospital based course of training in nursing of not more than twelve months duration leading to enrolment as an EN; or
- having satisfactorily completed 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; and
- having 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.

x.2.1(b) Nursing skills and knowledge which the employee possesses and may be required to utilise at this pay point. Skill indicators at this pay point are as follows. The employee:

- has limited or no practical experience of current situations; and
- exercises limited discretionary judgement, not yet developed by practical experience.

x.2.2 Pay point Y2 means the pay point to which an employee will be appointed as an EN or progress from Pay point Y1, having been assessed as being competent at Pay point Y1. This assessment will be based on:

- (a) Training and experience, which includes:
- having satisfactorily completed 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 EN; or
 - not more than one further year of practical experience in the provision of nursing care and/or services in addition to the experience, skill and knowledge requirements specified for Pay point Y1; and
 - the undertaking of in-service training, subject to its provision by the employing agency, from time to time.
- (b) Nursing skills and knowledge which the employee possesses and may be required to utilise at this pay point. Skill Indicators at this pay point are as follows. The employee is required to demonstrate some of the following skills in the performance of their work:
- a developing ability to recognise changes required in nursing activity and in consultation with the RN, implement and record such changes, as necessary; and/or
 - is able to relate theoretical concepts to practice; and/or
 - requires assistance in complex situations and in determining priorities.

x.2.3 Pay point Y3 means the pay point to which an employee will be appointed as an EN or progress from Pay point Y2, having been assessed as being competent at Pay point Y2. This assessment will be based on:

- (a) Training and experience, which includes:
- not more than one further year of practical experience in the provision of nursing care and/or services, in addition to the experience, skill and knowledge requirements specified for Pay point Y2; and
 - the undertaking of in-service training, subject to its provision by the employing agency, from time to time.
- (b) Nursing skills and knowledge which the employee possesses and may be required to utilise at this pay point. Skill Indicators at this pay point are as follows. The employee is required to demonstrate some of the following in the performance of their work:
- an ability to organise, practise and complete nursing functions in stable situations with limited direct supervision; and/or
 - the use of observation and assessment skills to recognise and report deviations from stable conditions; and/or
 - demonstrated flexibility in the capacity to undertake work across the broad range of nursing activity and/or competency in a specialised area of practice; and/or

- uses communication and interpersonal skills to assist in meeting psycho-social needs of individuals/groups.

x.2.4 Pay point Y4 means the pay point to which an employee will be appointed as an EN or progress from Pay point Y3, having been assessed as being competent at Pay point Y3. This assessment will be based on:

- (a) Training and experience, which includes:
- not more than one further year of practical experience in the provision of nursing care and/or services in addition to the experience, skill and knowledge requirements specified for Pay point Y3; and
 - the undertaking of in-service training, subject to its provision by the employing agency, from time to time; and
- (b) Nursing skills and knowledge which the employee possesses and may be required to utilise at this pay point. Skill Indicators at this pay point are as follows. The employee is required to demonstrate some of the following in the performance of their work:
- speed and flexibility in accurate decision making; and/or
 - organises own workload and sets own priorities with minimal direct supervision; and/or
 - 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
 - uses communication and interpersonal skills to meet psycho-social needs of individual/groups.

x.2.5 Pay point Y5 means the pay point to which an employee will be appointed as an EN or will progress from Pay point Y4, having been assessed as being competent at Pay point Y4. This assessment will be based on:

- (a) Training and experience, which includes:
- not more than one further year of practical experience in the provision of nursing care and/or services in addition to the experience, skill and knowledge requirements specified for Pay point Y4; and the undertaking of relevant in-service training, subject to its provision by the employing agency, from time to time.
- (b) Nursing skills and knowledge which the employee possesses and may be required to utilise at this pay point. Skill Indicators at this pay point are as follows. The employee is required to demonstrate all of the following in the performance of the employee's work:
- contributes information in assisting the RN with development of nursing strategies/improvements within the employee's own practice setting and/or nursing team, as necessary;

- responds to situations in less stable and/or changed circumstances resulting in positive outcomes, with minimal direct supervision; and
- efficiency and sound judgement in identifying situations requiring assistance from an RN.

x.2.6 Specific definitions

(a) **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:

- the acquisition and updating of skills and knowledge beneficial to effective performance within a team; and/or
- reducing the degree of direct supervision required by the employee; and/or
- 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.

(b) **Supervision** means the oversight, direction, instruction, guidance and/or support provided to an employee by the RN responsible for ensuring such an employee is not placed in situations where required to function beyond the preparation and competence of the employee.

(c) Specifically:

- **direct supervision** means the employee works side by side continuously with an RN responsible for observing and directing the employee's activities in circumstances where, in the judgement of the RN, such an arrangement is warranted -in the interests of safe and/or effective practice;
- **indirect supervision** means such other supervision provided to an employee assuming responsibility for functions delegated by an RN in circumstances where, in the judgement of the RN accountable for such delegation, direct supervision of the employee is not required.

x.3 Mothercraft nurses

Classification descriptions to be provided.

x.4 Registered nurses

x.4.1 Registered nurses level 1 (RN-1)

Means an RN who:

- According to the employee's level of competence; and
- Under the general guidance of, or with general access to a more competent RN who provides work related support and direction,
 - Is required to perform general nursing duties which include substantially, but are not confined to:
 - Delivering direct and comprehensive nursing care and individual case management to patients or clients within the practice setting.
 - Coordinating services, including those of other disciplines or agencies, to individual patients or clients within the practice setting.
 - Providing education, counselling and group work services orientated towards the promotion of health status improvement of patients and clients within the practice setting.
 - Providing support, direction and education to newer or less experienced staff, including EN's, and student EN's and Student Nurses.
 - Accepting accountability for the employee's own standards of nursing care and service delivery.
 - Participating in action research and policy development within the practice setting.

- Subject to higher duties 5.3.4 relieving Clinical nurses as described in 5.1.2(b).

x.4.2 Registered nurse level 2 (RN-2)

Means an RN who:

- (a) Holds any other qualification required for working in the employee's particular practice setting, and who is appointed as such by a selection process or by reclassification from a lower level in the circumstances that the employee is required to perform the duties detailed in this subclause on a continuing basis.
- (b) Appointed at this level (to be known as a Clinical nurse), is required in addition to the duties of an RN1, to perform duties delegated by a Clinical nurse consultant or higher level classification, and clinical nursing duties which will substantially include, but are not confined to:
 - (b)(i) Delivering direct and comprehensive nursing care and individual case management to a specific group of patients or clients in a particular area of nursing practice within the practice setting;
 - (b)(ii) Providing support, direction, orientation and education to RN1's, EN's, student nurses and student EN's;
 - (b)(iii) Being responsible for planning and coordinating services relating to a particular group of clients or patients in the practice setting, as delegated by the Clinical nurse consultant;
 - (b)(iv) Acting as a role model in the provision of holistic care to patients or clients in the practice setting;
 - (b)(v) Assisting in the management of action research projects, and participating in quality assurance programs and policy development within the practice setting; and
 - (b)(vi) Subject to (Higher duties clause) relieving RN-3's as required.

4.3 Registered nurse level 3 (RN-3)

Means an RN who:

- (a) Holds any other qualification required for working in the employee's particular practice setting, and who is appointed as such by a selection process or by reclassification from a lower level in the circumstances that the employee is required to perform the duties detailed in this subclause on a continuing basis;
- (b) Appointed at this level (to be known as a Clinical nurse consultant, Nurse manager or a Nurse educator), according to practice setting and patient or client group, is required in addition to the duties of an RN-2:
- (b)(i) In the case of an employee appointed as an RN-3, subject to (Higher duties clause), relieve an RN-4 as required.
- (b)(ii) In the case of a Clinical nurse consultant to perform duties which will substantially include but are not confined to:
- providing leadership and role modelling, in collaboration with others including the Nurse manager and the Nurse educator, particularly in the areas of action research and quality assurance programs; staff and patient/client education; staff selection, management, development and appraisal; participating in policy development and implementation; and acting as a consultant on request in the employee's own area of proficiency; for the purpose of facilitating the provision of quality nursing care;
 - delivering direct and comprehensive nursing care to a specific group of patients or clients with complex nursing care needs, in a particular area of nursing practice within a practice setting;
 - coordinating, and ensuring the maintenance of standards of the nursing care of a specific group or population of patients or clients within a practice setting; and
 - coordinating or managing nursing or multi-disciplinary service teams providing acute nursing and community services.

(b)(iii)

In the case of a Nurse manager, to perform duties which will substantially include, but are not confined to:

- providing leadership and role modelling, in collaboration with others including the Clinical nurse consultant and the Nurse educator, particularly in the areas of action research and quality assurance programs, staff selection and education, allocation and rostering of staff, occupational health, and initiation and evaluation of research related to staff and resource management; participating in policy development and implementation; and acting as a consultant on request in the employee's own area of proficiency; for the purpose of facilitating the provision of quality nursing care;
- being accountable for the management of human and material resources within a specified span of control, including the development and evaluation of staffing methodologies; and
- managing financial matters, budget preparation and cost control in respect of nursing within that span of control.

(b)(iv)

In the case of Nurse educator, to perform duties which will substantially include, but are not confined to:

- providing leadership and role modelling, in collaboration with others including the Clinical nurse consultant and the Nurse manager, particularly in the areas of action research, implementation and evaluation of staff education and development programs, staff selection, and implementation and evaluation of patient or client education programs; participating in policy development and implementation; and acting as a consultant on request in the employee's own area of proficiency; for the purpose of facilitating the provision of quality nursing care; and
- being accountable for the assessment, planning, implementation and evaluation of nursing education and staff development programs for a specified population.

x.4.4 Registered nurse level 4 (RN-4)

Means an RN who:

- (a) Holds any other qualification required for working in the employee's particular practice setting, and who is appointed as such by a selection process or by reclassification from a lower level in the circumstances that the employee is required to perform the duties detailed in this subclause on a continuing basis.
- (b) An employee appointed at this level (to be known as an Assistant director of nursing (clinical), Assistant director of nursing (management), or Assistant director of nursing (education) is required, in addition to the duties of an RN-3:
- (c) In the case of any employee appointed as an RN-4, subject to higher duties 5.3.4 to relieve the Director of nursing as required.
- (d) In the case of an Assistant director of nursing (clinical) to perform duties which will substantially include, but are not confined to:
 - providing leadership and role modelling, in collaboration with others including the Assistant director of nursing (management) and Assistant director of nursing (education), particularly in the areas of selection of staff within the employee's area of responsibility, provision of appropriate education programs, coordination and promotion of clinical research projects; participating as a member of the nursing executive team; and contributing to the development of nursing and health unit policy for the purpose of facilitating the provision of quality nursing care;
 - managing the activities of, and providing leadership, coordination and support to, a specified group of Clinical nurse consultants;
 - being accountable for the establishment, implementation and evaluation of systems to ensure the standard of nursing care for a specified span of control;

- being accountable for the development, implementation and evaluation of patterns of patient care for a specified span of control;
- being accountable for clinical operational planning and decision making for a specified span of control; and
- being accountable for appropriate clinical standards, through quality assurance programs, for a specified span of control.

(b)(iii)

In the case of an Assistant director of nursing (management), to perform duties which will substantially include, but are not confined to:

- providing leadership and role modelling, in collaboration with others including the Assistant director of nursing (clinical) and Assistant director of nursing (education), particularly in the areas of selection of staff within the employee's area of responsibility, coordination and promotion of nursing management research projects; participating as a member of the nursing executive team; and contributing to the development of nursing and health unit policy for the purpose of facilitating the provision of quality nursing care;
- managing the activities of, and providing leadership, coordination and support to, a specified group of Nurse managers;
- being accountable for the effective and efficient management of human and material resources within a specified span of control;
- being accountable for the development and coordination of nursing management systems within a specified span of control; and
- being accountable for the structural elements of quality assurance for a specified span of control.

(b)(iv)

In the case of an Assistant director of nursing (education) to perform duties which will substantially include, but are not confined to:

- providing leadership and role modelling, in conjunction with others including the Assistant director of nursing (clinical) and the Assistant director of nursing (management), particularly in the areas of selection of staff within the employee's area of responsibility, coordination and promotion of nurse education research projects; participating as a member of the nursing executive team, and contributing to the development of nursing and health unit policy for the purpose of facilitating the provision of quality nursing care;
- managing the activities of, and providing leadership, coordination and support to a specific group of Nurse educators;
- being accountable for the standards and effective coordination of education programs for a specified population;
- being accountable for the development, implementation and evaluation of education and staff development programs for a specified population;
- being accountable for the management of educational resources including their financial management and budgeting control; and
- undertaking career counselling for nursing staff.

(b)(v) Where significant and demonstrable reasons exist for two or more of these functions to be combined, the employer will seek the agreement of the union, which will not be unreasonably withheld.

x.4.5 Registered nurse level 5 (RN-5)

Means an RN who:

- (a)** Holds any other qualification required for working in the employee's particular practice setting, and who is appointed as such by a selection process or by reclassification from a lower level in the circumstances that the employee is required to perform the duties detailed in this subclause on a continuing basis.

- (b) An employee appointed at this level (to be known as Director of nursing) is required to perform duties which will substantially include, but are not confined to:
 - (b)(i) Being accountable for the standards of nursing care for the health unit and for coordination of the nursing service of the health unit.
 - (b)(ii) Participating as a member of the executive of the health unit, being accountable to the executive for the development and evaluation of nursing policy, and generally contributing to the development of health unit policy.
 - (b)(iii) Providing leadership, direction and management of the nursing division of the health unit in accordance with policies, philosophies, objectives and goals established through consultation with staff and in accordance with the directions of the Board of Directors of the health unit.
 - (b)(iv) Providing leadership and role modelling, in collaboration with others, particularly in the areas of staff selection, promotion of participative decision making and decentralisation of nursing management; and generally advocating for the interests of nursing to the executive team of the health unit.
 - (b)(v) Managing the budget of the nursing division of the health unit.
 - (b)(vi) Ensuring that nursing services meeting changing needs of clients or patients through proper strategic planning; and
 - (b)(vii) Complying, and ensuring the compliance of others, with the code of ethics and legal requirements of the nursing profession.

x.4.6 Occupational health nurses

Occupational health includes, but is not necessarily confined to:

- (a) Maintenance of appropriate records relating to the activities of the occupational health unit and services to clients.
- (b) Rehabilitation of injured workers.
- (c) Preventative action in relation to occupational hazards that may lead to injury and/or illness.

- (d) Immediate and continuing treatment of occupational injuries and/or illness.
- (e) Health promotion.
- (f) Counselling of clients on health related matters.

4.6.1 Occupational health nurse level 1

Means an RN with at least four years post registration experience who performs duties in relation to occupational health consistent with:

- (a) Giving direct nursing care to a group of clients.
- (b) Assessing nursing care needs of clients.
- (c) Participating in provision of education to clients.

4.6.2 Occupational health clinical nurse level 2

Means a RN with at least four years post registration experience who performs duties in connection with occupational health which are more complex than the duties performed by an Occupational health nurse (level 1). These duties may include, but are not necessarily confined to the prevention of injury/illness, rehabilitation and occupational hazard identification.

- (a) Appointment to level 2 of this salary structure is only upon successful completion of a relevant post-registration qualification to this field of employment.
- (b) Payment at this level will commence when the employer receives reasonable proof from the employee that the qualification has been obtained. Onus of proof rests with the employee.

4.6.3 Senior occupational health nurse level 2

Means an RN with at least five years post registration experience who:

- (a) Coordinates the occupational health nursing service; and
- (b) Provides support and direction to four or less Occupational health nurses and/or Occupational health clinical nurses.

4.6.4 Occupational health nurse consultant level 3

Means an RN with at least five years post registration experience who:

- (a) Coordinates the Occupational health nursing services; and
- (b) Provides support, and direction to five or more Occupational nurses and/or Occupational health clinical nurses.

Undergraduate student Nurse

An undergraduate student nurse is a student employed in a health setting, who is undertaking an accredited undergraduate course in nursing or midwifery. They require direct supervision within a clinical area. However these students are recognised separately to other health care workers such as assistants in nursing, when working within the team/model of care.

An undergraduate student nurse means they

- Are either in their 2nd or 3rd year of their undergraduate nursing or midwifery degree program
- Are only able to undertake activities delegated by the registered nurse or midwife in the clinical context
- Work under the direct supervision of a registered nurse or midwife for activities of which they are required to develop practical skills, provided they have acquired the necessary theoretical knowledge
- Are rostered with a clinical support and supervisor on a shift by shift basis
- Are not responsible for a clinical case load
- Work within the limits of their competence and confidence
- Actively seek feedback on their performance
- Are not undergraduate students on clinical placements

Nurse Practitioner

A nurse practitioner is a registered nurse/midwife appointed to the role, who has obtained an additional qualification relevant to the state regulating authority to enable them to become licensed Nurse Practitioners. They are authorized to function autonomously and collaboratively in an advanced and extended clinical role.

The role of the licensed nurse practitioner means that

- The nurse practitioner is able to assess and manage the care of clients/residence using nursing knowledge and skills. It is dynamic practice that incorporates application of high level knowledge and skills , beyond that required of a registered nurse /midwife in extended practice across stable, unpredictable and complex situations
- The nurse practitioner role is grounded in the nursing profession's values, knowledge, theories and practice and provides innovative and flexible health care delivery that complements other health care providers

- The scope of practice of the nurse practitioner is determined by the context in which
- the nurse practitioner is authorized to practice. The nurse practitioner therefore remains accountable for the practice for which they directed.
- Professional efficacy whereby practice is structured in a nursing model and enhanced by autonomy and accountability
- Is authorized to directly refer clients/ residents to other health professionals, prescribe medications and order diagnostic investigations including pathology and plain screen X rays.
- The exhibit clinical leadership that influences and progresses clinical care, policy and collaboration through all levels of health service.

DRAFT

Award rates of pay – key classifications entry level

CLASSIFICATION	NURSES PRIVATE EMPLOYMENT (ACT) AWARD 2002 <small>(Includes AFPC Wage Setting Decisions 2006 to 2008)</small> \$ per week entry level	NURSES (NORTHERN TERRITORY) PRIVATE SECTOR AWARD 2002 <small>(Includes AFPC Wage Setting Decisions 2006 to 2008)</small> \$ per week entry level	NURSES (ANF-WA PRIVATE HOSPITALS AND NURSING HOMES) AWARD 1999 \$ per week entry level	ENROLLED NURSES AND NURSING ASSISTANTS (PRIVATE) AWARD NO. 8 OF 1978 \$ per week entry level	NURSES (VICTORIAN HEALTH SERVICES) AWARD 2000 \$ per week entry level	NURSES (ANF-SOUTH AUSTRALIAN PRIVATE SECTOR) AWARD 2003¹ \$ per week entry level	NURSES (TASMANIAN PRIVATE SECTOR) AWARD 2005² \$ per week entry level
AIN	578.28			595.84			
EN	649.38	649.52		639.54	649.60	649.50	648.98
RN Level 1	689.78	689.97	690.00		688.10	689.95	688.26

CLASSIFICATION	NURSING HOMES, & C., NURSES' (STATE) AWARD (NSW)	PRIVATE HOSPITAL INDUSTRY NURSES' (STATE) AWARD (NSW)	NURSES' AGED CARE AWARD – STATE 2005 (QLD)	PRIVATE HOSPITAL NURSES' AWARD – STATE 2003 (QLD)
AIN	616.36	609.14	593.78	574.78
EN	738.34	728.84	687.68	651.38
RN Level 1	824.22	813.96	736.74	698.18

¹ Adjusted for AIRC Wages and Allowances Review 2007 & 2008

² Adjusted for AIRC Wages and Allowances Review 2008