



# DECISION

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

**St John Of God Health Care Inc**  
(AG2023/2320)

## ST JOHN OF GOD HEALTH CARE ENROLLED NURSES AND SUPPORT SERVICES AGREEMENT 2022

Health and welfare services

DEPUTY PRESIDENT SAUNDERS

NEWCASTLE, 3 AUGUST 2023

*Application for approval of the St John of God Health Care Enrolled Nurses and Support Services Agreement 2022*

[1] An application has been made for approval of an enterprise agreement known as the *St John of God Health Care Enrolled Nurses and Support Services Agreement 2022 (Agreement)*. The application was made pursuant to section 185 of the *Fair Work Act 2009 (Act)*. The Agreement is a single enterprise agreement.

[2] The *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022 (Cth)* (Amending Act) made a number of changes to enterprise agreement approval processes in Part 2-4 of the Act, that commenced operation on 6 June 2023.

[3] Under transitional arrangements, amendments made by Part 14 of Schedule 1 to the Amending Act in relation to *genuine agreement* requirements for agreement approval applications apply where the *notification time* for the agreement was on or after 6 June 2023. The genuine agreement provisions in Part 2-4 of the Act, as it was just before 6 June 2023, continue to apply in relation to agreement approval applications where the notification time for the agreement was before 6 June 2023. The notification time for the Agreement was before 6 June 2023.

[4] Under transitional arrangements, amendments made by Part 16 of Schedule 1 to the Amending Act in relation to the *better off overall test* requirements for agreement approval applications apply where the agreement was *made* on or after 6 June 2023. The *better off overall test* provisions in Part 2-4 of the Act, as it was just before 6 June 2023, continue to apply in relation to agreement approval applications where the agreement was made before 6 June 2023. The Agreement was *made* on 28 June 2023.

[5] The Employer has provided written undertakings (*Undertakings*). A copy of the Undertakings is attached in Annexure A to this decision. I am satisfied that the effect of accepting the Undertakings is not likely to:

- (a) cause financial detriment to any employee covered by the Agreement; or
- (b) result in substantial changes to the Agreement.

[6] The views of each person who the Fair Work Commission knows is a bargaining representative for the Agreement have been sought in relation to the Undertakings.

[7] Pursuant to subsection 190(3) of the Act, I accept the Undertakings. The Undertakings are taken to be a term of the Agreement.

[8] Subject to the Undertakings, I am satisfied that each of the requirements of sections 186, 187, 188 and 190 of the Act as are relevant to this application for approval have been met.

[9] The United Workers' Union and the Australian Nursing and Midwifery Federation, each being a bargaining representative for the Agreement, have given notice under section 183 of the Act that it wants the Agreement to cover it. In accordance with subsection 201(2) of the Act, I note that the Agreement covers each organisation.

[10] The Agreement is approved and, in accordance with section 54 of the Act, will operate from 10 August 2023. The nominal expiry date of the Agreement is 30 June 2024.



DEPUTY PRESIDENT

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## Annexure A

### IN THE FAIR WORK COMMISSION

**FWC Matter No.:**

AG2023/2320

**Applicant:**

**St John of God Health Care Inc.**

Section 185 – Application for approval of a single enterprise agreement

## Undertaking- Section 190

I, Clare Francis, Group Manager Employee and Industrial Relations for St John of God Health Care Inc. give the following undertakings with respect to the St John of God Health Care Enrolled Nurses and Support Services Agreement 2022 ("the Agreement"):

1. I have the authority given to me by St John of God Health Care Inc. to provide this undertaking in relation to the application before the Fair Work Commission.
2. The Employer undertakes to ensure that if a Caregiver is employed in the Supply Department to perform the function of Imprest Reader as reflected in Clause 17 – Casual Employment they will be paid in line with provisions reflected within the Agreement, which will include all relevant shift penalties and/or loadings that apply for the particular shift being worked.
3. The Employer undertakes to ensure that if an Adult Apprentice is engaged in accordance with Schedule A – Wages, Table I – Apprentices they shall be paid in accordance with the following table:

Below rates to apply from the first full pay period on or after 1 July 2023:

<b>Adult Apprentice Rate (21 years of age or over)</b>	<b>Four or Three and a Half Year Term</b>	<b>Three Year Term</b>
First Year	\$845.14	\$845.14
Second Year	\$845.14	\$944.40
Third Year	\$944.40	\$1089.73
Fourth Year	\$1089.73	N/A

4. The Employer undertakes that for a caregiver engaged in accordance with Schedule B – Supported Wage System that in lieu of the minimum amount payable of \$95 per week reflected in sub clause (10), the caregiver shall be paid a minimum amount payable of \$102 per week.
5. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

A handwritten signature in black ink, appearing to read "Claffan". The signature is written in a cursive style with a large, looping initial 'C'.

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**Signature**

**28 July 2023**

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**Date**



**St John of God Health Care Enrolled Nurses and Support Services Agreement 2022**

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

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St John of God Health Care is committed to the dignity and worth of each person. We believe that work is a major forum in which we express and develop our dignity and grow towards fullness in human living.

We believe that conditions of work must be such that each person has the freedom and resources needed for growth and development towards wholeness.

St John of God Health Care is committed to the development and maintenance of an organisational culture that is person focused, committed to the Christian ministry of healing, and to the processes of Quality Caring.

St John of God Health Care has an organisational culture that promotes, encourages and facilitates individual and organisational growth and development towards quality service provision. It allows for flexibility and mutuality in the arrangements of working conditions.

It is a culture that leads to greater job satisfaction and ever improving quality of patient care and services.

Involvement in this Agreement results in mutual commitment to the following:

**St John of God Health Care Inc.:**

1. The provision of fair employment conditions.
2. Maintenance of safe working environments.
3. Opportunities for growth and development for each Caregiver.
4. Resources to facilitate optimum work processes and quality of services.
5. Participation in continual improvement of all work processes.
6. Provision of information and training to enable each Caregiver to understand and fulfil his or her obligations under this Agreement and to apply safe work practices.
7. Non requirement of Caregivers to perform duties outside their competence.
8. Provision of a regular cycle of appraisal and review of performance and developmental needs.
9. Involvement of Caregivers as participants in the general functioning of the workplace.

**Each Caregiver:**

1. Provision of an honest day's work in accordance with the relevant Position Description.
2. Positive participation in the desired organisational culture of the hospital.
3. Involvement in learning that will facilitate personal and professional growth and development.
4. Observance of appropriate safety and security regulations.
5. Observance of the Employer's policies and procedures.
6. Participation in a regular cycle of appraisal and review of performance and developmental needs.



## 1. TITLE

This Agreement shall be called the *St John of God Health Care Enrolled Nurses and Support Services Agreement 2022*.

## 2. PARTIES, AREA AND SCOPE

- (1) The parties to this Agreement shall be:
  - (a) St John of God Health Care Inc. ("SJGHC" or "the Employer")
  - (b) all Caregivers whose classifications are listed in Schedule A to this Agreement and are employed by the Employer in the State of Western Australia.
  - (c) subject to compliance with the requirements of sections 185 and 201(2) of the *Fair Work Act 2009*, United Workers Union and the Australian Nursing and Midwifery Federation (WA Branch) will be covered by this Agreement.

## 3. TERM

Subject to approval by the Fair Work Commission (FWC) this Agreement shall commence operation seven (7) days after receiving approval from the FWC and shall remain in force until 30 June 2024 and thereafter in accordance with the *Fair Work Act 2009* (the Act).

## 4. REPLACEMENT

- (1) This Agreement cancels and replaces the St John of God Health Care Enrolled Nurses and Support Services Agreement 2019.
- (2) Notwithstanding the provisions of Clause 3 - Term, this Agreement shall continue to operate until it is cancelled, varied or replaced in accordance with the provisions of the Act.

## 5. COMPREHENSIVE AGREEMENT

- (1) It is the intention of the parties that this Agreement be a comprehensive document applying to Caregivers covered by this Agreement to the exclusion of all applicable awards and industrial agreements. It is further intended that each provision of this Agreement is to be interpreted as not containing unlawful content and that each provision operates in a manner that would not constitute unlawful content.

### Relationship to the National Employment Standards

- (2) This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this Agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

## 6. INTERPRETATION

- (1) In this Agreement:
  - (a) "Accrued time off" means paid time off that accrues where a full-time Caregiver works 40 hours per week instead of 38 hours per week, at a commensurate hourly rate.
  - (b) "Caregiver" means an employee of St. John of God Health Care Inc.
  - (c) "Casual" means a Caregiver engaged on an hourly basis with no guarantee of continual or additional employment and an offer of employment is made by the Employer on the basis that the Employer makes no firm advance commitment to continuing and indefinite work according to an agreed pattern of hours.
  - (d) "Child" includes an adopted child, stepchild, ex-nuptial child or adult child.
  - (e) "Continuous Service" is defined by section 22 of the *Fair Work Act 2009*.
  - (f) "Continuous Shift Worker" is defined for the purposes of clause 34(2)(a) and the NES as a Caregiver who in each roster period, rotates afternoon and/or night shifts with day shifts; or permanent afternoon and/or night shifts.

- (g) "Eligible casual" means a casual caregiver who has been working with their employer on a regular and systematic basis for at least 12 months and has a reasonable expectation of ongoing employment.
- (h) "Employer" means St John of God Health Care Inc, the CEO of the hospital or facility or a person delegated by the CEO to exercise the power on his/her behalf.
- (i) "Fixed term contract" refers to a contract of employment in which a Caregiver is engaged for a specific project either for the duration of that project or for a specific period of time.
- (j) "NES" means National Employment Standards as defined in the Act.
- (k) "Immediate Family" means the Caregiver's spouse/de factor partner and the child, parent, grandparent, grandchild, sibling of a Caregiver or their spouse/de facto partner.
- (l) "Maximum term contract" refers to a contract of employment in which a Caregiver is engaged for a specific project/task either for the duration of that project/tasks or for a specific period of time, where either party may terminate the contract upon the provision of notice.
- (m) "Ordinary rate" means the rate of pay prescribed in Clause 26 – Salaries and Salary Packaging of this Agreement.
- (n) "Ordinary time earnings" means the ordinary rate, over agreement payments and shift and weekend penalties.
- (o) "Part-time" refers to a Caregiver with a guaranteed minimum number of hours (inclusive of holidays and leave) who is regularly employed to work less hours than those prescribed for full time Caregivers.
- (p) "Public holiday" means New Year's Day, Australia Day, Labour Day, Good Friday, Easter Sunday, Easter Monday, Anzac Day, Western Australia Day, King's Birthday, Christmas Day, Boxing Day, or the days observed in lieu thereof or any other day declared or prescribed under a law of the State of WA.
- (q) "Temporary" means a Caregiver engaged for a specific period not exceeding 12 months.
- (r) "Union" shall mean United Workers Union (UWU) or Australian Nursing and Midwifery Federation (WA Branch) (ANMF).

## **7. FLEXIBILITY TERM**

- (1) The Employer and Caregiver covered by this Agreement may agree to make an individual flexibility arrangement (IFA) to vary the effect of terms of this Agreement if:
  - (a) the arrangement deals with 1 or more matters identified in Schedule C to this Agreement or relates to any of the following:
    - (i) arrangements for when work is performed; or
    - (ii) overtime rates; or
    - (iii) penalty rates; or
    - (iv) allowances; or
    - (v) annual leave loading.
  - (b) the arrangement meets the genuine needs of the Employer and Caregiver in relation to 1 or more of the matters mentioned in paragraph (a); and
  - (c) the arrangement is genuinely agreed to by the Employer and Caregiver.
- (2) The Employer must ensure that the terms of the individual flexibility arrangement:
  - (a) are about permitted matters under section 172 of the Act; and
  - (b) are not unlawful terms under section 194 of the Act; and
  - (c) result in the Caregiver being better off overall than the Caregiver would be if no arrangement was made; and
  - (d) must be documented in such a manner as to allow inspection under section 482 of the Act.

- (3) (a) Where the Employer seeks such agreement with a Caregiver, that Caregiver shall be made aware of his/her right, and given reasonable opportunity, to contact and seek representation from the Union or other representative.
- (b) Any disagreement arising from the operation of this subclause must be resolved in accordance with Clause 52- Dispute Settlement Procedures of this Agreement.
- (c) For the avoidance of doubt, providing information concerning the IFA to the Union under this subclause does not mean that the Union must approve or consent to the individual flexibility arrangement.
- (4) The Employer must ensure that the individual flexibility arrangement:
  - (a) is in writing; and
  - (b) includes the name of the Employer and Caregiver; and
  - (c) is signed by the Employer and Caregiver and if the Caregiver is under 18 years of age, signed by a parent or guardian of the Caregiver; and
  - (d) includes details of:
    - (i) the terms of the Agreement that will be varied by the arrangement; and
    - (ii) how the arrangement will vary the effect of the terms; and
    - (iii) how the Caregiver will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
  - (e) states the day on which the arrangement commences.
- (5) The Employer must give the Caregiver a copy of the individual flexibility arrangement at the time it is signed by the Caregiver and Employer.
- (6) The Employer or Caregiver may terminate the individual flexibility arrangement:
  - (a) by giving no more than 28 days written notice to the other party to the arrangement; or
  - (b) if the Employer and Caregiver agree in writing — at any time.

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

### **Initiatives to Deliver Improved Productivity**

- (1) The Employer and Caregivers covered by this Agreement commit to actively cooperating in implementing changes in work and staffing practices designed to improve productivity (including matching staffing levels to patient needs), especially at the department, ward or unit level.

A range of measures to be implemented are set out below. In accordance with the principles set out in subclause (2), (3), and (4) the application of these measures should be considered, where practicable, in the order below:

- (a) deployment of caregivers to busier areas;
- (b) self-rostering or request-based rostering;
- (c) variable shift lengths;
- (d) work practice changes;
- (e) planned and agreed annual leave at low activity times;
- (f) Requests to take accrued leave in accordance with subclauses (5) and (6);
- (g) Work at Another Hospital provisions in accordance with subclauses (7) to (10); and
- (h) Directions to take excess leave, in accordance with subclause (16).

### **Employer Obligations**

- (2) The Employer must ensure that:
  - (a) The provisions of this clause are applied equitably and without favouritism or prejudice;

- (b) Caregivers have reasonable opportunity to use their accrued leave before accruals are deemed to be excess;
- (c) Caregivers who wish to bank leave for use within a reasonable period of it having become excess (e.g. for an extended leave period, overseas holiday etc) have their preferences recorded in a leave management plan;
- (d) Caregivers may elect to cash out any form of leave detailed in this clause subject to restrictions under legislation.
- (e) Wherever practicable, Caregivers whose accrued leave exceeds the threshold limits as per subclause (15) below will be asked to take leave before those caregivers whose leave accruals are within threshold limits.

### **Recognition of Caregivers' Outside Interests**

- (3) While the Employer expects Caregivers to be flexible where possible, it also recognises that Caregivers have outside interests and commitments. Accordingly:
  - (a) a Caregiver cannot be required to work additional hours. Such hours may only be worked subject to the terms of this Agreement;
  - (b) a Caregiver, having commenced a shift, cannot be sent home before the end of the shift. This can only happen subject to the terms of this Agreement.
- (4) The objective is to achieve a balance between the Employer meeting the needs of its patients and Caregivers retaining control over their working hours.

### **Requesting a Caregiver to Take Leave**

- (5) Caregivers may, in accordance with subclause (1), be asked by the Employer to agree to take accrued leave from time to time (including at short notice) where:
  - (a) a downturn in activity requires a managed reduction in the number of caregivers rostered to work, and other initiatives have been explored but have not achieved the desired results; or
  - (b) the Caregiver is carrying an excess accrued leave balance.
- (6) Where they agree to take accrued leave, the Caregiver and Employer may make arrangements for the leave to be taken at a mutually convenient time. This may include taking leave at short notice, provided that the Caregiver cannot be directed to take leave except in accordance with subclause (16) below.

### **Work at Another Hospital**

- (7) Where there is insufficient work available to fulfil contracted hours, and all other reasonable options have been explored in accordance with subclause (1) and necessary efficiencies have not been achieved, caregivers may be asked to work, within their scope of practice, in any other hospital operated by the employer for single shifts and on a temporary basis or otherwise as agreed.
- (8) When proposing such measures, the Employer shall consult with each caregiver and shall take into consideration the caregiver's personal, family, and carer needs and responsibilities; and the additional travel time that may eventuate.
- (9) The Caregiver may elect to take a form of paid leave, or leave without pay, rather than agree to work at another hospital, provided that where the Caregiver refuses the offer of work at a different site, as provided for in this clause, and consultation has occurred in accordance with subclause (8) and in absence of any election by the Caregiver they will proceed on leave without pay.
- (10) The Caregiver shall be provided with transport, free of charge, from her/his home to work and return, or be paid the motor vehicle allowance provided in Clause 32 – Fares and Motor Vehicle Allowance of this Agreement.

### **Closedown**

- (11) Where the Employer temporarily closes a ward, unit or department over the Christmas/New Year period, a Caregiver may be directed to take paid annual leave during part or all of this period provided such direction is reasonable.
- (12) The period of the closedown may be up to two (2) weeks and will encompass both Christmas and New Year.

- (13) Caregivers will be provided with a minimum three (3) months' notice of the intention to close the area and the dates on which it will be closed.
- (14) A Caregiver will access their accrued leave to cover the period of closedown, provided that a Caregiver may request as an alternative:
- (a) to continue working during the period, in which case the Employer will use its best endeavours to identify and offer alternative work in another area of the Hospital or at another SJGHC Hospital or facility within the same geographic area subject to operational considerations;
  - (b) to take another form of paid leave, or leave without pay;
  - (c) to take annual leave in advance where they have no other form of paid leave available to them.

### **Definitions**

- (15) For the purposes of this clause:
- (a) an excess accrued leave balance is:
    - (i) annual leave: any leave balance greater than 1.5x the caregiver's annual entitlement;
    - (ii) shift/on call leave: any leave greater than the caregiver's annual entitlement;
    - (iii) public holiday leave: any leave greater than the caregiver's annual entitlement;
    - (iv) long service leave: any amount of leave that has accrued in the first 10 years of service and remains unused at 13 years continuous service; and any amount of leave that remains unused within three years of each subsequent 5 years of service.
  - (b) a downturn in activity may be either:
    - (i) unforeseen and unplanned (e.g. due to cancelled theatre lists); or
    - (ii) foreseen and planned (e.g. due to school holiday periods).

### **Managing Different Leave Types**

- (16) A Caregiver may be directed to take:
- (a) excess accrued annual leave provided that no less than 2 weeks' notice must be provided; and the residual balance must be no less than the Caregiver's annual entitlement. For example, a Caregiver who is entitled to 4 weeks annual leave, with a balance of 6 weeks, may be directed to take up to 2 weeks.
  - (b) excess accrued shift / on-call leave provided that no less than 2 weeks' notice must be provided; and the residual balance must be no less than their annual entitlement. For example, a Caregiver entitled to 38 hours shift/on-call leave, with a balance of 50 hours, may be directed to take up to 12 hours.
  - (c) excess public holiday leave provided that no less than 2 weeks' notice must be provided; and the residual balance must be no less than their annual entitlement.
  - (d) accrued time off with not less than 24 hours' notice.
  - (e) time off in lieu with not less than 24 hours' notice.
  - (f) excess long service leave provided that:
    - (i) no less than 4 weeks' notice must be provided;
    - (ii) the Caregiver can only be directed to take up to 4 weeks in any 12 months period; and
    - (iii) the Caregiver cannot be directed to take LSL in periods of less than one week, but may agree to requests to do so up to a maximum of 5 single days in any 12 month period.

### **Review**

- (17) The Employer will undertake an annual review of the implementation and ongoing applicability of this clause during the life of this Agreement. The Employer will engage with the Unions in the conduct of this review.

## **9. DUTIES**

The Caregiver will be required to work in accordance with his/her duty statement and the Employer's policies and procedures. The Employer may direct the Caregiver to carry out such duties as are within the limits of the Caregiver's skill, competence or training provided that such duties are not designed to promote deskilling.

## 10. PROBATION

- (1) The first three months of employment or any period of extension implemented in accordance with sub clause (2) below will be on a probationary basis during which time and notwithstanding the provision of Clause 11 - Separation either party may terminate the contract by giving one week's notice in writing or payment or forfeiture in lieu thereof.
- (2) The Employer shall provide the Caregiver with an appraisal of his or her performance during the probationary period. The period of probation may be extended up to three (3) months if the Caregiver fails to demonstrate the required standard of performance or conduct, or where a fair assessment of the Caregiver's performance cannot be made during this time due to:
  - (a) the nature of the work; or
  - (b) the circumstances in which it is performed; or
  - (c) the absence during the period of either the Caregiver or the Caregiver's supervisor.

## 11. SEPARATION

### Employer Giving Notice

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

Caregiver's period of continuous service with the Employer	Period of notice
Not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks
The required period of notice is increased by one week if the Caregiver is over 45 years old and has completed at least 2 years continuous service with the Employer.	

- (c) Provided that the contract of service of a Caregiver engaged as a casual may be terminated by the Employer giving the Caregiver one hour's notice. Such notice need not be in writing.
- (d) Payment in lieu of the required period of notice may be made by the Employer if the required notice is not given.
- (e) The Employer may terminate the contract of service by providing part of the required notice and payment in lieu of the balance.

Nothing in this clause affects the Employer's right to dismiss a Caregiver without notice for serious misconduct which justifies instant dismissal.

### Caregiver Giving Notice

- (2) (a) The contract of service may be terminated on any day by the Caregiver giving to the Employer, the same period of notice, in writing, as that required of an Employer in sub clause (1) above, save and except that there shall be no additional notice based on the age of the Caregiver concerned and the contract shall expire at the end of that period of notice.

- (b) Notwithstanding subclause (2)(a) above the Employer and the Caregiver may agree in writing to a longer period of notice up to and including four weeks.
- (c) Provided that the contract of service of a Caregiver engaged as a casual may be terminated by the Caregiver giving the Employer one hour's notice. Such notice need not be in writing.
- (d) If a Caregiver fails to give the required notice or leaves during the notice period, the Employer may, at its discretion, deduct from any monies due to the Caregiver, an amount equal to ordinary time earnings for the period of notice not given.
- (e) A Caregiver shall not be disadvantaged as a result of providing a longer period of notice than required by this clause.
- (f) The required notice may be dispensed with by agreement in writing between the Employer and Caregiver.

#### **Certificate of Service**

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

#### **12. DIRECTION TO TRANSFER**

- (1) The Caregiver shall be required to comply with any reasonable request to transfer to another position (within the limits of the Caregivers skill, competence or training) or place of work with the Employer within the same location.
- (2) A Caregiver required to relieve away from his/her usual place of work shall be provided with transport, free of charge, from his/her home to work and return, or, be paid the car allowance provided in Clause 32 – Fares and Motor Vehicle Allowance of this Agreement.
- (3) Provided that, in the case of Caregivers employed to work as Storepersons, such an entitlement will only apply if they are advised of the requirement to relieve away from his/her usual place of work after already having reported for work on any given day. Such Caregivers will be given as much notice as possible as to any change in their usual work location.

#### **13. CONFIDENTIALITY**

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

#### **14. HOURS**

- (1) The ordinary hours of a full-time Caregiver, inclusive of holidays and leave, shall not exceed an average of:
  - (a) 80 hours per fortnight where the Caregiver is in receipt of accrued time off; or
  - (b) 76 hours per fortnight where the Caregiver is not in receipt of accrued time off.
- (2) Ordinary hours may be worked over any day of the week, Monday to Sunday inclusive, and shall be arranged by the Employer to meet its needs consistent with Clause 23 - Rosters.
- (3) Ordinary hours may not be rostered over more than 6 consecutive days other than by agreement between the Caregiver and the Employer.
- (4)
  - (a) Ordinary hours shall not be worked over more than 10 days in a two week shift cycle or 20 days in a four week shift cycle unless there is agreement between the Caregiver and the Employer.
  - (b) A minimum of two days off duty in each fortnight shall be taken consecutively unless otherwise agreed between the Caregiver and the Employer.
  - (c) Where ordinary hours are worked over a four week shift cycle the roster shall indicate the start and finish dates of the cycle.

- (5) Ordinary hours shall not exceed 10 in any shift, except where a shift of 12 ordinary hours is rostered by agreement between the Caregiver and the Employer.
- (6) Broken shifts shall not be rostered but may be worked where a Caregiver is called in to work at short notice either by agreement or as a result of being placed on call.
- (7) The roster shall in each case provide for a 9½ hour break between shifts.
- (8) A Caregiver shall not be rostered to work a shift of less than 3 hours duration.

## **15. EMPLOYMENT SECURITY**

The Employer notes that permanent employment is the preferred form of engagement for employees and that casual employment and agency engagements are not the preferred methods of care support or associated service. To this end, the Employer will continue to minimise the use of casual and agency workers within its facilities and ensure that, wherever practicable, additional hours are offered to permanent employees prior to the engagement of casual or agency staff.

## **16. PART-TIME EMPLOYMENT**

- (1) A part-time Caregiver shall be guaranteed a minimum number of hours of work based on a two or four week shift cycle, provided in writing.
- (2) A part-time Caregiver shall be entitled to remuneration and all entitlements in the same manner as a full-time Caregiver, adjusted on a pro-rata basis at the rate of their ordinary hours per week in relation to full-time hours (38 or 40 hours as the case may be).
- (3) A part-time Caregiver may agree to work additional hours (i.e. unrostered hours worked in conjunction with an existing shift) and/or additional shifts.
- (4) A part-time Caregiver who works additional hours or additional shifts within the limits prescribed in Clause 14(1) - Hours shall have the option to have those additional hours paid as either:
  - (a) ordinary rates (plus shift or weekend penalties) in which case the additional hours shall count towards the accrual of leave entitlements; or
  - (b) ordinary rates (plus shift or weekend penalties) plus either a 20% loading for a Caregiver who is not in receipt of accrued time off or 25% loading for a Caregiver who is in receipt of accrued time off, in which case the additional hours shall not count towards the accrual of leave entitlements.
- (5) All part-time Caregivers will be required to elect in writing on engagement which of the arrangements specified in sub-clauses (4)(a) and (4)(b) shall apply. Caregivers may change their elected preference on the anniversary of their engagement by providing a minimum of two weeks' notice in writing.
- (6) Subject to Clause 20 (4) a part-time Caregiver who agrees to work additional hours or additional shifts in excess of the limits for ordinary hours for full-time Caregivers (reference Clause 14 – Hours) shall have those additional hours paid as overtime in accordance with the Schedules to this Agreement.

## **17. CASUAL EMPLOYMENT**

- (1) A casual shall be paid 1/38th of the total rate prescribed in the Schedules to this Agreement, for each hour worked, plus an additional loading. Effective from the first full pay period on or after 28 June 2023, the casual loading will be increased to 25%. Provided that where a casual is engaged to work hours that incur an overtime payment under clauses 20 - Overtime or 21 - On Call, the prescribed overtime payment shall be paid, but not also the additional casual loading.
- (2) A casual shall not, unless explicitly provided for in this Agreement, receive any of the leave entitlements prescribed in this Agreement or the National Employment Standards other than those casual Caregivers eligible for unpaid Carers Leave, unpaid Compassionate leave, unpaid Parental Leave, Family and Domestic Violence Leave (as per the *Fair Work Act 2009*) and Long Service Leave (as per the *Long Service Leave Act 1958*).
- (3) A Caregiver may be employed in the Supply function as a casual Caregiver to perform the function of Imprest Reader. Such task, which may take up to three hours on each occasion, may be performed between the hours of 5pm and 8pm Sunday to Thursday inclusive. Such Caregiver, including an existing permanent Caregiver, shall be paid in accordance with this clause in lieu of any other entitlements that may otherwise arise under this agreement.



- (4) The minimum period of engagement for casuals will be two hours for nursing caregivers and three hours for non-nursing caregivers.

### **Casual Conversion**

- (5) A casual caregiver is one who is offered employment on the basis that the Employer has made no firm advance commitment to continuing and indefinite work according to an agreed pattern of work and that the casual caregiver has accepted the offer of employment on that basis.
- (6) The Employer will ensure it complies with the provisions contained within the *Act* (as amended) relating to offering casual conversion once the caregiver has been employed for a minimum period of 12 months.
- (7) A casual Caregiver may request that their employment be converted to full-time or part-time employment in accordance with the provisions contained within the *Act* (as amended).
- (8) A casual Caregiver may seek conversion if they have worked a regular pattern of hours on an ongoing basis, which, without significant adjustment, the Caregiver could continue to perform as a full-time Caregiver or a part-time Caregiver under the provisions of this Agreement.
- (9) Casual conversions will not apply where a casual Caregiver covered absences of permanent staff that are expected to return to work.
- (10) Any request under this casual conversion provision must be in writing and provided to the Employer.
- (11) Where a casual caregiver seeks to convert to permanent employment, the Employer may agree to or refuse the request, but the request may only be refused on reasonable grounds and after there has been consultation with the Caregiver.
- (12) The Caregiver will not be considered to have worked a regular pattern of hours where these shifts are replacing a Caregiver's absence (including but not limited to parental leave, long service leave, workers compensation leave, personal leave) or flexible work arrangement.
- (13) Where the Employer declines a casual Caregiver's request to convert, the Employer must provide the casual Caregiver with the Employer's reasons for refusal in writing within 21 days of the request being made.
- (14) The Employer will provide a casual Caregiver with a copy of the Casual Employment Information Statement at the commencement of their employment.

### **18. TEMPORARY AND FIXED TERM / MAXIMUM TERM APPOINTMENTS**

- (1) Subject to this Agreement, a Caregiver appointed on a temporary basis or pursuant to a fixed term/maximum term contract shall accrue and be paid the same benefits as a permanent Caregiver.
- (2) Nothing in this Agreement shall restrict the right of the Employer or Caregiver to terminate the engagement within the specified term in accordance with the provisions of Clause 11 – Separation.

### **19. TIME NOT WORKED**

A Caregiver shall not be entitled to payment for any period of unauthorised absence.

### **20. OVERTIME**

- (1) A Caregiver may be required to work reasonable overtime.
- (2) Time worked in excess of:
- (a) 10 hours a day or 12 hours by agreement,
  - (b) 80 hours a fortnight where the Caregiver is in receipt of accrued time off or 76 hours a fortnight where the Caregiver is not in receipt of accrued time off.
  - (c) 10 days in a two week shift cycle or 20 days in a four week shift cycle; provided that "time worked" shall include absences from work on account of taking Accrued Days Off or Personal Leave;

shall be deemed overtime.

Provided that at St John of God Geraldton Hospital, time worked in excess of 8 hours a day or up to 10 hours by agreement, shall be deemed overtime.

- (3) Subject to this clause overtime shall be paid at:

- (a) (i) time and a half for the first two hours on any day Monday to Saturday, both inclusive and double time thereafter;
- (ii) provided that where a period of overtime continues past midnight into any day (other than a Sunday or public holiday) it shall be paid without regard to the fact that it has been worked on two separate days.
- (b) double time on a Sunday or public holiday
- (c) double time for time worked on days in excess of the limits prescribed in subclause (2)(c).

#### **Part-time Caregivers and Additional Shifts**

- (4) A part time caregiver may agree to work 11 shifts in a fortnight, in which case subclause (2) (c) above shall not apply. Provided that:
  - (a) A caregiver cannot be directed to work more than 10 shifts in a fortnight without overtime penalties.
  - (b) Other overtime, shift and/or weekend penalties continue to apply and will be paid as appropriate.
  - (c) The additional hours will not be performed regularly and will not form part of the Caregiver's minimum contracted hours.
  - (d) The Employee's entitlements accrue on the additional hours worked, including Employer superannuation contributions.

#### **Time off in lieu**

- (5) (a) In lieu of payment for overtime, a Caregiver may elect, with the agreement of the Employer, to be allowed time off in lieu of payment of overtime in proportion to the payment to which they would otherwise be entitled. Accrued time off in lieu shall be taken at a mutually convenient time.
- (b) Time off in lieu shall accrue at the appropriate overtime rate.
- (c) Time off in lieu can be taken at any time by mutual agreement between the Employer and the Caregiver.
- (d) Any untaken time off in lieu may be:
  - (i) cashed out by the Caregiver at any time; or
  - (ii) paid out by the Employer after 12 months of it having accrued; or
  - (iii) paid to the Caregiver on termination
 whichever occurs first.
- (6) Where a Caregiver has not had at least 9½ consecutive hours break between the completion of overtime and commencement of ordinary work they shall be released from ordinary duty without loss of pay until a 9½ consecutive hour break has been achieved.
- (7) If a Caregiver is instructed by the Employer to resume or continue work without a 9½ consecutive hour break the Caregiver shall be paid at double rates until they are released from duty, and then will be entitled to be absent from duty for 9½ consecutive hours without loss of pay for ordinary working time rostered during that absence.

#### **21. ON CALL**

- (1) For the purposes of this Agreement, a Caregiver is on call when he or she is required by the Employer to remain at such a place as will enable the Employer to readily contact him or her during the hours for which he or she has been placed on call. A Caregiver is also on call when required to carry a mobile telephone or pager and to remain within a specified radius of the hospital.

#### **Allowance**

- (2) From the first full pay period on or after the following dates, a Caregiver on call shall be paid an hourly allowance as follows:

From the first full pay period on or after 28 June 2023      \$8.18

From the first full pay period on or after 1 July 2023      \$8.42

- (3) The on-call rate for Enrolled Nurses, between midnight Friday and 8am Monday, and for public holidays shall be 30cents higher than the applicable rate in subclause (2) above.
- (4) Provided that payment in accordance with this paragraph shall not be made with respect to any period for which payment is otherwise made in accordance with the provisions of this Agreement when the Caregiver is recalled to work.

#### **Restrictions**

- (5) A Caregiver shall not be required to remain on call whilst on annual leave or the day before commencing leave unless by agreement between the Caregiver and the Employer.

#### **Call In**

- (6) A Caregiver who is called in to work shall be paid:
  - (a) at the rates applicable for overtime as specified in subclause 20(3) - Overtime.
  - (b) when not on call at double time and include time spent travelling to and from the place of employment.
- (7) A Caregiver who is called in to work shall be paid a minimum of three hours provided that:
  - (a) if the Caregiver is called in within three hours of starting work on a previous call he/she shall not be entitled to any further payment for the time worked within that period of three hours; and
  - (b) the call-in shall cease when the call out period ends, or on commencement of ordinary duty – whichever occurs first.
- (8) If a Caregiver is called in to work he/she shall be paid the motor vehicle allowance provided in Clause 32 – Fares and Motor Vehicle Allowance, of this Agreement.

#### **Breaks between Recall Periods and Ordinary Duty**

- (9) Where a Caregiver is due to commence their next ordinary duty within 9½ hours of the cessation of hours actually worked having been recalled to duty, they shall either:
  - (a) delay the start to their next ordinary duty until such time as a 9½ hours have elapsed since the cessation of overtime without loss of pay for that period; or
  - (b) if directed by the Employer, commence their next ordinary duty and be paid at double rates until released from duty for such period and shall then be entitled to be absent until he/she has had 9½ consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

Provided that (a) and (b) above shall not apply where the recall commenced within 3 hours of the commencement of ordinary duty and the Caregiver has had a break of 9½hours immediately prior to the commencement of the recall period.

#### **Additional Annual Leave for On Call**

- (10) A Caregiver regularly required to work on call will receive up to either an extra 38 hours annual leave per accrual year where they are not in receipt of accrued time off, or 40 hours annual leave where they are in receipt of accrued time off in accordance with the schedule in sub-clause (12) below, provided that they are available to be rostered on call Monday to Sunday, including public holidays and are rostered on call to suit operational requirements, in accordance with the following:
  - (a) following a normal rostered shift; or
  - (b) during weekend days or public holidays; or
  - (c) on days that they are not rostered for duty.
- (11) The accrual year shall be the anniversary of the commencement of this agreement or, for Caregivers not employed at the commencement of this agreement, the anniversary of their commencement with the Employer.
- (12) The rate at which a Caregiver regularly placed on call shall accrue additional leave, is as follows:

Number of hours rostered on call per accrual year	Additional Hours for Caregivers not in receipt of accrued time off	Additional Hours for Caregivers in receipt of accrued time off
120 hours to 179 hours	7.6 hours	8 hours
180 hours to 239 hours	15.2 hours	16 hours
240 hours to 299 hours	30.4 hours	32 hours
300 hours or more	38 hours	40 hours

(13) For the purpose of calculating additional leave, the period of on-call is not reduced by recalled hours.

## 22. SHIFT WORK

- (1) (a) The loading on the ordinary rates of pay for a Caregiver who works an afternoon shift commencing at or after 12.00 noon and finishing after 6.00 pm on weekdays shall be 15%.
- (b) The provisions of paragraph (a) of this subclause do not apply to a Caregiver who on any weekday commences his/her ordinary hours of work at or after 12.00 noon and completes those hours at or before 6.00 pm on that day.

Provided that where a Caregiver works additional hours at the employer's request, to meet operational needs, in conjunction with an afternoon shift, and commences that shift prior to 12 noon, a loading of 15% shall be paid on the hours worked from 12 noon onwards.

- (c) The loading on ordinary rates of pay for a Caregiver who works a complete night shift that commences at or after 6.00 pm and finishes before 7.30 am on a weekday shall be 35%.  
Provided that a complete night shift will include a shift that commences before midnight on one day and concludes after midnight i.e. finishes on the day after commencing duty e.g. a shift that commences at 1730 hours on one day and finishes at 0230 hours on the next succeeding day shall be considered a night shift.
  - (d) A Caregiver rostered to work ordinary hours between midnight Friday and midnight on the following Saturday shall be paid a loading of 50% on actual hours worked during this period.
  - (e) A Caregiver rostered to work ordinary hours between midnight Saturday and 7.30am on the following Monday shall attract a loading of 75% on actual hours worked during this period provided the shift commenced prior to 2400 hours on a Sunday.
- (2) Where a Caregiver works a broken shift each portion of that shift shall be considered a separate shift for the purpose of this clause.
  - (3) Where the ordinary hours of work span midnight Friday the applicable penalty shall be:  
up to midnight Friday – the rate specified at sub clause (1) (c), and  
past midnight Friday – the rate specified at sub clause (1) (d)
  - (4) Payment for any additional hours worked due to the extension of a rostered shift will be considered separately in the calculation of penalty rates for the original rostered shift. This provision is to be read separately to Clause 16(1) – Part-time employment.

## 23. ROSTERS

- (1) A roster of working hours shall be posted in a convenient place where it can be readily seen by each Caregiver concerned.
- (2) The roster shall be posted at least 14 days before it comes into operation.
- (3) (a) The roster may be altered at the Employer's discretion if the Employer's requirements render such alteration necessary provided that:
  - (i) a Caregiver is entitled to 48 hours' notice of a requirement to come in to work
  - (ii) a Caregiver is entitled to 12 hours' notice where a shift is cancelled or varied
  - (iii) the notice referred to in this paragraph may be dispensed with by agreement between the Caregiver and the Employer.

- (b) A Caregiver who has commenced a shift is entitled to complete that shift unless otherwise agreed between the Caregiver and the Employer.
- (4) A Caregiver shall not be rostered to work or placed on call on a night shift prior to a period of leave unless in exceptional circumstances.

#### **12 Hour Rosters**

- (5) Consistent with Clause 51 - Consultation about Changes to Rosters or Hours of Work, the Employer may introduce 12 hour shift rosters provided that all affected Caregivers are consulted and the majority of those Caregivers agree that such arrangements may be implemented. A representative forum may be established in the area affected to progress discussions on proposals for change through consultation. The forum can present written comments to caregivers/management on the proposals for change. Provided, that such arrangements shall only be maintained in the event that an agreed number or percentage of positions will be required to support the arrangements.
- (6) Caregivers will not be required to work the 12 hour shift roster. Caregivers may choose to participate at any stage in the 12 hour shift roster provided they give four weeks' notice in writing to the relevant Manager.
- (7) All 12 Hour Shift Rosters will be developed consistent with Schedule D to this Agreement.
- (8) All affected caregivers will be advised of the final outcome in writing.
- (9) The provisions stated in this clause shall prevail over the remainder of this Agreement to the extent of any inconsistency.

#### **24. MEAL AND MEAL HOURS**

- (1)
  - (a) Meal breaks shall be a minimum of 30 minutes and a maximum of one hour other than by agreement and subject to subclause (2) of this clause shall not be counted as time worked.
  - (b) The Caregiver shall not be required to work for more than 6 hours consecutively without a meal break.
- (2) Where the Caregiver is required to:
  - (a) work during his/her meal break, and the break is not able to be subsequently taken due to workload requirements, the period of the meal break shall be paid at overtime rates in accordance with Clause 20 - Overtime. Provided that the time when the Caregiver is on duty or available but not working shall not be counted as time worked for the purposes of the overtime.
  - (b) remain in the immediate work area on standby during a meal break they will be paid at ordinary time
  - (c) remain available and to carry a pager during a meal break shall receive no additional payment, Clause 21 - On Call, shall not apply.
- (3) One fifteen minute tea break shall be allowed during each shift and shall be taken when convenient to the Employer without deduction of pay for such time.
- (4) A Caregiver who has not been notified the previous day or earlier that he or she is required to attend work at a time when a meal is usually taken shall be provided with such a meal.

#### **25. ACCRUED TIME OFF**

##### **Entitlement**

- (1)
  - (a) A Caregiver (other than a casual) shall accrue an entitlement to time off to a maximum of 12 days (96 hours or pro-rata for part-time) in each 12 month period.
  - (b) A Caregiver shall not accrue an entitlement to time off during:
    - (i) long service leave;
    - (ii) any period of unpaid leave; or

- (iii) any absences on workers compensation leave in excess of one calendar month.

Accrual shall continue during any other period of paid leave (including any additional annual leave) prescribed by this Agreement.

**Taking Accrued Time Off**

- (2) Subject to Clause 8 – Commitment to Improved Productivity, sub clause (16) (d), the accrued time off may be taken at a time which is mutually convenient to the Employer and Caregiver.

**Payment in Lieu of Accrued Time Off**

- (3) By agreement in writing with the Employer, a Caregiver may be paid twice yearly or at another agreed interval, for all the accrued time off standing to his/her credit in lieu of taking the time off.

**Rate of Pay**

- (4) Accrued Time Off shall be paid at the ordinary rate.

**Termination**

- (5) A Caregiver who at the time of termination has accrued time off to his/her credit shall be paid for those hours at ordinary rates.

**Pay Out of Entitlements**

- (6) (a) When a Caregiver proceeds on parental leave, the Employer may pay the Caregiver for any accrued time off then standing to his/her credit.  
(b) A Caregiver may at any time, by agreement in writing with the Employer, be paid for some or all of the accrued time off standing to his/her credit in lieu of taking the time off.
- (7) When a Caregiver proceeds on a period of extended leave (i.e. more than 8 weeks with or without pay); the Employer will pay the Caregiver for any accrued time off then standing to his/her credit.
- (8) A Caregiver shall not otherwise be paid for accrued time off without actually taking the time off.
- (9) A Caregiver may be paid a rate of pay using a divisor of 38 hours per week in lieu of the provisions of this clause:
  - (a) where the Caregiver is guaranteed no more than 16 hours per week or two shifts per week; or
  - (b) on request of the Caregiver and by agreement with the Employer. Provided that the Caregiver may withdraw his/her agreement by providing two weeks' notice in writing.

**26. SALARIES AND SALARY PACKAGING**

- (1) The base rates and conditions payable to Caregivers are detailed in Schedule A and include the increases that will apply during the term of this Agreement:
- (2) (a) The base hourly rate of a Caregiver, who accesses accrued time off pursuant to Clause 25 – Accrued Time Off, will be calculated by dividing the base weekly rate by 40.  
(b) The base hourly rate of a Caregiver, who does not access accrued time off, will be calculated by dividing the base weekly rate by 38.
- (3) The increases to rates of pay and allowances shall ordinarily be payable 7 days after this Agreement is registered by the Fair Work Commission unless an earlier date is defined within the body of the Agreement or from the first full pay period commencing on or after the dates specified in Schedule A.

**Salary Packaging**

- (4) In lieu of the weekly rates of pay provided in this clause, the Employer and the Caregiver may agree to implement salary packaging arrangements. Such arrangements must be in accordance with the Employer salary packaging policy as amended and varied from time to time provided there is no reduction in benefits, unless required as a result of a change or variation to an existing law, the enactment of a new law, or a decision of a court, the Australian Tax Office, or tribunal, which requires compliance by the Employer. The administrative arrangements for salary packaging will be entirely at

the discretion of the Employer. Salary packaging arrangements entered into will be cost neutral in relation to the total employment cost of the Caregiver for the Employer.

### **Review of Performance and Development needs**

- (5) The National Safety and Quality Health Service Standards requires health service organisations to have a valid and reliable Performance Review and Development Process in place to ensure all caregivers regularly take part in a review of their performance.
- (6) Performance review and development supports safety and quality by developing skills, knowledge and identifying needs for training and development.
- (7) The Performance Review and Development (PRnD) Process should be undertaken in a positive, collaborative, confidential and non-threatening manner, which is free of bullying. The performance review (PRnD) process is not to be used for the management of substandard performance
- (8) Core requirements of the Performance Review (PRnD) Process should include:
  - (a) A Continuing Professional Development /Mandatory Training Record including Clinical Competencies; and
  - (b) A review of an individual's performance
- (9) Reviews aligned to the core requirements should occur every two years and will generally involve a meeting to discuss the outcomes of the review documentation. A meeting will not occur if both parties (i.e. Manager and Caregiver) agree that a meeting is not required.

### **27. PAYMENT OF WAGES**

- (1) (a) Wages shall be paid fortnightly by electronic funds transfer into one or more accounts (maximum three) nominated by the Caregiver held at any major bank, building society or credit union.
- (b) Any costs associated with the establishment by the Caregiver of such an account and of the operation of it shall be borne by the Caregiver.
- (2) Each Caregiver shall be provided with a pay advice slip on each occasion that wages are paid, which will contain details in accordance with the *Act*.
- (3) Where payment is not made within the nominated time the Employer shall make every reasonable endeavour to rectify the matter without delay.

### **Overpayment of Wages**

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

### **One-off Overpayments**

- (5) Subject to sub-clauses (7) and (8) , one-off overpayments may be recovered by the Employer in the pay period immediately following the pay period in which the overpayment was made, or in the period immediately following the pay period in which it was discovered that overpayment has occurred.

### **Cumulative Overpayments**

- (6) Subject to sub-clauses (7) and (8), cumulative overpayments may be recovered by the Employer at a rate agreed between the Employer and the Caregiver, provided that the rate at which the overpayment is recovered is not at a lesser rate than the rate at which it was overpaid or \$75 per fortnight, depending on which is the lesser amount per pay period.
- (7) Notwithstanding sub-clause (6), in the event that the minimum overpayment amount would create serious financial hardship for a Caregiver, other arrangements for the recovery of overpayments may be agreed between the Employer and the Caregiver. Such a request may not be unreasonably refused.
- (8) The Employer is required to notify the Caregiver of their intention to recoup an overpayment, provide the Caregiver with details to sufficiently establish that an overpayment has occurred and to consult with the Caregiver as to the appropriate recovery rate.

### **Recovery of Overpayments**

- (9) In exceptional circumstances, other arrangements for the recovery of overpayments may be agreed between the Employer and the Caregiver.
- (10) The Employer is required to:
  - (a) notify the Caregiver, in writing, of their intention to recoup an overpayment at least 72 hours prior to the next pay period in which the Employer seeks to recover an overpayment;
  - (b) provide the Caregiver with details to sufficiently establish that an overpayment has occurred; and
  - (c) to consult with the Caregiver as to the appropriate recovery rate.
- (11) The recovery agreement will be confirmed in writing.

### **Underpayment of Wages**

- (12) Where a Caregiver is underpaid in any manner, the Employer will rectify the error as soon as practicable with consideration to subclauses (13) and (14).
- (13) Notwithstanding sub-clause (12) an error shall be rectified no later than in the pay immediately following the date on which the Employer discovers, or is advised, that the error occurred.
- (14) Notwithstanding the provisions of sub-clause (13), a Caregiver shall be paid any underpayment immediately by way of a special payment where the underpayment of wages has created serious financial hardship.

### **Termination Payments**

- (15) Upon termination of employment, the Employer shall pay to the Caregiver all monies earned by or payable to the Caregiver within 7 days of termination of employment through the normal payroll system or via an electronic funds transfer into the Caregiver's account(s). Provided that any outstanding debts or overpayments accrued by the Caregiver may be recovered from the final payment payable to the Caregiver on termination, if authorised by the Caregiver, in writing.

## **28. TIME AND WAGES RECORD**

Records concerning a Caregivers employment with the Employer will be kept and maintained in accordance with the *Act* and associated regulations.

## **29. CALCULATION OF PENALTIES**

- (1) Where the Caregiver works hours which would entitle him or her to payment of more than one of the penalties payable in accordance with the overtime, shift and weekend penalties, or public holiday provisions of this Agreement, only the highest of any such penalty shall be payable.
- (2) In the case of casuals any such penalty shall be in addition to the casual loading except where inconsistent with Clause 17 – Casual Employment of this Agreement.

## **30. HIGHER DUTIES**

- (1) A Caregiver who is capable of performing and does perform all duties of a position which attracts a higher rate of pay than that which he or she usually performs shall be entitled to the higher rate whilst so engaged.
- (2) When a Caregiver performs some, but not all, of the duties of the position a rate of pay less than the rate the position normally attracts can be paid by agreement between the Employer and Caregiver.
- (3) Provided that payment for higher duties shall not apply to a Caregiver required to act in another position while the incumbent is taking accrued time off for a single day or less in accordance with Clause 25 – Accrued Time Off of this Agreement.

## **31. UNIFORMS**

- (1) (a) Where the Employer requires a uniform to be worn, an adequate supply of such uniforms shall be provided free of cost to the Caregiver on engagement.
- (b) Thereafter uniforms will be replaced on an 'as required' basis provided that:



- (i) no uniform shall be replaced within 18 months of the date of issue; and
- (ii) when a new uniform is issued the Caregiver shall be required to return the replaced uniform.
- (c) Uniforms provided by the Employer shall at all times remain the property of the Employer and must be returned to the Employer on termination.
- (2) Uniforms shall not be worn other than in the course of, and in travelling to and from, employment.
- (3) The cost of laundering uniforms shall be met by the Caregiver.
- (4) Caregivers shall be responsible for the provision of appropriate clean, tidy and safe footwear.
- (5) Nothing in this clause shall prevent the Employer and the Caregiver from making other arrangements regarding the laundry and supply of uniforms, provided that they are not less favourable to the Caregiver.
- (6) The provisions of this clause shall not detract from the Employer's obligation pursuant to section 19 of the *Occupational Safety and Health Act 1984* to provide Caregivers with adequate personal protective clothing and equipment where it is not practicable to avoid the presence of hazards at the workplace.

### **32. FARES AND MOTOR VEHICLE ALLOWANCE**

- (1) A Caregiver required to work outside the hospital during his or her normal working hours shall be paid any reasonable travelling and accommodation expenses incurred provided that travelling expenses shall not be paid where an allowance is paid in accordance with subclause (2) hereof.
- (2) A Caregiver required and authorised to use his or her own motor vehicle in the course of his duties shall be paid an allowance of not less than 76 cents per kilometre.
- (3) The rate prescribed in subclause (2) shall be reviewed three years after the date of lodgement of this agreement.
- (4) Nothing in this clause shall prevent the Employer and the Caregiver from making other arrangements regarding car allowance, provided that they are not less favourable to the Caregiver.

### **33. SUPERANNUATION**

- (1) The Employer shall contribute on behalf of the Caregiver in accordance with the requirements of the *Superannuation Guarantee (Administration) Act 1992*.
- (2) Contributions shall at the option of the Caregiver be paid into either:
  - (a) the Health Employees' Superannuation Trust Australia (HESTA) fund; or
  - (b) such other complying superannuation fund or scheme as nominated by the Caregiver.
- (3) Where an election is not made by a Caregiver, contributions will be paid into:
  - (a) The Caregiver's stapled super fund; or
  - (b) HESTA, which provides a "MySuper product" and is the Employer's nominated fund.
- (4) Contributions shall continue to be paid on behalf of a Caregiver in receipt of payments under the *Workers Compensation and Injury Management Act 1981* (WA)
- (5) Contributions shall be paid into the Caregiver's nominated fund on a monthly basis.
- (6) (a) A Caregiver may elect in writing to receive a superannuation benefit in lieu of part of the salary to which he or she is otherwise entitled under this Agreement in accordance with the St John of God Health Care salary packaging policy.
- (b) This arrangement shall remain in force until terminated by mutual agreement or by either the Employer or the Caregiver providing one calendar months' notice.

### **34. ANNUAL LEAVE**

#### **Entitlement**

- (1) (a) Each Caregiver will be entitled to 4 weeks annual leave in respect of each year of continuous service. Annual leave will accrue on a progressive basis in respect of each ordinary hour worked and accumulates from year to year.

- (b) In this clause, "continuous service" shall not include any period of unpaid leave other than the first 3 months of unpaid personal leave and the first month of workers' compensation leave.
- (2) A Caregiver will be entitled to additional annual leave pro rata per annum as follows:
  - (a) Where the Caregiver is a Continuous Shift Worker as defined by Clause 6(f) – one week; or
  - (b) where the Caregiver works rostered shifts but whose shifts are not subject to regular rotation, one additional day of annual leave will accrue (to a maximum of 5 days) for each 30 afternoon or night shifts worked.
- (3) Caregivers who participate in the on call roster will receive up to either an additional 38 hours of annual leave per annum if they are not in receipt of accrued time off, or an additional 40 hours of annual leave per annum if they are in receipt of accrued time off in accordance with the provisions of Clause 21 – On Call subclauses (10) and (12).
- (4) Provided that where a Caregiver qualifies for additional annual leave under subclauses (2) and (3) no more than 38 hours (or 40 hours if applicable) of additional annual leave shall accrue.

#### **Rate**

- (5) (a) The Caregiver shall be paid for any period of annual leave prescribed in subclause 1(a) of this clause at the Caregiver's ordinary rate of wage and:
  - (i) in the case of a Caregiver who accrues additional annual leave in accordance with sub clause (2) of this clause the greater of:
    - (1) the average of shift and weekend penalties calculated over the last two fortnightly pay periods prior to taking the leave; or
    - (2) 17.5% loading;
  - (ii) In the case of a Caregiver who does not accrue additional annual leave in accordance with subclause (2) i.e. a non-shift-worker, 17.5% loading in respect of the four weeks annual leave accrued in subclause (1).
- (b) Where the Caregiver has been continuously paid higher duties for a period of more than 4 weeks, immediately prior to commencing a period of annual leave, the ordinary rate of wage shall be based on the applicable higher duties wage rate.

#### **Payment**

- (6) Payment for a period of annual leave may be made prior to the commencement of annual leave on request from the Caregiver.  
 Provided that, where annual leave is paid in advance, payment for time worked may be adjusted in the fortnightly pay period following the period of annual leave.

#### **Cash Out**

- (7) A Caregiver may in any 12 month period cash out accrued annual leave entitlement to be paid at ordinary rates provided that:
  - (a) such election is to be made in writing by the Caregiver and approved by the Employer; and
  - (b) cashing out shall not result in the Caregiver's remaining accrued annual leave entitlements being less than 4 weeks.

#### **Termination**

- (8) If a Caregiver's employment terminates, the Caregiver shall be paid their accrued leave including any additional leave accrued under sub clause (2) and (3) hereof. Provided that leave loading shall only apply to leave accrued in accordance with subclause 1(a).

#### **Taking Annual Leave**

- (9) Except as provided for in Clause 8 – Commitment to Improved Productivity, annual leave shall be taken at a time which is mutually convenient to the Employer and Caregiver, noting that the aim of annual leave is to enable caregivers to have rest and recreation in the year in which it accrues.

**35. PUBLIC HOLIDAYS**

- (1) A Caregiver (other than a casual caregiver, store person, gardener, driver or maintenance person) shall be entitled to 2 weeks public holiday leave in respect of each year of continuous service.
- (2) Public holiday leave shall accrue on an hourly basis in respect of each ordinary hour worked.
- (3) Public holiday leave shall be paid at ordinary rates only, and shall be taken at a time or times agreed between the Employer and the Caregiver or at the direction of the Employer in accordance with sub-clause (7) of this Agreement.
- (4) Where a Caregiver is rostered to work on a public holiday or day observed in lieu thereof, he or she shall be entitled to ordinary rates of pay and a loading of 50% for the actual time worked.
- (5) In lieu of the provision contained at sub clause (4) above where a gazetted public holiday falls on a Sunday and the caregiver is required to work on this day they shall be entitled to ordinary rates of pay and a loading of 75% for the actual time worked.
- (6) If a Public Holiday falls on a day that a Caregiver is not rostered to work then no additional payment or day in lieu will be provided.
- (7) Where a Caregiver is not required to work on a public holiday or a day observed in lieu thereof and as a result works fewer than his/her contracted hours in that fortnight the deficit will be deducted from the Caregiver's public holiday leave entitlements and paid to the Caregiver. Provided that where a Caregiver has insufficient accrued public holiday leave entitlements to cover the deficit then either:
  - (a) a deduction will be made from another form of paid leave (other than annual leave); or
  - (b) if the Caregiver has insufficient accrued paid leave (other than annual leave), the Caregiver will be deemed to be on leave without pay.
- (8) The Employer recognises Caregivers' entitlement to be absent on a public holiday as per s.114 of the Act, and entitlements for payment for absence on a public holiday as per s.116 of the Act; and will ensure that no Caregiver's minimum entitlements to public holidays under the NES will be reduced through the operation of this clause.
- (9) At any time public holiday leave may be:
  - (a) cashed out; or
  - (b) taken as leave, whether or not in conjunction with other leave types
- (10) Accrued public holiday leave will be paid out on termination.
- (11) A Caregiver employed regularly as a store person, gardener, driver or maintenance person:
  - (a) who is not required to work on a public holiday, or day observed in lieu thereof, shall be paid the caregiver's ordinary rate for the caregiver's ordinary hours of work they would have received on that day had it not been a public holiday.
  - (b) who is required to work on a public holiday, or day observed in lieu thereof, shall be entitled to ordinary rates of pay and a loading of 150% for the actual time worked. Provided that the Caregiver may elect to receive in lieu of the loading of 150% a loading of 50% together with an equivalent period of time off for the actual time worked on the public holiday to be taken at a time convenient to the Employer.
- (12) A casual Caregiver:
  - (a) who has not been requested to work on a day prescribed as a public holiday, or day observed in lieu thereof, shall not be entitled to any payment or day in lieu.
  - (b) who has agreed to work on a day that is prescribed as a public holiday, or day observed in lieu thereof, shall be entitled to be paid ordinary rates of a pay and a loading of 150% (inclusive of casual loading) for the actual time worked.

**Day Observed in Lieu of Public Holiday**

- (13) Where any public holiday prescribed by this Agreement falls on a Saturday or a Sunday, such holiday shall, for penalty payment purposes, be observed on the next succeeding Monday and where Boxing Day falls on a Sunday or Monday, such holiday shall for penalty payment purposes be observed on the next succeeding Tuesday. Provided that:

- (a) a day observed in lieu of the holiday may be appointed by proclamation published in the Gazette under the *Public and Bank Holidays Act 1972*;
  - (b) another day may be observed in lieu of the holiday by agreement between the Caregiver and the Employer.
- (14) Notwithstanding anything to the contrary in this Agreement, and at the option of the Employer, Caregivers employed in clinics or departments which function during the normal clerical hours of duty may be granted public holidays and annual leave as are generally applicable to the clerical staff employed in the said clinics or departments.

### **36. PERSONAL LEAVE**

- (1) A full time Caregiver shall accrue 10 days (76 hours) paid leave per annum to attend to:
  - (a) sick leave – a personal illness, or injury, of the Caregiver; or
  - (b) carer's leave – the care or support of a member of the Caregiver's immediate family, or a member of their household, who requires care or support because of:
    - (i) a personal illness, or injury, of the member; or
    - (ii) an unexpected emergency affecting the member.
- (2) The entitlement shall accrue on a progressive basis in respect of each ordinary hour worked.
- (3) Unused portions of personal leave entitlement shall accumulate from year to year and may be taken in any subsequent year.
- (4) Personal leave may be accessed in hours.
- (5) Where an application for payment exceeds the Caregiver's accrued entitlement, the excess may be offset against any future accrual or against monies otherwise payable to the Caregiver at the point of separation, subject to a written agreement.
- (6) A Caregiver shall advise the Employer as soon as reasonably practicable and if possible prior to the commencement of the shift of the inability to attend work, the nature of illness or injury and the estimated duration of absence.
- (7) A Caregiver is allowed a maximum of five days absence without a certificate from a registered health practitioner in any one accruing year provided that:
  - (a) a certificate must be provided for any absence of more than two consecutive days; or
  - (b) if it is not reasonably practicable to provide a certificate a Caregiver may provide a statutory declaration, subject to the Employer being satisfied that the circumstances preventing a medical certificate from being obtained were "not reasonably practicable".
- (8) A Caregiver who would ordinarily be eligible for personal leave had they not have been on annual leave shall be paid personal leave in lieu of annual leave subject to:
  - (a) providing a certificate from a registered health practitioner confirming illness, injury or unexpected emergency during the period the Caregiver would have been taken to be on annual leave;
  - (b) the portion of annual leave coinciding with the paid personal leave is to be taken at a time agreed by Employer and Caregiver or shall be added to the next period of annual leave; and
  - (c) payment for replaced annual leave shall be at the rate of wage applicable at the time the leave is subsequently taken provided that the annual leave loading prescribed in clause 34 shall be deemed to have been paid with respect to the replaced annual leave.
- (9) Where a Caregiver receives payment under this clause and subsequently receives payments in respect of the same period under the *Workers' Compensation and Injury Management Act 1981* (WA), the Caregiver shall reimburse to the Employer the payments made under this clause and the Employer shall reinstate the Caregiver's personal leave or other entitlements accordingly.
- (10) (a) Caregivers (including casual Caregivers) are also entitled to up to two (2) days unpaid Carer's Leave for each occasion a member of the Caregiver's immediate family or household requires care or support because of the illness, injury or unexpected emergency of the member.
- (b) Caregivers entitled to a period of unpaid Carer's Leave are entitled, for any particular occasion, to take the leave as:

- (i) a single, unbroken period of up to two (2) days; or
  - (ii) any separate periods to which the Caregiver and the Employer agree.
- (11) Caregivers – particularly those who may have exhausted their leave credits – may be eligible for assistance in accordance with the Employer's policy titled "Caregivers Facing Hardship" as amended from time to time.

### 37. LONG SERVICE LEAVE

- (1) This Agreement shall be read in conjunction with the *Long Service Leave Act 1958 (WA)* as amended from time to time, providing that long service leave shall not accrue on workers' compensation leave in excess of one month.
- (2) Long service leave shall accrue at a rate of 0.8667 weeks for each year of continuous service. A Caregiver (including a casual caregiver) shall be able to access long service leave any time after the completion of 7 years continuous service.
- (3) On the termination of the Caregiver's employment –
  - (a) by his/her death;
  - (b) in any circumstances otherwise than by the Employer for serious misconduct;
 the Caregiver shall be entitled to their accrued long service leave provided that they have completed no less than 7 years of continuous service with the Employer.
- (4) Long service leave may be taken in single day periods.
- (5) Long service leave may be taken at half pay for double the period accrued with the agreement of the Employer.
- (6) Leave shall be granted and taken as soon as reasonably practicable after the right thereto accrues due or at such time or times as may be agreed between the Employer and the Caregiver.
- (7) By agreement between the Employer and Caregiver, a part time Caregiver or a Caregiver whose hours have changed from part-time to full-time may take his or her long service leave entitlement as a reduced period of full time equivalent time off. Such agreement shall not be unreasonably withheld by the Employer.

### 38. PARENTAL LEAVE

- (1) Except as hereinafter provided, Caregivers (including eligible casual caregivers) shall be entitled to parental leave in accordance with the provisions of the *Act*. A summary of the entitlement is provided below.

#### Interpretation

- (2) In this Clause -
  - (a) **"adoption"**, in relation to a child, is a reference to a child who:
    - (i) is not the natural child or the step-child of the Caregiver or the Caregiver's spouse;
    - (ii) is less than 16 years of age; and
    - (iii) has not lived continuously with the Caregiver for 6 months or longer;
  - (b) **"continuous service"** means service under an unbroken contract of employment and includes:
    - (i) any period of parental leave; and
    - (ii) any period of authorised leave or absence.
  - (c) **"expected date of birth"** means the day certified by a medical practitioner to be the day on which the medical practitioner expects the Caregiver or the Caregiver's spouse, as the case may be, to give birth to a child;
  - (d) **"parental leave"** means leave provided for by subclause (3) of this clause;
  - (e) **"spouse"** includes a de facto partner.

#### Entitlement to parental leave

- (3) (a) Subject to this subclause and to subclauses (4) and (5) hereof, a Caregiver is entitled to take up to 52 consecutive weeks of unpaid leave in respect of -
- (i) the birth of a child to the Caregiver or the Caregiver's spouse; or
  - (ii) the placement of a child with the Caregiver with a view to the adoption of the child by the Caregiver; and
  - (iii) the Caregiver has or will have responsibility for the care of the child.
- (b) A Caregiver is not entitled to take parental leave unless he or she:
- (i) has, before the expected date of birth or placement, completed at least 12 months' continuous service with the Employer; and
  - (ii) has given the Employer at least 10 weeks' written notice of his or her intention to take the leave or 4 weeks in the event of concurrent leave that is to be taken in separate periods and is not the first of those periods. Provided that if it is not practicable to do so, then as soon as practicable which may be a time after the leave has started;
  - (iii) has notified the Employer of the dates on which he or she wishes to start and finish the leave.
- (c) A Caregiver shall not be in breach of this Clause as a consequence of failure to give the required notice if such failure is occasioned by the confinement or adoption placement occurring earlier than the expected date.

#### **Concurrent Leave**

- (d) A Caregiver is not entitled to take parental leave at the same time as the Caregiver's spouse, except to the extent of concurrent leave of up to eight weeks authorised under the *Act*.
- (e) Concurrent leave may be taken in separate periods and must not be taken in a period of less than 2 weeks unless otherwise agreed by the Employer.
- (f) Concurrent leave must not start before the date of birth of the child if the leave is birth-related leave, or the day of placement of the child if the leave is adoption-related leave unless otherwise agreed by the Employer.
- (g) The entitlement to parental leave is reduced by any period of parental leave taken by the Caregiver's spouse in relation to the same child.

#### **Certification**

- (4) (a) A Caregiver who has given notice of his or her intention to take parental leave, other than for adoption, is to provide to the Employer a certificate from a medical practitioner stating that the Caregiver or the Caregiver's spouse, as the case may be, is pregnant and the expected date of birth.
- (b) A Caregiver who has given notice of his or her intention to take parental leave for adoption, is to provide to the Employer:
- (i) a statement from an adoption agency or other appropriate body of the presumed date of placement of the child with the Caregiver for adoption purposes; or
  - (ii) a statement from the appropriate government authority confirming that the Caregiver is to have custody of the child pending an application for an adoption order.

#### **Notice of spouse's parental leave**

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

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

- (6) (a) Where in the opinion of a duly qualified medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the Caregiver make it inadvisable for the Caregiver to continue in her present position during a stated period (the risk period), the

Caregiver shall, if the Employer deems it practicable, be transferred to a safe job with no other change to the Caregiver's terms and conditions of employment, and the Caregiver shall be paid for the safe job at the Caregiver's full rate of pay (for the position she was in before the transfer) for the hours that she works in the risk period.

- (b) If the transfer to a safe job is not practicable, the Caregiver shall be entitled to "no safe job leave" where the Employer shall pay the Caregiver at the Caregiver's base rate of pay for the Caregiver's ordinary hours of work during the risk period, but the Employer may require further medical certificates to be provided in accordance with the provisions of the Act.
- (c) If a pregnant Caregiver is not entitled to parental leave as prescribed in subclause (3), the Caregiver is then entitled to unpaid no safe job leave for the risk period.
- (d) 'No safe job leave' will cease when parental leave commences.

#### **When leave must commence**

- (7) (a) A female Caregiver who has given notice of her intention to take parental leave, other than for an adoption, is to start the leave 6 weeks before the expected date of birth unless in respect of any period closer to the expected date of birth a medical practitioner has certified that the Caregiver is fit to work.
- (b) If the leave is birth-related leave but subclause (7) (a) does not apply, the period of leave must start on the date of birth of the child.
- (c) If the leave is adoption-related leave, the period of leave must start on the day of placement of the child.

Provided that leave may start at any time within 12 months after the date of birth or day of placement of the child if the employee has a spouse who is not an employee and the spouse has a responsibility for the care of the child for the period between the date of birth or day of placement of the child and the start date of the leave.

#### **Right to request variation of Period of Parental Leave**

- (8) (a) Provided the aggregate of any leave does not exceed the period to which the Caregiver is entitled under subclause (3) hereof:
  - (i) the period of parental leave may be lengthened once only by the Caregiver giving the Employer written notice of the proposed extension at least 4 weeks before the end date of the original leave period.;
  - (ii) the period may be further lengthened only by agreement between the Caregiver and the Employer.
- (b) The period of parental leave may, with the consent of the Employer, be shortened by the Caregiver giving not less than 14 days' notice in writing stating the period by which the leave is to be shortened.
- (c) Notwithstanding provisions in subclause (3), a Caregiver may seek an extension of parental leave from 12 months to 24 months, provided that the total leave of an employee couple shall not exceed 24 months. Such a request shall be in writing and may not be unreasonably refused.

#### **Special Maternity Leave and Sick Leave:**

- (9) (a) A female caregiver is entitled to a period of unpaid special maternity leave if she is not fit for work during that period because:
  - (i) she has a pregnancy-related illness; or
  - (ii) She has been pregnant, and the pregnancy ends within 28 weeks of the expected date of birth of the child other than by the birth of a living child.
- (b) If a caregiver has an entitlement to paid sick leave she may take that leave instead of taking unpaid special maternity leave under this subclause.
- (c) The Employer may require that the above period of leave shall be supported by a certificate from a duly qualified medical practitioner.

- (d) Special Maternity Leave (including paid sick leave accessed in accordance with this subclause) does not reduce the amount of unpaid parental leave available to a caregiver.
- (e) A Caregiver returning to work after the completion of a period of leave taken pursuant to this subclause shall be entitled to the position which she held immediately before proceeding on such leave or, in the case of a Caregiver who was transferred to a safe job pursuant to subclause (6), to the position she held immediately before such transfer.
- (f) Where such position no longer exists but there are other positions available, for which the Caregiver is qualified and the duties of which she is capable of performing, she shall be entitled to a position as nearly comparable in status and salary or wage to that of her former position.

#### **Special Parental Leave for Adoption Purposes**

- (10) A Caregiver 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 Caregiver and the Employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the Caregiver is entitled to take up to two days unpaid leave. Where paid leave is available to the Caregiver, the Employer may require the Caregiver to take such leave instead.

#### **Parental Leave and Other Leave Entitlements**

- (11) Provided the aggregate of any leave does not exceed the period to which the Caregiver is entitled under subclause (3) hereof:
  - (a) A Caregiver may, in lieu of or in conjunction with parental leave, take any annual leave, long service leave or any part thereof, accrued time off or time off in lieu to which he or she is then entitled.
  - (b) Paid sick leave or other paid authorised absences other than those referred to in subclause (9) (a) above shall not be available to a Caregiver during his or her absence on parental leave.

#### **Paid Parental Leave**

- (12) A Caregiver (other than a casual) shall be entitled to paid parental leave in accordance with this clause subject to:
  - (a) Meeting the requirements for parental leave as specified in subclause (3) of this clause.
  - (b) Other than the leave referred to in subclause (12) (c)(ii), the period of paid parental leave shall coincide with a period of parental leave.
  - (c) The entitlement to paid parental leave shall be:
    - (i) 14 week's paid parental leave for the primary carer, which may be taken at half pay over 28 weeks; or
    - (ii) 1 week's paid leave in the case of leave taken by the spouse as concurrent leave.
  - (d) The rate of pay for parental leave shall be based on the Caregiver's ordinary rate of pay prior to proceeding on leave.
  - (e) The period of paid parental leave is reduced by any period of paid parental leave taken by the Caregiver's spouse in relation to the same child, except the period of one week's leave referred to in subclause (12) (c)(ii) hereof.
  - (f) Paid parental leave must be taken in accordance with subclause (7); or consecutive with any period of paid parental leave taken by the Caregiver's spouse.
  - (g) A Caregiver must have worked continuously for at least 6 months prior to the expected date of birth or adoption placement to be eligible for subsequent periods of paid parental leave. For 6 months service 50% of the full entitlement will be payable and for each additional month of service completed, 1/12 of the full entitlement will be payable up to 12 months – being 100% entitlement.

#### **Return to work after parental leave**

- (13) (a) A Caregiver shall confirm his or her intention of returning to work by notice in writing to the Employer given not less than four weeks prior to the expiration of the period of parental leave.
- (b) On finishing parental leave, a Caregiver is entitled to the position he or she held immediately



before starting parental leave.

- (c) If the position referred to in subclause (13)(b) is not available, the Caregiver is entitled to an available position -
  - (i) for which the Caregiver is qualified; and
  - (ii) that the Caregiver is capable of performing, most comparable in status and pay to that of his or her former position.
- (d) Where, immediately before starting parental leave, a Caregiver was acting in, or performing on a temporary basis the duties of, the position referred to in subclause (13) (b), that subsection applies only in respect of the position held by the Caregiver immediately before taking the acting or temporary position.
- (e) Notwithstanding the provisions of this clause, a Caregiver may request to return to work on a part time basis (or reduced part time basis in the case of an existing part time Caregiver) where the Caregiver is the parent, or has responsibility for the care of the child who is of school age or younger to enable the Caregiver to care for the child. Such a request may not be unreasonably refused.

#### **Effect of parental leave on employment**

- (14) Absence on parental leave:
  - (a) does not break the continuity of service of a Caregiver; and
  - (b) is not to be taken into account when calculating the period of service for a purpose of this Agreement or a relevant contract of employment.

#### **Termination of Employment**

- (15) (a) A Caregiver on parental leave may terminate his or her employment at any time during the period of leave by notice given in accordance with this Agreement.
- (b) The Employer shall not terminate the employment of a Caregiver on the grounds of pregnancy or absence on parental leave, but otherwise the rights of the Employer in relation to termination of employment are not hereby affected.

#### **Replacements:**

- (16) (a) A replacement is a person specifically engaged as a result of a Caregiver proceeding on parental leave.
- (b) The Employer shall, before engaging a replacement under this subclause, inform that person of the temporary nature of the employment and of the rights of the Caregiver who is being replaced.
- (c) The Employer shall, before engaging a person to replace a Caregiver temporarily promoted or transferred in order to replace a Caregiver exercising his or her rights under this clause, inform that person of the temporary nature of the promotion or transfer and of the rights of the Caregiver who is being replaced.
- (d) Provided that nothing in this subclause shall be construed as requiring the Employer to engage a replacement.

#### **Casual Employment**

- (17) A Caregiver may elect to cease parental and adoption leave, subject to any mandatory period of absence, in order to return to employment with the hospital as a casual Caregiver for the duration of the period of absence that would otherwise have applied.
- (18) Provided that it is the Caregiver's responsibility to determine if working as a casual Caregiver during this period may affect other parental leave statutory entitlements.

#### **Keeping in Touch Day**

- (19) A Caregiver may access, subject to agreement by the Employer, up to 10 keeping in touch days during the period of parental leave in accordance with the provisions of section 79A of the Act (as amended).

### **39. COMPASSIONATE LEAVE**

- (1) A Caregiver (other than a casual) is entitled to up to three (3) days of paid Compassionate Leave:
  - (a) for the purpose of spending time with a person who:
    - (i) is a family member; and
    - (ii) has a personal illness, or injury, that poses a serious threat to their life; or
  - (b) on the death of a family member or any other person who immediately before that person's death lived with the Caregiver as a family member.
- (2) For the purposes of this clause, "family member" means a member of the Caregiver's immediate family or a member of the Caregiver's household as defined in the Act.
- (3) Caregivers entitled to a period of Compassionate Leave are entitled, for any particular occasion, to take the leave as:
  - (a) a single, unbroken period of up to three (3) days; or
  - (b) separate periods of one (1) day each; or
  - (c) any separate periods agreed by the Caregiver and the Employer.
- (4) Caregivers are entitled to Compassionate Leave without loss of ordinary time earnings
- (5) Payment for such leave shall be subject to the Caregiver providing evidence of the illness, injury or death if/as required by the Employer.
- (6) The Employer shall make every endeavour to grant a Caregiver's request for Accrued Days Off, paid accrued leave and unpaid leave of absence resulting from the Caregiver's need to take additional time off in conjunction with Compassionate Leave.
- (7) Compassionate leave is not to be taken where the Caregiver is absent on another form of leave (except annual leave) or would not otherwise have been on duty unless the absence has been taken to enable the Caregiver to be with a seriously ill or dying relative.
- (8) A Caregiver, whilst on Compassionate Leave prescribed by this clause shall continue to accrue an entitlement to an Accrued Day(s) Off.

### **40. FAMILY AND DOMESTIC VIOLENCE**

- (1) The Employer will exercise compassion, flexibility and confidentiality in considering requests from Caregivers who are seeking support during a situation of family and/or domestic violence.

#### **Definitions**

- (2) For the purposes of this clause, family and domestic violence leave means violent, threatening or other abusive behaviour by a close relative of a Caregiver, a member of a Caregiver's household, or a current or former intimate partner of a Caregiver that seeks to coerce or control the Caregiver and that causes them harm or to be fearful.
- (3) For the purposes of this clause, a family member/close relative is a person who is a member of the Caregiver's immediate family; or is related to the employee according to Aboriginal or Torres Strait Islander kinship rules.

#### **Access to Leave**

- (4) Caregivers in this situation will be able to apply to access their accrued leave, including personal leave, and other forms of paid leave, or leave without pay as necessary.
- (5) Caregivers will be able to access free independent counselling assistance, and may apply for additional financial assistance through the St John of God Health Care Caregivers Facing Hardship Policy.
- (6) All Caregivers, including casuals, will be able to access up to 10 days paid family and domestic violence leave per annum. This paid leave entitlement is available in full at the start of each twelve (12) month period of the Caregiver's employment, is non-cumulative and paid at the Caregiver's full rate of pay for the hours they would have worked had they not taken the leave. The full rate of pay, for the purposes of this clause, is the caregiver's base rate plus any relevant loadings, monetary allowances, overtime or penalty rates. For casual caregivers their full rate of pay is worked out as if the caregiver had worked the hours in the period for which the caregiver was rostered.

- (7) All Caregivers, including casuals, will also be able access up to 5 days of unpaid family and domestic violence leave per annum. This unpaid leave entitlement is available in full at the start of each twelve (12) month period of the Caregiver's employment and does not accumulate from year to year.
- (8) Family and domestic violence leave can be taken in periods of single or multiple days, or any separate periods to which the Employer and Caregiver agree, including periods of less than one day.
- (9) Unpaid family and domestic violence leave does not break a Caregiver's period of continuous service but does not count as service when calculating accumulated entitlements such as paid leave.
- (10) A Caregiver may take family and domestic violence leave if the Caregiver is experiencing family and domestic violence; and the Caregiver needs to do something to deal with the impact of the family and domestic violence; and it is impractical for the caregiver to do that thing outside the caregiver's ordinary hours of work, which could include:
  - (a) Making arrangements for their safety, or safety of a close relative (including relocation);
  - (b) Attending to legal proceedings or court hearings;
  - (c) Accessing police services; or
  - (d) Attend counselling or appointments with medical practitioners or a social worker.

### **Confidentiality**

- (11) The Employer must take steps to ensure information concerning any notice a Caregiver has given under this clause is treated confidentially, as far as it is reasonably practicable to do so. Noting that nothing in this clause prevents the Employer from disclosing information provided by a Caregiver if the disclosure is required by an Australian law or is necessary to protect the life, health or safety of the Caregiver or another person.

### **Notice and Evidence Requirements**

- (12) A Caregiver must give the Employer notice of the taking of leave, under this clause, as soon as practicable (which may be a time after the leave has started) and advise the period, or expected period of the leave.
- (13) Where a Caregiver wishes to access an entitlement under this clause, evidence may be required by the Employer and can be provided in the form of an agreed document issued by the Police Service, A Court, a registered health practitioner, a Family Violence Support Service, a district nurse, maternal and health care nurse or Lawyer. A signed Western Australian or Commonwealth statutory declaration can also be offered as evidence.

### **Flexible Work Practices**

- (14) Caregivers can also make a request to the Employer for flexible work practices. Flexible work practices may include but are not limited to:
  - (a) changes to the Caregiver's span of hours or pattern or hours and/or shift patterns;
  - (b) job redesign or changes to duties;
  - (c) relocation to suitable employment within the organisation;
  - (d) a change to their telephone number or email address to avoid harassing contact;
  - (e) any other appropriate measure including those available under existing provisions for family friendly and flexible work.

## **41. PROFESSIONAL DEVELOPMENT AND STUDY LEAVE**

### **Professional Development**

- (1) Up to two days professional development leave for full time Caregivers (pro rata for part time) will be granted on an annual basis at the discretion of the Employer. The purpose of this entitlement is to enable Caregivers to undertake learning and development activities that fulfil professional and organisational needs.
- (2) The employer may grant on a case-by-case basis, subject to operational and budgetary considerations, additional professional development leave to Enrolled Nurse caregivers that is those reflected at Schedule A, Table B.

- (3) Unused professional development leave shall not accrue.
- (4) The entitlement provided under this clause will not be used to cover attendance at mandatory competency programs. The entitlement does not apply to those participating in a Graduate Program.
- (5) Payments for professional development leave will be at the caregiver's ordinary rate of pay and will exclude any penalties or allowances.

### **Study Leave**

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

The Employer may grant leave with pay to undertake study for an approved course, provided that the classes, lectures or tutorials fall within the parameters of the Caregiver's normal working hours. The amount of leave granted may be up to three hours per week.

- (7) Paid study leave may be provided for formal study periods (i.e. at the college/university) and the Caregiver shall undertake at least 50% of formal study in her/his own time.
- (8) The Caregiver is required to provide evidence to the Employer of attendance and satisfactory progress with studies.

### **Mandatory competency programs**

- (9) The Employer is responsible for ensuring caregivers have time within their rostered hours allocated to complete mandatory education requirements.
- (10) Caregivers who have not been allocated work time to complete mandatory competencies should raise the matter with their immediate supervisor in accordance with the Dispute Settlement Procedures outlined in Clause 52 of this Agreement.

## **42. TIME OFF WITHOUT PAY**

Time off without pay for whatever purpose may be granted by agreement between the Employer and the Caregiver. In any such case the number of ordinary hours guaranteed to the Caregiver shall be reduced accordingly for the relevant period. This clause shall apply to unpaid personal leave.

## **43. JURY AND WITNESS SERVICE**

- (1) Caregivers summoned for jury service and giving prior advice to their manager will be granted paid leave subject to the procedures set out herein.
- (2) Caregivers requesting time off for jury service must notify their manager on receipt of notice to attend.
- (3) An application for leave of absence for jury service must include a copy of the notice to attend.
- (4) On presentation of proof of appearance payment of salary will be made at the ordinary time through the pay roll system.
- (5) The Employer will claim reimbursement from the Court.

#### **44. BLOOD DONOR LEAVE**

- (1) Subject to operational requirements, caregivers will be entitled to absent themselves from the workplace in order to donate blood in accordance with the following general conditions:
  - (a) prior arrangements with the supervisor/manager have been made and 14 days' notice has been provided; or
  - (b) the caregiver is called upon by the Red Cross Blood Service; and
  - (c) the absence is to be as close as possible to either the beginning or end of a shift
- (2) The notification period above will be waived or reduced where the supervisor/manager is satisfied that operational requirements would not be unduly affected by the caregiver's absence.
- (3) Caregivers will be required to provide proof of attendance at the Red Cross Blood Service upon their return to work.
- (4) Caregivers will be entitled to two (2) hours of paid leave per donation, up to two (2) times per year for the purpose of donating blood. The frequency of leave will be available on a pro rata basis for part time caregivers. This leave is non-cumulative.
- (5) This clause does not apply to casual caregivers.

#### **45. CULTURAL / CEREMONIAL OBLIGATIONS**

- (1) A Caregiver is entitled to access accrued paid leave for tribal/ceremonial/cultural obligations providing he/she has sufficient leave available.
- (2) Leave under this provision may be approved to meet the Caregiver's customs, traditional law and / or to participate in ceremonial and cultural activities.
- (3) Time off without pay may be granted by Agreement between the Employer and Caregiver.
- (4) The Employer may request reasonable evidence of the legitimate need for time off.

#### **46. DEFERRED SALARY SCHEME**

- (1) Permanent Caregivers will have access to the 4/5 pay option, whereby they work for four years at 80% pay and then take one year off at 80% pay in accordance with the following:
  - (a) By written agreement between the Employer and Caregiver, a Caregiver may be paid 80% of her/his normal salary under this Agreement, and any other relevant agreement upon the expiry of this Agreement, over a five-year period. The fifth year will then be taken as leave with pay with the accrued salary annualised over the year. The fifth year will be treated as continuous service.
  - (b) The leave may not be accrued unless the Employer agrees to accrual. In deciding whether to support a particular request for this arrangement, the Employer will take into account factors such as operational requirements. To satisfy operational requirements, the number of Caregivers allowed to work under this arrangement may be restricted at any one time and/or the timing of the arrangements may need to be staggered. The Employer has the absolute discretion to determine the operational needs in this regard.
  - (c) Where a Caregiver is approved to participate in this arrangement, the 80% of salary shall then become the applicable salary for all purposes including overtime, shift penalties, superannuation, salary packaging etc.
  - (d) A Caregiver may withdraw from this arrangement by giving notice in writing at any time. She/he would then receive a lump sum equal to the accrued credit, paid at a time agreed between the Employer and Caregiver but not more than 3 months from the time of the Caregiver's withdrawal from the arrangement.
  - (e) A Caregiver who terminates his or her employment prior to the completion of the 4th year will be paid the accrued credit in their final payment.
  - (f) Any paid leave taken during the first four years of the arrangements will be paid at 80% of the Caregiver's normal salary, plus the applicable leave loading.
  - (g) It is the responsibility of the Caregiver to investigate the impact of entering into this arrangement on her/his superannuation, taxation, salary packaging and other benefits.

#### **47. FLEXIBLE WORK/PURCHASED LEAVE OPTIONS**

- (1) Caregivers may elect in writing to participate in flexible working arrangements where these are offered by the Employer. These arrangements may include the facility for the Caregiver to 'purchase' additional leave, by electing to forego part of their salary in order to accrue an additional commensurate amount of leave up to a maximum of four (4) weeks per year. Such arrangements will be subject to the Employer's policy/procedures, and as stated clearly in written agreement between the Employer and Caregiver.
- (2) It will remain the responsibility of the Caregivers wishing to avail themselves of flexible working arrangements to seek advice concerning potential implications for taxation, superannuation, salary packaging and other benefits.

#### **48. UNION DELEGATES**

- (1) The Employer recognises that trade unions have a legitimate interest in representing their members, be this in relation to compliance with awards and legislation, the representation of individual Caregivers in grievance processes or in the negotiation of enterprise agreements.
- (2) The Employer also recognises and acknowledges that accredited workplace union representatives have an important role to play in the workplace and may be appointed as endorsed representatives of the union.
- (3) Accredited representatives will be treated fairly and be able to perform their role as union delegates without any fear of discrimination or victimisation in their employment.
- (4) Accredited representatives will have reasonable access to telephone, email, facsimile and photocopying facilities for the purpose of carrying out work as a representative subject to the prior approval of their manager.
- (5) Accredited representatives may request approval from their manager for paid time off during normal working hours to perform their role as per subclause (1) above. Any such request shall be considered by the manager taking into account the operational requirements of the representative's department.
- (6) Accredited representatives will be able to place union information on noticeboards provided for such purposes in the workplace.
- (7)
  - (a) At the request of the union, the Employer shall provide up to a maximum of 60 days' paid leave (as a combined total for all union workplace representatives) for the life of the Agreement to enable accredited union workplace representatives to attend appropriate union education and training (including the annual delegates' convention).
  - (b) The total of 60 days shall be allocated amongst the workplace representatives at the discretion of the representatives and the Union.
  - (c) Where a union workplace representative resigns from their employment and a replacement union workplace representative is appointed, the combined total shall increase by 2 days.
  - (d) Requests for leave shall include a minimum of four weeks' notice and approval will be granted on consideration of operational needs.
  - (e) Any additional training requests above these levels will be considered.
- (8) At the request of the Union, the Employer shall enable up to a maximum of 20 accredited delegates to attend paid 6 monthly Union delegate meetings to a maximum of 2 hours. These meetings will usually be Hospital based however where agreement is reached between the employer and the Union a central delegate meeting within the Perth Metropolitan area may be convened. Caregivers who are not on shift can attend these meetings in their own time and will not be paid for attending by the employer.
  - (a) To avoid doubt, subclause (8) above will limit the number of delegates released for meetings provided for in this subclause but will not limit the overall number of accredited delegates in any hospital.

#### **49. RIGHT OF ENTRY**

The Employer acknowledges the important role that unions play in the workplace and will continue to facilitate union access to Caregivers consistent with the Act.

#### **50. INTRODUCTION OF CHANGE AND REDUNDANCY**

(1) Interpretation

In this clause:

**"Caregiver"** does not include a Caregiver engaged on a casual or temporary basis or on a fixed term contract for the purposes of subclause (5) onwards;

**"redundant"** means the position is no longer required by the Employer to be undertaken because the Employer has decided that the job will not be done by any Caregiver.

For the purposes of this clause, an action of the Employer has a "significant effect" on a Caregiver if:

- (a) there is to be a major change in the composition, operation or size of, or skills required in, the Employer's workforce that will affect the Caregiver; or
- (b) there is to be elimination or reduction of a job opportunity, promotion opportunity or job tenure for the Caregiver; or
- (c) the guaranteed hours of the Caregiver's work are to significantly increase or decrease; or
- (d) the Caregiver is required to be retrained; or
- (e) the Caregiver is to be required to transfer to another job or work location; or
- (f) the Caregiver's job is to be restructured.

**Caregiver to be Informed**

(2) Where the Employer has decided to:

- (a) take action that is likely to have a significant effect on a Caregiver; or
- (b) make a Caregiver's position redundant,

the Caregiver is entitled to be informed by the Employer, as soon as reasonably practicable after the decision has been made, of the action or the redundancy, as the case may be.

**Discussions to occur**

(3) The Employer shall thereafter hold discussions with the Caregiver affected as to:

- (a) the likely effects of the action or the redundancy in respect of the Caregiver; and
- (b) measures that may be taken by the Caregiver or Employer to avoid or minimise a significant effect; and
- (c) for the purposes of the discussion, provide, in writing, to the Caregiver:
  - (i) all relevant information about the change including the nature of the change proposed; and
  - (ii) information about the expected effects of the change on the caregiver; and
  - (iii) any other matters likely to affect the caregiver.

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

(5) The Employer must give prompt and genuine consideration to matters raised about the major change by the caregiver or their representative, if one has been appointed in accordance with sub clause (6) (b) below.

**Other Parties to be informed**

- (6) (a) Where the Employer has made a definite decision to introduce major changes that are likely to have significant effects on Caregivers, the Employer shall notify and hold discussions with other interested parties, including the Union, in regard to the general nature of the changes.
- (b) If a caregiver appoints a representative and notifies the employer of the identity of the representative, the Employer will recognise the representative for the purposes of consultation.

**Severance Pay**

- (7) (a) In addition to the period of notice prescribed in Clause 11 – Separation, of this Agreement, for ordinary termination, a Caregiver whose employment is terminated on the grounds of redundancy shall be entitled to the following amount of severance pay in respect of a continuous period of service.

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

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

- (b) For the purpose of this clause continuity of service shall not be broken on account of:
- (i) any absence from work on account of personal illness or accident for which a Caregiver is entitled to claim personal leave as prescribed by this agreement or on account of leave lawfully granted by the Employer; or
  - (ii) any absence with reasonable cause, proof whereof shall be upon the Caregiver; or
  - (iii) any absence on approved leave without pay.

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

- (c) Service by the Caregiver with a business which has been transferred from one hospital to another and the Caregiver's service has been deemed continuous in accordance with relevant State long service leave legislation, as amended from time to time, shall also constitute continuous service for the purpose of this clause.
- (d) Redundancy shall not be payable in the event of a transfer of business where comparable alternative employment is offered and accepted.

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

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

#### **Alternative Employment**



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

**Leave for Job Interviews**

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

**Notice to Centrelink**

- (11) Where a decision has been made to terminate Caregivers in circumstances of redundancy, the Employer shall, subject to the agreement of the Caregivers concerned, notify Centrelink thereof as soon as possible giving relevant information including the number and classifications of the Caregivers likely to be affected and the period over which the terminations are intended to be carried out.

**51. CONSULTATION ABOUT CHANGES TO ROSTERS OR HOURS OF WORK**

- (1) Where the employer proposes a change to the regular roster or ordinary hours of work:
- (a) the employer must notify the relevant caregivers of the proposed change; and
- (b) subclauses (2) to (8) apply.
- (2) The relevant caregivers may appoint a representative for the purposes of the procedures in this term.
- (3) If:
- (a) a relevant caregiver appoints, or relevant caregivers appoint, a representative for the purposes of consultation; and
- (b) the caregiver or caregivers advise the employer of the identity of the representative; the employer must recognise the representative.
- (4) As soon as practicable after proposing to introduce the change, the employer must:
- (a) discuss with the relevant caregivers the introduction of the change; and
- (b) for the purposes of the discussion--provide to the relevant caregivers:
- (i) all relevant information about the change, including the nature of the change; and
- (ii) information about what the employer reasonably believes will be the effects of the change on the caregivers; and
- (iii) information about any other matters that the employer reasonably believes are likely to affect the caregivers; and
- (c) invite the relevant caregivers to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- (5) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant caregivers.
- (6) The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.
- (7) The requirement to consult under this clause does not apply where a Caregiver has irregular, sporadic or unpredictable working hours.
- (8) These provisions are to be read in conjunction with other Agreement provisions concerning the scheduling of work and notice requirements
- (9) Any changes to contracted hours of work will only be made where the employer and a Caregiver agree to the change.

- (10) In this clause "relevant caregivers" means the caregivers who may be affected by a change referred to in sub clause (1).

## **52. DISPUTE SETTLEMENT PROCEDURES**

- (1) Where a dispute concerning the operation of this agreement and/or the NES arises (including a dispute about whether St John of God Health Care had reasonable business grounds under sub-section 65(5) or 76(4) of the Act) the following steps shall be taken to settle the dispute:

### **Step 1**

As soon as practicable after the dispute has arisen, it shall be considered jointly by the appropriate supervisor, the Caregiver/s concerned and, if requested, the Caregiver/s' Union or other representative.

### **Step 2**

If the dispute is not resolved it shall be considered jointly by the appropriate senior representative of the Employer, the Caregiver/s concerned and if requested, the Caregiver/s' Union or other representative.

### **Step 3**

If the dispute remains unresolved it shall be considered jointly by the Employer, the Caregiver/s concerned and if requested the Caregiver/s' Union or other representative.

### **Step 4**

If the dispute is not resolved it may then be referred by any party to the dispute to an agreed arbitrator for assistance in its resolution by conciliation and / or arbitration.

Where the parties involved in the matter cannot agree on an arbitrator they shall request Fair Work Commission to nominate an arbitrator.

The parties involved in the matter will abide by the decision of the arbitrator.

- (2) On each occasion sensible time limits shall be agreed upon for the completion of each step of the procedure.
- (3) Provided that the Agreement may only be varied by arbitration for the purpose of removing ambiguity or uncertainty.

## **53. WORKLOAD MANAGEMENT**

- (1) The Employer is committed to ensuring staffing levels are appropriate for the delivery of high quality patient care.
- (2) The parties agree that existing flexibility in respect of nurse patient ratios will be maintained. The current practice of staffing based on collaboration between Nursing Administration and ward/unit management will continue on a shift by shift basis, taking into account both occupancy and patient acuity.
- (3) Nursing staffing levels at each ward/unit shall be determined on the basis of:
- (a) clinical assessment of patient needs;
  - (b) the demands of the environment such as ward layout;
  - (c) statutory obligations including workplace safety and health legislation;
  - (d) the requirements of nurse regulatory legislation and professional standards; and
  - (e) reasonable workloads.
- (4) Should any Caregiver in any department, ward or unit believe that an unreasonable and excessive workload is being imposed other than occasionally or infrequently then:
- (a) The Caregiver should attempt to resolve the matter with the appropriate department, ward/unit Nurse Manager. If appropriate action is not taken to address the workload issues within seven working days the Caregiver should lodge a statement setting out the details of the situation with the relevant Executive (i.e.: Department Head or Director of Nursing).

- (b) The Caregiver may raise the matter by submitting a Workload Grievance form to the appropriate ward/unit Nurse Manager.
  - (c) The Executive shall respond to the Caregiver within seven working days.
  - (d) If the matter remains unresolved the Caregiver may seek to resolve the matter using the Dispute Settlement Procedures at Clause 52 in this Agreement.
- (5) Nothing shall prevent a Caregiver from seeking to resolve the matter using the Dispute Settlement Clause in this Agreement.

**54. SIGNATORIES TO THE AGREEMENT**

Signed for and on behalf of the **St John of God Health Care Incorporated**



Clare Francis  
Group Manager, Industrial and Employee Relations  
Level 1, 556 Wellington Street PERTH WA 6000

In the presence of:



(Signature)

R. A. HARDEY  
(Name)

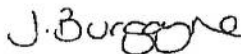
Date: 12 July 2023.

Signed for and on behalf of **United Workers Union**



Demi Pnematikos  
National Director  
Level 2, 54 Cheriton Street  
PERTH WA 6000

In the presence of:



(Signature)

Jenny Burgoyne  
(Name)

Date: 11/07/2023.

Signed for and on behalf of the **Australian Nursing and Midwifery Federation (WA Branch)**

Janet Reah  
Secretary  
260 Pier Street  
PERTH WA 6000

In the presence of:

(Signature)

(Name)

Date:

54. SIGNATORIES TO THE AGREEMENT

Signed for and on behalf of the **St John of God Health Care Incorporated**

.....  
Clare Francis  
Group Manager, Industrial and Employee Relations  
Level 1, 556 Wellington Street PERTH WA 6000

In the presence of:

.....  
(Signature)

.....  
(Name)

Date:.....

Signed for and on behalf of **United Workers Union**

.....  
Demi Pnematikos  
National Director  
Level 2, 54 Cheriton Street  
PERTH WA 6000

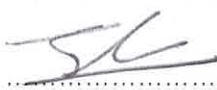
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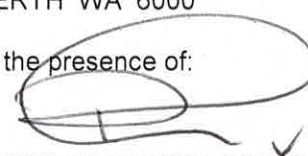
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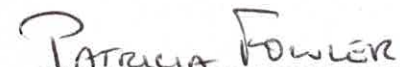
Date:.....

Signed for and on behalf of the **Australian Nursing and Midwifery Federation (WA Branch)**

  
.....  
Janet Reah  
Secretary  
260 Pier Street  
PERTH WA 6000

In the presence of:

  
.....  
(Signature)

  
.....  
(Name)

Date: 11 Jun 2023

## SCHEDULE A – WAGES

- (1) Unless otherwise specified, progression for all classifications for which there is more than one wage point shall be by annual increments, subject to a satisfactory performance appraisal.
  - (a) A Caregiver appointed to a level for which there is more than one increment shall commence at the first increment in that level.
  - (b) Where applicable, progression between levels shall be by appointment, subject to the Employer's requirements.
  - (c) A Caregiver appointed to a higher level or classification for which there is more than one increment shall commence at the first increment and progress through the available increments.
  - (d) A Caregiver acting in a higher level covered by this clause and who performs all the duties of the higher level shall be entitled to the rate attaching to the first increment at that level.
  - (e) Any disagreement in relation to the payment of an annual increment may be referred to the Dispute Settlement Procedures Clause 52 of this Agreement.
- (2) Where a classification not identified in this schedule is utilised, the minimum rate of wage shall be determined having regard to the wage increase stated in this schedule and previous increases in base rates of pay.
- (3) No Caregiver, who at the date of this Agreement was in receipt of a rate of wage higher than that prescribed herein for his/her classification of work, shall have that rate reduced by the operation of this Agreement.
- (4) Weekly rates of pay are detailed in the tables found in Schedule A as follows:
  - (a) Current rates of pay.
  - (b) an increase of 3.00% from the first full pay period commencing on or after 1 January 2023 for all classifications.
  - (c) an increase of 3.00% from the first full pay period commencing on or after 1 July 2023 for all classifications.

**Table A – Classification Listing – Patient Support Services**

Classification	Level and Increment	Current Weekly Rate	FFPP 1/1/2023 (3.00%)	FFPP 1/7/23 (3.00%)
Cafeteria Assistant	1/2.1	\$1,029.51	\$1,060.40	\$1,092.21
Environmental Services Assistant	1/2.2	\$1,041.05	\$1,072.28	\$1,104.45
Food Services Attendant/Assistant	1/2.3	\$1,066.26	\$1,098.25	\$1,131.20
Gardener				
Handyperson				
Hospital Services Assistant				
Pantry Assistant				
Patient Services Assistant				
Waste Handler				
Cook (other)	3/4.1	\$1,049.99	\$1,081.49	\$1,113.93
Coffee Shop Attendant	3/4.2	\$1,076.22	\$1,108.51	\$1,141.77
Hospital Services Theatre Assistant	3/4.3	\$1,099.72	\$1,132.71	\$1,166.69
Mail Room Attendant				
Menu Assistant				
Patient Care Assistant				
Supply Assistant				
Theatre Orderly				
Storeperson	5.1	\$1,073.71	\$1,105.92	\$1,139.10

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	5.2	\$1,081.64	\$1,114.09	\$1,147.51
	5.3	\$1,095.54	\$1,128.41	\$1,162.26
<b>Theatre Set Up Assistant</b>	6.1	\$1,079.43	\$1,111.82	\$1,145.17
	6.2	\$1,085.29	\$1,117.85	\$1,151.38
	6.3	\$1,097.74	\$1,130.67	\$1,164.59
<b>Food Services Coordinator Second Cook</b>	7.1	\$1,092.40	\$1,125.18	\$1,158.93
	7.2	\$1,100.48	\$1,133.49	\$1,167.50
	7.3	\$1,114.18	\$1,147.60	\$1,182.03
<b>Horticulturist Deputy Head Orderly</b>	8.1	\$1,122.48	\$1,156.15	\$1,190.84
	8.2	\$1,134.34	\$1,168.37	\$1,203.42
	8.3	\$1,142.50	\$1,176.78	\$1,212.08
<b>Environmental Services Supervisor Food Services Supervisor Head Orderly Laundry Supervisor Patient Care Assistant Supervisor Operations Suite Storeperson Supervisor Supervisor Tradesperson Cook</b>	9.1	\$1,162.96	\$1,197.85	\$1,233.78
	9.2	\$1,173.95	\$1,209.16	\$1,245.44
	9.3	\$1,183.58	\$1,219.08	\$1,255.66
<b>Chef</b>	10.1	\$1,207.02	\$1,243.23	\$1,280.52
	10.2	\$1,222.18	\$1,258.85	\$1,296.61
	10.3	\$1,236.97	\$1,274.08	\$1,312.30

**Table B – Classification Listing – Enrolled Nurses**

<b>Classification</b>	<b>Current Weekly Rate</b>	<b>FFPP 1/1/2023 (3.00%)</b>	<b>FFPP 1/7/23 (3.00%)</b>
<b>Level 1</b>	\$1,225.05	\$1,261.80	\$1,299.65
<b>Level 2</b>	\$1,252.27	\$1,289.84	\$1,328.53
<b>Level 3</b>	\$1,279.49	\$1,317.88	\$1,357.41
<b>Level 4</b>	\$1,306.72	\$1,345.92	\$1,386.30
<b>Advanced Skills EN increment 1</b>	\$1,361.17	\$1,402.00	\$1,444.06
<b>Advanced Skills EN increment 2</b>	\$1,415.61	\$1,458.08	\$1,501.82
<b>Specialist EN increment 1</b>	\$1,467.58	\$1,511.61	\$1,556.96
<b>Specialist EN increment 2</b>	\$1,534.29	\$1,580.32	\$1,627.73
<b>Specialist EN increment 3</b>	\$1,600.99	\$1,649.02	\$1,698.49

### Enrolled Nurse Classifications

**Level 1** means an Enrolled Nurse registered as such pursuant to the *Health Practitioner Regulation National Law (WA) Act 2010* in his or her first year of service

**Level 2** means an Enrolled Nurse with at least one year's experience

**Level 3** means an Enrolled Nurse with at least two years' experience

**Level 4** means an Enrolled Nurse with at least three years' experience

**Advanced Skills EN** means an Enrolled Nurse who has

- completed at least 3 years of clinical experience
- demonstrated the ability to work in a multi-disciplinary acute care setting
- obtained division specific additional competencies relevant to the workplace or specialty at this level (note: these competencies may have been obtained internally or externally)

**Specialist EN** means an Enrolled Nurse who has completed at least 5 years clinical experience and works in the specified area and:

- obtained a recognised post graduate qualification relevant to the their area of clinical practice eg: anaesthetics or
- demonstrated competence relevant to the speciality at an advanced level (where no post-graduate qualifications are presently available)

note: a Caregiver employed at the first paypoint of Specialist EN who does not hold a post graduate qualification at the time of lodgement of this agreement (despite such a qualification being available in the area in which they are employed) shall be paid at the first paypoint of Specialist EN until such time as the Caregiver obtains those qualifications

### Advancement

- advancement through Levels 1 - 4 subject to annual increment based on satisfactory performance at each level
- advancement to Advanced Skills EN is by appointment subject to experience and achievement of competencies, with incremental advancement achieved with satisfactory performance 12 months after appointment to this level
- advancement to Specialist EN is by appointment based on achievement of the relevant position requirements and the availability of work at that level

**Table C – Classification Listing – Assistants in Nursing**

Classification	Current Weekly Rate	FFPP 1/1/2023 (3.00%)	FFPP 1/7/23 (3.00%)
Year 1	\$1,088.94	\$1,121.61	\$1,155.25
Year 2	\$1,116.14	\$1,149.62	\$1,184.11
Year 3	\$1,143.39	\$1,177.69	\$1,213.02

**Under 17 years of age** 73%

**Under 18 years of age** 81%

**Under 19 years of age** 87%

An AIN will not be required to provide care other than under the direction of a person registered under the *Health Practitioner Regulation National Law (WA) Act 2010* and where that nurse remains professionally accountable for the care provided.



Table D – Classification Listing – Sterilisation Services

Classification	Current Weekly Rate	FFPP 1/1/2023 (3.00%)	FFPP 1/7/23 (3.00%)
<b>Sterilisation Assistant Grade 1</b>	\$1,079.52	\$1,111.90	\$1,145.26
<b>Sterilisation Assistant Grade 2</b>	\$1,094.66	\$1,127.50	\$1,161.32
<b>Sterilisation Operator Grade 1</b>	\$1,136.31	\$1,170.40	\$1,205.51
<b>Sterilisation Operator Grade 2</b>	\$1,154.74	\$1,189.39	\$1,225.07
<b>Sterilisation Technician Grade 1</b>	\$1,221.17	\$1,257.80	\$1,295.54
<b>Sterilisation Technician Grade 2</b>	\$1,256.97	\$1,294.68	\$1,333.52
<b>Sterilisation Technician Grade 3</b>	\$1,293.87	\$1,332.68	\$1,372.67
<b>Supervisor</b>	\$1,341.49	\$1,381.74	\$1,423.19

**CSSD Classifications****Sterilisation Assistant Grade 1**

- No experience
- Yet to undertake internal competencies

**Sterilisation Assistant Grade 2**

- Has performed satisfactorily at Grade 1 Sterilisation Assistant and has met the internal competencies for Sterilisation Assistant Grade 2.

**Sterilisation Operator Grade 1**

To advance to this level a Caregiver must have:

- Met the requirements and performed satisfactorily as a Sterilisation Assistant Grade 2; and
- Completed the internal competencies for Sterilisation Operator Grade 1

**Sterilisation Operator Grade 2**

To advance to this level a Caregiver must have:

- Met the requirements and performed satisfactorily as a Sterilisation Operator Grade 1; and
- Completed the internal competencies for Sterilisation Operator Grade 2.

**Sterilisation Technician Grade 1**

To advance to this level a Caregiver must have:

- Met the requirements and performed satisfactorily as a Sterilisation Operator Grade 2; and
- Completed the internal competencies for Sterilisation Technician Grade 1; and
- A certificate in Sterilisation at AQF3 or equivalent

**Advancement through Sterilisation Technician Grades 1 - 3**

Advancement through levels 1 – 3 is subject to:

- the achievement of division specific competencies
- the availability of work requiring the application of additional competencies
- satisfactory performance at each Grade over 12 months

**Supervisor**

This level is reached by appointment only. The person appointed to the position will have:

- Extensive experience in CSSD operations; and
- A certificate in sterilisation practices at AQF3 or equivalent.

**Table E – Classification Listing – Security Officers**

Levels	Increment	Current Weekly Rate	FFPP 1/1/2023 (3.00%)	FFPP 1/7/23 (3.00%)
Level 1		\$1,031.84	\$1,062.79	\$1,094.67
Level 2*	2.1	\$1,079.42	\$1,111.80	\$1,145.16
	2.2	\$1,101.46	\$1,134.50	\$1,168.54
	2.3	\$1,123.93	\$1,157.65	\$1,192.38

\*Level 2 shall apply after twelve months service, the completion of a Certificate II in Security Operations and a satisfactory performance appraisal.

**Table F – Classification Listing – Supply**

Years of Employment	Current Weekly Rate	FFPP 1/1/2023 (3.00%)	FFPP 1/7/2023 (3.00%)
Storeperson 1st year	\$1,079.43	\$1,111.82	\$1,145.17
Storeperson 2nd year	\$1,085.29	\$1,117.85	\$1,151.38
Storeperson 3rd year or employment and thereafter	\$1,097.74	\$1,130.67	\$1,164.59
Leading Hand Storeperson	\$1,128.47	\$1,162.33	\$1,197.20

**Table G - In charge allowance**

Except in the case of a classification, which requires the Caregiver to be in charge of other Caregivers, a Caregiver placed in charge of three or more Caregivers shall have his/her ordinary rate increased in accordance with the rates below:

Allowance	Current Weekly Rate	FFPP 1/1/2023 (3.00%)	FFPP 1/7/2023 (3.00%)
In charge allowance	\$30.97	\$31.90	\$32.85

**Table H - Junior Hospital Employees**

The minimum rate of wage payable to junior hospital Caregivers shall be the following percentage of the prescribed wage for an adult Caregiver in his/her first year of employment doing the same class of work:

Under 17 years of age	60%
At 17 years of age	70%
At 18 years of age	80%
At 19 years of age	100%

**Table I – Apprentices**

Classification and Increments	Current Weekly Rate	FFPP 1/1/2023 (3.00%)	FFPP 1/7/2023 (3.00%)
<b>Four Year Term</b>			
First year	\$527.46	\$543.29	\$559.59
Second year	\$668.68	\$688.74	\$709.40

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Third year	\$890.18	\$916.89	\$944.40
Fourth year	\$1,027.18	\$1,057.99	\$1,089.73
<b>Three and a Half Year Term</b>			
First six months	\$527.46	\$543.29	\$559.59
Next year	\$668.68	\$688.74	\$709.40
Next following year	\$890.18	\$916.89	\$944.40
Final year	\$1,027.18	\$1,057.99	\$1,089.73
<b>Three year term</b>			
First year	\$668.68	\$688.74	\$709.40
Second year	\$890.18	\$916.89	\$944.40
Third year	\$1,027.18	\$1,057.99	\$1,089.73

#### Adult Apprentice Rate

An apprentice, 21 years of age or over, shall be paid a weekly rate as follows:

Current Rate	\$796.63
From ffppoa 1/1/2023	\$820.53
from ffppoa 1/7/2023	\$845.14

## SCHEDULE B Supported Wage System

### Workers eligible for a supported wage

- (1) This Schedule defines the conditions, which will apply to Caregivers who, because of the effects of a disability, are eligible for a supported wage under the terms of this Agreement. In the context of this clause, the following definitions will apply:
  - (a) "Supported Wage System" means the Commonwealth Government System to promote employment for people who cannot work at full Agreement wages because of a disability, as documented in "Supported Wage System: Guidelines and Assessment Process".
  - (b) "Approved Assessor" means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.
  - (c) "Disability Support Pension" means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the Social Security Act 1991, as amended from time to time, or any successor to that scheme.
  - (d) "Assessment instrument" means the tool provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.
  - (e) "SWS Wage Assessment Agreement" means the document in the form required by the Department of Social Services that records the Caregiver's productive capacity and agreed wage rate.

### Eligibility criteria

- (2)
  - (a) Workers covered by this Schedule will be those who are unable to perform the range of duties to the competence level required within the class of work for which the worker is engaged under this Agreement, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a Disability Support Pension.
  - (b) (The Schedule does not apply to any existing Caregiver who has a claim against the employer which is subject to the provisions of workers' compensation legislation or any provision of this Agreement relating to the rehabilitation of Caregivers who are injured in the course of their current employment).
  - (c) The Agreement does not apply to the Employer in respect of their facility, program, undertaking service or the like which receives funding under the *Disability Services Act 1986* (DS Act) and fulfils the dual role of service provider and sheltered employer to people with disabilities who are receiving or are eligible for a disability support pension, except with respect to an organisation which has received recognition under Section 10 or under Section 12A of the DS Act, or if a part only has received recognition, that part.

### Supported wage rates

- (3)
  - (a) Caregivers to whom this Schedule applies shall be paid a percentage of the minimum rate of pay prescribed by this Agreement for the class of work which the person is performing commensurate with their assessed capacity. That is, where their capacity is assessed at 70%, they shall be paid at 70% of the applicable rate.
  - (b) Where a person's assessed capacity is 10 per cent, they shall receive a high degree of assistance and support.

### Assessment of capacity

- (4) (a) For the purpose of establishing the percentage of the Agreement rate to be paid to a caregiver under this Agreement, the productive capacity of the Caregiver will be assessed in accordance with the Supported Wage System and documented in an assessment instrument by either:
- i. the Employer and a union party to the Agreement, in consultation with the Caregiver or, if desired by any of these;
  - ii. the Employer and an accredited Assessor from a panel agreed by the parties to the Agreement and the Caregiver.

**Lodgement of assessment instrument**

- (5) (a) All SWS Wage Assessment Agreements under the conditions of this Schedule, including the appropriate percentage of the relevant wage to be paid to the Caregiver, shall be lodged by the Employer with the Fair Work Commission (FWC).
- (b) All SWS Wage Assessment Agreements shall be agreed and signed by the parties to the assessment. Where a union, which is a party to the Agreement but is not a party to the assessment, then the assessment will be referred by the FWC to the union by certified mail and the SWS Wage Assessment Agreement will take effect unless an objection is notified to the FWC within ten (10) days.

**Review of assessment**

- (6) The assessment of the applicable percentage should be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.

**Other terms and conditions of employment**

- (7) Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Caregivers covered by the provisions of the Schedule will be entitled to the same terms and conditions of employment as all other Caregivers covered by this Agreement paid on a pro-rata basis.

**Workplace adjustment**

- (8) The Employer wishing to employ a person under the provisions of this Schedule shall take reasonable steps to make changes in the workplace to enhance the Caregiver's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other Caregivers in the area.

**Trial period**

- (9) (a) In order for an adequate assessment of the Caregiver's capacity to be made, an employer may employ a person under the provisions of this Schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- (b) During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined.
- (10) The minimum amount payable to the Caregiver during the trial period shall be no less than \$95 per week and will be reviewed on an annual basis.
- (11) Work trials should include induction or training as appropriate to the job being trialled.
- (12) Where the Employer and Caregiver wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under subclause 9 (b) hereof.

**SCHEDULE C Individual Flexibility Arrangement Negotiable Items**

Items that may be negotiated as part of an IFA (and the reference in this Agreement) are as follows:

- Caregiver giving notice (clause 11)
- termination payment (clause 11 **Error! Reference source not found.**)
- working of ordinary hours (clause 14(3)(4)(5)(6))
- notice of a roster change (clause 23(2))
- variation of meal breaks (clause 24 (2))
- ADOs in part-day (clause 25 (b))
- ADO cash out (clause 25)
- ADO cash out with parental leave (clause 25(6))
- agreement to 38 hour week (clause 25(9))
- higher duties (clause 30(2))
- superannuation and packaging (clause 33(6))
- P/H substitution (clause 35(13))
- long service leave paid at f/t rate (clause 37(7))
- variation of period of parental leave (clause 38)
- arrangements for special parental leave for adoption (clause 38)
- time off without pay (clause 42)
- Cultural LWOP (clause 45)
- deferred salary (clause 46)
- flexible work options (clause 47)
- overtime (clause 20)
- taking Time off in lieu (clause 20)
- on-call restrictions (clause 21)
- rostering consecutive days (clause 14(3))

**SCHEDULE D – 12 Hour Shift Roster Guidelines**

(1) 12 Hour Shift Rosters will be worked in accordance with the following roster pattern

PROP HRS VARIATION (per 4wk cycle)	No 12 HR SHIFTS	AVERAGE No SHIFTS PER WEEK	ADDITIONAL HRS TO MAKE UP CONTRACT
152 hrs - full time	12	3, 4 in one week	1 x 8
144 hrs - part time	12	3	0
140 hrs - as above	11	3, 2 in one week	1
128 hrs - as above	10	3 and 2	1
120hrs - as above	10	2, 3 in one week	0
108 hrs - as above	9	2,1	0
96 hrs - as above	8	2	0

(2) Unless otherwise agreed between the Caregiver and the Employer, the roster must provide for the following:

- (a) no more than three consecutive night shifts
- (b) no more than four consecutive day shifts
- (c) no more than four shifts in a row
- (d) a reasonable distribution of days off between blocks of shifts
- (e) shifts should not be compacted to produce an excessively long break
- (f) the roster pattern will be planned over a period of four weeks
- (g) full time Caregivers will work 13 shifts per four week cycle, three shifts for three weeks and four shifts in one week
- (h) part time Caregivers will have the opportunity to increase or decrease their hours to best fit their 12-hours roster inclusive of education time.

An example of a full time four week cycle roster is as follows:

WK	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7
1			D	D	N		
2			D	D	N		
3			D	D	N		
4			D	D	N	N	

**Shift Penalties**

(3) Monday to Friday shift penalties shall apply as follows:

hours worked between 0700-1300 – 0%  
hours worked between 1300-2100 – 15%  
hours worked between 2100 - 0730 – 35%

Weekend shift penalties shall be paid according to the shift work provisions of this Agreement.

**Maintenance of Contracted Hours**

- (4) If Caregivers shall have their hours of work protected and must be given the opportunity to make up their contracted hours. Any Caregiver wishing to reduce/increase their hours may do so by agreement with their Manager. Caregivers who have voluntarily reduced/increased their hours to undertake 12 hour shifts and wish to return to their original roster arrangement/hours may do so by forwarding a written request to their Manager.
- (5) Any adjustment required in hours will be adjusted up rather than down unless otherwise requested by the Caregiver within FTE establishment.

**Minimum Break Between Shifts**

- (6) The minimum rostered break between shifts shall be at least 11.5 hours. Shorter breaks shall not be rostered.

**Meal and Tea Breaks**

- (7) The shift periods shall incorporate one paid 30 minute meal break (which shall be counted as time worked) and one unpaid 30 minute meal break. The first break shall be taken within 6 hours of commencing duty unless this is delayed by agreement to meet patient needs.
- (8) Within each shift period there shall also be allowed two tea breaks of 10 minutes each that shall be taken when convenient to the hospital without deduction of pay for such time. Tea breaks may be taken in conjunction with meal breaks.

**Overtime**

- (9) Overtime will not be worked in conjunction with 12 hour shifts, provided that by agreement between the Caregiver and the Employer ad hoc overtime to a maximum of 2 hours may be worked.

**Education**

- (10) Education is to be provided within the roster as part of the shift hours.

**Allocation**

- (11) The Employer may require a Caregiver to change their work allocation, or roles during the course of a shift. Caregivers (with the exception of the night shift) working a 12 hour shift may request to change their work allocation after 6 hours of duty. All reasonable efforts will be made to accommodate such a request.

**Rotation**

- (12) Rotation to other areas based on operational requirements shall be for the duration of the relief shift. The balance of the 12 hour shift may be:
  - (a) worked by agreement to meet operational needs or
  - (b) taken as TOIL or annual leave.
- (13) Caregivers will be given the opportunity to utilise TOIL days or single annual leave days when there is excess staff rostered.

**Withdrawal Provisions**

- (14) Any Caregiver who finds the 12 hour roster to be unworkable may revert to their previous roster after having given notice of one four week roster cycle.
- (15) Arrangements shall only be maintained in the event that an agreed number or percentage of positions continues to support the arrangements. If the number or percentage of positions required to support the arrangements falls below the agreed levels then continuation of the 12 hour roster will be reviewed.



## IN THE FAIR WORK COMMISSION

**FWC Matter No.:**

AG2023/2320

**Applicant:**

**St John of God Health Care Inc.**

Section 185 – Application for approval of a single enterprise agreement

### Undertaking- Section 190

I, Clare Francis, Group Manager Employee and Industrial Relations for St John of God Health Care Inc. give the following undertakings with respect to the St John of God Health Care Enrolled Nurses and Support Services Agreement 2022 ("the Agreement"):

1. I have the authority given to me by St John of God Health Care Inc. to provide this undertaking in relation to the application before the Fair Work Commission.
2. The Employer undertakes to ensure that if a Caregiver is employed in the Supply Department to perform the function of Imprest Reader as reflected in Clause 17 – Casual Employment they will be paid in line with provisions reflected within the Agreement, which will include all relevant shift penalties and/or loadings that apply for the particular shift being worked.
3. The Employer undertakes to ensure that if an Adult Apprentice is engaged in accordance with Schedule A – Wages, Table I – Apprentices they shall be paid in accordance with the following table:

Below rates to apply from the first full pay period on or after 1 July 2023:

<b>Adult Apprentice Rate (21 years of age or over)</b>	<b>Four or Three and a Half Year Term</b>	<b>Three Year Term</b>
First Year	\$845.14	\$845.14
Second Year	\$845.14	\$944.40
Third Year	\$944.40	\$1089.73
Fourth Year	\$1089.73	N/A

4. The Employer undertakes that for a caregiver engaged in accordance with Schedule B – Supported Wage System that in lieu of the minimum amount payable of \$95 per week reflected in sub clause (10), the caregiver shall be paid a minimum amount payable of \$102 per week.
5. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

A handwritten signature in dark ink, appearing to read "Karançis.", is positioned above a horizontal line.

**Signature**

**28 July 2023**

**Date**