



Nazareth Care – Tamworth Enterprise Agreement 2023

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Part 1—APPLICATION AND OPERATION

1. Title

This agreement is known as *Nazareth Care – Tamworth Enterprise Agreement 2023*.

2. No Further Claims

The parties bound by this agreement acknowledge that this Agreement settles all claims in relation to the terms and conditions of employment of the Employees to whom it applies and agree that they will not pursue any extra claims during the term of this Agreement.

3. Re-negotiation

Discussions for a replacement Agreement may begin no later than 6 months prior to the nominal expiry date of this Agreement.

4. Definitions and interpretation

In this Agreement, unless the contrary intention appears:

Act means the *Fair Work Act 2009* (Cth)

Agreement means the *Nazareth Care – Tamworth Enterprise Agreement 2023*

Award/s means the *Nurses Award 2020* for an employee covered by it (“Nursing Employees”) and *Aged Care Award 2010* for an employee covered by it (“Age Care Employees.”)

Base Rate of Pay means the applicable rate of pay in Schedule B that does not include incentive-based payments and bonuses, loadings, monetary allowances, penalty rates or any other similar separately identifiable entitlements.

Day worker means an employee who is regularly rostered to work their ordinary hours of work between 6.00 am and 6.00 pm, Monday to Friday.

Employee means an employee employed by the Employer and covered by this Agreement.

Employer means Nazareth Care ABN 95143353155.

FWC means the Fair Work Commission.

Immediate family means

- (a) a spouse, former spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee;
- (b) a child, parent, grandparent, grandchild or sibling of a spouse, former spouse or de facto partner of the employee or where require by First Nations’ kinship rules.

NES means the National Employment Standards.

NMBA means The Nurses and Midwifery Board of Australia.

Nursing Employee means Registered Nurse or Enrolled Nurse

Union means the Australian Nursing and Midwifery Federation (ANMF) or the Health Services Union (HSU).

5. Coverage

5.1 This Agreement covers:

- (a) The Employer
- (b) Australian Nursing and Midwifery Federation (ANMF) or the Health Services Union (HSU); and,
- (c) Except at (c), all those Employees of the Employer performing work within the classifications contained in this agreement.
- (d) The Agreement does not apply to nor cover persons permanently appointed as a Manager, Executive or Facility Manager.

6. This Agreement and the NES

The NES and this Agreement contain the minimum conditions of employment for Employees covered by this Agreement. This Agreement will be read and interpreted in conjunction with the NES. Where there is inconsistency between this agreement and the NES, and the NES provides greater benefit to an employee, the NES provision will apply to the extent of the inconsistency. The employer must ensure that copies of this Agreement and the NES are available to all employees to whom they apply, on a notice board which is conveniently located at the workplace and also through electronic means.

7. Date and Period of Operation

This Agreement shall come into operation on the 7th day after the Agreement has been approved by the Fair Work Commission (FWC) with a Nominal Expiry Date of 30 June 2027.

Part 2—TYPES OF EMPLOYMENT AND TERMINATION OF EMPLOYMENT

8. Types of Employment

8.1 Employment Categories

Employees will be employed in one of the following categories:

- (a) full-time;
- (b) part-time; or

- (c) casual.

8.2 **Minimum Engagements**

The following minimum starts will apply to Employees:

- (a) Full-time Employees shall receive a minimum payment of 4 hours for each start.
- (b) Part-time Employees shall receive a minimum payment of 3 hours for each start.
- (c) Casual Employees shall receive a minimum payment of 2 hours for each start.

8.3 **Full-time Employees**

A Full-time Employee is one engaged as such and whose ordinary hours of work average 38 hours per week or over their roster period as per clause 23.

8.4 **Part-time Employees**

- (a) A Part-time Employee is an Employee who is engaged to work less than 76 per hours fortnight worked as per clause 18 and whose hours of work are reasonably predictable.
- (b) A part-time Employee will receive a minimum payment of 3 hours for each engagement.
- (c) Leave is accrued as time is worked.
- (d) Before commencing Part-time employment, the Employer and Employee will agree in writing the guaranteed minimum number of Ordinary hours to be worked and the rosters which will apply to those hours. Other than Employees engaged in a Nursing classification, this will also include the starting and finishing times each day and the days of the week.
- (e) The terms of the agreement in clause 8.4(b) may be varied by agreement and recorded in writing. Reasonable additional hours to the maximum shift may only be worked by agreement.

8.5 **Review of Part-time Hours**

- (a) On each anniversary of employment, the Employee may request a review of their part time hours in circumstances where the Employee is regularly working more than their guaranteed minimum number of hours. Upon review by the Employer and by agreement, such hours shall be adjusted by the Employer to offer the employee a variation to their employment contract which increases the employee's guaranteed minimum hours to the number regularly worked by the employee and a new contract of employment agreed.
- (b) The hours worked in the following circumstances will not be incorporated in the adjustment:

- (i) if the increase in hours is as a direct result of an Employee being absent on Leave, such as for example, Annual Leave, Long Service Leave, Parental Leave, Workers Compensation Leave, temporary backfilling or occasional additional hours; and
 - (ii) if the increase in hours is due to a temporary increase in hours, for example, due to the specific needs of a resident.
- (c) Any adjusted guaranteed minimum number of hours resulting from a review identified in this clause should reflect roster cycles and shift configurations utilised at the workplace.

8.6 **Casual Employment**

- (a) A Casual Employee is one who is engaged as such on an hourly basis .
- (b) A casual Employee will be paid an hourly rate equal to 1/38th of the weekly rate appropriate to the Employee's classification plus the 25% casual loading.
- (c) Subject to the minimum hours described at clause 8.2, each offered engagement shall stand alone and does not imply any offer of a firm advance commitment other than for those times shown in the published roster. The Casual Employee is under no obligation to accept any offer of engagement.
- (d) Relevant penalty rates shall only apply to times worked.
- (e) A casual employee must be paid shift allowances and penalties calculated on the base rate of pay with the casual loading component then added to the penalty rate of pay.

8.7 **Casual Conversion**

- (a) At 12 months of service, a casual Employee shall be offered the opportunity to convert their casual employment to permanent employment. Such an offer is to be made within 21 days after the Employee's 12-month anniversary.

A casual employee who has been rostered on a regular and systematic basis over a period of 26-weeks has the right to request conversion to permanent employment:

- (i) on a full-time basis where the employee has worked on a full-time basis throughout the period of casual employment; or
 - (ii) on a part-time basis where the employee has worked on a part-time basis throughout the period of casual employment.
- (b) The employer may consent to or refuse the request but shall not unreasonably withhold agreement to such a request. Such a contract would generally be on the basis of the same number of hours as previously worked, subject to the following:
 - (i) The hours worked in the following circumstances will not be incorporated in a consent and conversion:

- where the increase in hours is as a direct result of an employee being absent on leave, such as for example, annual leave, long service leave, parental leave, workers compensation; and/or
 - where the increase in hours is due to a temporary increase in hours, for example, due to the specific needs of a resident or client.
- (iv) The guaranteed minimum number of hours resulting from a casual conversion should reflect roster cycles and shift configurations utilised in the workplace.
- (v) Casual conversion will not apply where a casual has covered absences of permanent employees that are expected to return to work.
- (vi) The Employer will respond to the request within 21 days advising of the reasons for rejection or the terms to be offered on acceptance of the request.
- (c) Disputes about offers and requests for casual conversion under the NES are to be dealt with under clause 47.

9. Termination of Employment

9.1 Statement of Employment

The Employer must, in the event of termination of employment, provide to the employee who has been terminated a written statement specifying the period of employment and the classification or type of work performed by the employee.

9.2 Termination by the Employer

- (a) The Employer may dismiss an employee only if the employee has been given the following notice:

Period of Continuous Service	Period of Notice
Not more than 1 year	1 week
More than 1 year but 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

- (b) In addition to the notice in (a) above, employees 45 years old or over and who have completed at least 2 years' continuous service with the Employer are entitled to an additional week's notice.
- (c) Payment in lieu of notice will be made if the appropriate notice is not given: Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.
- (d) In calculating any payment in lieu of notice the minimum compensation payable to an employee will be at least the total of the

amounts the Employer would have been liable to pay the employee if the employee's employment had continued until the end of the required notice period. The total must be worked out on the basis of:

- (i) the ordinary working hours to be worked by the employee; and
 - (ii) the amounts payable to the employee for the hours including for example allowances, loadings and penalties; and
 - (iii) any other amounts payable under the employee's employment contract.
- (e) The period of notice in this clause does not apply in the case of dismissal for serious misconduct.
- (f) A casual employee will be entitled to 1 hour's notice or to the end of their commenced shift, whichever is later.
- (g) Annual leave does not form part of the notice period for the purpose of dismissal.

9.3 **Notice of termination by an Employee**

The notice of termination required to be given by an employee, except for a casual employee, is the same as clause 9.2 (a) or In the case of a casual employee, for whom the required notice is 1 hour or to the end of the shift whichever is later.

9.4 **Job Search Entitlement**

Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the Employer.

10. **Redundancy**

10.1 **Entitlement to Redundancy Pay**

Redundancy entitlements are prescribed by the NES and the provisions set out in this clause. Redundancy occurs where an Employer has made a definite decision that the Employer no longer wishes the job the employee has been doing done by anyone and that decision, or the insolvency or bankruptcy of the Employer, leads to the termination of employment of the Employee.

Definitions

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

"Week's pay" means the ordinary time rate of pay for the employee concerned. Provided that such rate shall exclude: Overtime, Penalty rates, Disability allowances, Shift allowances, Special rates, bonuses, Fares and travelling time allowances, and any other ancillary payment of a like nature.

10.2 **Amount of Redundancy Pay**

The amount of the redundancy pay equals the total amount payable to the employee for the redundancy pay period worked out using the following table at the employee's base rate of pay for their ordinary hours of work:

a. If under 45 years of age:

Period of Continuous Service	Severance Pay
Less than 1-year	Nil
1 year and less than 2 years	4 weeks' pay
2 years and less than 3 years	7 weeks' pay
3 years and less than 4 years	10 weeks' pay
4 years and less than 5 years	12 weeks' pay
5 years and less than 6 years	14 weeks' pay
6 years and over	16 weeks' pay

b. If at 45 years or older:

Period of Continuous Service	Severance Pay
Less than 1-year	Nil
1 year and less than 2 years	5 weeks' pay
2 years and less than 3 years	8.75 weeks' pay
3 years and less than 4 years	12.5 weeks' pay
4 years and less than 5 years	15 weeks' pay
5 years and less than 6 years	17.5 weeks' pay
6 years and over	20 weeks' pay

10.3 **Transfer to Lower Paid Duties**

An employee may be only be transferred to lower paid duties with their agreement. Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the

employee would have been entitled to if the employment had been terminated and the employer may, at the Employer's option, make payment instead of an amount equal to the difference between the former ordinary time rate of pay and the ordinary time rate of pay for the number of weeks of notice still owing.

10.4 **Employee Leaving During Notice Period**

An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.

10.5 **Alternative Employment**

- (a) Where an offer of acceptable alternative employment is rejected by an Employee, no severance payment is payable by the Employer, subject to an order by the Fair Work Commission.
- (b) On application by the employer, FWC may determine that the amount of redundancy pay is reduced to a specified amount (which may be nil) that FWC considers appropriate.
- (c) The amount of redundancy pay to which the Employee is entitled under s.119 of the *Fair Work Act* is the reduced amount specified in the determination.

10.6 **Job Search Entitlement**

An employee given notice of termination in circumstances of redundancy must be allowed one day off without loss of pay during each week of notice for the purpose of seeking other employment.

Part 3—MINIMUM WAGES AND RELATED MATTERS

11. Classifications

Classification definitions are set out in **Schedule A**. The Employer must advise its employees in writing of their classification upon commencement and of any subsequent changes to their classification.

12. Rates of Pay

12.1 The rates of pay for each classification are set out in **Schedule B – Rates of Pay**

12.2 The rates of pay and allowances specified in **Schedule B** apply to each Employee to whom this Agreement applies as per the relevant operating dates.

12.3 Transitioning to the new classifications and job titles will occur on the date of operation. Where an Employee is at a current pay point which will no longer be used, they will move to the next higher pay point on transition.

12.4 The Employer recognises that Stage 3 of the 'work value' applications before the Fair Work Commission has not been completed. The Employer undertakes that any financial assistance delivered by the Commonwealth in regard to the rates of pay will be provided to Employees in accordance with the Minister's instructions or guidance.

12.5 The rates shown as 'WVC' for January 2025 at Appendix A for non-Direct Care reflect the Work value Case Stage 3 decision regarding the Aged Care Award. No further claims will be made except by agreed variation as per the Fair Work Act 2009

13. Progression Through Pay Points

13.1 Progression for classifications for which there is more than 1 pay point for full time employees will be by annual movement to the next pay point. For part-time and casuals, it is 1,200 worked hours but not less than 12 months from their last pay point progression.

13.2 Movement from Aged Care 'New Entry' to Aged Care Level 1 shall occur when the Employee has reached 500 hours of industry experience.

13.3 Progression to a higher classification is based on the Employer's requirements and the Employee's qualifications, experience, demonstrated skills and merit.

14. Recognition of Prior Service and/or Experience

14.1 From the time of commencement of employment an Employee has 4 weeks in which to provide documentary evidence to the Employer detailing any other relevant service or experience which will indicate their level of experience when assigned a pay point.

14.2 An Employee who is working in the same classification for more than one organisation shall notify the Employer when the combined hours have met the relevant criteria for Pay Point progression.

14.3 The registration date for an overseas trained Nurse refers to their date of registration by the relevant Australian Board.

15. Allowances

15.1 Uniform and Laundering

- (a) Employees required by the Employer to wear uniforms will be supplied with an adequate number of uniforms appropriate to the occupation free of cost to employees. Such items are to remain the property of the employer and be laundered and maintained by such employer free of cost to the employee.

- (b) Instead of the provision of such uniforms, the Employer will pay such employee a uniform allowance as per **Schedule B**. Where such employee's uniforms are not laundered by or at the expense of the Employer, the employee will be paid a laundry allowance as per **Schedule B**.
- (c) The uniform allowance, but not the laundry allowance, will be paid during all absences on leave, except absences on long service leave and absence on personal/carer's leave beyond 21 days. Where, prior to the taking of leave, an employee was paid a uniform allowance other than at the weekly rate, the rate to be paid during absence on leave will be the average of the allowance paid during the 4 weeks immediately preceding the taking of leave.

15.2 **Overtime Meal Allowances**

- (a) An employee who is required to work overtime for more than an hour will be provided with a meal or paid an allowance. A second meal or allowance is available after 4 hours. Rates to be paid are at **Schedule B**.
- (b) The overtime meal allowance will be paid as part of the next pay cycle.

15.3 **On Call Allowance**

- (a) An Employee may only be on-call by agreement between the employee and the Employer. An on call allowance must be paid to an employee who is required by the Employer to be on call and be able to return to duty within a reasonable timeframe to perform work for each 24 hour period or part thereof. The employee will be paid an allowance as per **Schedule B**.
- (b) The whole of the on call period is calculated according to the day on which the major portion of the on call period falls.

15.4 **Travelling, Transport and Fares**

- (a) An employee required or authorised to use their own motor vehicle in the course of their duties will be paid an allowance as per **Schedule B**.
- (b) When an employee is involved in travelling on duty, all reasonably incurred expenses in respect to fares, meals and accommodation will be met by the employer on production of receipted account(s) or other reasonable evidence .

15.5 **Nauseous Allowance**

An allowance as per **Schedule B** will be paid per hour or part thereof will be paid to an employee in any Aged Care classification if they are engaged in handling linen of a nauseous nature other than linen sealed in airtight containers and/or for work which is of an unusually dirty or offensive nature having regard to the duty normally performed by such

employee in such classification. Any employee who is entitled to be paid the allowance will be paid a minimum sum as per **Schedule B** for work performed in any week.

15.6 **RN In-Charge Allowance**

In the absence during a shift of a more senior registered nurse, the Employer will appoint another registered nurse to be in charge of the facility, for which circumstance an allowance will be paid per shift as outlined in **Schedule B**. The Allowance is not paid where the Registered Nurse is receiving Higher Duties Allowance or their remuneration exceeds that Higher Duties rate.

15.7 **Leading Hand Allowance**

- (a) A leading hand is an Employee who is placed in charge of not less than two (2) other Employees of a substantially similar classification, but does not include any Employee whose classification denotes supervisory responsibility.
- (b) A leading hand shall be paid a weekly allowance of the amount specified in **Schedule B**.
- (c) This allowance shall be part of salary for all purposes of this Enterprise Agreement.
- (d) An Employee who works less than 38 hours per week shall be entitled to the allowances prescribed by this clause in the same proportion as the average hours worked each week bears to thirty-eight ordinary hours

15.8 **PCW Assist With Medications Allowance**

A Personal Carer who is certified to 'assist with medications' shall be paid at the '*Personal Carer - Qualified (Cert III) - medication administration*' rate when rostered for this type of work. The minimum payment is 1 hour.

16. **Qualifications Allowances**

16.1 **General**

- (a) A qualifications allowance will be payable to Employees who possess accepted additional qualifications which are directly relevant to the skills and competencies utilised in their positions.
- (b) The allowance rate at **Schedule B** will be payable upon the production of reasonable evidence of the qualification to the Employer.
- (c) Qualification allowances are not included in the employee's ordinary rate of pay and will not constitute part of the all-purpose rate.

- (d) The allowance is paid on a pro-rata basis for non-full-time Employees.

16.2 **Registered Nurses**

- (a) The allowances are not payable to a manager unless it can be demonstrated to the satisfaction of the Employer that more than 60% per cent of the Employee's rostered worked hours is directly spent undertaking clinical work or where the duties of an appointed role requires such additional qualifications for appointment.
- (b) A Registered Nurse holding more than one relevant qualification in addition to registration requirements is only entitled to one qualification allowance, being the allowance for the highest qualification held. It must be demonstrated that the qualification is relevant to residential aged care, specifically one of the following areas:
 - (i) Gerontological nursing, or
 - (ii) Management (if at or above Level 3), or
 - (iii) Other qualification with a component that has application to nursing in Aged Care.

17. **Payment of Wages**

- 17.1 Wages shall be paid by the employer by electronic funds transfer Unless otherwise agreed or notified via the Change Management process, pay will be delivered on or before Thursday of each fortnight.
- 17.2 When employment either terminates or is terminated, payment of all wages and other monies owing to an employee will be made to the employee in the first pay cycle following the Employee's final working day.

18. **Superannuation and Salary Packaging**

18.1 **Superannuation legislation**

- (a) Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of employers and employees.
- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

18.2 **Employer Contributions**

- (a) The Employer will contribute the minimum amount (as prescribed by the relevant legislation) of an employee's ordinary time

earnings to a complying fund of the employee's choice.

- (b) Should an employee fail to nominate an approved fund within 28 days of commencing employment, the employer will make superannuation payments to the Employee's 'Stapled Fund' (meaning the Superannuation Fund used in their last period of employment). Employees with no identified Super Fund and do not nominate within 28 days will have their super sent to HESTA as the default Fund.
- (c) If an employee is participating in a salary sacrifice arrangement the Employer superannuation guarantee contribution will be calculated on the employee's total gross ordinary time earnings.

18.3 **Voluntary Employee Contributions**

Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise the Employer to pay on behalf of the employee a specified amount from the pre-taxation or post-taxation wages of the employee into the same superannuation fund.

18.4 **Salary Packaging**

- (a) By agreement with the Employee, an Employee's pay may be salary packaged.
- (b) Other than for in-house payroll service, the Employee shall be responsible for all costs associated with the administration of their salary packaging arrangements.
- (c) The Employer shall not be held responsible in any way for the cost or outcome of any financial advice obtained by the Employee.

Part 4—HOURS OF WORK AND RELATED MATTERS

19. Ordinary Hours of Work

- 19.1 The ordinary hours of work for a full time employee will be:
 - (a) 38 hours per week; or
 - (b) 76 hours per fortnight; or
 - (c) 152 hours over 28 days
- 19.2 The shift length or ordinary hours of work per day will be a maximum of 10 hours, exclusive of meal breaks
- 19.3 Hours of work on any day will be continuous except for meal breaks (for Registered and Enrolled Nurses).
- 19.4 An employee will not be required to work more than one shift in each 24 hours. Where total hours required to be worked on a day exceeds 8 hours (or 10 hours for shiftworkers) overtime provisions will apply.

19.5 **Span of Ordinary Hours**

The ordinary hours of work for a day worker will be between 6.00 am and 6.00 pm Monday to Friday.

20. Rostered Day Off

20.1 Employees will be free from duty for not less than 2 full days in each week or 4 full days in each fortnight. Wherever practicable, days off will be consecutive. For Employees employed in Nursing classifications duty includes time a Nursing Employee is on call.

20.2 Any one of the combinations in clause 19.1 may be amended to enable 2 single days free from rostered work if requested in writing by the employee.

Note: Day means 24 hours.

21. Rest Breaks Between Rostered Work

21.1 Employees will be allowed a break of not less than 10 hours, or 8 hours (if mutually agreed) between the termination of one duty period on one day and the commencement of another duty period on another day.

21.2 Where requested by an Employee and agreement has been reached between the Employer and the employee may, via an Individual Flexibility Arrangement as per **Schedule C** reduce the 10 hour break between duty periods to an 8 hour continuous break. Due consideration will be given to recognise that fatigue prevention must be, at all times, paramount to ensure that standards of care are not reduced.

21.3 If, on the instruction of the employer, an employee resumes or continues to work without having had 10 consecutive hours off duty, or 8 hours as agreed, they will be paid at the rate of double time until released from duty for such period. If an employee resumes or continues to work without having had 10 consecutive hours off duty, or 8 hours as agreed in writing, they will be paid at the rate of double time until released from duty for such period.

22. Labour Flexibility and Mixed Functions

22.1 The Employer may direct an Employee to carry out such duties and use such tools and equipment as may be required, provided the Employee possesses the relevant skills and competence to perform such tasks where the Employee does not possess such skills and competence, appropriate training shall be provided. The Employer may also direct an Employee to work may also include duty at different places within the facility.

- 22.2 Any direction issued by the Employer pursuant to sub-clauses 22.1 and/or 22.2 shall be consistent with the Employer's responsibility to provide a safe and healthy working environment for Employees, and the Employer's duty of care to residents.
- 22.3 For clarity, where a Part-time or Casual Employee performs their agreed duties in different capacities (for example, working in both maintenance and support services), the terms applying to each role shall apply separately during the relevant period.

23. Workload Management

- 23.1 The parties to this Agreement are committed to ensuring that the workplace is safe from risks arising from matters including but not limited to manual handling, workplace bullying and occupational violence. These risks shall, wherever practicable, be reduced or eliminated by the use of policies, guidelines and training.
- 23.2 The Employer must ensure, as reasonably practicable under the circumstances, that staffing levels are appropriate, thus ensuring reasonable workloads for employees, the delivery of high quality resident care and keeping within the accreditation principles which take into account the level of care appropriate for the assessed needs of the residents.
- 23.3 Where staff replacement is required, the Employer shall endeavour to fill the position as soon as practicable with the position advertised as soon as practicable from the time the Employer determines that replacement is required. Temporary arrangements may be used during this period including additional staffing or additional worked hours or Higher Duties.
- 23.4 Where a vacancy arises or where a change to either resident needs or numbers occurs, the Employer will consider staffing requirements based on factors including but not limited to the assessed needs of the residents. Should any Employee feel that their workloads are unreasonably heavy on a regular basis, then they have a responsibility to discuss their concerns with their Manager. The Employer reserves the right to decide whether the workload is excessive or not. The Employer will assess individual workloads, taking the following factors into account when determining whether the workload is excessive or not:
- (a) The health and safety of the employee
 - (b) A clinical assessment of residents' needs
 - (c) The demand of the environment such as facility layout
 - (d) Statutory obligations; and,
 - (e) Accreditation standards.

24. Rostering

- 24.1 Employees will work in accordance with a fortnightly roster fixed by the Employer. Wherever practicable, casual employees' shifts shall also be included in the roster.
- 24.2 The roster will set out employees' daily ordinary working hours and starting and finishing times and will be displayed in a place conveniently accessible to employees at least 14 days before the commencement of the roster period.
- 24.3 Unless the Employer otherwise agrees, an employee desiring a roster change will give 7 days' notice except where the employee is ill or in an emergency.
- 24.4 7 days' notice of a change of roster will be given by the employer to an employee except that, a roster may be altered at any time to enable the functions of the facility to be carried out where another employee is absent from work due to illness or in an emergency. Where any such alteration requires an employee working on a day which would otherwise have been the employee's day off, another day off instead will be as mutually arranged.

25. Broken Shifts (Aged Care Employees only)

- 25.1 An Aged Care Employee may agree to work broken shifts at any time. Unless otherwise agreed, the break between paid work shall not exceed 4 hours and the minimum engagement at clause 8.2 shall apply to each segment worked.
- 25.2 A 'broken shift' for the purposes of this sub-clause means a single shift worked by an Employee that includes one or more breaks of greater than one hour on each occasion other than meal breaks. This excludes meal breaks of up to one hour.
- 25.3 An Employee must receive a minimum break of 10 hours between the end of a broken shift rostered on successive days until the next rostered shift.
- 25.4 Where a broken shift is required to be worked, an Employee shall receive:
 - (a) Payment for a broken shift at ordinary pay with penalty rates and shift allowances in accordance with clause 25 with shift allowances being determined by the majority of hours of the broken shift.
 - (b) Payment on Weekends and Public Holidays. The relevant penalty rate shall apply and no additional loading is paid.
 - (c) Where the broken shift exceeds a time span of 12 hours, any time worked after 12 hours shall be paid at 200%.

26. Saturday and Sunday Work

26.1 All ordinary hours rostered and all ordinary hours worked on weekends shall be paid as below:

Employee Stream	Saturday	Sunday
Registered Nurse	150%	175%
Casual Registered Nurse	175%	200%
Enrolled Nurse	150%	175%
Casual Enrolled Nurse	175%	200%
Aged Care Employees	150%	175%
Casual Aged Care Employees	175%	200%

Notes:

- 1. The percentage rates above are applied to the Employees base rate of pay and include shift allowances.*
- 2. Casual rates include the casual loading.*

27. Breaks

27.1 Meal Breaks

- (b) An employee who is rostered to work in excess of five hours will be entitled to an unpaid meal break of not less than 30 minutes and not more than 60 minutes. Meal breaks are to be taken between the fourth and sixth hours of the shift where reasonably practicable. Provided that by agreement, the employee who works a shift of 6 hours or less may forfeit the meal break.
- (c) Where an employee is required to be on duty during a meal break, the employee will be paid overtime for all time worked until the meal break is taken.
- (d) Where an employee is required to remain on the premises during a meal break, but is free from duty, the employee will be paid at ordinary rates for a 30 minute meal break. This period will not count as time worked when calculating ordinary hours for the purposes of overtime or penalties. If the employee is recalled to perform duty during this period the employee will be paid

overtime for all time worked until the balance of the meal break is taken.

27.2 Rest Pauses

- (a) Every employee will be entitled to a paid 10 minute rest pause in each four hours worked at a time to be agreed between the employee and employer. A second break will be available where the rostered shift is for 7.6 hours and is worked.
- (b) Subject to agreement between the employer and employee, such rest pauses may alternatively be taken as one 20 minute rest pause.
- (c) Rest pauses will count as time worked.

28. Overtime

28.1 Overtime Penalty Rates

- (a) Hours worked in excess of the rostered ordinary fortnightly hours or on any day or shift prescribed in clause 19 are to be paid as follows:

Classification of Employee	Monday to Friday	Saturday	Sunday	Public Holidays
Registered Nurse	150% for the first two hours and 200% thereafter	150% for the first two hours and 200% thereafter	200%	250%
Casual Registered Nurse	175% for the first two hours and 225% thereafter	175% for the first two hours and 225% thereafter	225%	275%
Enrolled Nurse	150% for the first two hours and 200% thereafter	150% for the first two hours and 200% thereafter	200%	250%
Casual Enrolled Nurse	175% for the first two hours and 225% thereafter	175% for the first two hours and 225% thereafter	225%	275%
Aged Care Employees	150% for the first two hours and 200% thereafter	200%	200%	250%
Casual Aged Care Employees	175% for the first two hours and 225% thereafter	250%	250%	312.5%

Notes:

1. The percentage rates above are applied to the Employees base rate of pay and include shift allowances.
2. Casual rates include the casual loading .

(b) Part-time employees

All time worked by part-time employees in excess their rostered hours on any one day, or 10 hours per day or 76 hours per fortnight will be overtime and paid as prescribed in clause 28.1(a).

(c) Casual Employees

All time worked by CASUAL employees in excess of 10 hours per day will be overtime and paid as prescribed in clause 28.1(a).

28.2 **Overtime Hours**

(a) For the purposes of assessing overtime, each day shall stand alone, provided that where any one period of overtime is continuous and extends beyond midnight, all overtime hours in this period shall be regarded as if they had occurred within the one day.

(b) Overtime rates shall also apply where the Employee has worked more than 76 hours per fortnight as per clause 28.

(c) Overtime rates under this clause will be in substitution for and not cumulative upon the shift premiums prescribed in clause 26 - Saturday and Sunday Work, clause 30 - Shiftwork and clause 34 - Public Holidays.

28.3 **Time Off In Lieu of Payment for Overtime (TOIL)**

An employee and employer may agree to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the employee:

(a) The period of time off that an employee is entitled to take is equivalent to the overtime payment that would have been made.

Example: An employee who has worked 2 overtime hours at the rate of time and a half is entitled to 3 hours' time off.

(b) Time off in lieu of overtime must be taken at a mutually agreed time within 4 months after the time it is worked.

(c) Where it is not possible for an Employee to take the time off in lieu for overtime within the 4 month period, the employer must pay the employee for the overtime, in the next pay period following those 4 months, at the overtime rate applicable to the overtime when worked.

(d) If, on the termination of the employee's employment, time off for overtime worked by the employee has not been taken, the employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.

(e) The employer must maintain records of all time in lieu of overtime owing and taken by employees.

- (f) Employees cannot be compelled to take time off in lieu of overtime and an employer cannot be compelled to agree to provide the employee with time off in lieu of overtime.
- (g) A full time employee required to work on a rostered day off, may elect to be paid at overtime rates for all hours worked on that day, or take the equivalent number of hours as time in lieu, on a day which shall be mutually agreed with the employer.
- (h) Where no election is made the employee shall be paid overtime rates in accordance with this Agreement.

28.4 **Rest Period After Overtime**

- (a) When overtime work is necessary, it will, wherever reasonably practicable, be so arranged that employees have at least 10 consecutive hours off duty between the work of successive days or shifts, including overtime.
- (b) An employee who works so much overtime between the termination of their ordinary work on one day and the commencement of their ordinary work on the next day, that they have not had at least 10 consecutive hours off duty between those times, will be released after completion of such overtime, until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- (c) If, on the instruction of the Employer, an employee resumes or continues to work without having had 10 consecutive hours off duty, they will be paid at the rate of double time until released from duty for such period. The employee will then be entitled to be absent until they have had 10 consecutive hours off duty without loss of pay for rostered ordinary hours occurring during the absence.

28.5 **Additional Rest Break During Overtime**

An employee working overtime will take an additional paid rest break of 20 minutes after each 4 hours of overtime worked if required to continue to work after the break.

29. Recall to work

29.1 **Recall to Work When On-Call**

- (a) An employee who is required to be on call and who is recalled to work, will be paid for a minimum of 3 Hours for nurses and 4 hours for all other employees at the appropriate overtime rate.
- (b) For Nurses, an employee who is required to be on call and who is required to perform work by the employer via telephone or other electronic communication away from the workplace will be paid at the appropriate overtime rate for a minimum of 1 hours' work. Multiple electronic requests made and concluded within the same

hour shall be compensated within the same overtime payment. Time worked beyond one hour will be rounded to the nearest 15 minutes.

- (c) In any recall to work, except where the employee is required to remain on duty until relieved or to verify repairs are made and operating correctly, the employee who is recalled to work will not be obliged to work their period of recall if the work for which the employee was recalled is completed within a shorter period.

29.2 **Recall to Work When Not On-Call**

- (a) An Employee who is not required to be on call and who is recalled to work after leaving the Employer's premises will be paid for a minimum 3 Hours for nurses and 4 hours for all other employees at the appropriate overtime rate
- (b) For Nurses, an employee who is not required to be on-call and who is required to perform work by the employer via telephone or other electronic communication away from the workplace will be paid at the appropriate overtime rate for a minimum an hour's work. Multiple electronic requests made and concluded within the same hour shall be compensated within the same one hour's overtime payment. Time worked beyond one hour will be rounded to the nearest 15 minutes.
- (c) The time spent travelling to and from the place of duty will be deemed to be time worked.
- (d) For Nurses, where an employee is recalled within 3 hours of their rostered commencement time, and the employee remains at work, only the time spent in travelling to work will be included with the actual time worked for the purposes of the overtime payment.
- (e) If an employee is recalled to work, the employee will be provided with transport to and from their home or will be refunded the cost of such transport.

30. Shiftwork

Penalties are paid for the shift time worked.

30.1 **Registered and Enrolled Nurse Shift Penalties**

Registered and Enrolled Nursing Employees working afternoon or night shift shall be paid the following percentages for such shift:

Shift	Full-time/Part-time Employee	Casual Employee
Afternoon shift commencing not earlier than 12.00 noon and finishing after 6.00 pm on the same day	112.5% of their base rate of pay	137.5% of their base rate of pay
Night shift commencing at on or after 6.00 pm and finishing before 7.30 am on the following day.	115% of their base rate of pay	140% of their base rate of pay

Notes:

1. *The shift penalties prescribed in this clause will not apply to shiftwork performed by an Employee on Saturday, Sunday or Public Holiday where the extra payment prescribed applies.*
2. *The rates for Casual Employees are in substitution for and not cumulative upon the Casual loading prescribed in clause 11.*
3. *The provisions of this clause 30.1 will not apply to Registered Nurse Levels 4 and 5.*

30.2 Aged Care Employees Shift Penalties

Aged Care Employees working afternoon or night shift shall be paid the following percentages for such shift.

Shift	Full-time/Part-time Employee	Casual Employee
Afternoon shift commencing at or after 10:00 a.m. and before 1:00 p.m	110% of their base rate of pay	135% of their base rate of pay
Afternoon shift commencing at or after 1:00 p.m. and before 4:00 p.m.	112.5% of their base rate of pay	137.5% of their base rate of pay
Night shift commencing at or after 4:00 p.m. and before 4:00 a.m	115% of their base rate of pay	140% of their base rate of pay
Early shift commencing at or after 4:00 a.m. and before 6:00 a.m	110% of their base rate of pay	135% of their base rate of pay

Notes:

1. *The shift penalties prescribed in this clause will not apply to shiftwork performed by an Employee on Saturday, Sunday or Public Holiday where the extra payment prescribed applies.*
2. *The rates for Casual Employees are in substitution for and not cumulative upon the Casual loading prescribed in clause 11.*

31. Higher Duties

- 31.1 An employee who is called upon to relieve or act in a position of a higher classification, shall be entitled to receive the minimum rate applicable for such higher classification for that period but not less than 2 hours or the shift when in excess of 2 hours, for the remainder of that shift.

Part 5—LEAVE AND PUBLIC HOLIDAYS

32. Annual leave

32.1 Accrual of Annual Leave

- (a) All Aged Care Employees, other than Casual Employees, are entitled to progressively accrue 4 weeks paid annual leave for each year of service with the Employer and accumulates from year to year and based on their ordinary hours of work.
- (b) All **Registered and Enrolled Nurses**, other than Casual Employees, who are not shiftworkers are entitled to progressively accrue 5 weeks paid annual leave for each year of service with the Employer which accumulates from year to year and is based on their ordinary hours of work.
- (c) All Shift workers are entitled to accrue an additional week of Annual Leave, based on their ordinary hours of work or where the Employee ceases to be required to work shifts and has met the criteria below at (e).
- (d) For the purpose of the NES, a shiftworker is defined as:
- (i) **Aged Care Employees.** The employee works on 10 weekends of a shift not less than 4 hours. For the purpose of this clause 'weekend' means a day worked on a weekend.
 - (ii) **Nurses.** The Employee is regularly rostered over seven days of the week.

32.2 Payment of Annual Leave

- (a) If an Employee takes Annual Leave, the Annual Leave shall be paid at the Employee's ordinary rate of pay for the Employee's ordinary hours of work in the period taken and paid in the usual pay cycle.
- (b) If, when the employment of an Employee ends, the Employee has a period of untaken paid Annual Leave, the Employer must pay the Employee the amount that would have been payable to the Employee had the Employee taken that period of leave.
- (c) Annual Leave Loading, if any, shall be paid in accordance with clause 32.5.

32.3 Taking of Annual Leave

- (a) An Employee is entitled to take an amount of annual leave during a particular period if:
 - (i) at least that amount of annual leave has accrued to the Employee; and
 - (ii) the Employer has agreed with the Employee to take the annual leave during that period.
- (b) Paid annual leave may be taken for a period agreed between an employee and his or her employer.
- (c) The employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.
- (d) The Employer will utilise its best endeavours to respond to a request for annual leave made by an Employee within a reasonable time.

Direction to Take Excess Annual Leave

- (a) Employee's are encouraged to take accrued Annual leave in blocks of 4 weeks but not less than 1 week.
- (b) Where an Employee has accrued more than 2 years of paid annual leave (including additional leave for shiftworkers) such Employee has an excessive leave accrual (**Excess Leave**).
- (c) In the circumstances of Excess Leave, the Employer may direct the Employee to take a period of annual leave (**Direction**) by giving not less than 8 weeks and not more than 12 months' notice to the Employee (**Notice**), subject to the following:
 - (i) the Employee will first be given a reasonable opportunity to submit a plan to reduce their total annual leave accrued balance to not more than six weeks within a period of six months (**leave reduction plan**);
 - (ii) The Employer will not unreasonably refuse to agree to an Employee's annual leave reduction plan which includes saving leave for an extended absence within 12 months of the date of agreement to the leave reduction plan. The agreement is to be in writing and signed by both the Employer and Employee; and,
- (h) The Direction cannot result in the Employee being directed to reduce the accrued leave to less than six weeks

32.4 Cashing Out Annual Leave

An Employee may request to 'cash out' in writing for an amount of annual leave credited to the Employee (in lieu of the amount of annual leave) subject to the following:

- (a) No more than 2 weeks of accrued annual leave may be 'cashed out' in any 12 month period;

- (b) An Employee's leave accrual must never fall below 4 weeks' accrual;
- (c) Any annual leave that is 'cashed out' will be paid at the rate ordinarily paid for annual leave with annual leave loading; and,
- (d) Superannuation guarantee contributions and annual leave loading will also be paid in respect to any amount of 'cashed out' annual leave.

32.5 **Annual Leave Loading**

- (a) In addition to their ordinary pay, an Employee who is not a shift worker, will be paid an Annual Leave Loading of 17.5% of their ordinary pay when on Annual Leave.
- (b) Shift workers, in addition to their ordinary pay, will be paid the higher of:
 - (i) an Annual Leave Loading of 17.5% of ordinary pay; or
 - (ii) the Weekend and Shift penalties the Employee would have received had they not been on leave during the relevant period.
- (c) The Annual Leave Loadings in clause 32.5 (a) are not payable for days which have been added to be taken in conjunction with Annual Leave in accordance with the election provisions of clause 34 - Public Holidays.

33. **Long Service Leave**

Long Service Leave will be provided in accordance with the provisions of the LSL Act 1955 (NSW).

34. **Public holidays**

34.1 The following are Public Holidays:

- (a) 1 January (New Year's Day)
- (b) 26 January (Australia Day)
- (c) Good Friday
- (d) Easter Saturday
- (e) Easter Sunday
- (f) Easter Monday
- (g) 25 April (Anzac Day)
- (h) Labour Day
- (i) The Kings Birthday holiday

- (j) 25 December (Christmas Day)
- (k) 26 December (Boxing Day); and,
- (l) any other day declared or prescribed by or under New South Wales law to be observed generally within the state, or a region of the state, as a public holiday.

34.2 Periods of annual leave are exclusive of public holidays.

34.3 **Recognition Day**

- (a) All full-time and part-time Employees are eligible for one additional day of paid “recognition leave”, if the Employee has completed a minimum of 12 months continuous service.
- (b) This leave is credited annually from 1 July each year and taken on an agreed date. Employees must take the additional recognition leave within each 12 months of it accruing otherwise it will lapse. Any accrued recognition leave is not payable upon termination.

34.4 **Payment for public holidays**

- (a) If an employee is absent from their employment on a day or part day that is a public holiday, the employer must pay the employee at the employee’s base rate of pay for the employee’s ordinary hours of work on the day or part day.
- (b) If the employee does not have ordinary hours of work on the public holiday, the employee is not entitled to payment under this section. For example, the employee is not entitled to payment if the employee is a casual employee or is an employee who is not usually rostered on for the public holiday, or is a part time employee whose contract of employment excludes, from the employee’s ordinary hours, the day of the week on which the public holiday occurs.

(c) **Payment for ordinary time worked public holidays**

Classification of Employee	Public Holidays
Registered Nurse	250%
Casual Registered Nurse	275%
Enrolled Nurse	250%
Casual Enrolled Nurse	275%
Aged Care Employees	250%
Casual Aged Care Employees	275%

Notes:

1. *The percentage rates above are applied to the Employees base rate of pay and include shift allowances.*
2. *Casual rates include the casual loading.*

34.5 Public Holidays Occurring on Rostered Days Off

- (a) All full-time Employees will receive a day's ordinary pay for public holidays that occur on their rostered day off except where the public holidays fall on Saturday or Sunday with respect to Monday to Friday Employees.
- (b) A part-time Employee who is rostered off on a public holiday they would ordinarily work will be paid their ordinary pay for that day.

34.6 Substitution

- (a) An Employee may elect to have the same number of hours worked on a public holiday to be added to their annual leave.
- (b) The election in clauses 34.6 (a) will be made on the commencement of employment and then on the anniversary date each year. The employee may not alter such election during the year except with the agreement of the employer.

35. Parental Leave

35.1 Parental Leave is provided for in the NES.

35.2 Employees are entitled to unpaid parental leave in accordance with the National Employment Standards (NES). This clause identifies additional provisions provided by the Employer. Where this agreement is silent, the NES prevails.

35.3 Parental leave available under this Agreement, unless otherwise agreed, is summarised in the following table and is only accessible for Full Time or Part Time Employees that have had continuous service for 12 months or more:

Type of Leave	Paid Leave	Unpaid Leave	Total combined paid and unpaid leave
Parental Leave – Primary Care Giver	9 weeks	43 weeks	52 weeks
Parental Leave – Non-primary Care Giver	1 week	51 weeks	52 weeks
Adoption Leave – Primary Care	9 weeks	43 weeks	52 weeks

Giver			
Adoption Leave – Non-primary Care Giver	1 week	51 weeks	52 weeks

35.4 Where both parents are Employees, they may take a concurrent period of absence and payment.

35.5 Employees who are eligible under the NES may seek additional 12 months of unpaid leave as per the NES and such additional absence shall not be unreasonably refused.

35.6 Paid parental leave will be paid as follows:

(a) For part-time Employees, an average number of ordinary hours worked by the employee in the 12 month period immediately preceding the commencement of parental leave.

(b) At the rate of pay when commencing the period of leave.

(c) An Employee is entitled to paid parental leave as below:

(i) Where an Employee is taking primary care giver leave in connection with the birth or placement of another child and is yet to return to work; or

(ii) In the event of still birth after 20 weeks or neo-natal death.

35.7 **Pre-Natal Appointments or Parenting Classes**

If an Employee is attends pre-natal appointments or parenting classes and such appointments or classes are only available or can only be attended during the ordinary rostered shifts of an Employee, then on production of satisfactory evidence of such appointment or class, the Employee may take personal leave. Wherever practicable to do so, the Employee shall give the Employer at least 2 weeks' notice of the intention to take such leave.

36. **Paid personal/carer's leave**

36.1 **Entitlement**

Accrual of leave. An employee's entitlement to paid personal/carer's leave is 10 days per year and accrues progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year.

36.2 **Taking Paid Personal/Carer's Leave**

An employee may take paid personal/carer's leave if the leave is taken:

(a) because the employee is not fit for work because of a personal illness, or personal injury, affecting the employee; or

- (b) to provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of:
 - (i) a personal illness, or personal injury, affecting the member; or
 - (ii) an unexpected emergency affecting the member.

36.3 Employee Taken not to be on Paid Personal/Carer's Leave on a Public Holiday

If the period during which an employee takes paid personal/carer's leave includes a day or part-day that is a public holiday in the place where the employee is based for work purposes, the employee is taken not to be on paid personal/carer's leave on that public holiday.

36.4 Payment for Paid Personal/Carer's Leave

If an employee takes a period of paid personal/carer's leave, the Employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the period.

37. Unpaid carer's leave

37.1 Entitlement to Unpaid Carer's Leave

An employee is entitled to 2 days of unpaid carer's leave for each occasion (a *permissible occasion*) when a member of the employee's immediate family, or a member of the employee's household, requires care or support because of:

- (a) a personal illness, or personal injury, affecting the member; or
- (b) an unexpected emergency affecting the member.

37.2 Taking Unpaid Carer's Leave

- (a) An employee may take unpaid carer's leave for a particular permissible occasion if the leave is taken to provide care or support as referred to in clause 36.1.
- (b) An employee may take unpaid carer's leave for a particular permissible occasion as:
 - (i) a single continuous period of up to 2 days or more and 3 or more individual days.; or
 - (ii) any separate periods to which the employee and their employer agree.
- (d) An employee cannot take unpaid carer's leave during a particular period if the employee could instead take paid personal/carer's leave.

38. Compassionate leave

38.1 Entitlement to Compassionate Leave

- (a) An employee, other than a casual employee, is entitled to 3 paid days of compassionate leave for each occasion (a *permissible occasion*) when a member of the employee's immediate family, or a member of the employee's household:
 - (i) contracts or develops a personal illness that poses a serious threat to their life
 - (ii) sustains a personal injury that poses a serious threat to their life
 - (iii) dies
 - (iv) a child is stillborn, where the child would have been a member of the employee's immediate family, or a member of the employee's household, if the child had been born alive; or
 - (v) the employee, or the employee's spouse or de facto partner, has a miscarriage.
- (b) An Employee may take Compassionate Leave as:
 - (i) a single continuous period of 3 days: or
 - (ii) 3 separate periods of 1 day each; or
 - (iii) any separate periods agreed with the Employer.

38.2 Payment for Compassionate Leave

- (a) If a full time or part time Employee takes a period of Paid Compassionate Leave, the Employer must pay the Employee, at the Employee's base rate of pay for the Employee's ordinary hours of work in the period.
- (b) Casual Employees are entitled to 3 days unpaid Compassionate Leave.

39. Notice and Evidence Requirements

39.1 Notice

- (a) An Employee must give the Employer notice of the taking of Paid Personal/Carer's leave. The notice:
 - (i) must be given to the employer as soon as practicable (which may be a time after the leave has started); and
 - (ii) must advise the employer of the period, or expected period, of the leave.

39.2 Evidence

An employee who has given the Employer notice of the taking of leave under clauses 35, 36 and 37 must, if required by the Employer, give the employer evidence that would satisfy a reasonable person that:

- (a) if it is paid personal/carer's leave - evidence will only be required where the absence through illness is greater where the leave is 2 or more consecutive days or 3 or more individual days in a 12 month period evidence must be provided to the Employer which can be either a medical certificate by a registered practitioner or evidence which would satisfy a reasonable person or a statutory declaration.
- (b) if it is unpaid carer's leave, the leave is taken for each occasion;
or
- (c) if it is compassionate leave, the leave is taken for each occasion.

40. Community Service Leave

Community service leave is provided for in the NES. The NES sets out the entitlements for community service which includes voluntary emergency management activity and jury service.

41. Natural Disaster Leave

Where despite making a genuine attempt, an Employee is prevented from attending work for rostered shifts because of a declared natural disaster (e.g. bushfire, flooding), they may apply for one day's paid leave per annum on that occasion. This is in addition to other forms of paid leave but does not accrue. By agreement with the Employer, accruals of annual or personal/carer's leave may also be accessed on such occasions

42. Ceremonial Leave

An employee who is required by Aboriginal and Torres Strait Islander tradition to be absent from work for indigenous ceremonial purposes will be entitled to up to 10 working days unpaid leave in any one year, with the approval of the Employer. An employee seeking to take leave under this clause must provide the employer with 30 days notice of their intention to do so (with the exception of unforeseen circumstances).

43. Family and Domestic Violence Leave

At least 10 days of paid Family and Domestic Violence Leave as provided by the NES.

Part 6—TRAINING AND PROFESSIONAL DEVELOPMENT

44. Requirements and Entitlement

- 44.1 Employees may be required to undertake such training as the Employer considers appropriate for them to perform in their role, in which case the Employer will meet the cost of training.
- 44.2 All Employees have a responsibility to maintain and upgrade their skills commensurate with the requirements of their position. In particular every Employee must attend training required to meet statutory responsibilities including but not limited to; fire and emergency training, manual handling training, infection control, food handling provided by the Employer in each 12 month period or as required.
- 44.3 Where the Employee attends mandatory training other than during the course of a rostered shift, the minimum payment shall be the length of the training or 1 hour whichever is the greater where the training has been scheduled at the start or finish of a shift for which the Employee is rostered. If the meeting or training cannot be held within the ordinary hours and an employee is required to attend the compulsory meeting or training at times beyond ordinary hours (ie 10 hours per day or 76 hours per fortnight) the employee will be paid overtime.
- 44.4 Attendance at any training course other than those referred to at 44.2 or 44.3 above, may be supported by the Employer in accordance with the relevance of the training to the provision of care to residents or personal professional development.
- 44.5 The employer will provide up to 3 days paid leave per year for employees to attend relevant professional development or study courses leading to nursing qualifications. The employer will review all applications to attend training or courses on a case by case basis, however will not unreasonably refuse such a request.

Part 7—CONSULTATION, DISPUTE RESOLUTION AND ANCILLARY MATTERS

45. Consultation About Major Workplace Change

- 45.1 Where the Employer makes a definite decision to make major changes in production, program, organisation, structure or technology that are likely to have significant effects on Employees, the Employer must give notice of the changes to all Employees who may be affected and their representatives (if any) and discuss with affected Employees, and their representatives (if any) the introduction of the changes:
- (a) their likely effect on Employees

- (b) measures to avoid or reduce the adverse effects of the changes on Employees; and

The Employer must commence discussions as soon as practicable after a definite decision has been made.

45.2 For the purposes of the discussion under clause 45.1, the Employer must give in writing to the affected Employees, and their representatives (if any) all relevant information about the changes including:

- (a) their nature
- (b) their expected effect on Employees; and
- (c) any other matters likely to affect Employees.

45.3 Clause 45.2 does not require an Employer to disclose any confidential information if its disclosure would be contrary to the Employer's interests.

45.4 The Employer must promptly consider any matters raised by the Employees or their representatives about the changes in the course of the discussion under clause 45.1.

45.5 In this clause, significant effects, on Employees, includes any of the following:

- (a) termination of employment
- (b) major changes in the composition, operation or size of the Employer's workforce or in the skills required
- (c) loss of, or reduction in, job or promotion opportunities
- (d) loss of, or reduction in, job tenure
- (e) alteration of hours of work
- (f) the need for Employees to be retrained or transferred to other work or locations; or,
- (g) job restructuring.

46. Consultation About Changes to Rosters or Hours of Work

46.1 This clause applies if an Employer proposes to change the regular roster or ordinary hours of work of an Employee, other than an Employee whose working hours are irregular, sporadic or unpredictable.

46.2 The Employer must consult with any Employees affected by the proposed change and any other Employee and their representatives (if any).

46.3 For the purpose of the consultation, the Employer must:

- (a) provide to the Employees and representatives mentioned in clause 46.2 information about the proposed change (for example, information about the nature of the change and when it is to begin); and
- (b) invite the Employees to give their views about the impact of the proposed change on them (including any impact on their family or caring responsibilities) and also invite their representative (if any) to give their views about that impact.

46.4 The Employer must consider any views given under clause 46.3(b).

46.5 This clause is to be read in conjunction with any other provisions of this Agreement concerning the scheduling of work or the giving of notice.

47. Dispute Resolution

47.1 This clause sets out the procedures to be followed if a dispute arises about a matter under this award or in relation to the NES.

47.2 The parties to the dispute must first try to resolve the dispute at the workplace through discussion between the Employee or Employees concerned and the relevant supervisor.

47.3 If the dispute is not resolved through discussion as mentioned above, the parties to the dispute must then try to resolve it in a timely manner at the workplace through discussion between the Employee or Employees concerned and more senior levels of management, as appropriate.

47.4 If the dispute is unable to be resolved at the workplace and all appropriate steps have been taken under this clause, a party to the dispute may refer it to the Fair Work Commission.

47.5 The parties may agree on the process to be followed by the Fair Work Commission in dealing with the dispute, including mediation, conciliation, and arbitration.

47.6 If the dispute remains unresolved, the Fair Work Commission may use any method of dispute resolution that it is permitted by the Act to use and that it considers appropriate for resolving the dispute.

47.7 The parties agree that Disputes over Workloads (clause 23), may only be subject to Arbitration with the consent of all parties

47.8 While procedures are being followed under this clause in relation to a dispute:

- (a) work must continue in accordance with this Agreement and the Act; and
- (b) an Employee must not unreasonably fail to comply with any direction given by the Employer about performing work, whether at the same or another workplace, that is safe and appropriate for the Employee to perform.

47.9 An Employee who is a party to the dispute may appoint a person, organisation or association, to support and/or represent them in any discussion or process under this clause.

47.10 Clause 47.8 is subject to any applicable Workplace Health and Safety legislation.

48. National Criminal History Record Check and NDIS Check

It is a condition of employment that Employees, who have, or are reasonably likely to have access to care recipients provide a Worker Screening Check also known as a 'Police Check' or if required, a NDIS check on commencement of employment and ensure the current maintenance of the Worker Screening Check at all times. The cost of the NDIS check shall be reimbursed after 12 months employment.

49. Mandatory Vaccinations

49.1 Where the Employer provides Employees with access to mandatory vaccinations required by the Employer on an annual basis at the workplace, or an alternative site nominated by the Employer, the Employer will pay for the cost associated with the vaccination all mandated or best practice vaccines required including but not limited to COVID-19 vaccines and the influenza vaccine.

49.2 The inclusion of this clause does not create a new obligation for the Employer to directly provide vaccination

50. Trainees

Trainees may be engaged and their Training Agreement shall show the rates to be paid as specified at 'E.4 Minimum rates' of the *Miscellaneous Award 2020* with all other terms of employment will conform to those in this Agreement.

Schedule A – Classifications

Higher Levels are expected to perform work at a lower level as required from time to time.

This Schedule contains the following employment classifications and definitions:

NURSING CLASSIFICATIONS

Nursing care means:

- Giving assistance to a person who, because of disability, is unable to maintain their bodily needs without frequent assistance;
- Carrying out tasks which are directly related to the maintenance of a person's bodily needs where that person because of disability is unable to carry out those tasks for themselves; and/or
- Assisting a Registered Nurse (RN) or an Enrolled Nurse (EN) to carry out the work described.

Enrolled Nurse

- An Employee who is registered with the Nursing and Midwifery Board of Australia or its successor as an Enrolled Nurse.
- Provide support, direction and education to newer or less experienced staff, including other ENs
- May be either 'with notation' or be 'endorsed to administer medications'.

Registered Nurse

Level 1

An Employee who is registered with the Nursing and Midwifery Board of Australia or its successor as a Registered Nurse.

An employee at this level performs their duties:

- according to their level of competence; and,
- under the general guidance of, or with general access to a more competent Registered Nurse (RN who provides work related support and direction
- Performs general nursing duties registration as a Nurse with the Australian Health Practitioner Regulation Agency ("AHPRA") including an ability to:
 - deliver direct and comprehensive nursing care and individual case management to patients or clients within the practice setting;
 - coordinate services, including those of other disciplines or agencies, to individual patients or clients within the practice setting;
 - provide education, counselling and group work services orientated towards the promotion of health status improvement of patients and clients within the practice setting;
 - provide support, direction and education to newer or less experienced Nursing Employees.

AGED CARE EMPLOYEES

Personal Carers

All Personal Carers are encouraged to formally upskill during their employment to at least Certificate Level III in Aged care or similar.

Personal Carer means a person employed to provide personal care to those residents and support and encourage Resident's in maintaining a healthy and active lifestyle designed to meet their individual wellbeing levels.

Movement to a higher pay point is by appointment only.

Personal Carer New Entrant (unqualified)

Such an Employee would not need to possess any accredited training.

An Employee at this Level:

- works within established routines, methods and procedures;
- has minimal responsibility, accountability or discretion;
- works under direct supervision, either individually or in a team; and,
- requires no previous experience or training.

Under supervision will assist a higher Level Personal Carer and perform the following duties:

- basic personal care of residents including bathing, personal hygiene, dressing and personal assistance to Residents;
- manual handling;
- infection control; and,
- communication skills.

Personal Carer (Unqualified)

An Employee at this level:

- performs all duties of Personal Carer New Entrant (unqualified);
- performs personal care of residents including bathing, personal hygiene, dressing and personal assistance to Residents
- manual handling;
- is capable of prioritising work within established policies, guidelines and procedures;
- is responsible for work performed with a medium level of accountability or discretion;
- works under limited supervision within well-established routines, either individually or in a team;

- possesses good communication, interpersonal and/or arithmetic skills;
- requires specific on-the-job training, may require formal qualifications and/or relevant skills training or experience; and

Training or experience in the following is also a requirement:

- Basic computer skills;
- Dealing with dementia;
- Monitoring care of an incontinent resident;
- Skin care;
- Simple wound monitoring;
- Diabetes awareness;
- communication skills.
- Infection control; and,
- Behaviour management.

Personal Carer – Qualified

An Employee at this level will have a Certificate III qualification.

The role may perform medication administration such as 'blister packs' and observation and will be paid as per clause 15.8.

Performs all duties of Personal Carer - unqualified.

An employee at this level:

- is capable of prioritising work within established policies, guidelines and procedures;
- is responsible for work performed with a medium level of accountability or discretion;
- works under limited supervision, either individually or in a team;
- possesses good communication, interpersonal and/or arithmetic skills;
- requires specific on-the-job training, may require formal qualifications and/or relevant skills training or experience.

Personal Carer – Specialist

Means a person employed in a Residential Aged Care Facility appointed as a Personal Care - Specialist. The Employee will not supervise a Registered Nurse in relation to any clinical or care matters.

An Employee at this level will generally have a Certificate IV qualification (or possesses accepted equivalent knowledge or skills).

Performs all duties of Personal Care – Qualified and has relevant qualifications or experience and:

- Is responsible for work performed with a substantial level of accountability;
- Works either individually or in a team; may assist with supervision of others;
- Requires a comprehensive knowledge of medical terminology;
- Possesses administrative skills and problem solving abilities;
- Possesses well developed communication, interpersonal and/or arithmetic skills.

The employee is capable to perform all duties of Personal Carer – Qualified. An Employee at this level:

- is capable of functioning with a high level of autonomy, and prioritising their work within established policies, guidelines and procedures;
- is responsible for work performed with a substantial level of accountability and responsibility;
- works either individually or in a team;
- may require comprehensive computer knowledge or be required to use a computer on a regular basis;
- possesses administrative skills and problem solving abilities; possesses well developed communication, interpersonal and/or arithmetic skills; and
- may require formal qualifications at post-trade or Advanced Certificate or Associate Diploma level and/or relevant skills training or experience.

Personal Carer - Team Leader

Means a person employed in a Residential Aged Care Facility appointed as the personal care supervisor/coordinator and who holds the overall responsibility of overseeing the residents' personal care needs as a member of the Clinical care team.

A Personal Carer at this level will generally have at least a Certificate IV qualification and/or Cert IV (administer and monitor medications). The employee is required to supervise and train other direct care employees.

The Personal Carer – Team Leader will not supervise or train a Registered or Enrolled Nurse in relation to any clinical or care matters.

The employee is capable to perform all duties of Personal Carer – Qualified. An Employee at this level:

- is capable of functioning autonomously, and prioritising their work and the work of others within established policies, guidelines and procedures;
- is responsible for work performed with a substantial level of accountability and responsibility;
- may supervise the work of others, including work allocation, rostering and guidance;
- works either individually or in a team;
- may require comprehensive computer knowledge or be required to use a computer on a regular basis;
- possesses developed administrative skills and problem solving abilities;
- possesses well developed communication, interpersonal and/or arithmetic skills; and
- may require formal qualifications at trade or Advanced Certificate or Associate Diploma level and/or relevant skills training or experience.

Leisure and Lifestyle Assistant Level 1 - Unqualified

Means a person employed in a Residential Aged Care Facility, to provide activities/diversional therapy to those residents. Such an Employee would not possess any relevant accredited training. Such a person assists with the planning and implementation of lifestyle enhancement programs under direct supervision and in co-operation with other members of the aged care team.

Leisure and Lifestyle Assistant Level 2 - Qualified

Means a person employed in a Residential Aged Care Facility appointed to provide activities for to those residents. Such an Employee must have a Certificate IV qualification in Leisure and Lifestyle, or other accepted relevant qualification.

Such a person is primarily required to assist with the planning and implementation as well as deliver lifestyle and leisure services and related client/resident enhancement programs where required under the supervision and direction of a Lifestyle Co-ordinator, Therapist, Allied Health Professional, or other member of staff in co-operation with other members of the aged care team.

Chef /Food Services Supervisor/Most Senior Cook (Aged Care Employee Levels 4 to 7)

Head Chef (tradesperson) means a chef who has completed an apprenticeship or passed the appropriate trade test in cooking or the Food services supervisor and shall assume the responsibilities below.

The most Senior Cook shall assume the responsibilities below and is paid at the appropriate pay rate which matches their qualifications.

The Employees perform the following:

- Day to day meal preparation and cooking
- meal planning which meets industry standards including the dietary needs of residents both as a group or to cater for individual prescribed dietary needs (for example diabetes, lactose intolerance or religion-based diets)
- general and specialised duties, including supervision or training of kitchen and dining room employees
- ordering and stock control including manage the allocated budget and advise managers of significant differences when comparing actual to budget; and,
- ensuring WHS standards are met in the kitchen, dining room and bedside food delivery.

The Employee shall be paid as per the applicable rate depending upon qualifications, experience and responsibilities.

Aged Care Employees – Level 1 (less than 500 hours in industry)

An employee who has less than three months work experience in the industry and performs basic duties:

- works within established routines, methods and procedures;
- has minimal responsibility, accountability or discretion;
- works under direct or routine supervision, either individually or in a team; and
- requires no previous experience or training.

Typical Roles:

General clerk, Food services assistant, Laundry hand, Cleaner, Assistant gardener

Aged Care Employees - Level 2 (more than 500 hours in industry)

An employee at this Level:

- works within established routines, methods and procedures;
- has minimal responsibility, accountability or discretion;
- works under direct or routine supervision, either individually or in a team; and
- requires no previous experience or training.

Typical Roles:

General clerk, Assistant gardener.

Until ffppoa 1 January 2025: Food services assistant, Laundry hand, Cleaner.

Aged Care Employees - Level 3

An employee at this level:

- is capable of prioritising work within established routines, methods and procedures (non admin/clerical);
- is responsible for work performed with a medium level of accountability or discretion (non admin/clerical);
- works under limited supervision, either individually or in a team (non admin/clerical);
- possesses sound communication and/or arithmetic skills (non admin/clerical);
- requires specific on-the-job training and/or relevant skills training or experience (non admin/clerical); and
- in the case of an admin/clerical employee, undertakes a range of basic clerical functions within established routines, methods and procedures.

Typical Roles:

General clerk/Typist (second and subsequent years of service), Cook, Receptionist, Recreational/Lifestyle activities officer (unqualified), Pay clerk, Driver (less than 3 ton) who is required to hold a St John Ambulance first aid certificate.

From ffppoa 1 January 2025 Food services assistant, Laundry hand, Cleaner.

Aged Care Employees - Level 4

An employee at this level:

- is capable of prioritising work within established policies, guidelines and procedures;
- is responsible for work performed with a medium level of accountability or discretion;
- works under limited supervision, either individually or in a team;
- possesses good communication, interpersonal and/or arithmetic skills; and
- requires specific on-the-job training, may require formal qualifications and/or relevant skills training or experience.

Typical Roles:

Senior clerk, Senior cook (trade), Senior receptionist, Maintenance/Handyperson (qualified), Driver (3 ton and over), Gardener (trade or TAFE Certificate III or above).

Aged Care Employees - Level 5

An employee at this level:

- is capable of functioning semi-autonomously, and prioritising their own work within established policies, guidelines and procedures;
- is responsible for work performed with a substantial level of accountability;
- works either individually or in a team; may assist with supervision of others;
- requires a comprehensive knowledge of medical terminology (admin/clerical);
- may require basic computer knowledge or be required to use a computer on a regular basis;
- possesses administrative skills and problem solving abilities;
- possesses well developed communication, interpersonal and/or arithmetic skills; and
- requires substantial on-the-job training, may require formal qualifications at trade or certificate level and/or relevant skills training or experience.

Typical Roles:

Secretary interpreter (unqualified) or Chef.

Schedule B – Rates of Pay and Allowances

Current Classification	NEW Agreement Classification	FFPOA 1 July 2024 - 2.5% or adjusted rate	WVC adjusted FFPPOA 1 January 2024	FFPOA 1 July 2025 -2.5%	FFPOA 1 July 2026 -2.8%
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Registered Nurse Level 1

RN Year 1	Registered Nurse Level 1- Pay point 1	\$40.50	\$40.50	\$41.52	\$42.68
RN Year 2	Registered Nurse Level 1- Pay point 2	\$43.15	\$43.15	\$44.23	\$45.46
RN Year 2	Registered Nurse Level 1- Pay point 3	\$45.81	\$45.81	\$46.96	\$48.27
RN Year 4	Registered Nurse Level 1- Pay point 4	\$48.64	\$48.64	\$49.85	\$51.25
RN Year 5	Registered Nurse Level 1- Pay point 5	\$51.90	\$51.90	\$53.20	\$54.69

Enrolled Nurse

Enrolled Nurse – Pay point 1	Enrolled Nurse – Pay point 1	\$34.29	\$34.29	\$35.15	\$36.13
Enrolled Nurse – Pay point 2	Enrolled Nurse – Pay point 2	\$34.98	\$34.98	\$35.86	\$36.86
Enrolled Nurse – Pay point 3	Enrolled Nurse – Pay point 3	\$35.69	\$35.69	\$36.59	\$37.61
Enrolled Nurse – Pay point 4	Enrolled Nurse – Pay point 4	\$36.40	\$36.40	\$37.31	\$38.36
Enrolled Nurse - Pay point 5	Enrolled Nurse - Pay point 5	\$37.12	\$37.12	\$38.04	\$39.11

**Cooking Services -
Most Snr
Chef/Supervisor**

Senior cook (trade) - If most senior Cook	Aged Care Employee Level 4 - Direct Care	\$32.04	\$32.04	\$32.85	\$33.76
Chef- If most senior Cook	Aged Care Employee Level 5 - Direct Care	\$35.13	\$35.13	\$36.01	\$37.02
Senior Chef - If most senior Cook	Aged Care Employee Level 6 - Direct Care	\$34.47	\$34.47	\$35.33	\$36.32
Head Chef - Food Services Supervisor	Aged Care Employee Level 7 - Direct Care	\$35.73	\$35.73	\$36.63	\$37.65

Current Classification	NEW Agreement Classification	FFPOA 1 July 2024 - 2.5% or adjusted rate	WVC adjusted FFPOA 1 January 2024	FFPOA 1 July 2025 - 2.5%	FFPOA 1 July 2026 - 2.8%
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Personal Care Workers

CSE Grade 1	Personal Care Worker - Introductory	\$30.40	\$31.26	\$32.04	\$32.94
CSE Grade 2 - Level 1 (Cert III)	Personal Care Worker - Unqualified	\$31.72	\$32.73	\$33.55	\$34.49
CSE Grade 2 - Level 2 Cert III meds	Personal Care Worker - Qualified (Cert III)	\$32.10	\$33.01	\$33.83	\$34.78
	Personal Care Worker - Qualified (Cert III) - medication administration	\$33.43	\$34.34	\$35.19	\$36.18
CSE Level 3	Personal Care Worker - Specialist (Cert IV) appointed to this level	\$34.78	\$34.93	\$35.81	\$36.81
CSE Grade 4 - Level 1 Cert IV - meds and Team Leader	Personal Care Worker - Team Leader (Cert IV) appointed to this level	\$35.60	\$36.84	\$37.76	\$38.82

Lifestyle RAO

RAO 1 Unqualified	Lifestyle & leisure Level 2 Unqualified	\$31.27	\$32.12	\$32.93	\$33.85
RAO 1 Qualified	Lifestyle & leisure Level 2 Qualified	\$32.10	\$32.79	\$33.61	\$34.56

Aged Care Employees (Cleaning, Laundry, Dining, Cook, Kitchen Hand)

CSG1	Aged Care Employee Level 1 <500 hours exp	\$25.43	\$26.17	\$26.83	\$27.58
	Aged Care Employee Level 2 with 500+ hours exp	\$26.44	\$27.21	\$27.89	\$28.67
CSG2L1	Aged Care Employee Level 3	\$27.77	\$28.58	\$29.30	\$30.12
CSG3	Aged Care Employee Level 4	\$28.00	\$28.81	\$29.53	\$30.36
CSG4	Aged Care Employee Level 5	\$31.10	\$31.94	\$32.74	\$33.66

Allowances

Allowance	FFPOA 1 July 2024	FFPOA 1 July 2024 or ADJUSTED	NCT FFPOA 1 July 2025 - 2.5%	FFPOA 1 July 2026 - 2.8%
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Nursing Employees

Nurses - Uniform per shift	\$0.00	\$1.23	\$1.26	\$1.30
Nurses -Uniform per week	\$8.97	\$8.97	\$9.19	\$9.45
Nurses -Laundry per shift	\$0.00	\$0.32	\$0.33	\$0.34
Nurses -Laundry per week	\$2.13	\$2.13	\$2.19	\$2.25
RN in charge	\$30.26	\$30.26	\$31.01	\$31.88
RN - On Call Mon to Fri	\$26.98	\$26.98	\$27.65	\$28.43
RN - On Call Sat	\$26.98	\$39.82	\$40.82	\$41.96
RN - On Call Sun, Phol, work on RDO	\$26.98	\$46.45	\$47.61	\$48.94
RN education allowance PG Cert PW	\$40.16	\$40.16	\$41.16	\$42.32
RN education allowance PG Dip or Degree PW	\$60.90	\$60.90	\$62.42	\$64.17
RN education allowance Masters PW	\$73.85	\$73.85	\$75.70	\$77.82

Common Allowances

1st Overtime meal		\$16.20	\$16.61	\$17.07
2nd Overtime meal		\$14.60	\$14.97	\$15.38
Travel per Km	\$1.01	\$1.01	\$1.04	\$1.07

Allowance	FFPOA 1 July 2024	FFPPOA 1 July 2024 or ADJUSTED	NCT FFPOA 1 July 2025 - 2.5%	FFPOA 1 July 2026 - 2.8%
Aged Care Employees				
Aged Care Employees - Uniform per shift	\$0.00	\$1.23	\$1.26	\$1.30
Aged Care Employees -Uniform per week	\$8.10	\$8.10	\$8.30	\$8.53
Aged Care Employees - Laundry per shift	\$0.00	\$0.32	\$0.33	\$0.34
Aged Care Employees -Laundry per week	\$6.72	\$6.72	\$6.89	\$7.09
Aged Care Employees - Nauseous Allowance per day	\$0.33	\$0.56	\$0.57	\$0.59
Aged Care Employees - Nauseous Allowance per week	\$0.00	\$3.04	\$3.12	\$3.20
Aged Care Employees - Tool Allowance	\$0.00	\$13.41	\$13.75	\$14.13
Aged Care Employees - Leading Hand 2-5	\$27.86	\$30.03	\$30.78	\$31.64
Aged Care Employees - Leading Hand 6-10	\$39.81	\$42.85	\$43.92	\$45.15
Aged Care Employees - Leading Hand 11-15	\$50.27	\$54.10	\$55.45	\$57.01
Aged Care Employees - Leading Hand 16-19	\$61.10	\$66.14	\$67.79	\$69.69

Schedule C– Flexibility Arrangements

Requests for Flexible Working Arrangements

C.1 An Employee may request change in working arrangements.

This clause applies where an employee has made a request for a change in working arrangements under **section 65 of the Act**.

NOTE 1: Section 65 of the Act provides for certain employees to request a change in their working arrangements because of their circumstances, as set out in section 65(1A). Schedule C supplements or deals with matters incidental to the NES provisions.

NOTE 2: The employer may only refuse a section 65 request for a change in working arrangements on 'reasonable business grounds' (see section 65(5) and (5A)).

NOTE 3: This clause is an addition to section 65.

C.2 Responding to the Request

Before responding to a request made under *section 65*, the employer must discuss the request with the employee and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the employee's circumstances having regard to:

- (a) the needs of the employee arising from their circumstances;
- (b) the consequences for the employee if changes in working arrangements are not made; and
- (c) any reasonable business grounds for refusing the request.

C.3 What the Written Response must Include if the Employer Refuses the Request

- (a) Clause C.3 applies if the employer refuses the request and has not reached an agreement with the employee under clause C.3.
- (b) The written response under *section 65(4)* must include details of the reasons for the refusal, including the business ground or grounds for the refusal and how the ground or grounds apply.
- (c) If the employer and employee could not agree on a change in working arrangements under clause C.2, then the written response under section 65(4) must:
 - (i) state whether or not there are any changes in working arrangements that the employer can offer the employee so as to better accommodate the employee's circumstances; and
 - (ii) if the employer can offer the employee such changes in working arrangements, set out those changes in working arrangements.

C.4 What the Written Response must Include if a Different Change in Working Arrangements is Agreed

If the employer and the employee reached an agreement under Clause C.2 on a change in working arrangements that differs from that initially requested by the employee, then the employer must provide the employee with a written response to their request setting out the agreed change(s) in working arrangements.

C.5 Flexibility term

The employer and employee covered by this Enterprise Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:

- (a) the agreement deals with 1 or more of the following matters:
 - (i) arrangements about when work is performed;
 - (ii) overtime rates;
 - (iii) penalty rates
 - (iv) allowances;
 - (v) leave loading; and
- (b) the arrangement meets the genuine needs of the employer and employee 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 employee.

C.6 The employer must ensure that the terms of the individual flexibility arrangement:

- (a) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
- (b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
- (c) result in the employee being better off overall than the employee would be if no arrangement was made.

C.7 The employer must ensure that the individual flexibility arrangement:

- (a) is in writing; and
- (b) includes the name of the employer and employee; and
- (c) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
- (d) includes details of:
 - (i) the terms of the enterprise agreement that will be varied by the arrangement; and
 - (ii) how the arrangement will vary the effect of the terms; and

(iii) how the employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and,

(e) states the day on which the arrangement commences.

C.8 The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

C.9 The employer or employee 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 employee agree in writing—at any time.

Template

A. Despite anything else in this Agreement, an employer and an individual employee may agree to vary the application of the terms of this Agreement relating to any of the following in order to meet the genuine needs of both the employee and the employer:

(a) arrangements for when work is performed; or

(b) overtime rates; or

(c) penalty rates; or

(d) allowances; or

(e) annual leave loading.

B An agreement must be one that is genuinely made by the employer and the individual employee without coercion or duress.

C An agreement may only be made after the individual employee has commenced employment with the employer.

D An employer who wishes to initiate the making of an agreement must:

(a) give the employee a written proposal; and

(b) if the employer is aware that the employee has, or reasonably should be aware that the employee may have, limited understanding of written English, take reasonable steps (including providing a translation in an appropriate language) to ensure that the employee understands the proposal.

E An agreement must result in the employee being better off overall at the time the agreement is made than if the agreement had not been made.

F. An agreement must do all of the following:

(a) state the names of the employer and the employee; and

- (b) identify the award term, or award terms, the application of which is to be varied; and
- (c) set out how the application of the award term, or each award term, is varied; and
- (d) set out how the agreement results in the employee being better off overall at the time the agreement is made than if the agreement had not been made; and
- (e) state the date the agreement is to start.

G An agreement must be:

- (a) in writing; and
- (b) signed by the employer and the employee and, if the employee is under 18 years of age, by the employee's parent or guardian.

H Except as provided in clause G (b), an agreement must not require the approval or consent of a person other than the employer and the employee.

I The employer must keep the agreement as a time and wages record and give a copy to the employee.

J The employer and the employee must genuinely agree, without duress or coercion to any variation of an award provided for by an agreement.

K An agreement may be terminated:

- (a) at any time, by written agreement between the employer and the employee; or
- (b) by the employer or employee giving 13 weeks' written notice to the other party

Note: If an employer and employee agree to an arrangement that purports to be an individual flexibility arrangement under this award term and the arrangement does not meet a requirement set out in s.144 then the employee or the employer may terminate the arrangement by giving written notice of not more than 28 days (see s.145 of the [Act](#)).

L. An agreement terminated as mentioned in clause K (b) ceases to have effect at the end of the period of notice required under that clause.

M. The right to make an agreement under this Schedule C is additional to, and does not affect, any other term of this Agreement that provides for an agreement between an employer and an individual employee.

Schedule D – Workplace Delegates’ Rights

- D.1 Schedule D provides for the exercise of the rights of workplace delegates set out in section 350C of the Act.
NOTE: Under section 350C(4) of the Act, the employer is taken to have afforded a workplace delegate the rights mentioned in section 350C(3) if the employer has complied with Schedule D.
- D.2:
- (a) employer means the employer of the workplace delegate;
 - (b) delegate’s organisation means the employee organisation in accordance with the rules of which the workplace delegate was appointed or elected; and
 - (c) eligible employees means members and persons eligible to be members of the delegate’s organisation who are employed by the employer in the enterprise.
- D.3 Before exercising entitlements under Schedule D, a workplace delegate must give the employer written notice of their appointment or election as a workplace delegate. If requested, the workplace delegate must provide the employer with evidence that would satisfy a reasonable person of their appointment or election.
- D.4 An employee who ceases to be a workplace delegate must give written notice to the employer within 14 days.
- D.5 Right of representation
A workplace delegate may represent the industrial interests of eligible employees who wish to be represented by the workplace delegate in matters including:
- (a) consultation about major workplace change;
 - (b) consultation about changes to rosters or hours of work;
 - (c) resolution of disputes;
 - (d) disciplinary processes;
 - (e) enterprise bargaining where the workplace delegate has been appointed as a bargaining representative under section 176 of the Act or is assisting the delegate’s organisation with enterprise bargaining; and
 - (f) any process or procedure within an award, enterprise agreement or policy of the employer under which eligible employees are entitled to be represented and which concerns their industrial interests.
- D.6 Entitlement to reasonable communication
- (a) A workplace delegate may communicate with eligible employees for the purpose of representing their industrial interests under clause D.5. This includes discussing membership of the delegate’s organisation and representation with eligible employees.
 - (b) A workplace delegate may communicate with eligible employees during working hours or work breaks, or before or after work.
- D.7 Entitlement to reasonable access to the workplace and workplace facilities
- (a) The employer must provide a workplace delegate with access to or use of the following workplace facilities:
 - (i) a room or area to hold discussions that is fit for purpose, private and accessible by the workplace delegate and eligible employees;
 - (ii) a physical or electronic noticeboard;

- (iii) electronic means of communication ordinarily used in the workplace by the employer to communicate with eligible employees and by eligible employees to communicate with each other, including access to Wi-Fi;
 - (iv) a lockable filing cabinet or other secure document storage area; and
 - (v) office facilities and equipment including printers, scanners and photocopiers.
- (b) The employer is not required to provide access to or use of a workplace facility under clause D7(a) if:
- (i) the workplace does not have the facility;
 - (ii) due to operational requirements, it is impractical to provide access to or use of the facility at the time or in the manner it is sought; or
 - (iii) the employer does not have access to the facility at the enterprise and is unable to obtain access after taking reasonable steps.

D.8 Entitlement to reasonable access to training

The employer must provide a workplace delegate with access to up to 5 days of paid time during normal working hours for initial training and at least one day each subsequent year, to attend training related to representation of the industrial interests of eligible employees, subject to the following conditions:

- (a) In each year commencing 1 July, the employer is not required to provide access to paid time for training to more than one workplace delegate per 50 eligible employees.
- (b) The number of eligible employees will be determined on the day a delegate requests paid time to attend training, as the number of eligible employees who are:
 - (i) full-time or part-time employees; or
 - (ii) regular casual employees.
- (c) Payment for a day of paid time during normal working hours is payment of the amount the workplace delegate would have been paid for the hours the workplace delegate would have been rostered or required to work on that day if the delegate had not been absent from work to attend the training.
- (d) The workplace delegate must give the employer not less than 5 weeks' notice (unless the employer and delegate agree to a shorter period of notice) of the dates, subject matter, the daily start and finish times of the training, and the name of the training provider.
- (e) If requested by the employer, the workplace delegate must provide the employer with an outline of the training content.
- (f) The employer must advise the workplace delegate not less than 2 weeks from the day on which the training is scheduled to commence, whether the workplace delegate's access to paid time during normal working hours to attend the training has been approved. Such approval must not be unreasonably withheld.
- (g) The workplace delegate must, within 7 days after the day on which the training ends, provide the employer with evidence that would satisfy a reasonable person of their attendance at the training.

D.9 Exercise of entitlements under Schedule D:

- (a) A workplace delegate's entitlements under Schedule D are subject to the conditions that the workplace delegate must, when exercising those entitlements:
 - (i) comply with their duties and obligations as an employee;
 - (ii) comply with the reasonable policies and procedures of the employer, including reasonable codes of conduct and requirements in relation to occupational health and safety and acceptable use of ICT resources;

- (iii) not hinder, obstruct or prevent the normal performance of work; and
 - (iv) not hinder, obstruct or prevent eligible employees exercising their rights to freedom of association.
- (b) Schedule D does not require the employer to provide a workplace delegate with access to electronic means of communication in a way that provides individual contact details for eligible employees.
- (c) Schedule D does not require an eligible employee to be represented by a workplace delegate without the employee's agreement.

NOTSE: Under section 350A of the Act, the employer must not:

- (a) unreasonably fail or refuse to deal with a workplace delegate; or*
- (b) knowingly or recklessly make a false or misleading representation to a workplace delegate; or*
- (c) unreasonably hinder, obstruct or prevent the exercise of the rights of a workplace delegate under the Act or Schedule D.*