

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

## **NURSES (DEPARTMENT OF EDUCATION AND TRAINING) AGREEMENT 2020**

### **PART 1 – APPLICATION AND OPERATION OF AGREEMENT**

#### **1 AGREEMENT TITLE**

This Agreement will be known as the *Nurses (Department of Education and Training) Agreement 2020*.

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### 3 DEFINITIONS

In this document, unless otherwise provided:

- 3.1** “employee or employees” means an employee of the Crown employed pursuant to Division 4 of Part 3 of the *Public Administration Act 2004* (Vic) who is employed within the Department of Education and Training as a nurse in a position requiring mandatory nursing qualifications, other than an employee eligible to be a member of the unions whose employment and remuneration is determined under the Victorian Public Service classification and salary structure.
- 3.2** “employer” means the State of Victoria acting through its servant or agent who, for the purposes of this Agreement, is the Department of Education and Training;
- 3.3** “FW Act” means the *Fair Work Act 2009* (Cth) as may be amended from time to time, or any successor to that Act;
- 3.4** “NES” means the National Employment Standards under the FW Act;
- 3.5** “party” means the State of Victoria, the unions or an employee pursuant to **subclause 3.1**;
- 3.6** “*Public Administration Act 2004* (Vic)” means that Act as may be amended from time to time, or any successor to that Act;
- 3.7** “public holiday” means a day that is a public holiday pursuant to **clause 37**;
- 3.8** “registered health practitioner” means an individual who is registered under the *Health Practitioner Regulation National Law Act 2009* to practise a health profession, other than as a student;
- 3.9** “salary” means the wage or salary rate, including all on-going progression payments, which an employee receives in the normal course of his or her duty; provided that salary does not include any payment for overtime, shift work, stand-by, travelling allowance, incidental expenses or any payment of a temporary character;
- 3.10** “union or unions” means the Australian Nursing and Midwifery Federation or Community and Public Sector Union;
- 3.11** “VPS” means the Victorian Public Service.

## **4 COMMENCEMENT DATE OF AGREEMENT AND PERIOD OF OPERATION**

This Agreement will commence to operate on the seventh day after approval by the Fair Work Commission and will have a nominal expiry date of 31 December 2020.

## **5 APPLICATION OF AGREEMENT AND PARTIES COVERED**

- 5.1** This Agreement is made under section 172(2)(a) of the FW Act between the employer and its employees.
- 5.2** This Agreement applies to and covers:
- (a)** the employer in respect of employees as defined in **clause 3.1**;
  - (b)** all employees as defined in **clause 3.1**; and
  - (c)** an employee organisation, which is noted by the Fair Work Commission, under s183 and s201(2) of the FW Act, to be an organisation that is covered by this Agreement.
- 5.3** In accordance with part 2-8 of the FW Act, where a new employer becomes the successor, transmittee or assignee of the whole or a part of the business of the employer, the new employer is bound by this Agreement to the extent that it relates to the whole or part of the business.
- 5.4** This Agreement operates to the exclusion of all previous awards and orders of the Fair Work Commission and replaces all previous agreements in respect to employers, employees and unions covered by this Agreement.
- 5.5** Entitlements accrued by an employee under the previous and other agreements are not affected by the making of this Agreement.
- 5.6** This Agreement will be read and interpreted in conjunction with the NES. Where there is an inconsistency between this Agreement and the NES, and the NES provides a greater benefit to employees, the NES will apply to the extent of the inconsistency.

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## **7 NO FURTHER CLAIMS**

The employees, the employer and the unions agree that there will be no further claims for the making of a further agreement or industrial action taken on matters within this agreement prior to 1 October 2020.

## **8 ANTI-DISCRIMINATION**

- 8.1** It is the intention of the parties covered by this Agreement to achieve the principal object in section 336(c) of the FW Act through respecting and valuing the diversity of the workforce by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

- 8.2** Accordingly, in fulfilling their obligations under the procedures in **clause 11** (Resolution of Disputes and Grievances), the parties must make every endeavour to ensure that neither the Agreement provisions nor their operation are directly or indirectly discriminatory in their effects.
- 8.3** Nothing in this clause is to be taken to affect:
- (a) any different treatment (or treatment having different effects) which is specifically exempted under the Commonwealth anti-discrimination legislation;
  - (b) an employee, employer or union pursuing matters of discrimination in any State or Federal jurisdiction, including by application to the Australian Human Rights Commission; or
  - (c) the exceptions in section 351(2) and 772(2) of the FW Act or the operation of sections 772(3) and 772(4) of the FW Act.
- 8.4** The employer will act in accordance with its obligations under:
- (a) the *Equal Opportunity Act 2010* (Vic); and
  - (b) the Victorian Charter of Human Rights and Responsibilities.

These obligations apply to the employer but do not form part of this Agreement.

## **9 RIGHT TO REQUEST FLEXIBLE WORK ARRANGEMENTS**

- 9.1** The parties recognise the importance of flexible work arrangements and family friendly work practices in maintaining a diverse, adaptive and high performing workforce. The success of flexible work arrangements requires 'give and take' and a shared responsibility between the employer and employee to make the arrangements work.
- 9.2** In accordance with and pursuant to section 65 of the FW Act, an employee may request a change in their working arrangements on the basis of the following circumstances:
- (a) the employee is the parent, or has responsibility for the care, of a child who is of school age or younger;
  - (b) the employee is a carer (within the meaning of the *Carer Recognition Act 2010*);
  - (c) the employee has a disability;
  - (d) the employee is 55 or older;
  - (e) the employee is experiencing violence from a member of the employee's family;
  - (f) the employee provides 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 the member is experiencing violence from the member's family.

Note: Examples of changes in working arrangements include changes in hours of work, changes in patterns of work and changes in location of work.

- 9.3** To avoid doubt, and without limiting **subclause 9.2**, an employee who:
- (a) is a parent, or has responsibility for the care, of a child; and

(b) is returning to work after taking leave in relation to the birth or adoption of the child;  
may request to work part-time to assist the employee to care for the child.

**9.4** An employee is not entitled to make a request under this clause unless:

- (a) for an employee other than a casual employee – the employee has completed at least 12 months of continuous service with the employer immediately before making the request; or
- (b) for a casual employee – the employee:
  - (i) is a long term casual employee of the employer immediately before making the request; and
  - (ii) has a reasonable expectation of continuing employment by the employer on a regular and systematic basis.

**9.5** A request made under this **clause 9** must be made in writing and set out details of the change sought and the reasons for the change.

**9.6** On receipt of a request by an employee under this clause, the employer must give the employee a written response within 21 days, stating whether the employer grants or refuses the request.

**9.7** The employer may only refuse the request on reasonable business grounds.

**9.8** Without limiting what are reasonable business grounds for the purposes of **subclause 9.7**, reasonable business grounds include the following:

- (a) that the new working arrangements requested by the employee would be too costly for the employer;
- (b) that there is no capacity to change the working arrangements of other employees, or recruit new employees, to accommodate the new working arrangements requested by the employee;
- (c) that it would be impractical to change the working arrangements of other employees, or recruit new employees, to accommodate the new working arrangements requested by the employee;
- (d) that the new working arrangements requested by the employee would be likely to result in a significant loss in efficiency or productivity;
- (e) that the new working arrangements requested by the employee would be likely to have a significant negative impact on customer service.

**9.9** If the employer refuses the request, the written response under **clause 9.6** must include details of the reasons for the refusal.

## PART 2 – COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION

### 10 IMPLEMENTATION OF CHANGE

- 10.1** For the purpose of this clause the following comments made by Smith C. in *CPSU, the Community and Public Sector Union v Vodafone Network Pty Ltd (Print PR911257)* are adopted:

*‘Consultation is not perfunctory advice on what is about to happen. This is common misconception. Consultation is providing the individual, or other relevant persons, with a bona fide opportunity to influence the decision maker... Consultation is not joint decision-making or even a negative or frustrating barrier to the prerogative of management to make decisions. Consultation allows the decision making process to be informed, particularly as it may affect the employment prospects of individuals.’*

- 10.2** In this clause “relevant employees” means an employee or employees who may be affected by a change referred to in this **clause 10**.

- 10.3** Where the employer is proposing to introduce a major change that is likely to have a “significant effect” on employees, such as a change to the organisation, structure, program or technology in relation to its enterprise, or the introduction of new technology or mandated changes to work practices, it will consult the relevant employees and the unions in accordance with this clause.

- 10.4** For the purposes of major change under **subclause 10.3** “significant effect” includes:

- (a) the termination of employment of employees;
- (b) major change to the composition, operation or size of the employer’s workforce or to the skills required of employees;
- (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure);
- (d) the alteration of hours of work for employees;
- (e) the need to retrain employees;
- (f) the need to relocate employees to another workplace/s;
- (g) the restructuring of jobs.

- 10.5** The employer will provide the relevant employees and the unions with the following information, in writing:

- (a) the nature of the change;
- (b) the rationale for the change; and
- (c) the expected impact on affected employees.

- 10.6** Alternative proposals provided by employees or a union must be submitted in a timely manner so as not to lead to any unreasonable delay or detrimental impact on the employer's operations and should address the rationale and benefits detailed in the employer's advice of the proposed change.
- 10.7** Where employees or a union provide alternative proposals, the employer will give prompt consideration to those alternative proposals and respond to employees or the union, including the reasons.
- 10.8** Any dispute concerning the parties' obligations under this clause will be dealt with in accordance with **clause 11** (Resolution of Disputes and Grievances).
- 10.9 Consultation about changes to rosters or hours of work**
- (a)** Where the employer proposes to change the regular roster or ordinary hours of work of an employee or employees, the employer must consult with the relevant employee and employees, and their representatives, if any, about the proposed change.
  - (b)** The employer must:
    - (i)** provide to the relevant employee or employees and their representatives, if any, all relevant information about the proposed change, including information about the nature of the change to the regular roster or ordinary hours of work and when that change is proposed to commence;
    - (ii)** provide information about what the employer reasonably believes will be the effects of the change on employees;
    - (iii)** invite the relevant employee or employees, and their representatives, if any, to give their views about the impact of the proposed change (including any impact in relation to their family or caring responsibilities); and
    - (iv)** give prompt and genuine consideration to any views about the impact of the proposed change that are given by the employee or employees concerned and/or their representatives.
  - (c)** The employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
  - (d)** The requirement to consult under this clause does not apply where an employee has irregular, sporadic or unpredictable working hours.
- 10.10** The parties may be represented for the purposes of consultation in accordance with this **clause 10**.

## **11 RESOLUTION OF DISPUTES AND GRIEVANCES**

- 11.1** Unless otherwise provided for in this Agreement, a dispute or grievance about a matter arising under this Agreement, other than termination of employment, or in relation to the NES, must be dealt with in accordance with this clause.
- 11.2** The parties may choose to be represented at any stage by a representative, including a union representative or employer's organisation.



### **11.3 Obligations**

- (a) The parties to the dispute or grievance, and their representatives, must genuinely attempt to resolve the dispute or grievance through the processes set out in this clause and must cooperate to ensure that these processes are carried out expeditiously.
- (b) Whilst a dispute or grievance is being dealt with, in accordance with this clause, work must continue in accordance with usual practice, provided that this does not apply to an employee who has a reasonable concern about an imminent risk to his or her health or safety, has advised the employer of this concern and has not unreasonably failed to comply with a direction by the employer to perform other available work that is safe and appropriate for the employee to perform.
- (c) No person covered by this Agreement will be prejudiced as to the final settlement of the dispute or grievance by the continuance of work in accordance with this clause.

### **11.4 Agreement and dispute settlement facilitation**

- (a) For the purposes of compliance with this Agreement (including compliance with this dispute settlement procedure) where the chosen employee representative is another employee of the employer, he or she must be released by the employer from normal duties for such periods of time as may be reasonably necessary to enable him or her to represent employees concerning matters pertaining to the employment relationship, including but not limited to:
  - (i) Investigating the circumstances of a dispute or an alleged breach of this Agreement or the NES;
  - (ii) Endeavouring to resolve a dispute arising out of the operation of this Agreement or the NES; or
  - (iii) Participating in conciliation, arbitration or any other agreed alternative dispute resolution process.
- (b) The release from normal duties referred to in this clause is subject to the proviso that it does not unduly affect the operations of the employer.

### **11.5 Discussion of grievance or dispute**

- (a) The dispute or grievance must first be discussed by the aggrieved employee(s) with the immediate supervisor of the employee(s).
- (b) If the matter is not settled, the employee(s) can require that the matter be discussed with another representative of the employer appointed for the purposes of this procedure.

### **11.6 Internal process**

- (a) If any party to the dispute or grievance who is covered by this Agreement refers the dispute or grievance to an established internal dispute or grievance resolution process, the matter must first be dealt with in accordance with that process. The process must be consistent with the following principles:

- (i) The rules of natural justice;
  - (ii) Provide for mediation or conciliation of the grievance;
  - (iii) Provide that the employer will take into consideration any views on who should conduct the review; and
  - (iv) Be conducted as quickly, and with as little formality, as a proper consideration of the matter allows.
- (b) If the dispute or grievance is not settled through an internal dispute or grievance resolution process, the matter can be dealt with in accordance with the processes set out below.
  - (c) If the matter is not settled either party may apply to the Fair Work Commission to have the dispute or grievance dealt with by conciliation.

#### **11.7 Disputes of a collective character**

- (a) The parties acknowledge that disputes of a collective character concerning more than one employee may be dealt with more expeditiously by an early reference to the Fair Work Commission.
- (b) No dispute of a collective character may be referred to the Fair Work Commission directly unless there has been a genuine attempt to resolve the dispute in accordance with **subclauses 11.1 to 11.6**.

#### **11.8 Conciliation**

- (a) Where a dispute or grievance is referred for conciliation, a member of the Fair Work Commission will do everything that appears to the member to be right and proper to assist the parties to agree on terms for the settlement of the dispute or grievance.
- (b) This may include arranging:
  - (i) conferences of the parties presided over by the member; and
  - (ii) for the parties to confer among themselves at conferences at which the member is not present.
- (c) Conciliation before the Fair Work Commission will be regarded as completed when:
  - (i) the parties have reached agreement on the settlement of the grievance or dispute; or
  - (ii) the member of the Fair Work Commission, conducting the conciliation, has, either of their own motion or after an application by either party, satisfied themselves that there is no likelihood that, within a reasonable period, further conciliation will result in a settlement; or
  - (iii) the parties have informed the Fair Work Commission member that there is no likelihood of agreement on the settlement of the grievance or dispute and the member does not have substantial reason to refuse to regard the conciliation proceedings as completed.

## **11.9 Arbitration**

- (a)** If the dispute or grievance has not been settled when conciliation has been completed, either party may request that the Fair Work Commission proceed to determine the dispute or grievance by arbitration.
- (b)** Where a member of the Fair Work Commission has exercised conciliation powers in relation to the dispute or grievance, the member will not exercise, or take part in the exercise of, arbitration powers in relation to the dispute or grievance if a party objects to the member doing so.
- (c)** Subject to **subclause 11.9(d)**, the determination of the Fair Work Commission is binding upon the persons bound by this Agreement.
- (d)** An appeal lies to a Full Bench of the Fair Work Commission, with the leave of the Full Bench, against a determination of a single member of the Fair Work Commission made pursuant to this clause.

## **12 WORKLOAD**

- 12.1** The employer acknowledges the benefits to both the organisation and individual employee gained through employees having a balance between both their professional and family life.
- 12.2** The employer further recognises that the allocation of work must include consideration of the employee's hours of work, health, safety and welfare. Work will be allocated so that there is not an allocation that routinely requires work to be undertaken beyond an employee's ordinary hours of work.
- 12.3** An employee or group of employees may request a review of their workload if they believe the workload is unreasonable. The request must be made in writing and set out details of the workload of the employee or group of employees and the reasons why the workload is considered unreasonable.
- 12.4** On receipt of a request by an employee or group of employees under this **clause 12**, the employer must give the employee a written response within 21 days, stating whether the employer agrees to or refuses the request.
- 12.5** If the employer refuses the request for a review, the written response under **subclause 12.4** must include details of the reasons for the refusal.
- 12.6** If the employer agrees to the request, a review of the workload of the employee or group of employee's will be conducted.
- 12.7** Following the completion of the review, the employee or group of employees and the employer will agree on any necessary adjustments that are required to be implemented to ensure the workload for the employee or group of employees is reasonable.

## PART 3 –EMPLOYMENT ARRANGEMENTS

### 13 EMPLOYMENT

#### 13.1 Basis of employment

- (a) Employees may be employed as full-time or part-time (on either an ongoing or fixed-term basis) or casual.
- (b) Provisions of this Agreement apply on a pro rata basis to part-time employees, other than reimbursement of expenses or where otherwise specified.
- (c) Employment may be at 51/52, 50/52, 49/52 or 48/52 of the 52/52 annual salary applying under **Schedule 1**. Where this occurs an employee will receive additional paid leave, as follows:

Proportion of Salary	Additional Paid Leave
51/52	38 hours (5 days)
50/52	76 hours (10 days)
49/52	114 hours (15 days)
48/52	152 hours (20 days)

#### 13.2 Usual place of work

- (a) The employer must determine a usual place or places of work for the employee.
- (b) Where the employer wishes to reassign work to the employee that will require a change to the work location as a result of a transfer or redeployment, two weeks' notice must be given or a lesser period if agreed between the employer and the employee.
- (c) If an employee believes that a proposed relocation would create demonstrable hardship, the employer must consider any alternative proposal put by the employee.

#### 13.3 Job information

- (a) As soon as practicable after the commencement of employment, the employee will be provided, in writing or electronically, with details of the job title, classification level and job statement for his or her position.
- (b) A fixed term employee must be provided, in writing or electronically, the reason for their fixed term employment, consistent with **subclause 13.7**.
- (c) The employer will ensure that there is an induction process for new employees, which includes information about the structures and policies of the employer and the opportunity for any union covered by this Agreement to explain their role and functions.

#### **13.4 Probationary period - new employee**

- (a) The employer may appoint an employee on an ongoing basis, subject to them completing a probationary period of not greater than 3 months.
- (b) At the completion of a probationary period, under **subclause 13.4(a)**, the employer will confirm, in writing, the ongoing appointment or terminate employment.
- (c) If conduct or performance issues are identified during the probationary period, the employer will counsel the employee in relation to his or her conduct or performance and will provide a written record of such counselling to the employee.
- (d) The probationary period, under **subclause 13.4(a)**, may be extended by a period of not greater than 3 months to allow the employee to address performance issues or where non-attendance at work has limited the employer's capacity to properly assess the employee.
- (e) Subject to the application of **subclause 13.4(c)**, the employer may terminate employment during a probationary period.
- (f) Where employment is terminated during or at the end of a probationary period, the employee must receive 2 weeks' notice or pay in lieu of such notice, except in the case of serious misconduct as provided for under the FW Act and regulations.

#### **13.5 Part-time employment**

- (a) Part-time employment is for not less than 3 consecutive hours in any day worked, except:
  - (i) where the employee works from home by agreement with the employer; or
  - (ii) in exceptional circumstances with the agreement of the employee.
- (b) Part-time employment arrangements must specify:
  - (i) the days in each fortnight the employee will work;
  - (ii) the start and finish times on the days which the employee will work;
  - (iii) the number of hours the employee will work on each day he or she works; and
  - (iv) agreed processes for the variation of hours of work.

#### **13.6 Casual employment – when it may be used**

- (a) Casual employment will not be used for the purpose of undermining the job security of ongoing employees or as a means of avoiding obligations under this Agreement.
- (b) Therefore, the employment of casuals in all areas covered by this Agreement is limited to meeting short-term work demands or specialist skill requirements which are not continuing and would not be anticipated to be met by existing staffing levels.

- (c) Casual employment will be for not less than 3 consecutive hours in any day worked, except:
  - (i) where the employee works from home by agreement with the employer; or
  - (ii) in exceptional circumstances.

### **13.7 Fixed-term employment – when it may be used**

- (a) Fixed-term employment will not be used for the purpose of undermining the job security or conditions of full-time ongoing employees.
- (b) Fixed-term employment is limited to:
  - (i) replacement of staff proceeding on approved leave;
  - (ii) meeting fluctuating client and staffing needs and unexpected increased workloads;
  - (iii) undertaking a specified task which is funded for a specified period;
  - (iv) filling a vacancy resulting from an employee undertaking a temporary assignment or secondment;
  - (v) temporarily filling a vacancy where, following an appropriate selection process, a suitable ongoing employee is not available; or
  - (vi) filling a vacant role whilst a review of the area is undertaken, provided that such appointment does not exceed a period of 12 months.
- (c) In other than exceptional and unforeseen circumstances, fixed term appointments will be for a maximum of three years, subject to **clause 40** (Parental Leave).
- (d) Where the union or affected employees identify a fixed term position that it is believed does not meet the criteria established in **subclauses 13.7(b)** and **13.7(c)**, it will refer such a position to the employer. If, as a result of discussions, the matter cannot be resolved, it may be dealt with under **clause 11** (Resolution of Disputes and Grievances).

## **14 TERMINATION OF EMPLOYMENT**

### **14.1 Termination by employer**

- (a) The provisions of s117 of the FW Act apply, except where varied by this clause.
- (b) Subject to this Agreement the employer may only terminate the employment of an employee for the reasons outlined in s33 of the *Public Administration Act 2004* (Vic).

### **14.2 Notice of termination by employer**

- (a) In order to terminate the employment of an employee, other than a casual employee, the employer must give to the employee the following notice period:

<b>Employee's period of continuous service with the employer</b>	<b>Minimum period of notice</b>
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Not more than 3 years	2 weeks
More than 3 years	4 weeks

- (b) In addition to this notice, employees over 45 years of age at the time of the giving of the notice, with not less than two years' continuous service, are entitled to an additional week's notice.
- (c) Payment in lieu of notice will be made if the appropriate notice period is not required to be worked. Employment may be terminated by the employee working part of the required period of notice and by the employer making payment for the remainder of the period of notice.
- (d) In calculating any payment in lieu of notice, the salary an employee would have received for the ordinary time they would have worked during the period of notice had their employment not been terminated will be used.
- (e) The period of notice in this clause will not apply in the case of dismissal for conduct that justifies instant dismissal.

### **14.3 Employee resignation**

Unless otherwise agreed by the employer and an employee, an employee, other than a probationary employee, may resign at any time by giving a minimum of four weeks' written notice to the employer.

### **14.4 Abandonment of employment**

If an employee is absent for more than 20 working days:

- (a) in circumstances where the employer could not reasonably, after due enquiry, have been aware of any reasonable grounds for the absence; and
- (b) without the permission of the employer; and
- (c) without contacting the employer to provide an explanation for the absence,

the employer is entitled to treat the employee as having resigned and the employment as having been terminated by the employee at his or her initiative.

### **14.5 Statement of employment**

- (a) The employer must, upon receipt of a request from an employee whose employment will cease or has ceased, provide to the employee a written statement specifying the period of his or her employment and the classification of or the type of work performed by the employee.

- (b) Where the employer terminates an employee's employment, the employer will, on the employee's request, provide a written statement of the reasons for dismissal.

#### **14.6 Rights not limited**

This clause does not limit the rights of employees to pursue any other legal remedy in respect of termination of employment.

### **15 COSTS OF EMPLOYMENT RELATED LEGAL PROCEEDINGS**

- 15.1** If an employee is required to attend or participate in a legal proceeding, hearing, examination, inquiry or investigative process on matters directly related to the legitimate and proper performance of the employee's duties, the employer must meet the employee's reasonable legal costs relating to their attendance.
- 15.2** Where legal proceedings are initiated against an employee as a direct consequence of the employee legitimately and properly performing his or her duties, the employer will not unreasonably withhold agreement to meet the employee's reasonable legal costs relating to the defence of such proceedings.
- 15.3** Where, as a direct consequence of the employee legitimately and properly performing his or her duties, it is necessary to obtain an intervention order or similar remedy against a client, the employer will not unreasonably withhold agreement to meet the employee's reasonable legal costs in obtaining the order or other remedy.
- 15.4** An employee's immediate supervisor must ensure that an application to meet reasonable legal costs will be referred to the appropriate person or body to enable the application to be decided expeditiously.

### **16 HOME BASED WORK**

- 16.1** Home based work arrangements may be agreed between the employer and an employee on a case by case basis.
- 16.2** The employer will consider requests for home based work arrangements in accordance with **clause 9**.

### **17 REDEPLOYMENT**

Redeployment Principles are set out in **Schedule 3**.

### **18 UNSATISFACTORY WORK PERFORMANCE AND MISCONDUCT**

#### **18.1 Unsatisfactory work performance**

- (a) Where the employer commences unsatisfactory performance procedures, such procedures must be consistent with the principles of procedural fairness.



- (b) The purpose of unsatisfactory performance procedures is to improve the employee's performance to the required standards. It is important that the employee be given opportunity and appropriate support to improve his or her work performance. Any assessment of the employee's work performance must be made against the standards of work and/or conduct expected of the employee at his or her grade level.
- (c) For the purpose of clarity procedures consistent with the principles of procedural fairness will include the following:
  - (i) Advising the employee of the purpose of any meeting called to commence unsatisfactory performance procedures.
  - (ii) Advising the employee that he or she may invite a support person or representative to the meeting and any other meeting that takes place under the unsatisfactory performance process.
  - (iii) Providing the employee with details of the areas of unsatisfactory performance and any other information or material appropriate to the process.
  - (iv) Providing the employee with an opportunity to respond within a reasonable timeframe.
  - (v) Giving appropriate consideration to any response from the employee.
- (d) An employee who is dissatisfied with procedures applied to him or her under this clause may have the matter dealt with in accordance with **clause 11** (Resolution of Disputes and Grievances).

## **18.2 Alleged misconduct**

- (a) The procedures to investigate alleged misconduct by an employee must be consistent with the principles of procedural fairness.
- (b) For the purpose of clarity procedures consistent with the principles of procedural fairness will include the following:
  - (i) Advising the employee of the purpose of any meeting called for the purpose of investigating an allegation of misconduct.
  - (ii) Advising the employee that he or she may invite a support person or representative to the meeting and any other meeting that takes place as part of the investigation of alleged misconduct.
  - (iii) Providing the employee with details of the alleged misconduct and any other information or material appropriate to the process.
  - (iv) Providing the employee with an opportunity to respond within a reasonable timeframe.
  - (v) Giving appropriate consideration to any response from the employee.

- (c) An employee who is dissatisfied with procedures applied to them under this clause may have the matter dealt with in accordance with **clause 11** (Resolution of Disputes and Grievances), except in the case of dismissal for serious misconduct.

## **PART 4 – CLASSIFICATION, SALARIES AND RELATED MATTERS**

### **19 CLASSIFICATION STRUCTURE**

**19.1** Employees will be employed within one of the following Grades in accordance with the descriptors detailed in **Schedule 2**:

- (a) Nurse Grade 3B;
- (b) Nurse Grade 4A;
- (c) Nurse Grade 4B;
- (d) Senior Nurse Grade; and
- (e) Nurse Program Manager Grade.

**19.2** An employee may:

- (a) Request a review of the grade level of his or her position.
- (b) Where an employee requests a review of the grade level of his or her position the employer will undertake an assessment of the required duties against the grade descriptors within **Schedule 2** and advise the employee of the outcome.
- (c) An employee who is not satisfied with the outcome of his or her request for a review under this clause may have the matter dealt with in accordance with **clause 11** (Resolution of Disputes and Grievances).

### **20 SALARIES**

**20.1** An employee, other than a casual employee, will be paid the salary applicable to the classification level of his or her position, as specified in **Schedule 1**.

**20.2** Notwithstanding **subclause 20.1**, where employment occurs in accordance with **clause 13.1(c)** the annual salary applicable under **Schedule 1** is proportioned relative to the amount of additional paid leave applying to the employment arrangement.

**20.3** A person employed on a casual basis will be paid an hourly rate derived from the full-time salary applying to the minimum salary sub-division of the grade level at which he or she is employed, plus a 25% loading. The 25% loading is paid in lieu of any paid leave entitlements (other than long service leave) and public holidays. Except as expressly provided for, all other provisions of this Agreement apply to casual employees.

**20.4** Appointment will be at the base of the grade level unless otherwise approved by the employer.

## **21 SALARY PROGRESSION**

**21.1** Within each grade level there are salary points as detailed in **Schedule 1**.

**21.2** Salary points are not points of defined work value. Progression within a grade will not be automatic, consistent with wage fixing principles. Progression to a higher salary point within a grade will occur where an employee:

- (a) has participated in the performance and development process in **subclause 21.4**; and
- (b) is assessed at his or her annual performance review as “meeting the progression criteria”.

### **21.3 Top of Grade payment**

- (a) An employee at the top of their Grade will receive a top of Grade payment where the employee is assessed at their annual performance review as meeting the “progression criteria” outlined in the employee’s performance plan.
- (b) The top of Grade payment will be equal to one per cent of the employee’s salary as at 30 June of the relevant performance cycle.

### **21.4 Progression cycle and review**

- (a) The progression cycle is 12 months (1 July to 30 June).
- (b) The “progression criteria” are to be agreed with each employee at the start of the progression cycle or upon the employee’s commencement in a role. The “progression criteria” may be adjusted by agreement during the progression cycle.
- (c) The progression criteria for an individual employee are to be developed using the performance standards appropriate for the applicable grade as outlined in **subclause 21.5** (Performance Standards).
- (d) All employees can expect informal and formal feedback about their performance throughout the progression cycle with their supervisor or manager.
- (e) A performance review is undertaken at the end of each progression cycle. Performance against the progression criteria is assessed at that time.
- (f) An employee will be eligible to access progression or top of grade payment where they have been in their role for 3 months or more, except where an employee is on probation and has been in their role for less than 6 months at the time the performance review is undertaken.
- (g) Where an employee has been acting in a higher position for a period of twelve months, the employee will be eligible for consideration for progression payment for continued performance of the higher duties activities beyond 12 months.
- (h) In the event an eligible employee, acting in a higher position, is progressed to the next progression step/amount in that higher position, on returning to their substantive position they will be deemed to have progressed to the next progression step/amount within their substantive Grade (if applicable).

## **21.5 Performance standards**

- (a)** The performance standards detailed below must be weighted and combined, appropriate to the role, to make up an individual's "progression criteria".
- (b)** Where "skills acquired" is a performance standard, management should facilitate the individual's ability to undertake appropriate learning and development.
- (c)** No disadvantage will accrue to employees where learning and development opportunities are not available.
- (d)** Performance standards for Nurse Grades 3B, 4A and 4B:
  - (i)** learning and development;
  - (ii)** professionalism;
  - (iii)** achieving the performance target; and
  - (iv)** recognised experience and efficiency acquired through the job.
- (e)** Performance standards for Senior Nurse Grade and Nurse Program Manager Grade:
  - (i)** learning and development;
  - (ii)** achieving the performance targets; and
  - (iii)** leadership and/or management professionalism.
- (f)** The parties acknowledge that within Nurses Grades 3B, 4A and 4B the progression criteria will not be as onerous as those which will be required for Senior Nurse Grade and Nurse Program Manager Grade. However, it is expected that in setting agreed progression criteria the overwhelming majority of persons will achieve the objectives and should move through the salary points. This is to be contrasted with persons in the Senior Nurse Grade and Nurse Program Manager Grade. In these grades agreed objectives will include measures of excellence and skill acquisition commensurate with the high level of responsibility. It is expected that progression at these levels will be both more challenging and difficult to achieve.
- (g)** Central to the progression will be the need for managers and staff to identify what should, and can, be delivered to warrant progression through a combination of capacity, productivity, performance and professionalism. This interaction between managers and staff gives authority and integrity to the structure and its sustainability in the long term.

## **22 SALARY INCREASE**

### **22.1 Salary increase**

Employees will receive a 2.5% increase in salary effective 1 September 2020.

**22.2** The salary increase outlined in **subclause 22.1** has been applied to the salaries and relevant allowances detailed in **Schedule 1**.

### **22.3 Sign-on Payment**

On commencement of this Agreement in accordance with clause 4, employees will be paid a once off sign-on payment of \$676, pro-rata for part-time employees.

## **23 PAYMENT OF SALARIES**

**23.1** Salaries, allowances, penalty or overtime payments due to an employee must be paid by the employer by fortnightly electronic direct credit to a bank account, credit union or building society account nominated by the employee. In exceptional circumstances, including significant delays in payment of salary, the employer will make provision for off-line payments.

**23.2** Where a normal payday falls on a public holiday the direct credit to the employee's nominated account must be made no later than the last working day prior to the public holiday.

**23.3** Employees must be provided, either in writing or electronically, with details of each pay regarding the make-up of their remuneration and any deductions.

**23.4** By agreement with the employer, the employee may authorise deductions from salary for forwarding to superannuation funds.

**23.5** In the event of an overpayment of salary, allowance, loading or other payment, the employer must advise the employee. Similarly, the employee must advise the employer if he or she knows there has been an overpayment. Where agreement cannot be reached on a repayment arrangement, the employer may recover the overpayment by instalments to be paid in accordance with the *Financial Management Act 1994* (Vic) as amended from time to time or any successor to that Act.

## **24 SALARY PACKAGING**

- 24.1** An employee may enter into a salary packaging arrangement with the employer using pre-tax salary in respect of superannuation, a novated lease on a vehicle and/or the payment of medical benefits insurance. In the case of salary sacrifice to State Government defined benefit superannuation schemes, arrangements must comply with State legislation.
- 24.2** The employer may also agree to offer employees access to a broader range of salary packaged benefits. The additional benefits which may be packaged under such arrangements may include, but are not limited to:
- (a) mobile telephones;
  - (b) computers (note book and laptop only);
  - (c) membership fees and subscriptions to professional associations;
  - (d) home office expenses;
  - (e) financial counselling fees;
  - (f) disability/income protection insurance premiums; and
  - (g) self-education expenses.
- 24.3** All costs associated with salary packaging, including reasonable administrative costs, are to be met from the salary of the participating employee.

## **25 ALLOWANCES**

### **25.1 First aid allowance**

Where an employee, in addition to his or her normal duties, agrees to be appointed by the employer to perform first aid duties:

- (a) the employee must hold a current first aid certificate issued by St John Ambulance Australia or an equivalent qualification; and
- (b) the employee will be paid an annual allowance in accordance with **subclause 2.1 of Schedule 1**.

### **25.2 Higher duties allowance**

#### **(a) When does a higher duties allowance apply?**

A higher duties allowance will be paid where an employee is required to undertake all or part of the duties of a higher grade position for a period longer than 5 consecutive working days, unless the employer approves a lesser period.

**(b) Level of allowance**

The level of the allowance will be not less than the normal salary of the employee and salary sub-division 1 of the higher grade level and will be in proportion to the extent the duties of the higher position are performed.

**(c) Leave while performing higher duties**

Higher duties will be paid during a period of paid leave, provided the higher duties would have continued but for the employee taking leave.

**25.3 Language allowance**

**(a)** Where the employee, in addition to his or her normal duties, agrees to be appointed by the employer to use their skills in a second language to assist members of the public who have low English proficiency:

- (i)** the employee must hold a current accreditation from the National Accreditation Authority for Translators and Interpreters (NAATI); and
- (ii)** the employee will be paid an annual allowance in accordance with **subclause 2.2 of Schedule 1**.

**(b)** The employer will pay the cost of the NAATI pre-testing workshop.

**(c)** The employer will also meet the cost of the NAATI test, up to two times per individual per level of accreditation. The employee must apply annually for renewal of the allowance.

**(e)** The employer will assess the employee's application to determine whether the employer still requires the employee to perform interpreting duties.

**25.4 Stand-by/recall allowance**

**(a)** The employer may require an employee to be on stand-by outside the ordinary hours of duty of the employee to perform work away from their usual place or places of work. The employee may also be required to be recalled to their usual place or places of work.

**(b)** The employer will, in consultation with the employee, establish a roster for stand-by duty.

**(c)** The employee may refuse to be on stand-by where this may result in the employee working hours which are unreasonable, having regard to:

- (i)** any risk to the employee's health and safety;
- (ii)** the employee's personal circumstances, including family responsibilities;
- (iii)** the needs of the workplace;
- (iv)** the notice (if any) given by the employer of the stand-by and by the employee of his or her intention to refuse it; and
- (v)** any other relevant matter.

- (d) An employee on stand-by:
  - (i) must be able to be contacted immediately by an agreed means of communication;
  - (ii) must be able to travel to their usual place or places of work within a reasonable time;
  - (iii) will, if required to be recalled to work, be provided by the employer with appropriate transport or be reimbursed travel expenses in accordance with **clause 26** of this Agreement; and
  - (iv) must be fit for duty.
- (e) An employee who is required to be on stand-by in accordance with this **subclause 25.4** will be paid an allowance in accordance with **subclause 2.3** of **Schedule 1**.
- (f) Payment of a stand-by allowance in accordance with this **subclause 25.4** is subject to the following:
  - (i) The allowance is payment for being available to perform duty and will include initial limited response to a telephone call or email, as long as the subject of that telephone call or email does not require further following up.
  - (ii) All work after the initial limited response to a telephone call or email will be remunerated as overtime in accordance with **clause 30**. Subject to **subclause 25.4(f)(iii)**, the minimum overtime payment in **clause 30.9** does not apply. Overtime payments will be paid as worked.
  - (iii) An employee who is required to return to their usual place or places of work is also entitled to the minimum overtime payment in **clause 30.9**.
- (g) The stand-by allowance does not apply where stand-by is incorporated into total remuneration or is otherwise compensated.

## **26 REIMBURSEMENT OF EXPENSES**

### **26.1 General provisions**

- (a) The employer will reimburse the employee his or her reasonable out of pocket expenses actually and necessarily incurred in the course of his or her authorised duties.
- (b) The employer must apply the rulings of the Commissioner of Taxation (Australian Tax Office) relating to reasonable allowances in determining the maximum rates payable, unless otherwise agreed.
- (c) The amount of an expense will be considered reasonable where it does not exceed the relevant amounts set by the Australian Tax Office as adjusted from time to time.



## **26.2 Allowable expenses**

Allowable expenses include:

- (a) travelling, accommodation, meals and other incidental expenses associated with an overnight absence from home or part day duties away from the normal work location;
- (b) expenses incurred in using private mobile and home phones in accordance with **subclause 26.3**; and
- (c) expenses incurred in using private vehicles in accordance with **subclause 26.4**.

## **26.3 Private mobile and home phone use**

- (a) An employee, required to use his or her private mobile phone or home phone in the course of their employment, will be reimbursed for work-related calls under their plan.
- (b) The employee must obtain the prior approval of the employer before using their private mobile or home phone during the course of their employment.
- (c) Following use, the employee must submit an itemised statement of the calls made and their cost.

## **26.4 Private motor vehicle use**

- (a) An employee, required to use his or her private motor vehicle in the course of his or her employment, will be reimbursed for kilometre costs and any other motor vehicle reimbursement expenses incurred in the course of the employee's employment and authorised by the employer.
- (b) The employee must obtain the prior approval of the employer before using their private motor vehicle during the course of their employment.
- (c) Following use, the employee must submit a declaration stating the date, the purpose of the trip, the number of kilometres travelled and the type of vehicle used.
- (d) The rates payable in respect of motor kilometre costs will be the rates determined by the Australian Tax Office as adjusted from time to time.

## **26.5 Expense claims**

- (a) An employee must submit official receipts as soon as practical after the event as evidence of expenditure incurred, except where the employee uses his or her own motor vehicle for work purposes, in which case the employee will submit a declaration in accordance with **subclause 26.4(c)**.
- (b) A declaration from the employee that the expense was incurred may be accepted if the receipt is lost or misplaced, and suitable verification can be made. A declaration from the employee that an incidental expense was incurred may be accepted if the employer and the employee agree that the obtaining of a receipt was impractical.

- (c) The employer will pay the employee money owing under this clause in a manner to be agreed between the employer and employee as soon as practicable, but not later than two pay periods after the employee submits a claim.
- (d) Upon request, the employer will provide an advance for the expected costs associated with work related travel or any other exercise where an employee is likely to incur work related expenses. As soon as practicable after the event, the employee will provide the employer with an account of all expenses incurred together with receipts (and where necessary a statement) together with any balance owed to the employer.

## 26.6 Excess travelling time

An employee who is temporarily required to undertake duties at a location other than his or her usual place or places of work will have any period of additional travelling time regarded as time worked.

## 26.7 Relocation of place of work

- (a) Subject to **subclause 26.7(c)**, an employee who is required by the employer to travel to a new work location as a result of:
  - (i) transfer or redeployment; or
  - (ii) a change of work location resulting from major change under **clause 10.3**
 will be paid a once only allowance in compensation for all disturbance factors arising not otherwise provided for in this agreement.
- (b) An allowance under this **subclause 26.7** will be paid in accordance with **subclause 2.4 of Schedule 1**, subject to the following:
  - (i) payment of the allowance amount for the first 30 minutes of additional total daily travel time required or 30 kilometres additional daily distance or part thereof; and
  - (ii) a further payment of the allowance amount for each additional 30 minutes or 30 kilometres or part thereof.
- (c) This **subclause 26.7** does not apply where the total additional distance to be travelled is 10 kilometres or less.

## 26.8 Residential relocation principles

Where the employer considers that it is reasonable and necessary for an employee to move residence as a result of relocation from one work location to another, and the relocation arises from promotion or transfer as a result of an advertised vacancy, or redeployment, the employee will receive:

- (a) up to three days' paid leave associated with the relocation; and
- (b) reimbursement of reasonable expenses associated with the relocation as per **subclause 26.9**.

## **26.9 Reasonable relocation expenses**

Relocation expenses include reasonable expenses directly incurred by the employee and his or her family as a result of:

- (a) the journey to the new location, including meals and accommodation;
- (b) removal, storage and insurance; and
- (c) selling and purchasing of a comparable residence.

## **27 SUPERANNUATION**

The employee, regardless of age, will be offered by the employer membership of a complying superannuation fund for the purposes of the *Superannuation Industry (Supervision) Act 1993* (unless they are a member of a Victorian exempt public sector superannuation scheme). The employer will contribute, or will be deemed to contribute, to this fund or another approved fund an amount in accordance with the Commonwealth *Superannuation Guarantee Administration Act 1992*.

## **PART 5 – HOURS OF WORK AND RELATED MATTERS**

### **28 HOURS OF WORK**

**28.1** This clause does not apply to an employee who is employed to undertake rostered shift work and whose ordinary hours of work are set in accordance with **clause 29**.

#### **28.2 Ordinary hours of work**

The ordinary hours of work for each employee, except for casual or part-time employees, will average 76 (exclusive of meal breaks), to be worked over an average of no more than 10 days per fortnight.

#### **28.3 Spread of hours**

The ordinary hours of work will, by agreement, be worked flexibly to best meet both the employer's work requirements and the employee's personal and/or family circumstances.

#### **28.4 Arrangement of hours:**

- (a)** The days and hours of work will be those agreed between the employer and the employee. Either party may seek to alter the days or hours of duty. Agreement to the alteration will not be unreasonably withheld, taking into account the personal/family circumstances of the employee and the work requirements of the employer. In the absence of agreement, either party may utilise the procedures in **clause 11** (Resolution of Disputes and Grievances).
- (b)** The employer must not require an employee to:
  - (i)** perform ordinary hours of work outside the times of 7.00 am to 7.00 pm on any weekday; or
  - (ii)** perform ordinary hours of work on Saturdays, Sundays or Public Holidays.
- (c)** In determining the days and hours of duty, both the employer and the employee accept that the employee is eligible to use the flexibility of these arrangements to take time off by agreement, subject to meeting the specified leave requirement(s) and not unduly affecting the work requirements of the employer. Agreement by the employer will not be unreasonably withheld.

### **29 SHIFT WORK**

#### **29.1 What is shift work?**

- (a)** Shift work is when an employee is required to perform rostered ordinary hours of work averaging 76 hours per fortnight. Ordinary hours of work must include as part of a regular pattern or regular roster cycle:
  - (i)** a Saturday; or
  - (ii)** a Sunday; or

- (iii) a public holiday, or
  - (iv) an afternoon/night shift.
- (b) For the purpose of this **clause 29**:
  - (i) Afternoon shift for a full or part-time employee means a period of duty commencing on or after 1.00 pm and before 8.00 pm;
  - (ii) Night shift for a full or part-time employee means a period of duty commencing on or after 8.00 pm and before 6.00 am.

## **29.2 What shift allowances are paid?**

The following shift allowances will be paid:

### **(a) Saturday (except a public holiday)**

When required to perform shift work on a Saturday (except a public holiday), an additional allowance at the rate of 50 per cent of the appropriate hourly rate for each hour of duty.

### **(b) Sunday (except a public holiday)**

When required to perform shift work on a Sunday (except a public holiday), an additional allowance at the rate of 100 per cent of the appropriate hourly rate for each hour of duty.

### **(c) Public holiday**

- (i) When required to perform shift work on a public holiday, an additional allowance at the rate of 150 per cent of the appropriate hourly rate for each hour of duty; or
- (ii) With the agreement of the employer, the employee may elect to be paid an additional allowance at the rate of 50 per cent of the appropriate hourly rate for each hour of duty and be granted one day's leave in lieu of full payment under **subclause 29.2(c)(i)**.

### **(d) Afternoon or night shift (except public holidays)**

- (i) When required to perform shift work on an afternoon or night shift on any day Monday to Friday inclusive (except a public holiday), an additional allowance at the rate of 15 per cent of the appropriate hourly rate for each hour of duty; and
- (ii) When required to perform such duty continuously for a period exceeding four weeks on a shift:
  - commencing before 8.00 pm and continuing beyond 6.00 am;
  - falling wholly within the hours of 8.00 pm and 6.00 am; or
  - commencing between 8.00 pm and midnight and lasting for at least eight hours,

an additional allowance at the rate of 15 per cent of the appropriate hourly rate for each hour of duty in addition to the allowance specified in **subclause**

**29.2(d)(i).** This additional payment will not apply where, but for mutual agreement, the employee would be required to work rotating shift duty.

- (e) A Maternal and Child Health Line nurse who is required to perform the sole role on night shift will be paid an allowance to bring their salary to the top salary point of Grade 4B on each occasion that an employee performs such a role on a night shift. This allowance is in addition to any night shift penalty payment due to the employee under this **clause 29**.

### **29.3 Substitute leave for public holidays**

- (a) Where the nature of the employment of employees does not permit the observance of public holidays, as prescribed under **clause 37**, as they occur, the employee will be granted substituted leave for these days. For a part-time employee, payment for a public holiday granted as a days' leave will be made only in respect of those public holidays on which the part-time employee would have worked had there been no public holiday.
- (b) An employee who is rostered to perform ordinary duty on a public holiday but who is on paid leave on that day will be granted one day's leave in lieu of the public holiday.
- (c) An employee whose rostered day off duty falls on a public holiday will be granted one day's leave in lieu of the public holiday.
- (d)
  - (i) An employee and the employer may agree on, payment in lieu for any substituted leave accrued in accordance with this **subclause 29.3**; provided that
  - (ii) the employer may elect to pay the employee in lieu of any accrued substitute leave that exceeds the number of days accrued in any one year.

## **30 OVERTIME**

**30.1** Overtime means the hours worked at the direction of the employer, which are:

- (a) in addition to an employee's ordinary daily hours of work on any day established in accordance with **clause 28**; or
- (b) for shift workers, in addition to a shift worker's rostered ordinary hours of work, as defined by **clause 29.1**.

### **30.2 Reasonable hours of work**

- (a) Subject to **subclause 30.2(b)** an employer may require an employee to work reasonable overtime at overtime rates of pay.
- (b) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:
  - (i) any risk to the employee's health and safety;

- (ii) the employee's personal circumstances including family responsibilities;
- (iii) the needs of the workplace;
- (iv) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
- (v) any other relevant matter.

### **30.3 Requirement to pay overtime**

- (a) An employee who works overtime must be paid at the appropriate overtime rate in accordance with **subclauses 30.5 and 30.6**. Exceptions are provided at **subclause 30.4**.
- (b) An employee may request that time be granted in lieu of payment. If the employer agrees, time in lieu of payment will accrue in accordance with **subclause 30.8**.

### **30.4 Exceptions**

**Subclause 30.3** does not apply to an employee who is employed:

- (a) at Senior Nurse Grade; or
- (b) at Nurse Program Manager Grade;
- (c) part-time, subject to the application of **subclause 30.10**.

### **30.5 Overtime – rates of payment**

Where an employee is paid for overtime work pursuant to this **subclause 30** the following overtime rates will apply:

<b>For overtime work on</b>	<b>Overtime rate (% of ordinary hourly rate)</b>
Monday to Saturday – first three hours	150%
Monday to Saturday – after first three 3 hours	200%
Sunday – in all cases, except public holidays	200%
Public holiday – determined in accordance with clause 34	250%

### **30.6 Maximum salary against which overtime is paid**

The ordinary hourly rate of payment for overtime will be calculated on the lower of either the employee's salary or the salary amount specified in **subclause 2.5** of **Schedule 1**.

### **30.7 Rate of accrual for time in lieu of overtime payment**

Where an employee is granted time in lieu of payment for overtime work, the time will accrue on the following basis:

- (a) in the case of overtime worked Monday to Friday – on an hour for hour basis; and

- (b) in the case of overtime worked on weekends or public holidays – two hours of time in lieu per hour worked.

### **30.8 How does time in lieu apply?**

- (a) Time in lieu is to be taken at a time mutually agreed. The employer will endeavour to permit the employee to take time in lieu at a time of the employee's choosing.
- (b) Time in lieu may accumulate to a maximum of 38 hours. An employee who has accumulated 38 hours of time in lieu must be paid overtime for any additional overtime hours worked.
- (c) By agreement, the employee may convert 38 hours of accrued time in lieu to one additional week of converted leave, to be taken at a time mutually agreed. In this case, time in lieu may continue to accrue. By agreement, all or any part of the accumulated converted leave may be paid out.
- (d) Upon termination for any reason, an employee will be paid out any time in lieu accrued to his or her credit as if it were time worked.

### **30.9 Minimum period of overtime**

An employee must be paid (unless time in lieu is agreed) for a minimum of three hours when he or she is either recalled to duty or on stand-alone overtime.

### **30.10 Application of overtime provisions to part-time employees**

- (a) A part time employee, other than a shift worker, must be compensated for overtime in accordance with **clause 30.3** for work performed:
  - (i) after 38 hours has been worked in any week; or
  - (ii) outside the spread of hours in **clause 28.3**.
- (b) Additional hours performed by a part-time employee, which are performed both before 38 hours has been worked in any week and within the spread of hours in **clause 28.3**, will be compensated at the employee's ordinary rate, unless otherwise agreed with the employer. Additional hours compensated at the part-time employee's ordinary rate will count as service for leave accrual.
- (c) For the avoidance of doubt the provisions of **subclause 30.2** apply to a part-time employee when required to undertake work outside their normal hours of employment.

### **30.11 Overtime meal payment**

- (a) An employee will be eligible to receive an overtime meal payment if the employee is required to work a period of overtime, which:
  - (i) is immediately before or after a scheduled period of ordinary duty and is more than two hours in duration; or
  - (ii) is a stand-alone period of overtime that is four hours or more in duration.



- (b) The overtime meal payment payable to an employee is as set out in **subclause 2.6** of **Schedule 1**.

### **30.12 Rest period after overtime**

Except in an emergency, an employee must not be required to perform:

- (a) a further period of overtime duty; or
- (b) a period of ordinary duty; or
- (c) a further period of scheduled stand-by duty where:
  - (i) either the employee has not been provided with an eight hour rest period between the time of completion of one period of duty and the commencement of the next; or
  - (ii) the employee has not been provided with an eight hour rest period within the preceding 24 hours from the time of the commencement of the stand-by duty.
- (d) The employer must not make a deduction from normal salary where an employee is released from normal duty to enable the employee to observe a rest break set out above.
- (e) An employee required to work as a result of an emergency situation, during or after a rest period is due, will receive overtime compensation in accordance with this Agreement.

## **31 MEAL BREAKS**

- 31.1** The employer will grant meal breaks at times suitable to operational requirements, taking into account the wishes of the employee. The number and starting and finishing times of meal breaks will be specified.
- 31.2** Except where otherwise permitted by this clause, the employee will not be required to work for more than five hours without an unpaid meal break unless the employee and the employer otherwise agree. The length of the meal interval must be at least thirty minutes.
- 31.3** If for operational or emergency reasons the employee is required to remain on duty, he or she may arrange to take meals during their hours of duty without a specific meal break.
- 31.4** Where agreement cannot be reached, as specified in **subclause 31.2**, and the employee is required by his or her supervisor to work through their meal break, in accordance with **subclause 31.3**, time in lieu or payment for overtime will be approved in accordance with this Agreement.
- 31.5** If for operational reasons it is impractical for all employees within a work group to observe the same time for the taking of a meal break, meal breaks may be staggered.

## **32. CHILDCARE**

Where employees are required by the employer to work outside their ordinary hours of work, and where less than 24 hours' notice of the requirement to perform such overtime work has been given by the employer, the employee will be reimbursed for reasonable childcare expenses incurred. Evidence of expenditure incurred by the employee must be provided to the employer as soon as possible after the working of such overtime.

## **PART 6 – LEAVE**

### **33 ANNUAL LEAVE**

- 33.1** An employee, other than a casual employee, will receive 152 hours (20 days) annual leave for each year of employment. The entitlement accrues on a daily basis.
- 33.2** Annual leave may be taken for a period agreed between an employee and the employer taking into account the operational requirements of the employer and the needs of the employee. The employer will not unreasonably refuse to agree to a request by the employee to take paid annual leave.
- 33.3** An employee may request that the whole or any part of his or her annual leave be taken on half pay for a period equal to twice the period to which the employee would otherwise be entitled.
- 33.4** On cessation of employment an employee will be paid for any unused annual leave entitlement and any unpaid leave loading, calculated in accordance with **subclause 33.7**.
- 33.5** Where an employee, other than a casual employee, undertakes shift work as his or her ordinary hours of duty, in accordance with **clause 29**, the employee will receive additional annual leave as follows:
- (a)** where his or her ordinary hours of duty include at least ten Sunday shifts per annum, an additional 38 hours annual leave; or
  - (b)** where his or her ordinary hours of duty include less than ten Sunday shifts per annum, an additional 3.8 hours annual leave for each Sunday shift.
- 33.6** An employee, eligible for additional annual leave in accordance with **subclause 33.5** may elect, with the approval of the employer and subject to law, to receive payment at his or her ordinary rate of pay in lieu of the additional annual leave, provided that:
- (a)** the payment in lieu of the additional annual leave:
    - (i)** does not result in the employee's remaining accrued annual leave being less than four weeks; and
    - (ii)** is not less than that which would have been payable to the employee had they taken the additional annual leave at the time that the payment is made; and

- (b) each payment in lieu of the additional annual leave is the subject of separate written agreement between the employee and the employer.

**33.7** Each employee will, in respect of annual leave taken be entitled to be paid, in addition to his or her salary, the greater of the following two amounts:

- (a) an allowance at the rate of 17.5% of the employee's salary for the period of annual leave, including additional annual leave credited under **subclause 33.5**; or
- (b) an allowance equal to any additional payments to which the employee would be entitled for shift, Saturday or Sunday duty, which the employee would have been required to perform if he or she was not on annual leave,

provided the annual salary used to calculate the annual leave loading entitlement cannot exceed the amount specified in **clause 2.7** of **Schedule 1**.

**33.8** Any period of personal/carer's leave or a public holiday that falls within a period of annual leave will not be debited from the annual leave credits of the employee.

## **34 PURCHASED LEAVE**

**34.1** Notwithstanding any other provision of this Agreement, an employee may, with the agreement of the employer, purchase additional paid leave (purchased leave) that is in addition to the annual leave entitlement provided for under **clause 33.1**.

**34.2** Where the employer and an employee agree to a purchased leave arrangement under this **clause 34**, additional paid leave will be allocated based on the employee receiving a proportion of the salary specified in **clause 1** of **Schedule 1**, as follows:

<b>Proportion of Salary</b>	<b>Additional Paid Leave</b>
51/52	38 hours (5 days)
50/52	76 hours (10 days)
49/52	114 hours (15 days)
48/52	152 hours (20 days)
47/52	190 hours (25 days)
46/52	228 hours (30 days)
45/52	266 hours (35 days)
44/52	304 hours (40 days)

The above does not preclude an employee and the employer from agreeing to an arrangement beyond 44/52 using the same conversion rate.

**34.3** The accrual of personal/carer's leave and long service leave under this Agreement is not affected by a purchased leave arrangement.

**34.4** The employer will endeavour to accommodate employee requests for arrangements under this **clause 34**, taking into account the operational requirements of the organisation and the impact on other employees.

- 34.5** Subject to the application of **subclause 34.6**, purchased leave arrangements may only be varied by way of agreement between the employer and the employee.
- 34.6** An employee who commenced ongoing 52/52 employment prior to 24 April 2013, who is in a purchased leave arrangement or enters into a purchased leave arrangement, retains the entitlement to revert to 52/52 employment, subject to the following:
- (a) The employee providing written notice to the employer of not less than one full school term; and
  - (b) Commencement of 52/52 employment will be from the start of a school term; provided that
  - (c) The employer and employee may agree on alternative arrangements.

## **35 INFECTIOUS DISEASES**

Upon report by a registered medical practitioner that, by reason of contact with a person suffering from an infectious disease and through the operation of restrictions imposed by law in respect of such disease, an employee is unable to attend work, the employer may grant him or her special leave of absence with pay. The period of leave must not be for any period beyond the earliest date at which it would be practicable for the employee to return to work having regard to the restrictions imposed by law.

## **36 DANGEROUS BEHAVIOUR**

- 36.1** Where the employer reasonably believes that the employee's behaviour renders the employee a danger to other employees, themselves or other persons, the employer may direct the employee to absent him or herself from duty.
- 36.2** Prior to issuing a direction under **subclause 36.1** the employer will provide the employee with the opportunity to explain their behaviour to the employer.
- 36.3** Where an employee is directed to absent themselves from duty under **subclause 36.1**, the employee must be medically assessed by a registered health practitioner as soon as is reasonably practicable.
- 36.4** The employee will not be permitted to return to duty following a direction under this clause until he or she has been determined to be fit for duty by a registered health practitioner.
- 36.5** Where the assessment of a registered health practitioner under **subclause 36.3** indicates the employee is:
- (a) unfit for duty, the employee will be on personal leave from the date the employee was required to be absent under **subclause 36.1** for the period the medical report indicates is necessary; or
  - (b) fit for duty, the employee will return to duty without the deduction of leave for their absence from the date they were required to be absent under **subclause 36.1**.

## **37 PUBLIC HOLIDAYS**

**37.1** Where the nature of employment permits the observance of public holidays as they occur, employees (other than casual employees) will be entitled to the following holidays without loss of pay:

- (a) New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day, Boxing Day, Australia Day, Anzac Day, Queen's Birthday, Labour Day and Melbourne Cup Day.
- (b) When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof will be observed on 27 December.
- (c) When Boxing Day is a Saturday or a Sunday, an additional holiday will be observed on 28 December.
- (d) When New Year's Day is a Saturday or a Sunday, an additional holiday will be observed on the next Monday.
- (e) When Australia Day is a Saturday or a Sunday, a holiday in lieu will be observed on the next Monday.

### **37.2 Melbourne Cup Day substitution**

Where, outside the Melbourne Metropolitan area, a public holiday is proclaimed in that municipality for the observance of local events, that day will be observed as a public holiday in lieu of Melbourne Cup Day.

### **37.3 Additional or substituted Public Holidays**

Where in the whole or part of the State of Victoria, additional or substituted public holidays are declared or prescribed on days other than those set out in **subclauses 37.1 and 37.2**, those days will constitute additional or substituted holidays for the purpose of this Agreement for employees who have their place of principal employment in a municipality to which the additional or substituted public holiday applies.

### **37.4 Substitution of Public Holiday**

- (a) An employer and his or her employees may agree to substitute another day for any public holiday prescribed in this clause. For this purpose, the consent of the majority of affected employees will constitute agreement. Any such arrangement will be recorded in writing and be available to every affected employee.
- (b) An employee may by agreement with his or her employer substitute another day for any prescribed in this clause to observe religious or cultural occasions or like reasons of significance to the employee.

## **38 PERSONAL/CARER'S LEAVE**

**38.1** For the purposes of this clause:

- (a) "immediate family" means:

- (i) the employee's spouse (including a former spouse, de facto partner and a former de facto partner). A "de facto partner" means a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and
  - (ii) a child or adult child (including an adopted child, a step child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or the employee's spouse or de facto partner.
- (b) "medical certificate" means a certificate from a registered health practitioner.
- (c) "required document" means:
  - (i) in respect of personal leave for illness or injury, a medical certificate or, if it is not reasonably practicable for an employee to provide a medical certificate, a statutory declaration or other evidence required by the employer that would satisfy a reasonable person;
  - (ii) in respect of carer's leave, a medical certificate or a statutory declaration or other evidence required by the employer that would satisfy a reasonable person.

**38.2** Personal/carer's leave may be accessed in the event an employee is absent:

- (a) due to personal illness or injury; 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.

**38.3** A full-time employee, other than a casual employee, will be credited with 114 hours (15 days) personal/carer's leave on full pay on commencement of employment and 114 hours (15 days) personal/carer's leave on full pay for each year of service thereafter, which will be cumulative.

**38.4** Notwithstanding **subclause 38.3** an employee employed for one or more fixed-term periods will not accrue more than 114 hours (15 days) personal/carer's leave in any year.

**38.5** Subject to **subclause 38.6** applications for personal/carer's leave must be supported by a required document stating that:

- (a) in respect to personal leave for injury or illness, the employee is unfit for duty for the period of leave; or
- (b) in respect of carer's leave, that the immediate family or household member requiring care or support is suffering from an illness or injury or requires care or support due to an unexpected emergency.

**38.6** Notwithstanding **subclause 38.5**, and unless otherwise approved by the employer:

- (a) up to 38 hours (5 days for a full-time employee) personal/carer's leave in aggregate may be granted in any one year without production of a required document, subject to any one continuous absence not exceeding 22.8 hours (3 days for a full-time employee);
  - (b) Notwithstanding **subclause 38.6(a)**, the employer may require an application for personal/carer's leave to be supported by a required document where the employer has occasion to doubt the authenticity of the illness or injury or the reason for the absence.
- 38.7**
- (a) Where the employer has a genuine concern and a reasonable belief that an employee may be unfit to perform their duties, the employer may require the employee to have a medical assessment by a registered health practitioner.
  - (b) Prior to taking action in accordance with **subclause 38.7(a)**, the employer will make all reasonable efforts to communicate and discuss their concerns with the employee. Any matters raised by the employee in regard to the proposed action will be considered, and the employee provided with a response, prior to taking such action.
  - (c) Where the employer refers the employee to a registered health practitioner the employer will advise the employee, in writing, of the referral and the reasons for the referral.
  - (d) The employee must be advised of the outcome of any medical assessment taken in accordance with this **subclause 38.7**.
  - (e) Having regard to the medical assessment and its recommendations the employer will consider the employee's role, giving full consideration to any reasonable adjustments that will enable the employee to perform the requirements of the position.
- 38.8** Where personal/carer's leave is granted without the production of a required document in circumstances not covered by this **clause 38**, such leave will be without pay unless otherwise approved by the employer.
- 38.9** An employee who has exhausted their paid personal/carer's leave entitlements is entitled to take up to two days' unpaid carer's leave on each occasion when a member of the employee's immediate family or household requires care or support because of personal illness or injury or unexpected emergency.
- 38.10** An employee may elect, with the consent of the employer, to work make-up time, under which the employee takes time off during ordinary hours, and works those hours at a later time during the employee's spread of ordinary hours.
- 38.11** A casual employee is entitled to two days carer's leave without pay on each occasion where a member of his or her immediate family or household requires care or support, in accordance with **subclause 38.2(b)**, which must be taken as a single continuous period, unless otherwise approved by the employer.

### **38.12 Personal/carer's leave at half pay**

- (a) In exceptional circumstances, an employee may be granted approval to convert any or all of their accrued paid personal/carer's leave entitlement to half pay for a period equal to twice the period to which the employee would otherwise be entitled.
- (b) Approval of half-pay personal/carer's leave will only be granted in relation to an absence of 4 weeks or more, unless otherwise approved by the employer.
- (c) To be eligible for personal/carer's leave at half pay, under this **subclause 38.12**, the employee must comply with all notice and documentary evidence requirements stipulated in this **clause 38**.

## **39 COMPASSIONATE LEAVE**

### **39.1 Definition**

In this clause the employee's immediate family means:

- (a) the employee's spouse (including the employee's former spouse, de facto partner and former de facto partner). A "de facto partner" means a person who, although not legally married to the employee, lives with the employee as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and
- (b) a child or adult child (including an adopted child, a step child or an ex nuptial child), parent, grandparent, grandchild or sibling of the employee or the employee's spouse or de facto partner.

### **39.2 Serious illness or death of immediate family member**

An employee, other than a casual employee, is entitled to up to three days leave with pay for each occasion when a member of the employee's immediate family or household:

- (a) contracts or develops a serious illness that poses a serious threat to his or her life;
- (b) sustains a personal injury that poses a serious threat to his or her life; or
- (c) dies.

**39.3** In addition to the other provisions of this clause, employees of Aboriginal or Torres Strait Islander descent may be granted unpaid leave of up to three days in relation to the death of an extended family member.

**39.4** A casual employee is entitled to up to two days leave without pay for each occasion when a member of his or her immediate family or household:

- (a) contracts or develops a serious illness that poses a serious threat to his or her life;
- (b) sustains a personal injury that poses a serious threat to his or her life; or
- (c) dies.



## **40 PARENTAL LEAVE**

Employees are entitled to parental leave in accordance with the NES, and as supplemented by this clause.

### **40.1 Application**

- (a) An employee, other than a casual employee, who will be a primary or secondary caregiver following, or in conjunction with:
  - (i) the birth of a child;
  - (ii) an approved application for the adoption of a child;
  - (iii) being granted permanent care of a child in accordance with **subclause 40.8**; or
  - (iv) an employee who is a grandparent of a child and the primary caregiver to their grandchild;

will be eligible for a total of 52 weeks' parental leave.

- (b) An eligible casual employee who will become the primary or secondary caregiver following, or in conjunction with:

- (i) the birth of a child;
- (ii) an approved application for the adoption of a child;

will be eligible for a total of 52 weeks' parental leave.

- (c) The total 52 weeks parental leave is inclusive of any paid and unpaid parental leave entitlements applicable under this **clause 40** and any annual leave and long service leave taken within the 52-week parental leave period.
- (d) Paid parental leave under this **clause 40** is not available to an employee on grandparent leave (**clauses 40.1(a)(iv)** and **40.9**) or an eligible casual employee (**clauses 40.1(b)** and **40.2(a)**).

### **40.2 Definitions**

For the purposes of this clause:

- (a) **eligible casual employee** means a casual employee:
  - (i) who has been employed on a regular and systematic basis for a continuing period or sequence of periods of employment of at least twelve months; and
  - (ii) would have, but for accessing parental leave under this clause, a reasonable expectation of continuing employment with the employer on a regular and systematic basis.
- (b) **child** means:
  - (i) in relation to birth-related leave, a child (or children from a multiple birth) of the employee or the employee's spouse;

- (ii) in relation to adoption-related leave, a child (or children) who will be placed with an employee, and:
  - who is, or will be, under 16 as at the day of placement or the expected day of placement;
  - has not, or will not have, lived continuously with the employee for a period of 6 months or more as at the day of placement, or the expected day of placement; and
  - is not (otherwise than because of the adoption) a child of the employee or the employee's spouse.
- (d) **permanent care order** means an order made under the *Children, Youth and Families Act 2005* (Vic) or its successor.
- (e) **primary caregiver** means the person who is the primary carer of a newborn or newly adopted child. The primary carer is the person who meets the child's physical needs more than anyone else. Only one person can be a child's primary carer on a particular day. In most cases the primary caregiver will be the birth mother of a newborn or the initial primary carer of a newly adopted child.
- (f) **qualifying service** means any:
  - (i) duty as an employee other than any period of employment on a casual basis;
  - (ii) leave with pay approved by the employer;
  - (iii) leave without pay approved by the employer to count as qualifying service; and
  - (iv) other service approved by the employer to count as qualifying service.
- (g) **secondary caregiver** means a person who has parental responsibility for the child but is not the primary caregiver.
- (h) **spouse** includes a de facto spouse, former spouse or former de facto spouse. The employee's de facto spouse means a person who lives with the employee as husband, wife or same sex partner on a bona fide domestic basis, whether or not legally married to the employee.
- (i) **recognised prior service** means any service where the employee was employed:
  - (i) by a public entity under the *Public Administration Act 2004* (Vic);
  - (ii) under Part 6 of the *Public Administration Act 2004* (Vic); or
  - (iii) as a parliamentary officer or electorate officer under the *Parliamentary Administration Act 2005* (Vic);

immediately prior to the employee's employment with the employer.

### 40.3 Summary of parental leave entitlements

Parental leave entitlements under this **clause 40** are summarised in the following table.

	<b>Paid leave</b>	<b>Unpaid leave</b>	<b>Total</b>
<b>Primary Caregiver</b>			
With qualifying service	14 weeks	Up to 38 weeks	52 weeks
Without qualifying service	0	Up to 52 weeks	52 weeks
Eligible casual employee	0	Up to 52 weeks	52 weeks
<b>Secondary Caregiver</b>			
With qualifying service	2 weeks	Up to 50 weeks	52 weeks
Without qualifying service	0	Up to 52 weeks	52 weeks
Eligible casual employee	0	Up to 52 weeks	52 weeks
<b>Pre-natal leave</b>			
Pregnant employee	38 hours		
Spouse	7.6 hours		
<b>Permanent Care Leave</b>			
With qualifying service	14 weeks	Up to 38 weeks	52 weeks
Without qualifying service	0	Up to 52 weeks	52 weeks
<b>Grandparent Leave</b>	0	Up to 52 weeks	52 weeks

### 40.4 Paid primary caregiver leave

- (a) An employee who has 32 weeks or more qualifying service within the period of 52 weeks immediately preceding the expected date of birth, adoption or the date specified under a permanent care order, and who will be the primary caregiver at the time of the birth or adoption of the child, will be entitled to 14 weeks' paid parental leave.
- (b) Payment for leave applicable under this **subclause 40.4** will be at:
- (i) the time-fraction the employee is working immediately prior to commencing parental leave; or
  - (ii) the time-fraction immediately prior to a temporary time-fraction reduction, requested by the employee, that has been approved on the basis that the employer is satisfied the reduction is necessary as a consequence of the employee's pregnancy; or
  - (iii) the time-fraction immediately prior to commencing long service leave, if the employee ceases long service leave on half pay immediately before commencing parental leave.
- (c) Paid primary caregiver leave will commence from the date the employee commences parental leave, but must not commence later than the date of birth or adoption of the child, unless the employer and the employee agree otherwise.

- (d) Only one parent can receive paid primary caregiver parental leave entitlements in respect to the birth or adoption of their child. An employee cannot receive paid primary caregiver parental leave entitlements:
  - (i) if their spouse is, or will be, the primary caregiver at the time of the birth or adoption of their child;
  - (ii) if their spouse has received, or will receive, paid maternity leave, primary caregiver entitlements, or a similar entitlement, from their employer; or
  - (iii) if the employee has received, or will receive, paid secondary caregiver parental leave entitlements in relation to their child.
- (e) An employee may elect to take their paid primary caregiver parental leave entitlement at half pay for a period equal to twice the period to which the employee would otherwise be entitled.

#### **40.5 Paid secondary caregiver leave**

- (a) An employee who has 32 weeks or more qualifying service within the period of 52 weeks immediately preceding the expected date of birth, adoption or the date specified under a permanent care order, and who will be the secondary caregiver at the time of the birth or adoption of the child, will be entitled to 2 weeks' paid secondary caregiver leave.
- (b) Payment for leave applicable under this **subclause 40.5** will be at the time-fraction and salary the employee would have normally received but for the taking of the leave.
- (c) Only one parent can receive paid secondary caregiver parental leave entitlements in respect to the birth or adoption of their child.
- (d) An employee may elect to take their paid secondary parental leave entitlement, at half pay for a period equal to twice the period to which the employee would otherwise be entitled.
- (e) An employee cannot receive paid secondary caregiver parental leave entitlements where the employee has received paid primary caregiver parental leave entitlements in relation to their child.
- (f) Leave taken under **subclause 40.5(a)** must be within a period:
  - (i) commencing:
    - 1 week prior to the expected date of birth; or
    - at the date of adoption; and
  - (iii) ending 8 weeks after the date of birth or adoption;unless the employer and employee agree on other arrangements.

#### **40.6 Pre-natal leave**

- (a) A pregnant employee will have access to paid leave totalling up to 38 hours per pregnancy to enable the employee to attend routine medical appointments associated with the pregnancy. The employer should be flexible enough to allow the employee the ability to leave work and return on the same day.

- (b) An employee who has a spouse who is pregnant will have access to paid leave totalling up to 7.6 hours per pregnancy to enable the employee to attend routine medical appointments associated with the pregnancy.
- (c) The employee is required to provide a medical certificate from a registered medical practitioner confirming that the employee or their spouse is pregnant. Each absence on pre-natal leave must also be covered by a medical certificate.
- (d) Paid pre-natal leave is not available to casual employees.

#### **40.7 Pre-adoption leave**

- (a) An employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations that are a necessary part of the adoption process.
- (b) The employee and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to two days' unpaid leave.
- (c) Where paid leave is available to the employee, the employer may require the employee to take such leave instead.
- (d) The employer may require the employee to provide satisfactory evidence supporting the leave.

#### **40.8 Permanent care leave**

If, pursuant to the *Children, Youth and Families Act 2005* (Vic) or any successor to that legislation, an employee (other than a casual employee) is granted a permanent care order in relation to the custody or guardianship of a child and the employee is the primary caregiver for that child, the employee will be entitled to 14 weeks' paid leave at a time to be agreed with the employer.

#### **40.9 Grandparent leave**

An employee, who is or will be the primary caregiver of their grandchild, is entitled to a period of up to 52 weeks' continuous unpaid grandparent leave in respect of the birth or adoption of their grandchild.

#### **40.10 Continuing to work while pregnant**

- (a) The employer may require a pregnant employee to provide a medical certificate stating that the employee is fit to work their normal duties where the employee:
  - (i) continues to work within a six week period immediately prior to the expected date of birth of the child; or
  - (ii) is on paid leave under **clause 40.12(b)**.
- (b) The employer may require the employee to start parental leave if the employee:
  - (i) does not give the employer the requested certificate within seven days of the request; or
  - (ii) gives the employer a medical certificate stating that the employee is unfit to work.

#### 40.11 Personal leave

A pregnant employee, not then on parental leave, who is suffering from an illness, whether related or not to the pregnancy, may take personal leave in accordance with **clause 38**.

#### 40.12 Transfer to a safe job

- (a) Where an employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at their present work, the employee will, if there is an appropriate safe job available, be transferred to a safe job with no other change to the employee's terms and conditions of employment until the commencement of parental leave.
- (b) If there is no appropriate safe job available, the employee may take no safe job paid leave, or the employer may require the employee to take no safe job paid leave immediately for a period which ends at the earliest of either:
  - (i) when the employee is certified unfit to work during the six week period before the expected date of birth by a registered medical practitioner; or
  - (ii) when the employee's pregnancy results in the birth of a living child or when the employee's pregnancy ends otherwise than with the birth of a living child.
- (c) The entitlement to no safe job leave is in addition to any other leave entitlement under this Agreement.

#### 40.13 Special parental leave

Where, after 20 weeks' gestation, an employee's pregnancy terminates, results in a stillborn birth or she gives birth to a live baby who subsequently dies prior to commencing or completing a period of parental leave:

- (a) her entitlement to parental leave under **subclause 40.4** is not affected; and/or
- (b) she will be entitled to access personal leave in accordance with **clause 38**.

#### 40.14 Notice and evidence requirements

- (a) An employee must give at least 10 weeks' written notice of the intention to take parental leave, including the proposed start and end dates. At this time, the employee must also provide a statutory declaration stating:
  - (i) the employee will become either the primary caregiver or secondary caregiver of their child, as appropriate;
  - (ii) particulars of any parental leave taken or proposed to be taken or applied for by the employee's spouse; and
  - (iii) that during the period of parental leave the employee will not engage in any conduct inconsistent with their contract of employment.
- (b) At least four weeks before the intended commencement of parental leave, the employee must confirm in writing the intended start and end dates of the parental leave, or advise the employer of any changes to the notice provided in **subclause 40.14(a)**, unless it is not practicable to do so.
- (c) The employer may require the employee to provide evidence which would satisfy a reasonable person of:

- (i) in the case of birth-related leave, the date of birth of the child (including, without limitation, a medical certificate stating the date of birth or expected date of birth); or
  - (ii) in the case of adoption-related leave, the commencement of the placement (or expected day of placement) of the child and that the child will be under 16 years of age as at the day of placement or expected day of placement.
- (d) An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement or placement occurring earlier than the expected date or in other compelling circumstances. In these circumstances the notice and evidence requirements of this clause should be provided as soon as reasonably practicable.

#### **40.15 Commencement of parental leave**

- (a) An employee who is pregnant may commence primary caregiver parental leave at any time within 14 weeks prior to the expected date of birth, provided that leave must commence no later than the date of birth of the child.
- (b) In all other cases, primary caregiver parental leave must commence no later than the date of birth, adoption or the date specified under a permanent care order of the child.
- (c) Secondary caregiver parental leave must commence on the date of birth or adoption of the child.
- (d) The employer and employee may agree to alternative arrangements regarding the commencement of parental leave.

#### **40.16 Single period of parental leave**

Parental leave is to be available to only one parent at a time, in a single unbroken period, except in the case of concurrent leave.

#### **40.17 Employee couple – Concurrent leave**

- (a) Two employees covered by this agreement may take up to eight weeks' concurrent leave in connection with the birth or adoption of their child.
- (b) Concurrent leave may commence one week prior to the expected date of birth of the child or the time of placement in the case of adoption.
- (c) Concurrent leave can be taken in separate periods, but each block of concurrent leave must not be less than 2 weeks, unless the employer otherwise agrees.

#### **40.18 Parental leave and other entitlements**

- (a)
  - (i) Subject to **subclause 40.18(a)(ii)**, a public holiday occurring during a period of paid parental leave, will result in the period of paid parental leave being extended by the public holiday/s.
  - (ii) **Subclause 40.18(a)(i)** does not apply to a part-time employee who would not ordinarily have worked on the day of a public holiday.
- (b) Unpaid parental leave under this **clause 40** does not break an employee's continuity of employment but it will not count as service for leave accrual or other purposes.

#### **40.19 Keeping in touch days**

- (a) During a period of parental leave an employer and employee may agree to perform work for the purpose of keeping in touch in order to facilitate a return to employment at the end of the period of leave.
- (b) Keeping in touch days must be agreed and be in accordance with section 79A of the FW Act.

#### **40.20 Extending parental leave**

##### **(a) Extending the initial period of parental leave**

- (i) An employee, who is on an initial period of parental leave of less than 52 weeks under **subclause 40.1**, may extend the period of their parental leave on one occasion up to the full 52 week entitlement.
- (ii) The employee must notify the employer, in writing, at least four weeks prior to the end date of their initial parental leave period. The notice must specify the new end date of the parental leave.

##### **(b) Right to request an extension to parental leave**

- (i) An employee who is on parental leave under **subclause 40.1** may request an extension of unpaid parental leave for a further period of up to 52 weeks, immediately following the end of the current parental leave period.
- (ii) In the case of an employee who is a member of an employee couple, the period of the extension cannot exceed 52 weeks, less any period of parental leave that the other member of the employee couple will have taken in relation to their child.
- (iii) The employee's request must be in writing and given to the employer at least 4 weeks before the end of the current parental leave period. The request must specify any parental leave that the employee's spouse will have taken.
- (iv) The employer will consider the request having regard to the employee's circumstances and, provided the request is based on the employee's parental responsibilities, may only refuse the request on reasonable business grounds.
- (v) The employer must not refuse the request unless the employer has given the employee a reasonable opportunity to discuss the request.
- (vi) The employer must give a written response to the request as soon as practicable, and no later than 21 days after the request is made. The response must include the details of the reasons for any refusal.

##### **(c) Total period of parental leave**

- (i) The total period of leave for parental purposes under this **clause 40**, including any annual leave and long service leave, cannot exceed 104 weeks.
- (ii) In the case of an employee couple, the aggregate period of leave for parental purposes under this **clause 40**, for both parents, including any annual leave and long service leave, cannot exceed 104 weeks.



#### **40.21 Paid parental leave and the *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic)**

An employee who is eligible for paid parental leave under this **clause 40** and **clause 55** (Accident Make-up Pay) is entitled to pay in accordance with this clause less the amount paid by way of weekly compensation under the *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic) and has no further entitlement to leave under **clause 55** during the paid parental leave period.

#### **40.22 Commonwealth Paid Parental Leave**

Paid parental leave entitlements outlined in this clause are in addition to any payments which may be available under the Commonwealth Paid Parental Leave Scheme.

#### **40.23 Returning to work**

##### **(a) Returning to work early**

- (i) During the period of parental leave an employee may return to work at any time as agreed between the employer and the employee, provided that time does not exceed four weeks from the recommencement date desired by the employee.
- (ii) In the case of adoption, where the placement of an eligible child with an employee does not proceed or continue, the employee will notify the employer immediately and the employer will nominate a time not exceeding four weeks from receipt of notification for the employee's return to work.

##### **(b) Returning to work at conclusion of leave**

- (i) At least four weeks prior to the expiration of parental leave, the employee will notify the employer of their return to work after a period of parental leave.
- (ii) Subject to **subclause 40.23(b)(iii)**, an employee will be entitled to the position which they held immediately before proceeding on parental leave. In the case of an employee transferred to a safe job pursuant to **subclause 40.12**, the employee will be entitled to return to the position they held immediately before such transfer.
- (iii) Where such position no longer exists but there are other positions available which the employee is qualified for and capable of performing, the employee will be entitled to a position as nearly comparable in status and pay to that of their pre-parental leave position.

##### **(c) Returning to work at a reduced time fraction**

- (i) To assist an employee in reconciling work and parental responsibilities, an employee may request to return to work at a reduced time-fraction and may continue at that reduced time-fraction until their child reaches school age, after which the employee will resume their substantive time-fraction.
- (ii) An employee must make a request under **subclause 40.23(c)(i)** not less than seven weeks prior to the date they are due to resume from parental leave.

#### **40.24 Consultation and communication during parental leave**

- (a) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer will take reasonable steps to:

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
  - (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
- (b) The employee will take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.
  - (c) The employee will also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with this **subclause 40.24**.

#### **40.25 Extended family leave**

- (a) An employee who is the primary caregiver, and has exhausted all parental leave entitlements, may apply for unpaid extended family leave, provided that such leave will:
  - (i) immediately follow the parental leave approved under this **clause 40**; and,
  - (ii) cannot exceed seven years, inclusive of the parental leave approved under this **clause 40**, and any annual leave and long service leave.
- (b) The employee must make an application for extended family leave each year.
- (c) An employee will not be entitled to paid parental leave whilst on extended family leave.
- (d) Upon return to work, following a period of extended family leave, the employer may assign the employee to another nurse position.

#### **40.26 Casual employees**

The employer must not fail to re-engage a casual employee because the employee has accessed parental leave in accordance with this **clause 40**. The rights of the employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this **clause 40.26**.

### **41 LEAVE TO ATTEND ALCOHOL & DRUG OR PROBLEM GAMBLING REHABILITATION PROGRAM**

- 41.1** An employee, other than a casual employee, may be granted leave with or without pay to undertake an approved rehabilitation program where the employer is satisfied that:
- (a) the employee's work performance is adversely affected by the misuse of drugs or alcohol or problem gambling;
  - (b) the employee is prepared to undertake a course of treatment designed for the rehabilitation of persons with alcohol, drug or gambling related problems; and

- (c) in the case of an alcohol or drug addiction, a registered medical practitioner has certified that in his or her opinion the employee is in need of assistance because of their misuse of alcohol or drugs and that the employee is suitable for an approved rehabilitation program; or
- (d) in the case of problem gambling the employee satisfies the eligibility criteria for entry into an approved problem gambling rehabilitation program.

**41.2** On production of proof of attendance at an approved rehabilitation program, in accordance with **subclause 41.1**, an employee may be granted leave as follows:

- (a) An employee who has completed 2 years' continuous or aggregate service and who has exhausted all other accrued leave entitlements may be granted leave with pay up to the maximum number of days specified below:

<b>Years of Service</b>	<b>First Year of Program</b>	<b>Subsequent Years of Program</b>
2 years	20 days	15 days
3 years	27 days	20 days
4 years	33 days	25 days
5 or more years	40 days	30 days

- (b) An employee who has completed less than two years continuous or aggregate service may be granted leave without pay for the purposes of attending an approved rehabilitation program.

## **42 CULTURAL & CEREMONIAL LEAVE**

- 42.1** The employer may approve attendance during working hours by an employee of Aboriginal or Torres Strait Islander descent at any Aboriginal community meetings, except the Annual General Meetings of Aboriginal community organisations at which the election of office bearers will occur.
- 42.2** The employer may grant an employee of Aboriginal or Torres Strait Islander descent accrued annual or other leave to attend Annual General Meetings of Aboriginal community organisations at which the election of office bearers will occur.
- 42.3** Ceremonial leave without pay may be granted to an employee of Aboriginal or Torres Strait Islander descent for ceremonial purposes:
  - (a) connected with the death of a member of the immediate family or extended family (provided that no employee will have an existing entitlement reduced as a result of this clause); or
  - (b) for other ceremonial obligations under Aboriginal and Torres Strait Islander law.
- 42.4** Ceremonial leave granted under this **clause 42** is in addition to compassionate leave granted under **clause 39**.

## **43 LONG SERVICE LEAVE**

### **43.1 Basic entitlement**

An employee is entitled to long service leave with pay accruing at the rate of 495.6967 hours (three months) for ten years' eligible service.

### **43.2 Pro-rata access**

An employee is entitled to access their long service leave entitlement or receive payment in accordance with **subclause 43.3**, on a pro-rata basis, after completing 7 years of eligible service.

### **43.3 Payment on cessation of employment**

- (a) Subject to **subclause 43.3(b)**, an employee, on cessation of employment, will be paid for any unused long service leave entitlement.
- (b) Notwithstanding **subclause 43.2** an employee is entitled to a pro rata payment of long service leave, accrued in accordance with **subclause 43.1**, after 4 years' eligible service where employment ceases for the following reasons:
  - (i) retirement (age 55 or more);
  - (ii) ill health;
  - (iii) death; or
  - (iv) termination by the employer, other than where termination is due to serious misconduct.

### **43.4 Public holidays within period of leave**

A public holiday that occurs during a period of long service leave does not form part of that leave.

### **43.5 Eligible service for long service leave purposes**

"Eligible service" for the purpose of this clause includes:

- (a) paid leave;
- (b) leave without pay recognised by the employer for long service leave purposes;
- (c) periods of leave where the employee is entitled to accident make-up pay under **clause 55** up to the maximum of 52 weeks; and
- (d) prior service recognised in accordance with **subclause 43.6**.

**43.6** In this **subclause 43.6** a "Public Service Authority" means an authority, whether incorporated or not, that is constituted by or under a law of a State, the Commonwealth, or a Territory of Australia and for a public purpose and there is a clear relationship and accountability to Government.

Unless otherwise approved by the employer service (excluding any casual employment) with an organisation will be recognised for the purpose of long service leave (recognised service) accrual under this clause, subject to the following:

- (a) the service was with a State, Commonwealth or Territory of Australia Government Department or Public Service authority;
- (b) any service with a public entity under the *Public Administration Act 2004* (Vic);
- (c) any service with a local governing body that is established by or under a law of Victoria;
- (d) there not being a break of greater than 12 months between organisations recognised in accordance with this sub-clause other than an absence of 3 years or less in the nature of retirement on account of disability;
- (e) the employee not having been dismissed from the recognised organisation for disciplinary reasons;
- (f) the long service leave entitlement relating to service recognised under this **subclause 43.6** will be in accordance with **subclause 43.1** less any long service leave previously taken with the recognised organisation, including any payment in lieu of long service leave.

**43.7** Notwithstanding **subclause 43.6**, the employer may recognise any service with a local governing body of the Commonwealth, a State other than Victoria or a Territory of Australia.

**43.8** An application for the recognition of prior service under **subclause 43.6** must be made within six months of commencing employment. The employer will take reasonable steps within this period to ascertain from the employee whether the employee has prior service.

#### **40.9 Period of leave**

- (a) An employee will take the whole or any part of his or her long service leave entitlement at the time fraction they are working immediately prior to commencing long service leave.
- (b) Notwithstanding **subclause 40.9(a)**, the employer and the employee may agree that the whole or any part of their entitlement can be taken at a different time fraction to that currently worked.
- (c) After concluding their period of leave, the employee will return to the time fraction they worked immediately prior to commencing long service leave, unless otherwise agreed by the employer and the employee.

#### **43.10 Time of taking leave**

The employer may determine the time for granting long service leave so that the employer's operations will not be unduly affected by the granting of long service leave.

#### **43.11 Payment for leave**

In computing the pay of an employee for or in lieu of long service leave, the following is included:

- (a) salary maintenance;
- (b) higher duties payments (additional payments for a temporary assignments) for a continuous period of 12 months or more immediately prior to the commencement of the leave; and

- (c) any annual allowance payable to the employee which the employer determines should be included, but does not include:
  - (i) any payment of overtime, commuted overtime or shift allowances; or
  - (ii) any travelling or transport allowance; or
  - (iii) any allowance in the nature of reimbursement of expenditure.

#### **44 EXTENDED LEAVE SCHEME**

- 44.1** At the election of an employee, and with the written agreement of the employer, provision may be made for an employee to receive, over a four year period, 80% of the salary they would otherwise be entitled to receive in accordance with this Agreement.
- 44.2** On completion of the fourth year, the employee will be entitled to 12 months leave and will receive an amount equal to 80% of the salary they were entitled to in the fourth year of deferment.
- 44.3** Where an employee completes four years of service under this extended leave scheme and is thereby not required to attend duty in the fifth year, the period of non-attendance will not constitute a break in service and will count as service for all purposes.
- 44.4** If the employer agrees, the employee may by written notice withdraw from this scheme prior to completing the four year period. The employee will receive a lump sum payment of salary forgone to that time but will not be entitled to equivalent absence from duty.

#### **45 DEFENCE RESERVE LEAVE**

- 45.1** Leave may be granted for Defence Reserve service up to a maximum period of 78 weeks' continuous service.
- 45.2** An employee required to complete Defence Reserve service will consult with the employer regarding the proposed timing of the service and will give the employer as much notice as is possible of the time when the service will take place.
- 45.3** Where the base salary, excluding allowances, received by the employee from the Australian Defence Force in respect of Defence Reserve service during his or her ordinary hours of work is below his or her salary, the employer will, unless exceptional circumstances arise, pay him or her make-up pay for the period of Defence Reserve service.

#### **45.4 Preservation of prior entitlement**

For employees in employment prior to 9 May 2002, any more favourable provision relating to their previous entitlement to Defence Force leave is maintained.

## **46 JURY SERVICE**

If any employee is required to appear and serve as a juror under the *Juries Act 2000*, he or she is entitled to leave with pay for the period during which his or her attendance at court is required, subject to the production of satisfactory evidence of such attendance. Any compensation paid to the employee in accordance with the *Juries Act 2000* for serving as a juror during his or her ordinary hours of work must be repaid to the employer, with reasonable expenses actually incurred over and above those which the employee would normally incur being offset against this amount.

## **47 LEAVE FOR BLOOD DONATIONS**

Leave may be granted to an employee, without loss of pay, to visit the Red Cross Blood Bank as a donor once every 12 weeks.

## **48 LEAVE TO ENGAGE IN EMERGENCY RELIEF ACTIVITIES**

**48.1** An employee who is a member of a voluntary emergency relief organisation including, but not limited to, the Country Fire Authority, Red Cross, State Emergency Service and St John Ambulance must be released from normal duty without loss of pay where an emergency situation arises that requires the attendance of the employee.

**48.2** An employee who is required to attain qualifications or to requalify to perform activities in an emergency relief organisation must be granted leave with pay for the period of time required to fulfil the requirements of the training course pertaining to those qualifications, provided that such training can be undertaken without unduly affecting the operations of the employer.

## **49 LEAVE TO ENGAGE IN VOLUNTARY COMMUNITY ACTIVITIES**

**49.1** An employee who is elected to a Municipal Council must be granted leave with pay to fulfil their official functions during their term of office as follows:

- (a)** Mayor or Shire President - up to three hours per week, or where special occasions arise, six hours per fortnight; or
- (b)** Councillor - up to three hours per fortnight, or where special occasions arise, six hours per month.

**49.2** An employee who is elected to a committee of management of a community organisation may, if the employer agrees, be granted leave with pay to fulfil their official functions during their term of office as follows:

- (a)** Chair or President - up to three hours per week, or where special occasions arise, six hours per fortnight; or
- (b)** Committee Member - up to three hours per fortnight, or where special occasions arise, six hours per month.

## **50 PARTICIPATION IN SPORTING EVENTS**

Leave with pay up to a maximum of two weeks in any two year period may be granted to an employee to participate either as a competitor or an official in any non-professional state, national or international sporting event.

## **51 STUDY LEAVE**

- 51.1** The employer may grant to any employee paid leave to attend an accredited course of study provided by an educational institution or registered training organisation.
- 51.2** An employee may be granted sufficient paid leave to enable travel to and attendance of up to seven hours of classroom activity or related project work per week.
- 51.3** The employer may grant additional leave with or without pay as considered necessary.
- 51.4** An employee may be granted up to five days paid leave per annum as pre-examination leave and sufficient paid leave to attend examinations where the examinations are part of the course of study for which leave has been approved under **subclause 51.1**.
- 51.5** An employee completing an accredited course through the submission of major project work may be entitled to five days leave per annum for the purposes of finalising such project work.

## **52 MILITARY SERVICE SICK LEAVE**

- 52.1** Where the employer is satisfied that an illness of an employee with at least six months continuous paid service is directly attributable to, or is aggravated by, service recognised under the *Veterans' Entitlements Act 1986*, including:

- (a) operational service; or
- (b) peacekeeping service; or
- (c) hazardous service.

the employee will be credited with 114 hours' special leave with pay for each year of service with the Victorian Public Service from the conclusion of the employee's operational, peacekeeping or hazardous service.

- 52.2** Leave under this clause will be cumulative to a maximum of 760 hours.
- 52.3** This leave is in addition to personal/carer's leave under **clause 38**.
- 52.4** The employer may require the employee to provide evidence of the existence of the illness and its relationship to service specified in **subclause 52.1** from a registered health practitioner. For the purpose of this clause the definition of "registered health practitioner" will be the same as for **clause 38.1(b)**.
- 52.5** For each period of special leave taken, the employee must satisfy the same evidentiary requirements as specified in **clause 38**.



## **53 FAMILY VIOLENCE LEAVE**

Employees are entitled to family and domestic violence leave in accordance with the NES, and as supplemented by this clause.

### **53.1 General principle**

- (a) The employer recognises that employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. Therefore, the employer is committed to providing support to staff that experience family violence.
- (b) Leave for family violence purposes is available to employees who are experiencing family violence to allow them to be absent from the workplace to attend counselling appointments, legal appointments/proceedings and other activities related to, and as a consequence of, family violence.

### **53.2 Definition of family violence**

Family violence includes physical, sexual, financial, verbal or emotional abuse by a family member as defined by the *Family Violence Protection Act 2008* (Vic).

### **53.3 Eligibility**

- (a) Leave for family violence purposes is available to all employees with the exception of casual employees.
- (b) Casual employees are entitled to access leave without pay for family violence purposes.

### **53.4 General measures**

- (a) Evidence of family violence may be required by the employer and can be in the form of an agreed document issued by the Police Service, a Court, a registered health practitioner, a Family Violence Support Service, district nurse, maternal and health care nurse or Lawyer. A signed statutory declaration can also be offered as evidence.
- (b) All personal information concerning family violence will be kept confidential in line with the employer's policies and relevant legislation as in force and amended from time to time. No information will be kept on an employee's personnel file without their express written permission.
- (c) No adverse action will be taken against an employee if their attendance or performance at work suffers as a result of experiencing family violence.
- (d) The employer will identify contact/s within the workplace to which an employee experiencing family violence may seek information and advice. The employer will ensure the contact person is suitably trained to provide the necessary advice to an employee experiencing family violence. The employer will communicate to its workforce the name/s of any Family Violence contacts.
- (e) An employee experiencing family violence may raise the issue with their immediate supervisor, Family Violence contacts, union delegate or nominated Human Resources contact. The immediate supervisor may seek advice from the employer contact or Human Resources if the employee chooses not to see the Human Resources or Family Violence contact.

- (f) Where requested by an employee, the employer contact will liaise with the employee's manager, and will make a recommendation on the most appropriate form of support to provide in accordance with **clause 53.5** and **clause 53.6**.

### **53.5 Leave**

- (a) An employee experiencing family violence will have access to 20 days per year of paid special leave for medical appointments, legal proceedings and other activities related to family violence (this leave is not cumulative but if the leave is exhausted consideration will be given to providing additional leave). This leave will be in addition to existing leave entitlements and may be taken as consecutive or single days or as a fraction of a day and can be taken without prior approval.
- (b) An employee who supports a person experiencing family violence may utilise their personal/carer's leave entitlement to accompany them to court, to hospital, or to care for children. The employer may require evidence consistent with **clause 53.4(a)** from an employee seeking to utilise their personal/carer's leave entitlement.

### **53.6 Individual support**

- (a) In order to provide support to an employee experiencing family violence and to provide a safe work environment to all employees, the employer will approve any reasonable request from an employee experiencing family violence for:
  - (i) temporary or ongoing changes to their span of hours or pattern or hours and/or shift patterns;
  - (ii) temporary or ongoing job redesign or changes to duties;
  - (iii) temporary or ongoing relocation to suitable employment;
  - (iv) a change to their telephone number or email address to avoid harassing contact;
  - (v) any other appropriate measure including those available under existing provisions for family friendly and flexible work arrangements.
- (b) Any changes to an employee's role should be reviewed at agreed periods. When an employee is no longer experiencing family violence, the terms and conditions of employment may revert back to the terms and conditions applicable to the employee's substantive position.
- (c) An employee experiencing family violence will be offered access to the employee Assistance Program (**EAP**) and/or other available local employee support resources. The EAP will include professionals trained specifically in family violence.
- (d) An employee that discloses that they are experiencing family violence will be given information regarding current support services.

## **54 LEAVE WITHOUT PAY**

**54.1** An employee may be granted leave without pay by the employer for any purpose.

**54.2** Unless otherwise provided for in this Agreement, leave without pay will not break the employee's continuity of employment but leave without pay will not count as service for leave accrual or other purposes.

## **PART 7– OCCUPATIONAL HEALTH AND SAFETY**

### **55 ACCIDENT MAKE-UP PAY**

**55.1** Where an employee is absent from duty as a result of sustaining an injury in respect of which the employee is entitled to weekly payments of compensation under the *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic), the employee will, except where otherwise provided in **subclause 55.2**, be entitled to accident make-up pay equivalent to his or her normal salary less the amount of weekly compensation payments.

#### **55.2 Payment – maximum entitlement**

- (a) The employer will continue to provide accident make-up pay to the employee for a period of 52 weeks, or an aggregate of 261 working days, or an aggregate of 1984 hours, unless employment ceases.
- (b) An entitlement to accident make-up pay will cease at the end of a period of 52 weeks, or an aggregate of 261 working days, or an aggregate of 1984 hours or when employment ceases or when the benefits payable under the *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic) cease.
- (c) The employer may grant the employee leave without pay where an entitlement to accident make-up pay has ended.

### **56 OCCUPATIONAL HEALTH AND SAFETY AND REHABILITATION**

#### **56.1 Objectives**

- (a) This Agreement acknowledges and supports the rights of employees to work in an environment, which is, so far as is practicable, safe and without risks to health. The parties are committed to the promotion of a joint and united approach to consultation and resolution of Occupational Health and Safety (**OHS**) issues.
- (b) The Agreement commits the parties to improving health and safety with a view to improving workplace efficiency and productivity. This will be accomplished through the ongoing development, in consultation with employees and their Health and Safety Representatives, of management systems and procedures designed to, so far as is practicable to:
  - (i) identify, assess and control workplace hazards;
  - (ii) reduce the incidence and cost of occupational injury and illness; and
  - (iii) provide a rehabilitation system for workers affected by occupational injury or illness.
- (c) OHS statutory requirements, including regulations and codes of practice are minimum standards and will be improved upon where practicable.

## **56.2 OHS consultation**

- (a) Consultative mechanisms will be established to address OHS issues. Such mechanisms will be:
  - (i) in accordance with the Victorian *Occupational Health and Safety Act 2004* (Vic);
  - (ii) established in consultation with employees and their Health and Safety Representatives; and
  - (iii) consistent with the employer's agreed issue resolution procedures and the rights and functions of Health and Safety Representatives, consistent with the *Occupational Health and Safety Act* (Vic).
- (b) Where an OHS committee is established in respect to employees covered by this Agreement at least half the members will be employees, including Health and Safety Representatives.
- (c) The OHS committee must operate within the requirements of the *Occupational Health and Safety Act 2004* (Vic).

## **56.3 OHS training**

- (a) Workplace training programs, including induction and on-the-job training, will outline relevant details of OHS policies and procedures.
- (b) The contents of OHS training programs will outline the OHS roles and responsibilities of employees, managers and supervisors, OHS policies and procedures, particular hazards associated with their workplaces, control measures applicable to each hazard, and how to utilise OHS systems to identify hazards and instigate preventative action.

## **56.4 Designated work groups**

- (a) The parties, including employees at the local level, will review the Designated Work Groups (**DWGs**), and negotiate revised DWGs where appropriate through workplace union/management consultative structures.
- (b) The parties, at the central level, will establish instructions for the conduct of the reviews of DWGs at the local level.
- (c) The union/s will be notified of vacancies for Health and Safety Representatives in DWGs where the majority of DWG employees are eligible to be members of the union/s.
- (d) Each elected Health and Safety Representative will be provided with reasonable access to facilities such as email, telephone, fax, office and computer access, where available. An employee will be granted reasonable time release or paid time (including time in lieu) to attend to their functions as a Health and Safety Representative, including but not limited to regularly inspecting workplaces (as defined by their designated work group), consulting with employees in their DWGs,

OHS representatives and other persons involved in the organising of employee's health, safety and welfare.

- (e) The employer will post and maintain in each workplace the current names and relevant contact details, including email where available, of elected Health and Safety Representatives for identified DWGs. Such circular will be required to be posted on a notice board for the regular attention of all employees working in the workplace.
- (f) To monitor the maintenance of effective OHS structures and training delivery the parties will jointly establish a central register or local registers of DWG's and their Health and Safety Representatives. The register will be maintained by the employer from information provided on a quarterly basis from each region/workplace.
- (g) Information from the updated register(s) will be provided periodically (quarterly) in electronic format to the union/s. The information provided will be in accordance with the *Privacy and Data Protection Act 2014* (Vic). Where possible, this information will include:
  - (i) a description, including the location, of each DWG within each Agency;
  - (ii) the name of each elected Health and Safety Representative their workplace contact details and email address;
  - (iii) the date the Health and Safety Representative was elected;
  - (iv) a description of the training the OHS representative has attended and the date of attendance;
  - (v) the name and contact details of the nominated management representative responsible for each DWG;
  - (vi) details of the structure of OHS committees, their meeting frequency and the name and contact details of the committee convener.

## **56.5 Bullying and violence at work**

The parties to this Agreement are committed to working together to reduce bullying and occupational assault so far as is practicable in the workplace.

## **56.6 Staff support & debriefing**

- (a) The employer will provide staff support and debriefing to employees who have experienced a "critical incident" during the course of the work that results in personal distress. The employer is committed to assisting the recovery of staff experiencing normal distress following a critical incident with the aim of returning staff to their pre-incident level of functioning as soon as possible.
- (b) A critical incident is defined as an event outside the range of usual human experience which has the potential to easily overcome a person's normal ability to cope with stress. It may produce a negative psychological response in a person who was involved in or witnessed such an incident.

- (c) Critical incidents in the workplace environment include, but are not limited to:
- (i) aggravated assaults;
  - (ii) robbery;
  - (iii) suicide or attempted suicide;
  - (iv) murder;
  - (v) sudden or unexpected death;
  - (vi) hostage or siege situations;
  - (vii) discharge of firearms;
  - (viii) vehicle accidents involving injury and/or substantial property damage;
  - (ix) acts of self-harm by persons in the care of others;
  - (x) industrial accidents involving serious injury or fatality; and
  - (xi) any other serious accidents or incidents.

## **57 INDUSTRIAL RELATIONS/OCCUPATIONAL HEALTH AND SAFETY TRAINING**

- 57.1** In order to encourage co-operative workplace relations and facilitate the operation of this Agreement, an employee who has been nominated by the union(s) and has been accepted by a training provider to attend a designated trade union training course may be granted up to five days leave on full pay in any one calendar year, so long as the granting of such leave does not unduly effect the operations of the employer.
- 57.2** The employee may be granted the leave specified in **subclause 57.1** where the employer is satisfied that the course of training is likely to contribute to a better understanding of industrial relations, occupational health and safety, safe work practices, knowledge of award and other industrial entitlements and the upgrading of employee skills in all aspects of trade union functions.
- 57.3** An employee may be granted paid leave under this clause in excess of five days and up to ten days in any one calendar year subject to the total leave taken in that year and in the subsequent year not exceeding ten days.
- 57.4** An employee, upon election as a Health and Safety Representative, will be granted up to five days' paid leave, as soon as practicable after election, to undertake an appropriate introductory Health and Safety Representative's course from a training organisation of his or her choice that is approved by the Victorian WorkCover Authority, having regard to course places and the employer's operations. The employer will meet any reasonable costs incurred. Leave under this **subclause 57.4** must only be granted to an employee on one occasion and is additional to any other leave granted under this clause.

- 57.5** Additional paid leave may be approved for Health and Safety Representatives to attend training approved by the Victorian WorkCover Authority under the *Occupational Health and Safety Act 2004* (Vic), which is relevant to the functions of the Designated Work Group.

**58 FACILITIES, EQUIPMENT AND ACCOMMODATION - GENERAL**

- 58.1** The employer will provide employees with all such instruments, equipment, tools, stationery and furniture as may be reasonably necessary for carrying out their work except as otherwise agreed between the parties to this Agreement.
- 58.2** The employer will provide, in readily accessible locations, first aid equipment adequate for the nature of the employee's duties.
- 58.3** Guidelines setting out the recommended standards are contained in the WorkSafe's *Workplace Amenities and Work Environment Compliance Code* and the *First Aid in the Workplace Compliance Code*. The Guidelines do not form part of this Agreement.

## **PART 8 – AGREEMENT COMPLIANCE AND UNION RELATED MATTERS**

### **59 PROTECTION AND FACILITIES FOR ACCREDITED UNION REPRESENTATIVES**

#### **59.1 Protection**

- (a) An employee will not be dismissed or injured in his or her employment or have his or her employment altered to his or her prejudice, or be threatened with prejudicial or injurious treatment or with dismissal by reason of his or her status as an Accredited Representative of a union, engagement in lawful activities as an authorised representative of a union or on the basis of his or her membership of a union or participation in lawful union activities, provided that where any such activities are undertaken during working hours, the employee's release has been approved. Approval will not be unreasonably withheld.
- (b) An employer party to this Agreement will not injure a person in his or her employment, or alter the terms or conditions of employment of a person to his or her prejudice on the basis of his or her membership of or participation in the lawful activities of a union, provided that where any such activities are undertaken during working hours, the employee's release has been approved. Approval will not be unreasonably withheld.

#### **59.2 Facilities**

- (a) An Accredited Representative of the Union will be released by his or her employer from normal duties for such periods of time as may be reasonably necessary to enable him or her to carry out his or her representative functions including, but not limited to, investigating any alleged breach of this Agreement, endeavouring to resolve any dispute arising out of the operation of this Agreement, participating in any bargaining, conciliation or arbitration process conducted under the provisions of the FW Act. Such release must not unduly affect the operations of the employer.
- (b) Members of the union/s will be permitted by the employer to post written material authorised by the union/s in a place within the workplace to which union members have convenient access, and to distribute such written material by appropriate means to union/s members.
- (c) employees will be allowed reasonable access to electronic communication devices to facilitate communication between employees and the union, provided that such communication is not offensive or improper.



## **PART 9 – FLEXIBILITY ARRANGEMENTS**

### **60 Individual flexibility arrangements**

The employer and employee may enter into an individual flexibility arrangement in accordance with **Schedule 4**.

# SCHEDULE 1

## SALARIES AND ALLOWANCES

### PART 1 – SALARIES

#### 1. Full-time Annual Salaries

An employee will be paid the rates appropriate to his or her grade level, as follows:

Grade	1 September 2020
<b>Nurse Program Manager</b>	
5	\$122,029
4	\$120,514
3	\$117,492
2	\$114,468
1	\$111,444
<b>Senior Nurse</b>	
4	\$111,983
3	\$109,553
2	\$107,119
1	\$104,685
<b>Nurse Grade 4B</b>	
3	\$102,997
2	\$101,166
1	\$99,337
<b>Nurse Grade 4A</b>	
3	\$97,933
2	\$96,171
1	\$94,413
<b>Nurse Grade 3B</b>	
3	\$92,865
2	\$91,308
1	\$89,754

## PART 2 – ALLOWANCES

### 2.1 First Aid Allowance (Clause 25.1)

TBD
\$650

### 2.2 Language Allowance (Clause 25.3)

Level	TBD
Language aide accreditation	\$1,125
Paraprofessional interpreter accreditation	\$1,549
Interpreter accreditation or higher	\$2,112

### 2.3 Stand-by/Recall Allowance (Clause 25.4)

	TBD
Per night	\$31.01
Per day/night	\$62.53

### 2.4 Permanent relocation of usual place of work (Clause 26.7)

TBD
\$1,512

### 2.5 Maximum salary for calculation of overtime penalty payment (Clause 30.6)

TBD
\$78,170

### 2.6 Overtime meal payment (Clause 30.11)

TBD
\$21.94

### 2.7 Maximum salary for calculation of leave loading allowance (Clause 33.7)

TBD
\$99,178

## SCHEDULE 2

### NURSES CLASSIFICATION AND GRADE DESCRIPTORS

Nurse Structure	Nurse Grade			Senior Nurse
	Grade 3B	Grade 4A	Grade 4B	
<p><b>Definition:</b> Nursing is a health-care service provided to society and practiced in a range of settings. The work includes observation, care, treatment, and counselling; the prevention of illness; and community education to restore and maintain optimal health. To achieve these objectives, the nurse applies specialised knowledge, clinical skills and techniques. Nurses must hold a current Victorian registration as a Division 1 nurse, registered with the Victorian Nursing Council. Post-basic qualifications may be desirable.</p>	<p>Functions with minimal supervision in a community setting, such as a school. Delivers nursing services to an allocated roster of schools usually within a defined geographic area. Conducts health assessments on all school entrants with the consent of parents/guardians Acts on referrals by parents, guardians and teachers. Delivers health education and promotion programs in collaboration with school community. Provides health advice and acts as a health resource to the school community. Provides a follow-up service for students where problems or issues have been identified. Conducts work according to relevant departmental nursing policies and in accordance with local rules in the school environment.</p>	<p>Functions as a sole health professional in a community setting, such as a school. Participates as a member of the student welfare team to promote a social view of health. Actively promotes primary health care within the education curriculum. Provides information and facilitates links between the school community and relevant primary health care services. Delivers primary health care to young people in allocated schools through health education, assessment, support, referral and health promotion activities.</p>	<p>Functions as an autonomous sole practitioner through a call centre environment on a 24/7 rostered basis. Delivers professional maternal and child health advice on a statewide basis for families of children up to six years of age. Provides immediate telephone support and professional advice to families experiencing crises and difficulties with children up to six years of age. Promotes and actively links families to local maternal and child services and other locally based support services for families.</p>	<p>Performs a senior advisory or project management function associated with the reviewing or developing nursing services in a particular region or on a statewide basis. Provide high-level advice on clinical management or administrative issues in complex nursing environments. Develops systems and manages projects to assist in the management of nursing programs. May coordinate and manage the delivery of specialist nursing services within a region or on a statewide basis.</p>

Nurse Structure	Nurse Grade			Senior Nurse
	Grade 3B	Grade 4A	Grade 4B	
<b>Communication</b>	<p>Communicates with a range of people in the school environment, the family and other relevant service providers for the purpose of developing and formulating a plan of action for students identified with a health concern.</p> <p>Advocates for objectives that restore and maintain optimal health.</p> <p>Develops, implements and evaluates health education and promotion sessions in response to identified health priorities in the schools.</p>	<p>Communicates with a range of people in the school environment, the family and other relevant service providers for the purpose of delivering positive health outcomes for students. Advocates for objectives that restore and maintain optimal health.</p> <p>Communicates with tact and diplomacy with students on sensitive personal issues.</p> <p>Delivers individual health counselling and monitors ongoing health care with students.</p> <p>Delivers a planned evidence-based approach to whole of school health promotion activities that are evaluated.</p> <p>Facilitates group work with students.</p>	<p>Communicates with callers, generally parents and other family members to resolve crises being experienced by families that impact on their health and wellbeing.</p> <p>Actively influences and convinces families to pursue specific objectives that restore and maintain optimal health for members of the family.</p> <p>Communicates with tact and diplomacy with families on sensitive personal issues.</p>	<p>Motivates, leads and convinces staff and others to co-operate in achieving difficult and conflicting objectives, such as in reviewing and developing nursing services.</p> <p>Negotiates with stakeholders and peers with the object of gaining co-operation and meeting timelines for delivery of project, service or advice.</p> <p>Initiates and maintains relationships with peers and senior internal and external stakeholders.</p> <p>Prepares technical reports on nursing issues at an advanced professional level.</p> <p>Focuses on understanding stakeholder issues.</p> <p>Develops briefs on highly complex issues that provide options for discussion and consideration and will contribute to the development of a set of final options for decision.</p>

Nurse Structure	Nurse Grade			Senior Nurse
	Grade 3B	Grade 4A	Grade 4B	
<p><b>Decision making</b></p> <p><b>Accountability and frameworks</b></p>	<p>Governed by established departmental policies and procedures.</p> <p>Resolves complex nursing issues in the school environment by discriminating between ranges of standard courses of action.</p> <p>Uses initiative and judgement to select and apply established procedures and practices to unusual or complex situations.</p> <p>Resolves local administrative, management or organisational problems in the school environment by application of accepted practices and standards.</p> <p>Guidance available from peers or nurse manager or is not required by the nature of the nursing issues generally arising.</p> <p>Uses the School Nursing Information System (SNIS) as an effective tool for client record management and activity recording, undertakes assessment and care planning and documents the process in SNIS.</p> <p>Undertakes 'lan-docking' processes within the recommended timeframe.</p>	<p>Governed by:</p> <ul style="list-style-type: none"> <li>theoretical frameworks that apply to health promotion, nursing, adolescent development;</li> <li>established departmental policies and procedures;</li> <li>established school policies;</li> <li>secondary school nursing program and professional standards; and</li> <li>secondary school nursing program guidelines.</li> </ul> <p>Uses initiative and judgement to select and apply established procedures and practices to unusual or complex situations.</p> <p>Works actively to reduce negative health outcomes and risk taking behaviours such as drug and alcohol misuse, tobacco smoking, eating disorders, obesity, depression, suicide and injuries.</p> <p>Requires considerable interpretation and understanding of health policies and community services to address contemporary health and social issues facing young people and their families.</p> <p>Uses the School Nursing Information System (SNIS) as an effective tool for client record management and activity recording, undertakes assessment and care planning and documents the process in SNIS.</p> <p>Undertakes 'lan-docking' processes within the recommended timeframe.</p>	<p>Governed by standard health policies and procedures covering maternal and child health issues.</p> <p>Uses initiative and judgement to select and apply established procedures and practices to unusual or complex situations.</p> <p>Proffers advice on resolving maternal and child health issues where recourse to a physical examination of the mother and child is unavailable.</p> <p>Works actively to reduce negative health outcomes for families with children up to six years of age.</p> <p>Requires considerable interpretation and understanding of maternal and child health policies, contemporary issues and community services to which families may be referred.</p>	<p>Bound by broad practice and policy guidelines.</p> <p>Makes decisions in situations where there is some, but not definitive, precedent on an issue.</p> <p>Advice and analysis influences nursing policy development.</p> <p>Interprets and applies nursing policies and clinical management practices and provides high-level advice to others on emerging issues.</p> <p>Accountable for work organisation, the allocation of resources within and the outputs required of the work area.</p>

Nurse Structure	Nurse Grade			Senior Nurse Grade
	Grade 3B	Grade 4A	Grade 4B	
<b>Innovation and originality</b>	Regular requirement to assess the effectiveness of policies and procedures as they apply to particular work situations. Makes recommendations to the nurse manager on the effectiveness of such policies.	While guided by established policies, provides an autonomous service within the limits of professional nursing practice. Major role in resolving health and social issues by identifying problems and applying or adapting accepted practice.	While guided by established policies, provides an autonomous service within the limits of professional nursing practice. Major role in resolving maternal and child health issues by identifying problems and applying or adapting accepted practice.	Innovative thinking and analysis influences developments within nursing programs. Conceptualises, identifies and develops new approaches or alternative courses of action on nursing issues.
<b>Knowledge and proficiency</b>	General nursing and clinical knowledge is gained through undergraduate training, work experience and relevant post -basic training. In addition to proficiency in professional nursing practice and procedures, requires an understanding of the resources available within the school and community setting together with sufficient clinical knowledge to handle a caseload as a sole practitioner. Works according to closely specified objectives, but resolves clinical nursing problems identified during the course of their duties based on past experience and by reference to peers and the nurse manager.	General nursing and clinical knowledge is gained through undergraduate training, work experience and relevant post -basic training. Requires a full understanding of delivering clinical and counselling services in a community setting such as a school. In addition to proficiency in professional nursing practice and procedures, requires an understanding of contemporary health and social issues facing young people and the resources available within the school and community for resolving these issues. Resolves clinical nursing problems identified during the course of their duties based on past experience and by reference to peers, the nurse manager and qualified medical practitioners.	General nursing and clinical knowledge is gained through undergraduate training, work experience and relevant post -basic training. Job requires current practicing certificate issued by the Victorian Nursing Council in General Nursing, Midwifery and Maternal and Child Health Nursing. Requires a full understanding of delivering clinical and counselling services to families experiencing difficulties with children up to six years of age. In addition to proficiency in professional nursing practice and procedures, requires an understanding of contemporary maternal and child health and social issues facing families and the resources available within the community for resolving these issues. Interprets non-expert language (without recourse to physical examination) to accurately identify the issues and resolve a course of action for the family.	Job requires clinical and administrative knowledge based on post-basic qualifications, further reading and study over the years, and enhanced by management and extensive clinical experience. In addition to proficiency in professional nursing practice and procedures, requires a thorough understanding of contemporary nursing issues. Uses specialist knowledge within a confined field to challenge policies and professional concepts. Applies complex concepts to policy development or research. Provides leadership in the adaptation and application of concepts to operational matters within local work area. Models high-level leadership attributes.

<b>Nurse Structure</b>	<b>Nurse Program Manager</b>
<b>Decision Making Rules, Guidelines, and Frameworks</b>	Decisions may set precedents for peers Develops business plans to deliver on evolving organisational priorities
<b>Innovation and Originality</b>	Solutions and thinking may advance organisational innovation or occupational/professional knowledge Creatively develops options in a changing organisational environment
<b>Communication</b>	Relies on formal and informal communication channels to achieve goals and engages stakeholders to help them identify areas and opportunities for improvement Initiates and maintains effective relationships with internal and external stakeholders at peer or senior levels Manages consultation processes including engagement with key stakeholders. Negotiates with stakeholders, peers, industry bodies and other government agencies with the objective of gaining co-operation, influencing views and meeting timelines for delivery of project, service or advice Is influential in negotiations with external suppliers of major services
<b>Policy and Projects</b>	Advocates policy options Manages and leads complex projects
<b>Administrative and Corporate Support</b>	Manages a discrete function with increased budget, staff responsibilities, or sensitive or complex issues Provides professional leadership in a specialised corporate support function
<b>Operational Service Delivery</b>	Manages cross-functional delivery of a defined service with increased budget, staff responsibilities, or sensitive or complex issues Provides specialist professional services or advice, including leadership and guidance to other specialists in the field
<b>Technical Specialist</b>	Provides leadership and guidance to other specialists in the field Contributes to the development of standards relating to the sector, program or profession
<b>Knowledge and Proficiency</b>	Modifies and applies concepts to new situations that may impact beyond the immediate work area Provides leadership in the application of concepts to policy development



## **SCHEDULE 3**

### **REDEPLOYMENT**

The redeployment policy will be based on the following principles:

1. The redeployment of surplus staff wherever practical and consistent with the application of merit;
2. Surplus staff have priority to be placed in vacancies that occur within the public service, unless the person is determined to be unsuitable for appointment to that vacancy by the prospective employing Agency;
3. The placement of surplus staff be managed by the employer to provide individualised case management and support, including counselling, provision of job search skills, liaison and retraining to assist in achieving placements;
4. Processes to be consistent with the application of the principles of fair and reasonable treatment and merit selection;
5. Unplaced surplus staff to have access to departure packages only after a reasonable period;
6. Retrenchment and payment of a separation package to be used as an action of last resort where redeployment within a reasonable period does not appear likely;
7. Where a vacancy exists for which a redeployee is suitable and is the only candidate or the best candidate amongst redeployees, a valid offer will be made. A valid offer involves an offer of duties to a suitably qualified employee (which may be at the same or different level or status or the same or different general location as the employee's previous employment);
8. Redeployees will have priority access to vacancies both at level and at other levels and, where appropriate, will be provided with salary maintenance;
9. The employer will provide support to redeployees being placed in alternative positions utilising high quality and professional expertise; and
10. Redeployees will actively engage in the redeployment process.

## **SCHEDULE 4**

### **INDIVIDUAL FLEXIBILITY ARRANGEMENTS**

- 1.** An employee and the employer may enter into an individual flexibility arrangement pursuant to this clause in order to meet the genuine needs of the employee and employer. An individual flexibility arrangement must be genuinely agreed to by the employee and employer.
- 2.** An individual flexibility arrangement may vary the effect of one or more of the following terms of this enterprise agreement:
  - 2.1** Clause 25 - Allowances;
  - 2.2** Clauses 28 and 29 in respect to arrangements about when work is performed;
  - 2.3** Clause 29 - Shift penalty rates;
  - 2.4** Clause 30 - Overtime rates;
  - 2.5** Clause 33 - Annual leave loading;
  - 2.6** Clause 33 - Annual leave.
- 3.** An employee may nominate a representative to assist in negotiations for an individual flexibility arrangement.
- 4.** The employer must ensure that any individual flexibility arrangement will result in the employee being better off overall than the employee would have been if no individual flexibility arrangement were agreed to.
- 5.** The employer must ensure that an individual flexibility arrangement is in writing and signed by the employee and employer. If the employee is under 18, the arrangement must also be signed by a parent or guardian of the employee.
- 6.** The employer must give a copy of the individual flexibility arrangement to the employee within 14 days after it is agreed to.
- 7.** The employer must ensure that any individual flexibility arrangement sets out:
  - 7.1** the terms of this Agreement that will be varied by the arrangement;
  - 7.2** how the arrangement will vary the effect of the terms;
  - 7.3** how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
  - 7.4** the day on which the arrangement commences.
- 8.** The employer must ensure that any individual flexibility arrangement:
  - 8.1** is about matters that would be permitted matters under section 172 of the FW Act if the arrangement were an enterprise agreement;

- 8.2** does not include any term that would be an unlawful term under section 194 of the FW Act if the arrangement were an enterprise agreement; and
  - 8.3** provides for the arrangement to be terminated:
    - 8.3.1** by either the employee or employer giving a specified period of written notice, with the specified period being not more than 28 days; and
    - 8.3.2** at any time by written agreement between the employee and employer.
- 9.** An individual flexibility arrangement may be expressed to operate for a specified term or while the employee is performing a specified role (such as acting in a specified higher position). Such an arrangement will terminate on expiry of the specified term or when the employee ceases to perform the specified role, unless terminated earlier on notice or by agreement.

IN THE FAIR WORK COMMISSION

FWC Matter No.:  
AG2020/3514

Applicant:  
State of Victoria (Department of Education and Training)

Section 185 – Application for approval of a single enterprise agreement

## Undertaking – Section 190

I, Tony Bugden, Executive Director, People Division, Department of Education and Training have the authority given to me by the State of Victoria (Department of Education and Training) to give the following undertaking with respect to the *Nurses (Department of Education and Training) Agreement 2020* ("the Agreement"):

1. For the purposes of sections 187(4) and 196(2) of the Fair Work Act 2009 (Cth), clause 33.5 of the Agreement defines or describes a shiftworker for the purposes of the National Employment Standards, including the section 87 entitlement to additional annual leave.

This undertaking is provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
10/12/2020  
Date