



## DECISION

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

**Victorian Hospitals' Industrial Association**  
(AG2018/6044)

### **VICTORIAN PUBLIC HEALTH SECTOR (DENTAL THERAPISTS, DENTAL HYGIENISTS AND ORAL HEALTH THERAPISTS') ENTERPRISE AGREEMENT 2018-2022**

Health and welfare services

DEPUTY PRESIDENT COLMAN

MELBOURNE, 12 MARCH 2019

*Application for approval of the Victorian Public Health Sector (Dental Therapists, Dental Hygienists and Oral Health Therapists') Enterprise Agreement 2018-2022.*

[1] The Victorian Hospitals' Industrial Association (VHIA) has made an application for the approval of an enterprise agreement known as the *Victorian Public Health Sector (Dental Therapists, Dental Hygienists and Oral Health Therapists') Enterprise Agreement 2018-2022* (the Agreement) pursuant to s 185 of the *Fair Work Act 2009* (the Act). The Agreement is a single enterprise agreement.

[2] The Employer has provided written undertakings. A copy of the undertakings is attached in Annexure A. I am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement and that the undertakings will not result in substantial changes to the Agreement.

[3] Subject to the undertakings referred to above, and on the basis of the material contained in the application and accompanying statutory declaration, I am satisfied that each of the requirements of ss 186, 187, 188 and 190 as are relevant to this application for approval have been met.

[4] The CPSU, the Community and Public Sector Union being a bargaining representative for the Agreement, has given notice under s 183 of the Act that it wants the Agreement to cover it. In accordance with s 201(2) and based on the statutory declaration provided by the organisation, I note that the Agreement covers the organisation.

[5] The Agreement was approved on 12 March 2019 and, in accordance with s 54, will operate from 19 March 2019. The nominal expiry date of the Agreement is 30 April 2022.



DEPUTY PRESIDENT

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Annexure A



Victorian Hospitals' Industrial Association

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**IN THE FAIR WORK COMMISSION**

**FWC Matter No.:**

AG2018/6044

**Applicant:**

Victorian Hospitals' Industrial Association

**Undertaking- section 190**

I, Stuart McCullough, Chief Executive Officer of the Victorian Hospitals' Industrial Association give the following undertakings with respect to the *Victorian Public Health Sector (Dental Therapists, Dental Hygienists and Oral Health Therapists) Enterprise Agreement 2018 – 2022* ("the Agreement"):

1. I have the authority given to me to provide this undertaking in relation to this application before the Fair Work Commission.
2. The VHIA is the bargaining representative of each of the Employers listed in Appendix One (Employers) to the Agreement.
3. The VHIA is authorised to give the following undertakings on behalf of each of the Employers, and gives this undertaking on behalf of each of the Employers pursuant to subsection 190(3) of the *Fair Work Act 2009*.
4. This agreement will be read and interpreted in conjunction with the NES. Where there is inconsistency between this agreement and the NES, and the NES provides greater benefit, the NES provision will apply to the extent of the inconsistency.
5. Casual Employees under this Agreement are subject to a 3 hour minimum engagement period.
6. Any Time off in lieu balance accrued under Clause 36.1 of the Agreement is to be paid out on termination of employment.

Authority to sign: CEO

Signature:

Date: 6/02/19

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 this agreement.

VICTORIAN PUBLIC  
HEALTH SECTOR  
(DENTAL THERAPISTS,  
DENTAL HYGIENISTS AND  
ORAL HEALTH  
THERAPISTS')  
ENTERPRISE AGREEMENT  
2018 - 2022

# PART A – APPLICATION AND OPERATION OF THE AGREEMENT

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## 1 Titles

This agreement shall be known as the *Victorian Public Health Sector (Dental Therapists, Dental Hygienists and Oral Health Therapists) Enterprise Agreement 2018-2022*.

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## 4 Definitions

- 4.1 **CPSU** means the Community & Public Sector Union;
- 4.2 **Dental Clinic** means any public dental clinic whether fixed or mobile;
- 4.3 **Dental Hygienist** for the purpose of this agreement means a person with current registration as a dental hygienist with the Dental Board of Australia or successor;
- 4.4 **Dental Therapist** for the purpose of this agreement means a person with current registration as a dental therapist with the Dental Board of Australia or successor;
- 4.5 **AHPRA** means the Australian Health Practitioner Regulation Agency or successor;
- 4.6 **DHHS** or **Department** means the Department of Health and Human Services or successor;
- 4.7 **Employee** means either a Dental Therapist, Dental Hygienists or Oral Health Therapist who is employed by an Employer listed in **Appendix One** of this Agreement;
- 4.8 **FWC** and the **Commission** means Fair Work Commission;
- 4.9 **Hourly rate** means one thirty-eighth of the appropriate weekly rate for the relevant classification;
- 4.10 **Immediate Family** means:

- (a) a spouse (including a former spouse, a de facto partner and a former de facto partner) of the Employee. 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);
- (b) a child or an adult child (including an adopted child, a step child or an ex nuptial child), parent, grandparent, grandchild or sibling of the Employee or of the Employee's spouse

**4.11 Oral Health Therapist** for the purpose of this agreement means a person with current registration as both a Dental Therapist and Dental Hygienist with the AHPRA or successor or with current registration as an Oral Health Therapist

**4.12 Service or Employer** unless the context otherwise indicates or requires, means relevant service before and/or after commencement of this agreement in any one or more Victorian public health service or registered community health centres.

## **5 Incidence & Coverage**

**5.1** This agreement covers:

- (a) The Employers listed in **Appendix One**;
- (b) Employees who are employed in the capacity of Dental Therapists, Dental Hygienists and Oral Health Therapists who are employed by the employers listed **Appendix One**.
- (c) The Community and Public Sector Union as a bargaining representative for the Agreement entitled to be covered by the Agreement in accordance with section 183 of the *Fair Work Act 2009*.

## **6 Operation of Agreement**

**6.1** This Agreement shall come into effect 7 days from the date of approval by Fair Work Commission and shall remain in force until 30 April 2022.

## **7 Savings**

**7.1** Nothing in this Agreement shall affect any condition of employment which is superior to any term or condition pursuant to this agreement which an Employee was entitled to immediately prior to this Agreement coming into effect.

**7.2** A dispute or grievance that is being considered pursuant to clause 12 of the *Victorian Public Health Sector (Dental Therapists, Dental Hygienists and Oral Health Therapists) Enterprise Agreement 2013 -2017* or the *Victorian Public Health Sector (Dental Therapists, Dental Hygienists and Oral Health Therapists) Enterprise Agreement 2013 -2017 (No 2)* at the time this Agreement commences operation may continue to be considered pursuant to clause 13 of this Agreement.

## **8 No Extra Claims**

- 8.1 The Parties undertake that during the life of this Agreement there shall be no further wage increases sought or granted except as provided for under the terms of this Agreement.

## **9 Anti-Discrimination**

- 9.1 It is the intention of the Parties to this Agreement to achieve the principal object in section 3(e) of the *Fair Work Act 2009* 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 responsibilities, pregnancy, religion, political opinion, national extraction or social origin.
- 9.2 Accordingly, in fulfilling their obligations under the procedures in clause 13 (Dispute Resolution Procedure), the Parties must make every endeavour to ensure that neither the Agreement provisions nor their operation are directly or indirectly discriminatory in their effects.
- 9.3 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 Registered Organisation pursuing matters of discrimination in any State or Federal jurisdiction, including by application to the Human Rights and Equal Opportunity Commission;
  - (c) any exemptions provided under the *Fair Work Act 2009*.

## **10 Relationship to Previous Agreements, Awards and the National Employment Standards**

- 10.1 This is a comprehensive agreement that operates to the exclusion of any award or enterprise agreement which may apply to the employees covered by this agreement.
- 10.2 This Agreement is not intended to exclude any part of the NES or to provide any entitlement which is detrimental to an Employee's entitlement under the NES. For the avoidance of doubt, the NES prevails to the extent that any aspect of this Agreement would otherwise be detrimental to an Employee.

# PART B – CONSULTATION, DISPUTE RESOLUTION PROCEDURE AND DISCIPLINE

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## 11 Consultation

*Nothing in this clause limits the Employer's obligations to consult with HSRs under the OHS Act.*

### 11.1 Consultation regarding major change

- (a) Where an Employer proposes a major workplace change that may have a significant effect on an Employee or Employees, the Employer will consult with the affected Employee/s, the Union, and the Employee's other chosen representative (where relevant) before any proposed change occurs.
- (b) Workplace change includes (but is not limited to) technological change.
- (c) Consultation will include those who are absent on leave including parental leave.
- (d) The Employer will take reasonable steps to ensure Employees, HSRs (where relevant) and the Union can participate effectively in the consultation process.

### 11.2 Definitions

Under this clause 11:

- (a) **Consultation** means a genuine opportunity to influence the decision maker, but not joint decision making. It is not merely an announcement as to what is about to happen.
- (b) **Affected employee** means an Employee on whom a major workplace change may have a significant effect.
- (c) **Major change** means a change in the Employer's program, production, organisation, physical workplace, workplace arrangements, structure or technology that is likely to have a significant effect on Employees.
- (d) **Significant effect** includes but is not limited to:
  - (i) termination of employment;
  - (ii) changes in the size, composition or operation of the Employer's workforce (including from outsourcing) or skills required;
  - (iii) alteration of the number of hours worked and/or reduction in remuneration;
  - (iv) changes to an Employee's classification, position description, duties or reporting lines;
  - (v) the need for retraining or relocation/redeployment/transfer to another site or to other work;
  - (vi) removal of an existing amenity;
  - (vii) the removal or reduction of job opportunities, promotion opportunities or job tenure.
- (e) **Measures to mitigate or avert** may include but are not limited to:
  - (i) redeployment;

- (ii) retraining;
- (iii) salary maintenance;
- (iv) job sharing; and / or
- (v) maintenance of accruals.

**11.3 Consultation Steps and Indicative reasonable timeframes**

- (a) Consultation includes the steps set out below.
- (b) Timeframes for each step must allow a party to consultation (including a representative) to genuinely participate in an informed way having regard for all the circumstances including the complexity of the change proposed, and the need for Employees and their representative to meet with each other and consider and discuss the Employer’s proposal.
- (c) The following table makes clear the relevant steps and indicative timeframes for the consultation process.

<b>Step</b>	<b>Action</b>	<b>Timeframe</b>
1.	Employer provides change impact statement and other written material required by sub-clause 11.4	
2.	Written response from Employees and / or union	14 days of step 1
3.	Consultation meeting/s convened	7-14 days of step 2
4.	Further Employer response (where relevant)	After the conclusion of step 3
5.	Alternative proposal from Employees or Union	14 days of step 4
6.	Employer to consider alternative proposal/s consistent with the obligation to consult and, if applicable, to arrange further meetings with Employees or Union prior to advising outcome of consultation	14 days of step 5

**11.4 Change Impact Statement (Step 1)**

Prior to consultation required by this clause, the Employer will provide affected Employee/and Union with a written Change Impact Statement setting out all relevant information including:

- (a) the details of proposed change;

- (b) the reasons for the proposed change;
- (c) the possible effect on Employees of the proposed change on workload and other occupational health and safety impacts;
- (d) where occupational health and safety impacts are identified, a risk assessment of the potential effects of the change on the health and safety of Employees, undertaken in consultation with HSRs, and the proposed mitigating actions to be implemented to prevent such effects;
- (e) the expected benefit of the change;
- (f) measures the Employer is considering that may mitigate or avert the effects of the proposed change;
- (g) the right of an affected Employee to have a representative including a Union representative at any time during the change process; and
- (h) other written material relevant to the reasons for the proposed change (such as consultant reports), excluding material that is commercial in confidence or expose the Employer to unreasonable legal risk or cannot be disclosed under the *Health Services Act 1988* or other legislation.

#### **11.5 Employee / Union response (step 2)**

Following receipt of the change impact statement, affected Employees and / or the Union may respond in writing to any matter arising from the proposed change.

#### **11.6 Meetings (step 3)**

- (a) As part of consultation, the Employer will meet with the Employee/s, the Union and other nominated representative/s (if any) to discuss:
  - (i) the proposed change;
  - (ii) proposals to mitigate or avert the impact of the proposed change;
  - (iii) any matter identified in the written response from the affected Employees and / or the Union.
- (b) To avoid doubt, the 'first meeting' at step 3 does not limit the number of meetings for consultation.

#### **11.7 Employer response (step 4)**

The Employer will give prompt and genuine consideration to matters arising from consultation and will provide a written response to the Employees, Union and (where relevant) other representative/s.

#### **11.8 Alternative proposal (step 5)**

The affected Employee/s, the Union and other representative (where relevant) may submit alternative proposal(s) which will take into account the intended objective and benefits of the proposal. Alternative proposals should be submitted in a timely manner so that unreasonable delay may be avoided.

#### **11.9 Outcome of consultation (step 6)**

The Employer will give prompt and genuine consideration to matters arising from consultation, including an alternative proposal submitted under sub-clause 11.8, and will

advise the affected Employees, the Union and other nominated representatives (if any) in writing of the outcome of consultation including:

- (a) whether the Employer intends to proceed with the change proposal;
- (b) any amendment to the change proposal arising from consultation;
- (c) details of any measures to mitigate or avert the effect of the changes on affected Employees; and
- (d) a summary of how matters that have been raised by Employees, the Union and their representatives, including any alternative proposal, have been taken into account.

#### **11.10 Consultation about changes to rosters or hours of work**

- (a) Where an Employer proposes to change an Employee's regular roster or ordinary hours of work, the Employer must consult with the Employee or Employees affected and their representatives, if any, about the proposed change.
- (b) The Employer must:
  - (i) consider health and safety impacts including fatigue;
  - (ii) provide to the Employee or Employees affected and their representatives, if any, information about the proposed change (for example, information about the nature of the change to the Employee's regular roster or ordinary hours of work and when that change is proposed to commence);
  - (iii) invite the Employee or Employees affected 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 consideration to any views about the impact of the proposed change that is given by the Employee or Employees concerned and/or their representatives.
- (c) The requirement to consult under this clause does not apply where an Employee has irregular, sporadic, unpredictable working hours, self-rostering or, where permitted, a rotating roster.
- (d) These provisions are to be read in conjunction with the terms of the engagement between the Employer and Employee, other Agreement provisions concerning the scheduling of work and notice requirements.

#### **11.11 Consultation disputes**

Any dispute regarding the obligations under this clause will be dealt under the Dispute Resolution Procedure at clause 13 of this Agreement.

## **12 Redundancy and Associated Entitlements**

### **12.1 Arrangement**

- (a) This clause is arranged as follows:
  - (i) Arrangement (subclause 12.1),
  - (ii) Definitions (subclause 12.2),
  - (iii) Redeployment (subclause 12.3),
  - (iv) Support to Affected Employees (subclause 12.4),

- (v) Salary maintenance (subclause 12.5),
- (vi) Relocation (subclause 12.6),
- (vii) Employment terminates due to redundancy (subclause 12.7), and
- (viii) Exception to application of Victorian Government's policy with respect to severance pay (subclause 12.8)

## 12.2 Definitions

- (a) **Affected Employee** for this clause 12 means an Employee whose role will be redundant.
- (b) **Comparable role** means an on-going role that:
  - (i) is the same occupation as that of the Affected Employee's redundant position or if not, is in an occupation acceptable to the Affected Employee; and
  - (ii) is any of the following:
    - (A) In the same clinical specialty as that of the Affected Employee's former position;
    - (B) in a clinical specialty acceptable to the Affected Employee; or
    - (C) a position that with the reasonable support described at 12.3(g) the Affected Employee could undertake; and
  - (iii) is the same grade as the Affected Employee's redundant position;
  - (iv) takes into account the number of ordinary hours normally worked by the Affected Employee;
  - (v) Is a Reasonable Distance from the Affected Employee's current work location;
  - (vi) takes the Affected Employee's personal circumstances, including family responsibilities, into account; and
  - (vii) takes account of health and safety considerations.
- (c) **Consultation** is as defined at clause 11 (Consultation) of this Agreement.
- (d) **Continuity of Service** means that the service of the Employee is treated as unbroken. However, continuity of service is not broken where an Employer pays out accrued annual leave or long service leave upon termination in accordance with this Agreement.
- (e) **Reasonable Distance** means a distance that has regard to the Employee's original work location, current home address, capacity of the Employee to travel, additional travelling time, effects on the personal circumstances of the affected Employee, including family commitments and responsibilities and other matters raised by the Employee, or assistance provided by their Employer.
- (f) **Redeployment period** means a period of 13 weeks from the time the Employer notifies the Affected Employee in writing that consultation under clause 11 is complete and that the redeployment period has begun.
- (g) **Redundancy** means the Employer no longer requires the Affected Employee's job to be performed by anyone because of changes in the operational requirements of the Employer's enterprise.

- (h) **Relocation** means an Affected Employee is required to move to a different campus as a result of an organisational change on either a temporary or permanent basis.
- (i) **Salary maintenance** means an amount representing the difference between what the Affected Employee was normally paid immediately prior to the Affected Employee's role being made redundant and the amount paid in the Affected Employee's new role following redeployment.

### 12.3 Redeployment

- (a) An Affected Employee whose role will be redundant will be considered for redeployment during the redeployment period.

- (b) Employee to be advised in writing

The Affected Employee must be advised in writing of:

- (i) the date the Affected Employee's role is to be redundant,
- (ii) details of the redeployment process,
- (iii) the reasonable support that will be provided in accordance with subclause (g), and
- (iv) the Affected Employee's rights and obligations.

- (c) Employer obligations

The Employer will:

- (i) make every effort to redeploy the Affected Employee to a Comparable Role in terms of classification, grade and income, including appointing a case manager to provide the Affected Employee with support and assistance; and
- (ii) take into account the personal circumstances of the Affected Employee, including family commitments and responsibilities.

- (d) Employee obligations

The Employee must actively participate in the redeployment process including:

- (i) identifying appropriate retraining needs;
- (ii) developing a resume / CV to assist in securing redeployment;
- (iii) actively monitoring and exploring appropriate redeployment opportunities and working with the appointed case manager.

- (e) Rejecting a comparable role

Where an Affected Employee rejects an offer of redeployment to a comparable role (as defined), the Affected Employee may be ineligible for a departure package referred to at subclause 12.7.

- (f) Temporary alternative duties

An Affected Employee awaiting redeployment may be transferred to temporary alternative duties within the same campus, or where part of the Employee's existing employment conditions (or by agreement) at another campus. Such temporary duties will be in accordance with the Affected Employee's skills, experience, clinical area and profession.

- (g) Support for redeployment

For an available role to be considered a comparable role, the Employer must provide the reasonable support necessary for the Affected Employee to perform the role which may include:

- (i) theory training relevant to the clinical area or environment of the role into which the Affected Employee is to be redeployed;
- (ii) a defined period of up to 12 weeks in which the Affected Employee works in a supernumerary capacity;
- (iii) support from educational staff in the clinical environment;
- (iv) a review at 12 weeks or earlier to determine what, if any, further training is required.

(h) Where no redeployment available

If at any time during the redeployment period it is agreed that it is unlikely that the Affected Employee will be successfully redeployed, the Affected Employee may accept a redundancy package. Where this occurs, the Affected Employee will be entitled to an additional payment of the lesser of 13 weeks or the remaining redeployment period.

(i) Non-Comparable Role

An Affected Employee may agree to be redeployed to a role that is not a Comparable Role.

#### **12.4 Support to Affected Employees**

The Employer will provide Affected Employees whose position has been declared redundant with support and assistance which will include, where relevant:

- (a) counselling and support services;
- (b) retraining,
- (c) preparation of job applications;
- (d) interview coaching;
- (e) time off to attend job interviews; and
- (f) funding of independent financial advice for employees eligible to receive a separation package.

#### **12.5 Salary Maintenance**

(a) Entitlement to salary maintenance

An Affected Employee who is successfully redeployed will be entitled to salary maintenance where the Affected Employee's pay is reduced because the new role:

- (i) is a lower grade;
- (ii) involves working fewer hours; and/or
- (iii) removes eligibility for penalties, loadings and the like.

(b) Period of salary maintenance

Salary maintenance will be for a period of 52 weeks from the date the Affected Employee is redeployed except where the Affected Employee:

- (i) accepts another position within the salary maintenance period, and
  - (ii) is paid in the other position an amount equal to or greater than the role that was made redundant.
- (c) Preservation of accrued leave
- An Affected Employee entitled to salary maintenance will have:
- (i) their long service leave and annual leave accruals preserved before redeployment. Specifically, the value of the leave immediately prior to redeployment will not be reduced as a result of redeployment; and
  - (ii) their personal leave preserved in hours.

## **12.6 Relocation**

- (a) Employer to advise in writing of relocation

As soon as practicable but no less than seven (7) days after a decision is made by the Employer to temporarily or permanently relocate an Affected Employee, the Employer will advise the Affected Employee in writing of the decision, the proposed timing of the relocation and any other alternatives available to the Affected Employee. In addition, the Employer will:

- (i) ensure the relocation is a Reasonable Distance, unless otherwise agreed;
- (ii) ensure that the Affected Employee is provided with information on the new location's amenities, layout and local operations prior to the relocation, and
- (iii) consult with the Union regarding the content of such information.

- (b) Entitlement to relocation allowance

An Affected Employee is entitled to relocation allowance where permanent or temporary relocation results in additional cost to the Affected Employee for travel and / or other expenses.

- (c) Employee to provide written estimate

The Affected Employee must make written application to the Employer with a written estimate of the additional travelling cost and other expenses for the period of redeployment up to a maximum of 12 months.

- (d) Payment

- (i) The maximum relocation allowance payable by the Employer will be \$1900.00, paid as a lump sum.
- (ii) When considering the Affected Employee's estimate, the Employer may have regard to the Reasonable Distance.
- (iii) In the event of a dispute about the Affected Employee's estimate it will be resolved under clause 13 – Dispute Resolution Procedure.

- (e) Exceptions

An Affected Employee is not entitled to the relocation allowance if the site or campus to which the Affected Employee is being relocated is a location to which they can be expected to be deployed as part of their existing employment conditions.

- (f) Fixed term employees not excluded

An Affected Employee on a fixed term contract who is relocated will be covered by the terms of this clause for the duration of the fixed term contract.

#### **12.7 Employment terminates due to redundancy**

The Victorian Government's policy with respect to public sector redundancy and the entitlements upon termination of employment as a result of redundancy are set out in the Public Sector Workplace Relations Policies 2015. The policy as at the time this Agreement comes into operation applies to Employees but does not form part of this Agreement.

#### **12.8 Exception to application of Victorian Government's policy with respect to severance pay**

- (a) Where the Affected Employee's Employer secures a comparable role (as defined) with another Employer covered by this Agreement, which:
- (i) is within a Reasonable Distance of the work site of the redundant position; and
  - (ii) provides continuity of service; and
  - (iii) where the comparable role results in a loss of income, salary maintenance at subclause 12.5 will apply; and
  - (iv) where relevant, consistent with the financial and other support provided to an internal redeployee;

the Employee will be considered successfully redeployed as though the employment was with the same Employer and no severance pay will apply.

## **13 Dispute Resolution Procedure**

### **13.1 Resolution of disputes and grievances**

- (a) For the purpose of this clause 13, a dispute includes a grievance.
- (b) This dispute resolution procedure will apply to any dispute arising in relation to:
- (i) this Agreement;
  - (ii) the NES;
  - (iii) a request for flexible working arrangements; or
  - (iv) a request for an additional 12 months parental leave.
- (c) A party to the dispute may choose to be represented at any stage by a representative including a Union or employer organisation. A representative, including a Union or employer organisation on behalf of an Employer, may initiate a dispute.

### **13.2 Obligations**

- (a) The parties to the dispute and their representatives must genuinely attempt to resolve the dispute through the processes set out in this clause and must cooperate to ensure that these processes are carried out expeditiously.
- (b) While the dispute resolution procedure is being conducted work will continue normally according to the usual practice that existed before the dispute, until the dispute is resolved.
- (c) This requirement does not apply where an Employee:

- (i) has a reasonable concern about an imminent risk to his or her health or safety;
  - (ii) has advised the Employer of the concern; and
  - (iii) 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.
- (d) No party to a dispute or person covered by the Agreement will be prejudiced with respect to the resolution of the dispute by continuing work under this clause.

### **13.3 Dispute settlement facilitation**

- (a) Where the chosen representative is another Employee of the Employer, that Employee will be released by the Employer from normal duties as is reasonably necessary to enable them to represent the Employee/s including:
- (i) investigating the circumstances of the dispute; and
  - (ii) participating in the processes to resolve the dispute, including conciliation and arbitration.
- (b) An Employee who is part of the dispute will be released by the Employer from normal duties as is reasonably necessary to enable them to participate in this dispute settling procedure so long as it does not unduly affect the operations of the Employer.

### **13.4 Discussion of dispute at workplace**

- (a) The parties will attempt to resolve the dispute at the workplace as follows:
- (i) in the first instance by discussions between the Employee/s and the relevant supervisor; and
  - (ii) if the dispute is still unresolved, by discussions between the Employee/s and more senior levels of local management.
- (b) The discussions at subclause 13.4(a) will take place within fourteen days or such longer period as mutually agreed, save that agreement will not be unreasonably withheld.
- (c) If a dispute cannot be resolved at the workplace it may be referred by a party to the dispute or representative to the Commission for conciliation and, if the matter in dispute remains unresolved, arbitration.

### **13.5 Disputes of a collective character**

Disputes of a collective character may be dealt with more expeditiously by an early reference to the Commission. However, no dispute of a collective character may be referred to the Commission directly without a genuine attempt to resolve the dispute at the workplace level.

### **13.6 Conciliation**

- (a) Where a dispute is referred for conciliation, the Commission member will do everything the member deems right and proper to assist the parties to settle the dispute.
- (b) Conciliation before the Commission is complete when:
- (i) the parties to the dispute agree that it is settled; or
  - (ii) the Commission member conducting the conciliation, either on their own motion or after an application by a party, is satisfied there is no likelihood that further conciliation will result in settlement within a reasonable period; or

- (iii) the parties to the dispute inform the Commission member there is no likelihood the dispute will be settled and the member does not have substantial reason to refuse to regard conciliation as complete.

### **13.7 Arbitration**

- (a) If, when conciliation is complete, the dispute is not settled, either party may request the Commission proceed to determine the dispute by arbitration.
- (b) The Commission member that conciliated the dispute will not arbitrate the dispute if a party objects to the member doing so.
- (c) Subject to subclause 13.8 below, a decision of the Commission is binding upon the persons covered by this Agreement.
- (d) An appeal lies to a Full Bench of the Commission, with the leave of the Full Bench, against a determination of a single member of the Commission made pursuant to this clause.

### **13.8 Conduct of matters before the Commission**

Subject to any agreement between the parties to the dispute in relation to a particular dispute or grievance and the provisions of this clause, in dealing with a dispute or grievance through conciliation or arbitration, the Commission will conduct the matter in accordance with sections 577, 578 and Subdivision B of Division 3 of Part 5-1 of the Act.

## **14 Discipline**

### **14.1 Application**

- (a) Where an Employer has concerns about:
  - (i) the conduct of an Employee; or
  - (ii) a performance issue that may constitute misconduct,the following procedure will apply.
- (b) There are two steps in a disciplinary process under this clause as follows:
  - (i) investigative procedure; and
  - (ii) disciplinary procedure.
- (c) An Employee will be provided a reasonable opportunity to be represented at any time (including by a Union) with respect to all matters set out in this clause.

### **14.2 Definitions**

- (a) **Performance** means the manner in which the Employee fulfils his or her job requirements. The level of performance is determined by an Employee's knowledge, skills, qualifications, abilities and the requirements of the role.
- (b) **Conduct** means the manner in which the Employee behaviour impacts on their work.
- (c) **Misconduct** means an Employee's intentional or negligent failure to abide by or adhere to the standards of conduct expected by the Employer. A performance issue can be considered misconduct where, despite all reasonably practicable interventions by the Employer, the Employee is unable to fulfil all or part of their job requirements to a satisfactory level.

- (d) **Serious misconduct** is as defined under the Act and that is both wilful and deliberate. Currently the Act defines serious misconduct, in part, as:
- (i) wilful or deliberate behaviour by an employee that is inconsistent with the continuation of the contract of employment;
  - (ii) conduct that causes serious and imminent risk to:
    - (A) the health or safety of a person; or
    - (B) the reputation, viability or profitability of the employer's business.

Conduct that is serious misconduct includes each of the following:

- (iii) the Employee, in the course of the Employee's employment, engaging in:
  - (A) theft; or
  - (B) fraud; or
  - (C) assault;
- (iv) the Employee being intoxicated at work;
- (v) the Employee refusing to carry out a lawful and reasonable instruction that is consistent with the employee's contract of employment.

Subclauses 14.2(d)(iii) -14.2(d)(v) do not apply if the Employee is able to show that, in the circumstances, the conduct engaged in by the Employee was not conduct that made employment in the period of notice unreasonable.

#### **14.3 Investigative procedure**

- (a) The purpose of an investigative procedure is to conclude whether, on balance, concerns regarding conduct or performance are well-founded and supported by evidence. An investigation procedure must be fair including proper regard to procedural fairness.
- (b) The Employer will:
  - (i) advise the Employee of the concerns and allegations in writing;
  - (ii) provide the Employee with any material which forms the basis of the concerns;
  - (iii) ensure the Employee is provided a reasonable opportunity to answer any concerns including a reasonable time to respond;
  - (iv) advise the Employee of their right to have a representative, including a Union representative;
  - (v) ensure that the reason for any interview is explained; and
  - (vi) take reasonable steps to investigate the Employee's response.

#### **14.4 Disciplinary procedure**

- (a) The disciplinary procedure applies if, following the investigation, the Employer reasonably considers that the Employee's conduct or performance may warrant disciplinary steps being taken.
- (b) The Employer will:
  - (i) notify the Employee in writing of the outcome of the investigation process, including the basis of any conclusion; and

- (ii) meet with the Employee.
- (c) In considering whether to take disciplinary action, the Employer will consider:
  - (i) whether there is a valid reason related to the conduct or performance of the Employee arising from the investigation justifying disciplinary action;
  - (ii) whether the Employee knew or ought to have known that the conduct or performance was below acceptable standards; and
  - (iii) any explanation by the employee relating to conduct including any matters raised in mitigation.

#### **14.5 Possible outcomes**

- (a) Where it is determined that after following the procedures in this clause that disciplinary action is warranted, the Employer may take any of the following steps depending on the seriousness of the conduct or performance:
  - (i) counsel the Employee, with the counselling recorded on the Employee's personnel file;
  - (ii) give the Employee a first warning, which will be verbal and a record of the warning recorded on the Employee's personnel file;
  - (iii) give the Employee a second written warning in the event that the Employee has previously been given a first warning within the previous 12 months for that course of conduct;
  - (iv) give the Employee a final written warning in the event that the Employee has previously been given a second written warning within the preceding 18 month period for that course of conduct;
  - (v) terminate the Employee's employment on notice in the case of an employee who repeats a course of conduct for which a final warning was given in the preceding 18 months;
  - (vi) terminate the Employee's employment without notice where the conduct is serious misconduct within the meaning of the Act that is wilful and deliberate; or
  - (vii) as an alternative to subclause 14.5(a)(vi) above and in those circumstances, the Employer may issue the Employee with a final warning without following the steps in subclauses 14.5(a)(i) to 14.5(a)(iii) above.
- (b) The Employer's decision and a summary of its reasons will be notified to the Employee in writing.
- (c) If after any warning, a period of 12 or 18 months elapses (as relevant) without any further warning being required, all adverse reports relating to the warning must be removed from the Employee's personnel file.
- (d) A dispute over the clause is to be dealt with in accordance with the Dispute Resolution Procedure of this Agreement.

## **15 Individual Flexibility Arrangement**

- 15.1** 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.

- 15.2** An individual flexibility arrangement may vary the effect of one or more of the following terms of this enterprise agreement:
- (a) arrangements for when work is performed;
  - (b) overtime rates;
  - (c) penalty rates; and
  - (d) allowances.
- 15.3** An employee may nominate a representative to assist in negotiations for an individual flexibility arrangement.
- 15.4** 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.
- 15.5** 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.
- 15.6** The employer must give a copy of the individual flexibility arrangement to the employee within 14 days after it is agreed to.
- 15.7** The employer must ensure that any individual flexibility arrangement sets out:
- (a) the terms of this enterprise agreement that will be varied by the arrangement;
  - (b) how the arrangement will vary the effect of the terms;
  - (c) 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
  - (d) the day on which the arrangement commences.
- 15.8** The employer must ensure that any individual flexibility arrangement:
- (a) is about matters that would be permitted matters under section 172 of the *Fair Work Act 2009* if the arrangement were an enterprise agreement;
  - (b) does not include any term that would be an unlawful term under section 194 of the *Fair Work Act 2009* if the arrangement were an enterprise agreement; and
  - (c) provides for the arrangement to be terminated:
    - (i) by either the employee or employer giving a specified period of written notice, with the specified period being not more than 28 days; and
    - (ii) at any time by written agreement between the employee and employer.
- 15.9** 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.

## 16 Flexible Working Arrangements

- 16.1** The Act entitles specified Employees to request flexible working arrangements in specified circumstances.
- 16.2** The specified Employees are:
- (a) full time or part Employees with at least 12 months continuous service; and
  - (b) long term casual Employees with a reasonable expectation of continuing employment by the Employer on a regular and systematic basis.
- 16.3** The specified circumstances are if the Employee:
- (a) is the parent, or has responsibility for the care, of a child who is of school age or younger;
  - (b) is a carer within the meaning of the *Carer Recognition Act 2010* caring for someone who has a disability, a medical condition (including a terminal or chronic illness), a mental illness or is frail or aged;
  - (c) has a disability;
  - (d) is 55 or older;
  - (e) is experiencing violence from a member of the Employee's family; or
  - (f) provides care or support to a member of the Employee's immediate family, who requires care or support because the member is experiencing violence or abuse from the member's family.
- 16.4** To ensure that Employees are aware of this entitlement, the Employer will post the information statement at **Appendix Four** on the relevant notice board or intranet (where available) and provide a copy to new Employees.
- 16.5** Where a request for flexible work arrangements is made, an Employee or Employer is entitled to meet with the other party to discuss:
- (a) the request;
  - (b) an alternative to the request; or
  - (c) reasons for a refusal on reasonable business grounds.
- 16.6** The dispute resolution procedure in the Agreement will apply to any dispute / grievance arising in relation to a request for flexible working arrangements.
- 16.7** Other entitlements relevant to family violence can be found at clause 46 (Family Violence Leave).
- 16.8** The relevant flexibility term including for an individual flexibility arrangement is the model flexibility term at clause 16.

## **PART C – TYPES OF EMPLOYMENT, COMMENCEMENT OF EMPLOYMENT AND END OF EMPLOYMENT**

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### **17 Conditions of Service**

- 17.1** Employment under this Agreement shall be between the Employer and the Employee.
- 17.2** Where the Employee is full-time, the Employer employs the Employee on the basis that the whole of the Employees duty hours shall be devoted to the duties of the appointment.
- 17.3** The Employee shall not, without the consent of the patient, divulge any information, which that the Employee has acquired in attending the patient, and which was necessary to enable the Employee to prescribe or act for the patient, to any person other than the Employer or other clinical and nursing staff of the Employer.
- 17.4** Notwithstanding the provisions of sub-clause 17.3 an Employee may be required for a medico-legal purpose to disclose to the Employer any information relating to the mental or physical condition of a person who is or was a patient of the Employer and such Employee shall make such disclosure in accordance with the requirement.

### **18 Types of Employment**

- 18.1** The employment of Employees under this Agreement may be full-time, part-time, fixed-term or casual. Prior to engagement the Employer shall inform each Employee in writing of the type and terms of their employment, their classification, hours and salary.
- 18.2** An Employee, other than a casual, who accepts employment on or after the date of certification of this agreement, shall be engaged on a probationary basis for their initial four months of employment. During the probationary period, the employer or a probationary Employee may terminate employment by one weeks notice or payment or forfeiture of one weeks ordinary time pay in lieu of notice. Notice under this clause may be given or received by a combination of time notice or payment or forfeiture as the case may be (in lieu).
- 18.3** Employment of full-time and part-time Employees shall, subject to this Agreement, be ongoing.
- 18.4 Full-time Employment**  
A full-time Employee is one who is ready, willing and available to work, on average, a full week of 38 hours.
- 18.5 Regular Part-Time Employment**
- (a) A regular part-time employee is an employee engaged to work an agreed regular number of hours of less than 38 hours per week who is ready, willing and available to work those agreed hours at the times and during the hours that are mutually agreed. Part-time employees receive equivalent pay and conditions to full-time employees on a pro-rata basis.
- (b) Pattern of work
- (i) At the time a part-time Employee commences employment, the Employer and the part-time Employee will agree in writing on the following matters:

- (A) a regular pattern of work, (including rotating rosters where applicable) specifying at least the hours worked each day;
  - (B) which days of the week the Employee will work; and
  - (C) the actual starting and finishing times of each day.
- (ii) Any agreed variation to the regular pattern of work will be recorded in writing.
- (c) **Additional Hours**  
 A part-time Employee may be offered additional hours at the applicable ordinary time rates for the time worked, within the limits prescribed by this Agreement. A part-time Employee is entitled to decline an offer of additional ordinary hours. Where a part-time Employee is directed by the Employer to work reasonable additional hours, or works hours in excess of 38 in a week, an average of 38 hours a week or the limits prescribed by the Agreement, overtime rates will apply.

## **18.6 Casual Employment**

- (a) A casual Employee is one who is engaged in relieving work or work of a casual nature and whose engagement is terminable by either the Employee or the Employer without the requirement of prior notice by either party.
- (b) A casual Employee shall be paid one-thirty-eighth per hour (1/38th) of the weekly rate of pay appropriate to the classification/year of experience plus 25 per cent.
- (c) Casual Employees shall not be entitled to the benefit of the following clauses:
  - (i) Annual Leave,
  - (ii) Paid Personal/carer's Leave,
  - (iii) Paid Compassionate Leave,
  - (iv) Professional Development Leave,
  - (v) Long Service Leave (except as provided for in clause 51),
  - (vi) Parental Leave (except as provided for in Clause 50),
  - (vii) Once off Upfront Lump Sum payment,
  - (viii) Public Holidays,
  - (ix) Other paid absences from duty;
  - (x) Notice Provisions
  - (xi) or as otherwise prescribed in this agreement

- 18.7** If, after discussions and agreement with the relevant Employee, the mode of employment or classification of the Employee is altered, the Employer will provide written confirmation to the Employee.

## **19 Casual Conversion**

- 19.1** Where a casual Employee has worked shifts on a regular and systematic basis over a period of 26 weeks, the Employer and the Employee recognise that the Employee may be more properly classified as part-time or full-time.

- 19.2** The Employee will not be considered rostered on a regular and systematic basis where these shifts are replacing an employee absence (including but not limited to parental leave, long service leave, workers compensation leave, personal leave) or flexible work arrangement.
- 19.3** Either the Employer or the Employee has the right to request in writing the conversion to full-time or part-time employment and that request will not be unreasonably refused by either party.
- 19.4** Where such a conversion occurs, the Employee will be provided with a Letter of Appointment setting out the revised employment arrangements, including any period/s of casual employment with the Employer.
- 19.5** Casual loading will cease and any benefits relating to permanent employment will commence at the time of appointment to permanent status.

## **20 Notice Provisions**

- 20.1** Subject to this Agreement the Employer or an individual Employee, other than a casual, may terminate employment under this Agreement by mutual agreement or by giving a minimum of four weeks' notice in writing or by payment or forfeiture of four weeks' salary. The employer must provide an additional week of notice to employees over the age of 45 years with more than 2 years of service.
- 20.2** Where an Employee wishes to terminate employment this period may be reduced by mutual agreement. The Employer will not unreasonably withhold consent to a request for reduction of notice by a terminating Employee.
- 20.3** This shall not affect the ability of the Employer to terminate employment summarily for serious or wilful misconduct. In this event salary will be paid to point of dismissal.
- 20.4** In the case of a fixed-term Employee either the Employer or the Employee may terminate employment by giving one week's notice in writing or by payment or forfeiture of a week's salary
- 20.5** Where an Employee has given or has been given notice he or she shall continue in his or her employment until the date of expiration of such notice. Where an Employee gives notice as aforesaid and refuses to work or is absent from work without just cause or excuse the Employee shall be deemed to have abandoned his or her employment.
- 20.6** Provided that notice under this clause may be given or received by a combination of time notice or payment or forfeiture (as the case may be) in lieu.

## **21 Transition to Retirement**

- 21.1** An Employee may advise their Employer in writing of their intention to retire within the next five years and participate in a retirement transition arrangement.
- 21.2** Transition to retirement arrangements may be proposed and, where agreed, implemented as:
- (a) a flexible working arrangement (see clause 15 (Flexible Working Arrangements)),
  - (b) in writing between the parties, or

(c) any combination of the above.

**21.3** A transition to retirement arrangement may include but is not limited to:

- (a) a reduction in their EFT;
- (b) a job share arrangement;
- (c) working in a position at a lower classification or rate of pay

**21.4** The Employer will consider, and not unreasonably refuse, a request by an Employee who wishes to transition to retirement:

- (a) to use accrued Long Service Leave (LSL) or Annual Leave for the purpose of reducing the number of days worked per week while retaining their previous employment status; or
- (b) be appointed to a role which that has a lower hourly rate of pay or hours (post transition role), in which case:
  - (i) the Employer will preserve the accrual of LSL at the time of reduction in salary or hours; and
  - (ii) where LSL is taken or paid out in lieu on termination, the Employee will be paid LSL hours at the applicable classification and grade, and at the preserved hours, prior to the post transition role until the preserved LSL hours are exhausted.

## PART D - WAGES

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### 22 Once Off Upfront Lump Sum Payment

Full time and part-time Employees who are employed upon commencement of this Agreement will be entitled to a lump sum payment of \$750 (pro-rata for part-time Employees). The amount will be payable in the FFPPOA commencement of the Agreement.

### 23 Remuneration

23.1 Employees under this Agreement shall be paid no less than the appropriate wage set out in **Appendix Two** for the relevant classification.

23.2 Salary progression within salary levels, or from one level to the next, will be based on assessed performance, in accordance with Clause 64.

23.3 This agreement provides for the following increases to existing salary rates in **Appendix Two**:

Date of effect	Percentage increase
From the first full pay period on or after 1 May 2018	3.25%
From the first full pay period on or after 1 May 2019	3%
From the first full pay period on or after 1 May 2020	3%
From the first full pay period on or after 1 May 2021	3%

23.4 The salary rates provided in **Appendix Two** are inclusive of annual leave loading. Authorised overtime is compensated separately.

23.5 The annualised salaries in this Agreement represent 365 days and 0.70 of a percent of leave loading. The casual rate of pay is calculated without the leave loading.

### 24 Payment

24.1 Salary will be paid fortnightly to the financial institution account of each Employee.

24.2 On or after each payday the Employer shall advise each Employee in writing or via electronic means of gross salary entitlement for the pay period, deductions authorised by law and by the Employee and the net amount of payment.

## 25 Superannuation

*The subject of superannuation is dealt with extensively by federal legislation which prescribes the obligations and entitlements regarding superannuation. This clause is ancillary to and supplements those provisions. This clause does not apply to an Employee who is a member of a Victorian exempt public sector superannuation scheme.*

### 25.1 Definitions

In this clause:

- (a) **default fund** means the First State superannuation fund (or its successor) while it provides a "MySuper product" as defined by the Act.
- (b) **preferred superannuation fund** means a fund that meets the definition of a superannuation fund in the *Superannuation Guarantee (Administration) Act 1992* (Cth).

### 25.2 Existing Employees

Where an Employee was employed prior to the commencement of this Agreement, the Employer will continue to make superannuation contributions to the Employee's current superannuation fund. An Employee may elect to have the Employer's contributions made to the Employee's preferred superannuation fund.

### 25.3 New Employees

The Employer will offer to make superannuation contributions on behalf of an Employee to:

- (a) the Employee's preferred superannuation fund;
- (b) HESTA (or successor); or
- (c) First State superannuation funds (or successor).

### 25.4 Where new Employee does not nominate fund

If the Employee does not nominate a fund, the Employer will pay the Employee's superannuation contributions to the default fund.

### 25.5 Calculation of superannuation contributions

Superannuation contributions paid by the Employer will be calculated and paid on:

- (a) ordinary time earnings as defined in the *Superannuation Guarantee (Administration) Act 1992* (Cth) calculated on the Employee's pre-salary packaging earnings, and
- (b) any additional amounts consistent with the trust deed of the superannuation fund.
- (c) any payment for a period of paid parental leave under subclauses 50.5(a)(i) or 50.10(b) equivalent to that required by relevant legislation if such payments were deemed ordinary time earnings.

## 26 Salary Packaging

**26.1** By agreement with the Employee, the current rate of pay specified in this Agreement may be salary packaged in accordance with the Employer's Salary Packaging policy.

**26.2** It is the intention of the Employer, as far as possible, that the Employer maintains a worthwhile salary packaging program for all Employees. However if legislative or other

changes have the effect of increasing the cost of packaging to the Employer, the Employee participating in packaging shall either pay these costs or the Employer or the Employee shall cease the arrangement.

## **27 Accident Make-Up Pay**

### **27.1 Entitlement to accident make-up pay**

An Employee receiving compensation for incapacity under the WIRC Act will be entitled to accident make-up pay from the Employer who is liable to pay compensation in accordance with this clause (including pro-rata for any part of a week).

### **27.2 Definitions**

(a) **Accident make-up pay** means:

- (i) In the case of an Employee with no current work capacity, a payment equal to the ordinary time earnings the Employee would ordinarily receive had the Employee been performing their normal duties and hours of work, less the amount of weekly compensation.
- (ii) In the case of an Employee with a current work capacity, a payment equal to the ordinary time earnings the Employee would ordinarily receive, had the Employee been performing their normal duties and hours of work less the amount of weekly compensation and less the average amount the Employee is earning in suitable employment.

(b) **Injury** under this clause has the same meaning as workers' compensation legislation and includes a disease contracted by an Employee in the course of the Employee's employment.

(c) **Ordinary time earnings** excludes additional remuneration by way of shift premiums, overtime payments, special rates or other similar payments.

### **27.3 Maximum payment**

The maximum period or aggregate of periods of accident make-up pay to be made by an Employer will be a total of 39 weeks for any one injury.

### **27.4 Accident Make-Up Pay will not apply in some circumstances**

Accident make-up pay in accordance with this clause will not apply:

- (a) in respect of any injury during the first five normal working days of incapacity, except where the Employee contracts an infectious disease for which the Employee is entitled to receive workers compensation in which case accident make-up pay will apply from the first day of the incapacity;
- (b) to any incapacity occurring during the first two weeks of employment unless that incapacity continues beyond the first two weeks in which case accident make-up pay will apply only to the period of incapacity after the first two weeks;
- (c) during any period when the Employee fails to comply with the requirements of the WIRC Act with regard to examination by a medical practitioner;
- (d) where the injury for which the Employee is receiving weekly compensation payments is a pre-existing injury that work has contributed to by way of recurrence, aggravation,

acceleration, exacerbation or deterioration, and the Employee failed to disclose the injury on engagement:

- (i) following a request to do so by the Employer; and
  - (ii) the Employer providing the Employee details of the requirements of the position; and
  - (iii) where the Employee knew, or ought to have known, that the nature of the injury, may impact on the ability of the Employee to undertake the work;
- (e) where the injury subject to recurrence, aggravation or acceleration as provided under workers' compensation legislation or industrial diseases contracted by a gradual process, unless the Employee has been employed with the Employer at the time of the incapacity for a minimum period of one month;
  - (f) where in accordance with the WIRC Act a medical practitioner provides information to an Employer of an Employee's fitness for work or specifies work for which an Employee has a capacity and that work is made available by an Employer but not commenced by an Employee;
  - (g) when the claim has been ceased or redeemed in accordance with the WIRC Act;
  - (h) in respect of any paid leave of absence.

#### **27.5 Reduction of compensation**

Where an Employee receives a weekly payment under this clause and subsequently that payment is reduced pursuant to the WIRC Act, that reduction will not render the Employer liable to increase the amount of accident pay in respect of that injury.

#### **27.6 Termination of employment**

- (a) Termination of Employment by the Employee

Accident make-up pay ceases where the Employee terminates their employment except:

- (i) if an Employee with partial incapacity cannot obtain suitable employment from the Employer but such alternative employment is available with another Employer; and
- (ii) the Employee, if required, provides evidence to the Employer of the continuing payment of weekly compensation payments.

- (b) Termination of Employment by the Employer

An entitlement to accident make-up pay does not cease on termination where the Employer terminates the Employee's employment, except where the termination is for serious and wilful misconduct.

#### **27.7 Civil damage claims**

- (a) An Employee receiving or who received accident make-up pay must advise the Employer of any action or claim the Employee may institute for damages. If requested, the Employee will provide an authority to the Employer entitling the Employer to a charge upon any money payable pursuant to any judgment or settlement on that injury.
- (b) Where an Employee obtains a judgment or settlement for damages in respect of an injury for which the Employee received accident make-up pay, the Employer's liability

to pay accident make-up pay ceases from the date of such judgment or settlement where the damages are not reduced (in whole or part) by the accident make-up pay paid by the Employer. Where damages from a judgment or settlement are not reduced to take into account accident make-up pay paid by the Employer (in whole or part), the Employee must repay the Employer the accident make-up pay to the extent the damages were not reduced.

- (c) Where an Employee obtains a judgment or settlement for damages against a person other than the Employer in respect of an injury for which the Employee received accident make-up pay, the Employer's liability to pay accident make-up pay will cease from the date of such judgment or settlement where the damages are not reduced (in whole or part) by the amount of accident pay made by the Employer. The Employee must pay to her/his Employer any amount of accident pay already received in respect of that injury by which the judgment or settlement has not been so reduced.

## PART E - ALLOWANCES AND REIMBURSEMENTS

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### 28 Dual Qualification Allowance

- 28.1 Therapist/Hygienists who are qualified and registered as both a dental therapist and dental hygienist with the DBA or successor or qualified and registered as an oral health therapist shall be paid a weekly allowance of 6% on the minimum salary rate for their classification level as detailed in **Appendix Two** as follows:

<b>DUAL QUALIFICATION ALLOWANCE</b>				
	<b><u>1-May-18</u></b>	<b><u>1-May-19</u></b>	<b><u>1-May-20</u></b>	<b><u>1-May-21</u></b>
<b><u>Graduate</u></b>	<b><u>\$60.56</u></b>	<b><u>\$62.37</u></b>	<b><u>\$64.24</u></b>	<b><u>\$66.17</u></b>
<b><u>Level 1</u></b>	<b><u>\$62.03</u></b>	<b><u>\$63.89</u></b>	<b><u>\$65.81</u></b>	<b><u>\$67.78</u></b>
<b><u>Level 2</u></b>	<b><u>\$72.00</u></b>	<b><u>\$74.16</u></b>	<b><u>\$76.39</u></b>	<b><u>\$78.68</u></b>
<b><u>Level 3</u></b>	<b><u>\$87.14</u></b>	<b><u>\$89.76</u></b>	<b><u>\$92.45</u></b>	<b><u>\$95.22</u></b>
<b><u>Level 4</u></b>	<b><u>\$100.21</u></b>	<b><u>\$103.22</u></b>	<b><u>\$106.31</u></b>	<b><u>\$109.50</u></b>

### 29 Expenses

- 29.1 Authorised expenses incurred by an Employee shall be reimbursed in accordance with the Employer's Staff Expense Policy. The Employer will reimburse the Employee for their reasonable out of pocket expenses, including approved meal accommodation and travel expenses actually and necessarily incurred in the course of their authorised duties.
- 29.2 For the avoidance of doubt, where a Radiation Safety licence is required by an Employer, the cost is to be reimbursable by the Employer.
- 29.3 The Employer may require an Employee to submit to the Employer official receipts substantiating authorised expenses incurred by the Employee as soon as practicable after incurring the expense.

### 30 Protective Gowns

- 30.1 Each Employee shall, subject to this clause, be supplied with sufficient suitable and serviceable protective gowns at the expense of the Employer. Where laundering is required it shall be at the expense of the Employer.

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

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### **31 Hours of Work**

- 31.1** The ordinary hours of work for a full-time Employee will be 38 hours, or an average of 38 hours, per week.
- 31.2** For the purposes of subclause 31.1, the ordinary hours an Employee works in a week are taken to include any hours of authorised leave, or absence, whether paid or unpaid, that the Employee takes in a week.
- 31.3** The working week will commence at midnight on a Sunday.
- 31.4** Notwithstanding any authorised meal breaks or rest breaks, the work of each day/shift will be continuous.
- (a) The hours for an ordinary weeks work will be 38 or be an average of 38 per week in a fortnight, or in a four week period or by mutual agreement, in a five week period in the case of an Employee working ten hour shifts and will be worked either:
  - (b) In 5 days in shifts of not more than 8 hours each; or
  - (c) In a fortnight of 76 hours in 10 shifts of not more than 8 hours each; or
  - (d) In a four-week period of 152 hours in 19 shifts of not more than 8 hours each; or
  - (e) By mutual agreement:
    - (i) in weeks of four days in shifts of shifts of not more than 10 hours each; or
    - (ii) In a fortnight of 76 hours in eight shifts of not more than ten hours each.

### **32 Rostering or Work Schedule**

- 32.1** The ordinary hours of work for each employee will be displayed on a fortnightly roster in a place conveniently accessible to employees. The roster will be posted at least two weeks before the commencement of the roster period.

### **33 Meal Breaks and Tea Breaks**

#### **33.1 Meal breaks**

- (a) An employee who works in excess of five hours will be entitled to an unpaid meal break of not less than 30 minutes and not more than 60 minutes.
- (b) The time of taking the meal break may be varied by agreement between the employer and employee.

#### **33.2 Tea breaks**

- (a) Every employee will be entitled to a paid 10 minute tea break in each four hours worked at a time to be agreed between the employer and employee.
- (b) Subject to agreement between the employer and employee, such breaks may alternatively be taken as one 20 minute tea break.

- (c) Tea breaks will count as time worked.

## **34 Shift Work**

- 34.1** In addition to any other rates in this Agreement, an Employee whose rostered hours of ordinary duty finish between 6.00 p.m. and 8.00 a.m. or commence between 6.00 p.m. and 6.30 a.m. shall be paid an amount equal to 2.5% of the weekly base rate of pay for the Graduate classification per rostered period of duty.

## **35 Saturday and Sunday**

- 35.1** All rostered time of ordinary duty performed between midnight on Friday and midnight on Sunday shall be paid for at the rate of time and a half.
- 35.2** Provided that the following rate of payment shall be made where the Saturday or Sunday duty involves work in excess of the prescribed rostered hours – double time for the excess period.

## **36 Overtime**

- 36.1** At the direction of the Employer authorised work in excess of 38 hours in any week, or in excess of 8 ordinary hours in any one day, except where averaged in accordance with clause 31.4, shall be time and a half for the first two hours and double time thereafter. Alternatively, by mutual agreement, overtime may be compensated by time off in lieu of payment for overtime. Time off in lieu shall be taken at a mutually agreed time or times and shall be based on the overtime rate.
- 36.2** Payment of overtime performed will only occur with the prior approval of the Employer.
- 36.3** An authorised officer of the Employer who has delegated authority to approve such expenditure must give approval for overtime.

## **37 On-call/Recall**

- 37.1** An Employee who is rostered to be on-call shall be paid an allowance equal to 10% of their ordinary time hourly rate in respect of each on-call period.
- 37.2** An on-call attendance by an Employee under this clause may be by telephone, (extending beyond 15 minutes per call), or by personal attendance to the clinician/patient.
- 37.3** An Employee may be recalled to duty outside their ordinary hours to attend to a serious accident or emergency at the request of the Employer.
- 37.4** An Employee who, pursuant to this clause, attends an on-call or who is recalled to duty shall be either:
- (a) compensated by payment at the rate of time and a half their ordinary time rate for the first two hours and double time thereafter or
  - (b) by mutual agreement, by time off in lieu of such payment. Time off in lieu shall be taken at a mutually agreed time and shall be based on the overtime penalty rates as prescribed by Clause 36 of this Agreement.





## **PART G – PUBLIC HOLIDAYS, LEAVE AND RELATED MATTERS**

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### **38 Public Holidays**

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

**38.2** The public holidays to which this clause applies are the days determined under Victorian law as public holidays in respect of the following occasions:

- (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) Any additional or substitute public holiday declared or prescribed in Victoria or a locality in respect of occasions other than those set out in clause 38.2(a).
- (c) When Christmas Day is a Saturday or a Sunday, a holiday in lieu shall be observed on 27 December;
- (d) When Boxing Day is a Saturday or a Sunday, an additional holiday shall be observed on 28 December;
- (e) When New Year's Day is a Saturday or a Sunday, an additional holiday shall be observed on the next Monday;
- (f) When Australia Day is a Saturday or a Sunday, a holiday in lieu shall be observed on the next Monday;

#### **38.3 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.

#### **38.4 Substitution of Public Holiday**

- (a) An Employer and his or her Employees may agree to substitute another day for any prescribed in this clause. For this purpose, the consent of the majority of affected Employees shall constitute agreement. Any such arrangement shall 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.

#### **38.5 Payment for work on public holiday:**

All Employees will be paid double time and one half for all time worked on a public holiday (inclusive of casual loading).

## **39 Annual Leave**

### **39.1 Basic Entitlement**

- (a) Employees, other than casual Employees, are entitled to four weeks' paid annual leave per annum.
- (b) Leave accrues progressively during a year of service and accumulates from year to year.
- (c) Annual Leave is exclusive of the Public Holidays provided for in this Agreement.
- (d) Entitlements for part-time Employees will be calculated on a pro rata basis.

### **39.2 Shift worker Definition for NES purposes**

For the purposes of the additional weeks' annual leave provided by the NES for shiftworkers, the following shall apply:

- (a) a shiftworker is an employee who is regularly rostered to work Sundays and public holidays.

### **39.3 Taking of leave**

Subject to clause 41 below, Full-time and part-time Employees shall take annual leave:

- (a) For a period agreed between an employee and his or her employer, and
- (b) The Employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.

**39.4** A 17.5% annual leave loading (capped to a rate of Level 2, sub-point 2 (Level 2b)) is paid in advance and has been built in to the salary rates provided for in **Appendix Two** of this Agreement and is paid progressively during the year.

**39.5** In the event of termination of employment the value of accrued, untaken annual leave (less annual leave taken in advance) shall be paid to the Employee immediately after termination.

**39.6** Where an Employer closes one or more of its operations for Christmas/New Year each year, and provides not less than 4 weeks written notice to affected Employees, the Employees will have the option of applying for Annual Leave, Long Service Leave, Time in Lieu or in the event of insufficient Annual Leave or Time in Lieu credits, Leave Without Pay for this period.

### **39.7 Accrual**

To assist employees in balancing their work and family responsibilities, by agreement between the employer and the employee, annual leave may be taken at any time within a period of 24 months from the date at which it falls due.

### **39.8 Annual Leave in Advance**

- (a) An employer and employee may agree in writing to the employee taking a period of paid annual leave before the employee has accrued an entitlement to the leave.
- (b) An agreement must:
  - (i) state the amount of leave to be taken in advance and the date on which leave is to commence; and
  - (ii) be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.

- (c) The employer must keep a copy of any agreement under clause 39.8 as an employee record.
- (d) If, on the termination of the employee's employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken in accordance with an agreement under clause 39.8, the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

## **40 Cashing out of Annual Leave**

- 40.1** Paid annual leave must not be cashed out except in accordance with an agreement under clause 40.
- 40.2** Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 40.3.
- 40.3** An employer and an employee may agree in writing to the cashing out of a particular amount of accrued paid annual leave by the employee.
- 40.4** An agreement under clause 40.3 must state:
  - (a) the amount of leave to be cashed out and the payment to be made to the employee for it; and
  - (b) the date on which the payment is to be made.
  - (c) An agreement under clause 40.3 must be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.
  - (d) The payment must not be less than the amount that would have been payable had the employee taken the leave at the time the payment is made.
  - (e) An agreement must not result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks.
  - (f) The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.
  - (g) The employer must keep a copy of any agreement under clause 40 as an employee record.

## **41 Excessive Leave Accruals**

### **41.1 General provisions**

- (a) An employee has an excessive leave accrual if the employee has accrued more than 8 weeks' paid annual leave (or 10 weeks' paid annual leave for a shiftworker, as defined by clause 39.2).
- (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 41.2 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.

- (d) Clause 41.3 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

#### **41.2 Excessive leave accruals: direction by employer that leave be taken**

- (a) If an employer has genuinely tried to reach agreement with an employee under clause 41.1(b) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.
- (b) However, a direction by the employer under clause 41.2(a):
  - (i) is of no effect if it would result at any time in the employee's remaining accrued entitlement to paid annual leave being less than 6 weeks when any other paid annual leave arrangements (whether made under clause 41.1(b), 41.2 or 41.3 or otherwise agreed by the employer and employee) are taken into account; and
  - (ii) must not require the employee to take any period of paid annual leave of less than one week; and
  - (iii) must not require the employee to take a period of paid annual leave beginning less than 2 weeks, or more than 12 months, after the direction is given; and
  - (iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.
- (c) The employee must take paid annual leave in accordance with a direction under clause 41.2(a) that is in effect.
- (d) An employee to whom a direction has been given under clause 41.2(a) may request to take a period of paid annual leave as if the direction had not been given.

#### **41.3 Excessive leave accruals: request by employee for leave**

- (a) If an employee has genuinely tried to reach agreement with an employer under clause 41.1(b) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.
- (b) However, an employee may only give a notice to the employer under clause 41.3(a) if:
  - (i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
  - (ii) the employee has not been given a direction under clause 41.2(a) that, when any other paid annual leave arrangements (whether made under clause 41.1(b), 41.2 or 41.3 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee's excessive leave accrual.
- (c) A notice given by an employee under clause 41.3(a) must not:
  - (i) if granted, result in the employee's remaining accrued entitlement to paid annual leave being at any time less than 6 weeks when any other paid annual leave arrangements (whether made under clause 41.1, 41.2 or 41.3 or otherwise agreed by the employer and employee) are taken into account; or
  - (ii) provide for the employee to take any period of paid annual leave of less than one week; or

- (iii) provide for the employee to take a period of paid annual leave beginning less than two weeks, or more than 12 months, after the notice is given; or
  - (iv) be inconsistent with any leave arrangement agreed by the employer and employee.
- (d) An employee is not entitled to request by a notice under clause 41.3(a) more than 4 weeks' paid annual leave (or 5 weeks' paid annual leave for a shiftworker, as defined by clause 39.2) in any period of 12 months.
- (e) The employer must grant paid annual leave requested by a notice under clause 41.3(a).

## 42 Purchased Leave

**42.1** A full time employee may, by agreement with the employer, purchase leave and with the agreement of the employer, work between 44 weeks and 51 weeks per year.

**42.2** Where the employer and an employee agree to a reduction in the number of working weeks the Therapist/Hygienist will receive additional leave as follows:

44/52 weeks	Additional 8 weeks leave	(12 weeks in total)
45/52 weeks	Additional 7 weeks' leave	(11 weeks in total)
46/52 weeks	Additional 6 weeks' leave	(10 weeks in total)
47/52 weeks	Additional 5 weeks' leave	(9 weeks in total)
48/52 weeks	Additional 4 weeks' leave	(8 weeks in total)
49/52 weeks	Additional 3 weeks' leave	(7 weeks in total)
50/52 weeks	Additional 2 weeks' leave	(6 weeks in total)
51/52 weeks	Additional 1 week's leave	(5 weeks in total)

**42.3** The employee will receive a salary equal to the period worked that will be spread over a 52 week period.

**42.4** An employee may revert to ordinary 52 week employment by giving the employer no less than four weeks' written notice. Where an employee so reverts to 52 week employment, appropriate pro rata salary adjustments will be made.

## 43 Personal Leave

*This clause does not apply to casual Employees.*

### 43.1 Amount of Paid Personal Leave

- (a) An Employee is entitled to 12 days (91.2 hours) of personal leave in a year of service.
- (b) Paid personal leave accrues progressively during a year of service according to the Employee's ordinary hours of work (excluding overtime) and accumulates from year to year.

### 43.2 Payment for leave

- (a) Payment will be made based on the number of ordinary hours the Employee would have worked on the day or days on which the leave was taken.

- (b) An Employee utilising personal leave may take leave for part of a single day. Leave will be deducted on a time for time basis from the Employee's accrued personal leave.

#### **43.3 Access to paid personal leave**

Subject to the conditions set out in this clause, an Employee may take paid personal leave if the leave is taken:

- (a) due to personal illness or injury (**personal leave**); or
- (b) to care for or support a member of the Employee's immediate family or household because of:
  - (i) a personal illness or injury affecting them; or
  - (ii) an unexpected emergency affecting them (**carer's leave**).

**43.4** In normal circumstances an Employee must not take carer's leave under this clause where another person has taken leave on the same occasion to care for the same person.

#### **43.5 Personal leave**

- (a) General

An Employee may take personal leave for the reasons described at subclause 43.3 above and 43.5(b) below.

- (b) Personal Leave to Attend Appointments

An Employee may use up to five days personal leave, in aggregate, in any year of service on account of a disability or where the Employee is required to attend a registered health practitioner.

- (c) Evidence requirements

An Employee taking sick leave will give the Employer evidence that would satisfy a reasonable person the Employee is absent due to personal illness or injury, in the case of leave taken to attend an appointment (see subclause 43.5(b) evidence of attendance. Evidence that would satisfy a reasonable person that the Employee is absent due to personal illness or injury includes:

- (i) a medical certificate from a registered health practitioner; or
- (ii) a Statutory Declaration signed by the Employee with respect to absences on three occasions in any one year not exceeding three consecutive working days each.

- (d) Absences on either side of a public holiday

An employee absent on personal leave either side of a public holiday, shall provide such verification as the Employer reasonably requires.

- (e) Notice requirements

- (i) An Employee should inform the Employer of their absence no less than 1.5 hours prior to the commencement of the rostered shift or as soon as reasonably practicable to allow the Employer to take necessary steps to backfill the absence. This provision does not apply where an Employee could not comply because of circumstances beyond the Employee's control.
- (ii) The Employer will inform Employees of the procedure for notification by Employees of their inability to attend work due to illness or injury. All such

notifications will be registered, detailing the time of notification and the name of the Employee.

(f) Failure to provide notice of absence

Personal leave will not be withheld by an Employer until all reasonable steps have been taken to investigate the Employee's lack of advice as required by subclause 43.5(e) regarding the absence from duty. Such an investigation must provide the Employee with an opportunity to give reasons as to why notification was not given.

#### **43.6 Carer's leave**

(a) Evidence requirements

The Employee must, if required by the Employer, establish by production of a statutory declaration or other evidence that would satisfy a reasonable person, that a member of the Employee's immediate family or household has either:

- (i) an illness or injury; or
- (ii) an unexpected emergency;

that requires their care or support. In the case of an unexpected emergency, the Employee will identify the nature of the emergency. An 'unexpected emergency' includes providing care or support to a member experiencing family violence as described at subclause 46.5(b).

(b) Notice requirements

The Employee must, where practicable, give the Employer notice of the intention to take leave prior to the absence, that includes:

- (i) the name of the person requiring care or support and their relationship to the Employee;
- (ii) the reasons for taking such leave; and
- (iii) the estimated length of absence.

If it is not practicable for the Employee to give prior notice of absence, the Employee must notify the Employer of the absence by telephone at the first opportunity on the day of absence.

(c) Unpaid leave where accruals exhausted

An Employee who has exhausted paid personal leave entitlements is entitled to take unpaid carer's leave. The Employer and the Employee will agree on the period. In the absence of agreement, the Employee is entitled to take up to two days (or two full shifts where ordinary shifts exceed 8 hours) per occasion, provided the evidentiary requirements are met.

#### **43.7 Personal leave on a public holiday**

*See also clause 38 (Public Holidays)*

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

#### **43.8 Termination of Employment while on Personal Leave**

No Employer will terminate the services of an Employee during the currency of any period of personal leave, with the object of avoiding obligations under this clause.

## **44 Casual Employment – Caring Responsibilities**

- 44.1** Subject to the evidentiary and notice requirements that apply to Carer's Leave under clause 43.6, a casual Employee is entitled to be unavailable to attend work, or to leave work, if they need to provide care or support to a member of the Employee's immediate family or household because of:
- (a) a personal illness, or personal injury, affecting them; or
  - (b) an unexpected emergency affecting them; or
  - (c) the birth of a child.
- 44.2** The Employer and the Employee will agree on the period for which the Employee will be entitled to be unavailable to attend work. In the absence of agreement, the Employee is entitled to not be available to attend work for up to two days per occasion, which may be taken as a single continuous period of up to two days or any separate periods to which the Employer and Employee agree.
- 44.3** The casual Employee is not entitled to any payment for the period of non-attendance.
- 44.4** An Employer must not fail to re-engage a casual Employee because the Employee accessed the entitlements provided for in this clause. The rights of an Employer to engage or not to engage a casual Employee are otherwise not affected.

## **45 Fitness for Work**

### **45.1 Fit for Work**

- (a) The Employer is responsible for providing a workplace that is safe and without risk to health for Employees, so far as is reasonably practicable.
- (b) Each Employee is responsible for ensuring that they are fit to perform their duties without risk to the safety, health and well-being of themselves and others within the workplace. This responsibility includes compliance with reasonable measures put in place by the Employer and any related occupational health and safety requirements.
- (c) In the event the Employee's manager forms a reasonable belief as defined at subclause 45.1(d) below that an Employee may be unfit to perform their duties, the manager will discuss their concerns with the Employee in a timely manner to promote physical, mental and emotional health so that employees can safely undertake and sustain work.
- (d) In this clause reasonable belief means a belief based on sufficient evidence that supports a conclusion on the balance of probabilities.
- (e) In this clause treating medical practitioner may include a psychologist.
- (f) The Employer will:
  - (i) take all reasonable steps to give the Employee an opportunity to answer any concerns;

- (ii) recognise the Employee's right to have a representative, including a Union representative, at any time when meeting with the Employer;
  - (iii) genuinely consider the Employee's response with a view to promoting physical, mental and emotional health so that employees can safely undertake and sustain work; and
  - (iv) take these responses into account in considering whether reasonable adjustments can be made in order that the employee can safely undertake and sustain work.
- (g) Where, after discussion with the Employee, the Employer continues to have a reasonable belief that the Employee is unfit to perform the duties, the Employer may request the Employee's consent to obtain a report from the Employee's treating medical practitioner regarding the Employee's fitness for work. The Employee will advise the Employer of the Employee's treating medical practitioner, and the Employer will provide to the Employee, in writing, the concerns that form the basis of the reasonable belief to assist and a copy of any correspondence to the Employee's treating medical practitioner.
- (h) The Employee will provide a copy of the report to the Employer.
- (i) The Employer and Employee will meet to discuss any report.
- (j) If, on receipt of the report, the Employer continues to have a reasonable belief that the Employee is unfit for duty, or the Employee does not provide a report from the treating medical practitioner, the Employer may require the Employee to attend an independent medical practitioner.
- (k) Where the Employee attends a medical practitioner under either subclauses 45.1(g) or 45.1(j) above:
- (i) the Employee will be provided with a copy of any correspondence sent to the medical practitioner and any resulting report;
  - (ii) the Employer will pay for the cost of the appointment and report.

**45.2** Nothing in this clause prevents an Employer from taking any reasonable step to ensure a safe work environment.

**45.3 Reasonable Adjustments**

- (a) Where Employees have a disability (whether permanent or temporary) the Employer is required to make reasonable adjustments to enable the Employee to continue to perform their duties, subject to subclause 45.3(b) below.
- (b) An Employer is not required to make reasonable adjustments if the Employee could not or cannot adequately perform the genuine and reasonable requirements of the employment even after the adjustments are made.
- (c) **Definitions**
  - (i) **Disability** has the same meaning as section 4 of the EO Act and includes:
    - (A) total or partial loss of a bodily function; or
    - (B) presence in the body of organisms that may cause disease;
    - (C) total or partial loss of a part of the body; or

- (D) malfunction of a part of the body including a mental or psychological disease or disorder or condition or disorder that results in a person learning more slowly than those without the condition or disorder.
- (ii) **Reasonable adjustments** has the same meaning as section 20 of the EO Act and requires consideration of all relevant facts and circumstances including:
  - (A) the employee's circumstances, including the nature of the disability;
  - (B) the nature of the Employee's role;
  - (C) the nature of the adjustment required to accommodate the Employee's disability;
  - (D) the financial circumstances of the Employer;
  - (E) the size and nature of the workplace and the Employer's business;
  - (F) the effect on the workplace and the Employer's business of making the adjustment including the financial impact, the number of persons who would benefit or be disadvantaged and the impact of efficiency and productivity;
  - (G) the consequences for the Employer in making the adjustment;
  - (H) the consequences for the Employee in not making the adjustment.

## 46 Family Violence Leave

NOTE: Family member is defined in section 8 of the *Family Violence Protection Act 2008* (Vic) and is broader than the definition of immediate family in clause 4 (Definitions).

### 46.1 General Principle

- (a) Each 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, each 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 and also to allow them to be absent from the workplace to attend counselling appointments, medical appointments, legal proceedings or appointments with a legal practitioner and other activities related to, and as a consequence of, family violence.

### 46.2 Definition of Family Violence

For the purposes of this clause, family violence is as defined by the *Family Violence Protection Act 2008* (Vic) which defines family violence at section 5, in part, as follows:

- (a) behaviour by a person towards a family member of that person if that behaviour:
  - (i) is physically or sexually abusive; or
  - (ii) is emotionally or psychologically abusive; or
  - (iii) is economically abusive; or
  - (iv) is threatening; or

- (v) is coercive; or
  - (vi) in any other way controls or dominates the family member and causes that family member to feel fear for the safety or wellbeing of that family member or another person; or
- (b) behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of, behaviour referred to in subclause 46.2(a) above.

### **46.3 Eligibility**

- (a) Paid 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.

### **46.4 General Measures**

- (a) Evidence of family violence may be required and can be in the form an agreed document issued by the Police Service, a Court, a registered health practitioner, a Family Violence Support Service, district nurse, maternal and child health 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. 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 who will be trained in family violence and associated privacy issues. The Employer will advertise the name of any Family Violence contacts within the workplace.
- (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 Human Resources if the Employee chooses not to see the Human Resources or Family Violence contact.
- (f) Where requested by an Employee, the Human Resources contact will liaise with the Employee's manager on the Employee's behalf, and will make a recommendation on the most appropriate form of support to provide in accordance with clause 46.5 and clause 46.6.
- (g) The Employer will develop guidelines to supplement this clause and which details the appropriate action to be taken in the event that an Employee reports family violence.

### **46.5 Leave**

- (a) An Employee experiencing family violence will have access to 20 days per year of paid special leave (pro rata for part time Employees) following an event of family violence and for related purposes such as counselling appointments, medical appointments, legal proceedings or appointments with a legal practitioner and other activities related to, and as a consequence of, 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 leave entitlement to accompany them to court, to hospital, or to care for children. The Employer may require evidence consistent with subclause 46.4(a) from an Employee seeking to utilise their personal/carer's leave entitlement.

## **46.6 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.

## **47 Compassionate Leave**

### **47.1 When is Compassionate Leave available**

Compassionate leave may be available under this clause 47 to an Employee if a member of the Employee's immediate family or household:

- (a) contracts or develops a personal illness or sustains a personal injury that poses a serious threat to their life; or
  - (b) dies
- (a "permissible occasion").

**47.2** If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the Employee may take the compassionate leave for that occasion at any time while the illness or injury persists.

### **47.3 Employees other than casual Employees**

The provisions of subclauses 47.4 to 47.6 apply to all Employees other than casual Employees. The entitlements of casual Employees are set out in subclause 47.7.

**47.4** An Employee is entitled to up to 2 ordinary days' paid leave, on each permissible occasion.

**47.5** An Employee may take compassionate leave for a particular permissible occasion as:

- (a) a single continuous 2 day period;
- (b) 2 separate periods of one day each; or
- (c) any separate periods to which the Employee and Employer agree.

**47.6** An Employee may take unpaid additional compassionate leave by agreement with the Employer.

**47.7 Casual Employees**

Subject to the evidence requirements described at subclause 47.8, a casual Employee is entitled to 2 days unpaid compassionate leave on each permissible occasion. Unpaid compassion leave under this subclause may be taken as:

- (a) a single continuous period,
- (b) two separate periods of one day each, or
- (c) any separate periods to which the Employee and Employer agree.

**47.8 Evidence – all Employees**

Proof of the injury, illness or death must be provided that would satisfy a reasonable person, if requested.

## **48 Pre-Natal Leave**

**48.1** An Employee required to attend pre-natal appointments or parenting classes that are only available or can only be attended during the Employee's ordinary rostered shift may, subject to the provision of satisfactory evidence of attendance, access his or her personal leave credit.

**48.2** The Employee must give the Employer prior notice of the Employee's intention to take such leave.

## **49 Pre-Adoption Leave**

**49.1** An Employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure.

**49.2** The Employee and the Employer should agree on the length of the unpaid leave.

**49.3** Where agreement cannot be reached, the Employee is entitled to take up to two days unpaid leave.

**49.4** Where paid leave is available to the Employee, the Employer may require the Employee to take such leave instead.

## **50 Parental Leave**

## 50.1 Structure of clause

### **This clause is structured as follows:**

- (a) Definitions: subclause 50.2
- (b) Long parental leave – unpaid: subclause 50.3
- (c) Short parental leave – unpaid: subclause 50.4
- (d) Paid parental leave: subclause 50.5
- (e) Notice and evidence requirements: subclause 50.6
- (f) Parental leave associated with the birth of a Child – additional provisions: subclause 50.7
- (g) Unpaid pre-adoption leave: subclause 50.8
- (h) Where placement does not proceed or continue: subclause 50.9
- (i) Special maternity leave: subclause 50.10
- (j) Variation of period of unpaid parental leave up to 12 months: subclause 50.10
- (k) Right to request extension of period of unpaid parental leave beyond 12 months: subclause 50.12
- (l) Parental leave and other entitlements: subclause 50.13
- (m) Transfer to a safe job: subclause 50.14
- (n) Returning to work after a period of parental leave: subclause 50.15
- (o) Replacement Employees: subclause 50.16
- (p) Communication during parental leave – organisational change: subclause 50.17
- (q) Keeping in touch days: subclause 50.18

Other provisions associated with parental leave are also included in this Agreement. Specifically, prenatal leave at clause 48, flexible working arrangements which includes the right to request to return from parental leave on a part time basis at clause 15, leave to attend interviews and examinations relevant to adoption leave (pre-adoption leave) at clause 49 and breastfeeding at clause 51.

## 50.2 Definitions

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

- (a) **Child** means:
  - (i) in relation to birth-related leave, a child (or children from a multiple birth) of the Eligible Employee or the Eligible Employee's Spouse; or
  - (ii) in relation to adoption-related leave, a child (or children) under 16 (as at the day of placement or expected day of placement) who is placed or who is to be placed with the Eligible Employee for the purposes of adoption, other than a child or step-child of the Eligible Employee or of the Spouse of the Eligible Employee or a child who has previously lived continuously with the Eligible Employee for a period of six months or more (**Adopted Child**).
- (b) **Continuous Service** includes continuous service with one and the same Employer or continuous service with more than one Employer including Institutions or Statutory

Bodies (as defined at subclause 52.9), and includes any period of employment that would count as service under the Act.

- (c) **Eligible Casual Employee** means an Employee employed by the Employer in casual employment on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months and who has, but for the birth or expected birth of a Child or the decision to adopt a Child, a reasonable expectation of continuing engagement by the Employer on a regular and systematic basis.
- (d) **Eligible Employee** for the purposes of this clause 50 means an Employee who has at least 12 months' Continuous Service or an Eligible Casual Employee as defined above.
- (e) **Employee Couple** has the same meaning as under the Act.
- (f) **Long Parental Leave** means the 52 weeks' parental leave an Eligible Employee may take under subclause 50.3A person taking Long Parental Leave under subclause 50.3 is the Primary Carer for the purpose of this clause.
- (g) **Primary Carer** means the person who has or will have a responsibility for the care of the Child. For the purpose of clause 50.5, only one person can be the Child's Primary Carer on a particular day and means the person who meets the Child's physical needs more than anyone else.
- (h) **Short Parental Leave** means the up to eight weeks' concurrent parental leave an Eligible Employee who will not be the Primary Carer of a Child may take under subclause 50.4.
- (i) **Spouse** includes a person to whom the Eligible Employee is married and a de facto partner, former spouse or former de facto spouse of the Employee. A de facto Spouse means a person who lives with the Employee as husband, wife or same-sex partner on a bona fide domestic basis.

### 50.3 Long Parental Leave – Unpaid

- (a) An Eligible Employee is entitled to 52 weeks unpaid Long Parental Leave if:
  - (i) the leave is associated with:
    - (A) the birth of a Child of the Eligible Employee or the Eligible Employee's Spouse; or
    - (B) the placement of a Child with the Eligible Employee for adoption; and
  - (ii) the Eligible Employee is the Primary Carer.
- (b) The Eligible Employee must take the leave in a single continuous period.
- (c) Where an Eligible Employee is a member of an Employee Couple, except as provided at subclause 50.4 (Short Parental Leave – Unpaid), parental leave must be taken by only one parent of an Employee Couple at a time in a single continuous period.
- (d) Each member of an Employee Couple may take a separate period of up to 12 months of Long Parental Leave less any period of Short Parental Leave taken by the Eligible Employee.
- (e) An Eligible Employee may be able to extend a period of unpaid parental leave in accordance with subclause 50.10.

#### **50.4 Short Parental Leave – Unpaid**

- (a) This clause applies to an Eligible Employee who is a member of an Employee Couple.
- (b) An Eligible Employee who will not be the Primary Carer of a Child may take up to eight weeks' leave concurrently with any parental leave taken by the parent who will be the Primary Carer. Short Parental Leave may be taken in separate periods but, unless the Employer agrees, each period must not be shorter than two weeks.
- (c) The period of Short Parental Leave will be deducted from the period of Long Parental Leave to which the Eligible Employee is entitled under subclause 50.3 (if applicable).

#### **50.5 Paid Parental Leave**

- (a) Upon an Eligible Employee commencing parental leave:
  - (i) an Eligible Employee who will be the Primary Carer at the time of the birth or adoption of the Child will be entitled to 12 weeks' paid parental leave and superannuation in accordance with subclause 25.5(c); or
  - (ii) an Eligible Employee who will not be the Primary Carer at the time of the birth or adoption of the Child will be entitled to one week's paid parental leave.
- (b) Paid parental leave is in addition to any relevant Commonwealth Government paid parental leave scheme (subject to the requirements of any applicable legislation).
- (c) The Employer and Eligible Employee may reach agreement as to how the paid parental leave under this Agreement is paid. For example, such leave may be paid in smaller amounts over a longer period, consecutively or concurrently with any relevant Commonwealth Government parental leave scheme (subject to the requirements of any applicable legislation) and may include a voluntary contribution to superannuation.
- (d) Such agreement must be in writing and signed by the parties. The Eligible Employee must nominate a preferred payment arrangement at least four weeks prior to the expected date of birth or date of placement of the Child. In the absence of agreement, such leave will be paid during the ordinary pay periods corresponding with the period of the leave.
- (e) A variation to the payment of paid parental leave resulting in the paid leave being spread over more than 12 weeks does not affect the period of continuous service recognised. For example, an Employee taking 24 weeks at half pay will, for the purpose of calculating continuous service, have ten weeks of continuous service recognised. An Employee taking five (5) weeks at double pay will have 10 weeks of continuous service recognised.
- (f) The paid parental leave prescribed by this clause will be concurrent with any relevant unpaid entitlement prescribed by the NES / this Agreement.

#### **50.6 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) that the Employee will become either the Primary Carer or non-Primary Carer of the Child, as appropriate;
  - (ii) the particulars of any parental leave taken or proposed to be taken or applied for by the Employee's Spouse; and

- (iii) that for 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 50.6(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 or certificate from a registered midwife, 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 the birth of the Child 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.

**50.7 Parental leave associated with the birth of a Child – additional provisions**

- (a) Subject to the limits on duration of parental leave set out in this Agreement and unless agreed otherwise between the Employer and Eligible Employee, an Eligible Employee who is pregnant may commence Long Parental Leave at any time up to six weeks immediately prior to the expected date of birth.
- (b) Six weeks before the birth
  - (i) Where a pregnant Eligible Employee continues to work during the six week period immediately prior to the expected date of birth, the Employer may require the Eligible Employee to provide a medical certificate stating that she is fit for work and, if so, whether it is inadvisable for her to continue in her present position because of illness or risks arising out of the Eligible Employee's pregnancy or hazards connected with the position.
  - (ii) Where a request is made under subclause 50.7(b)(i) and an Eligible Employee:
    - (A) does not provide the Employer with the requested certificate within seven days of the request; or
    - (B) within seven days after the request, the Eligible Employee gives the Employer a medical certificate stating that the Eligible Employee is not fit for work;

the Employer may require the Eligible Employee to commence their parental leave as soon as practicable.
  - (iii) Where a request is made under subclause 50.7(b)(i) and an Eligible Employee provides a medical certificate that states that the Eligible Employee is fit for work but it is inadvisable for the Eligible Employee to continue in her present position during a stated period, subclause 50.14(Transfer to a safe job) will apply.

## **50.8 Unpaid pre-adoption leave**

Employees' entitlement to pre-adoption leave is set out at clause 49.

## **50.9 Where placement does not proceed or continue**

- (a) Where the placement of the Child for adoption with an Eligible Employee does not proceed or continue, the Eligible Employee must notify the Employer immediately.
- (b) Where the Eligible Employee had, at the time, started a period of adoption-related leave in relation to the placement, the Eligible Employee's entitlement to adoption-related leave is not affected, except where the Employer gives written notice under subclause 50.9(c).
- (c) The Employer may give the Eligible Employee written notice that, from a stated day no earlier than four weeks after the day the notice is given, any untaken long adoption-related leave is cancelled with effect from that day.
- (d) Where the Eligible Employee wishes to return to work due to a placement not proceeding or continuing, the Employer must nominate a time not exceeding four weeks from receipt of notification for the Eligible Employee's return to work.

## **50.10 Special maternity leave**

- (a) Entitlement to unpaid special birth-related leave
  - (i) A female Eligible Employee is entitled to a period of unpaid special leave if she is not fit for work during that period because:
    - (A) she has a pregnancy-related illness; or
    - (B) she has been pregnant, and the pregnancy ends within 28 weeks of the expected date of birth of the Child otherwise than by the birth of a living Child.
  - (ii) A female Eligible Employee who has an entitlement to personal leave may, in part or whole, take personal leave instead of unpaid special leave under this clause.
  - (iii) Where the pregnancy ends more than 28 weeks from the expected date of birth of the Child, the Eligible Employee is entitled to access any paid and/or unpaid personal leave entitlements in accordance with the relevant personal leave provisions.
- (b) Entitlement to paid special birth-related leave
  - (i) A female Eligible Employee is entitled to a period of paid special leave if the pregnancy terminates at or after the completion of 20 weeks' gestation or the Eligible Employee gives birth but the baby subsequently dies.
  - (ii) Paid special leave is paid leave not exceeding the amount of paid leave available to Primary Carers under subclause 50.5(a)(i) (plus superannuation).
  - (iii) Paid special leave is in addition to any unpaid special leave taken under subclause 50.10(a)(i).
  - (iv) Paid leave available to non-Primary Carers under subclause 50.5(a)(ii) will also apply in these circumstances.
- (c) Evidence

If an Eligible Employee takes leave under this clause the Employer may require the Eligible Employee to provide evidence that would satisfy a reasonable person of the matters referred to in subclause 50.10(a)(i) or 50.10(b)(i) or to provide a certificate from a registered medical practitioner. The Eligible Employee must give notice to the Employer as soon as practicable, advising the Employer of the period or the expected period of the leave under this provision.

**50.11 Variation of period of unpaid parental leave (up to 12 months)**

- (a) Where an Eligible Employee has:
  - (i) given notice of the taking of a period of Long Parental Leave under subclause 50.3; and
  - (ii) the length of this period of Long Parental Leave as notified to the Employer is less than the Eligible Employee's available entitlement to Long Parental Leave; and
  - (iii) the Eligible Employee has commenced the period of Long Parental Leave,the Eligible Employee may apply to the Employer to extend the period of parental leave on one occasion. Any extension is to be notified as soon as possible but no less than four weeks prior to the commencement of the changed arrangements. Nothing in this clause detracts from the basic entitlement in subclause 50.3 or subclause 50.11.
- (b) If the Employer and Eligible Employee agree, the Eligible Employee may further change the period of parental leave.

**50.12 Right to request an extension of period of unpaid parental leave beyond 12 months**

- (a) An Eligible Employee entitled to Long Parental Leave pursuant to the provisions of subclause 50.3 may request the Employer to allow the Eligible Employee to extend the period of Long Parental Leave by a further continuous period of up to 12 months immediately following the end of the available parental leave.
- (b) Request to be in writing

The request must be in writing and must be given to the Employer at least four weeks before the end of the available parental leave period.
- (c) Response to be in writing

The Employer must give the Eligible Employee a written response to the request stating whether the Employer grants or refuses the request. The response must be given as soon as practicable, and not later than 21 days, after the request is made.
- (d) Refusal only on reasonable business grounds

The Employer may only refuse the request on reasonable business grounds.
- (e) Reasons for refusal to be specified

If the Employer refuses the request, the written response must include details of the reasons for the refusal.
- (f) Reasonable opportunity to discuss

The Employer must not refuse the request unless the Employer has given the Eligible Employee a reasonable opportunity to discuss the request.
- (g) Employee Couples

Where a member of an Employee Couple is requesting an extension to a period of Long Parental Leave in relation to a Child:

- (i) the request must specify any amount of Long Parental Leave that the other member of the Employee Couple has taken, or will have taken in relation to the Child before the extension starts;
- (ii) the period of extension cannot exceed 12 months, less any period of Long Parental Leave that the other member of the Employee Couple has taken, or will have taken, in relation to the Child before the extension starts;
- (iii) the amount of Long Parental Leave to which the other member of the Employee Couple is entitled under subclause 50.3 in relation to the Child is reduced by the period of the extension.

- (h) No extension beyond 24 months

An Eligible Employee is not entitled to extend the period of Long Parental Leave beyond 24 months after the date of birth or day of placement of the Child.

#### **50.13 Parental leave and other entitlements**

An Eligible Employee may use any accrued annual leave or long service leave entitlements concurrently with Long Parental Leave, save that taking that leave does not have the effect of extending the period of Long Parental Leave.

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

- (a) Where an Employee is pregnant and provides evidence that would satisfy a reasonable person that she is fit for work but it is inadvisable for the Employee to continue in her present position for a stated period (the **risk period**) because of:

- (i) illness or risks arising out of the pregnancy, or
- (ii) hazards connected with the position,

the Employee must be transferred to an appropriate safe job if one is available for the risk period, with no other change to the Employee's terms and conditions of employment.

- (b) Paid no safe job leave

If:

- (i) subclause 50.14(a) applies to a pregnant Eligible Employee but there is no appropriate safe job available; and
- (ii) the Eligible Employee is entitled to Long Parental Leave; and
- (iii) the Eligible Employee has complied with the notice of intended start and end dates of leave and evidence requirements under subclause 50.6 for taking Long Parental Leave;

then the Eligible Employee is entitled to paid no safe job leave for the risk period.

- (c) If the Eligible Employee takes paid no safe job leave for the risk period, the Employer must pay the Eligible Employee at the Eligible Employee's rate of pay set out in **Appendix Two** for the Eligible Employee's ordinary hours of work in the risk period.
- (d) This entitlement to paid no safe job leave is in addition to any other leave entitlement the Eligible Employee may have.

- (e) If an Eligible Employee, during the six week period before the expected date of birth, is on paid no safe job leave, the Employer may request that the Eligible Employee provide a medical certificate within seven (7) days stating whether the Eligible Employee is fit for work.
- (f) If, the Eligible Employee has either:
  - (i) not complied with the request from the Employer under (e) above; or
  - (ii) provided a medical certificate stating that she is not fit for work; then
 the Eligible Employee is not entitled to no safe job leave and the Employer may require the Eligible Employee to take parental leave as soon as practicable.
- (g) Unpaid no safe job leave
 

If:

  - (i) subclause 50.14(a) applies to a pregnant Employee but there is no appropriate safe job available; and
  - (ii) the Employee will not be entitled to Long Parental Leave as at the expected date of birth; and
  - (iii) the Employee has given the Employer evidence that would satisfy a reasonable person of the pregnancy if required by the Employer (which may include a requirement to provide a medical certificate),
 the Employee is entitled to unpaid no safe job leave for the risk period.

#### **50.15 Returning to work after a period of parental leave**

- (a) An Eligible Employee must confirm to the Employer that the Eligible Employee will return to work as scheduled after a period of Long Parental Leave at least four weeks prior to the end of the leave, or where that is not practicable, as soon as practicable.
- (b) An Eligible Employee will be entitled to return:
  - (i) unless subclause 50.15(b)(ii) or subclause 50.15(b)(iii) applies, to the position which they held immediately before proceeding on parental leave;
  - (ii) if the Eligible Employee was promoted or voluntarily transferred to a new position (other than to a safe job pursuant to subclause 50.14), to the new position;
  - (iii) if subclause 50.15(b)(ii) does not apply, and the Eligible Employee began working part-time because of the pregnancy of the Eligible Employee, or his or her Spouse, to the position held immediately before starting to work part-time.
- (c) Subclause 50.15(b) is not to result in the Eligible Employee being returned to the safe job to which the Eligible Employee was transferred under subclause 50.14. In such circumstances, the Eligible Employee will be entitled to return to the position held immediately before the transfer.
- (d) Where the relevant former position (per subclauses 50.15(b) and 50.15(c) above) no longer exists, an Eligible Employee is entitled to return to an available position for which the Eligible Employee is qualified and suited nearest in status and pay to that of their pre-parental leave position.
- (e) The Employer must not fail to re-engage an Eligible Employee because:

- (i) the Eligible Employee or Eligible Employee's Spouse is pregnant; or
  - (ii) the Eligible Employee is or has been immediately absent on parental leave.
- (f) 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.

**50.16 Replacement Employees**

- (a) A replacement Employee is an Employee specifically engaged or temporarily promoted or transferred, as a result of an Eligible Employee proceeding on parental leave.
- (b) Before the Employer engages a replacement Employee, the Employer must inform that person of the temporary nature of the employment and of the rights of the Eligible Employee who is being replaced to return to their pre-parental leave position.

**50.17 Communication during parental leave – organisational change**

- (a) Where an Eligible Employee is on parental leave and the Employer proposes a change that will have a significant effect within the meaning of clause 11 (Consultation) of this Agreement on the Eligible Employee's pre-parental leave position, the Employer will comply with the requirements of clause 11(Consultation) which include but are not limited to providing:
  - (i) information in accordance with subclause 11.4; and
  - (ii) an opportunity for discussions with the Eligible Employee and, where relevant, the Eligible Employee' representative in accordance with subclause 11.6.
- (b) The Eligible Employee will take reasonable steps to inform the Employer about any significant matter that arises whilst the Eligible Employee is taking parental leave that will affect the Eligible Employee's decision regarding the duration of parental leave to be taken, whether the Eligible Employee intends to return to work and whether the Eligible Employee intends to request to return to work on a part-time basis.
- (c) The Eligible Employee will also notify the Employer of changes of address or other contact details which might affect the Employer's capacity to comply with subclause 50.17.

**50.18 Keeping in touch days**

- (a) This clause does not prevent an Eligible Employee from performing work for the Employer on a keeping in touch day while the Eligible Employee is taking Long Parental Leave. If the Eligible Employee does so, the performance of that work does not break the continuity of the period of Long Parental Leave.
- (b) Any day or part of a day on which the Eligible Employee performs work for the Employer during the period of leave is a keeping in touch day if:
  - (i) the purpose of performing the work is to enable the Eligible Employee to keep in touch with his or her employment in order to facilitate a return to that employment after the end of the period of leave; and
  - (ii) both the Eligible Employee and Employer consent to the Eligible Employee performing work for the Employer on that day; and
  - (iii) the day is not within:

- (A) if the Eligible Employee suggested or requested that they perform work for the Employer on that day – 14 days after the date of birth, or day of placement, of the Child to which the period of leave relates; or
- (B) otherwise – 42 days after the date of birth, or day of placement, of the Child; and
- (iv) the Eligible Employee has not already performed work for the Employer or another entity on ten days during the period of leave that were keeping in touch days.
- (c) The Employer must not exert undue influence or undue pressure on an Eligible Employee to consent to a keeping in touch day.
- (d) For the purposes of subclause 50.18(b)(iv) the following will be treated as two separate periods of unpaid parental leave:
  - (i) a period of Long Parental Leave taken during the Eligible Employee's available parental leave period under subclause 50.3; and
  - (ii) an extension of the period of Long Parental Leave under subclause 50.11.

## **51 Breastfeeding**

### **51.1 Paid break**

Each Employer will provide reasonable paid break time for an Employee to express breast milk for her nursing child each time such Employee has need to express the milk, or breastfeed the child within the workplace, for one year after the child's birth.

### **51.2 Place to express or feed**

Employers will also provide a comfortable place, other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public, which may be used by an employee to express breast milk or breastfeed a child in privacy.

### **51.3 Storage**

Appropriate refrigeration will be available in proximity to the area for breast milk storage. Responsibility for labelling, storage and use is with the Employee.

## **52 Long Service Leave**

### **52.1 Entitlement**

An Employee shall be entitled to long service leave with pay in respect of continuous service with the Employer in accordance with the provisions of this clause.

### **52.2 Subject hereof, the amount of such entitlement shall be:**

- (a) on completion by the officer of 15 years' continuous service - six months' long service leave and thereafter an additional two months' long service leave on the completion of each additional five years' service;
- (b) in addition, in the case of an Employee who has completed more than 15 years' service and whose employment is terminated otherwise than by the death of the

officer, an amount of long service leave equal to one-thirtieth of the period of his/her service since the last accrual of entitlement to long service leave under clause 52.8(a).

- (c) in the case of an Employee who has completed at least 10 years' service, but less than 15 years' service and whose employment is terminated for any cause other than serious and wilful misconduct, such amount of long service leave as equals one-thirtieth of the period of service.

### **52.3 Service Entitling to Leave**

- (a) Subject to this sub-clause, the service of an Employee of an Employer shall include service for which long service leave, or payment in lieu, has not been received in one or more Employers directly associated with such Employer for the periods required hereof.
- (b) Subject to this sub-clause, the service of an Employee of an Employer shall include service for which long service leave, or payment in lieu, has not been received in one or more stand-alone Community Health Centres or public health service or an Employer listed in this Agreement as defined in Appendix One for the periods required hereof.
- (c) Subject to this sub-clause, service shall also include all periods during which an Employee was serving in Her Majesty's Forces or was made available by the Employer for National Duty.
- (d) When calculating the aggregate of service entitling to leave any period of employment with any one of the said Institutions or Statutory Bodies of less than six months' duration shall be disregarded.
- (e) Where a business is transmitted from one agency (the transmitter) to another agency (the transferee), an Employee who worked with the transmitter and who continues in service of the transferee shall be entitled to count service with the transmitter as service with the transferee for the purposes of this clause.
- (f) For the purpose of this clause, service shall be deemed to be continuous notwithstanding:
  - (i) the taking of any annual leave, long service leave or other paid leave approved in writing by the Employer and not covered by clauses 52.3(f)(ii) or 52.3(f)(iv) below;
  - (ii) any absence from work of not more than 14 days in any year on account of illness or injury or, if applicable, such longer period as provided in the Personal Leave clause of this Agreement;
  - (iii) any interruption or ending of the employment by the Employer if such interruption or ending is made with the intention of avoiding obligations in respect of long service leave or annual leave;
  - (iv) any absence on account of injury arising out of or in the course of the employment of the officer for a period during which payment is made under WorkCover/Workers' compensation;
  - (v) any unpaid leave of absence of the officer where the absence is authorised, in advance in writing, by the Employer to be counted as service;
  - (vi) any interruption arising directly or indirectly from an industrial dispute;

- (vii) any period of absence from employment between the engagement with one of the said Institutions of Statutory Bodies and another provided it is less than the Employee's allowable period of absence from employment. An Employee's allowable period of absence from employment shall be five weeks in addition to the total period of paid annual and/or sick leave which the officer actually received on termination or from which he/she is paid lieu;
  - (viii) the dismissal of an Employee if the officer is re-employed within a period not exceeding two months from the date of such dismissal;
  - (ix) any unpaid absence from work of a female officer for a period not exceeding 12 months in respect of any pregnancy;
  - (x) any other absence of an Employee by leave of the Employer, or an account of injury arising out of or in the course of their employment not covered by clause 52.3(f)(iv).
- (g) In calculating the period of continuous service of any officer, any interruption or absence of a kind mentioned in clauses 52.3(f)(i) to 52.3(f)(v), shall be counted as part of the period of service, but any interruption or absence of a kind mentioned in clauses 52.3(f)(vi) to 52.3(f)(x) of the said sub-clause shall not be counted as part of the period of service unless it is so authorised in writing by the Employer.
- (h) The onus of proving a sufficient aggregate of service to support claim for long service leave entitlement shall at all time rest upon the officer concerned. A certificate in the following form shall constitute acceptable proof:

<b>CERTIFICATE OF SERVICE</b>
<p>[Name of Institution] [date]</p> <p>This is to certify that [Name of Employee] has been employed by this institution/society/board for a period of [years/months/etc.] from [date] to [date].</p> <p>Specify hereunder full details of paid or unpaid leave or absences including periods represented by payment made in lieu of leave on termination.</p> <p>.....</p> <p>Specify hereunder full details of long service leave granted during service or on termination:</p> <p>.....</p> <p>Signed.....[Stamp of Institution]</p>

- (i) The Employer shall keep or cause to be kept a long service leave record for each officer containing particulars of service, leave taken and payments made.

**52.4 Payment in Lieu of Long Service Leave on the Death of an Employee**

Where an Employee who has completed at least 10 years' service dies while still in the employ of the Employer, the Employer shall pay to such Employee's personal representative a sum equal to the pay of such officer for one-thirtieth of the period of the Employee's continuous service in respect of which leave has not been allowed or payment made immediately prior to the death of the Employee.

**52.5 Payment for Period of Leave**

Payment to an Employee in respect of long service leave shall be made in one of the following ways:

- (a) In full in advance when the Employee commences his/her leave; or
- (b) At the same time as payment would have been made if the Employee had remained on duty; in which case payment shall, if the Employee in writing so requires, be made by cheque posted to a specified address; or
- (c) In any other way agreed between the Employer and the Employee.

**52.6** Where the employment of an Employee is, for any reason, terminated before he/she takes any long service leave to which he/she is entitled or where any long service accrues to an Employee pursuant to the above clauses the Employee shall, subject to the provisions of the relevant sub-clauses, be entitled to pay in respect of such leave as at the date of termination of employment.

- (a) Where any long service leave accrues to an Employee pursuant to sub-clauses hereof, the Employee shall be entitled to pay in respect of such leave as at the date of termination of employment.
- (b) Provided in the case of an Employee of an Employer who accrues entitlement pursuant to sub-clauses hereof, and who intends to be re-employed by another Employer:
  - (i) Such an Employee may, in writing request payment in respect of such leave to be deferred until after the expiry of the Employee's allowable period of absence from employment as provided for in these sub-clauses. Allowable period of absence is defined in sub-clause 52.3(f)(vii);
  - (ii) Except where the Employee gives the Employer notice in writing that the Employee has been employed by another Employer, the Employer shall make payment in respect of such leave at the expiry of the Employee's allowable period of absence from employment;
  - (iii) Where the Employee gives the Employer notice in writing that the Employee has been employed by another Employer, the Employer is no longer required to make payment to the Employee in respect of such leave.

**52.7** Where an increase occurs in the ordinary time rate of pay during any period of long service leave taken by the Employee, the Employee shall be entitled to receive payment of the amount of any increase in pay from the date that increase becomes operative at the completion of such leave.

**52.8 Taking of Leave**

- (a) When an Employee becomes entitled to long service leave such leave shall be granted by the Employer within six months from the date of entitlement, but the taking of such leave may be postponed to such date as is mutually agreed, or in default of agreement as is determined by the Fair Work Commission provided that no such determination shall require such leave to commence before the expiry of six months from the date of such determination.
- (b) Any long service leave shall be inclusive of any public holiday occurring during the period when the leave is taken.
- (c) If the Employer and an Employee so agree -

- (i) the first six months' long service leave to which an Employee becomes entitled under this Agreement may be taken in two or three separate periods; and
  - (ii) any subsequent period of long service leave to which the Employee becomes entitled may be taken in two separate periods but save as aforesaid long service leave shall be taken in one period.
- (d) The Employer may by agreement with an Employee, grant long service leave to an Employee before the entitlement to that leave has accrued, provided that such leave shall not be granted before the Employee has completed ten years' service.
- (e) Where the employment of an Employee who has taken long service leave in advance is subsequently terminated for serious and wilful misconduct before entitlement to long service leave has accrued, the Employer may, from whatever remuneration is payable to the Employee upon termination deduct and withhold an amount equivalent to the amount paid to the Employee in respect of the leave in advance.

## 52.9 Definitions

- (a) For the purpose of this clause the following definitions apply:
- (i) "**Pay**" means remuneration for an Employees' normal weekly hours of work calculated at the Employee's ordinary time rate of pay provided in the Wages clause of this Agreement at the time leave is taken or (if he or she dies before the completion of leave so taken) as at the time of his or her death; and shall include the amount of any increase to the Employee's ordinary time rate of pay which occurred during the period of leave as from the date such increase operates.
  - (ii) "**Month**" shall mean a Calendar Month.
  - (iii) "**Employer**" shall mean any Employer named in the schedule of this agreement or a hospital, health service or community health centre registered and subsidised pursuant to the Health Services Act 1988 (Vic).
  - (iv) "**Statutory Body**" means the Department of Human Services.
  - (v) "**Transmission**" includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and "transmitted" has a corresponding interpretation.

## 53 Cultural and Ceremonial Leave

- 53.1** 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.
- 53.2** The employer may grant an employee of Aboriginal or Torres Strait Islander descent accrued annual or other leave to attend the Annual General Meetings of Aboriginal community organisations at which the election of office bearers will occur.
- 53.3** 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 shall have an existing entitlement reduces as a result of this clause); or

(b) for other ceremonial obligations under Aboriginal or Torres Strait Islander law.

**53.4** Ceremonial leave granted under this clause is in addition to compassionate leave granted under any other provision of the Agreement.

## **54 Community Services Leave**

**54.1** An Employee who is engaged in an eligible community service activity is entitled to be absent from work without loss of pay for the period of time that they are engaged in the activity, reasonable travelling time associated with the activity and rest time following the activity, provided that the Employee's absence (unless the activity is jury service) is reasonable in all the circumstances.

**54.2** An eligible community services activity includes:

(a) jury service required by or under law; or

(b) a voluntary emergency management activity; or

(c) an activity prescribed by regulations as an eligible community service activity for the purpose of the *Fair Work Act 2009*.

**54.3** An Employee engages in 'voluntary emergency management' activity if, and only if:

(a) the Employee engages in an activity that involves dealing with an emergency or natural disaster; and

(b) the Employee engages in the activity on a voluntary basis; and

(c) the Employee is a member of, or has a member like association with, a recognised emergency management body (i.e. Country Fire Authority, State Emergency Service, St. John Ambulance, Red Cross etc); and

(i) either:

(A) the Employee was requested by or on behalf of the body to engage in the activity; or

(B) no such request was made, but it would be reasonable to expect that, if the circumstances had permitted the making of such request, it is likely that such a request would have been made.

**54.4** Notice and evidence requirements

(a) Employees seeking to take Community Service Leave must provide notice to the Employer as soon as practicable (which may be after the absence has started) and must advise the Employer of the period, or expected period, of the absence.

(b) If requested, the Employee shall be required to produce evidence of their engagement in eligible community service activity, to the satisfaction of the Employer.

(c) An absence from the workplace is only covered by the provisions of clause 46.1 if they satisfy the notice and evidence requirements set out above.

**54.5** The Employer may refuse time release where the Employee's absence will adversely impact the capacity of the health service to maintain services.

## **55 Jury Service**

- 55.1** An Employee required to attend for jury service shall be reimbursed by the Employer an amount equal to the difference between the amount paid in respect of such attendance for jury service and the amount of salary the Employee would have ordinarily received.
- 55.2** To be entitled to such payment under clause 55.1an Employee shall advise the Employer as soon as possible of the reason for the absence from work and provide such verification as the Employer reasonably requires.

## **PART H – EDUCATION AND RELATED MATTERS**

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### **56 Continuing Professional Development Allowance**

*This clause does not apply to Casual Employees.*

- 56.1** All full time Employees employed at the commencement of this Agreement will receive a continuing professional development allowance (CPDA) This will be paid to employees as follows:
- (a) \$350 payable in the first full pay period on or after the commencement of the Agreement.
  - (b) \$350 payable in the first full pay period commencing on or after 1 May 2019;
  - (c) \$350 payable in the first full pay period commencing on or after 1 May 2020; and
  - (d) \$350 payable in the first full pay period commencing on or after 1 May 2021.
- 56.2** Part time employees will receive a pro rata amount described in 56.1 above based upon their normal hours at the time of the payment.
- 56.3** The CPDA will be payable in respect to a particular year to any employee who is employed by the Employer and not on unpaid leave.
- 56.4** The CPDA is paid on the basis that it is to be fully expended on professional development and education expenses in each year.
- 56.5** The CPDA is additional to any other allowance or entitlement within this Agreement.

### **57 Professional Development Leave**

- 57.1** Whilst it is recognised that it remains the professional responsibility of Employees to maintain an appropriate level of skills and accreditation, the Employer will also encourage employees to undertake professional development relevant to the acquisition of skills, knowledge and qualifications for the efficient performance of the Employer's core activities; for employees' progress along a career path and/or as a requirement to maintain Employee registration.
- 57.2** Professional development may include attendance at both internal and external conferences and seminars.
- 57.3** Employees who are engaged on a full-time basis will be entitled up to a maximum of 5 days' (38 hours') paid professional development leave (non-cumulative) per calendar year subject to a successful application to his/her Manager who will make a decision in concert with the Clinical Director (where relevant). Entitlements for part-time Employees will be calculated on a pro rata basis. The provisions of this clause do not apply to casual or fixed-term employees.
- 57.4** It is the responsibility of the Employee to make an application in writing to his/her Manager and, where relevant, Clinical Director nominating the preferred date(s) and providing a brief description of the nature of the professional development activity proposed to be undertaken and details of the relevance of the course to the Employee's employment.

- 57.5** The Employee's application must be made at least six (6) weeks prior to the nominated date(s) unless otherwise agreed by the Employer.
- 57.6** The applicant will be notified in writing if the leave is approved or not within seven (7) days of the request being received. If leave is not granted, the applicant will be notified of the reason(s).

## **58 Clinical Quality, Clinical Audit and Peer Review**

- 58.1** Employees employed under this Agreement are committed to participating in the practice of Clinical Quality activities as organised and agreed to by the Employer's Clinical Leadership Council where relevant (or its equivalent). This includes but is not limited to Clinical Audit and Peer Review which includes the collection and measurement of activities and outcomes related to clinical practice; analysis and comparison using standards, performance indicators and outcome measures; a feedback mechanism to redress problems that have been identified.

## **59 Performance Appraisal**

- 59.1** Employees employed under this Agreement on a full time or part time basis are committed to participating in the Employer's Performance Appraisal Program (or however so titled) at least annually in order to improve quality of care, workplace skills, effectiveness, productivity and motivation of Employees, and for staff to benefit from outcomes as to their remuneration and career progression.
- 59.2** Performance appraisal will comprise, an integral element, the criteria detailed in **Clause 64**.

## **PART I – SERVICE DELIVERY PARTNERSHIP PLAN**

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### **60 Service Delivery Partnership Plan**

- 60.1** The parties are committed to contributing to the improvement of the productivity and efficiency of the Victorian Public Health System by:
- (a) Improving patient treatment times and experiences through flow improvements, improved discharge arrangements and reductions in ‘did not attend’ rates
  - (b) Reducing illness and injury through occupational health and safety interventions;
  - (c) Adopting best practice leave management arrangements;
  - (d) Enhancing patient safety and outcomes through increased immunization/vaccination rates;
  - (e) Improving patient satisfaction levels;
  - (f) Adopting best practice in addressing absenteeism.
- 60.2** To facilitate the achievement of the above initiatives the parties agree to establish a SDPPWG within six months of the agreement being approved by the Commission. The role of the SDPPWG will be to discuss, implement and monitor progress towards achieving the initiatives outlined in this clause.
- 60.3** The SDPPWG will comprise nominated representatives from the union, the VHIA and DHHS (as required). The SDPPWG may, by agreement, establish sub-groups or delegate individual matters to a relevant health service(s) as required.
- 60.4** A dispute over the implementation of this clause will be dealt with through conciliation in accordance with **clause 13 – Dispute Resolution Procedure**.

### **61 Value Based Oral Health**

- 61.1** The parties will work together during the life of the agreement to:
- (a) Facilitate implementation of a person-centred, value based public oral health model of care.
  - (b) The parties will seek to promote efficiency with the design and delivery of value based health care and services.
  - (c) The parties will work collaboratively to implement integrated multi-disciplinary teams that promote efficiency and productivity enabling the workforce to perform at their full scope of practice.

## **PART J – CLASSIFICATION AND COMPETENCIES**

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### **62 Notification of Classification**

- 62.1** The Employer shall notify each Employee in writing of their classification and terms of employment, on commencement.
- 62.2** The Employer shall notify each Employee of any alteration to their classification in writing within 14 days of the operative day of such alteration.
- 62.3** An Employee who believes that they have been wrongly classified may seek a classification review at any time following which the employer is obliged to undertake such review and/or performance review in accordance with **Clause 64**.

### **63 Classification Descriptors**

- 63.1** The employer shall classify each existing and new Therapist/Hygienist employed under this Agreement as a Therapist/Hygienist Graduate, Level 1, 2, 3 or 4. Classification competencies are provided at Clause 64.
- 63.2** Progression between levels and progression between salary points within a given level will be in accordance with the salary progression criteria detailed at Appendix Three.

<b>Classification</b>	<b>Description</b>	<b>Indicative Occupation</b>
<b>Graduate</b>	Under the general oversight of a more senior clinician performs basic dentistry consistent with their scope of practice and credentialing. This is the entry level for a graduate Therapist/Hygienist acquiring experience in dentistry	Recently graduated Therapist/Hygienist
<b>Level 1</b>	Performs routine dentistry consistent with their scope of practice and credentialing. This is a moderate skill level and includes the moderately experienced Therapist/Hygienist who is competent in basic tasks. May require regular professional support and mentoring.	Therapist/Hygienist still gaining experience
<b>Level 2</b>	An experienced Therapist/Hygienist who performs all dentistry within their scope of practice and credentialing. This is the broad based skill level. It encompasses an experienced Therapist/Hygienist who is competent in all general dental tasks and who would be expected to be familiar with and be able to exhibit a number of more advanced tasks that are commonly performed within their scope of practice. The Therapist/Hygienist at this level must have demonstrated a commitment to professional development, and may act as a mentor to less experienced staff when required.	Experienced Therapist/Hygienist
<b>Level 3</b>	A Level 3 Therapist/Hygienist includes an experienced Therapist/Hygienist who is widely recognised for their exceptional competence and has a proven record for carrying out a broad range of advanced and complex dental procedures within their scope of practice and credentialing. A Level 3 Therapist/Hygienist frequently receives referrals from other dental practitioners and is called upon for dental advice within their scope of practice. A level 3 Therapist/Hygienist has achieved a high level of clinical competence, provides leadership, communicates effectively both within their service and externally, participates in staff induction and professional development, and acts as a mentor and supervisor to less experienced staff and to students.	Senior Clinical Therapist/Hygienist Position by appointment

<p><b>Level 4</b></p>	<p>A Level 4 Therapist/Hygienist is an experienced Therapist/Hygienist who in addition to advanced level clinical skills within their scope of practice and credentialing is responsible for the leadership and management of a clinical team of 3 or more equivalent full-time employees. A Level 4 Therapist/Hygienist possesses high level leadership and management skills, excellent communication and interpersonal skills and a high commitment to public health principles. A Level 4 Therapist/Hygienist would typically be responsible for managing special projects and/or local budgets.</p>	<p>Team Leader Position by appointment</p>
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## 64 Competencies – Dental Therapists, Dental Hygienists & Oral Health Therapists

64.1 Therapist/Hygienists shall be classified within the classification structure set out in Clause 63 in accordance with the following achieved and demonstrated competencies:

<b>Graduate</b>	Basic diagnostic and treatment skills for the broad range of patients in routine clinical situations. Capacity to recognise clinical limitations and seek support
<b>Level 1</b>	Graduate skills plus - broader range of patient base including those with disabilities and more complex medical histories. Ability to independently provide a range of dental services within their scope of practice. Developing an understanding of dental public health principles.
<b>Level 2</b>	Level 1 skills plus - advanced skills in managing most difficult clinical situations, clients with more complex medical histories and those with disabilities. Ability to provide a broad range of efficient dental services within their scope of practice. Appropriate skills for the resolution of patient complaints. Should be able to act as a mentor to clinicians with less experience. High level of understanding of dental public health principles.
<b>Level 3</b>	Level 2 skills plus - highly advanced skills in managing all difficult clinical situations within their scope of practice, including complex medical histories and patients with disabilities. Ability to provide a highly advanced range of efficient dental services, rarely requiring support or advice from more senior clinicians within their clinical scope of practice. Ability to provide advice to other dental practitioners and accept referrals. Act as a mentor and supervisor to less experienced clinicians and/or undergraduate students. Well developed skills in clinical leadership, effective communication and, managing patient complaints. Capacity to participate and contribute to service developments and improvements.
<b>Level 4</b>	Level 3 skills plus – leadership and management skills including high level written and verbal communication skills, supervisory skills, ability to undertake staff reviews, ability to interpret financial reports and plan dental budgets. Ability to actively participate and contribute to service developments and improvements, including quality improvement initiatives.

## **65 Salary Progression Criteria**

- 65.1** Subject to this clause, a Therapist/Hygienist shall be eligible to progress annually to the next available salary point of their classification, subject to the Therapist/Hygienist demonstrating to the employer that he or she has, over the preceding 12 months:
- (a) Undertaken career development relevant to oral health and the services provided at the Employer's clinic or where this has not occurred, has entered into an arrangement where this will occur
  - (b) Satisfied the Employer's requirements as to throughput of clinical services and associated administrative duties.
  - (c) Fully complied with the Employer's operational policies and protocols as to infection control, clinical standards and response to emergency presentations
  - (d) Had minimal remedial interventions
  - (e) Achieved an appropriate level of patient satisfaction as to public patients treated
  - (f) Satisfied the progression assessment criteria provided for in the classification structure of this Agreement at clauses 64 and 63.
  - (g) Complied with the duties and responsibilities specified in their personal Position Description

The progression assessment criteria are more particularly set out below.

### **65.2 Progression between levels**

Progression for a Therapist/Hygienist from a lower to a higher level shall be based on competencies and criteria listed in the Classification Structure of this Agreement. A Therapist/Hygienist may be accorded a higher classification subsequent to a performance review by the Employer. A Therapist/Hygienist may seek a reclassification at any given time following which the Employer is obliged to undertake a performance review.

### **65.3 Progression between salary points within a given level**

#### **Introduction**

A Therapist/Hygienist will be assessed formally for progression to the next salary point, within the same level, annually. Assessment will be based on matching actual achievement for a given year against the key performance indicators formulated for Levels 1 and 2. Achievement of performance targets will result in progression to the next salary point.

Please refer to Clause 64 for the classification competencies.

## **66 Clinical Skills Enhancement/Job Rotation**

- 66.1** In order to achieve (or maximise) clinical delivery outcomes and priorities, an employee shall be available to transfer through all clinical areas as determined by the Employer. Following discussions between the Manager and the employee, an employee may be temporarily rotated for the purpose of targeting resources to rural regions of greatest need, clinical skill enhancement, training in clinical and related procedures and personal career development. Reimbursement of expenses, excess travelling time and/or kilometre allowance (as per the Employer's policies) shall, if applicable, apply to such rotations.

**66.2** An employee or employer who does not believe that a transfer or rotation request or refusal is reasonable in the circumstances may elect to resolve the matter via Clause 13 – Dispute Resolution Procedure.

## **67 Secondment**

**67.1** Where an Employee is seconded for service to any other clinical facility or health institution, the Employee shall remain in the employ of the parent Employer at which the Employee was engaged prior to secondment. The parent Employer shall remain responsible for the payment of any entitlements accruing to the Employee under this agreement.

## **68 Incidental and Peripheral Duties**

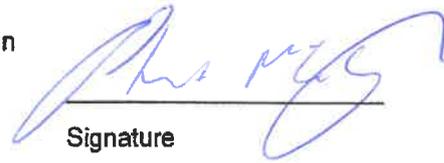
**68.1** The Employer may direct an Employee to carry out duties that are incidental and peripheral to the work normally performed where those duties are within the employee's skill, competence and training and are consistent with the classification structure of this Agreement.

## **69 Job Sharing**

**69.1** Nothing in this Agreement shall prevent two Employees sharing a position subject to the approval of the Employer.

## SIGNATURES

SIGNED for and on behalf of **EMPLOYERS** referred to in **Appendix One** by the authorised representatives of the **Victorian Hospitals' Industrial Association** in the presence of:

  
Signature

STUART MCCULLOCH

Name (print)

Address: 88 Mairymong Street,  
Footscray, VIC, 3011

Authority to sign

CHIEF EXECUTIVE OFFICER

  
Witness

Witness

YUNBIN LIN

Name of Witness (print)

SIGNED for and on behalf of the **Community and Public Sector Union** by its authorised officers as a representative of Employee s covered by the Agreement in the presence of:

  
Signature

KAREN BATT

Branch Secretary (print):

Address: Level 4, 128 Exhibition  
Street. Melbourne VIC 3000

Authority to sign

VICTORIAN BRANCH  
SECRETARY

  
Witness

Witness

PAMELA SPICER

Name of Witness (print)

## **Appendix One – List of Employers**

Albury Wodonga Health  
Bairnsdale Regional Health Service  
Ballarat Health Services  
Barwon Health  
Bass Coast Health  
Bendigo Health Care Group  
Central Gippsland Health Service  
Dental Health Services Victoria  
Djerriwarrh Health Services  
East Grampians Health Service  
Echuca Regional Health  
Goulburn Valley Health  
Hepburn Health Service  
Maryborough District Health Service  
Monash Health  
Northeast Health Wangaratta  
Omeo District Health  
Peninsula Health  
Seymour Health  
South West Healthcare  
Swan Hill District Health  
West Wimmera Health Service  
Wimmera Health Care Group

## Appendix Two- Remuneration

Classification		1-Jul-16	1-May-18	1-May-19	1-May-20	1-May-21
<u>Dental Therapist/Hygienist Level 1 (Progression Based on Employer PMP)</u>	<u>Graduate</u>	<u>\$50,830</u>	<u>\$52,482</u>	<u>\$54,056</u>	<u>\$55,678</u>	<u>\$57,348</u>
	<u>1a</u>	<u>\$52,068</u>	<u>\$53,760</u>	<u>\$55,373</u>	<u>\$57,034</u>	<u>\$58,745</u>
	<u>1b</u>	<u>\$54,982</u>	<u>\$56,769</u>	<u>\$58,472</u>	<u>\$60,226</u>	<u>\$62,033</u>
	<u>1c</u>	<u>\$57,957</u>	<u>\$59,841</u>	<u>\$61,636</u>	<u>\$63,485</u>	<u>\$65,389</u>
<u>Dental Therapist/Hygienist Level 2 (Progression Based on Employer PMP)</u>	<u>2a</u>	<u>\$60,437</u>	<u>\$62,401</u>	<u>\$64,273</u>	<u>\$66,201</u>	<u>\$68,187</u>
	<u>2b</u>	<u>\$63,412</u>	<u>\$65,473</u>	<u>\$67,437</u>	<u>\$69,460</u>	<u>\$71,544</u>
	<u>2c</u>	<u>\$66,326</u>	<u>\$68,482</u>	<u>\$70,536</u>	<u>\$72,652</u>	<u>\$74,832</u>
	<u>2d</u>	<u>\$69,361</u>	<u>\$71,615</u>	<u>\$73,764</u>	<u>\$75,977</u>	<u>\$78,256</u>
	<u>2e</u>	<u>\$72,338</u>	<u>\$74,689</u>	<u>\$76,930</u>	<u>\$79,238</u>	<u>\$81,615</u>
<u>Level 3 (By Appointment Only)</u>	<u>=</u>	<u>\$73,145</u>	<u>\$75,522</u>	<u>\$77,788</u>	<u>\$80,122</u>	<u>\$82,525</u>
	<u>=</u>	<u>\$75,376</u>	<u>\$77,826</u>	<u>\$80,160</u>	<u>\$82,565</u>	<u>\$85,042</u>
	<u>=</u>	<u>\$77,607</u>	<u>\$80,129</u>	<u>\$82,533</u>	<u>\$85,009</u>	<u>\$87,559</u>
<u>Level 4 (By Appointment Only)</u>	<u>=</u>	<u>\$84,116</u>	<u>\$86,850</u>	<u>\$89,455</u>	<u>\$92,139</u>	<u>\$94,903</u>

**NOTE:** A 17.5% annual leave loading (capped to a rate of Therapist/Hygienist Level 2, sub point 2 (Level2b)) has been built into the salary rates provided above

## Appendix Three – Salary Progression Criteria Table

Progression Criteria /Key Performance Indicators)	Therapist/Hygienist	
	Graduate	Level 1
Clinical competency (To be considered in conjunction with 'Competencies' section in the proposed Therapist/Hygienist Classification Structure. Agencies may wish to establish a formal clinical review process to assess achievement of this indicator).	<ul style="list-style-type: none"> <li>• Undertake a clinical role associated with basic diagnostic and treatment skills together with the ability to recognise clinical limitations</li> </ul>	<ul style="list-style-type: none"> <li>• In addition to Graduate skills, Independently provide a range of services to a broader client base, including those with disability and or more complex medical histories, with greater efficiency</li> </ul>
	<ul style="list-style-type: none"> <li>• Provide clinical care consistent with organisation policies, standards and guidelines</li> <li>• Comply with dental record standards</li> <li>• Undertake appropriate patient referrals</li> <li>• Participate in the review and continuous improvement of the quality of clinical care including contribution to external accreditation processes</li> </ul>	<ul style="list-style-type: none"> <li>• Where required, should act as a mentor to less experienced staff</li> </ul>
Service quality	<ul style="list-style-type: none"> <li>• Provide clinical support and advice to students, dental staff and less experienced Therapist/Hygienists, including conducting of clinical reviews</li> </ul>	<ul style="list-style-type: none"> <li>• In addition to Level 1 requirements,</li> <li>• Provide clinical support and advice to students, dental staff and less experienced Therapist/Hygienists, including conducting of clinical reviews</li> </ul>

## Dental Public Health

- Demonstrate basic knowledge and understanding of dental public health principles

- Demonstrate developing knowledge and understanding of dental public health principles

- Demonstrate a high level of understanding dental public health principles, including the capacity to impart such knowledge to less experienced dental staff

## Productivity

- Achieve productivity benchmarks in accordance with employer policies and guidelines

- Achieve productivity benchmarks in accordance with employer policies and guidelines

- Achieve productivity benchmarks in accordance with employer policies and guidelines

## Infection control

- Comply with infection control policy and guidelines
- Demonstrate knowledge and understanding of guidelines

- As per Graduate and
- Demonstrate interest and commitment in the implementation and maintenance of infection control policy and protocol

- As per Level 1 and
- Assist in the implementation and maintenance of infection control policy and protocol, including identification of gaps and potential areas for improvement

## Occupational health and safety

- Comply with occupational health and safety policy and guidelines
- Demonstrate knowledge and understanding of guidelines

- As per Graduate and
- Demonstrate interest and commitment in the implementation and maintenance of occupational health and safety policy and protocol

- As per Level 1 and
- Assist in the implementation and maintenance of occupational health and safety policy and protocol, including identification of gaps and potential areas for improvement

## Teamwork and communication

- Demonstrate ability to work within a team and exercise sound communication skills
- Demonstrate flexibility in terms of task performance, (and work location and hours of work where appropriate)

- As per Graduate and
- Foster sound teamwork among dental program staff and other agency staff

- As per Level 1 and
- Demonstrate interpersonal skills in the liaison and networking with relevant professional and community groups

Customer service	<ul style="list-style-type: none"> <li>• Demonstrate professional manner in dealing with clients and the public, including provision of appropriate responses to client enquiries and complaints</li> <li>• Refer complaints to senior clinicians</li> </ul>	<ul style="list-style-type: none"> <li>• As per Graduate</li> </ul>	<ul style="list-style-type: none"> <li>• As per Level 1 and</li> <li>• Demonstrate potential leadership in facilitating excellent customer service</li> </ul>
Administrative/procedural	<ul style="list-style-type: none"> <li>• Comply with administrative tasks as required</li> <li>• Ensure optimal and consistent use of Electronic Patient Management System</li> </ul>	<ul style="list-style-type: none"> <li>• As per Graduate and</li> <li>• Undertake specific projects as required</li> </ul>	<ul style="list-style-type: none"> <li>• As per Level 1 and</li> <li>• Ensure clinic administration tasks are undertaken within designated timelines</li> <li>• Ensure implementation of and adherence to relevant policy and guidelines</li> <li>• Undertake specific projects as required</li> </ul>
Professional / personal development	<ul style="list-style-type: none"> <li>• Demonstrate willingness to undertake professional development and continuing education, both work and self sponsored</li> <li>• Provide evidence of CPD as required by DBA</li> </ul>	<ul style="list-style-type: none"> <li>• As per Graduate and</li> <li>• Assist in identification of professional development needs of dental program staff, and the implementation of programs to address such needs</li> </ul>	<ul style="list-style-type: none"> <li>• As per Level 1 and</li> <li>• Identify professional development needs of dental program staff and assist in implementing program to address such needs</li> <li>• Present topics at seminars/meetings conducted by the organisation</li> </ul>
Clinic management	<ul style="list-style-type: none"> <li>• Follow management instructions and contribute to the day to day running of the clinic</li> </ul>	<ul style="list-style-type: none"> <li>• Demonstrated interest in acquisition of clinic/program management skills</li> </ul>	<ul style="list-style-type: none"> <li>• Demonstrated assistance in acquisition of clinic/program management skills</li> </ul>

## Appendix Four – Flexible Working Arrangements Information Statement

This information statement is intended to reflect the NES at the time of making this Agreement. In the event of any change to the NES entitlement, this information statement may be superseded by one reflecting those changes.

- 1 Where an Employee:
  - (a) is the parent, or has responsibility for the care, of a child who is of school age or younger;
  - (b) is a carer within the meaning of the Carer Recognition Act 2010 caring for someone who has a disability, a medical condition (including a terminal or chronic illness), a mental illness or is frail or aged;
  - (c) has a disability;
  - (d) is 55 or older;
  - (e) is experiencing violence from a member of the Employee's family; or
  - (f) provides care or support to a member of the Employee's immediate family, who requires care or support because the member is experiencing violence or abuse from the member's family;they may request the Employer for a change in working arrangements relating to those circumstances.
- 2 To avoid doubt, a request for flexible working arrangements may include a request to work part time upon return to work after taking leave for the birth or adoption of a child to assist the Employee to care for the child.
- 3 An 'Employee' for the purpose of this entitlement means a:
  - (a) part time or full time Employee who has completed at least 12 months of continuous service with the Employer immediately prior to the request; or
  - (b) long term casual Employee who has a reasonable expectation of continuing employment by the Employer on a regular and systematic basis.
- 4 Changes in working arrangements may include but are not limited to hours of work, patterns of work and location of work.
- 5 The request by the Employee must be in writing, set out the change sought and the reasons for the change.
- 6 The Employer must give the Employee a written response to the request within 21 days, stating whether the Employer grants or refuses the request. A request may only be refused on reasonable business grounds as described in the NES.
- 7 Where the Employer refuses the request, the written response must include details of the reasons for the refusal.

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## IN THE FAIR WORK COMMISSION

**FWC Matter No.:**

AG2018/6044

**Applicant:**

Victorian Hospitals' Industrial Association

## Undertaking- section 190

I, Stuart McCullough, Chief Executive Officer of the Victorian Hospitals' Industrial Association give the following undertakings with respect to the *Victorian Public Health Sector (Dental Therapists, Dental Hygienists and Oral Health Therapists) Enterprise Agreement 2018 – 2022* ("the Agreement"):

1. I have the authority given to me to provide this undertaking in relation to this application before the Fair Work Commission.
2. The VHIA is the bargaining representative of each of the Employers listed in Appendix One (Employers) to the Agreement.
3. The VHIA is authorised to give the following undertakings on behalf of each of the Employers, and gives this undertaking on behalf of each of the Employers pursuant to subsection 190(3) of the *Fair Work Act 2009*.
4. This agreement will be read and interpreted in conjunction with the NES. Where there is inconsistency between this agreement and the NES, and the NES provides greater benefit, the NES provision will apply to the extent of the inconsistency.
5. Casual Employees under this Agreement are subject to a 3 hour minimum engagement period.
6. Any Time off in lieu balance accrued under Clause 36.1 of the Agreement is to be paid out on termination of employment.

**Authority to sign:** CEO

**Signature:**



**Date:**

6/02/19