

**WA HEALTH - LHMU - ABORIGINAL AND ETHNIC HEALTH WORKERS  
INDUSTRIAL AGREEMENT 2009**

**WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

**PARTIES** THE MINISTER FOR HEALTH IN HIS INCORPORATED CAPACITY  
UNDER S.7 OF THE HOSPITALS AND HEALTH SERVICES ACT 1927  
(WA) AS THE HOSPITALS FORMERLY COMPRISED IN THE  
METROPOLITAN HEALTH SERVICE BOARD, THE PEEL HEALTH  
SERVICES BOARD AND THE WA COUNTRY HEALTH SERVICE  
**APPLICANT**

**-v-**

LIQUOR, HOSPITALITY AND MISCELLANEOUS UNION, WESTERN  
AUSTRALIAN BRANCH  
**RESPONDENT**

**CORAM** COMMISSIONER S WOOD  
**DATE** TUESDAY, 7 APRIL 2009  
**FILE NO** AG 7 OF 2009  
**CITATION NO.** 2009 WAIRC 00173

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**Result** Agreement registered

**Representation**

**Applicant** Ms T Leslie

**Respondent** Ms E Bradley

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*Order*

HAVING heard Ms T Leslie on behalf of the applicant and Ms E Bradley on behalf of the respondent, and by consent, the Commission, pursuant to the powers conferred on it under the Industrial Relations Act, 1979, hereby orders:

THAT the agreement made between the parties as lodged in the Commission on the 13th day of March 2009, amended by consent at hearing on the 7th day of April 2009, entitled the WA Health – LHMU – Aboriginal and Ethnic Health Workers Industrial Agreement 2009 is hereby registered;

AND replaces the LHMU – Union Recognition and Job Security Agreement – Department of Health – Aboriginal and Ethnic Health Workers 2005 (AG 13 of 2005) which is hereby cancelled.

COMMISSIONER S WOOD

## SCHEDULE

**PART 1 – APPLICATION OF AGREEMENT****1. TITLE**

This Agreement shall be known as the *WA Health – LHMU - Aboriginal and Ethnic Health Workers Industrial Agreement 2009*.

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### 3. DEFINITIONS

- 3.1 “Accrued Day(s) Off” (ADO) means the paid day(s) off accruing to a Health Worker resulting from an entitlement to the 38 hour week as prescribed in “Clause 12 - Hours of Work” of this Agreement.
- 3.2 “Agreement” means the *WA Health – LHMU – Aboriginal and Ethnic Health Workers Industrial Agreement 2009*.
- 3.3 “Commission” means the Western Australian Industrial Relations Commission.
- 3.4 “Employer” means any of the Employers who are party to this Agreement as defined in sub-clauses 4.2 and 4.3.
- 3.5 “Health Service” means any public hospital, health care facility or other facility controlled by one of the Employers party to this Agreement.
- 3.6 “Multi Purpose Service” (MPS) means an integrated health and aged care service delivery model provided by one service provider for rural communities within a designated area. Current services provided by an MPS may include but are not limited to Hospital, nursing home, hostel/lodge, home and community care (HACC) child health, community health, allied health and other health services which may change from time to time.
- 3.7 “Partner” means either a spouse or de facto spouse/partner. A de facto spouse/partner means a person who is in a ‘marriage like’ relationship with the Health Worker and includes same sex partners.
- 3.8 ‘Union’ means the Liquor, Hospitality and Miscellaneous Union, Western Australian Branch.

### 4. AREA, INCIDENCE AND PARTIES BOUND

- 4.1 This Agreement applies throughout the State of Western Australia and is binding on the parties and on Health Workers engaged by the Employer to work in any of the classifications listed in “Clause 15 – Wages” of this Agreement.
- 4.2 The parties to the Agreement are:
- (a) The Liquor, Hospitality and Miscellaneous Union, Western Australian Branch; and

- (b) The Minister for Health in his incorporated capacity under s.7 of the *Hospitals and Health Services Act 1927* (WA) as:
  - (i) the Hospitals formerly comprised in the Metropolitan Health Service Board;
  - (ii) the Peel Health Services Board; and
  - (iii) the WA Country Health Service.

4.3 The Director General of Health is the delegate of the Minister for Health in his incorporated capacity under s 7 of the *Hospitals and Health Services Act 1927* (WA). In this capacity the Director General acts as the 'Employer' for the purposes of this Agreement.

4.4 The estimated number of employees bound by this Agreement at the time of registration is 100.

## 5. DATE AND PERIOD OF OPERATION

5.1 This Agreement shall take effect on and from the date of registration and remain in force until 31 July 2010 provided that:

- (a) "Clause 15 – Wages" – the first and second pay increases prescribed in this Agreement will apply on and from 1 August 2007 and 1 August 2008, respectively.

5.2 The Parties agree to commence negotiations for a replacement agreement 3 months before the nominal expiry date of this Agreement.

5.3 The Employer will provide Union Representatives paid leave to participate in the process of negotiating a replacement agreement to this Agreement.

- (a) Six (6) months prior to the expiry date of this Agreement the Employer will release an agreed number of representatives to attend negotiation planning meetings.
- (b) The Union may determine from which workplaces representatives will be drawn, provided that, if more than one representative is drawn from any one facility, the operation of that facility will not be unduly affected.
- (c) Any dispute about the number to be released from any particular facility will be dealt with via "Clause 52 - Dispute Settlement Procedure."
- (d) The conditions under which leave is granted will be the same as prescribed under "Clause 49 – Union and Representatives' Recognition and Rights".
- (e) The maximum entitlement to leave during the prescribed period will be a total of twelve (12) hours plus the reasonable travel time required to attend meetings.
- (f) The Employer will facilitate phone and video link-ups where necessary to enable the participation of Union representatives from remote areas in the negotiation of a replacement agreement.

## 6. NO FURTHER CLAIMS / AGREEMENT FLEXIBILITY

6.1 Except where specifically provided for in this Agreement, it is a condition of this Agreement that the parties will not make any further claims with respect to any matter related to wages and working conditions contained in this Agreement.

6.2 The provisions of this Agreement shall not be used as a precedent at any other enterprise other than the enterprise of the employers party to this Agreement.

- 6.3 Notwithstanding sub-clause 6.1, the Employer and the Union may agree, in writing, to alternative terms and conditions to be implemented in substitution of those specified in this Agreement.

## **7. RELATIONSHIP TO AWARDS AND AGREEMENTS**

- 7.1 This Agreement is comprehensive and applies to the exclusion of the *Health Workers Community and Child Health Services Award 2000* and the *Miscellaneous Government Conditions and Allowances Award No A 4 of 1992*.
- 7.2 This Agreement replaces the *LHMU DoH Aboriginal and Ethnic Health Workers Federal Agreement 2005* and the *LHMU – Union Recognition and Job Security Agreement – Department of Health – Aboriginal and Ethnic Health Workers 2005*.

## **8. COMMITMENT TO BARGAINING**

The parties agree that no Health Worker will be offered or employed under any form of individual contract of non-union agreement made pursuant to the *Workplace Relations Act 1996* or the *Industrial Relations Act 1979*, as amended or superseded from time to time.

## **9. PRODUCTIVITY**

- 9.1 The parties are committed to the proficient use of the H Care system or any alternative system preferred by the Health Service for recording occasions of service through:
- (a) Provision by Health Services of appropriate training/education courses;
  - (b) Increased usage of the recording system for community health interventions;
  - (c) Establishing accurate information regarding care provided by Health Workers to the community.
- 9.2 The parties are committed to the communication of service programs and priorities to Health Workers so that Health Workers have a better knowledge of agreed target outcomes for these areas.
- 9.3 The parties are committed to the development of a multi-disciplinary team approach to create more effective outcomes for Aboriginal people.
- 9.4 As an interim measure, Health Worker practices will be managed and incorporated into Health Service Clinical Risk Management practices.
- 9.5 The Director General of Health will commence a process for the development of provisions for remote area dispensing and administration by accredited clinical Aboriginal Health Workers of certain medications restricted under the Poisons Act.
- 9.6 The Director General of Health will commence a process for the development and agreement of standing orders to be used for particular conditions in all areas with appropriate supporting legislation.
- 9.7 The processes set out in sub-clauses 9.5 and 9.6 above will be subject to consultation with the Union and Aboriginal Health Workers.

## **10. EQUAL OPPORTUNITY**

The provisions of this Agreement shall be interpreted and applied so as not to discriminate against a Health Worker on any ground on which discrimination in work is unlawful under the *Equal Opportunity Act 1984*.

## PART 2 – TYPES OF EMPLOYMENT

### 11. CONTRACT OF SERVICE

#### 11.1 Commitments

- (a) The parties agree to review, within six (6) months of the registration of this Agreement, the current process for recruitment and selection to endeavour to improve the efficiency of the process and ensure ongoing compliance with the Public Sector Recruitment, Selection and Appointment Standard and in particular that the review takes into account the fact that Health has a culturally and linguistically diverse workforce.
- (b) The parties to this Agreement agree that permanent employment is the preferred form of engagement for Health Workers covered by this Agreement.
- (c) The parties to this Agreement agree that casual employment and agency engagements are not the preferred methods of delivery of services, and the Employer will work towards minimising the use of casual and agency workers in Hospitals.
- (d) The parties to this Agreement agree that all leave will ordinarily be covered, provided that nothing in this agreement requires the Employer to provide leave cover where it can be demonstrated that such cover is not operationally necessary in a particular case.
- (e) Each Hospital will;
  - (i) Employ permanent relief staff or ensure sufficient Full Time Equivalent (FTE) are utilised for planned annual leave and planned Accrued Day Off (ADO) relief requirements in accordance with Hospital activity; and
  - (ii) Maintain a pool of casual Health Workers to be utilised for short-term work requirements.

#### 11.2 Fixed Term Contracts

- (a) Fixed term Health Workers may only be engaged for the following situations:
  - (i) Unexpected or unplanned leave;
  - (ii) Parental Leave;
  - (iii) Long Service Leave;
  - (iv) Long term sick leave;
  - (v) Workers compensation;
  - (vi) Special projects;
  - (vii) Health Workers undertaking an accredited course of study;
  - (viii) To temporarily fill vacancies, where a decision has been made that the vacancy will be filled, while the recruitment process is undertaken;
  - (ix) Leave Without Pay;
  - (x) Where the substantive occupant is working in another position for a temporary period which may involve higher duties;

- (xi) The substantive occupant agrees to work part-time for one or more periods;
  - (xii) The substantive occupant is seconded to another position;
  - (xiii) Annual Leave where staffing arrangements are such that it is impractical to maintain a pool of staff to provide annual leave cover;
  - (xiv) Accrued Days Off where staffing arrangements are such that it is impractical to maintain a pool of staff to provide ADO leave cover; and
  - (xv) Any other situations as agreed between the Employer and the Union, either at an industry or local level.
- (b) The contract of employment of a fixed term contract Health Worker will include the starting and finishing dates of employment, or in lieu of a finishing date, the specific circumstances relating to the situations as prescribed in sub-clause 11.2(a) above.
  - (c) The Employer will provide to the Union, on request, the particulars of fixed term contract utilisation in a particular facility or part of a facility. The Employer will provide such detail as is reasonably necessary to demonstrate that the fixed term contract utilisation is in each case consistent with the commitment given in this clause.

### 11.3 Agency Employment

- (a) Agency engagements are not the preferred method of delivery of services and will only be used;
  - (i) If there are no other suitably qualified Health Workers available in the short term
  - (ii) If there is a bona fide emergency or urgent work requirement;
  - (iii) If the skills required cannot be obtained internally in the short term.
- (b) The Employer will provide to the Union, on request, the particulars of agency utilisation in a particular facility or part of a facility as follows:
  - (i) Number of individual Agency staff engaged in each classification;
  - (ii) Number of hours worked by Agency staff in each classification;
  - (iii) The name of each Agency that has supplied staff; and
  - (iv) The amount paid per month for Agency staff in each classification.

### 11.4 Casual Engagement

- (a) A casual Health Worker will be paid 20% over the rates specified herein for the Health Worker's class of work.
- (b) Casual Health Workers may only be engaged for unplanned short term work requirements.
- (c) Casual Health Workers will be paid for all work performed on any of the days prescribed in "Clause 30 – Public Holidays" at the rate of double time and one half.
- (d) The Employer will provide to the Union, on request, the particulars of casual utilisation in a particular facility or part of a facility as follows:

- (i) Number of individual casual Health Workers engaged in each classification;
- (ii) Number of hours worked by casual Health Workers in each classification; and
- (iii) The amount paid per month for casual staff in each classification.

**11.5 Relief Cover for Leave**

- (a) The Employer will provide to the Union, on request, all particulars of leave cover provided in a particular facility or part of a facility. The Employer will provide such detail as is reasonably necessary to demonstrate that the leave coverage is in each case consistent with the commitment given in this clause.
- (b) The Employer will where practicable organise its staffing such that all relief cover is routinely provided from within the ordinary establishment of permanent staff.

11.6 The Union may negotiate for increases in the number of permanent positions where an excessive use of agency workers, casual employment or fixed term contract employment is identified.

11.7 For the purposes of this clause “impractical” means not operationally viable because of factors such as the cost, the size or location of a facility.

11.8 The Employer will respond in writing to a request for particulars of fixed term contract, casual employment and agency utilisation within 21 days of the request being made in writing by the Union.

11.9 Existing part-time, casual and fixed term contract Health Workers within a Hospital / facility will be provided with the opportunity to fill vacant permanent positions. External applicants will only be considered where there is no suitable pool of existing casuals, part-time or fixed term contract Health Workers with the required skills within the Hospital / facility.

**11.10 Full-time employment**

A full-time Health Worker will be employed for an average of 38 ordinary hours per week over any of the cycles prescribed in “Clause 12 – Hours”, “Clause 13 – Overtime” and “Clause 14 - Shift Work” in this Agreement.

**11.11 Regular Part time employment**

- (a) An employer may employ regular part time Health Workers in any classification of this Agreement.
- (b) A regular part time Health Worker is employed to work less than an average of 38 ordinary hours per week. Where the part time Health Worker's hours of work cycle allows for an accrued day off, as defined in “Clause 12 – Hours” of this Agreement, then such Health Worker will be paid one fortieth (1/40) of the weekly rate prescribed by this Agreement for the work performed.
- (c) The exception to this is where a regular part time Health Worker's hours of work is less than 16 hours per week then the employer may require the Health Worker to work a cycle which does not allow for an accrued day off, then the Health Worker will be paid per hour one thirty eighth (1/38) of the weekly rate prescribed by this Agreement for the work performed.
- (d) At the time of engagement the employer and regular part time Health Worker will agree in writing, on a regular pattern of work, specifying at least the hours of work each day, which days of the week the Health Worker will work and the actual starting and finishing times each day.



- (e) Any agreed variation to the regular pattern of work will be recorded in writing.
- (f) The employer must give the Health Worker one day's clear notice, during any roster period, of a proposed increase in hours. If the Health Worker agrees to the increase in hours, then for the remainder of that roster the increased hours will be considered to be the Health Worker's ordinary hours of work.
- (g) An employer is required to roster a regular part time Health Worker for a minimum of three consecutive hours on any shift. Exceptions to this clause are;
  - (i) Where special circumstances exist as agreed between the employer, the Health Worker and the union, a period less than three hours will apply; or
  - (ii) Where that shift is for the provision of home and community care (HACC) duties within a rural health service, and where the regular client need is less than three hours the minimum will be one hour per shift.
- (h) A Health Worker who does not meet the definition of a regular part time Health Worker and who is not a full time Health Worker will be paid as a casual Health Worker in accordance with sub-clause 11.4.
- (i) All time worked in excess of the hours as mutually arranged, will be overtime and paid for at the rates prescribed in "Clause 13 – Overtime" of this Agreement.

#### **11.12 Probation**

- (a) Subject to sub-clause 11.12(b), every new Health Worker, other than a casual Health Worker, including Health Workers engaged for a fixed term, will be on probation for a period of three (3) months.
- (b) A Health Worker who is appointed from the Public Sector of Western Australia, and who has at least three months of continuous satisfactory service immediately prior to appointment will not be required to serve a period of probation.
- (c) At any time during the period of probation the Employer may annul the appointment and terminate the service of the Health Worker by the giving of two (2) weeks' notice or payment in lieu thereof.
- (d) At any time during the period of probation the Health Worker may resign by giving two (2) weeks' notice.
- (e) A lesser period of notice may be agreed, in writing between the Employer and the Health Worker.

#### **11.13 Contracting Out and Privatisation**

- (a) The parties recognise the importance of promoting long term job security and career development for Health Workers subject to this Agreement.
- (b) With the exception of those contracts for services currently in existence, there will be no contracting out or privatisation of functions or duties performed by directly employed workers during the life of this Agreement.
- (c) Subject to successfully negotiating an efficiency and quality agreement between the parties to this Agreement, the Employer will not re-tender contracts for service currently in place which can be carried out by directly employed workers.

- (d) Negotiations to successfully return in house those functions or duties currently out-sourced will include the following factors;
  - (i) Whether the product delivered under the contract for services meets the expected outcomes in terms of efficiency, quality and safety;
  - (ii) Public interest considerations such as quality of services and the safety of patients;
  - (iii) Cost, in particular the wages differential (if any) between the rates of pay for Health Workers current contracts and directly employed Health Workers; and
  - (iv) The impact the contract has on the job security and career development for Health Workers subject to this Agreement.
- (e) Any agreement reached between the parties as a result of this process will be written up into a document and signed by both parties. The parties agree to be bound by the agreement as recorded in this document. The document will then be binding and enforceable between the parties.

**11.14 Termination of Employment**

- (a) Notice of Termination by employer
  - (i) In order to terminate the employment of a full time or regular part time Health Worker the employer will give to the Health Worker the period of notice specified in the table below:

Period of continuous service	Period of Notice
1 year or less	1 week
Over 1 year and up to the completion of 3 years	2 weeks
Over 3 years and up to the completion of 5 years	3 weeks
Over 5 years of completed service	4 weeks

- (ii) In addition to this notice, Health Workers over 45 years of age at the time of the giving of the notice with not less than two years continuous service, are entitled to an additional week's notice.
- (iii) Payment in lieu of notice will be made if the appropriate notice period is not required to be worked. Employment may be terminated by the Health Worker working part of the required period of notice and by the employer making payment for the remainder of the period of notice.
- (iv) In calculating any payment in lieu of notice, the wages a Health Worker would have received in respect of the ordinary time they would have worked during the period of notice had their employment not been terminated.
- (v) The period of notice in this clause, will not apply in the case of dismissal for conduct that justifies instant dismissal including inefficiency within the first fourteen days, neglect of duty or misconduct and in the case of casual Health Workers, apprentices or Health Workers engaged for a specific period of time or for a specific task or tasks.

- (vi) Notwithstanding the foregoing provisions trainees who are engaged for a specific period of time will once the traineeship is completed and provided that the trainees' services are retained have all service including the training period counted in determining entitlements. In the event that a trainee is terminated at the end of his or her traineeship and is re-engaged by the same employer within six months of such termination the period of traineeship will be counted as service in determining any future termination.
- (b) Notice of termination by a Health Worker
  - (i) The notice of termination required to be given by a Health Worker is the same as that required of an employer, save and except that there is no requirement on the Health Worker to give additional notice based on the age of the Health Worker concerned.
  - (ii) If a Health Worker fails to give notice the employer has the right to withhold monies due to the Health Worker to a maximum amount equal to the ordinary time rate of pay for the period of notice.
- (c) Job search entitlement
  - (i) During the period of notice of termination given by the employer, an employee will be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment. The time off will be taken at times that are convenient to the employee after consultation with the Employer.
  - (ii) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee will, at the request of the Employer, be required to produce proof of attendance at an interview or they will not receive payment for the time absent. For this purpose, a statutory declaration will be sufficient.
- (d) Statement of employment
 

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

### **11.15 Redundancy, Retraining and Redeployment**

"Schedule C – Redundancy, Retraining and Redeployment" applies to all Health Workers engaged by the Employer to work in any of the classifications listed in "Clause 15 – Wages" of this Agreement. The resolution of any dispute in relation to the provisions of "Schedule C – Redundancy, Retraining and Redeployment" will be in accordance with "Clause 52 – Dispute Settlement Procedure".

## **PART 3 – HOURS OF WORK**

### **12. HOURS**

- 12.1 The ordinary hours of duty shall be an average of 38 per week with the hours actually worked being 40 per week or 80 per fortnight to be worked eight hours per day on any five days of the week or ten days of the fortnight.
  - (a) Except where provided elsewhere, the ordinary hours shall be worked with two hours of each week's work accruing as an entitlement to a maximum of twelve accrued days off in each twelve month period. The accrued days off shall be taken in a minimum period of one

week made up of five consecutive accrued days off in conjunction with a period of annual leave or at a time mutually acceptable to the employer and the Health Worker.

- (b) Notwithstanding the provisions of this sub-clause where an employer and Health Worker mutually agree accrued days off may be taken in single day absences.

12.2 By agreement between the Health Worker and an employer the ordinary hours of a Health Worker in lieu of the provisions of sub-clause 12.1 hereof, may be worked:

- (a) Within a twenty day, four week cycle with 0.4 of an hour of each day worked accruing as an entitlement to take the twentieth day in each cycle as an accrued day off.
- (b) Within a ten day, two week cycle, with an adjustment to hours worked to enable 76 hours to be worked over nine days of the two week cycle and an entitlement to take the tenth day in each cycle as an accrued day off.
- (c) In reaching agreement pursuant to sub-clause 12.2, where the union has members at the enterprise covered by the Agreement, the union must be informed of the intention by the employer to use the facilitative provision and must be given a reasonable opportunity to participate in the negotiations. Union involvement in the process does not mean that the consent of the union is required prior to the introduction of the new work cycle.
- (d) An employer and Health Worker may by agreement substitute the accrued day off the Health Worker is to take off for another day in which case the accrued day off shall become an ordinary working day.

12.3 Accrued days off may be accumulated provided that, where a Health Worker has accumulated 11 or more days off, the Employer may direct the Health Worker in any year to take any number of days off in order to progressively reduce the accumulated days off to 10, provided that the Employer must give not less than:

- (a) twenty four (24) hours' notice to the Health Worker where one (1) accrued day off is to be taken.
- (b) two (2) weeks' notice is given to the Health Worker where two (2) or more accrued days off are to be taken consecutively.

12.4 Accrued days off can be taken at any time where agreed to by the Employer and Health Worker.

- (a) The spread of hours in any one day shall not exceed ten hours provided where conditions are such that the employer requires Health Workers to work outside of the spread of hours the Health Worker and the employer may agree to such variations of the spread of hours as is considered appropriate in which case overtime shall only be computed on the time worked in excess of the ordinary working hours as prescribed in sub-clause 12.1.
- (b) Meal breaks shall not be less than 30 minutes but shall not be counted as time worked. Provided that where a Health Worker is called on duty during a meal time, the period worked shall be counted in the ordinary working hours of duty.
- (c) The provisions of this clause apply to a part-time Health Worker in the same proportion as the hours normally worked bear to a full-time Health Worker. In circumstances where less than sixteen hours per week are worked, an employer may pay a Health Worker for all hours actually worked at an hourly rate based on a 38 hour week in lieu of accrual of accrued days off.
- (d) A roster for accrued days off may allow a Health Worker to take accrued days off before they become due.

- (e) Any dispute between an employer and the union concerning the operation of this clause shall be referred to the Western Australian Industrial Relations Commission.

### 13. OVERTIME

- 13.1 All time worked with the authority of the Employer in excess of the ordinary working hours prescribed in "Clause 12 – Hours" shall be overtime and shall be paid for at time and one-half for the first two hours and double time thereafter.
- 13.2 Subject to paragraph 12.4(a), work performed at the direction of the employer outside the spread of hours or on a Saturday or Sunday shall be paid or compensated for as hereunder:
  - (a) One and one-half times the ordinary rate for the first two hours and double time thereafter on any day Monday to Saturday inclusive; and
  - (b) Double time on a Sunday.
- 13.3 In lieu of making a payment in accordance with this clause the employer may grant time off proportionate to the payment to which the Health Worker is entitled and such time off may be taken at a time convenient to the employer, provided that such time off is in unbroken periods, according to each period of overtime worked.
- 13.4 A Health Worker who is recalled to work shall be paid for a minimum of three hours at overtime rates and for all reasonable expenses incurred in returning to work.

### 14. SHIFT WORK

Where, by agreement between the Employer and a Health Worker, the Health Worker is employed within a hospital setting and is rostered to work shifts, the provisions of this clause will apply.

#### Afternoon/Night Shifts

- 14.1 A Health Worker who works a complete rostered afternoon shift commencing not earlier than 12 noon and finishing after 6 pm on week days shall receive a loading on the ordinary rates of pay of 12.5%. This loading does not apply where a Health Worker commences his/her ordinary hours of work on any weekday after 12 noon and completes those hours before 6 pm on that day.
- 14.2 A Health Worker who works a complete rostered night shift between the hours of 6pm and 7.30 am on a weekday shall receive a loading on the ordinary rates of pay of 15%.

#### Weekend Work

- 14.3 A Health Worker rostered to work ordinary hours between midnight Friday and midnight on the following Saturday shall be paid a loading of 50% on actual hours worked during this period.
- 14.4 A Health Worker rostered to work ordinary hours between midnight Saturday and midnight on the following Sunday shall be paid a loading of 75% on actual hours worked during this period.
- 14.5 These rates shall be in substitution for and not cumulative on the rates prescribed for afternoon and night shifts.
- 14.6 Where a Health Worker's rostered hours of duty on any day are extended by an early start or a late finish the afternoon/night shift work or weekend rates as the case may be shall be paid for such additional time in addition to any overtime payable under "Clause 13 – Overtime" of this Agreement.

- 14.7 Where a Health Worker who is regularly rostered to work day duty Monday to Friday is required to work on a Sunday she/he shall be paid at the rate of double time for all time worked on the Sunday.

#### PART 4 – RATES OF PAY

#### 15. WAGES

- 15.1 The weekly rates of pay shall be as follows:

Classification	Current Rate	1 Aug 2007	1 Aug 2008	1 Aug 2009
<b>Level 1 Aboriginal Health Worker</b>				
1 <sup>st</sup> year of employment	654.34	699.36	727.33	756.43
2 <sup>nd</sup> year of employment	667.66	716.85	745.52	775.33
3 <sup>rd</sup> year of employment	683.42	734.33	763.70	794.25
<b>Level 2 Qualified Aboriginal Health Worker</b>				
1 <sup>st</sup> year of employment	699.25	747.36	777.25	808.35
2 <sup>nd</sup> year of employment	711.25	760.19	790.59	822.22
3 <sup>rd</sup> year of employment	723.24	773.00	803.92	836.08
4 <sup>th</sup> year of employment	735.13	785.71	817.13	849.82
5 <sup>th</sup> year of employment	746.67	798.04	829.96	863.17
6 <sup>th</sup> year of employment	753.04	804.85	837.04	870.53
<b>Level 3 Senior Aboriginal Health Worker</b>				
1 <sup>st</sup> year of employment	788.89	843.17	876.89	911.97
2 <sup>nd</sup> year of employment	823.73	880.40	915.62	952.25
3 <sup>rd</sup> year of employment	852.27	910.91	947.34	985.24
<b>Level 4 Manager of Aboriginal Health Work</b>				
1st year of employment	900.37	962.32	1000.80	1040.85
2nd year of employment	936.40	1000.83	1040.85	1082.50
3rd year of employment	972.35	1039.25	1080.81	1124.06
4th year of employment	1018.02	1088.06	1131.58	1176.85
<b>Level 5 State Co-ordinator Aboriginal Health Worker</b>				
1st year of employment	1030.01	1100.88	1144.91	1190.71
2nd year of employment	1066.08	1139.43	1185.00	1232.41
3rd year of employment	1102.11	1177.94	1225.05	1274.06
4th year of employment	1150.17	1229.30	1278.47	1329.62
<b>Level 1 Ethnic Health Worker</b>				
1st year of employment	654.34	699.36	727.33	756.43
2nd year of employment	667.66	716.85	745.52	775.33
3rd year of employment	683.42	734.33	763.70	794.25
4th year of employment	698.15	746.18	776.03	807.08
<b>Level 2 Ethnic Health Worker</b>				
1 <sup>st</sup> year of employment and thereafter	720.34	769.90	800.69	832.73

- 15.2 Incremental progression for all Aboriginal and Ethnic Health Workers is subject to satisfactory performance.

#### Definitions

- 15.3 For the purpose of this Agreement, Level 1 – ‘Aboriginal Health Worker’ means an Aboriginal Health Worker who does not hold an Advanced Certificate in Aboriginal Health Work or has not

gone through a recognition of prior learning process when employed. Once this qualification has been achieved, the Health Worker can progress to level 2.

- 15.4 For the purpose of this Agreement, level 2 – ‘Qualified Aboriginal Health Worker’ means an Aboriginal Health Worker who provides a broad range of direct primary health care services and possesses as a minimum, the Advanced Certificate in Aboriginal Health Work, obtained through an accredited education provider or an alternative qualification acceptable to the employer and the Union.
- 15.5 For the purpose of this Agreement, Level 3 – ‘Senior Aboriginal Health Worker’ means an Aboriginal Health Worker who, in addition to any of the duties performed by a Level 2:
- (a) provides specialist health care services in the areas of sexually transmitted diseases, health promotion, epidemiology, mental health, or alcohol, tobacco, and other drug use required by the Health Service, and possesses as a minimum, the Advanced Certificate in Aboriginal Health Work, obtained through an accredited education provider or an alternative qualification acceptable to the employer and Union; and/or
  - (b) has supervisory responsibilities in the provision of health care services to a single community, urban location, individual clinic setting and/or to the health service in which the Health Worker is employed, and possesses, as a minimum, the Advanced Certificate of Aboriginal Health Work, obtained through an accredited education provider, or an alternative qualification acceptable to the employer and the Union.
- 15.6 For the purpose of this Agreement, ‘Level 3 – Sole Remote Area Health Worker’ means an Aboriginal Health Worker who, in addition to the duties performed by a Level 2:
- (a) is employed as the only Remote Area Health Worker (as defined in sub-clause 19.4) in a Remote Area (as defined in sub-clause 19.1 and 19.2)
  - (b) possesses, as a minimum, the Advanced Certificate of Aboriginal Health Work, obtained through an accredited education provider, or an alternative qualification acceptable to the employer and the Union, and
  - (c) has obtained an additional approved qualification acceptable to the employer and the Union.
- 15.7 Where the definitions of sub-clauses 15.5 and 15.6 do not apply to a Remote Area Health Worker, for the purpose of this Agreement, a Remote Area Health Worker who, in addition to the duties performed by a Level 2:
- (a) is employed as the only Remote Area Health Worker (as defined in sub-clause 19.4) in a Remote Area (as defined in sub-clauses 19.1 and 19.2), and
  - (b) possesses, as a minimum, the Advanced Certificate of Aboriginal Health Work, obtained through an accredited education provider, or an alternative qualification acceptable to the employer and the Union,
- will be eligible to be paid an allowance to Level 3.1.
- 15.8 For the purpose of this Agreement, ‘Level 4 – Manager, Aboriginal Health Work’ means an Aboriginal Health Worker who:
- (a) ensures culturally appropriate, effective and efficient management of human, financial and physical resources associated with the delivery of health services to Aboriginal communities:

- (b) identifies requirements for the provision and evaluation of Aboriginal Health Work services and programs, and the development, implementation and monitoring of policies and quality processes and programs:
- (c) provides a consultative service to communities, departments and agencies and represents Aboriginal Health Work at appropriate forums; and
- (d) possesses, as a minimum, the Advanced Certificate of Aboriginal Health Work, obtained through an accredited education provider or an alternative qualification acceptable to the employer and the Union.

**15.9 Level 5 State Co-ordinator Aboriginal Health Worker**

Means an Aboriginal health worker employed in the government health industry who has responsibility for providing strategic direction to Western Australian government health industry Aboriginal health workers.

A Level 5 State Co-ordinator Aboriginal Health Worker must possess as a minimum an approved qualification in Aboriginal Health Work to Level 4 within the Australian Qualifications Framework i.e. the Advanced Certificate of Aboriginal Health Work or a Certificate 4 equivalent and have substantial experience in the provision of Aboriginal health services.

A Level 5 Aboriginal Health Worker is required to perform a range of work tasks based on the achievement of Western Australian and Commonwealth health objectives in the provision of health services to Aboriginal people. Duties include but are not confined to:

- setting and implementing policy direction for the government health industry Aboriginal health workforce
- inputting into the planning of Western Australia's government health industry services for Aboriginal people

**Skill acquisition**

A Level 5 Aboriginal Health Worker will continue to develop skills, knowledge and expertise through knowledge and experience in strategic planning and policy development to support the provision of health services for Aboriginal people.

Positions at Levels 3 and 5 inclusive shall be filled by competition between applicants against prescribed essential and desirable selection criteria. Progression to Levels 3 to 5 inclusive shall not be automatic.

**15.10 Level 1 Ethnic Health Worker**

Means an ethnic health worker who is employed in the government health industry who does not possess the National Accreditation Authority for Translators and Interpreters (NAATI), Level 2 Certificate or higher in language required by the employer.

A Level 1 Ethnic Health Worker carries out a range of duties determined in accordance with regional need. Duties include but are not confined to:

- health promotion/education;
- health needs assessment;
- clinical services in consultation with community nurse/doctor; and



- the development, implementation and evaluation of community health programs.

**Skills acquisition**

A Level 1 Ethnic Health Worker will continue to develop skills, knowledge and expertise through:

- familiarity with and understanding of community needs;
- experience in the provision of primary health care;
- participation in community health programs; and
- opportunities to apply knowledge to practice.

**15.11 Level 2 Ethnic Health Worker**

Means an ethnic health worker who is employed in the government health industry and possesses the National Accreditation Authority for Translators and Interpreters (NAATI) Level 2 Certificate or higher in a language required by the employer.

A Level 2 Ethnic Health Worker carries out a range of duties determined in accordance with regional needs. Duties include but are not confined to:

- health promotion/education;
- disease prevention and control;
- rehabilitation services;
- health needs assessment;
- clinical services in consultation with community nurse/doctor; and
- the development, implementation and evaluation of community health programs.

**Skills acquisition**

A Level 2 Ethnic Health Worker will continue to develop skills, knowledge and expertise through:

- familiarity with and understanding of community needs;
- experience in the provision of primary health care;
- participation in community health programs; and
- opportunities to apply knowledge to practice.

**Reclassification**

15.12 Health Workers who are employed by a hospital/health service can apply for a reclassification of their position in accordance with the above definitions and using the Reclassification Request Form. Copies of the Reclassification Request Form are available from the local Human Resource Services on request.

- 15.13 Reclassification Request Forms are to be submitted to the Health Service General Manager for assessment using the Health Services established classification processes.
- 15.14 If the Employer agrees with the claim, the Health Worker is reclassified in line with the above definitions.
- 15.15 If the Employer does not accept the claim the Health Worker can either:
- (a) Accept the decision of the Employer in which case the process is complete; or
  - (b) Refer the application to a Review Committee made up of an independent chair, a representative nominated by the Union, and a representative nominated by the Employer.
- 15.16 Where an application is referred to the Review Committee, the Health Worker may request the Union to advocate on their behalf at the Review Committee.
- 15.17 It is the responsibility of the Employer to forward all information relating to the Health Worker's claim to the Review Committee and to the Union where requested by the Health Worker.
- 15.18 After consideration of the claim, the Review Committee will notify the Health Worker and the Employer of its decision, in writing, within 5 working days of the hearing. The decision of the Review Committee shall be final.
- 15.19 Should an application for reclassification be successful, it shall be effective from the date the completed Reclassification Request Form is submitted to the Health Service General Manager for assessment.
- 15.20 Where an application for reclassification is unsuccessful, the Health Worker may not apply for reclassification again until 12 months has elapsed from the date the previous claim was submitted to the Health Service General Manager for assessment.

**16. PAYMENT OF WAGES**

- 16.1 Wages shall be paid fortnightly. Overtime and penalty rates where applicable shall be paid at least monthly.
- 16.2 Accompanying each payment of wages there will be a payslip provided to the Health Worker. The Employer will retain a copy. On this slip the employer shall clearly detail the gross wages, where practical its composition, the net wages payable and show details of each deduction.
- 16.3 Overtime shall be calculated and based on the aggregate wage as provided in "Clause 15 – Wages" before any deduction is made for board and/or lodging.
- 16.4 On termination of employment the employer will pay to the Health Worker all monies payable to that Health Worker before the Health Worker leaves the place of employment or the same will be forwarded to the Health Worker by post in the following week.
- 16.5 Wages shall be paid by direct funds transfer to the credit of an account nominated by the Health Worker at such bank, building society or credit union approved by the employer.
- Provided that where such form of payment is impractical or where some exceptional circumstances exist and by agreement between the employer and the Health Worker, or upon request, the Health Worker's union, payment by cheque may be made.
- 16.6 A Health Worker who performs shift or weekend work irregularly may be paid shift or weekend penalties during the pay period in which the work is performed.

16.7 Subject to the provisions of this clause, no deduction shall be made from a Health Worker's wages unless the Health Worker has authorised such deduction in writing.

#### **16.8 Recovery of Underpayments**

- (a) Where an employee is underpaid in any manner:
  - (i) the employer will, once the employer is aware of the underpayment, rectify the error as soon as practicable;
  - (ii) where possible the underpayment shall be rectified no later than in the pay period immediately following the date on which the employer is aware that an underpayment has occurred; and
  - (iii) where an employee can demonstrate that an underpayment has created serious financial hardship, the employee shall be paid by way of a special payment as soon as practicable.
- (b) An employer shall compensate an employee for costs resulting directly from an underpayment, where it is proven that the costs resulted directly from the underpayment. This includes compensation for overdraft fees, dishonoured cheque costs, and dishonour fees related to routine deductions from the bank account into which an employee's salary is paid.
- (c) Nothing in this clause shall be taken as precluding the employee's legal right to pursue recovery of underpayments.

### **17. TIME AND WAGES RECORDS**

17.1 In respect of each Health Worker, the Employer will keep or cause to be kept a time and wages record showing:

- (a) The name of the Health Worker;
- (b) The nature of the work performed and whether full-time, part-time or casual;
- (c) The hours worked each day including roster details, if applicable;
- (d) The wages, allowances and overtime paid to each Health Worker and any deductions made there from; and

17.2 Computerised time and wages records may be kept by the Employer and will be deemed to satisfy the requirements of this clause to the extent of the information recorded.

17.3 Time and Wages Records available for inspection by the Union

- (a) The time and wages records will be available for inspection by the Secretary or accredited official of the Union during the Employer's usual office hours, for the purpose of investigating a suspected breach of the Employer's obligations to its Health Workers. When necessary the accredited official of the Union may take a copy of the record.
- (b) The Union will:
  - (i) give prior notification to the Employer on when it proposes to inspect the records, provided that such notice is at least 24 hours, or at least 48 hours where the relevant materials are not kept on the employer's business premises;
  - (ii) not conduct interviews during normal working hours in circumstances which will result in the employer's business being unduly interrupted or otherwise hampered; and
  - (iii) treat with confidentiality any information obtained from time and wage records.

- 17.4 If the Employer maintains a personal file or other file on a Health Worker, the Health Worker will be entitled to examine all material on the file, and take copies, at a time that does not result in the Employer's business being unduly interrupted or otherwise hampered.

**18. SALARY PACKAGING**

- 18.1 For the purposes of this Agreement, salary packaging shall mean an arrangement whereby the wage or salary benefit arising under a contract of employment is reduced, with another or other benefits to the value of the replaced salary being substituted and due to the Health Worker.
- 18.2 A Health Worker may, by agreement with the Employer, enter into a salary packaging arrangement.
- 18.3 The Employer shall not unreasonably withhold agreement to salary packaging on request from a Health Worker.
- 18.4 The Employer shall not require a Health Worker to enter into a salary packaging arrangement, provided that this clause will not impinge on any additional Employer provided benefits.
- 18.5 Where a Health Worker enters into a salary packaging arrangement they shall be required to enter into a separate written Agreement with the Employer that sets out the terms and conditions of such salary packaging arrangement provided that the terms of such agreement shall comply with the terms of this clause.
- 18.6 Such agreement shall be formulated on the basis that, on balance, there shall be no material disadvantage of the Health Worker concerned, and shall be cost neutral in relation to the total employment cost to the Employer.
- 18.7 The salary packaging arrangement must also comply with relevant taxation laws and the employer shall not be liable for additional tax, penalties or other costs payable or which may be payable by the Health Worker.
- 18.8 In the event of any increase or additional payments of tax or penalties associated with the employment of the Health Worker or the provision of employer benefits under the salary packaging agreement, such tax, penalties and any other costs shall be borne by the Health Worker.
- 18.9 A Health Worker may elect to cancel any salary packaging arrangement by giving a minimum of four weeks notice.
- 18.10 The Employer may elect to cancel any salary packaging arrangement by giving a minimum of four weeks notice if the Employer incurs a liability to pay fringe benefits tax or any other tax in respect of the non cash benefits provided, provided that the Employer cannot retrospectively cancel any salary packaging arrangement.
- 18.11 Notwithstanding sub-clauses 18.9 and 18.10 the Employer and the Health Worker may agree to forgo the notice period.
- 18.12 The cancellation of salary packaging will not cancel or otherwise effect the operation of this Agreement.
- 18.13 "Clause 52 – Dispute Settlement Procedure" shall be used to resolve any dispute arising from the operation of this clause.
- 18.14 For the purposes of this provision, any penalty rate, loading or other wage related allowances which would ordinarily be calculated on the basis of the wage rates expressed in "Clause 15 – Wages" of this Agreement shall continue to be so calculated despite an election to participate in any salary packaging arrangement.

**PART 5 – ALLOWANCES****19. REMOTE AREA CONDITIONS****Definition of Remote Area**

- 19.1 For the purposes of this Agreement, a Remote Area is defined as a place that is characterised as having very restricted/very little accessibility of goods, services and opportunity for relevant health professional interaction. Key considerations include lack of access to a resident medical practitioner and restrictions in access to medical practitioners and other relevant medical professionals and other services at other locations.
- 19.2 For the purposes of this Clause, the following health care sites are determined to be located in Remote Areas:
- Burringurrah
  - Coondana
  - Gibb River Mobile
  - Kalumbaru
  - Loombadine
  - Looma
  - Nookenhah
  - One Arm Point
  - Oombulgurri
  - Tjuntjunjarra
  - Wangkatjunka
  - Warmun
  - Yandeyarra
- 19.3 The Parties shall from time to time determine and at least once during the term of this Agreement review the approved list of Remote Areas for Aboriginal Health Worker services.

**Availability Allowance**

- 19.4 Remote Area Health Workers shall be paid 6.34% of the hourly wage of a Level 2 Year 6 Health Worker, per hour, as an availability allowance outside ordinary or overtime hours actually worked:
- (a) where there is only one Health Worker at the health care site;
  - (b) where there is more than one Health Worker at the health care site then the Worker available to work shall receive the allowance; or
  - (c) where health service provision requires that two or more Health Workers be available and such is directed by the employer, each Health Worker available to work will receive the availability allowance.

**Respite Leave**

- 19.5 Respite Leave is designed to compensate the Remote Area Health Workers for long periods of being continuously available and shall be used as recreation leave only. A Remote Area Health Worker shall not be required to use Respite Leave for staff development purposes.
- 19.6 Health Workers shall be entitled to one week's Respite Leave after the completion of each twelve weeks in a Remote Area.
- 19.7 For each period of Respite Leave, the Health Worker shall, if required, be provided with travel into and out of the Remote Area to the nearest airport serviced by a scheduled passenger service.

- 19.8 The provisions of “Clause 21 – Travelling, Transfer and Relieving Allowance” do not apply to travel undertaken as part of Respite Leave.
- 19.9 Respite Leave shall not accrue on a pro rata basis and does not accrue from year to year.
- 19.10 Respite Leave is not subject to Public Service Portability policies and may not be transferred between Health Industry employers.
- 19.11 This clause shall not apply to Health Workers who undertake periods of relief in Remote Areas, where their period of continuous relief in Remote Areas does not exceed 13 weeks.

## 20. LANGUAGE ALLOWANCE

- 20.1 A Health Worker shall be paid a language allowance where they are required as part of their duties to use one or more Aboriginal or Torres Strait Islander languages in addition to English to perform those duties.
- 20.2 The Health Service may consult with the Co-ordinator, Aboriginal Health Work at the Office of Aboriginal Health when considering whether a Health Worker qualifies for the allowance.
- 20.3 Where the Health Service still remains uncertain, it may require the Health Worker to undergo an assessment by the local Aboriginal Language Centre to establish their proficiency in the required language/languages. Where such an assessment is required, this will be undertaken at a time mutually convenient to both Health Worker and employer. The Health Service will bear the cost of the assessment.
- 20.4 The language allowance shall be a weekly amount as follows, provided that part time Health Workers will be entitled to the allowance on a pro rata basis:

Current Rate	From date of Registration	1 August 2009 (4.0%)
\$22.26	\$24.19	\$25.16

- 20.5 The language allowance is not payable during any period of paid or unpaid leave.

## 21. TRAVELLING, TRANSFER AND RELIEVING ALLOWANCES

### Travel

- 21.1 This section applies where a Health Worker travels on official business.

### Trips Necessitating an Overnight Stay

- 21.2 Where all accommodation and meals are supplied free of charge Health Workers will be reimbursed to meet incidental expenses in accordance with Column A, items (1), (2) or (3) of Schedule A.
- 21.3 Where accommodation only is supplied free of charge, Health Workers will be reimbursed to meet incidental expenses and meals expenses in accordance with Column A, items (1) to (2) or (3) and items (12) or (13) or (14) of Schedule A. Expenses can only be claimed for meals actually purchased.
- 21.4 Where no accommodation or meals are supplied Health Workers will be reimbursed to meet accommodation and other expenses in accordance with Column A Items (4) to (8) or items (9), (10) or (11) of Schedule A as appropriate.
- 21.5 Reimbursement for travel spanning part of a day will be calculated in accordance with the following:

Departure from usual place of work	before 8am	100%
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	8am to 12.59 PM	90%
	1pm to 5.59pm	75%
	After 6 PM	50%
Arrival at usual place of work	8am to 12.59pm	10%
	1pm to 5.59pm	25%
	6pm to 10.59pm	50%
	11pm onwards	100%

- 21.6 In addition to the above, a Health Worker shall be reimbursed reasonable incidental expenses such as train, bus and taxi fares, official telephone calls, laundry and dry cleaning expenses, on production of satisfactory receipts.

#### **Trips not necessitating an overnight stay**

- 21.7 Where a Health Worker travels to a place outside a radius of fifty (50) kilometres measured from their usual place of work and depart from their usual place of work before 8am and arrive back after 11pm on the same day, expenses will be reimbursed in accordance with Column A, items (4) to (8) of Schedule A. Otherwise, the Health Worker will be reimbursed for meals only as prescribed in Column A, items (12) or (13) of Schedule A.

#### **General Matters**

- 21.8 Where it is agreed by the Health Service General Manager that reimbursement in accordance with the above does not cover a Health Worker's reasonable expenses, the Health Worker shall be reimbursed the excess expenditure on the production of satisfactory receipts.
- 21.9 Where a Health Worker necessarily engages reasonable accommodation for the night prior to commencing travel, the actual cost of the accommodation will be reimbursed.
- 21.10 Where a Health Worker becomes ill whilst travelling and leave for the period of illness is approved by the employer, reimbursement of expenses will continue provided expenses continue to be incurred.
- 21.11 A Health Worker travelling on duty within a radius of fifty (50) kilometres from their usual place of work and absent from their usual place of work over the midday meal period shall be paid in accordance with item (17) of Schedule A for each meal necessarily purchased provided that the travelling is not a normal feature in the performance of their duties and is not within the suburb in which the Health Worker resides. Total reimbursement under this clause for any one pay period must not exceed the amount prescribed in item (18) of Schedule A.
- 21.12 Claims for travel in excess of 14 days in one month must be endorsed by the Health Service General Manager prior to payment.

#### **Transfer**

- 21.13 This section applies where a Health Worker is transferred to a new locality through promotion or for other reasons. In these circumstances a Health Worker shall be paid in accordance with Column A, items (4), (5) or (6) of Schedule A for a period of 14 days after arrival at the new place of work subject to the Health Worker certifying that permanent accommodation has not been arranged or is not available from the date of transfer.
- 21.14 Where permanent accommodation is arranged or becomes available within the prescribed allowance period, the Health Worker will refund the pro rata amount of the allowance.
- 21.15 Where a Health Worker is required to travel on official business within the 14 day period, this period will be extended by the time spend travelling. However, under no circumstances will allowances in respect of Transfer and Travelling expenses be paid for the same period.

- 21.16 Where a Health Worker is unable to obtain reasonable accommodation within the prescribed period and the Health Service General Manager is satisfied that the Health Worker has taken all possible steps, the Health Worker will be paid allowances set out in Column B, items (4), (5), (6), (7) or (8) of Schedule A as appropriate until they secure reasonable accommodation up to a maximum of 77 days. Payment outside this period must be approved by the Health Service General Manager.
- 21.17 Where it can be shown that the transfer allowances payable are insufficient to meet reasonable additional costs incurred by a Health Worker, an appropriate rate shall be determined by the Health Service General Manager.
- 21.18 A Health Worker who is transferred to departmental accommodation shall not be entitled to reimbursement under this clause unless entry into the accommodation is delayed through circumstances beyond the Health Workers control. In these circumstances the Health Worker will be reimbursed actual reasonable accommodation and meals expenses on the production of receipts for themselves and dependents less a deduction for normal living expenses prescribed in Column A, Items (15) and (16) of Schedule A.

### **Relieving**

- 21.19 This section applies where a Health Worker is required to work away from their normal place of work on relief duty or to perform special duty and has to reside temporarily away from their usual place of residence.
- 21.20 Where a Health Worker:
- (a) is supplied with accommodation and meals free of charge or is accommodated at a government institution, hostel or other similar establishment and supplied with meals, reimbursement will be in accordance with Column A, items (1), (2) or (3) of Schedule A.
  - (b) is fully responsible for accommodation, meals and incidental expenses and uses hotel or motel accommodation, reimbursement shall be in accordance with Column A, items (4) to (8) of Schedule A for the first forty two (42) days and in accordance with Column B, items (4) to (8) of Schedule A (no dependents) or Column C, items (4) to (8) (dependents) thereafter. Provided that the second period of reimbursement under this sub-clause shall not exceed forty nine (49) days without the approval of the Health Service General Manager.
  - (c) is fully responsible for accommodation, meals and incidental expenses and uses other than a hotel or motel, reimbursement will be in accordance with Column A, items (9), (10) or (11) of Schedule A.
- 21.21 Where a Health Worker becomes ill whilst relieving and leave for the period of illness is approved by the employer, reimbursement of expenses will continue provided expenses continue to be incurred.
- 21.22 Where a Health Worker is authorised by the Health Service General Manager to travel to the new locality in their own Motor Vehicle, reimbursement for the return journey will be:
- (a) at the appropriate rate prescribed in Schedule B where the Health Worker is required to maintain a motor vehicle for the performance of the relief or special duties;
  - (b) at one half (1/2) the appropriate rate prescribed in Schedule B provided that the maximum amount reimbursed will not exceed the cost of public transport where this could be used.
- 21.23 Where it is agreed by the Health Service General Manager that reimbursement in accordance with the above does not cover a Health Worker's reasonable expenses, the Health Worker shall be reimbursed the excess expenditure on the production of satisfactory receipts.



- 21.24 Under no circumstances can a Health Worker receive travelling allowances and relieving allowances for the same period.
- 21.25 Where a Health Worker is directed to relieve/perform special duty away from their usual place of work but is not required to reside at a new location, they will be reimbursed the amount of additional fares paid by the Health Worker travelling by public transport to and from the temporary work location unless they are in receipt of a higher duties or special allowance for such work.
- 21.26 The amounts paid under Schedule A and Schedule B of this Agreement will be adjusted in accordance with any movement in the relevant allowances in the *Public Service Award 1992*.

## 22. CAMPING ALLOWANCE

- 22.1 This clause applies where a Health Worker is stationed in a camp.
- 22.2 Camp of a permanent nature means single room accommodation in skid mounted or mobile type units, caravans or barrack type accommodation where the following are not provided in the camp:
- (a) freely available water;
  - (b) toilet, shower or bath and laundry facilities;
  - (c) hot water system;
  - (d) a kitchen, except in the case of a caravan equipped with its cooking and messing facilities;
  - (e) an electricity or power supply, and
  - (f) beds and mattresses except in the case of caravans containing sleeping accommodation.
- 22.3 Caravans located in caravan parks or other locations where the above are not provided shall be deemed a camp of a permanent nature.
- 22.4 A Health Worker who is stationed in a camp of a permanent nature shall be paid the appropriate allowance prescribed by item (1) and item (2) of Schedule C for each day spent camping. This will include Saturdays and Sundays where the Health Worker is available for work immediately preceding and succeeding such days and no deduction shall be made when a Health Worker does not spend the whole or part of the weekend at the camp unless the Health Worker is reimbursed travelling allowance under "Clause 21 – Travelling, Transfer and Relieving Allowances".
- 22.5 A Health Worker who is stationed in a camp not of a permanent nature or is required to camp out, shall be paid the appropriate allowance prescribed by Item (3) or Item (4) of Schedule B for each day spent camping.
- 22.6 The allowances payable to Health Workers under this clause will be halved where Health Workers are provided with food/meals free of charge.
- 22.7 The Health Service General Manager may determine an allowance other than that provided in Schedule B.
- 22.8 Camping allowance shall not be payable for periods in excess of 91 consecutive days unless agreed by the Health Service General Manager. Periods during which a Health Worker is being reimbursed travel allowance under "Clause 21 – Travelling, Transfer and Relieving Allowance" will be included for the purposes of determining the 91 days.
- 22.9 This clause shall be read in conjunction with "Clause 21 – Travelling, Transfer and Relieving Allowance" and the camping allowance shall not be paid for any period for which travelling, transfer or relieving allowances are paid.
- 22.10 Where portions of a day are spent camping, the formula contained in "Clause 15 – Wages" shall be used for calculating the allowances to be paid. Arrival at headquarters shall mean the time of actual arrival at camp. Departure from headquarters shall mean the time of ceasing duty in the field subsequent to breaking a camp, whichever is the latter.

- 22.11 Health Workers in receipt of the camping allowance shall not be entitled to receive the incidental allowance prescribed in “Clause 21 - Travelling, Transfer and Relieving Allowances”.
- 22.12 Whenever a Health Worker provided with a Caravan is obliged to park in a caravan park, they shall be reimbursed the rental charges in addition to the camping allowance.
- 22.13 Where a Health Worker has to hire camping equipment, they shall be reimbursed the hire charges in addition to the camping allowance.
- 22.14 The amounts paid as the camping allowance under Schedule B of this Agreement shall be linked directly to the dollar amounts prescribed from time to time in “Schedule C – Camping Allowance” of the *Public Service Award 1992*.

**23. DISTRICT ALLOWANCE**

The terms of the District Allowance (Government Wages Employees) General Agreement 2005 (“the DAGA”) or its replacement will apply in lieu of the provisions of this clause to the extent of any inconsistency.

23.1 For the purposes of this clause the following terms will have the following meaning:

- (a) Dependant in relation to a Health Worker means:
  - (i) a partner; or
  - (ii) where there is no partner, a child or any other relative resident within the State who relies on the Health Worker for their main support;

who does not receive a district or location allowance of any kind.
- (b) Partial Dependant in relation to a Health Worker means:
  - (i) a partner; or
  - (ii) where there is no partner or a child or any other relative resident within the State who relies on the Health Worker for their main support;

who receives a district or location allowance of any kind less than that applicable to a Health Worker without dependants under any award, agreement or other provision regulating the employment of the partial dependant.
- (c) For the purposes of this clause, the boundaries of the various districts will be as described in sub-clauses 23.2(a) to 23.2(f) below and as delineated in sub-clause 23.6 below.

**23.2 District**

**(a) District 1**

The area within a line commencing on coast; then east along latitude 28 to a point north of Talling Peak; then due south to Talling Peak; then southeast to Mt Gibson and Burracoppin; then to a point southeast at the junction of latitude 32 and longitude 119; then south along longitude 119 to coast.

**(b) District 2**

That area within a line commencing on the south coast at longitude 119 then east along the coast to longitude 123; then north along longitude 123 to a point on latitude 30; then west along latitude 30 to the boundary of No. 1 District.

**(c) District 3**

The area within a line commencing on coast at latitude 26; then along latitude 26 to longitude 123; then south along longitude 123 to the boundary of No. 2 District.

**(d) District 4**

The area within a line commencing on the coast at latitude 24; then east to the South Australian border; then south to the coast; then along the coast to longitude 123; then north to the intersection of latitude 26; then west along latitude 26 to the coast.

**(e) District 5**

That area of the State situated between the latitude 24 and a line running east from Carnot Bay to the Northern Territory border

**(f) District 6**

That area of the State north of a line running east from Carnot Bay to the Northern Territory border.

23.3 A Health Worker will be paid a district allowance at the standard rate prescribed in Column II of sub-clause 23.6 below, for the district in which the Health Worker's headquarters is located. Provided that where the Health Worker's headquarters is situated in a town or place specified in Column III of sub-clause 23.6 below, the Health Worker will be paid a district allowance at the rate appropriate to that town or place as prescribed in Column IV of sub-clause 23.6 below.

23.4 A Health Worker who has a dependant will be paid double the district allowance prescribed by sub-clause 23.3 above for the district, town or place in which the Health Worker's headquarters is located.

23.5 Where a Health Worker has a partial dependant the total district allowance payable to the Health Worker will be the district allowance prescribed by sub-clause 23.3 above, plus an allowance equivalent to the difference between the rate of district or location allowance the partial dependant receives and the rate of district or location allowance the partial dependant would receive if he or she was employed in a full time capacity under the Award, Agreement or other provision regulating the employment of the partial dependant.

23.6 The weekly rate of district allowance payable to Health Workers pursuant to sub-clause 23.3 above, will be as follows:

COLUMN I	COLUMN II	COLUMN III	COLUMN IV
DISTRICT	STANDARD RATE	EXCEPTIONS TO STANDARD RATE	RATE
	\$ per week	Town or place	\$ per week
6	87.55	Nil	Nil
5	62.95	Fitzroy Crossing	129.25
		Halls Creek	93.10
		Nullagine	96.30
		Marble Bar	111.25
		Karratha	74.15
		Port Hedland	69.00
4	54.10	Warburton Mission	89.85
		Denham	32.20
		Carnarvon	49.95
		Eucla	83.45
3	51.05	Meekatharra	42.25

		Leonora	59.15
2	47.00	Kalgoorlie	21.05
		Boulder	21.05
		Ravensthorpe	47.95
		Esperance	25.90
1	Nil	Jerramungup	47.00

(Note: In accordance with sub-clause 23.4 above, Health Workers with dependants will be entitled to double the rate of district allowance shown.)

- 23.7 When a Health Worker is on approved annual leave, the Health Worker will for the period of such leave, be paid the district allowance to which the Health Worker would ordinarily be entitled.
- 23.8 When a Health Worker on long service leave or other approved leave with pay (other than annual leave), the Health Worker will only be paid district allowance for the period of such leave if the Health Worker, dependants or partial dependants remain in the district in which the Health Worker's headquarters is situated.
- 23.9 When a Health Worker leaves his or her district on duty, payment of any district allowance to which the Health Worker would ordinarily be entitled will cease after the expiration of two weeks unless the Health Worker's dependant/s or partial dependant/s remain in the district or as otherwise approved by the employer.
- 23.10 Except as provided in sub-clause 23.9 above, a district allowance will be paid to any Health Worker ordinarily entitled thereto in addition to reimbursement of any travelling transfer or relieving expenses or camping allowance.
- 23.11 Where a Health Worker whose headquarters is located in a district in respect of which no allowance is prescribed in sub-clause 23.6 above, is required to travel or temporarily reside for any period in excess of one month in any district or districts in respect of which such allowance is so payable, the Health Worker will be paid for the whole of such period a district allowance at the appropriate rate pursuant to sub-clauses 23.3, 23.4 or 23.5 above, for the district in which the Health Worker spends the greater period of time.
- 23.12 When a Health Worker is provided with free board and lodging by the employer or a public authority the allowance will be reduced to two-thirds of the allowance the Health Worker would ordinarily be entitled to under this clause.
- 23.13 A Health Worker who is employed on a part-time basis will be entitled to district allowance on a pro-rata basis. The allowance will be determined by calculating the hours worked by the Health Worker as a proportion of the full-time hours prescribed by the Agreement under which the Health Worker is employed. That proportion of the appropriate district allowance will be payable to the Health Worker.
- 23.14 The allowance prescribed in this clause will be varied by the parties in accordance with any movement in the allowances in the *Public Service Award 1992*.

#### **24. MOTOR VEHICLE ALLOWANCE**

- 24.1 Where a Health Worker is required and authorised to use their own motor vehicle in the course of their duties they will be paid an allowance not less than that provided for in the schedules set out hereunder. Notwithstanding anything contained in this sub-clause the employer and the Health Worker may make any other arrangements as to car allowance not less favourable to the Health Worker.
- 24.2 Where a Health Worker in the course of a journey travels through two or more of the separate areas, payment at the rates prescribed herein will be made at the appropriate rate applicable to each of the separate areas traversed.

24.3 A “year” for the purpose of this clause will commence on the first day of July and end on the thirtieth day of June next following.

24.4 Rates of hire for use of Health Worker's own vehicle on employer's business.

(a) Motor Vehicle Allowance

	Engine Displacement (in cubic centimetres)		
	OVER 2600CC	1600 – 2600CC	UNDER 1600CC
Area and Details	Cents	per	Kilometre
Metropolitan Area	89.5	64.5	53.2
South West Land Division	91.0	65.4	54.0
North of 23.5° South Latitude	98.6	70.6	58.3
Rest of State	94.3	67.5	55.6

(b) Motor Cycle Allowances

Distance Travelled During a Year on Official Business	Rate Cents per Kilometre
Rate Per Kilometre	31.0

24.5 Motor vehicles with rotary engines are to be included in the 1600-2600cc category.

24.6 The allowance prescribed in this clause will be varied by the parties in accordance with any movement in the allowances in the *Public Service Award 1992*.

**25. EMPLOYEES LIVING NORTH OF THE 26 DEGREES SOUTH LATITUDE**

25.1 The conditions and allowances specified in this clause shall apply to all Health Workers whose headquarters are located north of the 26 degrees south latitude.

25.2 (a) A Health Worker shall receive an additional five working days' annual leave on the completion of each twelve months' continuous service in the region.

(b) A Health Worker who proceeds on annual leave before having completed the necessary year of continuous service may be given approval for the additional five working days' leave provided the leave is taken at the employer's convenience and provided the Health Worker returns to that region to complete the necessary service.

(c) Where a Health Worker has served continuously for at least a year north of the 26 degrees south latitude, and leaves the region because of promotion or transfer, a pro rata annual leave credit to be cleared at the employer's convenience shall be approved on the following basis:

Completed Months of Additional Service in the region after initial year of service	1	2	3	4	5	6	7	8	9	10	11
Pro Rata Additional annual leave(working days)	0	0	1	1	2	2	2	3	3	4	4

(d) Where payment in lieu of pro rata annual leave is made on the death, resignation or retirement of a Health Worker in the region, in addition to the payment calculated on a four week basis, payment may be made for the pro rata entitlement contained in 25.2(c).

25.3 Health Workers who are tenants occupying Government Regional Officers' Housing (GROH) houses equipped with gas hot water systems are eligible for a reimbursement up to a maximum of \$29.00 per month.

25.4 Health Workers who have dependent school age children resident with them shall receive an allowance of \$100 per annum per child to a maximum of \$400 per annum per family.

#### 25.5 TRAVEL CONCESSIONS

- (a) Health Workers who work north of the 26th parallel shall be entitled to an annual leave travel concession, on an annual basis, for recreation leave.
- (b) Provided that the entitlement referred to in 25.5(a) hereof shall only be available to Health Workers who have worked continuously in the area for twelve months.
- (c) A Health Worker may elect to proceed direct to any point south of the 26th parallel in Western Australia, provided that travel will only be approved to a point not further south than Perth; provided further that where special circumstances exist, approval may be given for the concession to apply to other destinations.
- (d) The concession shall be available in the following manner:
  - (i) a return air fare for the Health Worker and his/her dependants to Perth; or
  - (ii) full motor vehicle allowance for the car trip at the rates prescribed in "Clause 24 - Motor Vehicle Allowance" of this Agreement, provided that reimbursement shall not exceed the cost of a return air fare to Perth for the Health Worker and dependants.
- (e) A Health Worker, who has less than twelve months of service in the above mentioned area and who is required to proceed on annual leave to suit the convenience of the employer, shall be entitled to the provisions of 25.5(d) hereof.
- (f) Paid travelling time
  - (i) In the case of travel as described in 25.5(d)(i) hereof, one day, each way, travelling time shall be paid for as though worked.
  - (ii) In the case of travel as described in 25.5(d)(ii) hereof, Health Workers shall be entitled to the following travelling time, paid for as though worked:
    - (aa) Health Workers stationed north of the 20th degree parallel - 2.5 days each way; or
    - (bb) for the remainder - two days each way.
- (g) The mode of travel shall be at the discretion of the employer.
- (h) A travel concession, not utilised within twelve months of becoming due, will lapse.
- (i) Part-time Health Workers are entitled to travel concessions pursuant to this clause on a pro-rata basis according to the number of hours normally worked.

#### 26. HIGHER DUTIES ALLOWANCES

26.1 A Health Worker who is instructed to temporarily perform duties which carry a higher minimum rate than that which such Health Worker usually performs shall be entitled to the higher minimum rate while so employed.

26.2 Where such Health Worker is engaged in the higher grade of work for more than two hours on any day or shift, the Health Worker shall be paid the higher rate for the whole day or shift.

- 26.3 Notwithstanding the provisions of this clause payment for higher duties shall not apply to a Health Worker required to act in another position whilst the permanent Health Worker is on a single accrued day off as prescribed by 12.2 of this Agreement.

## 27. LAUNDRY AND UNIFORM ALLOWANCE

- 27.1 A weekly allowance may be paid by the employer in lieu of providing uniforms in accordance with the following table:

Current Rate	From date of Registration	1 August 2009
\$4.03	\$4.38	\$4.56

- 27.2 The employer will pay a weekly allowance for the laundering of uniforms in accordance with the following table:

Current Rate	From date of Registration	1 August 2009
\$1.30	\$1.41	\$1.47

## PART 6 – LEAVE

### 28. ANNUAL LEAVE

- 28.1 Except as hereinafter provided, a period of four consecutive weeks' leave shall be allowed to a Health Worker by the employer after each period of twelve months' continuous employment with such employer.
- 28.2 Prior to commencing annual leave the Health Worker shall be paid for any period of annual leave prescribed by this clause at the ordinary rate of wage the Health Worker received for the greatest proportion of the calendar month prior to taking such leave.
- 28.3 Subject as hereinafter provided:
- (a) If after one month's continuous service in any qualifying twelve monthly period a Health Worker lawfully terminates their employment or their employment is terminated by the employer through no fault of the Health Worker, the Health Worker shall be paid 2.92 hours' pay in respect of each completed week of continuous service in that qualifying period.
  - (b) If the services of a Health Worker terminate and the Health Worker has taken a period of leave in accordance with 28.7 and if the period of leave so taken exceeds that which would become due pursuant to 28.3(a), the Health Worker shall be liable to pay the amount representing the difference between the amount received by the Health Worker for the period of leave taken in accordance with 28.7 of this clause and the amount which would have accrued in accordance with 28.3(a). The employer may deduct this amount from moneys due to the Health Worker by reason of the other provisions of this award at the time of termination.
  - (c) In addition to any payment to which he may be entitled under this sub-clause, a Health Worker whose employment terminates after they have completed a twelve monthly qualifying period and who has not been allowed the leave prescribed under this award in respect of that qualifying period shall be given payment in lieu of that leave unless he has been justifiably dismissed for misconduct and the misconduct for which they were been dismissed occurred prior to the completion of that qualifying period.

- 28.4 Taking of annual leave
- (a) The annual leave prescribed in this clause may be taken in two portions, if so requested by the Health Worker, provided that no portion shall be less than two consecutive weeks.
  - (b) By mutual agreement between the employer and the Health Worker, the annual leave may be further split on one additional occasion, provided that no portion shall be less than one week.
  - (c) When a Health Worker requests that their annual leave be split into two or three portions the employer shall make every reasonable endeavour to accommodate the wishes of the Health Worker.
- 28.5 Any time in respect of which a Health Worker is absent from work except paid sick leave or unpaid sick leave up to three months, the first 26 weeks of any absence on workers' compensation, annual leave, long service leave and bereavement leave, shall not count for the purpose of determining annual leave entitlements.
- 28.6 Leave shall be given as soon as practicable after falling due and shall not accumulate except with the consent of the Health Worker but in no case shall it accumulate for more than two years.
- 28.7 Notwithstanding 28.6 a Health Worker may with the approval of the employer be allowed to take the annual leave prescribed by this clause before the completion of twelve months' continuous service as prescribed by sub-clause 28.1.
- 28.8 When a Health Worker proceeds on the annual leave prescribed by 28.1 there will be no accrual towards an accrued day off as prescribed in sub-clauses 12.1 and 12.2 of this Agreement.
- 28.9 Before going on annual leave each Health Worker shall be given at least two weeks' notice of the date leave is to be taken, unless the Health Worker and the employer agree on a lesser period.
- 28.10 The provisions of this clause shall not apply to casual Health Workers.

**28.11 Annual Leave for Shift Workers**

- (a) A Health Worker whose ordinary hours of work regularly rotate afternoon and/or night shift with day shift as defined in this clause shall be granted an additional week's annual leave.
- (b) A Health Worker who works afternoon and/or night shifts, which are not subject to regular rotation, shall be granted an additional day's leave (up to an extra five days) for each seven weeks actually worked on afternoon and/or night shift.
- (c) A Health Worker who has worked thirty-one weeks on non-rotating shifts shall be granted an additional weeks leave.

**29. ANNUAL LEAVE LOADING**

- 29.1 A loading equivalent to 17.5% of normal salary is payable to Health Workers proceeding on annual leave, including accumulated annual leave. The loading is paid on a maximum of four weeks' annual leave or five weeks in the case of shift workers who are granted an additional week's penalty leave.
- 29.2 The loading is calculated on a rate of the normal fortnightly salary including any allowances, which are paid as a regular fortnightly or annual amount. Any allowance paid to a Health Worker for undertaking additional or higher level duties is only included if the allowance is payable during that period of normal annual leave.



- 29.3 Provided that the maximum loading payable for each week of leave will not exceed one quarter of the amount set out in the Australian Bureau of Statistics publication 'average weekly earnings per male employed unit', in Western Australia for the September quarter immediately preceding the date the leave became due, provided further that the limitation will not affect an employee's entitlement to any payments by way of shift or weekend penalties under this sub-clause.
- 29.4 The leave loading prescribed by this sub-clause will not apply on termination to annual leave accrued since a Health Workers last anniversary date.

### 30. PUBLIC HOLIDAYS

- 30.1 (a) Subject to the provisions of this clause, the following days shall be allowed as holidays with pay, namely:
- New Year's Day, Australia Day, Good Friday, Easter Monday, Easter Tuesday, Anzac Day, Labour Day, Foundation Day, Sovereign's Birthday, Christmas Day and Boxing Day.
- (b) When any of the days mentioned in 30.1(a) falls on a Saturday or a Sunday the holiday shall be observed on the next succeeding Monday and when Boxing Day falls on a Sunday or a Monday the holiday shall be observed on the next succeeding Tuesday. In each case the substituted day shall be a holiday without deduction of pay and the day for which it is substituted shall not be a holiday.
- (c) Notwithstanding 30.1(a) hereof, the employer is not required to allow Easter Tuesday as a holiday with pay in the year 1996 and subsequent thereto, provided that, in each year the employer does not allow a Health Worker Easter Tuesday as a holiday with pay the employer shall allow such Health Worker an alternative, but mutually convenient, day upon which such Health Worker shall be entitled to be absent from duty without loss of pay.
- 30.2 Where:
- (a) a day is proclaimed as a public holiday or as a public half-holiday under Section 7 of the *Public and Bank Holidays Act, 1972*; and
- (b) that proclamation does not apply throughout the State or to the metropolitan area of the State,
- that day shall be a public holiday or, as the case may be a public half-holiday for the purposes of this award within the district or locality specified in the proclamation.
- 30.3 Where a Health Worker is required by the employer to work on any of the foregoing days, payment for the time worked shall be at the rate of two and one-half times the ordinary rate or alternatively payment at the rate of one and one-half times with equivalent time to that worked being taken off at a time convenient to the employer and the Health Worker.
- 30.4 When any of the days observed as a holiday prescribed in this clause fall on a day when a Health Worker is on an accrued day off the Health Worker shall be allowed to take a day's holiday in lieu of the holiday on a day immediately following the Health Worker's annual leave or at a time mutually acceptable to the employer and the Health Worker.
- 30.5 A Health Worker whilst on a public holiday prescribed by this clause shall continue to accrue an entitlement to an accrued day off as prescribed in sub-clauses 12.1 and 12.2 of this Agreement.
- 30.6 This clause shall not apply to casual Health Workers.

## 31. LONG SERVICE LEAVE

### 31.1 Long Service Leave Entitlement

Subject to the conditions of this clause all Health Workers will become entitled to 13 weeks' long service leave.

- (a) after a period of ten (10) years continuous service.
- (b) after each further period of seven (7) years continuous service.

31.2 Notwithstanding sub-clause 31.1 of this clause, upon application by a Health Worker, the Employer may approve a Health Worker clearing:

- (a) any accrued entitlement to long service leave in minimum periods of one day
- (b) double the period of long service leave on half pay, in lieu of the period of long service leave entitlement on normal pay; or
- (c) half the period of long service leave on double pay, in lieu of the period of long service leave entitlement on normal pay; or
- (d) any portion of their long service leave entitlement on normal pay or double such period on half pay; or half such period on double pay.

31.3 When a Health Worker proceeds on long service leave there will be no accrual towards an Accrued Day Off.

### 31.4 Service counted for Long Service Leave

- (a) (i) For the purpose of these conditions "service" means service as a Health Worker of a Public Authority and will be deemed to include:-
  - (ii) absence of the Health Worker on an annual leave or public holidays.
  - (iii) absence of the Health Worker on paid sick or on an approved rostered day off.
  - (iv) absence of the Health Worker on approved sick leave without pay except that portion of a continuous absence which exceeds three (3) months.
  - (v) absence of the Health Worker on approved leave without pay, without pay other than sick leave but not exceeding two (2) weeks in any qualifying period.
  - (vi) absence of the Health Worker on National Service or other military training, but only if the difference between the Health Workers' military pay and his/her civilian pay is made up or would, but for the fact that his military pay exceeds his/her civilian pay, be made up by his/her Employer.
  - (vii) absence of the Health Worker on worker's compensation for any period not exceeding six (6) months, or for such greater period as the Employer may allow;
  - (viii) absence of the Health Worker on long service leave.
  - (ix) absence of a Health Worker on approved leave to attend Trade Union training courses or on approved leave to attend Trade Union business; and

- (x) employment in the service of the Commonwealth or another State of Australia as provided in sub-clause 31.16.
- (b) The service of a Health Worker will be deemed NOT to include:-
  - (i) service of a Health Worker after the day on which he/she has become entitled to 26 weeks long service leave until the day on which he/she commences the taking of thirteen (13) weeks of that leave.
  - (ii) any period of service with an Employer of less than twelve (12) months. Provided where a Health Worker has service of a month or more but less than twelve (12) months immediately prior to being transferred by one State Government Employer to another; becoming redundant or qualifying for pro rata payments in lieu of leave pursuant to sub-clause 31.11 of this clause, such period of service will count;
  - (iii) any period during which a Health Worker has been paid as a casual;
  - (iv) any other absence of the Health Worker except such absences as are included in service by virtue of sub-clause 31.4(a); and
- (c) Subject to the provisions of sub-clauses 31.4(a) and (b), of these conditions the service of a Health Worker will not be deemed to have been broken;
  - (i) by resignation, if he/she resigns from one public authority in this State and commences with another public authority in this State within one (1) working week of the expiration of any period for which payment in lieu of annual leave and/or public holidays has been made by the Employer from which the Health Worker resigned, or, if no such payment has been made, within one (1) working week of the day on which his resignation become effective;
  - (ii) if his/her employment is ended by his/her Employer for any reason other than serious misconduct, but only if -
    - (aa) the Health Worker resumes employment with the Government not later than six (6) months from the day on which his/her employment ended; and
    - (bb) payment pursuant to sub-clause 31.11 has not been made; or
  - (iii) by any absence approved by the Employer as leave whether with or without pay.

31.5 Application for leave without pay in respect of any absence must be made before the commencement of the absence unless the cause of the absence occurs after the Health Worker has left the job, in which case the application must be made not later than 14 days after the day on which the Health Worker resumes work.

### **31.6 Taking of Long Service Leave**

- (a) Long service leave will be taken at a time convenient to the Employer but not less than thirty (30) days' notice will be given to each Health Worker on the day on which his long service leave commences, except in cases where the Health Worker and the Employer agree to a lesser period of notice or in other exceptional circumstances.
- (b) Long service leave must be commenced within six (6) months of becoming due unless written permission of the Employer concerned is obtained for postponement.

### **31.7 Public Holidays falling during Long Service Leave**

Any public holiday occurring during a Health Worker's absence on long service leave will be deemed to be a portion of the long service leave and extra days in lieu thereof will not be granted.

### **31.8 Alternative employment during Long Service**

No Health Worker is to undertake during long service leave, without the written approval of the Employer, any form of employment for hire or reward. Contravention of this sub-clause may be followed by disciplinary action which may include dismissal.

However, a Health Worker may work casual shifts during a period of Long Service Leave with the written approval of the relevant Employer respondent to this Agreement.

### **31.9 Affect of termination of employment on payment in lieu of Long Service Leave**

A Health Worker who has become entitled to long service leave in accordance with sub-clause 31.1, of these conditions and whose employment is ended before that leave is taken will be granted payment in lieu of that leave unless he/she has been dismissed for an offence committed prior to the day on which he/she became entitled to that leave.

### **31.10 Entitlement to Long Service Leave on death of Health Worker**

If a Health Worker who has become entitled to long service leave in accordance with sub-clause 31.1, of these conditions dies before taking that leave, payment will be made to such spouse or other dependant.

### **31.11 Pro Rata Long Service Leave**

If the employment of a Health Worker ends before he/she has completed the first further qualifying periods in accordance with sub-clause 31.1, payment in lieu of long service proportionate his/her length of service will not be made unless the Health Worker:

- (a) has completed a total of at least three (3) years' continuous service and his/her employment has been ended by his/her Employer for reasons other than serious misconduct; or
- (b) is not less than 55 years of age and resigns but only if the Health Worker has completed a total of not less than twelve (12) months' continuous service prior to the day from which the resignation has effect; or
- (c) has completed a total of not less than twelve (12) months' continuous service and his/her employment has been ended by his/her Employer on account of incapacity due to old age, ill health or the result of an accident; or
- (d) as completed a total of not less than three (3) years' continuous services and resigns because of her pregnancy and who produces at the time of resignation or termination certificate of such pregnancy and the expected date of birth from a legally qualified medical practitioner; or
- (e) dies after having served continuously for not less than twelve (12) months before his/her death and leaves his/her spouse, children, parent or invalid brother or sister dependent; or
- (f) has completed a total of not less than three (3) years' continuous service and resigns in order to enter an Invitro Fertilisation Programme provided the Health Worker produces written confirmation from an appropriate medical authority of the dates of involvement in the programme.

31.12 Notwithstanding the provisions of sub-clauses 31.11(a) and (c), a Health Worker whose position has become redundant and when refuses an offer by the Employer of reasonable alternative employment or who refuses to accept transfer in accordance with the terms of his/her employment will not be entitled to payment in lieu of long service leave proportionate to his length of service.

31.13 For the purpose of sub-clause 31.11(c), a medical referee will, if there is disagreement between the Health Worker's doctor and the Employer's doctor as to the Health Worker's incapacity, be selected from an appropriate panel of doctors by agreement between the Employer and Health Worker.

**31.14 Rate of Pay During Long Service Leave**

- (a) Subject to the provision of this clause a Health Worker will be paid during long service leave at his/ her permanent classification rate of pay.
- (b) Except where otherwise approved by the Employer the rate of pay of a Health Worker will be deemed to be the total wage applicable to the classification which, for the purpose of this clause is or is deemed to be his or her permanent classification.
- (c) If a Health Worker has been employed in one or more positions each of which carries a higher rate than his/her permanent classified rate for a continuous period of twelve (12) months ending not earlier than two (2) weeks before the day on which he/she commences long service leave or is paid pro rata in lieu of leave in accordance with sub-clause 31.11, the rate which he/she has received for the greatest proportion of that 12 month period will, for the purpose of this clause, be deemed to be in permanent classified rate.
- (d) If any variation occurs in the rate of wage applicable to a Health Worker during any period when he/she is on leave will be varied accordingly and, if the Health Worker has been paid in full for the leave before its commencement payments will be adjusted as soon as practicable after the Health Worker resumes work.
- (e) District allowance will not be paid during long service leave unless the family or dependants of the Health Worker remain in the district.

**31.15 Part-time Health Worker**

- (a) A part-time Health Worker, who during a qualifying period has been continuously employed on both full-time and part-time employment, may elect to take three (3) months' long service leave at a rate determined by the proportion of service on a part-time basis to that on a full-time basis or to take a lesser period than three (3) months calculated by converting the part-time service to equivalent full-time service so that the Health Worker qualifies for three (3) months' long service leave at the full- time rate of pay.
- (b) If the hours of a part-time Health Worker, have varied he/she will be paid a rate based on the average number of hours worked over the full qualifying period.
- (c) A full-time Health Worker, who during a qualifying period has been continuously employed on both full-time and part-time employment, may elect to take 13 weeks' long service leave at the rate determined by the proportion of service on a part-time basis to that on a full-time basis or to take lesser period than 13 weeks' calculated by convening the part-time service, or to work such additional time as will effectively make up the part-time service into full-time service so that the Health Worker qualifies for 13 weeks' long service leave at the full-time rate.
- (d) A part-time Health Worker, who during the qualifying period has been continuously employed on both part-time and full-time employment, will be paid at a rate determined by the proportion of service on a part-time basis to that on a full-time basis.

**31.16 Portability of Long Service Leave**

- (a) Subject to sub-clause 31.16(c), where a Health Worker was, immediately prior to being engaged, employed in the service of the Commonwealth or another State of Australia and that employment was continuous with this service as defined by this clause that Health Worker will be entitled to long service leave determined in the following manner.
  - (i) Service with the previous Employer will be converted into service for the purpose of these conditions by calculating the proportion that the service with the previous Employer bears to a full qualifying period in accordance with the provisions that applied in the previous employment and applying that proportion to a full qualifying period in accordance with the provisions of this clause.
  - (ii) Service with the State necessary to complete a qualifying period for an entitlement of long service leave will be calculated in accordance with the provisions of these conditions.
  - (iii) A Health Worker will not become entitled to long service leave or payment for long service leave unless he has completed three (3) years continuous service with the State.
  - (iv) Where a Health Worker would, but for the provisions of (iii) of this sub-clause, have become entitled to long service leave before the expiration of three (3) years' continuous service with the State, service subsequent to that date of entitlement will count towards the next grant of long service leave.
- (b) No Health Worker will be entitled to the benefit of this clause if service with the previous Employer was terminated for reasons which would entitle that Employer to dismiss the Health Worker without notice.
- (c) Nothing in these conditions confers on any Health Worker previously employed by the Commonwealth or another State of Australia any entitlement to a complete period of long service leave that accrued prior to the date on which the Health Worker was employed by the State.

**31.17 Health Worker ill during Long Service Leave**

- (a) Where a Health Worker, through personal ill health is confined to his place of residence or a hospital for a continuous period of fourteen (14) days or more during any period of long service leave and such confinement, is certified to by a duly qualified medical practitioner, such period will be considered sick leave and subject to the provisions of this Agreement.
- (b) The period during long service leave for which paid sick leave has been approved will be given as additional long service at a time convenient to the Employer.

31.18 Any period of service during which, or for which, a Health Worker receives or has received payment, or any other compensation, in lieu of long service leave will not be counted as service for the purpose of determining any future entitlement to long service leave.

**32. PERSONAL LEAVE****32.1 Introduction**

- (a) The intention of Personal Leave is to give Health Workers and Employers greater flexibility by providing leave with pay for a variety of personal purposes. Personal leave is not to be used for circumstances normally met by other forms of leave.

- (b) This clause does not apply to casuals with the exception of sub-clause 32.26 for the purposes of unpaid carer's leave.

### 32.2 Entitlement

- (a) The Employer will credit each permanent full time Health Worker with 114 hours personal leave credits for each year of continuous service of which 98.8 hours are cumulative and 15.2 hours non-cumulative as follows:

	Personal Leave Cumulative	Personal leave Non-cumulative
On the day of initial appointment	49.4 hours	15.2 hours
On completion of 6 months continuous service	49.4 hours	0 hours
On the completion of 12 months continuous service	98.8 hours	15.2 hours
On the completion of each further period of 12 months continuous service	98.8 hours	15.2 hours

- (b) Where Health Workers access personal leave, it will be deducted from their non-cumulative entitlement in the first instance.
- (c) A Health Worker employed on a fixed term contract for a period of twelve months or more will be credited with the same entitlement as a permanent Health Worker. A Health Worker employed on a fixed term contract for a period less than twelve months will be credited on a pro rata basis for the period of the contract.
- (d) A part time Health Worker will be entitled to the same personal leave credits as a full time Health Worker, but on a pro rata basis according to the number of hours worked each fortnight. Payment for personal leave will only be made for those hours that would normally have been worked had the Health Worker not been on personal leave.

32.3 In the year of accrual the 114 hours personal leave entitlement may be accessed for illness or injury, carer's leave, unanticipated matters or planned matters in accordance with the provisions of this clause. On completion of each year of accrual any unused personal leave from that year up to a maximum of 98.8 hours will be cumulative and added to personal leave accumulated from previous years. Unused non-cumulative leave will be lost on completion of each anniversary year.

32.4 Whilst Health Workers are able to access personal leave in accordance with sub-clause 32.13, access must be consistent with the *Minimum Conditions of Employment Act 1993*.

32.5 In accordance with the *Minimum Conditions of Employment Act 1993* entitlement to paid sick leave, in an anniversary year the number of hours the Health Worker is entitled to use for the purposes of carer's leave is up to 76 hours of this entitlement.

32.6 Notwithstanding sub-clause 32.5, access to carers leave is not limited to up to 76 hours per anniversary year, where the Health Worker has accumulated personal leave credits in excess of 76 hours.

32.7 Personal leave will not be debited for public holidays, which the Health Worker would have observed.

32.8 Personal leave may be taken on an hourly basis.

32.9 Personal leave will be paid at the ordinary rate of pay provided that, when personal leave is taken for the purposes of:

- illness or injury (sick leave); or

- to provide care or support to a member of the employee's family or household who requires care or support because of an illness or injury to the member; or an unexpected emergency affecting the member (carers leave);

the rate of pay shall include the shift and weekend penalties that they would have received had they not proceeded on personal leave.

### **32.10 Variation of ordinary working hours**

- (a) When a Health Worker's ordinary working hours change during an anniversary year personal leave credits are adjusted to reflect the pro rata portion for that anniversary year.
- (b) At the time ordinary working hours change, personal leave credits are adjusted to reflect ordinary working hours up to that point in time as a proportion of the total ordinary working hours for the anniversary year.
- (c) Personal leave is credited pro rata on a weekly basis from the time ordinary working hours change until the next anniversary date such that total hours credited for that anniversary year is on a pro rata basis according to the number of ordinary working hours for the period.

### **32.11 Reconciliation**

- (a) At the completion of an anniversary year, where a Health Worker has taken personal leave in excess of their current and accrued entitlement the unearned leave must be debited at the commencement of the following anniversary year/s.
- (b) The requirements of the *Minimum Conditions of Employment Act 1993* must be met at the commencement of the following anniversary year. The remaining portion of debited personal leave, which exceeds the leave credited, is to be debited at the commencement of the subsequent and where necessary following anniversary year/s.
- (c) Where a Health Worker ceases duty and has taken personal leave, which exceeds the leave credited for that anniversary year, the Health Worker must refund the value of the unearned leave, calculated at the rate of salary as at the date the leave was taken. No refund is required in the event of the death of the Health Worker.

### **32.12 Access**

- (a) A Health Worker is unable to access personal leave while on any period of parental leave or leave without pay. A Health Worker is unable to access personal leave while on any period of annual or long service leave, except as provided for in sub-clauses 32.18 and 32.19 (Re-crediting Leave).
- (b) If a Health Worker has exhausted all accrued personal leave the employer may allow the Health Worker who has at least twelve months service to anticipate up to 38 hours personal leave from next year's credit. If the Health Worker ceases duty before accruing the leave, the value of the unearned portion must be refunded to the employer, calculated at the rate of salary as at the date the leave was taken, but no refund is required in the event of the death of the Health Worker.
- (c) In exceptional circumstances the employer may approve the conversion of a Health Worker's personal leave credits to half pay to cover an absence on personal leave due to illness.

### **32.13 Application for Personal Leave**



Reasonable and legitimate requests for personal leave will be approved subject to available credits. Subject to sub-clause 32.2 the employer may grant personal leave in the following circumstances:

- (a) where the Health Worker is ill or injured;
- (b) to provide care or support to a member of the employee's family or household who requires care or support because of an illness or injury to the member; or an unexpected emergency affecting the member;
- (c) for unanticipated matters of a compassionate or pressing nature which arise without notice and require immediate attention; or
- (d) by prior approval of the employer, having regard for agency requirements and the needs of the Health Worker, planned matters where arrangements cannot be organised outside of normal working hours or be accommodated by the utilisation of flexible working hours or other leave. Planned personal leave will not be approved for regular ongoing situations.

32.14 Health Workers must complete the necessary application and clearly identify which of the above circumstances apply to their personal leave request.

32.15 The definition of family will be the definition contained in the *Equal Opportunity Act 1984* for "relative". That is, a person who is related to the Health Worker by blood, marriage, affinity or adoption and includes a person who is wholly or mainly dependent on, or is a member of the household of, the Health Worker.

32.16 Where practicable, the Health Worker must give reasonable notice prior to taking leave. Where prior notice cannot be given, the Health Worker must advise the Employer as soon as reasonably practicable of the inability to attend for work, the nature of the illness or injury and the estimated period of absence. This advice will be provided within 24 hours of commencement of the absence, other than in extraordinary circumstances.

#### **32.17 Evidence**

- (a) An application for personal leave exceeding two (2) consecutive working days will be supported by evidence that would satisfy a reasonable person of the entitlement.
- (b) Personal leave will not be granted where a Health Worker is absent from duty because of personal illness directly caused by the misconduct of the Health Worker in the course of employment.
- (c) If the employer has reason to believe that a Health Worker is in such a state of health as to render a danger to themselves, fellow Health Workers or the public, the Health Worker may be required to obtain and furnish a report as to the Health Worker's condition from a registered medical practitioner nominated by the Employer. The fee for any such examination will be paid by the Employer.

#### **32.18 Re-crediting Annual Leave**

Where a Health Worker is ill during the period of annual leave and produces at the time, or as soon as practicable thereafter, medical evidence to the satisfaction of the Employer that as a result of the illness the Health Worker was confined to their place of residence or a hospital for a period of at least seven (7) consecutive calendar days, the Employer may grant personal leave for the period during which the Health Worker was so confined and reinstate annual leave equivalent to the period of confinement.

#### **32.19 Re-crediting Long Service Leave**

Where a Health Worker is ill during the period of long service leave and produces at the time, or as soon as practicable thereafter, medical evidence to the satisfaction of the Employer that as a result of illness the Health Worker was confined to their place of residence or a hospital for a period of at least 14 consecutive calendar days, the Employer may grant personal leave for the period during which the Health Worker was so confined and reinstate long service leave equivalent to the period of confinement.

### **32.20 Personal Leave Without Pay Whilst Ill or Injured**

- (a) Health Workers who have exhausted all of their personal leave entitlements and are ill or injured may apply for personal leave without pay. Health Workers are required to complete the necessary application and provide evidence to satisfy a reasonable person. The Employer will not unreasonably withhold this leave.
- (b) Personal leave without pay not exceeding a period of three months in a continuous absence does not affect salary increment dates, anniversary date of sick leave credits, long service leave entitlements or annual leave entitlements. Where a period of personal leave without pay exceeds three months in a continuous absence, the period in excess of three months is excised from qualifying service.
- (c) Personal leave without pay is not available to Health Workers who have exhausted all of their personal leave entitlements and are seeking leave for circumstances outlined in paragraphs 32.13(b), (c) or (d). However, other forms of leave including leave without pay may be available.

### **32.21 Other Conditions**

- (a) Where a Health Worker who has been retired from the Public Sector on medical grounds resumes duty therein, personal leave credits at the date of retirement will be reinstated. This provision does not apply to a Health Worker who has resigned from the Public Sector and is subsequently reappointed.
- (b) Unused personal leave will not be cashed out or paid out when a Health Worker ceases their employment.

### **32.22 Workers' Compensation**

Where a Health Worker suffers a disease or injury within the meaning of section 5 of the *Workers' Compensation and Injury Management Act 1981* which necessitates that Health Worker being absent from duty, personal leave with pay will be granted to the extent of personal leave credits. In accordance with section 80(2) of the *Workers' Compensation and Injury Management Act 1981* where the claim for workers' compensation is decided in favour of the Health Worker, personal leave credit is to be reinstated and the period of absence will be granted as leave without pay.

### **32.23 Portability**

The Employer will credit a Health Worker additional personal leave credits up to those held at the date that Health Worker ceased previous employment provided:

- (a) immediately prior to commencing employment in the Public Sector of Western Australia, the Health Worker was employed in the service of:
  - (i) the Commonwealth Government of Australia, or
  - (ii) any other State of Australia, or

- (iii) in a State body or statutory authority prescribed by *Administrative Instruction 611*; and
- (b) the Health Worker's employment with the Public Sector of Western Australia commenced no later than one (1) week after ceasing previous employment, and
- (c) the personal leave credited will be no greater than that which would have applied had the entitlement accumulated whilst employed in a State body or statutory authority prescribed by *Administrative Instruction 611*.

32.24 The maximum break in employment permitted by sub-clause 32.23(b), may be varied by the approval of the Employer provided that where employment with the Public Sector of Western Australia commenced more than one (1) week after ceasing the previous employment, the period in excess of one (1) week does not exceed the amount of accrued and pro rata annual leave paid out at the date the Health Worker ceased with the previous employer.

### **32.25 Travelling Time for Regional Health Workers**

- (a) Subject to the evidentiary requirements set out in sub-clause 45.17, a regional Health Worker who requires medical attention at a medical facility in Western Australia located 240 km or more from their workplace will be granted paid travel time undertaken during the Health Worker's ordinary working hours up to a maximum of 38 hours per annum.
- (b) The Employer may approve additional paid travel time to a medical facility in Western Australia where the Health Worker can demonstrate to the satisfaction of the Employer that more travel time is warranted.
- (c) The provisions of sub-clauses 32.25(a) and (b) are not available to Health Workers whilst on leave without pay or sick leave without pay.
- (d) The provisions of sub-clauses 32.20(a) and (b) apply as follows.
  - (i) A Health Worker employed on a fixed term contract for a period greater than 12 months, will be credited with the same entitlement as a permanent Health Worker for each full year of service and pro rata for any residual portion of employment.
  - (ii) A Health Worker employed on a fixed term contract for a period less than 12 months will be credited with the same entitlement on a pro-rata basis for the period of employment.
  - (iii) A part time Health Worker will be entitled to the same entitlement as a full time Health Worker for the period of employment, but on a pro-rata basis according to the number of ordinary hours worked each fortnight.
  - (iv) The provisions of this sub-clause do not apply to casual Health Workers.

### **32.26 Unpaid Carer's Leave**

- (a) Subject to the provisions of sub-clause 32.26(b) a Health Worker, including a casual Health Worker, is entitled to unpaid carer's leave of up to two (2) days for each occasion (a "permissible occasion") on which a member of the Health Worker's family or household requires care or support because of:
  - (i) an illness or injury of the member; or
  - (ii) an unexpected emergency affecting the member; or

- (iii) the birth of a child of the member.
- (b) A Health Worker is entitled to unpaid carers leave for particular permissible occasion only if the Health Worker cannot take paid carers leave during the period.
- (c) The definition of family is the same as provided for at sub-clause 32.15.
- (d) The employer may grant a Health Worker unpaid carers leave in excess of two (2) days.
- (e) Unpaid carers leave may be taken on an hourly basis.

### 33. PARENTAL LEAVE

#### 33.1 Definitions

For the purpose of this clause the following terms shall have the following meaning:

- (a) "Child" all references in this clause to a child should be read as including children of multiple birth or adoption.
- (b) "Health Worker" includes full time, part time, permanent and eligible casual Health Workers, and fixed term contract Health Workers for the duration of their contract.
- (c) "Eligible casual Health Worker": A casual Health Worker is eligible if the Health Worker –
  - (i) has been engaged in the public sector on a regular and systematic basis for a sequence of periods of employment during a period of at least twelve (12) months; and
  - (ii) but for an expected birth of a child to the Health Worker or Health Worker's spouse or defacto partner or an expected placement of a child with the Health Worker with a view to the adoption of the child by the Health Worker, would have a reasonable expectation of continuing engagement by the Employer on a regular and systematic basis.
- (d) Without limiting sub-clause 33.1(c)(i) and (ii) a casual Health Worker is also eligible if the Health Worker –
  - (i) was engaged in the public sector on a regular and systemic basis for a sequence of periods during a period (the first period of employment) of less than twelve (12) months; and
  - (ii) at the end of the first period of employment, the Health Worker ceased, on the Employers initiative, to be so engaged by the public sector Employer; and
  - (iii) the public sector Employer later again engaged the Health Worker on a regular and systemic basis for a further sequence of periods during a period (the second period of employment) that started not more than three (3) months after the end of the first period of employment; and
  - (iv) the combined length of the first period of employment and the second period of employment is at least twelve (12) months; and

- (v) the Health Worker, but for an expected birth of a child to the Health Worker or the Health Worker's spouse or defacto partner or an expected placement of a child with the Health Worker with a view to adoption of the child by the Health Worker, would have a reasonable expectation of continuing engagement in the public sector on a regular and systematic basis.
- (e) "Primary care giver" means the Health Worker who will assume the principal role for the care and attention of a newly born or newly adopted child as defined by this clause.
- (f) "Replacement Health Worker" means a Health Worker specifically engaged to replace a Health Worker proceeding on parental leave.
- (g) "Public Sector" means all agencies, ministerial offices and non-SES organisation as defined in section 3 of *the Public Sector Management Act 1994*.

### Entitlement to Parental Leave

#### 33.2 Unpaid Parental Leave

- (a) A Health Worker is entitled to a period of up to 52 weeks' unpaid parental leave in respect of the:
  - (i) birth of a child to the Health Worker or Health Worker's partner; or
  - (ii) adoption of a child who is not the natural child or step child of the Health Worker or Health Worker's partner; is under the age of five (5); and has not lived continuously with the Health Worker for six (6) months or longer.

#### 33.3 Paid Parental Leave

- (a) Subject to sub-clauses 33.3(b) and 33.7 a Health Worker is entitled to 14 weeks continuous paid parental leave from 1 July 2008.
- (b) The paid parental leave entitlement provided in sub-clause 33.3(a):
  - (i) can be accessed by a pregnant Health Worker in accordance sub-clause 33.7(a);
  - (ii) can only be accessed by a Health Worker who is the primary care giver of a newly born or newly adopted child;
  - (iii) can only be accessed by a Health Worker who has completed 12 months' continuous service in the Western Australian public sector;
  - (iv) is provided only in respect to the:
    - (aa) birth of a child to the Health Worker or the Health Worker's partner; or
    - (bb) adoption of a child who is not the natural child or the stepchild of the Health Worker or the Health Worker's partner; is under the age of five; and has not lived continuously with the Health Worker for six months or longer.
  - (v) cannot be accessed by eligible casual Health Workers; and
  - (vi) forms part of the 52 weeks' unpaid parental leave entitlement provided in sub-clause 33.2(a).

- (c) The quantum of paid parental leave available to a Health Worker is determined according to the quantum that applied at the date of commencement of the Health Worker's period of paid or unpaid parental leave.

33.4 A Health Worker may take the paid parental leave specified in sub-clause 33.3 at half pay for a period equal to twice the period to which the Health Worker would otherwise be entitled.

33.5 The period of paid parental leave taken by the primary care giver of a newly born or newly adopted child shall not exceed the period specified in sub-clause 33.3 or its half pay equivalent.

### **33.6 Qualifying Service**

- (a) Paid parental leave will count as qualifying service for all purposes under this Agreement.
- (b) Qualifying service for any purpose under this Agreement is to be calculated according to the number of weeks of paid parental leave that were taken at full pay or would have been had the Health Worker not taken paid parental leave at half pay. Health Workers who take paid parental leave on half pay do not accrue Agreement entitlements beyond those that would have accrued had they taken the leave at full pay.

### **33.7 Commencement of paid parental leave**

- (a) A pregnant Health Worker may commence paid parental leave any time up to six weeks before the expected date of birth.
- (b) Provided that the period of paid parental leave is concluded within 12 months of the birth or placement of the child, a Health Worker identified as the primary care giver of a newly born or newly adopted child may commence the period of paid parental leave from:
  - (i) the child's birth date; or
  - (ii) for the purposes of adoption, the date of placement of the child; or
  - (iii) a later date nominated by the primary care giver.
- (c) Notwithstanding sub-clause 33.7(b), the Employer may, in exceptional circumstances, allow a Health Worker to take a period of paid parental leave as prescribed in sub-clause 33.3 that will result in the Health Worker being on paid parental leave more than 12 months after the birth of placement of the Health Worker's child.
- (d) The Employer may require evidence that would satisfy a reasonable person that the circumstances warrant allowing the Health Worker to take their period of parental leave more than 12 months after the birth or placement of the Health Worker's child.

### **33.8 Shared parental leave**

- (a) Subject to sub-clause 33.8(b), the paid parental leave entitlement may be shared between partners assuming the role of the primary care giver of a newly born or newly adopted child.
- (b) Where both partners work in the public sector, the total paid parental leave entitlement provided to the Health Worker shall not exceed the paid parental leave quantum for a single Health Worker as specified in sub-clause 33.3 or its half pay equivalent.
- (c) The unpaid parental leave entitlement may be shared between partners.

- (d) A Health Worker and their partner may only take paid and/or unpaid parental leave concurrently in exceptional circumstances with the approval of the Employer or in accordance with sub-clause 33.14(c).
- 33.9
- (a) A Health Worker must take parental leave in one continuous period. Where less than the standard parental leave is taken the unused portion of the period of paid or unpaid leave cannot be preserved in any way.
  - (b) Notwithstanding sub-clause 33.9(a):
    - (i) paid parental leave may be taken in more than one continuous period by a Health Worker who meets the requirements of sub-clause 33.14; and
    - (ii) unpaid parental leave may be taken in more than one continuous period where the Health Worker undertakes special temporary or casual employment in accordance with sub-clause 33.31. In these circumstances, the provisions of sub-clause 33.31 apply.

### **33.10 Payment for paid parental leave**

- (a) Subject to sub-clause 33.10(b), a Health Worker proceeding on paid parental leave is to be paid according to their ordinary working hours at the time of commencement of parental leave. Shift and weekend penalty payments and higher duties allowances are not payable during paid parental leave.
  - (b) Payment for a part time Health Worker proceeding on paid parental leave is to be determined according to:
    - (i) an average of the hours worked by the Health Worker over the preceding 12 months; or
    - (ii) their ordinary working hours at the time of commencement of paid parental leave;
 whichever is the greater.
  - (c) A Health Worker may elect to receive pay in advance for the period of paid parental leave at the time the parental leave commences, or may elect to be paid the entitlement on a fortnightly basis over the period of the paid parental leave.
- 33.11
- (a) A Health Worker is eligible, without concluding their parental leave and resuming duty, for subsequent periods of parental leave, including paid parental leave, in accordance with the provisions of this clause.
  - (b) Where a Health Worker has not concluded their period of parental leave and resumed duty, and the Health Worker is entitled to a subsequent period of paid parental leave, the Health Worker's paid parental leave is:
    - (i) to be paid according to the Health Worker's status and classification at the time of commencing the original period of parental leave; and
    - (ii) not affected by any period of special temporary or casual 33.31.

### **33.12 Medical Certificates**

- (a) A Health Worker who has given the Employer notice of their intention to take paid or unpaid parental leave, or unpaid partner leave shall provide the Employer with a medical certificate from a registered medical practitioner naming the Health Worker, or the Health Worker's partner, confirming the pregnancy and estimated date of birth.
  - (b) Where a Health Worker continues to work within the six (6) week period immediately prior to the expected date of birth, or where the Health Worker elects to return to work within six (6) weeks after the birth of the child, the Employer may require the Health Worker to provide a medical certificate stating that she is fit to work on her normal duties.
- 33.13 If the pregnancy results in other than a live child or the child dies during the period of paid parental leave, the entitlement to paid parental leave as provided in sub-clause 33.3 remains intact. Such paid parental leave cannot be taken concurrently with paid sick or personal leave in accordance with sub-clause 33.21.
- 33.14 Paid parental leave when the mother is, for any period of her leave, incapable of being her child's primary care giver
- (a) A Health Worker who commenced paid parental leave prior to her child's birth and:
    - (i) who is incapacitated following the birth of her child and is therefore incapable of being its primary care giver; or
    - (ii) whose child requires hospitalisation such that the Health Worker and her partner are not their child's primary care giver; is entitled to remain on paid parental leave, notwithstanding that she is not the child's primary care giver.
  - (b) A Health Worker is not entitled to access paid parental leave when they are not their child's primary care giver other than in the circumstances identified in sub-clause 33.14(a).
  - (c) If both parents work in the public sector and the mother is able to remain on paid parental leave in accordance with sub-clause 33.14(a)(i), the Health Workers may choose which parent will access paid parental leave.
    - (i) If the mother chooses to remain on paid parental leave, her partner may access unpaid parental leave for the period they are their child's primary care giver.
    - (ii) If the mother's partner is their child's primary care giver and chooses to access paid parental leave, the mother may access unpaid parental leave for the period her partner is their child's primary care giver.
    - (iii) Where the mother's partner accesses paid parental leave in accordance with sub-clause 33.14(c)(ii), the mother is entitled to resume paid parental leave if/when she becomes her child's primary care giver, subject to the provisions of sub-clause 33.8(b).
    - (iv) If the mother resumes paid parental leave in accordance with sub-clause 33.14(c)(iii), her partner must cease paid parental leave.
  - (d) A Health Worker is not entitled to access the provisions of sub-clause 33.14(c) of this clause in the circumstances identified in 33.14(a)(ii).

### **33.15 Adoption of a child**



- (a) A Health Worker seeking to adopt a child shall be entitled to two days unpaid leave to attend interviews or examinations required for the adoption procedure. Health Workers working or residing outside the Perth metropolitan area are entitled to an additional day's unpaid leave. The Health Worker may take any paid leave entitlement to which the Health Worker is entitled in lieu of this leave.
- (b) If an application for parental leave has been granted for the adoption of a child, which does not eventuate, then the period of paid or unpaid parental leave is terminated. Health Workers may take any other paid leave entitlement to which they are entitled in lieu of the terminated parental leave or return to work.

#### 33.16 Confirmation of primary care giver status

- (a) For the purposes of sub-clause 33.3, an Employer may require a Health Worker to provide confirmation of their primary care giver status.
- (b) Where an Employer requires a Health Worker to confirm their status as the primary care giver of a newly born or newly adopted child, the Health Worker is to provide the Employer with evidence that would satisfy a reasonable person of the entitlement to paid parental leave. Such evidence may include a medical certificate or statutory declaration.

#### **Partner Leave**

- 33.17 (a) A Health Worker is entitled to unpaid partner leave as prescribed by this sub-clause in respect of the:
- (i) birth of a child to the Health Worker or the Health Worker's partner; or
  - (ii) adoption of a child who is not the natural child or the stepchild of the Health Worker or the Health Worker's partner; is under the age of five; and has not lived continuously with the Health Worker for six months or longer.
- (b) A Health Worker who is not taking parental leave with respect to the birth of child to their partner shall be entitled to a period of unpaid partner leave of up to one week at the time of the child's birth. In the case of adoption of a child this period shall be increased to up to three weeks' unpaid leave.
- (c) The Health Worker may request to extend the period of unpaid partner leave up to a maximum of eight weeks.
- (d) The Employer is to agree to a Health Worker's request to extend their partner leave under sub-clause 33.17(c) unless:
- (i) having considered the Health Worker's circumstances, the Employer is not satisfied that the request is genuinely based on the Health Worker's parental responsibilities; or
  - (ii) there are grounds to refuse the request relating to its adverse effect on the Employer's business and those grounds would satisfy a reasonable person. These grounds include, but are not limited to:
    - (aa) cost;
    - (bb) lack of adequate replacement staff;
    - (cc) loss of efficiency; and

- (dd) impact on the production or delivery of products or services  
by the Employer.
- (e) The Employer is to give the Health Worker written notice of the Employer's decision on a request for extended partner leave. If the Health Worker's request is refused, the notice is to set out the reasons for the refusal.
- (f) A Health Worker who believes their request for extended partner leave under sub-clause 33.17(c) has been unreasonably refused may seek to enforce it as a minimum condition of employment and the onus will be on the Employer to demonstrate that the refusal was justified in the circumstances.
- (g) The taking of partner leave by a Health Worker shall have no effect on their or their partner's entitlement, where applicable, to paid parental leave under this clause.

### **Other Leave Entitlements**

#### **33.18 Annual and long service leave**

- (a) A Health Worker proceeding on unpaid parental leave may elect to substitute any part of that leave with accrued annual leave or long service leave to which the Health Worker is entitled for the whole or part of the period of unpaid parental leave.
- (b)
  - (i) A Health Worker may elect to substitute any part of their entitlement to one week's unpaid partner leave as provided for in sub-clause 33.17(b) with accrued annual or long service leave to which the Health Worker is entitled for the whole or part of that period of unpaid partner leave.
  - (ii) Where an Employer agrees to a Health Worker's request to extend their period of unpaid partner leave under sub-clause 33.17(c), the Employer must allow a Health Worker to elect to substitute any part of that period of unpaid partner leave with accrued annual or long service leave to which the Health Worker is entitled for the whole or part of that period of unpaid partner leave.

#### **33.19 Time off in lieu of overtime**

A Health Worker proceeding on unpaid parental leave or unpaid partner leave may elect to substitute any part of that leave with accrued time off in lieu of overtime to which the Health Worker is entitled for the whole or part of the period of unpaid parental leave or unpaid partner leave.

#### **33.20 Leave without pay**

- (a) Subject to all other leave entitlements being exhausted a Health Worker shall be entitled to apply for leave without pay following parental leave to extend their leave by up to two years. The Employer is to agree to a request to extend their leave unless:
  - (i) having considered the Health Worker's circumstances, the Employer is not satisfied that the request is genuinely based on the Health Worker's parental responsibilities; or
  - (ii) there are grounds to refuse the request relating to its adverse effect on the Employer's business and those grounds would satisfy a reasonable person. These grounds include, but are not limited to:
    - (aa) cost;

- (bb) lack of adequate replacement staff;
  - (cc) loss of efficiency;
  - (dd) impact on the production or delivery of products or services by the Employer.
- (b) The Employer is to give the Health Worker written notice of the Employer's decision on a request for leave without pay under sub-clause 33.20(a). If the request is refused, the notice is to set out the reasons for the refusal.
  - (c) A Health Worker who believes their request for leave without pay under sub-clause 33.20(a) has been unreasonably refused may seek to enforce it as a minimum condition of employment and the onus will be on the Employer to demonstrate that the refusal was justified in the circumstances.
  - (d) Any period of leave without pay must be applied for and approved in advance and will be granted on a year-by-year basis. Where both partners work for the Employer the total combined period of leave without pay following parental leave shall not exceed two years.

### **33.21 Sick or personal leave**

- (a) A Health Worker on paid or unpaid parental leave is not entitled to paid sick or personal leave other than as specified in sub-clause 33.21(b).
- (b) Should the birth or adoption result in other than the arrival of a living child, the Health Worker shall be entitled to such period of paid sick or personal leave to which the Health Worker is entitled or unpaid leave for a period certified as necessary by a registered medical practitioner. Paid sick or personal leave cannot be taken concurrently with paid parental leave.
- (c) Where a pregnant Health Worker not on parental leave suffers illness related to the pregnancy or is required to undergo a pregnancy related medical procedure the Health Worker may take any paid sick or personal leave to which the Health Worker is entitled or unpaid leave for a period as certified necessary by a registered medical practitioner.
- (d) A Health Worker on unpaid partner leave is not entitled to paid sick or personal leave.

### **33.22 Public holidays**

Any public holidays that fall during paid or unpaid parental leave, or unpaid partner leave shall be counted as part of the parental or partner leave and do not extend the period of parental or partner leave.

### **Notice and Variation**

- 33.23
- (a) The Health Worker shall give not less than four weeks notice in writing to the Employer of the date the Health Worker proposes to commence paid or unpaid parental leave, or unpaid partner leave stating the period of leave to be taken.
  - (b) A Health Worker seeking to adopt a child shall not be in breach of sub-clause 33.23(a) by failing to give the required period of notice if such failure is due to the requirement of the adoption agency to accept earlier or later placement of a child, or other compelling circumstances.

- (c) A Health Worker proceeding on parental leave may elect to take a shorter period of parental leave to that provided by sub-clause 33.2 and may at any time during that period elect to reduce or extend the period stated in the original application, provided four weeks written notice is provided.

#### **Modification of Duties or Transfer to a Safe Job**

##### 33.24 Part time employment during pregnancy

- (a) A pregnant Health Worker may work part time in one or more periods whilst she is pregnant where she provides her Employer with a medical certificate from a medical practitioner advising that part time employment is, because of her pregnancy, necessary or preferable.
- (b) The terms of part time employment undertaken in accordance with sub-clause 33.24(a) shall be in writing.
- (c) Such employment shall be in accordance with the part time employment and parental leave provisions of this Agreement.
- (d) Unless otherwise agreed between the Employer and Health Worker, a Health Worker will provide their Employer with four weeks written notice of an intention to:
  - (i) vary part time work arrangements made under sub-clause 33.24(b); or
  - (ii) revert to full time employment during the Health Worker's pregnancy.
- (e) A Health Worker reverting to full time employment in accordance with sub-clause 33.24(d)(ii) will be entitled to the same position or a position equivalent in pay, conditions and status and commensurate with the Health Worker's skill and abilities as the substantive position held immediately prior to undertaking part time employment.

33.25 If a Health Worker gives the Employer a medical certificate from a medical practitioner containing a statement to the effect that, in the medical practitioner's opinion, the Health Worker is fit to work, but that it is inadvisable for her to continue in her present position for a stated period because of:

- (a) illness, or risks, arising out of her pregnancy; or
- (b) hazards connected with that position;

then the Employer must modify the duties of the position or alternatively transfer the Health Worker to a safe job at the same classification level for the period during which she is unable to continue in her present position.

33.26 If the Employer does not think it to be reasonably practicable to modify the duties of the position or transfer the Health Worker to a safe job the Health Worker is entitled to paid leave for the period during which she is unable to continue in her present position.

33.27 An entitlement to paid leave provided in sub-clause 33.26 is in addition to any other leave entitlement the Health Worker has and the Health Worker is to be paid the amount she would reasonably have expected to be paid if she had worked during that period. This entitlement also applies to eligible casual Health Workers.

33.28 An entitlement to paid leave provided in sub-clause 33.26 ends at the earliest of whichever of the following times is applicable:

- (a) the end of the period stated in the medical certificate;

- (b) if the Health Worker's pregnancy results in the birth of a living child – the end of the day before the date of birth; or
- (c) if the Health Worker's pregnancy ends otherwise than with the birth of a living child – the end of the day before the end of the pregnancy.

#### **Communication during Parental Leave**

- 33.29 (a) Where a Health Worker is on parental leave and a definite decision has been made to introduce significant change at the workplace, the Employer will take reasonable steps to:
- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the Health Worker held before commencing parental leave; and
  - (ii) provide an opportunity for the Health Worker to discuss any significant effect the change will have on the status or responsibility level of the position the Health Worker held before commencing parental leave.
- (b) A Health Worker shall take reasonable steps to inform their Employer about any significant matter that will affect the Health Worker's decision regarding:
- (i) the duration of parental leave to be taken;
  - (ii) whether the Health Worker intends to return to work; and
  - (iii) whether the Health Worker intends to return to work on a part-time or modified basis.
- (c) A Health Worker shall also notify their Employer of changes of address or other contact details that might affect the Employer's capacity to comply with sub-clause 33.29(a).

#### **Replacement Health Worker**

- 33.30 (a) Prior to engaging a replacement Health Worker the Employer shall inform the replacement person of:
- (i) the temporary nature of the employment;
  - (ii) the entitlements relating to the return to work of the Health Worker on parental leave or that Health Worker's capacity to undertake special temporary or casual employment during their period of unpaid parental leave; and
  - (iii) any consequences for the replacement Health Worker should the Health Worker on parental leave return early from leave or seek an extension to their period of parental leave.
- (b) A replacement Health Worker may be employed part time. Such employment shall be in accordance with "Clause 11 – Contract of Service".
- (c) Nothing in this sub-clause will be construed as requiring an Employer to engage a replacement Health Worker.

#### **Employment During Parental Leave**

- 33.31 (a) The provisions of sub-clause 33.31 only apply to employment during:

- (i) unpaid parental leave; and
  - (ii) leave without pay taken in conjunction with parental leave as provided for in sub-clause 33.20.
- (b) The Employer cannot employ a Health Worker in special temporary or casual employment whilst the Health Worker is on a period of:
- (i) paid parental leave; or
  - (ii) annual or long service leave taken concurrently with a period of unpaid parental leave.
- (c) Special temporary employment**
- (i) For the purposes of sub-clause 33.31, “temporary” means employment:
    - (aa) of an intermittent nature;
    - (bb) for a limited, specified period;
    - (cc) undertaken during unpaid parental leave or leave without pay taken in conjunction with unpaid parental leave; and
    - (dd) excluding employment undertaken in accordance with sub-clause 33.31(d).
  - (ii) Notwithstanding any other provision of the parental leave clause, a Health Worker may be employed by their Employer on a temporary basis provided that:
    - (aa) both parties agree in writing to the special temporary employment;
    - (bb) Health Workers are employed at the level commensurate to the level of the available position under the relevant Award or Agreement;
    - (cc) in the case of a fixed term contract Health Workers, the period of temporary employment is within the period of the current fixed term contract;
    - (dd) any such period of service shall not change the Health Worker’s employment status in regard to their substantive employment; and
    - (ee) any period of special temporary employment shall count as qualifying service for all purposes of this Agreement.
- (d) Special casual employment**
- (i) For the purposes of this sub-clause, “casual” means employment:
    - (aa) on an hourly basis for a period not exceeding four weeks in any period of engagement;
    - (bb) for which a casual loading is paid;
    - (cc) undertaken during unpaid parental leave or leave without pay taken in conjunction with unpaid parental leave; and

- (dd) excluding employment undertaken in accordance with sub-clause 14.31(3).
- (ii) Notwithstanding any other provision of the parental leave clause, a Health Worker, may be employed by their Employer on a casual basis provided that:
  - (aa) both parties agree in writing to the special casual employment;
  - (bb) Health Workers are employed at the level commensurate to the level of the available position under the relevant Award or Agreement;
  - (cc) in the case of a fixed term contract Health Worker, the period of casual employment is within the period of the current fixed term contract;
  - (dd) any such period of service shall not break the Health Worker's continuity of service nor change the Health Worker's employment status in regard to their substantive employment; and
  - (ee) any period of special casual employment shall not count as qualifying service other than with respect to entitlements a casual Health Worker would ordinarily be entitled to for any purpose under this Agreement.
- (e) For every period of special temporary or casual employment, the following records must be kept:
  - (i) the agreements made between the parties for periods of special temporary or casual employment;
  - (ii) the dates of commencement and conclusion of each period of special temporary and/or casual employment;
  - (iii) the hours worked by the Health Worker during such periods; and
  - (iv) the classification level at which the Health Worker is employed during such periods.
- (f) Effect of special temporary or casual employment on unpaid parental leave
  - (i) Subject to sub-clause 33.31(f)(ii), periods of special temporary and/or casual employment shall be deemed to be part of the Health Worker's period of unpaid parental leave or leave without pay taken in conjunction with parental leave as originally agreed to by the parties.
  - (ii) A Health Worker who immediately resumes unpaid parental leave or leave without pay following parental leave following the conclusion of a period of special temporary or casual employment:
    - (aa) is entitled, on written notice, to extend their period of unpaid parental leave or leave without pay taken in conjunction with parental leave by the period of time in which they were engaged in special temporary and/or casual employment; and
    - (bb) shall give not less than four weeks' notice in writing to their Employer of the new date they intend to return to work and so conclude their period of parental leave or leave without pay taken in conjunction with parental leave.

- (iii) A Health Worker who does not immediately resume their period of unpaid parental leave or leave without pay taken in conjunction with parental leave at the conclusion of a period of special temporary or casual employment cannot preserve the unused portion of leave for use at a later date.

**Return to Work on Conclusion of Parental Leave**

- 33.32 (a) (i) A Health Worker shall confirm their intention to conclude their parental leave or leave without pay following parental leave and return to work by notice in writing to their Employer not less than four weeks prior to the expiration of parental leave or leave without pay.
- (ii) A Health Worker who intends to return to work on a modified basis in accordance with sub-clause 33.32(d), will advise their Employer of this intention by notice in writing not less than four weeks prior to the expiration of parental leave or leave without pay.
- (b) A Health Worker on return to work following the conclusion of parental leave or leave without pay following parental leave will be entitled to the same position or a position equivalent in pay, conditions and status and commensurate with the Health Worker's skill and abilities as the substantive position held immediately prior to proceeding on parental leave.
- (c) Where a Health Worker was transferred to a safe job or proceeded on leave as provided for in sub-clauses 33.24 to 33.28, the Health Worker is entitled to return to the position occupied immediately prior to the transfer or the taking of the leave.
- (d) Right to return to work on a modified basis**
- (i) A Health Worker may return on a part time or job-share basis to the substantive position occupied prior to the commencement of leave or to a different position at the same classification level in accordance with "Clause 11 – Contract of Service" of this Agreement.
- (ii) A Health Worker may return on a modified basis that involves the Health Worker working on different days or at different times, or both; or on fewer days or for fewer hours or both, than the Health Worker worked immediately before starting parental leave.
- (e) Right to revert**
- (i) A Health Worker who has returned on a part time or modified basis in accordance with sub-clause 33.32(d) may subsequently request the Employer to permit the Health Worker to resume working on the same basis as the Health Worker worked immediately before starting parental leave or full time work at the same classification level.
- (ii) The Employer is to agree to a request to revert made under paragraph 33.32(e)(i) unless there are grounds to refuse the request relating to the adverse effect that agreeing to the request would have on the conduct of operations or business of the Employer and those grounds would satisfy a reasonable person.
- (iii) An Employer is to give the Health Worker written notice of the Employer's decision on a request to revert under paragraph 33.32(e)(i). If the request is refused, the notice is to set out the reasons for the refusal.



- (iv) A Health Worker who believes their request to revert under paragraph 33.32(e)(i) has been unreasonably refused may seek to enforce it as a minimum condition of employment and the onus will be on the Employer to demonstrate that the refusal was justified in the circumstances.

#### **Effect of Parental Leave and Partner Leave on the Contract of Employment**

- 33.33 (a) A Health Worker employed for a fixed term contract shall have the same entitlement to parental leave and partner leave, however the period of leave granted shall not extend beyond the term of that contract.
- (b) (i) Absence on unpaid parental leave or unpaid partner leave shall not break the continuity of service of Health Workers.
- (ii) Where a Health Worker takes a period of unpaid parental leave or unpaid partner leave exceeding 14 calendar days in one continuous period, the entire period of such leave shall not be taken into account in calculating the period of service for any purpose under this Agreement. Periods of unpaid leave of 14 days or less shall, however, count for service.
- (c) A Health Worker on parental leave or partner leave may terminate employment at any time during the period of leave by written notice in accordance with "Clause 11 – Contract of Service" of this Agreement.
- (d) An Employer shall not terminate the employment of a Health Worker on the grounds of the Health Worker's application for parental leave or partner leave or absence on parental leave or partner leave but otherwise the rights of the Employer in respect of termination of employment are not affected.

#### **Casual Health Workers**

- 33.34 (a) To avoid doubt, an eligible casual Health Worker has no entitlement to paid leave under this clause with the exception of the entitlement to paid leave as provided under sub-clauses 33.24 to 33.28.
- (b) Nothing in this clause confers a change in the employment status of a casual Health Worker.
- (c) Service performed by an eligible casual Health Worker for a public sector Employer shall count as service for the purposes of determining 12 months continuous service as per sub-clause 33.3(b)(iii) where:
- (i) the eligible casual Health Worker has become a permanent or fixed term contract Health Worker with the same Employer; and
  - (ii) the break between the period of eligible casual employment and permanent or fixed term contract employment is no more than three months.

### **34. BEREAVEMENT LEAVE**

- 34.1 An Employee, including a casual employee, may, on the death of a relative or client, be entitled to two days' paid leave, including the day of the funeral of such a relation. Up to 3 days further paid leave or unpaid leave may be made available to the Health Worker at the discretion of the Health Service General Manager where this is necessary for the Health Worker to meet their cultural obligations. An employee who has to travel interstate for a funeral will be granted three days' leave, additional to the initial two days.

34.2 In this clause, 'relative' will mean a person who is related to the Health Worker by blood, marriage, affinity or adoption and includes a person who is wholly or mainly dependent on, or is a member of the household of the Health Worker.

34.3 Any dispute in relation to awarding the discretionary period of up to three additional days of bereavement leave may require advice from the Co-ordinator, Aboriginal Health Work at the Office of Aboriginal Health.

### **35. DONOR LEAVE**

#### **35.1 Blood or Plasma Donation**

Subject to operational convenience, a Health Worker shall be granted paid leave for the purpose of donating blood or plasma to approved donor centres.

#### **35.2 Organ or Tissue Donation**

(a) Subject to the production of appropriate evidence, a Health Worker shall be entitled to up to six weeks' paid leave for the purpose of donating an organ or body tissue.

(b) Provided that where this paid leave is not sufficient and upon the production of a medical certificate, a Health Worker may access their accrued personal leave or other paid leave in order to cover their absence.

### **36. EMERGENCY SERVICES LEAVE**

36.1 Subject to operational requirements, paid leave of absence will be granted by the Employer to a Health Worker who is an active volunteer member of State Emergency Service, St John Ambulance Australia, Volunteer Fire and Rescue Service, Bush Fire Brigades, Volunteer Marine Rescue Services Groups or FESA Units, in order to allow for attendances at emergencies as declared by the recognised authority.

36.2 The Employer will be advised as soon as possible by a Health Worker, the emergency service, or other person as to the absence and, where possible, the expected duration of leave.

36.3 The Health Worker must complete a leave of absence form immediately upon return to work.

36.4 The application form must be accompanied by a certificate from the emergency organisation certifying that the Health Worker was required for the specified period.

36.5 A Health Worker, who during the course of an emergency, volunteers their services to an emergency organisation, will comply with sub-clauses 36.2, 36.3 and 36.4.

### **37. LEAVE FOR TRAINING WITH DEFENCE FORCE RESERVES**

37.1 The Employer must grant leave of absence for the purpose of defence service to a Health Worker who is a volunteer member of the Defence Force Reserves or the Cadet Force. Defence service means service, including training, in a part of the Reserves or Cadet Force.

37.2 Leave of absence may be paid or unpaid in accordance with the provisions of this clause.

37.3 Application for leave of absence for defence service will, in all cases, be accompanied by evidence that the request for leave relates to reserve service or training. At the expiration of the leave of absence granted, the Health Worker will provide a certificate of attendance to the Employer.

#### **37.4 Paid leave**

- (a) A Health Worker who is a volunteer member of the Defence Force Reserves or the Cadet Force is entitled to paid leave of absence for the purpose of attending a training camp, school, class or course of instruction, subject to the conditions set out hereunder.
- (b) Part-time Health Workers will receive the same paid leave entitlement as full time Health Workers but payment will only be made for those hours that would normally have been worked but for the leave.
- (c) On written application, a Health Worker will be paid salary in advance when proceeding on such leave.
- (d) Casual Health Workers are not entitled to paid leave for the purpose of defence service.

### **37.5 Attendance at a Camp for Annual Continuous Obligatory Training**

- (a) A Health Worker is entitled to paid leave for a period not exceeding ten 76 hours on full pay in any period of twelve months commencing on 1 July in each year.
- (b) If the Officer in-Charge of a military unit certifies that it is essential for a Health Worker to be at the camp in an advance or rear party, a maximum of 30.4 extra hours leave on full pay will be granted in the twelve-month period.

### **37.6 Attendance at One Special School, Class or Course of Instruction**

- (a) In addition to the paid leave granted under sub-clause 37.5, a Health Worker is entitled to a period not exceeding 16 calendar days in any period of twelve months commencing on July 1 in each year, provided the Employer is satisfied that the leave required is for a special purpose and not for a further routine camp.
- (b) In this circumstance, a Health Worker may elect to utilise annual leave credits. However, if the leave is not taken from annual leave, salary during the period will be at the rate of the difference between the normal remuneration of the Health Worker and the defence force payments to which the Health Worker is entitled if such payments do not exceed normal salary. In calculating the pay differential, pay for Saturdays, Sundays, Public Holidays and special rostered days off is to be excluded and no account is to be taken of the value of any board or lodging provided for the Health Worker.

### **37.7 Unpaid leave**

- (a) Any leave for the purpose of defence service that exceeds the paid entitlement prescribed in sub-clauses 37.5 and 37.6 will be unpaid.
- (b) Casual Health Workers are entitled to unpaid leave for the purpose of defence service.

### **37.8 Use of other leave**

- (a) A Health Worker may elect to use annual or long service leave credits for some or all of their absence on defence service, in which case they will be treated in all respects as if on normal paid leave.
- (b) The Employer cannot compel a Health Worker to use annual leave or long service leave for the purpose of defence service.

## **38. CULTURAL / CEREMONIAL LEAVE**

- 38.1 Cultural/ceremonial leave will be available to all Health Workers.

- 38.2 Such leave will include leave to meet the Health Worker's customs, traditional law and to participate in cultural and ceremonial activities.
- 38.3 Health Workers are entitled to time off without loss of pay for cultural/ceremonial purposes, subject to agreement between the Employer and Health Worker and sufficient leave credits being available.
- 38.4 The Employer will assess each application for ceremonial /cultural leave on its merits and give consideration to the personal circumstances of the Health Worker seeking the leave.
- 38.5 The Employer may request reasonable evidence of the legitimate need for the Health Worker to be allowed time off.
- 38.6 Cultural /ceremonial leave may be taken as whole or part days off. Each day or part thereof, will be deducted from:
- (a) The Health Worker's annual leave entitlements (where applicable); or
  - (b) Accrued days off or time in lieu.
- 38.7 Time off without pay may be granted by arrangement between the Employer and the Health Worker for cultural/ceremonial purposes.

**39. STUDY LEAVE**

- 39.1 A Health Worker may be granted time off with pay for part-time study purposes at the discretion of the Employer.
- 39.2 Part-time Health Workers are entitled to study leave on the same basis as full time Health Workers.
- 39.3 Time off with pay may be granted up to a maximum of five hours per week including travelling time, where subjects of approved courses are available during normal working hours, or where approved study by correspondence is undertaken.
- 39.4 External students, who are obliged to attend educational institutions for compulsory sessions during vacation periods, may be granted time off with pay including travelling time up to the maximum annual amount allowed to a Health Worker in the metropolitan area.
- 39.5 Health Workers will be granted sufficient time off with pay to travel to and sit for the examinations of any approved course of study.
- 39.6 In every case the approval of time off to attend lectures and tutorials will be subject to:
- (a) the Employer's convenience;
 

provided that the Employer's inconvenience can not be claimed because it is necessary to replace the Health Worker by utilising increased hours for part time staff, short term contract staff, or casual relief staff. Budgetary constraints should not factor into the Employer's convenience.
  - (b) the course being undertaken on a part-time basis;
  - (c) Health Workers undertaking an acceptable formal study load in their own time;
  - (d) Health Workers making satisfactory progress with their studies;
  - (e) the course being relevant to the Health Worker's career in the Health Service and being of value to the Employer; and

(f) the course furthering the career of the Health Worker.

- 39.7 An acceptable part-time study load should be regarded as not less than five hours per week of formal tuition, with at least half of the total formal study commitment being undertaken in the Health Worker's own time, except in special cases such as where the Health Worker is in the final year of study and requires less time to complete the course, or the Health Worker is undertaking the recommended part-time year or stage, and this does not entail five hours of formal study.
- 39.8 In cases where Health Workers are studying subjects which require fortnightly classes the weekly study load should be calculated by averaging over two weeks the total fortnightly commitment.
- 39.9 Travelling time returning home after lectures or tutorials is to be calculated as the excess time taken to travel home from such classes, compared with the time usually taken to travel home from the Health Worker's normal place of work.
- 39.10 A Health Worker will not be granted more than five hours time off with pay per week except in exceptional circumstances, where the Employer may decide otherwise.
- 39.11 Time off with pay for those who have failed a unit or units may be considered for one repeat year only.
- 39.12 Approved Courses
- (a) Two year full-time Certificate courses and Diploma courses provided by a registered vocational education and training institutions.
  - (b) Secondary courses leading to the Tertiary Entrance Examination or courses preparing students for the mature age entrance conducted by the Tertiary Institutions Service Centre.
  - (c) A degree or Associate Diploma course at a post-secondary education institution.
  - (d) Courses recognised by the National Authority for the Accreditation of Translators and Interpreters (NAATI) in a language relevant to the needs of the Public Sector.

#### **40. PROFESSIONAL DEVELOPMENT LEAVE**

- 40.1 16 hours of professional development leave will be granted to full-time Health Workers with pro rata entitlement to part-time Health Workers.
- 40.2 Health Workers working between 200km and 400km from the GPO will receive an additional day; and nurses working more than 400km from the GPO will receive an additional two days. Health Workers will not receive travel time in addition to this entitlement.
- 40.3 This entitlement does not accrue from year to year.
- 40.4 The 12-month period in which the leave is assessed commences from the date of registration of this Agreement.

#### **41. PAID LEAVE FOR ENGLISH LANGUAGE TRAINING**

- 41.1 Leave during normal working hours without loss of pay will be granted to Health Workers from a non-English speaking background who are unable to meet standards of communication to advance career prospects, who constitute a safety hazard or risk to themselves and/or fellow Health Workers, or who are not able to meet the accepted requirements of the Health Worker's particular occupation or the health industry, to attend English training conducted by an approved and authorised authority. The selection of Health Workers for training will be determined by consultation between the employer and the union.

- 41.2 Leave will be granted to enable Health Workers selected to achieve an acceptable level of vocational English proficiency. In this respect the tuition content with specific aims and objectives incorporating the pertinent factors at sub-clause 41.3 will be agreed between the employer, the union and the Adult Multicultural Education Services or other approved authority conducting the training.
- 41.3 Subject to appropriate needs assessment, participation in training will be on the basis of minimum of 100 hours per Health Worker per year.
- 41.4 The agreed desired proficiency level will take account of the vocational needs of a Health Worker in respect of communication, safety, welfare, and productivity within their current position as well as those positions to which they may be considered for promotion or redeployment. It will also take account of issues in relation to training, retraining and multi-skilling, award restructuring, industrial relations and safety provisions, and equal opportunity employment legislation.

## **42. LEAVE FOR INTERNATIONAL SPORTING EVENTS**

- 42.1 Special leave with pay may be granted by the employer to a Health Worker chosen to represent Australia as a competitor or official, at a sporting event, which meets the following criteria:
- (a) it is a recognised international amateur sport of national significance; or
  - (b) it is a world or international regional competition; and
  - (c) no contribution is made by the sporting organisation towards the normal salary of the Health Worker.
- 42.2 The employer shall make enquiries with the Department of Sport and Recreation on:
- (a) whether the application meets the above criteria; and
  - (b) the period of leave to be granted.

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

- 43.1 A Health Worker subpoenaed or called as a witness to give evidence in any proceeding will, as soon as practicable, notify the manager/supervisor who will notify the employer.
- 43.2 Where a Health Worker is subpoenaed or called as a witness to give evidence in an official capacity, that Health Worker will be granted by the employer leave of absence with pay, but only for such period as is required to enable the Health Worker to carry out duties related to being a witness. If the Health Worker is on any form of paid leave, the leave involved in being a witness will be reinstated, subject to the satisfaction of the employer. The Health Worker is not entitled to retain any witness fee but will pay all fees received into Consolidated Fund. The receipt for such payment with a voucher showing the amount of fees received will be forwarded to the employer.
- 43.3 A Health Worker subpoenaed or called as a witness to give evidence in an official capacity will, in the event of non-payment of the proper witness fees or travelling expenses, as soon as practicable after the default notify the employer.
- 43.4 A Health Worker subpoenaed or called as a witness on behalf of the Crown not in an official capacity will be granted leave with full pay entitlements. If the Health Worker is on any form of paid leave, this leave will not be reinstated as such witness service is deemed to be part of the Health Worker's civic duty. The Health Worker is not entitled to retain any witness fee but will pay all fees received into Consolidated Fund.
- 43.5 A Health Worker subpoenaed or called as a witness under any other circumstances other than specified in sub-clauses 43.2 and 43.4 will be granted leave of absence without pay except when the

Health Worker makes an application to clear accrued leave in accordance with the provisions of this Agreement.

- 43.6 A Health Worker required to serve on a jury will, as soon as practicable after being summonsed to serve, notify the supervisor/manager who will notify the employer.
- 43.7 A Health Worker required to serve on a jury will be granted by the employer leave of absence on full pay, but only for such period as is required to enable the Health Worker to carry out duties as a juror.
- 43.8 A Health Worker granted leave of absence on full pay as prescribed in sub-clause 43.7 is not entitled to retain any juror's fees but will pay all fees received into Consolidated Fund. The receipt for such payment will be forwarded with a voucher showing the amount of juror's fees received to the employer.

**44. LEAVE WITHOUT PAY**

- 44.1 Subject to the provisions of sub-clause 44.2, the employer may grant a Health Worker leave without pay for any period and is responsible for that Health Worker on their return.
- 44.2 Every application for leave without pay will be considered on its merits and may be granted provided that the following conditions are met:
  - (a) The work of the employer is not inconvenienced; and
  - (b) All other leave credits of the Health Worker are exhausted.
- 44.3 A Health Worker on a fixed term appointment may not be granted leave without pay for any period beyond that Health Worker's approved period of engagement.

**44.4 Leave without pay for full time study**

The employer may grant a Health Worker without pay to undertake full time study, subject to a yearly review of satisfactory performance.

Leave without pay for this purpose will not count as qualifying service for leave purposes.

**44.5 Leave without pay for Australian Institute of Sport scholarships**

Subject to the provisions of sub-clause 44.2, the employer may grant a Health Worker who has been awarded a sporting scholarship by the Australian Institute of Sport, leave without pay.

**45. STAFF DEVELOPMENT**

**Study Leave**

- 45.1 A Health Worker may be granted time off for study purposes in accordance “Clause 39 – Study Leave” of this Agreement.

**Training**

- 45.2 A Health Worker may receive up to two weeks’ paid leave for the purposes of in service training, of which at least one week shall be in a major centre (in one block or across a number of shorter sessions) with access to staff development courses and/or staff development resources. In service training will be provided in:
  - (a) Induction/Orientation into the Health Service.

- (b) Information Technology where access to Information Technology is available at the worksite.
- (c) Grievance/dispute resolution.
- (d) Occupational Safety and Health.

- 45.3 Leave under this clause may encompass education/training in a number of areas including diet and nutrition; ear conditions and hearing; maternal and child health; aged care; dental care; diabetes; substance abuse/addiction; mental health; disabled care; renal dialysis; child care; men's health; women's health; sexual health and sexually transmitted diseases; counselling; youth issues; cultural security; cross cultural training; financial management; program and funding guidelines; health planning; health management and administration; health records and reporting.
- 45.4. Leave under this clause may also cover attendance at work related conferences.
- 45.5. Leave under this clause is designed to enhance the Health Worker's knowledge and skills to help meet the health service objectives in the delivery of health services to Aboriginal people.
- 45.6. Leave will be approved by the Health Service Manager or the person at the Health Service delegated to approve such leave giving consideration to the needs of the Health Service, to the benefits it provides in the provision of health services to Aboriginal people and to the objective of providing greater career progression opportunities for Aboriginal Health Workers
- 45.7. Any dispute with respect to the implementation of this clause will be dealt with through "Clause 52 - Dispute Settlement Procedure".

#### **46. LEAVE OPTIONS**

- 46.1 Notwithstanding the terms specified elsewhere in this Agreement, the leave options specified in this clause are available to Health Workers.
- 46.2 To exercise one or more of the options specified in this clause, a Health Worker must make written application in the manner prescribed by the employer.
- (a) At the request of a Health Worker an employer may agree to an arrangement ("the arrangement") whereby the Health Worker accrues either 1 (51/52), 2 (50/52), 3 (49/52) or 4 (48/52) weeks additional leave in lieu of salary of the equivalent value. Both the agreement to the arrangement and the time at which the additional leave is taken will be dependant on the operational requirements of the Employer where the Health Worker works at the particular time.
  - (b) Unless otherwise agreed between the Health Worker and the employer, a Health Worker who enters into an arrangement under this sub-clause does so in blocks of 12 months. Further, it will be assumed that, a Health Worker having entered into the arrangement, the arrangement will be continuing from year to year unless the employer is otherwise notified in writing.
  - (c) For the purposes of this sub-clause and without limiting the meaning of the term, "operational requirements" may include:
    - (i) The availability of suitable leave cover, if required;
    - (ii) The cost implications;
    - (iii) The impact on client/patient service requirements; and



- (iv) The impact on the work of other Health Workers.
- (d) The portion of the Health Worker's salary to be forfeited shall be calculated as a fortnightly amount and their fortnightly salary shall be decreased by that amount for the duration of the arrangement.
- (e) All leave taken during the course of the arrangement shall be paid at the reduced rate.
- (f) The additional leave shall continue to accrue while the Health Worker is on leave during the course of the arrangement.
- (g) The reduced salary shall be used for all purposes during the course of the arrangement.
- (h) The additional leave shall not attract leave loading.

#### **Deferred Salary Scheme for 12 Month's Leave**

- 46.3
- (a) By written agreement between the employer and the Health Worker a Health Worker may enter into a deferred salary scheme over a five year period in which the Health Worker works for 4 years and takes the fifth year as leave.
  - (b) A Health Worker may be paid 80% of ordinary salary over a four year period with the unpaid component accrued over the four years and paid out in equal fortnightly instalments during the fifth year.
  - (c) The fifth year will be treated as continuous service but will not count as service for the purpose of accrual of leave entitlements.
  - (d) Access to the leave when it falls due shall not be unreasonably refused by the employer, but in any case the leave may only be deferred by agreement.
  - (e) When deciding whether to support a particular request for this arrangement, the employer will take into account factors such as operation requirements. To satisfy operational requirements, the number of Health Workers allowed to work under the arrangement may be restricted at any one time and / or the timing of the arrangements may need to be staggered.
  - (f)
    - (i) By agreement, in writing, the four year accrual period may be suspended. The Health Worker will revert back to 100% of salary or accesses leave without pay, provided such non participatory period shall not exceed 6 months unless an entitlement to longer periods of unpaid leave are otherwise prescribed by this Agreement (eg. Parental Leave)
    - (ii) The commencement of the leave year shall be delayed by the length of the non-participatory period.
  - (g) Where a Health Worker withdraws from this arrangement in writing, or the Health Worker's contract of employment terminates for any reason the Health Worker will receive a lump sum equal to the accrual credit.
  - (h) Payment of the lump sum may be deferred for a period up to 3 months provided that where the employment contract has terminated, the payment shall be paid in his/her final payment.
  - (i) Any paid leave taken during the first four years of the arrangement will be paid at 80% of the Health Worker's ordinary salary.

- (j) It is the responsibility of the Health Worker to investigate the impact of the arrangement on his/her allowances, superannuation and taxation.
- (k) This clause shall operate in accordance with the relevant policy.

## **PART 7 – CHANGE MANAGEMENT**

### **47. INTRODUCTION OF CHANGE**

#### **Notification of Change**

- 47.1. The employer shall notify affected Health Workers and the Union where the employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on the affected Health Workers.
- 47.2. ‘Significant effects’ include termination of employment through redundancy, major changes in the skills required, the elimination or the lessening of job opportunities or job tenure, the alteration of hours of work; the transfer of Health Workers to other work or work locations and restructuring of jobs.

#### **Discussions between Employers and Health Workers regarding introduction of change**

- 47.3. Discussion between the employer, affected Health Workers and the Union will commence as soon as possible after a firm decision has been made by the employer to make the changes referred to in sub-clause 47.2 above.
- 47.4. Such discussions will include the effects the changes are likely to have on Health Workers and measures to reduce the adverse effects of such changes.
- 47.5. The employer will give prompt consideration to matters raised by the Health Workers and/or Union representatives in relation to the changes.
- 47.6. For the purposes of such discussion, the employer will provide to Health Workers concerned and the Union all relevant information about the changes.

### **48. CONSULTATION MECHANISM**

- 48.1 A Consultative Committee shall be established at a workplace when the Union or the relevant Employer notifies the other of its intention to do so.
- 48.2 The Union and relevant Employer shall meet and jointly determine the structure and process (including elections and timetables) of the Consultative Committee.
- 48.3 Consultative Committees shall be made up of representatives of the Employer and the Union.
- 48.4 Consultative Committees are for the purpose of progressing the issues raised in this Agreement.
- 48.5 Each Health Worker nominated by the Union who has not previously received training shall be released to attend the Union training course before the first consultative committee meeting.
- 48.6 The Employer shall provide reasonable resources to ensure effective and informed Health Worker participation, including access to all relevant information and a reasonable period of time of release to facilitate the consultative process.
- 48.7 Union representatives shall be paid for attendance at Consultative Committee meetings as if they had worked their normal roster.

- 48.8 Union representatives shall be given time off in lieu when they attend a Consultative Committee meeting in their own time; such time to be equal to total travel and meeting time.
- 48.9 The Employer shall be responsible for the keeping of proper records of the Consultative Committee. At the conclusion of each meeting, the Employer shall forward minutes of the Consultative Committee to members of the Committee.
- 48.10 An officer of the Union is entitled to attend a meeting of the Consultative Committee and address the Committee on any issue, but shall not vote on any motion.

## **PART 8 – UNION MATTERS**

### **49. UNION AND REPRESENTATIVES' RECOGNITION AND RIGHTS**

#### **49.1 Recognition**

- (a) The Employer recognises the rights of the Union to organise and represent its members. Union representatives have a legitimate role and function in assisting the Union in the tasks of recruitment, organising, communication and representing members interests in the workplace.
- (b) The Employer shall distribute, with any pre-employment and/or orientation package the Employer ordinarily distributes to new Health Workers, a flyer/information sheet provided by the Union. The flyer/information sheet shall provide information regarding Union membership, pay and conditions and representation of Union members within the workforce.
- (c) All management representatives will treat Union Representatives with respect and without victimisation.

#### **49.2 Union Representatives will be granted:**

- (a) An assurance that issues raised will be promptly dealt with as per "Clause 52 - Dispute Settlement Procedure".
- (b) Genuine consultation by the Employer for decisions impacting on Union members or Health Workers eligible to be Union members.
- (c) Paid time to communicate during the Representatives' ordinary working hours with Union members and attend to Union business in the workplace. This will be negotiated at each Hospital/health service.
- (d) Representatives shall consult with the Employer when paid time off is required. Any disagreements shall be dealt with via the Dispute Settlement Procedure.

49.3 The Union shall give the names of Union Representatives to the relevant Employers in writing.

#### **49.4 Facilities**

- (a) (i) The relevant Awards and Agreements shall be displayed on notice boards in the workplace where it is easily accessible to Health Workers;
- (ii) Health Workers on request shall be provided with a copy of this Agreement by the Employer. The Employer shall make sufficient copies available for this purpose.
- (b) Union Representatives will be provided with:

- (i) Access to facilities including basic communication and information resources such as telephone, fax, e-mail, photocopier, stationery and access to meeting rooms to meet with individuals or groups of members and perform Union business.
- (ii) Access to all relevant information, including appropriate awards, agreements, job descriptions and policies.
- (iii) Lockable notice boards in the ratio of one (1) notice board for every 200 beds or part thereof. Access to the Notice Board will be restricted to authorised Union Delegates. It is the responsibility of the Delegate to ensure that only authorised Union material is placed on the notice board.
- (iv) A lockable cabinet.

#### 49.5 Organising the Workplace

Provided appropriate notice is given and the operation of the organisation is not unduly affected, Union Representatives shall have:

- (a)
  - (i) A list of new Health Workers, provided by the Employer each month, which identifies the time of commencement of new Health Workers, their employment status, occupation, hours of work and work location
  - (ii) Time to discuss the benefits of Union membership with a new Health Worker as part of their induction.
  - (iii) Where the Employer conducts a group induction, which may be on or off site, the Union shall be given at least 14 days notice of the time and place of the induction. The Union will be entitled to at least thirty minutes to address new Health Workers without Employer representatives being present.
- (b) Access to a private sheltered area for meetings of members. Details to be decided by local arrangement.
- (c) Access to rosters providing information regarding work location and shifts of Health Workers. The rosters will be provided within five working days of request.
- (d) Quarterly paid general Union meetings, to a maximum duration of 1 hour. These meetings are to be arranged at a local level.
- (e)
  - (i) Paid monthly Union delegate meetings for each Hospital to a maximum of two (2) hours.
  - (ii) Quarterly paid regional delegate meetings to a maximum of two hours (plus reasonable travel time).
  - (iii) The option to aggregate the time available for meetings, pursuant to (i) and (ii) above, to meet the needs of country delegates.
- (f) Subject to compliance with the relevant clinical protocols at each facility, the right to enter the Employers premises during working hours, including meal breaks, for the purpose of discussing with Health Workers covered by this Agreement the legitimate business of the Union, or for the purpose of investigating complaints concerning the application of this Agreement/Award, but shall in no way unduly interfere with the work of the Health Workers.

- (g) Subject to compliance with the relevant clinical protocols at each facility, the Secretary or authorised Union representative will be able to move freely within the Hospital/service, and shall not be required to be accompanied by any Health Worker or agent of the Employer, but shall in no way unduly interfere with the work of the Health Workers.

#### **49.6 Representation**

The Employer shall grant paid leave during ordinary working hours to a Health Worker:

- (a) Who is required to give evidence before any industrial tribunal;
- (b) Who as a Union nominated representative of the Health Workers is required to attend negotiations and/or conferences between the Union and Employer;
- (c) When prior agreement between the Union and Employer has been reached for the Health Worker to attend official Union meetings preliminary to negotiations or industrial hearings;
- (d) Who as a Union nominated representative of the Health Workers is required to attend joint Union/management consultative committees or working parties.

#### **49.7 Union Dues**

The Employer agrees, upon receiving written authorisation from a Health Worker, to provide to the Union within five (5) working days the Health Worker's bank account details and subsequent changes from time to time for the purpose of enabling the Health Worker to establish direct debit facility for the payment of Union dues.

#### **49.8 Paid Leave for Union Training**

- (a) The Employer shall grant paid leave of absence to Health Workers who are nominated by their Union to attend short courses conducted by the Union.
- (b) Paid leave of absence shall also be granted to attend similar courses or seminars as from time to time approved by agreement between the parties.
- (c) A Health Worker shall be granted up to six (6) days paid leave each calendar year for Union training or similar courses or seminars. However, leave in excess of six days, and up to twelve days, may be granted in any one calendar year, provided that the total leave being granted in that year and in the subsequent year does not exceed twelve (12) days.
- (d) Country delegates will be paid travel time during normal working hours at the ordinary rate of pay to attend such training.

#### **49.9 Rates of Pay During Absence on Union Training**

- (a) Leave of absence will be granted at the ordinary rate of pay (including any relevant allowance) the Health Worker would have received had they not been on leave.
- (b) Where a public holiday or rostered day off (including a rostered day off as a result of working a 38-hour week) falls during a Union Training course or seminar, a day off in lieu of that day will be granted.

49.10 Shift Health Workers attending a Union Training course or seminar shall be deemed to have worked the shifts they would have worked had leave not been taken, and payment for such leave shall include shift penalties.

#### **49.11 Application for Union Training Leave**

Any application by a Health Worker shall be submitted to the Employer for approval at least four (4) weeks before the commencement of the leave, provided that the Employer may agree to a lesser period of notice.

- 49.12 (a) The Employer shall not be liable for any expenses associated with a Health Worker's attendance at Union training.
- (b) Leave of absence granted under this clause shall include any necessary travelling time in normal working hours immediately before or after the training.

#### 49.13 Application

- (a) A Health Worker shall not be entitled to paid leave to attend Union business other than as prescribed by this clause.
- (b) The provisions of this clause shall not apply to special arrangements made between the parties, which provide for unpaid leave for Health Workers to conduct Union business.
- (c) The provisions of this clause shall not apply when a Health Worker is absent from work without the approval of the Employer.

### 50 IMPLEMENTATION COMMITTEE

- 50.1 At the commencement of the Agreement an Implementation Committee will be established.
- 50.2 The Committee will comprise of representatives of the Employer, the Union and Aboriginal Health Workers.
- 50.3 The Committee will be facilitated by the Coordinator, Aboriginal Health Work and have responsibility for monitoring the implementation of provisions within the agreement and the achievement of the aims of the agreement. The Committee will meet at least bi-annually to review these matters.
- 50.4 The Committee will be provided with copies of the annual reports of the progress of the Western Australian Aboriginal Health Strategy measures in respect of achieving health workforce reforms.
- 50.5 In addition the Committee will meet at the request of either party to consider any other matters directly related to this agreement. Where agreement can not be reached, the dispute settlement procedure set out in "Clause 52 – Dispute Settlement Procedure" will be utilised.

### 51. RIGHT OF ENTRY

#### 51.1 Right of entry for discussions with Health Workers

- (a) Definitions

In this clause:

- (i) "authorised representative" means a person who holds an authority in force under the *Industrial Relations Act 1979*;
- (ii) "relevant Health Worker", when used in connection with the exercise of a power by an authorised representative of the union, means a Health Worker who is a member of the union or who is eligible to become a member of the union.
- (b) An authorised representative of the union may, on notification to the employer, enter during working hours, any premises where relevant Health Workers work, for the purpose of

holding discussions at the premises with any of the relevant Health Workers who wish to participate in those discussions.

#### 51.2 Right of entry to investigate breaches

- (a) An authorised representative of the union may, on notification to the employer, enter during working hours, any premises where relevant Health Workers work, for the purpose of investigating any suspected breach of an award, industrial agreement or order that applies to any such Health Worker, or the *Industrial Relations Act 1979*, the *Minimum Conditions of Employment Act 1993*, or the *Occupational Safety and Health Act 1984*.
- (b) An “authorised representative” and “relevant Health Workers” have the same meaning as in sub-clause 51.1(a).
- (c) For the purpose of investigating a suspected breach in accordance with this clause, the authorised representative:
  - (i) subject to sub-clause 51.2(d), may require the employer to produce for the representative’s inspection, during working hours at the employer’s premises or at any mutually convenient time and place, any employment records of Health Workers or other documents kept by the employer that are related to the suspected breach;
  - (ii) shall not conduct interviews during normal working hours in the circumstances that will result in the employer’s business being unduly interrupted or otherwise hampered;
  - (iii) may make copies of the entries in the employment records or documents related to the suspected breach;
  - (iv) shall treat with confidentiality any information obtained from employment records; and
  - (v) may, during working hours, inspect or view any work, material, machinery, or appliance that is relevant to the suspected breach.
- (d) In exercising a power under sub-clause 51.2(a), an authorised representative is not entitled to require the production of employment records or other documents unless, before exercising the power, the authorised representative has given the employer concerned:
  - (i) at least 24 hours’ written notice, if the records or other documents are kept on the employer’s premises; or
  - (ii) at least 48 hours’ written notice, if the records or other documents are kept elsewhere.
- (e) The provisions of sub-clause 51.2(d) apply except where, in accordance with s 49I(7) of the *Industrial Relations Act 1979*, the Commission has waived the requirement for the authorised representative to give the employer concerned notice.
- (f) Where the Commission has waived the requirement to give the employer concerned notice of an intended exercise of a power, the authorised representative must, after entering the premises and before requiring the production of the records or documents, give the person who is apparently in charge of the premises the certificate or a copy of the certificate provided by the Commission under s 49I(8) of the *Industrial Relations Act 1979* authorising the authorised representative’s exercise of a power without notice.

#### 51.3 If:

- (a) a person proposes to enter, or is on, premises in accordance with sub-clauses 51.1 or 51.2; and
- (b) the occupier, including a person in charge of the premises, requests the person to show their authority;

the person is not entitled to enter or remain on the premises unless they show the occupier the authority in force under the *Industrial Relations Act 1979*.

- 51.4 The occupier of premises must not refuse, or intentionally and unduly delay, entry to the premises by a person entitled to enter the premises under sub-clauses 51.1 or 51.2.
- 51.5 A person must not intentionally and unduly hinder or obstruct an authorised representative in the exercise of the powers conferred by this clause.
- 51.6 A person must not purport to exercise the powers of an authorised representative under this clause if the person is not the holder of a current authority issued by the Registrar under Division 2G of Part II of the *Industrial Relations Act 1979*.
- 51.7 The parties shall comply with the terms of Division 2G of Part II of the *Industrial Relations Act 1979*.

## **PART 9 – DISPUTE RESOLUTION**

### **52. DISPUTE SETTLEMENT PROCEDURE**

- 52.1 Any grievance, complaint or dispute arising under the Agreement shall be dealt with in accordance with this clause.
- 52.2 The Health Worker/s and the manager with whom the dispute has arisen shall discuss the matter and attempt to find a satisfactory solution, within three (3) working days. A Health Worker may be accompanied by a Union representative.
- 52.3 If the dispute cannot be resolved at this level, the matter shall be referred to and be discussed with the relevant manager's superior and an attempt made to find a satisfactory solution, within a further three (3) working days. A Health Worker may be accompanied by a Union representative.
- 52.4 If the dispute is still not resolved, it may be referred by the Health Worker/s or Union representative to the Chief Executive Officer or his/her nominee.
- 52.5 Where the dispute cannot be resolved within five (5) working days of the Health Worker/s or the Union representatives' referral of the dispute to the Chief Executive Officer or his/her nominee, either party may refer the matter to the Commission for conciliation and/or arbitration as required.
- 52.6 The period for resolving a dispute may be extended by agreement between the parties.
- 52.7 At all stages of the procedure the Health Worker/s may be accompanied by a Union representative.
- 52.8 Notwithstanding the above the Union may raise matters directly with representatives of the Employer. In each case the Union and the Employer shall endeavour to reach agreement. If no agreement is reached either party may refer the dispute to the Commission for conciliation and/or arbitration.
- 52.9 The status quo (ie the condition applying prior to the issue arising) will remain until the issue is resolved in accordance with the procedures outlined above.



**52.10 Disciplinary Procedure**

Where the Employer Representative seeks to discipline a Health Worker, or terminate the employment of a Health Worker, the following steps shall be observed:

- (a) In the event that a Health Worker commits a misdemeanour, the Health Worker's immediate supervisor or any other officer so authorised, may exercise the Employer's rights to reprimand the Health Worker so that the Health Worker understands the nature and implications of his/her conduct.
- (b) The first two reprimands shall take the form of warnings, and if given verbally, shall be confirmed in writing to the Health Worker as soon as practicable after the giving of the reprimand.
- (c) Should it be necessary, for any reason, to reprimand a Health Worker three times in a period not exceeding twelve months continuous service, the contract of service shall, upon the giving of that third reprimand, be terminable in accordance with the Award.
- (d) The above procedure is meant to preserve the rights of the individual Health Worker, but it shall not in any way limit the right of the Employer Representative to summarily dismiss a Health Worker for misconduct.

**PART 10 – SIGNATORIES**

**53. SIGNATORIES**

Signed

\_\_\_\_\_  
Marshall Warner  
Director  
Health Industrial Relations Service

03 / 04 / 2009  
Date

Signed

*Common Seal*

\_\_\_\_\_  
Carolyn Smith  
Asst. Secretary  
Liquor Hospitality Miscellaneous Union  
Western Australian Branch

03 / 04 / 2009  
**Date**

**SCHEDULE A - TRAVELLING, TRANSFER AND RELIEVING ALLOWANCE**

Item Particulars	Column A Daily Rate	Column B Daily Rate Officers with dependents relieving allowance for period in excess of 42 days (sub-clause 21.20(b))  Transfer Allowance for Period in excess of prescribed period (sub-clause 21.16)	Column C Daily Rate Officers without dependents relieving allowance for period in excess of 42 days (sub-clause 21.20(b))
	\$	\$	\$
Allowance to meet incidental expenses			
1. WA – South of 26 <sup>0</sup> South Latitude	12.80		
2. WA – North of 26 <sup>0</sup> South Latitude	18.30		
3. Interstate	18.30		
Accommodation involving an overnight stay in a hotel or more			
4. WA – Metropolitan Hotel or Motel	239.50	119.75	79.85
5. Locality South of 26 <sup>0</sup> South Latitude	183.80	91.90	61.25
6. Locality North of 26 <sup>0</sup> South Latitude			
Broome	392.80	196.40	130.95
Carnarvon	224.50	112.25	74.85
Dampier	323.80	161.90	107.95
Derby	258.80	129.40	86.25
Exmouth	279.30	139.65	93.10
Fitzroy Crossing	346.80	173.40	115.60
Gascoyne Junction	156.30	78.15	52.10
Halls Creek	245.30	122.65	81.75
Karratha	500.80	250.40	166.95
Kununurra	291.80	145.90	97.25
Marble Bar	224.80	112.40	74.95
Newman	268.55	134.25	89.50
Nullagine	198.30	99.15	66.10
Onslow	240.75	120.40	80.25
Pannawonica	185.95	92.95	62.00
Paraburdoo	236.70	118.35	78.90
Port Hedland	319.50	159.75	106.50
Roebourne	138.70	69.35	46.25
Sandfire	163.30	81.65	54.45
Shark Bay	184.30	92.15	61.45
Tom Price	261.25	130.60	87.10
Turkey Creek	197.80	98.90	65.95
Wickham	415.80	207.90	138.60
Wyndham	231.30	115.65	77.10
7. Interstate – Capital City			
Sydney	269.50	134.75	89.80
Melbourne	256.80	128.40	85.60

Other Capitals	230.50	115.25	76.75
8. Interstate – Other than Capital City	183.80	91.90	61.25
Accommodation involving an overnight stay at other than hotel or motel			
9. WA – South of 26 <sup>0</sup> South Latitude	83.90		
10. WA – North of 26 <sup>0</sup> South Latitude	111.00		
11. Interstate	111.00		
Travel not involving an overnight stay, or travel involving an overnight stay where accommodation only is provided			
12. WA – South of 26 <sup>0</sup> South Latitude			
Breakfast	15.50		
Lunch	15.50		
Dinner	40.10		
13. WA – North of 26 <sup>0</sup> South Latitude			
Breakfast	18.10		
Lunch	30.60		
Dinner	44.00		
14. Interstate			
Breakfast	18.10		
Lunch	30.60		
Dinner	44.00		
Deduction for normal living expenses			
15. Each Adult	24.95		
16. Each Child	4.30		
Midday Meal			
17. Rate per meal	6.05		
18. Maximum reimbursement per pay period	30.25		

**SCHEDULE B - CAMPING ALLOWANCE**

## South of 26° South Latitude

ITEM			RATE PER DAY
(1)	Permanent Camp	Cook provided by the Department	36.30
(2)	Permanent Camp	No cook provided by the Department	48.35
(3)	Other Camping	Cook provided by the Department	60.45
(4)	Other Camping	No cook provided	72.55

## North of 26° South Latitude

ITEM			RATE PER DAY
(1)	Permanent Camp	Cook provided by the Department	49.80
(2)	Permanent Camp	No cook provided by the Department	61.90
(3)	Other Camping	Cook provided by the Department	74.00
(4)	Other Camping	No cook provided	86.05

**SCHEDULE C – REDUNDANCY, RETRAINING AND REDEPLOYMENT****1. DEFINITIONS**

- 1.1 "Government" means the Government of Western Australia and does not include the Commonwealth or Local Government.
- 1.2 "Public Sector" means all State Government departments, trading concerns, instrumentalities, agencies or statutory bodies established by or under a law of this State, including primary produce bodies, regulatory bodies, quasi-judicial bodies, trustees, advisory committees and regional bodies.
- 1.3 "Redeployment" means redeployment within the Public Sector.
- 1.4 "Redundancy" means a situation when a job performed by an employee ceases to exist or becomes surplus to requirements.

**2. ACCESS TO PUBLIC SECTOR ENTITLEMENTS**

Where redeployment, retraining and redundancy entitlements superior or additional to those provided for in this Schedule are offered generally to public sector employees, those superior or additional entitlements shall also be made available to employees covered by this Schedule under the same terms.

**3. REDUNDANCY SITUATIONS**

- 3.1 Subject to Clause 6 an employee whose job or position is subject to a redundancy situation shall be entitled to be dealt with in accordance with the procedures and entitled to the benefits provided in Clauses 4, 5 and 6.
- 3.2 Where a redundant employee, while still in the employ of an employer party, has received and accepted, an offer of suitable alternative employment not within the Public Sector, the provisions of Clause 8 shall apply in relation to the employee. For these purposes, "an offer" can only be made by an employer who has taken on, or is going to take on, a function of Government, the privatisation or contracting out of which has lead, or will lead, to the employee becoming redundant.
- 3.3 Where a redundant employee has not accepted an offer of suitable alternative employment not within the Public Sector, the provision of Clause 4 shall apply in relation to the employee until redeployed or until the employee's employment is terminated in accordance with that clause.

**4. REDEPLOYMENT AND RETRAINING****Suitable Alternative Employment**

- 4.1 Subject to this clause and to Clause 3, each employee whose position is redundant shall be transferred to suitable alternative employment either within his/her Department/Authority or with the consent of another Government employer, to that Government employer.

Suitable alternative employment shall be defined as that which provides the employee with a position which:

- (a) is for an indefinite period in a permanent position with a Government employer;
- (b) has a wage or salary as close as possible to that of the employee's existing position; and
- (c) does not require the employee to change his/her place of residence in order to take up the position, and has regard to:
  - (i) the relevance of the duties and responsibilities, to the qualifications and experience of the employee and the competence of the employee; and

- (ii) the ordinary hours of duty being in general no less than those worked by the employee in his/her original position.

#### **Alternative employment or training**

- 4.2 (a) The suitability of alternative employment or training shall be determined by the Public Sector Management Division of the Department of Premier and Cabinet after consultation with the employer, employee and Union concerned in accordance with sub-clause 4.1 of this clause and having regard for the particular circumstances of each employee.

Any dispute between the parties over whether a position falls within the definition of suitable alternative employment as prescribed by sub-clause 4.1 of this Clause, subject to sub-clause 4.2(c) may be referred to the Commission by any party to the dispute.

- (b) Where suitable alternative employment is unable to be identified for an employee, the employee may elect within three months from the date the position becomes redundant to transfer to a position outside that defined as suitable or leave the services of the employer.

An employee who elects:

- (i) to leave the service of an employer shall be paid the severance and other payments prescribed by "Clause 6 - Selective Voluntary Severance or Early Retirement" of this Schedule; or
  - (ii) to transfer to a position under the terms of this clause shall be entitled to the provisions of "Clause 5 - Income Maintenance" of this Schedule.
- (c) Where suitable alternative employment is unable to be identified for an employee whose position is redundant, and the employee is unwilling to undergo training or retraining or to accept a position outside that defined as suitable, or to accept an offer of suitable alternative employment not within the Public Sector for the purposes of sub-clause 3.2, the employer may initiate appropriate disciplinary proceedings against the employee. For the purposes of this Schedule and of such disciplinary proceedings, the unwillingness of the employee to accept training, retraining, position or employment respectively, if established, may be deemed to be an employment offence punishable by termination of employment but an employee terminated under this process shall be entitled to the severance and other payments prescribed by "Clause 6 - Selective Voluntary" Severance or Early Retirement of this Schedule.

#### **Annual leave and long service leave**

- 4.3 Annual and long service leave accrued prior to the date of redeployment shall be calculated in accordance with the relevant award or agreement applicable to that employee and transferred to and credited by the new employer.

#### **Sick leave**

- 4.4 Unused sick leave accrued prior to the date of redeployment shall be transferred to and credited by the new employer.

#### **Leave and assistance to seek alternative employment**

- 4.5 (a) The employer shall facilitate redeployment by granting employees to be redeployed reasonable leave to attend interviews and career counseling without loss of pay.
- (b) Where a prospective employer does not meet the cost of travel to an employment interview, the cost of reasonable travel and incidental expenses including if necessary overnight accommodation associated with the interview shall be borne by the employer.

**Trial period in alternative employment**

- 4.6 (a) An employee shall be granted a trial period of six months in any alternative employment during or at the completion of which the employee may elect to resign if that employment is not suitable, in which case the employee shall receive the entitlements provided by “Clause 6 - Selective Voluntary Severance or Early Retirement” of this Schedule.

This entitlement is only available to employees who fall within paragraph (b) of sub-clause 4.2 of “Clause 4 - Redeployment and Retraining” of this Schedule.

- (b) By agreement between the employer and employee, leave without pay may be approved with the consent of the Public Sector Management Division of the Department of Premier and Cabinet where it is sought by a redeployee as a means of exploring career options outside the Public Sector.

This period of leave without pay will not count as service for any reason. However, the employee's service shall be deemed continuous and the employee retains the right to accept the offer of severance in accordance with “Clause 6 - Selective Voluntary Severance or Early Retirement” of this Schedule, prior to the completion of the period of leave without pay.

**5. INCOME MAINTENANCE****Classification Maintenance**

- 5.1 An employee placed in a new classification which carries a lower rate than the former classification, shall be paid a rate equivalent to the former classification for a total period of twelve (12) months from the date of transfer. Any adjustments or increments which would have occurred or are made to the former classification rate within the twelve month period shall be applied and paid to the employee.

Progression through the increments will be subject to the normal tests applied under the employee's award classification.

**Wage and salary maintenance**

- 5.2 (a) Where, after a period of twelve (12) months an employee remains employed on a classification carrying a lower rate than the rate of their former classification, that employee shall continue to be paid the rate applicable to the former classification at the twelve (12) months' anniversary date and such rate shall continue to be paid until the rate applicable to the employee's current classification exceeds that rate.
- (b) For the purposes of sub-clause 5.1 of this clause and paragraph 5.2(a) of this sub-clause the total remuneration shall:
- (i) exclude all allowances which represent:
    - (aa) an amount paid for overtime or as a bonus, or as an allowance instead of overtime;
    - (bb) except as provided in placitum (ii) of this paragraph, a relieving allowance;
    - (cc) an allowance for travelling, subsistence or other expenses;
    - (dd) an amount paid for rent or as a residence, housing or quarters allowance;



- (ee) a climatic allowance or allowances for equipment or, a disability associated with the particular job e.g. site allowance;
  - (ff) an amount paid as compensation in lieu of the opportunity for private practice.
- (ii) include allowances which represent:
- (aa) a relieving allowance that has been paid continuously for twelve (12) months;
  - (bb) a shift allowance which is paid on a regular basis and would continue to be paid during periods of annual leave.
- (c) Where an employee elects to undertake training or retraining within a period of six (6) months from the date of being nominated as redundant, the employee shall continue to receive their former classification rate for the period of training or retraining, provided that period does not exceed twelve (12) months. The period of training or retraining shall not be counted in determining the duration of the employee's entitlements under sub-clause 5.1 of this clause and paragraph (a) of sub-clause 5.2 of this clause.
- (d) For tally or piece workers, the level of income at the date of redeployment referred to in sub-clause 5.1 of this clause shall be at the average weekly income, including all allowances and loadings of a permanent nature, for the total number of weeks worked over the preceding twelve (12) months or part thereof.

## 6. SELECTIVE VOLUNTARY SEVERANCE OR EARLY RETIREMENT

### Selective voluntary severance or early retirement

- 6.1 (a) Each employee identified as being surplus to the employer's requirements and who:
- (i) is dismissed without notice on grounds related to redundancy of the kind described in paragraph 4.2(c); or
  - (ii) cannot be found suitable alternative employment and who elects to resign; shall be entitled to the benefits of this clause.
- (b) Employees electing to terminate their services in accordance with sub-clause 4.6 of "Clause 4 - Redeployment and Retraining" of this Schedule shall be entitled to the benefits of this Clause.
- (c) Where an employee identified as surplus to requirements is able to carry out the duties and responsibilities in an equivalent manner to an employee not identified as surplus, the latter may, with the approval of the employer, elect to resign in place of the former, in which case the benefits of this clause shall apply to that employee.

Any dispute as to whether an employee identified as surplus to requirements is able to carry out the duties and responsibilities in an equivalent manner to an employee not identified as being surplus to requirements shall be determined by the Commission.

### Severance Pay

- 6.2 Each employee referred to in sub-clause 6.1 of this Clause shall receive a severance payment from the employer in accordance with the following formula:

Three weeks pay for each completed year of continuous service provided that the maximum entitlement shall be 52 weeks salary.

Continuous service shall have the same meaning as that prescribed in the *State Government Wages Employees - Long Service Leave Conditions* (66 WAIG 319).

Payment will be at the rate of pay prescribed in sub-clause 5.1 of "Clause 5 - Income Maintenance" of this Schedule.

Payment for tally or piece workers will be based on the average weekly rate received for each week worked within the previous twelve (12) months.

### **Payment for Leave Entitlements**

6.3 In addition to the severance payments prescribed by this clause, employees shall also receive:

- (a) Pro-rata annual leave calculated in accordance with the relevant award or industrial agreement at the rate of income as provided in sub-clause 5.1 of "Clause 5 - Income Maintenance" of this Schedule; and
- (b) Pro-rata long service leave calculated on each completed twelve (12) months of service at a rate of income as provided in sub-clause 5.1 of "Clause 5 - Income Maintenance" of this Schedule.

## **7. RELOCATION EXPENSES**

7.1 Subject to sub-clause 7.2 of this Clause an employee who accepts a position which requires the employee to be relocated will be reimbursed by the previous employer, all reasonable expenses incurred in moving the person's household belongings.

7.2 Where an award or order prescribes an entitlement to the reimbursement of relocation expenses, the provisions of that award shall apply, in lieu of sub-clause 7.1 of this clause.

## **8. SEVERANCE**

### **Scope of clause**

8.1 This Clause shall apply only in the case where a redundant employee, while still in the employ of the employer, has received and accepted an offer of suitable alternative employment from an employer not within the Public Sector. For these purposes "an offer" can only be made by an employer who has taken on, or is going to take on, a function of Government, the privatisation or contracting out of which has lead, or will lead, to the employee becoming redundant.

### **Discussions before termination**

- 8.2
- (a) Where, by reason of a decision taken to privatise or contract out a function of Government formerly fulfilled by the employer, an employee becomes or is going to become redundant, the employer shall hold discussions with the employees directly affected and with their Union.
  - (b) The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provisions of paragraph (a) hereof, and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any terminations on the employees concerned.
  - (c) For the purpose of the discussion the employer shall, as soon as practicable, provide in writing to the employees concerned and their Union, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of workers normally

employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information, the disclosure of which would be inimical to the employer's interests.

### Severance pay

8.3 Subject to further order of the Commission, an employee whose employment is terminated for reasons set out in sub-clause 8.1 hereof shall be entitled to the following amount of severance pay in respect of a continuous period of service:

Period of continuous service	Severance pay
Up to the completion of 2 years	4 weeks' pay
2 years and up to the completion of 3 years	6 weeks' pay
3 years and up to the completion of 4 years	8 weeks' pay
4 years and up to the completion of 5 years	10 weeks' pay
5 years and over	12 weeks' pay

"Weeks' pay" means the rate prescribed in sub-clause 5.1 of "Clause 5 - Income Maintenance".

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

### Employee leaving during notice

- 8.4 An employee to whom this clause applies may terminate his/her employment during the period of notice and, if so, shall be entitled to the same benefits and payments under this clause had he/she remained with the employer until the expiry of such notice. Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.
- 8.5 Where an employee has received and accepted an offer in accordance with sub-clause 8.1, the employer has the right to determine the date upon which termination of employment shall occur.

## 9. EXCLUSIONS

This Schedule shall not apply to:

- 9.1 employees retired on the grounds of ill health; or
- 9.2 employees whose employment is terminated as a consequence of poor performance or misconduct on the part of the employee; or
- 9.3 an employee where an agreement has been reached between the employee, employer and the union that the employee is only engaged for a defined period under a fixed term contract at the conclusion of which their employment shall cease; or
- 9.4 casual employees.