

**Note - the model flexibility term is taken to be a term of this agreement and can be found at the end of the agreement.**

# **Northern Territory Public Sector Nurses and Midwives' 2018 - 2022 Enterprise Agreement**



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## PART 1 – APPLICATION AND OPERATION OF AGREEMENT

### 1. Title

This Agreement will be known as the Northern Territory Public Sector Nurses and Midwives' 2018 – 2022 Enterprise Agreement.

### 2. National Employment Standards

The provisions of this Agreement are to be read in conjunction with the National Employment Standards to the extent that if this Agreement provides a lesser entitlement than the National Employment Standards, the National Employment Standards will apply.

### 3. Parties covered by this Agreement

This Agreement applies to and covers:

- (a) the Commissioner for Public Employment; and
- (b) the Australian Nursing and Midwifery Federation (NT Branch); and
- (c) all employees who are members of the Australian Nursing and Midwifery Federation, or are eligible to be members of the Australian Nursing and Midwifery Federation and who are employed in any of the classifications specified in clause 19.

### 4. Definitions

For the purposes of this Agreement:

- (a) **agency** means an 'Agency' as defined in the PSEM Act;
- (b) **agreed hours** means where the employer and the employee will agree in writing on a regular pattern of part-time work, specifying at least the ordinary hours worked each day, which days of the week the employee will work and the actual starting and finishing times each day;
- (c) **Agreement** means the Northern Territory Public Sector Nurses and Midwives' 2018 - 2022 Enterprise Agreement;
- (d) **CEO** means the Chief Executive Officer of the Department of Health or their delegate;
- (e) **commencement date** means the date as determined under clause 5;
- (f) **Commissioner** means the Commissioner for Public Employment in the Northern Territory;
- (g) **compulsory transferee** means an employee who was compulsorily transferred to the Northern Territory Public Service from the Commonwealth Public Service; or the former Northern Territory Public Service under the provisions of section 38 or 40 of Part VI of the *Public Service Act 1976*;

- (h) **department** means the Department of Health and includes Top End Health Service and Central Australia Health Service;
- (i) **employee** or **employees** means an Enrolled Nurse, a Registered Nurse or a Registered Midwife of the Northern Territory Public Sector employed under PSEM Act and employed in a classification set out in clause 19;
- (j) **employee representative** means a representative chosen by an employee, which may be a union representative;
- (k) **Enrolled Nurse** (or **EN**) means an employee who is entered on the national Register of Nurses kept by the Nursing and Midwifery Board of Australia in the division of Enrolled nurses (Division 2);
- (l) **FWC** means the Fair Work Commission;
- (m) **FW Act** means *Fair Work Act 2009* (Cth);
- (n) **National Employment Standards** (or **NES**) is a reference to the statutory minimum employment standards that apply to the employment of employees, which cannot be displaced in an enterprise agreement, that are provided in Part 2-2 of Chapter 2 of the FW Act;
- (o) **NTPS** means the Northern Territory Public Sector;
- (p) **Nurse Practitioner** means a Registered Nurse who is endorsed as a Nurse Practitioner by the Nursing and Midwifery Board of Australia;
- (q) **PSCC** means the Public Sector Consultative Council constituted under the PSEM Act;
- (r) **PSEM Act** means the *Northern Territory Public Sector Employment and Management Act*, as amended from time to time, and includes the Regulations, By-laws, Employment Instructions and Determinations, as varied from time to time, made under that Act;
- (s) **Registered Midwife** means an employee who is entered on the national Register of Midwives kept by the Nursing and Midwifery Board of Australia;
- (t) **Registered Nurse** means an employee who is entered on the national Register of Nurses kept by the Nursing and Midwifery Board of Australia;
- (u) **union** means the Australian Nursing and Midwifery Federation (NT Branch).

## 5. Period of Operation

The Agreement will come into effect seven days after approval from the FWC and will remain in force until 20 August 2022.

## 6. Purpose and Operation of Schedules

- 6.1 This Agreement is a comprehensive agreement and provides the terms and conditions of employment of employees covered by this Agreement, other than terms and conditions applying under the applicable legislation, including the PSEM Act and FW Act.

- 6.2 In the event of any inconsistency between them, the terms and conditions of Parts 1 to 9 of this Agreement will prevail over terms and conditions of Schedules 1 to 3.

## **7. Variation of Public Sector Employment and Management Act**

- 7.1 The parties acknowledge the long established and continuing role of the PSEM Act as an instrument regulating NTPS conditions of employment.
- 7.2 This Agreement will be read in conjunction with the PSEM Act and will prevail over the PSEM Act to the extent of any inconsistency. For the avoidance of doubt, the PSEM Act is not incorporated into the Agreement.
- 7.3 The Commissioner undertakes that for the term of this Agreement, general employment conditions specified in the PSEM By-laws and Determinations will not be unilaterally varied without consultation with the affected parties prior to the formalisation of an amendment.
- 7.4 This clause will not operate, in any way, to diminish the Commissioner's statutory powers under the PSEM Act.

## **8. No Extra Claims**

- 8.1 This Agreement constitutes a final settlement of the parties' claims, and together with the PSEM Act, is intended to set out, or set out processes for determining, all the terms and conditions of employment of the employees who will be subject to this Agreement, until its expiry.
- 8.2 The parties agree that they will not make any extra claims in relation to employee terms and conditions of employment in operation for the period of this Agreement.

## **9. Negotiations for Replacement Agreement**

Negotiations to replace this Agreement will commence four months prior to the expiry of this Agreement or earlier or later by agreement between the parties covered by the Agreement.

## **10. Objectives of Agreement**

- 10.1 The parties agree that continuous improvement strategies will contribute to the efficiency and productivity of the NTPS and it is the intention of the parties to build upon and enhance the human resource reforms contained in the PSEM Act through:
- (a) improved human resource practices; and
  - (b) staff development; and
  - (c) management and professional development programs; and
  - (d) other programs of continuous improvement.
- 10.2 The parties acknowledge the need to examine jointly and consider all options when pursuing improvement strategies to ensure the achievement of the most cost effective and productive outcomes and that the consultative mechanisms referred to in clause 14 – Management of Change, will be employed by the parties for this process.



- 10.3 While recognising that reorganisation and changes to staff numbers arising from various factors are occurring within the NTPS, the parties agree that there will be no involuntary redundancies and no job losses arising directly from the implementation of this Agreement.

## **11. Productivity and Efficiency**

- 11.1 The parties to this Agreement recognise the skills, energy and cooperation of employees in increasing productivity across the NTPS and that these improvements are integral to enhanced client service delivery and the career satisfaction and development of employees. Increasing productivity is an ongoing and evolutionary process which takes place within the context of changing government priorities in policy and service delivery, new client demands, the introduction of new technology, more efficient and effective management and work practices, and ongoing skills development of the workforce.
- 11.2 As with former NTPS nursing and midwifery agreements, the past, present and future contribution of employees in increasing productivity is recognised through improved terms and conditions of employment which arise from the introduction of this Agreement.
- 11.3 The parties acknowledge that this Agreement recognises productivity improvements occurring during the life of this Agreement.
- 11.4 This Agreement recognises current and future developments in nursing and midwifery practice. In particular the Agreement recognises the following developments:
- (a) implementation of the new career pathway for NTPS nurses and midwives;
  - (b) the evolving clinical responsibility and scope of practice of nurses and midwives;
  - (c) the need to manage responsiveness to meet service demands whilst supporting safe workload management;
  - (d) emerging best practice principles supporting safe, quality patient care; and
  - (e) facilitating the requirements to the Australian Health Practitioner Regulation Agency.
- 11.5 Without limiting the scope of this clause, productivity and efficiency will be enhanced with employee commitment to implement the policies and initiatives of the government of the day.

## **12. Security of Employment**

- 12.1 While recognising that reorganisation and changes to employee numbers arising from various factors are occurring within the department, the parties agree that there will be no involuntary redundancies and no job losses arising directly from the implementation of this Agreement.
- 12.2 The Commissioner supports certainty of employment through the appropriate application of the merit principle. The use of higher duties, fixed period employment and casual employment arrangements in the NTPS are appropriate in certain circumstances.

## PART 2 – PROCEDURAL MATTERS

### 13. Dispute Settling Procedures

13.1 The parties are committed to avoiding industrial disputation about the application of this Agreement.

- (a) Subject to clause 13.1(b), this clause sets out procedures to be followed for avoiding and resolving disputes in relation to:
  - (i) a matter arising under this Agreement ; or
  - (ii) the National Employment Standard.
- (b) This clause does not apply in relation to disputes about:
  - (i) refusals for requests for flexible work arrangements on reasonable business grounds under clauses 49 and 50.1 of this Agreement; and section 65(5) of the FW Act;
  - (ii) refusals for requests for extended parental leave under clause 61.20 of this Agreement on reasonable business grounds under section 76(4) of the FW Act.
- (c) An employee who has a grievance about matters referred to in clause 13.1(b) can utilise section 59 of the PSEM Act to have the decision reviewed.

### 13.2 General

- (a) A party to a dispute may appoint another person, organisation or association to accompany or represent them at any stage of the dispute.
- (b) The parties to a dispute must genuinely attempt to resolve the dispute through the processes set out in this clause and must cooperate to ensure that these processes are carried out expeditiously.
- (c) Whilst a dispute is being dealt with in accordance with this clause, work must continue in accordance with usual practice, provided that this does not apply to an employee who has reasonable concerns about imminent risk to their health and safety, has advised the CEO of this concern and has not unreasonably failed to comply with a direction by the CEO to perform other available work that is safe and appropriate for the employee to perform.
- (d) Subject to any agreement between the parties in relation to a particular dispute, it is agreed that the provisions of the FW Act will be applied by the FWC with respect to the exercising of its functions and powers under this clause.
- (e) Any decision or direction the FWC makes in relation to the dispute shall be in writing.
- (f) Subject to the right of appeal under clause 13.5(d) any direction or decision of the FWC, be it procedural or final, will be accepted by all affected persons and complied with by the parties.

### 13.3 Internal Resolution

- (a) In the event of a dispute, the parties will in the first instance endeavour to resolve the matter internally as follows:
  - (i) The employee will refer the matter to their immediate supervisor for resolution, who may request that the employee provide written details of the matter, provided that where the dispute concerns alleged actions of the immediate supervisor, the employee may bypass this step.
  - (ii) If the matter cannot be resolved under clause 13.3(a)(i) above, it will be referred in writing to the relevant manager for resolution.
  - (iii) If the matter cannot be resolved under clause 13.3(a)(ii) above, it will be referred in writing to the CEO for resolution.
  - (iv) If the matter cannot be resolved under clause 13.3(a)(iii) above, it will be referred in writing to the Commissioner for resolution.
- (b) Attempts to resolve the matter under each stage of the process referred to in clause 13.3(a) will begin within 24 hours of, and be completed within three working days of the referral relating to that particular stage. These time limits may be extended by agreement between the parties to the dispute.

### 13.4 Conciliation

- (a) If the dispute remains unresolved after the parties have genuinely attempted to reach a resolution in accordance with clause 13.3, any party may refer the dispute to the FWC, for resolution by conciliation.
- (b) Provided the requirements of clauses 13.2 and 13.3 have been met by the parties to the dispute, it is agreed that jurisdiction will not be raised by any party at conciliation.
- (c) Conciliation before the FWC will be regarded as completed when:
  - (i) the parties have reached agreement on the settlement of the dispute; or
  - (ii) the member of the FWC conducting the conciliation has either of the member's own motion or after application by any party, satisfied themselves that there is no likelihood that further conciliation will result in a settlement within a reasonable period.

### 13.5 Arbitration

- (a) If a dispute remains unresolved at the completion of conciliation, either party may refer the dispute to the FWC for determination by arbitration, subject to any jurisdictional submissions.
- (b) Where a member of the FWC has exercised conciliation powers in relation to the dispute, that member will not be the member responsible for conducting the arbitration if any party to the dispute objects to that member doing so.

- (c) Subject to clause 13.5(d) the determination of the FWC is final and binding.
- (d) A party may appeal an arbitrated decision of a single member of the FWC, with leave of a full bench of the FWC, provided that such appeal is lodged within 21 days of the decision being made.

## **14. Management of Change**

14.1 This clause applies if the employer:

- (a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
- (b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

### *Major change*

14.2 For a major change referred to in clause 14.1 the employer must notify the relevant employees and the union of the decision to introduce the major change; and clauses 14.3 to 14.10 apply.

14.3 The relevant employees may appoint a representative for the purposes of the procedures in this clause.

14.4 If:

- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- (b) the employee or employees advise the employer of the identity of the representative, the employer must recognise the representative.

14.5 As soon as practicable after making a decision, the employer must:

- (a) discuss with the relevant employees:
  - (i) the introduction of the change; and
  - (ii) the effect the change is likely to have on the employees; and
  - (iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and
- (b) for the purposes of the discussion – provide, in writing, to the relevant employees:
  - (i) all relevant information about the change including the nature of the change proposed; and
  - (ii) information about the expected effects of the change on the employees; and
  - (iii) any other matters likely to affect the employees.

- 14.6 However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- 14.7 The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- 14.8 For the purpose of clause 14.7 genuine consideration includes:
- (a) advising employees and their representatives of the final decisions; and
  - (b) explaining how the views expressed by the employees and their representatives were taken into account.
- 14.9 If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in clauses 14.2, 14.3 and 14.5 are taken not to apply.
- 14.10 In this clause, a major change is likely to have a significant effect on employees if it results in:
- (a) the termination of the employment of employees; or
  - (b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
  - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
  - (d) the alteration of hours of work; or
  - (e) the need to retrain employees; or
  - (f) the need to relocate employees to another workplace; or
  - (g) the restructuring of jobs.

*Change to Regular Roster or Ordinary Hours of Work*

- 14.11 For a change referred to in clause 14.1(b):
- (a) the employer must notify the relevant employees and the union of the proposed change; and
  - (b) clauses 14.12 to 14.16 apply.
- 14.12 The relevant employees may appoint a representative for the purposes of the procedures in this clause.
- 14.13 If:
- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
  - (b) the employee or employees advise the employer of the identity of the representative, the employer must recognise the representative.

- (c) As soon as practicable after proposing to introduce the change, the employer must:
  - (i) discuss with the relevant employees the introduction of the change; and
  - (ii) for the purposes of the discussion – provide to the relevant employees:
    - A. all relevant information about the change, including the nature of the change; and
    - B. information about what the employer reasonably believes will be the effects of the change on the employees; and
    - C. information about any other matters that the employer reasonably believes are likely to affect the employees; and
  - (iii) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

**14.14** However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

**14.15** The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.

**14.16** In this clause **relevant employees** means the employees who may be affected by a change referred to in clause 14.1(b).

## **15. Consultative Committees and Representative Rights**

### *Consultative Committees*

**15.1** In relation to matters of general interest to the NTPS the parties agree to utilise the PSCC established under the PSEM Act.

**15.2** The parties acknowledge the establishment of a joint consultative committee (the committee) made up of department and union representatives. The committee will be known as the Australian Nursing and Midwifery Federation (NT Branch)/ Department of Health Consultative Committee.

**15.3** The terms of reference have been agreed between the parties, including frequency of meetings and timeframes for particular issues. The constitution of representatives will be agreed between the parties but will consist of union representatives, senior DOH nursing and midwifery leaders and senior departmental management.

**15.4** The purpose of the committee will be to discuss and agree outcomes in relation to operational issues raised by the parties.

**15.5** The committee will have the capacity to monitor the implementation of the agreed recommendations and outcomes. The committee may also discuss any other issues agreed by the committee.

### *Representative Rights*

- 15.6 The employer recognises the legitimate right of the union to represent those employees who are members, or eligible to become members.
- 15.7 An accredited union delegate will be allowed reasonable time during working hours to consult with members or employees eligible to become members on employment matters affecting employees provided that such consultation:
- (a) will not adversely affect their ability to perform their duties;
  - (b) does not disturb or interfere with their workplace or the workplace in which the consultation occurs; and
  - (c) has been approved by the relevant manager in advance of the activity.
- 15.8 Such approval will not be unreasonably withheld.

### *Right of Entry*

- 15.9 Subject to the FW Act right of entry requirements, a duly accredited union representative will observe all the usual courtesies including giving prior notice when entering or seeking to enter the department's premises and will not disturb or interfere with any work being carried out on the premises at any time while they are on the premises.

### *Union Training Leave*

- 15.10 For the purpose of assisting employees to understand their rights and entitlements under this Agreement and improving industrial relations, the CEO will, subject to the provisions of this clause, provide an employee who is a nominated union delegate with up to five days paid leave per annum to attend union training courses conducted by the union or approved by the union.
- 15.11 The approval for an employee to attend a training course will be subject to the operational requirements of the department.
- 15.12 Such approval will not be unreasonably withheld.
- 15.13 An employee seeking to take union training leave must:
- (a) have completed at least 12 months continuous service prior to taking union training leave; and
  - (b) have been nominated by the union to attend the course for which the union training leave is sought.
- 15.14 The employee will only be paid for the period of union training leave if:
- (a) the employee provides evidence satisfactory to the CEO of their attendance at the course for which union training leave was sought; and
  - (b) in normal circumstances the CEO has received not less than four weeks written notice of nomination from the union, setting out the times, dates, content and venues of the course.

- 15.15 Leave granted under this clause will be on ordinary pay, not including shift and penalty payments or overtime.
- 15.16 Leave granted under this clause will count as service for all purposes.

## **16. Work Health and Safety**

In addition to the parties obligations under the *Work Health and Safety (National Uniform Legislation) Act 2011*, or any superseding legislation, the department:

- (a) will on an ongoing basis monitor the impact of the department's Aggression Zero Tolerance policy on Remote Area Nurses; and
- (b) will manage work practices to ensure that wherever practicable, employees will not wear lead aprons for more than one hour without a 10 minute break.

## **17. Commitment to Employee Assistance Program**

- 17.1 The parties agree that the purpose of an Employee Assistance Program (EAP) is to assist management and employees to deal with issues that may impact on work performance.
- 17.2 Provision of an EAP is recognised as a contemporary human resource strategy that provides benefits to the department and the employee.
- 17.3 Access to EAPs by employees and their families will be subject to the following:
- (a) the availability of the EAP in their geographical area; (the parties recognise that remote areas may not have direct access to an EAP provider. In these instances, innovative measures such as telephone counselling, internet and travel may be utilised, where appropriate); and
  - (b) the relevance of the employee's family attending the counselling service, as determined by the provider; and
  - (c) consistent with the department's policy, the cost of the first three work-related visits is to be met by the department, with the cost of any subsequent visit by agreement between the department and the provider.

## **18. Appropriate Workplace Behaviour**

- 18.1 The parties are committed to achieving and maintaining a safe and healthy work environment, free from inappropriate workplace behaviour and bullying and will take all reasonably practicable steps to:
- (a) foster a culture of respect in the workplace; and
  - (b) ensure employees are treated appropriately and not subject to bullying.
- 18.2 An employee who is aggrieved by their treatment in employment may seek a review under section 59 of the PSEM Act.



## PART 3 – CLASSIFICATIONS, PAY AND INCREMENTS

### 19. Classifications

- 19.1 All employees will be classified according to the structure set out in TABLE 1 Annual Rates of Pay of Schedule 3.
- 19.2 Assessment of the appropriate classification level under this Agreement will be in accordance with the classification descriptions set out in Schedule 1– Classification Descriptions.

### 20. Rates of Pay

- 20.1 The rates of pay (annual salary) will be increased as set out below:
- (a) 2.5% effective from 9 August 2018;
  - (b) 2.5% effective from the first full pay period to commence on or after 9 August 2019;
  - (c) 2.5% effective from the first full pay period to commence on or after 9 August 2020; and
  - (d) 2.5% effective from the first full pay period to commence on or after 9 August 2021.
- 20.2 The rates of pay applicable to classifications in this Agreement are contained in TABLE 1 Annual Rates of Pay in Schedule 3.
- 20.3 Allowances are to be adjusted in accordance with the applicable provisions in this Agreement and are set out in Schedule 3 – Salary Rates and Allowances (refer TABLE 2 Work Related Allowances and TABLE 3 Expense Related Allowances).
- 20.4 Employees will be paid fortnightly based on the following formula:

$$\text{Fortnightly pay} = \frac{\text{annual salary} \times 12}{313}$$

#### *Nurse 1/2 in Training*

- 20.5 An employee undertaking a three month supervised clinical nursing or midwifery program with the department as a requirement for 're-entry' to nursing or midwifery, will be paid 75% of the base salary point of the Nurse 1 or Nurse 2 classification, including the appropriate penalty payments, depending upon their nursing or midwifery qualification.

### 21. Part-Time Employment – Pro Rata Entitlements

A part-time employee will be entitled to all terms and conditions of employment under this Agreement applying to a full-time employee on a pro rata basis according to the part-time employee's agreed hours of duty, unless otherwise stated in this Agreement.

## **22. Casual Employment and Loading**

- 22.1 An employee engaged on a casual basis will be paid the ordinary hourly pay rate for the employee's classification.

*Note: Refer to the notes in Schedule 3 on calculating an employee's ordinary hourly pay rate.*

- 22.2 A casual employees will be paid a loading of 20% of the ordinary hourly rate for the classification in which they are employed. The loading is in lieu of personal leave and recreation leave entitlements. The casual loading will not be used to increase the hourly rate for payment of overtime or shiftwork penalties.
- 22.3 The casual loading referred to in clause 22.2 will be increased to 22% effective from the first full pay period to commence on or after 9 August 2021.

## **23. Recognition of Previous Experience**

- 23.1 **Approved experience** will mean such experience in the nursing and/or midwifery industry as is recognised by the CEO for the purposes of this clause.
- 23.2 An employee will be credited with approved experience for purposes of determining salary on employment and eligibility for incremental advancement.
- 23.3 A Nurse 2 employee who has returned to the nursing or midwifery industry after completing a 'refresher course', and who has not worked as a Registered Nurse or Registered Midwife for five or more years, will not immediately be credited on employment with 'approved experience' for salary purposes.
- 23.4 However, within their first three months of service they may request the CEO make an assessment of their performance to determine the extent to which they have recovered their former skills and the proportion of their previous experience which should be recognised as 'approved experience' for salary purposes.
- 23.5 Employees will be eligible for salary and incremental advancement from the date on which the assessment is made.

## **24. Increments**

- 24.1 Subject to the provisions of this clause, salary progression where there is more than one salary point will be by annual increments.
- 24.2 An employee will be entitled to progress one pay point within the rates of pay scale for the employee's classification after 12 months continuous service, or after 12 months broken service in the preceding 24 months, at a particular pay point.
- 24.3 In the case of a part-time employee, an employee will be entitled to progress one pay point within the rates of pay scale for the employee's classification from the date the employee completed 1976 hours at the employee's current increment.
- 24.4 An employee who is promoted on an ongoing basis will have included for the purpose of calculating the increment date any previous period during the preceding 24 months at which the employee performed higher duties at the new classification level or higher.

*Note 1: Performance of higher duties of another designation or classification level having a lower scale of rates of pay than the new classification level to which the employee is promoted will not count for incremental purposes.*

*Note 2: Refer to clause 27(g) (Higher Duties Allowance) for recognition of an increment attained by higher duties for future higher duties.*

- 24.5 A period of employment at a higher duties classification level will count for incremental purposes for the employee's substantive classification level.

*Withholding an increment*

- 24.6 The authority to apply clauses 24.8 and 24.9 will not be applicable unless the Commissioner is satisfied that an acceptable performance management system is in place which meets the requirements of Employment Instruction No. 4.
- 24.7 The Commissioner will notify employees and their representatives of the acceptance of any performance management system for the purposes of clause 24.6 prior to that system being used for deferral of increments.
- 24.8 The CEO may determine to withhold an increment as set out in clause 24.9, on the basis that an employee:
- (a) having agreed to or having been assigned reasonable performance targets or reasonable required work outcomes, has failed to meet those targets or outcomes, and
  - (b) has received counselling and been provided with the opportunity to improve performance to an acceptable standard, and
  - (c) has failed to attain or sustain an acceptable standard of work performance.
- 24.9 The CEO may withhold an increment as follows:
- (a) the CEO may defer payment for a specified period of time which will be up to six months subject to payment earlier if a specified, and preferably agreed, work performance, training or work outcome target is demonstrated;
  - (b) at the end of the six month deferment period, the CEO may again defer the increment by up to a maximum of a further six months where the required performance standard has not been achieved and alternative steps have been taken to address the less than satisfactory performance. The increment will not be withheld for longer than 12 months in total;
  - (c) the CEO must provide the reasons for deferring an increment under clauses 24.9(a) or 24.9(b) in writing to the employee.
- 24.10 If a decision is made under clauses 24.9(a) or 24.9(b) the employee may seek a review of the CEO's decision on the basis of one or more of the following reasons:
- (a) this clause has not been adhered to; or
  - (b) the decision was made to punish or harass the employee; or

(c) natural justice has not been afforded to the employee.

24.11 The review will be conducted in accordance with the grievance review mechanism under section 59 of the PSEM Act.

24.12 In all cases where an increment is deferred, the date to which it is deferred will become the anniversary date for the purposes of the next increment.

24.13 The Commissioner will notify the union of the acceptance of any performance management system for the purposes of clause 24.6 prior to that system being used for deferral of increments.

## **25. Superannuation**

25.1 The subject of superannuation is dealt with extensively by Commonwealth legislation, which governs the superannuation rights and obligations of the parties.

25.2 The Commissioner must make superannuation contributions on behalf of an employee in order to satisfy the Superannuation Guarantee requirements of the governing legislation.

25.3 The Commonwealth Superannuation Scheme (CSS), Northern Territory Government and Public Authorities Superannuation Scheme (NTGPASS) and the Northern Territory Supplementary Superannuation Scheme (NTSSS) are classified as exempt public sector superannuation schemes under the *Superannuation Industry (Supervision) Act 1993*. The superannuation legislation treats exempt public sector superannuation schemes as complying funds for concessional taxation and superannuation guarantee purposes.

*Note: The CSS was closed to new members from 1 October 1986 and both NTGPASS and NTSSS were closed to new members from 10 August 1999. Employees employed before these dates may be members of the CSS, NTGPASS and NTSSS.*

25.4 Employees who commenced after 10 August 1999, or who have ceased to be a member of the CSS, NTGPASS or NTSSS, can choose a complying superannuation fund to receive contributions on their behalf. Employees who do not nominate a superannuation fund will become members of the current default superannuation fund.

## **26. Salary Sacrifice**

### **26.1 Salary Sacrifice for Employer Superannuation**

Under this Agreement an employee may choose to sacrifice salary for employer superannuation contributions into a complying superannuation fund. The arrangement is available to all employees and participation is at the discretion of an individual employee. Under the arrangement the following conditions apply:

(a) An employee who currently has their employer superannuation guarantee contributions paid to a Choice of Fund superannuation fund (e.g. employed after 10 August 1999) may salary sacrifice into that fund or another complying superannuation fund.

- (b) An employee who currently contributes 6% to NTGPASS may salary sacrifice into NTGPASS or another complying superannuation fund.
- (c) An employee who currently contributes to the CSS is not able to salary sacrifice into that scheme but can salary sacrifice into another complying superannuation fund.
- (d) While there is no limit to the amount an employee can salary sacrifice to superannuation, the amount sacrificed plus any other employer contributions (whether real or notional), will be assessed against the Commonwealth concessional contribution cap relevant to their age. The employee is responsible for any tax and interest that may be imposed by the Australian Taxation Office or other relevant authority for them exceeding the Commonwealth concessional contribution cap.
- (e) The arrangement operates at no additional cost to the Northern Territory Government, either directly or indirectly.
- (f) The arrangement does not operate to reduce employer superannuation contributions for employees that would ordinarily be payable by the Northern Territory Government in the absence of salary sacrifice arrangements.
- (g) When an employee who is a member of the CSS, NTSSS or NTGPASS enters into a salary sacrifice for employer superannuation arrangement, the employee's annual rate of salary for superannuation purposes will remain at the rate set out in this Agreement (that is, the salary sacrifice arrangement has no effect on the employee's annual rate of salary for superannuation purposes).

## 26.2 Salary Sacrifice Packaging

Under this Agreement an employee may choose to enter into salary sacrifice packaging arrangements in compliance with Commonwealth taxation legislation and any rules and regulations imposed by the Australian Taxation Office or other relevant authority. These salary sacrifice packaging arrangements meet the full obligations of the employer in relation to salary payments required under this Agreement. Under the arrangement the following conditions shall apply:

- (a) the arrangement operates at no additional cost to the Northern Territory Government either directly or indirectly;
- (b) salary sacrifice arrangements may cease or be modified to reflect any changes to the Commonwealth taxation legislation or rules. Any additional taxation liability arising from these changes will be met by the employee;
- (c) an employee shall meet any administration costs as part of the salary package arrangements, including any Fringe Benefit Tax liabilities that may arise;
- (d) an employee's salary for superannuation purposes and severance and termination payments shall be the gross salary which would have been received had the employee not entered into a salary sacrifice packaging arrangement; and

- (e) an employee shall provide evidence of having obtained or waived their right to obtain independent financial advice prior to entering into a salary sacrifice packaging arrangement.

## **PART 4 - ALLOWANCES**

### **27. Higher Duties**

Where an employee has been directed to temporarily perform duties at a higher classification level, the following provisions apply:

- (a) An employee directed to perform all or part of the duties of a higher classification will be paid an allowance equal to the difference between the employee's own salary and the salary the employee would receive if promoted to the higher classification, or an alternative amount determined and authorised as a percentage of the duties performed where partial performance is directed.
- (b) An allowance paid for performance of higher duties will be regarded as salary for the purposes of calculation of overtime and excess travelling time.
- (c) An employee who is directed to perform continuous higher duties for at least one shift will be regarded as being on higher duties for that whole shift; performance of higher duties for less than one shift will be disregarded for all purposes.
- (d) An employee who performs the duties of a higher classification which has a maximum annual salary in excess of the maximum annual salary payable to Nurse 3, for a period of less than one week will not be paid an allowance, and that period will not count as service at the higher classification level unless the Commissioner determines otherwise.
- (e) An employee who performs the duties of a higher classification will be subject to the conditions of service of the higher classification.
- (f) An employee who performs the duties of a higher classification for 12 months continuously, or for 12 months in broken periods over a 24 month period, and has met the requirements of clause 24 (Increments) will be paid an increment in accordance with that clause.
- (g) An increment attained by higher duties will be retained for future higher duties at that classification level (or lower).
- (h) An employee who has been directed to perform the duties of a higher classification and is absent on paid leave or observes a public holiday, will continue to receive payment of higher duties allowance during the absence to the extent of the continued operation of the direction. If the period of paid leave is on less than full pay, the higher duties allowance is adjusted accordingly.

## **28. Shift Responsibility Allowance**

- 28.1 Where a senior nurse/midwife (Nurse 3 to Nurse 6) is not rostered to be in charge of a hospital ward, a higher duties allowance will be paid for the whole shift to a Nurse 2 who undertakes shift management responsibility for that ward for a period greater than five hours.
- 28.2 The higher duties allowance will be:
- (a) paid to reflect the partial management responsibilities undertaken by the Nurse 2; and
  - (b) paid at the salary rate of a Nurse 3 (level 3.1); and
  - (c) paid in conjunction with any appropriate shift penalties, which will be paid at the Nurse 3 salary rate.

## **29. Exemplary Practice Allowance**

- 29.1 Exemplary Practice (EP) is a status awarded by the department for sustained exemplary nursing or midwifery performance in the clinical setting.
- 29.2 Exemplary Practice is recognised through the payment of an allowance that rewards employees in non-promotional positions who engage in additional exemplary activities within the workplace.
- 29.3 After approval, and subject to maintaining exemplary practice, an employee's Exemplary Practice status will be recognised for a period of three years before the employee must be reassessed.
- 29.4 There is one level of Exemplary Practice for Nurse 1 (Enrolled Nurse) (Nurse 1 EP 1) and two levels of Exemplary Practice for Nurse 2 (Registered Nurse or Registered Midwife) (Nurse 2 EP 1 and EP 2).
- 29.5 The Exemplary Practice Scheme will apply to employees, excluding casuals, employed as Nurse 1 or Nurse 2 by the department.
- 29.6 An employee must meet the requirements specified in the Exemplary Practice Handbook: Application Process Guidelines to be eligible to apply for assessment.
- 29.7 The Exemplary Practice Allowance will be paid to successful applicants for a period of three years, subject to their maintaining exemplary practice requirements.
- 29.8 An employee may make an application for Exemplary Practice status at any time and there is no limit to the number of times an employee may re-apply for assessment.
- 29.9 To ensure the continuation of the allowance, an employee must re-apply for Exemplary Practice assessment prior to the three year termination date.

29.10 The Exemplary Practice Allowance will be paid at the following rates:

Classification	Category of Exemplary Practice Allowance	Rate per annum
Nurse 1	EP 1	6% of the fourth salary point of the Nurse 1 classification
Nurse 2	EP 1	6% of the fourth salary point of the Nurse 2 classification
Nurse 2	EP 2	13% of the fourth salary point of the Nurse 2 classification

29.11 The Exemplary Practice Allowance rates applicable to this Agreement are contained in TABLE 2 Work Related Allowances of Schedule 3.

29.12 The allowance is paid on a fortnightly basis and will:

- (a) be paid to a part-time employee on a pro rata basis based on their agreed hours;
- (b) be paid during approved periods of paid leave;
- (c) be recognised for superannuation purposes;
- (d) not be included in calculation of overtime or penalty rates;
- (e) not be paid during periods of higher duties;
- (f) not be paid during leave without pay or leave not authorised.

29.13 The Exemplary Practice Allowance for Nurse 2 EP 1 and EP 2 will not be paid concurrently.

### 30. Post Graduate Allowance

30.1 An employee, excluding casuals, who obtains a recognised post graduate qualification and who is employed in a work unit relevant to that qualification will be paid a Post Graduate Qualification Allowance at the rates specified in this clause.

Qualification	Allowance
Nurse 1 (Enrolled Nurse), Course of study no less than 6 months or 120 hours.	3.5% of the fifth pay point of the Nurse 1 classification
Nurse 2-8 (Registered Nurse / Registered Midwife), Conversion degree or graduate certificate	3.5% of the maximum pay point of the Nurse 2 classification
Nurse 2-8 (Registered Nurse / Registered Midwife), Graduate Diploma	4% of the maximum pay-point of the Nurse 2 classification
Nurse 2-8 (Registered Nurse / Registered Midwife), Master's degree or Doctorate	5% of the maximum pay point of the Nurse 2 classification



**30.2** The Post Graduate Allowance rates applicable to this Agreement are contained in TABLE 2 Work Related Allowances of Schedule 3.

**30.3** The allowance will be paid fortnightly and will:

- (a) be paid to a part-time employee on a pro rata basis based upon their agreed hours;
- (b) be paid during approved periods of paid leave;
- (c) be recognised for superannuation purposes;
- (d) not be included in calculation of overtime or penalty rates;
- (e) be paid only once to an employee irrespective of how many post graduate qualifications the employee holds;
- (f) not be paid during periods where the employee performs higher duties outside of the relevant work area; and
- (g) not be paid during leave without pay or during periods of leave which have not been authorised.

## **31. Professional Development Allowance**

**31.1** An employee, excluding casuals, who has been employed within the department for the required qualifying period will be paid a Professional Development Allowance annually.

**31.2** A qualifying employee in receipt of the upfront fixed payment immediately before commencement of this Agreement shall be entitled to:

- (a) receive Professional Development Allowance on an upfront basis in accordance with clause 31.4; or
- (b) elect to change to the reimbursement model prior to 30 August of each subsequent professional development year; and
- (c) on electing the reimbursement model the employee may not revert to the upfront fixed payment model.

**31.3** In all other circumstances, a qualifying employee will be entitled to receive a Professional Development Allowance in accordance with the reimbursement model in clause 31.5.

**31.4** Upfront fixed payment model

Payment of the allowance is subject to the following qualifying periods, amounts and conditions:

- (a) the annual Professional Development Allowance entitlement year is 1 September to 30 August, and continuous service is determined as at 30 August each year.
- (i) One year up to three years continuous service - \$555 per annum; or

- (ii) Three years or more continuous service - \$1666 per annum.
- (b) Payment will be in the form of a lump sum made as soon as practicable after 30 August.
- (c) The allowance will not count as salary for any purpose.
- (d) The allowance will apply to part-time employees on a pro rata basis based upon their agreed hours.
- (e) Payment is subject to relevant income tax.
- (f) An employee will be required during the performance management process to provide information to their manager on the use, or planned use of the allowance toward cost of professional development activities and costs, and meeting their continuing professional development obligations as outlined in the Nursing and Midwifery Board of Australia's continuing professional development registration standard.

### 31.5 Reimbursement model

- (a) Payment of the allowance is subject to the following qualifying periods, amounts and conditions:
  - (i) The annual Professional Development Allowance entitlement year is 1 September to 30 August, and continuous service is determined as at 30 August each year.
  - (ii) Payment rates:

		Rate effective from			
		01.09.2018	01.09.2019	01.09.2020	01.09.2021
Qualifying Service	1 – 3 years	\$643	\$659	\$675	\$692
	> 3 years	\$1925	\$1973	\$2022	\$2073

- (iii) An employee can only make one claim per Professional Development Allowance entitlement year up to the employee's maximum annual Professional Development Allowance entitlement.
- (iv) Reimbursement can be made at any time during the year where the employee has reached their maximum Professional Development Allowance entitlement on production of sufficient evidence to substantiate the employee's professional development costs.
- (v) Reimbursement will be in the form of a lump sum.
- (vi) The allowance will not count as salary for any purpose.
- (vii) The allowance will apply to part-time employees on a pro rata basis based upon their agreed hours of employment.

- (viii) An advance payment of the allowance may be approved at the employee's request in circumstances where the employee is required to meet substantial costs in advance for an approved professional development activity, e.g. an interstate conference.
  - (ix) As part of the performance planning and review process, an employee and their manager may agree to forward plan a professional development activity that may incorporate more than one years allowance, e.g. an overseas conference.
  - (x) The production of sufficient evidence by the employee substantiating professional development costs and activity/activities incurred, or to be incurred by the employee, and providing evidence that the employee attended the activity/activities.
- (b) The allowance is payable for the following professional development activities:
- (i) fees for professional courses, tuition, conferences or similar;
  - (ii) fees for professional bodies where eligibility for membership is essential for professional registration and/or practice in the Public Sector;
  - (iii) subscriptions to technical/business publications;
  - (iv) the purchase of technical books; and
  - (v) air travel to conferences (up to 50% of the allowance).

## **32. Meal Allowance**

**32.1** An employee who is required to work overtime after the end of ordinary duty, to the completion of or beyond a meal period without a break for a meal, will be paid a meal allowance as determined by the Commissioner in addition to any overtime. (See TABLE 3 Expense Related Allowances of Schedule 3 for rates.)

**32.2** A meal period means the following periods:

- (a) 7.00 am to 9.00 am
- (b) 12 noon to 2.00 pm
- (c) 6.00 pm to 7.00 pm
- (d) midnight to 1.00 am

**32.3** Meal allowance is also payable to an employee who is required:

- (a) after the completion of their ordinary hours of duty for the day, without a break for a meal, to perform extra duties up to the completion of or beyond the next meal period occurring after the completion of that ordinary duty; or
- (b) after the completion of their ordinary hours of duty for the day, to perform duty after a break for a meal which occurs after that completion and is not entitled to payment for that break; or

- (c) to perform duty before the commencement of ordinary hours of duty, who breaks for meal and is not entitled to payment for that break; or
- (d) to perform duty on a Saturday, Sunday, public holiday or rostered day off, in addition to their ordinary weekly hours of duty, extending beyond a meal break and is not entitled to payment for that break.

32.4 The amount of meal allowance payable under clause 32.1 will be adjusted to equal the maximum amount required to obtain a three course meal where such a meal is obtainable by the employee at a canteen, cafeteria or dining room conducted, controlled or assisted by the employer.

32.5 A part-time employee will be eligible to be paid meal allowance at the same rate applying to a full-time employee.

### **33. Uniform Allowance**

An employee who is not provided with a uniform will be paid an allowance per annum as follows:

<b>Per annum</b>	<b>Effective from</b>
\$488	9 August 2018
\$500	22 August 2019
\$513	20 August 2020
\$526	19 August 2021

### **34. Ambulance Duty Allowance**

34.1 The following conditions will apply to an employee required to undertake duty on aerial or road ambulances.

34.2 Where an employee is travelling with a patient or assisting a medical officer with a patient, all ordinary time spent in travelling will be regarded as time on duty and paid at ordinary rates. For any time of duty spent in such travel in excess of the rostered hours of duty on any day or on a rostered day off, payment will be made at overtime rates in accordance with this Agreement.

34.3 Where an employee is travelling to a patient or having transported a patient is returning to headquarters, all ordinary time spent in travelling will be regarded as time on duty and paid at ordinary rates. For any time of travel in excess of the rostered hours of duty on any day payment will be made at the rate of single time on days, other than Sundays and public holidays, and at time and one half rates on Sundays and public holidays, up to a maximum of five hours.

34.4 Where such travel is undertaken on a rostered day off, payment will be made at the rate of single time on days other than Sundays and public holidays and at time and one half rates on Sundays and public holidays, for the time of travel corresponding to normal hours of ordinary duty subject to a maximum of eight hours on any day and for the time of travel outside normal ordinary hours of duty subject to a maximum of five hours on any day.

34.5 For the purpose of this clause **day** means midnight to midnight.

### **35. Accident Allowance**

35.1 An employee will be paid an allowance equivalent to their ordinary hours salary during a period of absence necessitated by physical injury sustained:

- (a) because of an act or omission of an employee (other than the employee injured) or a person not employed but performing on behalf of the Northern Territory Government duties similar to those of the employee injured; or
- (b) as a result of a defect in material or appliances; or
- (c) in protecting government property from loss or damage while on duty; or
- (d) while travelling between their place of residence and their place of work; or
- (e) while travelling directly between their place of residence or their place of work and an educational institution at which their attendance is required or expected by the Commissioner; or
- (f) in circumstances in which the actions of the employee are regarded by the Commissioner as so meritorious in the public interest as to warrant special consideration.

35.2 Accident allowance will be paid for an absence necessitated by physical injury of up to four months or a longer period determined by the Commissioner.

35.3 The amount of accident allowance payable will be increased by an amount reasonably incurred in transport, medical and hospital expenses as a result of the injury.

35.4 An employee will be paid an allowance equivalent to half their ordinary hours salary during a period of absence of up to three months necessitated by physical injury sustained in circumstances other than those in clause 35.1 and not attributable to wilful misconduct, or a longer period determined by the Commissioner.

35.5 An employee paid an allowance in accordance with clause 35.4 may utilise available personal leave credits on full or half pay to supplement the allowance to the level of their ordinary hours salary.

35.6 The amount of accident allowance payable in accordance with clause 35.4 will be increased by an amount reasonably incurred in transport and first aid expenses as a result of the injury.

35.7 Accident allowance is not payable where an employee receives benefits in respect of the injury at the same time under the *Northern Territory Work Health and Safety (National Uniform Legislation) Act 2016* or the *Northern Territory Motor Accidents (Compensation) Act*, as amended, but nothing in this clause will reduce the rights of an employee under those Acts.

35.8 Where an amount of accident allowance or salary in respect of personal leave paid to an employee is reimbursed to the employer by the party responsible for the injury or their representative, no deduction of accident allowance or personal leave credits will be made from the employee injured.

### **36. 'Cashing up' of Airfares on a Common Date**

- 36.1 Leave airfare allowance will be paid to an eligible employee, according to By-law 33 or By-law 47, on the first pay day on or after 1 May of each year. Under these arrangements an employee's accrual date remains the same, subject to deferral resulting from any leave without pay taken by the employee.
- 36.2 An employee may request in writing to receive payment of an accrued leave airfare allowance prior to the common payment date
- 36.3 An employee may request in writing that payment of the leave airfare allowance be deferred for the purposes of utilising kilometre allowance and travelling time. Such request must be given two months prior to the common payment date.
- 36.4 Once payment has been made, there is no provision for an employee to repay monies in order to utilise kilometre allowance or travelling time.

### **37. Preserved Entitlement - Northern Territory Allowance**

Subject to satisfying the annual review requirements, an employee in receipt of the Northern Territory Allowance on the day prior to the commencement of this Agreement will be eligible to continue to receive the allowance as per By-law 26 and By-law 49. In circumstances where the allowance is paid because the employee has established responsibility for dependants in accordance with the relevant By-law, the allowance will continue to be paid until such time as the employee no longer has those dependants.

## **PART 5 – HOURS OF WORK, OVERTIME, SHIFTWORK AND RELATED MATTERS**

### **38. Hours of Work**

#### *Ordinary Hours of Duty*

- 38.1 The ordinary hours of duty for a full-time employee will be an average 76 hours per fortnight.
- 38.2 The ordinary hours of duty for a full-time employee, except for a Registered Nurse working in a school, will be an average of 38 per week and will not exceed 152 hours in 28 consecutive days.
- 38.3 The ordinary hours of duty will, wherever reasonably practicable, be worked so that:
- (a) in any week not more than five shifts are exceeded; or
  - (b) in any fortnight not more than ten shifts are exceeded.
- 38.4 A roster showing the ordinary hours of duty of all employees, except employees performing relief duties, will be posted in a place accessible to employees at least seven days before it comes into operation but amendments may subsequently be made to the roster on account of the sickness or absence of another employee, either by mutual agreement or if departmental exigencies render any alteration necessary.

- 38.5 A Registered Nurse, designated as a remote Community Health Nurse, will be entitled to accumulate up to five programmed days off resulting from working 40 hours per week.

*Registered Nurse Working in a School*

- 38.6 For a Registered Nurse working in a school:
- (a) The ordinary hours of work will be 38 per week, or an average of 38 hours per weeks averaged over a period of 46 weeks.
  - (b) The Registered Nurse will be employed in annual terms and on duty during school operating periods.
  - (c) During school closures these nurses will take annual recreation leave, acquit their accrued hours gained from the 38 hours week provisions and be available for duty including in-service courses as required by the department.

**39. Part-Time Employment – Agreed Hours**

- 39.1 No employee who is currently employed on a full-time basis will be required to convert to part-time employment or transfer without their consent to enable part-time employment.
- 39.2 At the time of engagement, or of conversion from full-time employment, the CEO and the employee will agree in writing a regular pattern of part-time work (agreed hours), specifying at least the hours worked each day, which days of the week the employee will work and the actual starting and finishing times each day.
- 39.3 Changes to a part-time employee's agreed hours originally established under clause 39.2 may be made by mutual agreement between the CEO and the employee and recorded in writing.
- 39.4 Subject to clause 43.4 (general OT principles), a part-time employee will be liable to be called for duty at any time that the employee is required. Part-time employees will not work more than 64 hours per fortnight unless operational needs apply.

**40. Span of Hours**

- 40.1 The span of hours will be 6.00 am to 6.00 pm.
- 40.2 The span of hours during which a part-time employee may work their agreed hours will be the same span applicable to full-time employees.

**41. Minimum Break Between Shifts**

As far as practicable employees will have nine and one half consecutive hours off duty between the cessation of one shift and the commencement of another.

**42. Tea Break**

The parties agree to continue with the existing flexible tea break arrangements subject to the operational needs of the work unit.

## **43. Overtime**

### *Reasonable Additional Hours / Overtime General Principles*

- 43.1 It is recognised that the need for employees to work reasonable additional hours, including overtime, is an inherent operational requirement for the delivery of an efficient and effective health service in the Northern Territory.
- 43.2 At the same time, employees should be able to achieve a balance between their working and personal lives. Although employees may be required to work reasonable overtime, to minimise unreasonable levels of overtime, the department will strive to achieve balance between the operational requirements of the health service and employee's availability and capacity to perform the extra duty.
- 43.3 Subject to clause 43.4, an employee will be liable to be called for duty at any time that the employee is required.
- 43.4 An employee may refuse to work additional hours or overtime in circumstances where the working of such additional hours or overtime would result in the employee working hours which are unreasonable. In determining whether additional hours or overtime are reasonable or unreasonable, the following must be taken into account:
- (a) any risk to employee health and safety from working the additional hours;
  - (b) the employee's personal circumstances, including family responsibilities;
  - (c) any notice given by the CEO or delegate of any request or requirement to work the additional hours;
  - (d) any notice given by the employee of their intention to refuse to work the additional hours;
  - (e) the needs of the department or work unit;
  - (f) whether the employee is entitled to receive overtime payments, time off in lieu; or
  - (g) other compensation for, or a level of remuneration that reflects an expectation of working additional hours;
  - (h) the usual patterns of work in the industry, or the part of an industry, in which the employee works;
  - (i) the nature of the employee's role, and the level of responsibility;
  - (j) whether the additional hours are in accordance with an averaging arrangement agreed to by the CEO and the employee;
  - (k) any other relevant fact.
- 43.5 Managers and supervisors will take reasonable action to ensure employees are provided with as much notice as possible where scheduled overtime needs to be deferred or cancelled, taking into account the circumstances prevailing in the workplace.



- 43.6 The department undertakes to provide assistance to managers and supervisors in adhering to appropriate overtime rostering and scheduling practices.

*Monitoring and Consultation*

- 43.7 The department will

- (a) monitor and report on general nursing/midwifery overtime levels to employees and their representatives through the Australian Nursing and Midwifery Federation/ Department of Health Consultative Committee; and
- (b) specifically monitor Nurse 6 hours of work and if they are found to be working excessive and unreasonable levels of additional work the department will:
  - (i) explore options for addressing the excessive hours; and
  - (ii) these options could include:
    - A. a reallocation of duties in the case of excessive hours being worked by an individual Nurse 6; or
    - B. a request to the Commissioner to compensate the employee or employees for the additional hours worked; or
    - C. some other appropriate intervention.

*General Conditions*

- 43.8 Unless authorised by the Commissioner or in accordance with clause 48 (Facilitative Provisions), an employee in a classification level at or above Nurse 6 level is not eligible to receive overtime payment.
- 43.9 Overtime is worked by prior direction or, if circumstances do not permit prior direction, is subsequently approved in writing.
- 43.10 For the purposes of determining whether an overtime attendance is or is not continuous with ordinary duty, or is or is not separate from other duty, meal periods will be disregarded.
- 43.11 Duty for a full-time employee (non-shiftworker) will be considered overtime where it is performed on:
- (a) Monday to Friday outside the span of hours in clause 40;
  - (b) Monday to Friday during the span of ordinary hours but beyond the length of time the employee is normally required to work on the day concerned; or
  - (c) a Saturday, Sunday or public holiday.
- 43.12 Duty for a full-time shiftworker will be considered overtime where:
- (a) it is performed on any day which is outside the normal rostered ordinary hours of duty on that day; or
  - (b) it is performed in excess of 152 hours in any 28 consecutive day cycle of shifts.

- 43.13 For a part-time employee overtime will only be paid for work performed:
- (a) outside the normal span of hours as specified in clause 40, except where the employee is a shiftworker; or
  - (b) beyond the length of time the employee is normally required to work on the day concerned as per the employee's agreed hours of work in clause 39.2; or
  - (c) subject to clause 43.13(c)(i), after working in excess of 64 hours per fortnight.
    - (i) From 1 July 2019, after working in excess of 76 hours per fortnight.
- 43.14 Duty will be considered overtime for a casual employee where the employee is directed to perform duty:
- (a) for casual shiftworkers:
    - (i) on any day beyond the normal rostered ordinary hours of duty for an equivalent full-time employee on that day; or
    - (ii) in excess of 152 hours in any 28 consecutive day cycle of shifts.
  - (b) for other casual employees:
    - (i) outside the span of ordinary hours for the equivalent full-time employee;
    - (ii) on a Saturday (only where the span of ordinary hours is Monday to Friday inclusive), Sunday or Public Holiday; or
    - (iii) in excess of the ordinary hours for the equivalent full-time employee in a fortnight.
- 43.15 For all employees, except casuals, overtime will be payable where work is performed as restrictive duty (clause 46) or emergency duty (clause 47) in accordance with the relevant provisions.

#### *Overtime Payment*

- 43.16 An employee's salary for the purpose of calculation of overtime will include higher duties and other allowances in the nature of salary. The casual loading set out in clause 22 is not paid for overtime.
- 43.17 Overtime is calculated to the nearest quarter of an hour of the total amount of overtime worked in a fortnightly period.
- 43.18 The rate of payment for overtime will be:
- (a) Monday to Saturday at the rate of time and a half for the first three hours and double time thereafter;
  - (b) Sunday at the rate of double time; and
  - (c) Public Holidays at the rate of double time and a half.

43.19 The hourly rate for overtime payment will be ascertained by applying the following formulae:

Time and a half rate:

$$\frac{\text{Annual salary}}{313} \times \frac{6}{\text{Prescribed weekly hours before overtime is payable}} \times \frac{3}{2}$$

Double time rate:

$$\frac{\text{Annual salary}}{313} \times \frac{6}{\text{Prescribed weekly hours before overtime is payable}} \times \frac{2}{1}$$

Double time and a half rate:

$$\frac{\text{Annual salary}}{313} \times \frac{6}{\text{Prescribed weekly hours before overtime is payable}} \times \frac{5}{2}$$

43.20 In applying the relevant formula at clause 43.19, prescribed weekly hours before overtime is payable are 38.

*Time off in lieu of Overtime*

43.21 An employee who wishes to take time off in lieu of payment for overtime will make a written request to the CEO for that purpose.

43.22 Where time off in lieu is granted, it will be taken:

- (a) at the ordinary time rate, that is one hour for each hour worked; and
- (b) at a time or times agreed between the CEO and the employee.

43.23 Time off in lieu must be utilised within eight months from the original date of entitlement and if it is not taken within this period, the employee will, subject to clause 43.24, receive payment at the appropriate overtime rates calculated in accordance with the employee's salary at the time of actual payment.

43.24 Where an employee who is to receive payment under clause 43.23 is promoted beyond the salary barrier prescribed under clause 43.8 payment will be made at the salary rate of the employee immediately prior to the employee's actual promotion.

43.25 The maximum amount of time off in lieu which can be accrued is 40 hours.

43.26 Where an employee performs a full day's duty on Sunday in addition to the employee's prescribed hours of duty for the week, the employee will, wherever practicable, be granted a day off during the following week. Where this occurs, an employee who is eligible for the payment of overtime will be paid an additional one day's pay, in lieu of the provisions of clause 43.18(b).

#### *Rest Relief in Conjunction with Overtime*

43.27 Employees who work so much overtime between the termination of their ordinary duty on one day and the commencement of their ordinary duty on the next day so that they have not had at least nine consecutive hours off duty between those times, will, subject to this clause, be released after completion of such overtime until they have had nine consecutive hours off duty without loss of pay for ordinary working time occurring during such absences including reasonable travelling time to cover time taken in travelling from and to their places of employment.

- (a) Provided that if such employees are required by the department to resume or continue work without having had nine consecutive hours off duty including reasonable travelling time, they will be paid at double rate until they are released from duty for that period and they will be entitled to be absent until they have had nine consecutive hours off duty including reasonable travelling time, without loss of pay for ordinary time occurring during that absence.

43.28 The provisions of clause 43.27 will not apply to overtime worked in the circumstances covered by clause 47 Emergency Duty, unless the actual time worked is at least three hours on each call

#### *Minimum Payment*

43.29 The minimum payment for each separate overtime attendance, which is not continuous with ordinary duty, will be four hours at the prescribed overtime rate.

43.30 Where more than one attendance is involved, the minimum overtime payment provision will not operate to increase an employee's overtime remuneration beyond the amount which would have been received had the employee remained on duty from the commencing time of duty on one attendance to the ceasing time of duty on a following attendance.

43.31 Where an overtime attendance, not continuous with ordinary duty, involves duty both before and after midnight, the minimum payment provisions will be satisfied when the total payment for the whole of the attendance equals or exceeds the minimum payment applicable to one day. Where a higher overtime rate applies on one of the days, the minimum payment will be calculated at the higher rate.

43.32 An employee who performs overtime while in a restriction situation under clause 46 – Restrictive Duty, will be entitled to a minimum overtime payment as per clause 46.7(e) or clause 46.7(f) at the prescribed overtime rate.

43.33 The minimum payment provisions do not apply to clause 47 - Emergency Duty.

#### **44. Shiftwork Penalties**

44.1 The shiftwork provisions of this Agreement will not apply to Nurse 6 and above, other than in accordance with clause 48 – Facilitative Provisions.

44.2 The following shiftwork penalty arrangements will apply to an employee employed under this Agreement:

##### *Afternoon*

- (a) a penalty rate of 15% will be paid for ordinary time duty shifts between midnight Sunday and midnight Friday on a shift commencing at or after 12 noon and ceasing after 6.00 pm.

##### *Night*

- (b) a penalty rate of 22.5% will be paid to an employee whose ordinary time duty shift commences between the hours of 6.00 pm on one day and 1.00 am of the following day.

##### *Saturday*

- (c) a penalty rate of 50% will be paid for ordinary time duty shifts worked between midnight Friday and midnight Saturday.

##### *Sunday*

- (d) a penalty rate of 100% will be paid for ordinary time duty shifts worked between midnight Saturday and midnight Sunday.

*Note: Refer clause 45 for public holiday duty payments.*

44.3 The prescribed penalty will be paid to all employees, part-time employees and casual employees.

##### *Recreation Leave and Shiftwork Penalties*

44.4 A shiftworker on approved paid recreation leave will receive shiftwork penalties as if they were rostered on to perform duty during the period of recreation leave. Such payments will be referred to as 'penalties in lieu of shiftwork' payments (PILS).

44.5 The payment of PILS is subject to the following:

- (a) the employee is approved to take at least one day's recreation leave;
- (b) recreation leave has been deducted for the shift that the employee would have worked on that day;
- (c) PILS will be calculated based on an average of the employee's previous six months of shiftwork payments under clause 44.

44.6 A shiftworker on recreation leave at half pay will be paid PILS. Such penalties will be calculated based on the period of leave which counts for service in accordance with clause 56.11(b) and will be paid at 50% for the entire period in accordance with clause 56.11(b).

44.7 Where an employee has been approved to cash-out their recreation leave in accordance with clause 56.8, payment will be calculated based on the employee's previous six months of shiftwork payments under clause 44.

#### **45. Public Holiday Duty**

45.1 An employee who is required, whether rostered or not, to perform duty on a holiday not in excess of the prescribed weekly hours will be paid at the rate of 150% in addition to the ordinary rate of pay for the actual time worked on the public holiday.

45.2 The minimum extra payment payable under clause 45.1 for each separate attendance will be four hours in the case of employees who are not in any restriction situations specified in clause 46 (Restrictive Duty).

45.3 The minimum extra payment payable under clause 45.2 for each separate attendance will be three hours in the case of employees who are in any restriction situation specified in clause 46 (Restrictive Duty) other than passive duty or duty employee.

45.4 Where more than one attendance is involved, the minimum payment provision, subject to a minimum payment of three hours, will not operate to increase an employee's extra remuneration beyond the amount which would have been received had the employee remained on duty from the commencing time of duty on one attendance to the ceasing time of duty on subsequent attendance.

45.5 For the purposes of clauses 45.2 to 45.4:

- (a) duty broken by a meal period will not constitute more than one attendance; and
- (b) the minimum extra payment will not apply to public holiday ordinary duty which, disregarding meal periods, is continuous with ordinary duty occurring on the day preceding or succeeding the public holiday.

45.6 Overtime worked on a public holiday will be in accordance with clause 43.18(c).

45.7 Unless authorised by the Commissioner, an employee in a classification of Nurse 6 or above is not eligible to receive payment for duty other than rostered duty or for overtime worked on a public holiday.

45.8 Where, in a cycle of shifts on a regular roster, an employee is required to perform rostered duty on each of the days of the week, the employee will, in respect of a public holiday which falls on a day which the employee is rostered off duty, be granted one day's leave in lieu of that public holiday within one month after the public holiday.

- (a) Where it is not practicable to grant a day's leave the employee will be paid instead one day's pay at the ordinary rate.

## **46. Restrictive Duty**

- 46.1** An employee may be directed to be contactable and to be available to perform extra duty outside of the employee's ordinary hours of duty, subject to payment under this clause.

### *General Principles*

- 46.2** It is recognised that the need for employees to work restrictive duty is an inherent operational requirement for the delivery of an efficient and effective out-of-hours health service to Northern Territorians. At the same time, employees should be able to achieve a balance between their working and personal life.
- 46.3** Although an employee may be required to work restrictive duty, to minimise unreasonable levels the department will strive to achieve balance between the operational requirements of the health service and an employee's availability and capacity to perform the restrictive duty. The following principles apply to managers and employees when determining restrictive duty arrangements:
- (a) Wherever possible managers should plan the restrictive duty roster to ensure restrictive duty is equitably distributed across all employees.
  - (b) The personal circumstances of an employee will be taken into account when determining their participation on the restrictive duty roster.
  - (c) The employee's roster and any overtime worked is to be considered when determining their participation on the restrictive duty roster.
  - (d) The frequency of employee participation and call-backs is to be recorded to assist in planning the restrictive duty roster.
  - (e) Consideration is to be given to the intensity of the work to be carried out when determining an acceptable frequency of restrictive duty.
  - (f) As a guide, the department will strive to ensure employees are not rostered on-call for more than five consecutive days.
  - (g) Managers should consult with employees as to any onerous restrictive duties that are required in order to provide relief in such situations.
- 46.4** An employee concerned with the amount and frequency of their participation in the restrictive duty roster should raise the matter with their manager in the first instance. If unable to be resolved at this level the employee(s) or nominated representative may seek the assistance of the department human resource/industrial relations section in resolving the matter.

### *General Conditions*

- 46.5** Payment will be made subject to the following conditions:
- (a) Unless otherwise approved by the Commissioner or in accordance with clause 48 (Facilitative Provisions), an employee in a classification at or above Nurse 6 level is not eligible to receive restrictive duty payment.

- (b) The restrictive duty situation is imposed by prior written direction, or is subsequently approved in writing.
- (c) The provisions of clause 47 (Emergency Duty) will not apply where an employee is recalled to duty while on restrictive duty.
- (d) An employee who does not maintain a required degree of readiness while on restrictive duty will not be eligible to receive payment.

46.6 It is acknowledged that under normal circumstances the provisions of this clause will apply to restrictive duties, but that agreed variations to these arrangements can be made on a case-by-case basis. Agreed variations may be implemented during the term of the Agreement through a Commissioner's Determination or another appropriate instrument.

#### 46.7 Types of Restriction / Payment Rates

- (a) An employee who is required to remain contactable and available to perform extra duty outside the employee's ordinary hours of duty will be paid an allowance in addition to salary at a rate for that type of restrictive duty as follows:
  - (i) On-call Allowance
    - A. An employee who is instructed prior to ceasing ordinary duty to be on restrictive duty will be paid at the rate specified in TABLE 2 - Work Related Allowances of Schedule 3.
    - B. The on-call allowance will apply on week days, weekends and public holidays and on those occasions in which employees are required to be available for on-call.
    - C. The night rate payment covers on-call between shifts, which may either be a day or night.
    - D. The day/night rate payment is for a 24-hour period covering day and night.
    - E. Katherine and Gove District Hospital operating theatre employees will be paid the on-call allowance rates in TABLE 2 - Work Related Allowances of Schedule 3 for every hour in which they are required to be available for immediate return to work.
    - F. The on-call rates will be adjusted from 1 January each year by the Darwin Consumer Price Index based on the September quarter for the previous year.
  - (ii) Stand By
 

An employee who is instructed prior to ceasing ordinary duty to be on restrictive duty and to remain at the employee's home and available for immediate recall to duty: 50% of the employee's ordinary rate of salary



for the proportion of the period of restriction calculated in accordance with clause 46.7(b).

(iii) Home Duty

An employee who is required to stand by at home to perform intermittent duties at home normally involving receiving and/or making telephone calls, and who may be required to perform restrictive duty: 75% of the employee's ordinary rate of salary, or not less than 50% or more than 100% of ordinary salary as approved by the Commissioner, for the proportion of the period of standing by calculated in accordance with clause 46.7(b), provided that the rate on Sundays is single ordinary rate of salary and the rate on public holidays is 125% of ordinary rate of salary.

(iv) Passive Duty

An employee who is instructed to remain at work outside the employee's ordinary hours of duty until released or required to perform duty, and is not provided with accommodation and amenities for sleeping or other personal activities during overnight attendance: single ordinary rate of salary for the period. The rate on Sundays is 133% of the employee's ordinary rate of salary and the rate on public holidays is 166% of ordinary rate of salary for the period.

(v) Duty Employee

An employee who is required to remain at work overnight and/or over a non-working day and may be required to perform certain tasks periodically or on an ad hoc basis, and who is provided with accommodation and amenities for sleeping or other personal activities during overnight attendance: where overtime is paid – at the rate provided for in clause 46.7(a)(iv)– Passive Duty, for the proportion of the period calculated in accordance with clause 46.7(b); and where overtime is not paid – 125% of the employee's ordinary rate of salary, or a proportion of not less than 100% or more than 150% of ordinary salary as approved by the Commissioner, for the proportion of the period of standing by calculated in accordance with clause 46.7(b). The rate on Sundays is 166% of the employee's single ordinary rate of salary and the rate on public holidays is 200% of ordinary rate of salary for the period.

(b) Payment for the rates in clauses 46.7(a)(ii)(Stand by), 46.7(a)(iii)(Home Duty) and 46.7(a)(v)(Duty Employee) will only be made for:

- (i) 75% of that part of the period of restrictive duty that occurs on any day within the first 14 hours after the employee's normal commencing time of ordinary duty, or after the time at which the employee last commenced ordinary duty whichever is the later; and

- (ii) 25% of any period of restrictive duty occurring in any 24 hour period outside the 14 hours referred to in clause 46.7(b)(i).
- (c) The restrictive duty allowance is payable for each hour or part hour the employee is restricted outside the employee's ordinary hours of duty.
- (d) Any part of a period of restrictive duty for which the employee receives another payment will not be included for calculating restrictive duty allowance.
- (e) An employee who is on restrictive duty and who is required to perform duty, but is not required to be recalled to a place of work, will be paid overtime, subject to a one hour minimum payment.
- (f) An employee who is on restrictive duty and who is recalled to duty at a place of work will be paid in accordance with the relevant overtime provisions, subject to a three hour minimum payment.
- (g) Notwithstanding these payment rate provisions, an employee who is placed on restrictive duty outside of the employee's ordinary hours of duty may be paid at an alternative rate approved by the Commissioner, having regard to the circumstances of the restriction situation.

#### 46.8 Salary rate

- (a) An employee's salary for the purposes of calculation of the restrictive duty allowance will include higher duties allowance and any other allowances in the nature of salary.
- (b) Where the Commissioner has approved payment under clause 46.5(a) or the CEO has approved payment under clause 48 (Facilitative Provisions) to an employee in a classification of Nurse 6 or above, the annual salary component of the formula at clause 46.8(c) below will be the maximum annual salary payable to an Administrative Officer 6 as set out in the Northern Territory Public Sector 2017 – 2021 Enterprise Agreement [AE427964], or its successor agreement.
- (c) The hourly rate of payment will be calculated as follows:

$$\frac{\text{Annual salary}}{313} \times \frac{6}{\text{Prescribed weekly hours before overtime is payable}} \times \% \text{ of salary prescribed in clause 46.7 (payment rates)}$$

## 47. Emergency Duty

- 47.1 Where an employee is called on duty to meet an emergency at a time when the employee would not ordinarily have been on duty, and no notice of such call was given to the employee prior to ceasing ordinary duty, the employee will be paid for such emergency duty at the rate of double time.

*Note: For the purposes of this clause, an emergency will depend on the circumstances and may be different for each work unit. However, the event should be sudden, urgent or unexpected and*

*require immediate action and not able to wait until the employee was rostered to re-commence duty.*

- 47.2 The time for which payment is made will include time necessarily spent in travelling to and from duty.
- 47.3 The minimum payment for emergency duty is two hours at double time.
- 47.4 An employee who is called on emergency duty may, where it is essential for health and safety, be relieved from the employee's next scheduled rostered ordinary duty without deduction from wages, for a period not exceeding the number of hours of the emergency duty worked. The period of relief from duty will not extend into a second period of rostered ordinary duty.
- 47.5 The provisions of this clause do not apply:
- (a) where an employee who is rostered off duty performs additional hours in place of an employee who is unable to attend for duty as a result of illness, unplanned absence or any other unforeseen circumstance. An employee who performs additional hours in these circumstances is entitled to overtime in accordance with clause 43; or
  - (b) to an employee whose commencement time of rostered ordinary duty is altered to meet an emergency.

**48. Facilitative Provisions – Nurse 6 (Registered Nurse/Midwife; Nurse Practitioner)**

- 48.1 Notwithstanding any other provision of this Agreement, in exceptional circumstances the CEO may approve the application of the following provisions to employees employed at the Nurse 6 level:

Clause	Provision
43	Overtime
44	Shiftwork Penalties
46	Restrictive Duty

- 48.2 For the purposes of this clause, **exceptional circumstances** may include:
- (a) where a Nurse 6 is required to perform additional hours to provide clinical operational support for clinical and safe outcomes (i.e. not the employee's usual management/administrative duties or taking ad hoc phone calls out of hours);
  - (b) where a Nurse 6 is required to perform their ordinary hours on a rotating roster that includes day, afternoon and night shifts on a fixed period or an ongoing basis; or
  - (c) any other circumstance that the CEO determines is exceptional and requires application of the provisions.

## **PART 6 – FLEXIBLE WORK ARRANGEMENTS**

### **49. Individual Flexible Working Arrangements**

- 49.1 The CEO and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of this Agreement (including Schedules) if the arrangement:
- (a) deals with one or more of the following matters to this Agreement:
    - (i) hours of work, including rostered days off and restrictive duty;
    - (ii) payment for overtime taken as pay or time off in lieu of payment;
    - (iii) commuted salaries or allowances;
  - (b) meets the operational needs of the department;
  - (c) is genuinely agreed to by the CEO and employee;
  - (d) is about matters that would be permitted matters if the arrangement were an enterprise agreement;
  - (e) must not include a term that would be an unlawful term if the arrangement were an enterprise agreement; and
  - (f) results in the employee being better off overall than the employee would have been if no individual flexibility arrangement were agreed to.
- 49.2 Arrangements are to be in writing and:
- (a) be signed by the CEO and employee and if the employee is under 18 years of age, signed by parent or guardian of the employee;
  - (b) include details of:
    - (i) the terms of the Agreement that will be varied by the arrangement;
    - (ii) how the arrangement will vary the effect of the terms; and
    - (iii) how the employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and
  - (c) state the period of operation of the arrangement.
- 49.3 To take effect, the individual flexibility arrangement must be approved by the Commissioner and implemented via a Determination or other appropriate instrument and the CEO must give the employee a copy of the Determination or other appropriate instrument within 14 days of the Commissioner's approval.
- 49.4 The Commissioner will not approve an individual flexibility arrangement unless the Commissioner is satisfied that the requirements of this clause have been met.
- 49.5 The CEO or employee may terminate the individual flexibility arrangement:

- (a) by giving written notice of not more than 28 days (or in accordance with FW Act requirements) to the other party of the arrangement; or
- (b) if the CEO and employee agree in writing – at any time.

**49.6** Where an individual flexibility arrangement has been terminated under clause 49.5 the CEO shall inform the Commissioner in writing within seven days of the termination date. An employee may choose to be represented by their nominated representative in relation to the development and implementation of individual flexible arrangements under this clause.

## **50. Variation to Working Arrangements for Groups of Employees**

**50.1** A group of employees and the department may agree to depart from the standard approach specified in or developed in accordance with this Agreement, including amongst other matters:

- (a) hours of work, including rostered days off, or restricted duties;
- (b) commuted salaries or allowances;
- (c) meal breaks; and
- (d) leave.

**50.2** Agreements to vary working arrangements will:

- (a) result in more efficient operations;
- (b) be genuinely agreed to by the majority of employees involved;
- (c) result in employees being better off overall than the employees would have been if no variation had been made;
- (d) be recorded in writing and approved by the CEO;
- (e) if required by the parties, include a mechanism to terminate and/or review the agreement; and
- (f) require approval of the Commissioner and implementation via a Determination or other appropriate instrument.

**50.3** Employees may choose to be represented by their nominated representative in relation to the development and implementation of working arrangements under this clause.

**50.4** The union will be consulted on proposed arrangements prior to the approval of the Commissioner.

## **PART 7 – REMOTE LOCALITY EMPLOYMENT CONDITIONS**

### **51. Electricity Subsidy For Employees in Remote Localities**

**51.1** An electricity subsidy will apply to employees stationed in remote localities as defined in Determination 8 of 2015 (as amended), by way of the following:

- (a) An employee residing in a dwelling fitted with a dedicated electricity metering device, and who is required to meet the cost of any charges associated with the provision of electricity to that dwelling, is entitled to an electricity subsidy in accordance with the rates specified below, subject to the relevant category of remoteness and the employee's eligibility for the dependant/after-hours rate;
- (b) The electricity subsidy for the dependant/after-hours rate is payable only where the employee:
  - (i) has recognised dependants, being an employee's spouse or de facto partner, or children under the age of 18, who:
    - A. reside with the employee;
    - B. are not eligible for assistance with electricity costs from any other source; and
    - C. are not in receipt of income exceeding the NTPS weekly minimum adult wage as determined by the Commissioner; or
  - (ii) is a shiftworker, or regularly required to be available for after-hours duty such as call outs, the frequency of which are such that the employee is regularly required to seek rest during daylight hours.

51.2 The electricity subsidy will be paid fortnightly in addition to salary and will count as salary for the purpose of taxation and superannuation.

51.3 The electricity subsidy will not be paid during periods of leave without pay which do not count as service.

51.4 The electricity subsidy will be paid to part-time employees on a pro rata basis.

51.5 Only one subsidy is payable per dwelling.

51.6 The electricity subsidy will be adjusted in January each year in accordance with the annual September to September Darwin Consumer Price Index. The Commissioner will give effect to any subsequent annual adjustment required under this Agreement through a Determination.

51.7 The applicable rates of electricity subsidy are contained in TABLE 3 Expense Related Allowances of Schedule 3.

## **52. Remote Rental Concession**

Remote Nurses residing in remote departmental accommodation in all remote localities as defined in Determination 8 of 2015 (as amended) will receive a 100% rental concession.

## **53. Remote Access to Satellite Television/Satellite Internet Services**

53.1 An employee stationed in a remote locality may apply to receive a payment of up to \$500 to offset the costs associated with the installation and initial subscription towards a satellite-based pay television or internet service.

- 53.2 An employee is eligible to receive a second payment within a 12 month period after receiving the first payment if the employee voluntarily transfers or is promoted to another remote locality.
- 53.3 An employee is eligible to receive subsequent payments where the employee is transferred at the direction of the department to one or more remote localities.
- 53.4 The employee will be responsible for the ongoing subscription charges associated with the service.

**54. Relocation Expenses: Gove District Hospital**

- 54.1 The department will provide reasonable relocation expenses to Darwin for employees employed on an ongoing basis and who resign or retire from employment at Gove District Hospital.
- 54.2 These expenses will be paid:
- (a) after the completion of seven years continuous service at Gove District hospital; and
  - (b) will be in accordance with the terms of the Northern Territory Government's Removalist Contract and the department's policies and procedures in relation to removal expenses.

**55. Commuted Overtime Allowance for Remote Areas**

The CEO and the majority of employees in a remote locality may agree to commute overtime to an allowance which will not count for superannuation, and arrangements will be implemented through meeting the requirements under clause 50 Variation to Working Arrangements of Groups of Employees.

## **PART 8 – LEAVE**

**56. Recreation Leave**

56.1 Relationship with By-laws and other instruments

The provisions of this clause set out all entitlements in relation to recreation leave, and replace all By-law entitlements relating to recreation leave.

56.2 Definitions

For the purposes of this clause:

- (a) **month** means a calendar month; and
- (b) **shiftworker** means an employee who works rostered shifts including day shift, evening shift and night shift; and
- (c) **week** means 38 hours or five consecutive working days, depending on the context; and

- (d) **year** means a calendar year.

#### 56.3 Recreation Leave

- (a) An employee (except for a casual employee) is entitled to:
- (i) four week s recreation leave per year; and
  - (ii) an additional two weeks paid recreation leave per year if normally stationed in the Northern Territory or under any condition the Commissioner so determines. This will not affect and will be in addition to the entitlement under clause 56.3(a)(iii) below; and
  - (iii) an additional weeks paid recreation leave per year for a seven day shiftworker, provided that a shiftworker rostered to perform duty on less than 10 Sundays during a year is entitled to additional paid recreation leave at the rate of half a day for each Sunday rostered; and
- (b) a rostered overtime shift of three hours or more which commences or ceases on a Sunday will count in the calculation of entitlements in clause 56.3(a)(iii) above.

#### 56.4 Accrual of Leave

- (a) An employee's entitlement to paid recreation leave accrues progressively during a year of service according to the employee's ordinary hours of work.
- (b) If an employee takes unpaid leave that does not count as service, leave will not accrue for that period.

*Note: An employee who has taken unpaid leave that does count for service will accrue leave for that period.*

- (c) A part-time employee will accrue recreation leave on a pro rata basis in accordance with the employee's agreed hours of work.
- (d) An employee who has worked for only part of a year will accrue recreation leave on a pro rata basis in accordance with the employee's ordinary hours of work or, agreed hours of work if a part-time employee.
- (e) Recreation leave accumulates from year to year.

#### 56.5 Granting of Leave

The CEO may, on application in writing by the employee, grant leave for recreation purposes, subject to the department's operational requirements. The CEO will not unreasonably refuse to agree to a request by the employee to take recreation leave.

#### 56.6 Public Holidays

- (a) Where a public holiday occurs during recreation leave (including recreation leave at half pay taken under clause 56.11), the employee is entitled to the employee's full rate of pay that the employee would have been paid had the



public holiday fallen on a day that the employee was not on recreation leave;  
and

- (b) the period of the public holiday is not deducted from the employee's recreation leave entitlement.

#### **56.7 Excess Leave**

Where an employee has accrued recreation leave entitlements in excess of two years (or three years in the case of a compulsory transferee), the CEO may, on giving a minimum of two months notice, and provided that direction is reasonable, direct the employee to take recreation leave and the employee must take that leave within a three month period, or a period agreed between the parties, to reduce the accrued leave balance to the equivalent of two years (or three years in the case of a compulsory transferee) of entitlements.

#### **56.8 Cash-out of Leave**

An employee may apply, in writing, to the CEO to cash-out an amount of the employee's available recreation leave provided that:

- (a) the employee's remaining accrued entitlement to paid recreation leave is not less than four weeks;
- (b) each cashing-out of a particular amount of paid recreation leave must be by a separate agreement in writing between the CEO and employee;
- (c) the employee must be paid at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone; and
- (d) a minimum of five days to be cashed-out on any occasion.

#### **56.9 Illness During Leave**

Where an employee becomes ill during a period of recreation leave and the illness is supported by documentary evidence as set out in clause 60 (Personal Leave), the CEO may grant personal leave and authorise the equivalent period of recreation leave to be re-credited.

#### **56.10 Payment in Lieu**

- (a) Where an employee ceases employment, other than by death, the employee is entitled to payment in lieu of any available recreation leave entitlement.
- (b) Where an employee dies, or after consideration of all the circumstances the employer has directed that an employee will be presumed to have died on a particular date, the CEO may authorise payment in lieu of the employee's remaining recreation leave entitlement:
  - (i) to the employee's legal personal representative; or
  - (ii) when authorised by the employee's legal personal representative, to another person or persons at the CEO's discretion.

## 56.11 Recreation Leave at Half Pay

- (a) An employee may apply to utilise one or more weeks of the employee's recreation leave at half pay in order to double the period of leave.

- (b) Where an employee utilises an amount of recreation leave at half pay:

- (i) leave entitlements will accrue as if the employee had utilised the amount of recreation leave at full pay;

*For example: If an employee utilises two weeks of recreation leave over a period of four weeks at half pay, all leave entitlements will accrue over the first two weeks of leave, as if the employee was on recreation leave with full pay, and no leave entitlements will accrue over the final two weeks of recreation leave on half pay.*

- (ii) salary and allowances will be paid at 50% of the usual rate, for the entire period of half pay;
  - (iii) a period of recreation leave at half pay does not break continuity of service;
  - (iv) the second half of the period at half pay will not count as service and service based entitlements will be adjusted accordingly.

*For example: If an employee utilises two weeks recreation leave over a period of four weeks at half pay, service based entitlements (e.g. personal leave, long service leave, paid parental leave) will be deferred by two weeks.*

- (c) In accessing recreation leave at half pay, it is not intended that employees be advantaged or disadvantaged in relation to the administration of accrual or payment of entitlements.

## 57. Recreation Leave Loading

### 57.1 Recreation leave loading entitlement

- (a) In addition to normal salary payment for recreation leave, an employee is entitled to accrue a recreation leave loading on 1 January each year. Subject to clause 57.1(b) the amount of the loading will be the lesser of:
  - (i) 17.5% of the value of the annual recreation leave accrued over the previous year based in the employee's salary, including allowances in the nature of salary; or
  - (ii) a maximum payment the equivalent of the Australian Statistician's Northern Territory male average weekly total earnings for the September quarter of the previous year.
- (b) In the case of a shiftworker who would have been entitled to shiftwork penalties in excess of the maximum payment referred to in clause 57.1(a)(ii) had the employee not been on recreation leave, the amount of the recreation leave loading will be equivalent to the shiftwork penalties payable on recreation leave.

*Note: Refer clause 44.4 for shiftwork penalties payable on recreation leave.*

## **57.2 Payment of Recreation Leave Loading**

- (a) With the exception of shiftworkers, an employee who is approved to use at least one week recreation leave may apply for payment of an accrued recreation leave loading.
- (b) On cessation of employment an employee is entitled to payment in lieu of any unpaid leave loading plus a pro rata payment of the leave loading entitlement at 1 January of the year of cessation for each completed month of service.
- (c) Where an employee commenced and ceased employment in the same year, the employee's salary for purposes of calculation of the leave loading at clause 57.2(b) will be the salary payable had the employee been employed on 1 January of that year.

## **57.3 Automatic Cash-Out**

- (a) Where an employee has two or more recreation leave loadings, the following automatic payment provisions will apply:
  - (i) the common cash-up date for the automatic payment of recreation leave loadings is the second payday in January of each year or in any case by the end of January each year; and
  - (ii) an employee with two accrued recreation leave loadings as at 1 January will have one recreation leave loading automatically paid on the common cash-up date of that year; and
  - (iii) an employee with three or more accrued recreation leave loadings as at 1 January will have two recreation leave loadings automatically paid on the common cash-up date of that year; and
  - (iv) recreation leave loadings will be paid in the order of accrual; and
  - (v) recreation leave loadings will continue to be taxed in accordance with current Australian Taxation Office taxation legislation applicable to the payment of recreation leave loadings, except that recreation leave loadings automatically paid on the common cash-up date will be fully taxed.
- (b) The automatic payment of recreation leave loadings will not apply to shiftworkers.

## **58. Christmas Closedown**

**58.1** The CEO will consult with relevant employees in the event that the department, or part of the department, will be closed down for a nominated period. The closedown will occur provided that:

- (a) at least three months notice in writing is given to employees prior to the closedown period; and
- (b) the nominated period covers the Christmas and New Year period.

- 58.2 Closedown may apply to part of the department where the CEO decides to operate on minimal staffing levels for the purposes of providing essential services during a closedown period. This may occur subject to the CEO:
- (a) consulting with employees regarding what staffing resources are required for the period and calling for volunteers to cover the closedown period in the first instance; or
  - (b) if no volunteers are forthcoming, directing employees with at least two months notice to cover the closedown period.
- 58.3 Employees affected by the closedown period must use either recreation leave or time off in lieu to cover the closedown period.
- 58.4 New employees, who will not be able to accrue enough recreation leave credits to cover the closedown period, may be offered by the CEO, to work additional hours to enable sufficient time off in lieu to be accrued to cover the closedown period, or offered alternate work.
- 58.5 If an employee has insufficient accrued recreation leave entitlements or time off in lieu and cannot be offered alternate work during closedown, leave without pay to count as service for all purposes will be granted for the period where paid leave is not available.

## 59. Compassionate Leave

### 59.1 Relationship with By-laws and other instruments

The provisions of this clause set out all entitlements in relation to compassionate leave, and replace all By-law entitlements relating to compassionate leave.

### 59.2 Except where otherwise stated in this clause, this clause does not apply to employees engaged on a casual basis.

### 59.3 Definitions

For the purposes of this clause:

- (a) **child** means birth, an adopted, step, or adult child;
- (b) **de facto partner** means:
  - (i) a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and
  - (ii) includes a former de facto partner of the employee.
- (c) **immediate family** means:
  - (i) a spouse, de facto partner, child, parent, grandparent, grandchild, or sibling of the employee; or

- (ii) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee.

(d) **spouse** includes a former spouse.

**59.4** Subject to the notice and evidence requirements in clauses 59.5 and 59.6, in the event of the death of, or an illness or injury posing a serious threat to the life of an employee's immediate family or household member an employee is entitled to:

- (a) three days paid compassionate leave on each occasion; or
- (b) two days unpaid compassionate leave in the case of a casual employee.
- (c) Such leave may be taken as a block, in broken periods of at least one day, or as agreed between the employee and the CEO.
- (d) The CEO may grant an additional period of unpaid compassionate leave.

**59.5** Notice Requirements

An employee must provide the CEO with notice of the taking of leave under this clause as soon as practicable (which may be a time after the leave has started), and must advise of the period, or expected period of the leave.

**59.6** Documentation Requirements

The CEO may require an employee to produce documentary evidence of the need for compassionate leave.

**60. Personal Leave**

**60.1** Relationship with By-laws and other instruments

The provisions of this clause set out all entitlements in relation to personal leave (sick/carer's leave), and replace all By-law entitlements relating to personal leave (sick/carer's leave).

**60.2** General

- (a) An employee, subject to notice and evidence requirements in clauses 60.7 and 60.8, may take personal leave if the leave is:
  - (i) because the employee is not fit for work because of a personal illness or personal injury affecting the employee (sick leave); or
  - (ii) to provide care or support to a member of the employee's immediate family or household who requires such care or support because of:
    - A. a personal illness or personal injury affecting the member (carer's leave); or
    - B. an unexpected emergency affecting the member (carer's leave).

### 60.3 Definitions

For the purposes of this clause:

- (a) **child:** see clause 59.3(a);
- (b) **de facto partner:** see clause 59.3(b);
- (c) **immediate family:** see clause 59.3(c);
- (d) **medical certificate** means a certificate signed by a registered health practitioner;
- (e) **personal leave year** means 12 months service from the anniversary of commencement or 12 months service since receiving the last personal leave entitlement;
- (f) **registered health practitioner** means a health practitioner registered, or licensed, as a health practitioner (or as a health practitioner of a particular type) under a law of a state or territory that provides for the registration or licensing of health practitioners (or health practitioners of that type); and
- (g) **spouse:** see clause 59.3(d).

### 60.4 Paid Personal Leave Entitlement

- (a) An ongoing full-time employee is entitled to:
  - (i) three weeks paid personal leave on commencement of employment; and
  - (ii) three weeks paid personal leave on each anniversary of the employee's commencement date subject to clause 60.4(g) (deferral of leave entitlements).
- (b) A fixed period full-time employee is entitled to:
  - (i) two days paid personal leave on commencement of employment;
  - (ii) up to one week of paid personal leave for each period of two months service provided that the total leave does not exceed three weeks within the first 12 months of service; and
  - (iii) three weeks paid personal leave annually on the anniversary of the employee's commencement date.
- (c) Where an employee is employed on an ongoing basis immediately following a period of fixed period employment, the provisions of clause 60.4(a) will be taken to have applied from the date of commencement of fixed period employment, and the employee's personal leave record will be adjusted accordingly.
- (d) A part-time employee will receive paid personal leave on a pro rata basis in accordance with the employee's agreed hours of work.

- (e) Casual employees are not entitled to paid personal leave.
- (f) Paid personal leave is cumulative.
- (g) An employee's paid personal leave entitlement will be deferred by any period of:
  - (i) personal leave where the absence is without pay and not covered by documentary evidence as required in clause 60.8;
  - (ii) unauthorised absence; or
  - (iii) leave without pay that does not count as service.
- (h) An employee may elect to access personal leave at half pay where the absence is at least one day.

#### 60.5 Unpaid carer's leave – casual employees

- (a) Casual employees are entitled to two days unpaid personal leave for caring purposes for each permissible occasion, subject to the requirements of clause 60.7 and 60.8.
- (b) Unpaid carer's leave may be taken as a single unbroken period of up to two days or any separate periods as agreed between the employee and CEO.
- (c) The CEO may grant an amount of unpaid carer's leave in excess of the amount specified in clause 60.5(a).

#### 60.6 Additional Personal Leave

Where paid personal leave credits are exhausted:

- (a) Unpaid carer's leave
  - (i) An employee is entitled to access up to two days unpaid carer's leave on each occasion that the employee requires carer's leave.
  - (ii) Carer's leave may be taken as a single unbroken period of up to two days or any separate periods as agreed between the employee and the CEO.
  - (iii) The CEO may grant an amount of unpaid carer's leave in excess of the amount specified in clause 60.6(a)(i).
- (b) The employee may apply for and the CEO may grant, after considering all the circumstances:
  - (i) additional personal leave on half pay, which cannot be converted to full pay; or
  - (ii) access to recreation leave, where an extended period of absence is involved, provided the period of leave taken will be deemed to be personal leave for all other purposes under the provisions of this clause.

- (c) Additional leave utilised under clause 60.6 is subject to the notice and evidence requirements in 60.7 and 60.8.

#### 60.7 Notice Requirements

An employee must make all reasonable effort to advise their manager as soon as reasonably practicable on any day of absence from their employment. If it is not reasonably practicable for the employee to give prior notice of absence due to circumstances beyond the employee's control, the employee will notify their manager by telephone of such absence at the first opportunity of such absence.

#### 60.8 Documentation Requirements

- (a) An employee must apply for personal leave in the form required by the CEO as soon as it is reasonably practicable for the employee to make the application.
- (b) Subject to clause 60.8(d), to assist the CEO to determine if the leave taken, or to be taken, was or is for one of the reasons set out in clause 60.2(a)(i) (sick leave), an employee must, as soon as reasonably practicable provide the CEO with the following documentary evidence:
  - (i) a medical certificate from a registered health practitioner; or
  - (ii) if it is not reasonably practicable for the employee to access a registered health practitioner to obtain a medical certificate for reasons that include because they reside outside an urban area or for any other reason approved by the CEO, a statutory declaration may be submitted in writing detailing:
    - A. the reasons why it was not practicable to provide a medical certificate; and
    - B. the reason for and length of absence.
- (c) Subject to clause 60.8(d), to assist the CEO to determine if the leave taken, or to be taken, was or is for one of the reasons set out in clause 60.2(a)(ii) (carer's leave), an employee must, as soon as reasonably practicable, provide the CEO with:
  - (i) evidence which may include a medical certificate from a registered health practitioner stating the condition of the person concerned and that the condition requires the employee's care or support to the extent that they will not be able to attend for duty; or
  - (ii) other relevant documentary evidence stating the unexpected emergency, and that this unexpected emergency required the employee's care or support.
  - (iii) A CEO may request further additional evidence about the requirement to provide care or support where the employee is on personal leave.
- (d) An employee may access personal leave without providing documentary evidence, up to a maximum of five days or the equivalent number of hours of



duty per personal leave year, provided that no more than three of those days may be consecutive working days or the equivalent number of hours of duty.

- (i) Shiftworkers: For the purposes of clause 60.8(d), a shiftworker may access personal leave without providing documentary evidence up to a maximum of the employee's weekly ordinary hours or five shifts whichever is the greater, provided that no more than three of those shifts may be consecutive working days.

#### **60.9 Personal Leave Whilst on Other Forms of Leave**

- (a) Subject to the requirements of parental leave provision and clauses 60.7 (Notice) and 60.8 (Documentation) and the recreation leave and long service leave provisions, an employee may access paid personal leave during periods of recreation and long service leave.
- (b) Where recreation leave or long service leave had been previously approved on half pay, any personal leave granted in lieu will also be at half pay.

#### **60.10 Medical Examination at the Direction of the CEO**

- (a) The CEO may direct an employee to attend an examination by a registered health practitioner where:
  - (i) an employee is frequently or continuously absent, or expected to be so, due to illness or injury;
  - (ii) it is considered that an employee's efficiency may be affected due to illness or injury;
  - (iii) there is reason to believe that an employee's state of health may render the employee a danger to themselves, other employees or the public; or
  - (iv) under Part 7 (Employee Performance and Inability) or Part 8 (Discipline) of the PSEM Act.
- (b) An employee directed to attend a medical examination in accordance with clause 60.10(a) who is:
  - (i) absent on approved sick leave covered by documentary evidence, is entitled to continue on sick leave until the findings of the medical examination are known;
  - (ii) an employee other than one to which clause 60.10(b)(i) above refers, is deemed to be on duty from the time of the direction until the findings of the examination are known; and
  - (iii) the grant of sick leave after the date of examination or the employee's return to duty will be subject to the findings of the medical examination.
- (c) The CEO will not grant sick leave where the employee fails to attend a medical examination without reasonable cause, or where illness or injury is caused

through misconduct. Under these circumstances the CEO may initiate disciplinary action.

#### 60.11 Infectious Disease

Where an employee produces documentary evidence that:

- (a) the employee is infected with, or has been in contact with, an infectious disease as defined under the *Notifiable Disease Act*; and
- (b) by reason of any law of the Territory or any state or territory of the Commonwealth is required to be isolated from other persons,

the CEO may grant:

- (c) sick leave for any period during which the employee actually suffers from illness; or
- (d) recreation leave in relation to any period during which the employee does not actually suffer from illness.

#### 60.12 War Service

The Commissioner shall determine the conditions under which personal leave may be granted to an employee where an illness or injury is directly attributed to the employee's war service, provided satisfactory medical evidence is produced.

#### 60.13 Personal Leave – Workers Compensation

An employee is not entitled to paid personal leave for a period during which the employee is absent from duty because of personal illness, or injury, for which the employee is receiving compensation payable under Northern Territory workers compensation legislation.

### 61. Parental Leave

#### 61.1 Relationship with By-laws and other instruments

This clause sets out all entitlements in relation to parental leave, and replaces all By-law provisions relating to maternity, paternity/partner, and adoption leave.

#### 61.2 Application

Full-time, part-time and eligible casual employees are entitled to parental leave under this clause if the leave is associated with:

- (a) the birth of a child of the employee or the employee's spouse (includes a child born of a surrogacy arrangement ); or
- (b) the placement of a child with the employee for adoption; and

the employee has or will have a responsibility for the care of the child.

### 61.3 Definitions

For the purposes of this clause:

- (a) **appropriate safe job** means a safe job that has:
  - (i) the same ordinary hours of work as the employees' present position; or
  - (ii) a different number of ordinary hours agreed to by the employee.
- (b) **child** means:
  - (i) in relation to birth-related leave, a child (or children from a multiple birth) of the employee or the employee's spouse;
  - (ii) in relation to adoption-related leave, a child (or children) who will be placed permanently with an employee.
- (c) **continuous service** in relation to a period of service by an employee, means a period of service with the employer during the whole of the period, including any period of authorised paid leave, or any period of authorised unpaid leave that is expressly stated as counting as service by a term or condition of employment, or by a law of the Commonwealth, or the Northern Territory.
- (d) **day of placement** refers to the adoption of a child and means the earlier of the following days:
  - (i) the day on which the employee first takes custody of the child for the adoption;
  - (ii) the day on which the employee starts any travel that is reasonably necessary to take custody of the child for the adoption.
- (e) **de facto partner** means a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and includes a former de facto partner of the employee.
- (f) **eligible casual employee** means a casual employee engaged by the employer on a regular and systematic basis for a sequence of periods of employment during a period of:
  - (i) at least 12 months; or
  - (ii) less than 12 months, provided that the employee has undertaken a previous engagement with the employer, and
    - A. the employer terminated the previous engagement;
    - B. there was not more than three month break between the two engagements; and
    - C. the length of the two engagements is at least 12 months.

- (g) **employee couple** means a couple who are accessing the benefits of clause 61.14 both of whom are NTPS employees and have completed a minimum of 12 months continuous service and whom are both eligible for paid parental leave whether under primary caregiver parental leave or the partner leave provisions.
- (h) **medical certificate** means a certificate signed by a medical practitioner.
- (i) **medical practitioner** means a person registered, or licensed, as a medical practitioner under a law of a state or territory that provides for the registration or licensing of medical practitioners.
- (j) **primary caregiver** means the person who is the primary carer of a newborn or newly adopted child at the time of birth or adoption and who continues to be the primary carer immediately following birth or day of placement. The primary carer is the person who meets the child's physical needs more than anyone else. Only one person can be the child's primary carer. In most cases, the primary carer will be the birth mother of a newborn or the initial primary carer of a newly adopted child
- (k) **spouse** includes a de facto partner or former spouse.

#### 61.4 General Conditions

- (a) Except where otherwise stated in this clause, parental leave is available to only one parent at a time in a single continuous period.
- (b) Weekends, public holidays, programmed days off and rostered days off are part of parental leave and do not extend the period of leave.
- (c) During a period of parental leave relating to the birth or adoption of a child an employee may require parental leave for the birth or adoption of a subsequent child. An employee can elect, subject to notice and evidence requirements, to commence another period of parental leave relating to the subsequent child in accordance with this clause.

#### 61.5 Types of Parental Leave

Parental leave entitlements are summarised in the following table:

	Paid Leave	Unpaid Leave	Total	Refer Clause
<b>Primary Caregiver Parental Leave – commences before or from birth or day of placement</b>				
Less than 12 months continuous service or eligible casual employee	0	52 weeks	52 weeks	61.6(b)

	Paid Leave	Unpaid Leave	Total	Refer Clause
At least 12 months and less than 5 years continuous service	14 weeks (or 28 weeks half pay)	142 weeks	156 weeks (3 years)	61.6(c)(i)
5 or more years continuous service	18 weeks (or 36 weeks half pay)	138 weeks	156 weeks (3 years)	61.6(c)(ii)
<i>Pro rata paid primary caregiver parental leave</i>				
5 years continuous service achieved during first 18 weeks of parental leave	14 weeks + pro rata paid leave applicable after reaching 5 years continuous service (up to 4 weeks)	142 weeks minus any pro rata paid leave	156 weeks (3 years)	61.6(c)(iii)
12 months continuous service achieved during first 14 weeks of parental leave	Pro rata paid leave applicable after reaching 12 months continuous service (up to 14 weeks)	52 weeks minus any pro rata paid leave	52 weeks	61.6(d)

	Paid Leave	Unpaid Leave	Total	Refer Clause
<b>Partner Leave</b>				
<i>Up to 8 weeks leave associated with time of birth/adoption (or in separate periods in first 12 months) where employee's partner is primary carer at time of birth/adoption</i>				
Less than 12 months continuous service or eligible casual employee	0	8 weeks	8 weeks	61.7(b)(i)
At least 12 months and less than 5 years continuous service	1 week (or 2 weeks at half pay)	7 weeks	8 weeks	61.7(b)(ii)
5 or more years continuous service	2 weeks (or 4 weeks at half pay)	6 weeks	8 weeks	61.7(b)(iii)
<i>Longer partner leave: up to 3 years or 12 months – not primary carer – may commence at a time after birth or day of placement – must end within 3 years or 24 months of birth/adoption (whichever is applicable)</i>				
Less than 12 months continuous service or eligible casual employee	0	52 weeks	52 weeks	61.7(c)(i)
At least 12 months continuous service	0	156 weeks (3 years)	156 weeks (3 years)	61.7(c)(ii)
<i>In relation to Partner Leave an employee with at least 12 months continuous service may be eligible for some paid leave during the three year period. (See clauses 61.7(d) and 61.7(e)).</i>				
<b>Pre-Adoption Leave - All employees (including casuals)</b>	-	2 days	2 days	61.9
<b>Special Maternity Leave</b>	Refer clause 61.10			
<b>Paid no safe job leave - Full-time / part- time employees and eligible casual employees</b>	The 'risk period' as per medical certificate	0	The 'risk period' as per medical certificate	61.13(a)

	Paid Leave	Unpaid Leave	Total	Refer Clause
<b>Unpaid no safe job leave</b> - Casual employees	0	The 'risk period' as per medical certificate	The 'risk period' as per medical certificate	61.13(b)

## 61.6 Primary Caregiver Parental Leave

- (a) Only one parent can receive primary caregiver parental leave entitlements in respect to the birth or the adoption of their child. An employee cannot receive primary caregiver parental leave entitlements:
- (i) if their spouse is, or will be, the primary caregiver at, and immediately following, the time of the birth or day of placement of their child;
  - (ii) if the employee has taken, or is eligible for, partner leave entitlements under clause 61.7 in relation to their child; or
  - (iii) if they are a casual employee, other than an eligible casual employee.

*Note: It is not intended for an employee to access primary caregiver leave where they are providing spousal support in circumstances where their spouse, the birth giver, had a caesarean section. There will be exceptions, for example, where the birth giver suffers a post-natal medically certified condition that prevents them from caring for their new born child, but not where they voluntarily choose not to.*

- (b) An employee with less than 12 months continuous service at the time of commencing parental leave, or an eligible casual employee, who will be the primary caregiver of their child is entitled to up to 52 weeks unpaid parental leave.
- (c) An employee who has completed at least 12 months continuous service at the time of commencing parental leave and who will be the primary caregiver of their child is entitled to up to three years primary caregiver parental leave, comprising:
- (i) where continuous service completed at the time of commencing parental leave is at least 12 months and less than five years: 14 weeks paid parental leave and 142 weeks unpaid parental leave; or
  - (ii) where continuous service completed is five or more years at the time of commencing parental leave: 18 weeks paid parental leave and 138 weeks unpaid parental leave; or
  - (iii) where the employee will achieve five years continuous service (the qualifying period) during the first 18 weeks of their parental leave: the first 14 weeks will be paid and the portion of leave (up to 4 weeks) after

the end of the qualifying period will be paid. Any remaining balance, up to three years, will be unpaid parental leave.

- A. The employee is not entitled to receive more than 18 weeks paid parental leave.
- B. With the exception of any period during which the employee is engaged in outside employment during normal working hours, in the first 18 weeks from commencement of primary caregiver parental leave any unpaid parental leave taken will count as service to enable an employee to access the pro rata paid leave in clause 61.6(c)(iii).

*For example: During their primary caregiver parental leave an employee achieves five years continuous service at the end of week 15. The employee is entitled to paid parental leave for the first 14 weeks, unpaid leave in week 15, and three weeks paid leave in weeks 16 to 18. The balance of 139 weeks primary caregiver parental leave available to the employee will be unpaid.*

- (d) An employee who will achieve 12 months continuous service (the qualifying period) during the first 14 weeks of their parental leave and who will be the primary caregiver of their child is entitled to up to 52 weeks of parental leave, comprising:
  - (i) unpaid parental leave from commencement of parental leave until the time the employee has achieved 12 months continuous service; and
  - (ii) paid parental leave for any period after the qualifying period and up to 14 weeks from the commencement of parental leave; and
  - (iii) unpaid parental leave, up to 52 weeks, for the remaining balance.
  - (iv) The employee is not entitled to receive more than 14 weeks paid leave.
  - (v) With the exception of any period during which the employee is engaged in outside employment during normal working hours, in the first 14 weeks from commencement of primary caregiver parental leave any unpaid parental leave taken will count as service to enable the employee to access the pro rata paid leave in clause 61.6(d).

*For example: During their primary caregiver parental leave an employee achieves 12 months continuous service at the end of week three. The employee is entitled to unpaid parental leave for the first three weeks, 11 weeks paid parental leave in weeks four to 14. The balance of 38 weeks primary caregiver parental leave available to the employee will be unpaid.*

(e) Commencement of Primary Caregiver Parental Leave

- (i) An employee who is pregnant may commence primary caregiver parental leave at any time within six weeks immediately prior to the expected date of birth of the child. The period of parental leave must commence no later than the date of the birth of the child.



- (ii) An employee who is adopting a child may commence primary caregiver parental leave at any time in the two weeks before the day of placement.
- (iii) In all other cases, primary caregiver parental leave commences on the date of birth or day of placement of the child.
- (f) Where an employee's child dies during a period of primary caregiver leave, the employee may continue on leave for a maximum period of 52 weeks from the date of commencement of leave, unless the employee elects to resume duty, in which case the provisions of clause 61.19 apply.
- (g) An employee is not entitled to primary caregiver leave unless the notice and evidence requirements in clause 61.8 have been complied with.

#### 61.7 Partner Leave

- (a) Partner leave is available to an employee who will have a parental responsibility for the care of their child but who is not the primary caregiver. Subject to applicable notice and evidence requirements, an employee may access:
  - (i) up to eight weeks partner leave within the first 12 months of the birth or adoption of their child, taken at the same time employee's spouse may be on leave, which can be taken in one block or broken into separate periods (refer clause 0); and
  - (ii) where employee requires a longer period of partner leave, up to 12 months or 3 years depending on the employee's years of continuous service (refer clause 61.7(c)).

*Note: The longer period of partner leave must be taken in a single continuous period unless the employee is accessing the combined parental leave provisions.*

#### *Eight Weeks Partner Leave*

- (b) An employee is entitled to up to eight weeks partner leave, comprising:
  - (i) where continuous service is less than 12 months at the time of commencing partner leave, or an eligible casual employee: eight weeks unpaid partner leave; or
  - (ii) where continuous service completed at the time of commencing partner leave is at least 12 months and less than five years: one week paid partner leave and seven weeks unpaid partner leave; or
  - (iii) where continuous service completed is five or more years at the time of commencing partner leave: two weeks paid partner leave and six weeks unpaid partner leave.
  - (iv) The eight week partner leave entitlements:

- A. are an exception to the rule that parental leave is to be available to only one parent at a time in a single continuous period;
- B. are to be taken in the first 12 months from date of birth or day of placement of the child;
- C. may commence one week prior to the expected date of birth of the child or the time of placement in the case of adoption. The CEO and employee may agree to alternative arrangements regarding commencement of partner leave;
- D. can be taken in separate periods, but each block of partner leave must not be less than two weeks, unless the CEO agrees otherwise;
- E. requires the employee to give notice to the CEO at least 10 weeks before first starting the leave, and at least four weeks notice before starting any subsequent period of leave. If that is not practicable, as soon as practicable, which may be a time after the leave has started; and
- F. the notice must specify the intended start and end dates of the leave.

*12 Months or Three Years Partner Leave (Longer Partner Leave)*

- (c) An employee is entitled to a period of longer partner leave as follows:
  - (i) An employee with less than 12 months continuous service at the time of commencing parental leave, or an eligible casual employee, up to 12 months unpaid parental leave, provided such leave must end within 24 months of the date of birth or day of placement of their child.
  - (ii) An employee with at least 12 months continuous service at the time of commencing parental leave up to three years unpaid parental leave, provided such leave must end within three years of the date of birth or day of placement of their child.
  - (iii) Partner leave may commence at a date later than the date of birth or day of placement of their child but must not extend beyond specified limits under this clause.
  - (iv) An employee is not entitled to the longer partner leave unless the notice and evidence requirements in clause 61.8 have been complied with.
- (d) An employee, not entitled to Combined Parental Leave in clause 61.14, may be entitled to have a portion of their unpaid longer partner leave under clause 61.7(c)(ii) paid, subject to the following:
  - (i) the employee's spouse was the primary caregiver at, and immediately following, the time of the birth or placement of the child;

- (ii) the employee's spouse has ceased to be the primary caregiver (e.g. returned to work) before the child is 14 weeks old or within 14 weeks from placement in the case of adoption:
    - A. The reference to '14 weeks' in clause 61.7(d)(ii) to be read as '18 weeks' where an employee has five or more years continuous service at the time of commencing longer partner leave.
  - (iii) as a consequence of the employee's spouse no longer able to be the primary caregiver (e.g.; returning to work), the employee has taken over caring responsibilities for the child such that the employee is the person who now meets the child's physical needs more than anyone else;
  - (iv) the notice and evidence requirements for taking longer partner leave in clause 61.7(d) have been complied with; and
  - (v) the amount of paid leave available is as per clause 61.7(e).
- (e) An employee eligible for paid longer partner leave under clause 61.7(d) may access a period of paid leave as follows:
- (i) where continuous service completed at the time of commencing partner leave is at least 12 months and less than five years: the period starting from the date the employee took over caring responsibilities from the employee's spouse up to a maximum of 14 weeks from the birth or placement of the child; or
  - (ii) where continuous service completed is five or more years at the time of commencing partner leave: the period starting from the date the employee took over caring responsibilities from the employee's spouse up to a maximum of 18 weeks from the birth or placement of the child.

*For example: An employee's spouse, who is not an NTPS employee, gives birth to a child and is off work for six weeks after the child is born as the primary caregiver. The NTPS employee (the child's other parent) has over five years of continuous service and takes two weeks paid partner leave when the baby is born. When the child is six weeks old the employee's spouse returns to her non-NTPS job and the NTPS employee takes longer partner leave to take over care of the couple's child. NTPS employee would be paid for 12 weeks of the longer partner leave after providing evidence showing that their spouse has ceased to be primary caregiver. This payment covers the period from the seventh to the eighteenth week following the birth of the child.*

## 61.8 Notice and Evidence Requirements

- (a) An employee must give the CEO the following notice and evidence in relation to parental leave under clause 61.6 (primary caregiver) or clause 61.7(c) (longer partner leave):
  - (i) At least 10 weeks written notice of the intention to take parental leave, including the proposed start and end dates.

- (ii) At least four weeks before the intended commencement of parental leave, the employee must confirm in writing the intended start and end dates of the parental leave, or advise the CEO of any changes to the notice provided in clause 61.8(a)(i), unless it is not practicable to do so.
  - A. At this time, the employee must also provide a statutory declaration stating that the employee will become either the primary caregiver (relates to primary caregiver leave) or have a responsibility for the care of the child (relates to partner leave), as applicable, at all times whilst on leave.
- (iii) The employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement or placement occurring earlier than the expected date or in other compelling circumstance. In these circumstances the notice and evidence requirements of this clause should be provided as soon as reasonably practicable.
- (b) An employee who has given the CEO notice of the taking of parental leave must give the CEO evidence that would satisfy a reasonable person:
  - (i) if the leave is birth-related leave – of the date of birth, or the expected date of birth, of the child; or
  - (ii) if the leave is adoption-related leave – of the day of placement, or the expected day of placement, of the child.
- (c) Without limiting clause 61.8(b), the CEO may require the evidence to be a medical certificate.
- (d) An employee applying for paid partner leave under clauses 61.7(d) and 61.7(e) will be required to provide the CEO with evidence that would satisfy a reasonable person that the employee's spouse is no longer able to be the primary caregiver of the couple's child.

#### 61.9 Pre-Adoption Leave

- (a) This clause applies to employees, eligible casual employees and casual employees.
- (b) An employee seeking to adopt a child is entitled to up to two days unpaid leave to attend any interviews or examinations required in order to obtain approval for the employee's adoption of a child.
- (c) Such leave may be taken as a block of two days or any separate periods as agreed between the employee and the CEO.
- (d) An employee must provide the CEO with notice of the taking of leave under this clause as soon as practicable (which may be a time after the leave has started), and must advise of the period, or expected period, of the leave.
- (e) The CEO may require the employee to provide satisfactory evidence supporting the pre-adoption leave.

#### 61.10 Special Maternity Leave

- (a) This clause applies where a pregnant employee, including an eligible casual employee, has not yet commenced parental leave and the employee requires special maternity leave because:
  - (i) the employee has a pregnancy-related illness; or
  - (ii) the employee has been pregnant, and the pregnancy ends within 28 weeks of the expected date of birth of the child otherwise than by the birth of a living child.
- (b) Special maternity leave is in addition to any personal leave entitlements available to an employee. An employee may elect to use their paid personal leave entitlements instead of taking unpaid special maternity leave.
- (c) The period of special maternity leave that an employee is entitled to take is such period as a medical practitioner certifies as necessary.
- (d) Special maternity leave must end before the employee starts primary caregiver leave.
- (e) Special maternity leave taken by the employee because the employee has a pregnancy-related illness:
  - (i) will be unpaid;
  - (ii) must end before the employee starts any period of primary caregiver parental leave; and
  - (iii) will not be deducted from the maximum period of primary caregiver parental leave that the employee is entitled to take.
- (f) Special maternity leave taken by the employee in all other circumstances permitted under this clause will be:
  - (i) unpaid if the pregnancy ends more than 20 weeks before the expected date of birth;
  - (ii) unpaid if the pregnancy ended within 20 weeks of the expected date of the birth and the employee has not completed 12 months continuous service, or is an eligible casual employee, at the time of commencing leave; or
  - (iii) paid up to a maximum of 14 weeks if the pregnancy ended within 20 weeks of the expected date of birth, provided the employee has completed 12 months continuous service at the time of commencing leave; or
  - (iv) paid up to a maximum of 18 weeks if the pregnancy ended within 20 weeks of the expected date of birth, provided the employee has completed five years continuous service at the time of commencing leave.

- (g) Where an employee's qualifying period of 12 months continuous service referred to in clause 61.10(f)(iii) ends within 14 weeks of the date on which the employee commenced leave, paid leave will only apply for that part of the 14 week period commencing after the end of the qualifying period.
- (h) Where an employee's qualifying period of five years continuous service referred to in clause 61.10(f)(iv) ends within 18 weeks of the date on which the employee commenced leave, the first 14 weeks will be paid and any additional leave (up to four weeks) will only apply for that period of the 18 week period commencing after the end of the qualifying period.
- (i) To be entitled to special maternity leave an employee must as soon as is reasonably practicable, give the CEO a written application stating the date on which the employee proposes to commence the leave and the period of leave to be taken; and
  - (i) in the case of special maternity leave taken because of pregnancy-related illness, a medical certificate from a medical practitioner stating that the employee is unfit to work for a stated period because of a pregnancy related illness; or
  - (ii) in the case of special maternity leave taken in all other circumstances permitted under this clause, a medical certificate from a medical practitioner stating that:
    - A. the employee's pregnancy has ended within 28 weeks of the expected date of birth otherwise than by the birth of a living child; and
    - B. the employee will be unfit for work for a stated period.

#### 61.11 Continuing to Work While Pregnant

- (a) Where an employee continues to work within the six week period immediately prior to the expected date of birth, the employee must provide a medical certificate stating that the employee is fit to work their normal duties.
- (b) The CEO may require the employee to start parental leave if the employee:
  - (i) does not give the CEO the requested medical certificate within seven days after the request; or
  - (ii) within seven days after the request for the certificate, give the CEO a medical certificate stating that the employee is unfit for work.

#### 61.12 Transfer to an Appropriate Safe Job

- (a) Where an employee (including a casual employee) is pregnant and a medical practitioner has certified that an illness or risks arising out of the employee's pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue in their present work for a stated period (the risk period), the CEO will, if there is an appropriate safe job

available and if reasonably practicable, transfer the employee to an appropriate safe job during the risk period.

- (b) An employee transferred to an appropriate safe job will have no other change to the employee's terms and conditions of employment until commencement of parental leave.
- (c) During the risk period the employee is entitled to the employee's base rate of pay (for the position the employee was in before the transfer) for the ordinary hours that the employee works in the risk period.
- (d) If the employee's pregnancy ends before the end of the risk period, the risk period ends when the pregnancy ends.

#### **61.13 No Appropriate Safe Job Leave (Paid / Unpaid)**

- (a) Paid no appropriate safe job leave

If there is no appropriate safe job available or it is not reasonably practicable to transfer the employee, and

- (i) the employee is entitled to primary caregiver leave; and
- (ii) the employee has complied with the notice and evidence requirements of clause 61.8 for taking parental leave;

then the employee is entitled to paid no appropriate safe job leave for the risk period.

- (b) Unpaid no safe job leave

If there is no appropriate safe job available or it is not reasonably practicable to transfer the employee, and

- (i) the employee is not entitled to primary caregiver leave; and
- (ii) if required by the CEO, the employee has provided a medical certificate certifying of the pregnancy;

then the employee is entitled to unpaid no safe job leave for the risk period.

#### **61.14 Combined Parental Leave**

- (a) An employee couple (as defined in clause 61.3(g)), provided each satisfies the service requirements, may elect to combine their parental leave entitlements provided that the combined period of paid and unpaid leave, does not extend the maximum period of leave entitlement beyond three years from the commencement of the leave.
- (b) Combined Parental Leave is subject to:
  - (i) compliance with all applicable notice and evidence requirements for taking parental leave under this clause;

- (ii) the eight week partner leave entitlement (where both employees take parental leave at the same time) being used by the employee couple for a maximum of eight weeks and in accordance with partner leave provisions as set out in clause 61.7(b);
- (iii) the balance of the combined leave being used by the member of the employee couple who has submitted a statutory declaration in which the employee has stated that they will have a responsibility for the care of the child for the total remaining unpaid leave balance;
- (iv) a maximum of two interchanges of employees sharing the combined parental leave;
- (v) where an employee couple combine their paid parental leave entitlements and one member of the employee couple takes a period of paid leave as part of the combined paid leave balance, the employee shall be paid at their salary for the period of leave; and
- (vi) both employees need to apply for and utilise parental leave.

#### 61.15 Parental Leave at Half Pay

- (a) This clause does not apply to paid longer term partner leave under clause 61.7(d).
- (b) An employee who is entitled to paid parental leave may apply to extend the period of paid leave by taking it at half pay, or a combination of full pay and half pay.
- (c) Where an employee utilises half pay parental leave:
  - (i) leave entitlements will accrue as if the employee had utilised the amount of parental leave at full pay;
 

*For example, if an employee utilises 14 weeks of parental leave over a period of 28 weeks at half pay, all leave entitlements will accrue as if the employee had used 14 weeks at full pay, and no leave entitlements will accrue over the final 14 weeks of parental leave on half pay.*
  - (ii) salary and allowances will be paid at 50% of the usual rate for the entire period of parental leave at half pay; and
  - (iii) the maximum period of parental leave will not be extended.

#### 61.16 Access to Other Leave Entitlements While on Parental Leave

- (a) An employee on unpaid parental leave may access accrued recreation leave and long service leave entitlements.
- (b) Taking other paid leave in conjunction with parental leave:
  - (i) does not break the continuity of the period of parental leave; and
  - (ii) the maximum period of parental leave will not be extended.



#### 61.17 Employment While on Parental Leave

- (a) NTPS employment (other than keeping in touch days)

Where the CEO agrees, an employee on unpaid parental leave may return to duty for any period with the agency, or another agency, to undertake duties for specified periods during the employee's parental leave.

- (b) Keeping in touch days

- (i) During a period of parental leave an employee may agree to attend the workplace on up to 10 separate occasions (up to one day per occasion) so as to keep in touch with developments in the workplace (for meetings and training etc.) in order to facilitate a return to employment at the end of the period of leave.

- (ii) Payment for keeping in touch days:

- A. during unpaid leave: an employee will be paid their normal salary for the days (or part days) work is performed; or
- B. during paid parental leave: an employee will be paid their normal salary for the days (or part days) work is performed and the CEO will authorise the equivalent period of paid parental leave to be re-credited.

- (iii) After considering all the circumstances, including any employment under clause 61.17(a), the CEO may approve an amount of keeping in touch days in excess of 10 days.

- (c) An employee on unpaid parental leave may only engage in outside employment in accordance with the PSEM Act.

- (d) Employment under this clause during a period of parental leave will not:

- (i) prevent the employee from re-commencing parental leave; or
- (ii) extend the maximum period of parental leave.

#### 61.18 Consultation and Communication During Parental Leave

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

- (i) make information available; and
- (ii) provide an opportunity for the employee to discuss

any significant effect the change will have on the status, pay, location or responsibility level of the employee's pre-parental leave position.

- (b) The employee will take reasonable steps to inform the CEO about any significant matter that will affect the employee's decision regarding the

duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis in accordance with clause 61.19(e).

#### 61.19 Returning to Work After a Period of Parental Leave

- (a) An employee who will be, or is, the birth giver and who elects to return to work during the six weeks following the birth of their child must provide a medical certificate stating that the employee is fit for work during that period.

- (b) Returning to work early

- (i) During the period of parental leave an employee may return to work at any time as agreed between the CEO and the employee.
  - (ii) A written application requesting an early return to work must be made at least:
    - A. four weeks before the employee's preferred date of return where the employee is on parental leave for a period of up to 52 weeks; or
    - B. 12 weeks before the employee's preferred date of return where the employee is on parental leave for a period in excess of 52 weeks.
  - (iii) Responses to the employee's request must be in accordance with clause 61.21.

- (c) Returning to work at conclusion of leave

An employee must notify the CEO in writing prior to the expiration of parental leave that the employee intends to return to work. Notice must be given at least:

- (i) four weeks before the expiration of parental leave where the employee has been on parental leave for a period of up to 52 weeks; or
  - (ii) 12 weeks before the expiration of parental leave where the employee has been on parental leave for a period in excess of 52 weeks.

- (d) Returning to pre-parental leave position

An employee returning from parental leave is entitled to the position which the employee held immediately prior to commencing leave, or if the pre-leave position no longer exists, to a position of similar pay and status, or in the case of an employee who:

- (i) was transferred to an appropriate safe job under clause 61.12 prior to commencing leave, to the position held immediately prior to such transfer; or

- (ii) was promoted to a new position during the period of parental leave, to the new position.
- (e) Returning to work part-time
  - (i) To assist in reconciling work and parental responsibilities, if agreed between the CEO and the employee, the employee may return to work on a part-time basis to care for the child who is of school age or younger, provided that such a request is not made less than eight weeks prior to the date that the employee is due to return to work.
  - (ii) Part-time employment will be facilitated in accordance with clause 39.
  - (iii) Responses to requests will be in accordance with clause 61.21.

#### 61.20 Extend Period of Parental Leave

*Note: An employee who has initially taken three years parental leave (i.e. the maximum parental leave entitlement), is not entitled to extend their period of parental leave under this clause.*

- (a) In this clause a reference to 'parental leave' means primary caregiver parental leave under clause 61.6 or the longer term partner leave under clause 61.7c), whichever is applicable.
- (b) If an employee initially requested less than 12 months of parental leave they can extend their leave up to 12 months from time of commencing their leave (e.g. from six months to 12 months). This extension is a right and cannot be refused by the CEO if written notice of at least four weeks is given by the employee before the employee's expected return to work.
- (c) Any further extension (e.g. from 12 months to 18 months; from 12 months to 30 months) is by agreement between the CEO and employee, provided that:
  - (i) employees with less than 12 months continuous service at the time of commencing parental leave, or an eligible casual employee, cannot extend parental leave beyond 24 months after the date of birth or day of placement of their child; or
  - (ii) employees with at least 12 months continuous service at the time of commencing parental leave cannot extend parental leave beyond three years after the date of birth or day of placement of their child.
- (d) If an employee, who is eligible for up to three years parental leave, initially requested more than 12 months of parental leave, they can request an extension by giving 12 weeks notice before their expected return to work.
  - (i) If required, an employee may request one more extension up to a total of three years.
  - (ii) An employee cannot extend the period of parental leave beyond three years after the date of birth or day of placement of the child.
- (e) Responses to requests to extend parental leave under this clause will be in accordance with clause 61.21.

- (f) Any additional parental leave granted under this clause will be unpaid.

#### 61.21 CEO's Consideration of Employee's Request

- (a) This clause applies to an employee's request to return to work early (clause 61.19(b)), work part-time (clause 61.19(e)) or extend parental leave (clause 61.20).
- (b) The CEO will consider the request and respond in writing within 21 days having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable business grounds. Reasonable business grounds include, but are not limited to:
- excessive cost of accommodating the request;
  - that there is no capacity to reorganise work arrangements of other employees to accommodate the request;
  - the impracticality of any arrangements that would need to be put in place to accommodate the request, including the need to recruit replacement staff;
  - that there would be significant loss of efficiency or productivity;
  - that there would be a significant negative impact on client service.

#### 61.22 Replacement Employees

- (a) A replacement employee is an employee specifically engaged or temporarily promoted or transferred as a result of an employee proceeding on parental leave.
- (b) Before a CEO engages a replacement employee the CEO must inform the person:
- (i) of the temporary nature of the employment;
  - (ii) of the return to work rights of the employee who is being replaced; and
  - (iii) of the rights of the CEO to require the employee taking parental leave to return to work if the employee ceases to have any responsibility for the care of the child.

#### 61.23 Effect of Parental Leave on Service

- (a) A period of parental leave does not break an employee's continuity of service.
- (b) Subject to clause 61.23(c), any period of paid parental leave, including paid leave as a result of access to accrued entitlements under clause 61.16 will count as service.
- (c) Where any employee elects to take paid parental leave at half pay in accordance with clause 61.15, only the first one week, two weeks, 14 weeks or 18 weeks, whichever is applicable, of the period of paid parental leave will count as service.

- (d) Unless otherwise provided in this clause, any period of unpaid parental leave will not count as service.

**61.24 Superannuation Contribution During Period of Parental Leave**

- (a) This clause applies to an employee who is entitled to at least 14 weeks paid primary caregiver leave and who takes unpaid primary caregiver parental leave during the first 12 months of their parental leave period.
- (b) During the first 12 months of primary caregiver parental leave an employee will continue to receive Employer Superannuation contributions, as per relevant superannuation legislation and superannuation fund rules, on any period of unpaid primary caregiver parental leave taken.
- (c) The maximum amount of employer superannuation contributions provided will be equivalent to the amount of employer superannuation contributions the employee would have received had the employee not been on approved primary caregiver parental leave.

**62. Long Service Leave**

Long Service Leave will be utilised as detailed in By-law 8 of the PSEM Act.

**63. Cultural and Ceremonial Leave**

**63.1** An employee is entitled to up to five days unpaid cultural leave for cultural and ceremonial obligations each 12 months for the purposes of undertaking their cultural or ceremonial obligations for the community or group to which the employee belongs.

**63.2** The CEO may, on application, grant leave subject to clauses 63.4 and 63.5.

**63.3** The CEO will have regard for an employee's cultural or ceremonial obligations, and may grant a further period of unpaid cultural and ceremonial leave.

**63.4 Notice Requirements**

- (a) An employee must make all reasonable efforts to advise the CEO as soon as reasonably practicable of the period or expected period of the cultural or ceremonial leave.
- (b) Notice should minimise the impact on the department's operations.

**63.5** The CEO may require an employee to produce documentary evidence, where appropriate, of the need for cultural or ceremonial leave.

**63.6** Alternatively an employee may access their paid recreation leave or long service leave entitlements for the purpose of undertaking cultural or ceremonial obligations.

*Note: Access to long service leave entitlements is subject to the minimum period set out in By-law 8.*

**63.7** Periods of unpaid cultural or ceremonial leave will not count for service for any purpose.

#### **64. Leave to Attend Industrial Proceedings**

- 64.1 An employee required by summons or subpoena to attend industrial proceedings, or to give evidence in proceedings affecting the employee will be granted paid leave.
- 64.2 Leave to attend industrial proceedings counts as service for all purposes.

#### **65. Domestic and Family Violence**

- 65.1 The Commissioner recognises that a safe and supportive workplace can make a positive difference to employees affected by domestic and family violence (including sexual violence). Support measures for employees include leave with pay, flexible work options and access to an Employee Assistance Program (EAP) for domestic and family violence purposes. Additional support may be available to these employees through their agency.
- 65.2 Leave with pay is available to an employee who is experiencing domestic and family violence and who requires time off for reasons including, but not limited to:
- (a) seeking safe accommodation;
  - (b) attending court hearings and police appointments;
  - (c) accessing legal advice;
  - (d) organising alternative care or education arrangements for the employee's children; or
  - (e) other related purposes approved by the CEO.
- 65.3 Domestic and family violence leave is accessed in accordance with By-law 18 – Miscellaneous Leave and is in addition to other leave entitlements. Domestic and family violence leave will count as service for all purposes.
- 65.4 Applications for leave will be dealt with confidentially and sensitively. Evidence to support an application may be requested, will only be sighted once and no copies will be made or recorded.
- 65.5 Reasonable adjustments should be considered to ensure the individual's safety in the workplace (e.g. different work locations, removal of phone listing or changes to NTG email address).

### **PART 9 – OTHER**

#### **66. Review of Staffing Management Model – Safe Workloads**

- 66.1 The department will review the Nursing Hours per Patient Day (NHpPD) staffing model, in consultation with the union, to compare the model to national and international best practice to adequately manage safe workloads for nurses and midwives.
- 66.2 The review will aim to:
- identify an appropriate evidence based staffing workload management tool for the department's nursing and midwifery service;

- develop strategies to monitor and review the model; and
- other matters as agreed between the parties.

## **67. Workplace Support for Breastfeeding Employees**

- 67.1 The department recognises that employees who want to breastfeed their children are more likely to return to a workplace that provides a supportive breastfeeding environment.
- 67.2 Employees needing to leave the workplace to support their breastfeeding needs may use personal leave and/or utilise the flexible working arrangement provisions under this Agreement.
- 67.3 In addition to flexible work arrangement provisions in this Agreement, the department has policies and guidelines designed to ensure workplaces can support breastfeeding employees. Support may include the ability to vary break times to accommodate reasonable lactation breaks and the provision of suitable facilities in the workplace for the purpose of expressing milk, breastfeeding, or any activity necessary for breastfeeding and expressing in the workplace.
- 67.4 The department's policies and guidelines referred to in clause 67.3 do not form part of this Agreement. If there is any inconsistency between the policies or guidelines and the terms of this Agreement, the express terms of this Agreement will prevail.

## **68. Public Holidays**

- 68.1 A public holiday means a day that is declared to be a public holiday under the *Public Holidays Act* (NT).
- 68.2 An employee will observe any day proclaimed or gazetted to be a public holiday and will be paid salary as if those days were not public holidays.
- 68.3 A part-time employee will receive payment for a public holiday which falls on a day normally worked by the employee as part of the employee's agreed hours of duty.
- 68.4 An employee may be required to work on any public holiday.

## **69. Redeployment and Redundancy**

- 69.1 The provisions of Schedule 2 Northern Territory Public Sector Redeployment and Redundancy Entitlements do not apply in transfer of business or transfer of employment situations where work of the employer is transferred or outsourced to another employer and the employee is offered employment with the second employer to perform the same or substantially similar work.
- 69.2 The National Employment Standard of the FW Act contains minimum entitlements relating to redundancy pay, including in transfer of business or transfer of employment situations. The FW Act provisions state, among other things, that redundancy pay does not apply in these situations if:
- (a) the second employer recognises the employee's service with the first employer; or

- (b) the employee rejects an offer of employment made by the second employer that:
  - (i) is on terms and conditions substantially similar to, and considered on an overall basis, no less favourable than, the employee's terms and conditions of employment with the first employer immediately before termination; and
  - (ii) recognises the employee's service with the first employer,unless the FWC is satisfied that this would operate unfairly to the employee who rejected the offer, in which case, upon application, the FWC may order the first employer to pay the employee a specified amount of redundancy pay.

## **70. Grievance and Dispute Resolution Training**

70.1 Leave of absence will be granted to an employee to attend short training courses or seminars on the following conditions:

- (a) that departmental operating requirements permit the grant of leave; and
- (b) that the scope, content and level of the short course or seminar are directed to a better understanding of grievance handling and dispute resolution.

70.2 Leave granted under clause 70.1 will be with full pay at ordinary time, excluding shift, penalty or overtime payments, and will count as service for all purposes.

## **71. Recovery of Overpayments on Cessation of Employment**

Where an employee, who has a financial debt to the Northern Territory Government in relation to their employment (e.g. overpayment of salary and/or allowances), ceases employment before the debt is fully recovered, the balance of the debt owing may, unless otherwise agreed by the CEO, be offset against any final payment due as a result of the cessation of employment.



## Schedule 1 Classification Descriptions

### 1.1. General

- 1.1.1 Subject to clause 1.1.2, assessment of the appropriate classification level will be in accordance with the overall role descriptions set out below which are to be read in conjunction with the Northern Territory Nursing and Midwifery Career Pathway. For the avoidance of doubt, the Northern Territory Nursing and Midwifery Career Pathway is not incorporated into this Agreement.

*(Details on the career pathway are available at: <https://health.nt.gov.au/professionals/nursing-and-midwifery/career-pathway/career-pathway-streams-and-steps>)*

- 1.1.2 Where there are specialist duties or unique characteristics attributable to a position above Nurse 2 that do not conform to the Northern Territory Nursing and Midwifery Career Pathway, the classification will be determined by assessment under the Work Evaluation System for nursing and midwifery professionals as determined by the Commissioner.
- 1.1.3 The Northern Territory Nursing and Midwifery Career Pathway has three streams: clinical; management; education and research. Each stream provides clear expectations for each step in the pathway with an overall role description, criteria based on the Strong model domains, and qualifications and experience expected at that step. The descriptions below set out the overall role description for each classification level in the relevant stream.

### 1.2. Clinical Stream

#### 1.2.1 Nurse 1 (N1)

Enrolled Nurse.

Provides direct nursing care to clients within procedural/policy guidelines under direct or indirect supervision of a Registered Nurse/Midwife with some autonomy where working in teams is required. Works in therapeutic and professional relationships with individuals, as well as with families, groups and communities. Accountable, under supervision of the Registered Nurse/Midwife, for the planning, provision and communication of nursing/midwifery care to an allocated group of clients.

#### 1.2.2 Nurse 1 Advanced Practice

Enrolled Nurse.

Provides nursing care to individuals and/or families under direct or indirect supervision of a Registered Nurse/Midwife with some autonomy where working in teams is required. Accountable, under supervision of the Registered Nurse/Midwife, for the planning, provision and communication of nursing/midwifery care to an allocated group of clients, including the evaluation and required revision of practice based on agreed priorities, goals, plans and outcomes. Has some independence, under the general direction and supervision of the Registered Nurse/Midwife, in achieving prescribed goals, balancing day-to-day priorities, identifying problems and initiating solutions.

#### 1.2.3 Nurse 2 (N2)

Registered Nurse or Registered Midwife.

Provides direct nursing/midwifery care to clients within procedural/policy guidelines. Applies foundation theoretical and practical knowledge and skills and evidence based guidelines based on established body of professional precedents. Understands and responds to client needs, balancing day-to-day priorities with client and operational requirements, identifying and addressing problems and modifying practice as needed. Accountable for the planning, provision and communication of nursing/midwifery care to an allocated group of clients.

#### 1.2.4 Nurse 3 (N3)

Registered Nurse or Registered Midwife.

Applies specialist knowledge, skills, attributes and abilities within a specified area of clinical practice in therapeutic and professional relationships with individuals, as well as with families, groups and communities. Provides a resource to other members of staff within a designated portfolio, e.g. education, shift management. Accountable for planning, provision and communication of nursing/midwifery practice including the evaluation and required revision of practice, and for staff and client safety across a shift. Provides leadership to other service and speciality positions in the determination of service or speciality quality, patient/client care and specific work principles and standards.

#### 1.2.5 Nurse 4 (N4)

Registered Nurse or Registered Midwife.

Provides appropriate, sound clinical and professional care which affects the work processes, services, and clients of the speciality service. Applies specialist knowledge, skills, attributes and abilities within a defined practice area in therapeutic and professional relationships with individuals, as well as with families, groups and communities. Is recognised by the team for this expertise and is a resource for others. Accountable for providing sound professional advice and for assessment, planning, review, evaluation and coordination of comprehensive client care and/or case management within the speciality area.

#### 1.2.6 Nurse 5 (N5)

Registered Nurse or Registered Midwife.

Provides a reference point for appropriate, sound clinical and professional advice which affects the work processes, services, and client care of the multidisciplinary team in a defined practice area. Provides direct clinical care in a defined practice area for client group with diverse and/or complex care requirements. Provides sound professional advice critical in dealing with significant issues related to assessment, planning, review, evaluation and coordination of client care in a defined practice area.

#### 1.2.7 Nurse 6 (N6)

Nurse Practitioner.

Uses expert nursing skills in the assessment, diagnosis and management of a person's health needs within relevant clinical specialty area. Provides senior leadership and reference point for best practice in matters of clinical importance across a specialist client population. Provides direct clinical care in a defined practice area for client group with diverse and/or complex care requirements. Provides sound professional advice critical in dealing with significant issues related to assessment, planning, review, evaluation and coordination of client care in a defined practice area.

### **1.3. Management Stream**

#### 1.3.1 Nurse 4 (N4)

Registered Nurse or Registered Midwife.

Provides appropriate, proficient, coordinated service programs, sound clinical and management advice and may provide direct clinical care for complex client presentations within the specialty areas. Collaborates in the development and implementation of policy, including interpreting established policies and supporting change management as required for operational effectiveness. Applies relevant legislation, guidelines and standards relating to nursing/midwifery, relevant multidisciplinary practice and the broader health care services.

#### 1.3.2 Nurse 5 (N5)

Registered Nurse or Registered Midwife.

Provides a recognised reference point for the multidisciplinary team in relation to assessment, planning, review, evaluation and coordination of service delivery in a defined practice area for groups and individuals with diverse requirements. Collaborates in the development of policies, regulations and guidelines to determine milestones, objectives, methods and priorities to support complex care models in a defined practice area. Applies relevant legislation, guidelines and standards relating to nursing/midwifery, relevant multidisciplinary practice and the broader health care services.

#### 1.3.3 Nurse 6 (N6)

Registered Nurse or Registered Midwife.

Provides a recognised reference point and consistent broad level of influence regarding service planning and delivery to multidisciplinary clinicians across a defined practice area. Uses expert professional clinical and management knowledge and experience to lead the coordination and integration of a diverse range of programs and strategies, including multidisciplinary, financial and human resource programs, across the Health Service.

#### 1.3.4 Nurse 7 (N7)

Registered Nurse or Registered Midwife.

Determines, develops and implements strategies to manage gaps and risks associated with organisation-wide nursing and midwifery services, whilst setting the strategic and operational direction throughout the organisation. Plays a critical role in leading the decision making process for programs, policies, initiatives and strategic operational planning across the organisation. Ensures all elements of the strategy fit together and contribute to higher level organisational goals.

#### 1.3.5 Nurse 8 (N8)

Registered Nurse or Registered Midwife.

Plays a critical role in professional leadership, system-wide strategic direction and operational/policy planning to ensure competent, culturally secure and contemporary nursing and midwifery best practice across Northern Territory Health. Provides flexible, innovative and responsive critical thinking to inform nursing and midwifery best practice in the unique Northern Territory context. Leads and manages evidence-based change across Northern Territory Health including driving a reform agenda to address identified gaps/deficiencies. Accountable for defining high-level nursing and midwifery strategic, operational and/or policy objectives for the organisation, and supporting translation into implementation strategies. Contributes executive leadership in establishing and monitoring systems that ensure delivery of the core business of the organisation and Health Service.

### **1.4. Education and Research Stream**

#### 1.4.1 Nurse 4 (N4)

Registered Nurse or Registered Midwife.

Provides specialist education, advice and consultation related to specialty area in planning and selection of equipment, work organisation, services, actions and achieving outcomes within time constraints. Provides appropriate, proficient, coordinated education programs, sound clinical and educational advice and may provide direct clinical care for complex client presentations within the specialty area. Provides direct clinical support and instruction, mentoring graduate, newly appointed or less experienced employees across the multidisciplinary team.

#### 1.4.2 Nurse 5 (N5)

Registered Nurse or Registered Midwife.

Provides a recognised reference point for the multidisciplinary team in relation to assessment, planning, review, evaluation and coordination of education programs in a defined practice area for groups and individuals with diverse requirements. Supports the professional development of health professionals in the workplace including providing relevant, clear and appropriate professional development advice to health professionals,

undergraduate and post graduate students. Collaborates in the development and implementation of education support for policy implementation.

#### 1.4.3 Nurse 6 (N6)

Registered Nurse or Registered Midwife.

Provides a recognised reference point and consistent broad level of influence regarding education and professional development to multidisciplinary clinicians across the Health Service and Northern Territory wide. Uses expert professional clinical and educational knowledge and experience to lead the coordination and integration of a diverse range of educational programs, including multidisciplinary programs, across the Health Service. Practices and influences contemporary nursing/midwifery practice across the Health Service through the application of expert nursing/midwifery educational and clinical knowledge, skills and attributes.

#### 1.4.4 Nurse 7 (N7)

Registered Nurse or Registered Midwife.

Provides authoritative strategic advice regarding strategic education program development and delivery that influences contemporary nursing/midwifery practice and health care delivery across the Health Service and Northern Territory Health. Plays a critical role in leading the decision making process for programs, policies, initiatives and operating circumstances in areas of strategic education program development and delivery. Ensures all elements of the strategy fit together and contribute to higher level organisational goals.

## **Schedule 2 Northern Territory Public Sector Redeployment and Redundancy Provisions**

### **2.1 Definitions**

For the purposes of these provisions:

- (a) **potentially surplus employee** means an employee who has been declared by the CEO to be potentially surplus to the requirements of the agency under section 41 of the PSEM Act;
- (b) **service** means a period of continuous service as defined in the FW Act, and which includes service as a compulsory transferee as defined in accordance with By-law 45.1 of the PSEM Act;
- (c) **Suitable employment** means employment within the NTPS that the employee is capable of performing and is competent and qualified to perform, having regard to section 5D(2) of the PSEM Act, which must be considered in the context of reasonable training possibilities;
- (d) **union** means a trade union as defined in FW Act and which is covered by this Agreement.

### **2.2 Consulting Relevant Unions**

**2.2.1** The CEO will make reasonable attempts to establish whether a potentially surplus employee is a union member and where union membership is established, must:

- (a) notify the relevant union of the potentially surplus situation and the name of the employee; and
- (b) invite the union to meet with an agency representative in relation to the situation.

**2.2.2** The employer or the CEO or both will provide the relevant union with the number of potentially surplus employees, the agency and their designation.

### **2.3 Finding of Other Suitable Employment**

**2.3.1** The employer and the CEO must make every endeavour to place a potentially surplus employee in other suitable employment.

**2.3.2** In addition to any other action the employer or the CEO or both may have taken in the period before notice is given in accordance with clause 2.4 and 2.5 the employer and the CEO will, during all such periods of notice, make every endeavour to place a surplus employee in other suitable employment.

**2.3.3** Where other suitable employment for a potentially surplus employee or a surplus employee is identified, the employee will be transferred. Where the transfer is to a lower level designation and salary, the written consent of the employee is required and the income maintenance provisions of clause 2.6.3 apply.

## **2.4 Voluntary Retrenchment**

- 2.4.1** Where a surplus employee is unable to be placed in other suitable employment, the employer may offer the employee a voluntary retrenchment.
- 2.4.2** The surplus employee will have up to seven days from the date of a written offer of voluntary retrenchment to consider and accept the offer.
- 2.4.3** Where the surplus employee accepts a voluntary retrenchment, the employee is entitled to a period of four weeks notice from the date that the offer is accepted, or five weeks notice if the employee is over the age of 45 years.
- 2.4.4** The surplus employee may be retrenched in accordance with this clause at any time within the period of notice under clause 2.4.3, at the direction of the CEO or the request of the employee, in which case the employee is entitled to receive payment in lieu of salary for the unexpired portion of the notice period.
- 2.4.5** A surplus employee retrenched in accordance with this clause is entitled to be paid a sum equal to the following amounts including, where applicable, Northern Territory Allowance:
- (a) for an employee with at least one year but less than two years: four weeks salary;
  - (b) for an employee with at least two years service, but less than three years service: six weeks salary;
  - (c) for an employee with between three and three and a half years service: seven weeks salary;
  - (d) for an employee with greater than three and a half years service: two weeks salary for each year of service plus a pro rata payment for the months of service completed since the last year of continuous service, provided that the maximum payable is 48 weeks salary.
- 2.4.6** For the purpose of calculating payment under clause 2.4.5:
- (a) where an employee has been acting in a higher designation for a continuous period of at least 12 months immediately prior to the date of notification that the employee is a surplus employee, the salary level is the employee's salary in their higher designation at the date of notification;
  - (b) where an employee has been paid a loading for shiftwork for 50% or more of the 12 months immediately preceding the date of notification, the weekly average amount of shift loading received during that period will be counted as part of "a weeks salary".
- 2.4.7** The inclusion of other allowances which are in the nature of salary specified in clause 2.4.6 will be at the discretion of the Commissioner.
- 2.4.8** The entitlement under:
- (a) clause 2.4.3 constitutes notice for the purpose of section 117 of the FW Act; and

- (b) clause 2.4.5 includes the employee's entitlement to redundancy pay for the purposes of section 119 of the FW Act.

- 2.4.9** All accrued recreation leave, long service leave and leave loading entitlements, including pro rata entitlements must be paid out.
- 2.4.10** Subject to clause 2.4.11 a surplus employee retrenched under this clause is entitled to all reasonable removal and relocation expenses. This entitlement must be used within 90 days after the date of voluntary retrenchment unless otherwise approved by the employer.
- 2.4.11** A surplus employee who has a leave airfare entitlement in accordance with By-law 33 or 47, is entitled to the use of or payment equivalent to one accrued airfare entitlement for the employee and their recognised dependents. This entitlement is in lieu of removal and relocation expenses in clause 2.4.10, and this must be used within 90 days after the date of voluntary retrenchment, unless otherwise approved by the employer.

## **2.5 Notice of Redundancy**

- 2.5.1** A surplus employee cannot be given notice under this clause unless the employee has:
  - (a) been offered a voluntary retrenchment and has declined that offer; or
  - (b) has requested a voluntary retrenchment and the employer has refused the request.
- 2.5.2** Subject to clause 2.5.5, where the employer determines that a surplus employee is unable to be placed in other suitable employment:
  - (a) the employee is entitled to 26 weeks formal notice of redundancy; or
  - (b) where the employee has 20 or more years service or is over the age of 45 years, the employee is entitled to 52 weeks formal notice of redundancy.
- 2.5.3** In addition to notice of redundancy under clause 2.5.2, a surplus employee must be given four weeks formal notice (or five weeks if the employee is over 45 years) where the relevant period of notice under clause 2.5.2 has expired and the employee cannot be placed in other suitable employment and will be terminated.
- 2.5.4** The period of notice under clause 2.5.3 constitutes notice for the purposes of section 117 of the FW Act.
- 2.5.5** The period of notice under clause 2.5.3 will be offset by the number of weeks of redundancy pay to which the surplus employee is entitled under section 119 of the FW Act and will be paid on termination.

*For example: A 50 year old employee with four years service has been given notice of redundancy. The employee will receive a total redundancy entitlement of 52 weeks, comprising 44 weeks notice of redundancy and the NES entitlement to eight weeks redundancy pay which will be paid on termination.*



- 2.5.6** In accordance with clause 2.2, during the notice periods referred to in this clause the employer and CEO will continue to make all reasonable endeavours to place the surplus employee into other suitable employment.
- 2.5.7** With the approval of the CEO, a surplus employee who has received notice in accordance with clauses 2.5.2 or 2.5.3 may request that the termination occur before the expiry date of the notice period. The date requested then becomes the date of termination of employment.
- 2.5.8** Where the CEO approves a request to terminate employment before the expiry date of the notice period, the surplus employee will be entitled to receive payment in lieu of salary, including Northern Territory Allowance where applicable, for the unexpired portion of the notice periods set out in clauses 2.5.2 and 2.5.3.
- 2.5.9** A surplus employee who has declined an offer of voluntary retrenchment prior to clauses 2.5.2 and 2.5.3 being invoked, is not entitled to receive a greater payment under clause 2.5.8 than the employee would have been entitled to receive had the employee been voluntarily retrenched.
- 2.5.10** For the purpose of attending employment interviews, a surplus employee who has received notice in accordance with clauses 2.5.2 or 2.5.3 is entitled:
- (a) to reasonable leave with full pay; and
  - (b) to reasonable travelling and incidental expenses necessary to attend an interview where those expenses are not met by the prospective employer.

## **2.6 Transfer to Other Suitable Employment**

- 2.6.1** A potentially surplus employee or a surplus employee is entitled to four weeks notice in the case of a transfer to a lower designation. By agreement between the employee and the CEO, the transfer may occur before the expiry of the four week notice period.
- 2.6.2** A potentially surplus employee or surplus employee is entitled to all reasonable expenses associated with moving the employee's household to a new location if, in the opinion of the employer, the transfer is necessary to enable the employee to take up suitable employment.
- 2.6.3** Where a potentially surplus employee or surplus employee is transferred to a lower designation and salary, the employee will be entitled to income maintenance payments as follows:
- (a) where the period of notice of redundancy has already been invoked, the greater of:
    - (i) the unexpired portion of the period of notice of redundancy that applies to the surplus employee under clause 2.5.2; or
    - (ii) four weeks; or
  - (b) where the period of notice of redundancy has not been invoked, for the period of notice of redundancy that might otherwise have applied to the employee under clause 2.5.2.

- 2.6.4** Income maintenance payments are calculated as follows:
- (a) an amount equivalent to the difference between the employee's nominal salary on the day immediately preceding the transfer and the nominal salary upon transfer; or
  - (b) where an employee has been acting in a higher designation for a continuous period of 12 months immediately prior to the date on which the employee received notice of the transfer, the difference between the employee's higher duties salary and the lower salary upon transfer.

**2.6.5** The inclusion of allowances or loadings as salary, other than higher duties allowance in accordance with clause 2.6.4(b) is at the discretion of the employer.

**2.6.6** An employee who is eligible for the payment of income maintenance is entitled to receive compensation for all other identifiable and quantifiable disabilities, losses or expenses experienced or incurred by reason of the employee's transfer which in the opinion of the employer were brought about by the transfer.

## **2.7 Use of Accrued Personal Leave**

**2.7.1** Subject to clause 2.7.2 the periods of notice under clauses 2.5.2 and 2.5.3 will be extended by any periods of approved personal leave taken during such periods supported by documentary evidence in the form of a medical certificate issued by a registered health practitioner.

**2.7.2** For the purposes of an employee entitled to income maintenance under clause 2.6.3, the total extension permitted under clause 2.7.1 is capped at six months.

*Example: A 50 year old employee with 10 years service receives notice of redundancy under clause 2.5.2(b). Ten weeks into the 52 week period of notice, the employee is transferred to a position of a lower designation and salary. The employee is entitled to income maintenance for 42 weeks. However, during the income maintenance period the employee takes four weeks certified personal leave with the result that the total period of income maintenance ends up being 46 weeks.*

## **2.8 Right of Review**

**2.8.1** A surplus employee will have a right of review to the Commissioner against any administrative decision made in relation to the employee's eligibility for benefits under these provisions or in relation to the amount of those benefits.

**2.8.2** This right does not affect the employee's rights under the FW Act.

## **2.9 Substitution or Other Provisions**

**2.9.1** Where the employer and the employee (and where requested by the employee, the relevant union) agree, provisions may be applied to a potentially surplus employee or a surplus employee which are in addition to or in substitution for, any or all of the provisions prescribed in this Schedule.

## **2.10 Exemption**

- 2.10.1** These provisions do not apply to fixed period or casual employees unless otherwise approved by the employer.

## Schedule 3 Salary Rates and Allowances

**TABLE 1: Annual Rates of Pay** (See Schedule 1 for classification descriptions)

Classification	Old Salary Rates Effective 09.08.2017	Salary Rates Effective 09.08.2018 \$	Salary Rates Effective 22.08.2019 \$	Salary Rates Effective 20.08.2020 \$	Salary Rates Effective 19.08.2021 \$
<b>EN in Training 75%</b>	43 081	44 158	45 262	46 394	47 554
<b>Nurse 1 (Enrolled Nurse)</b>					
Year 1	57 439	58 875	60 347	61 856	63 402
Year 2	59 218	60 698	62 215	63 770	65 364
Year 3	61 056	62 582	64 147	65 751	67 395
Year 4	62 948	64 522	66 135	67 788	69 483
Year 5	64 930	66 553	68 217	69 922	71 670
<b>Nurse 1 Advanced Practice</b>	66 588	68 253	69 959	71 708	73 501
<b>RN / RM in Training 75%</b>	48 699	49 916	51 164	52 443	53 754
<b>Nurse 2 (Registered Nurse / Registered Midwife)</b>					
2.1	64 930	66 553	68 217	69 922	71 670
2.2	68 425	70 136	71 889	73 686	75 528
2.3	71 920	73 718	75 561	77 450	79 386
2.4	75 417	77 302	79 235	81 216	83 246
2.5	79 490	81 477	83 514	85 602	87 742
2.6	82 548	84 612	86 727	88 895	91 117
2.7	85 903	88 051	90 252	92 508	94 821
<b>Nurse 3 (Registered Nurse / Registered Midwife)</b>					
3.1	89 488	91 725	94 018	96 368	98 777
3.2	93 068	95 395	97 780	100 225	102 731
3.3	95 613	98 003	100 453	102 964	105 538
<b>Nurse 4 (Registered Nurse / Registered Midwife)</b>					
4.1	99 582	102 072	104 624	107 240	109 921
4.2	103 069	105 646	108 287	110 994	113 769
4.3	106 986	109 661	112 403	115 213	118 093
<b>Nurse 5 (Registered Nurse / Registered Midwife)</b>					
5.1	109 660	112 402	115 212	118 092	121 044
5.2	114 265	117 122	120 050	123 051	126 127
<b>Nurse 6 (Registered Nurse / Registered Midwife or Nurse Practitioner)</b>					
6.1	120 550	123 564	126 653	129 819	133 064
6.2	125 373	128 507	131 720	135 013	138 388
<b>Nurse 7 (Registered Nurse / Registered Midwife)</b>					
7.1	135 425	138 811	142 281	145 838	149 484
7.2	140 281	143 788	147 383	151 068	154 845
<b>Nurse 8 (Registered Nurse / Registered Midwife)</b>					
8.1	145 878	149 525	153 263	157 095	161 022
8.2	150 767	154 536	158 399	162 359	166 418

**TABLE 2 – WORK RELATED ALLOWANCES**

Allowance	Clause	Payable	Rates Effective 01.01.2018 \$	Rates Effective 01.01.2019 \$	Rates Effective 01.01.2020 \$	Rates Effective 01.01.2021 \$	Rates Effective 01.01.2022 \$
On-Call*	46.7(a)(i)A.			According to CPI			
Hourly		per hour	3.09				
Night Rate		per night	49.40				
Day/Night Rate		per day/night	74.10				
For Katherine / Gove District Hospital operating theatre employees							
Monday to Friday	46.7(a)(i)E.	per hour	3.84	According to CPI			
Midnight Friday to Midnight							
Sunday and Public Holidays		per hour	4.94				
Exemplary Practice (EP) Allowance			Old Annual Rates Effective 09.08.2017 \$	Annual Rate Effective 09.08.2018 \$	Annual Rate Effective 22.08.2019 \$	Annual Rate Effective 20.08.2020 \$	Annual Rate Effective 19.08.2021 \$
Exemplary Practice Category 1	29	fortnightly	3777	3871	3968	4067	4169
N1 (EP1) – 6% of N1 4 <sup>th</sup> salary point							
N2 (EP1) – 6% of N2 4 <sup>th</sup> salary point							
			4525	4638	4754	4873	4995
Exemplary Practice Category 2	29	fortnightly	9804	10049	10301	10558	10822
N2 (EP2) – 13% of N2 4 <sup>th</sup> salary point							
Post Graduate Qualification Allowance	30	fortnightly	2273	2329	2388	2447	2508
N1 (Course of study is >6 months or 120 hours) 3.5% of N1 5 <sup>th</sup> salary point							
N2-8 (Conversion degree or Graduate Certificate) 3.5% of N2 maximum salary point							
N2-8 (Graduate Diploma) 4% of N2 maximum salary point							
N2-8 (Master’s Degree or Doctorate) 5% of N2 maximum salary point							
			3007	3082	3159	3238	3319
			3436	3522	3610	3700	3793
			4295	4403	4513	4625	4741
Accident Allowance	35	fortnightly	According to employee’s salary - see clause 35				
Ambulance Duty	34		Rates (ordinary time or overtime) - see clause 34				
Higher Duties Allowance	27	fortnightly	Qualifying periods apply:				
			N3 or below - 1 shift (see clause 27(c))				
			N4 or above - HDA will not be paid for any period less than one week (see clause 27(d))				
Shift Responsibility Allowance	28	per shift	Applies where no N3 to N6 rostered in charge of hospital ward, and where N2 undertakes shift management responsibility for >5 hours in hospital ward - Paid at the salary rate of N3.1, including shift penalties where applicable.				

**TABLE 3 – EXPENSE RELATED ALLOWANCES**

	Clause	Payable	Rate Effective 01.01.2018 \$	Rate Effective 01.01.2019 \$	Rate Effective 01.01.2020 \$	Rate Effective 01.01.2021 \$	Rate Effective 01.01.2022 \$
Meal Allowance*	32	per occasion	21.40	According to CPI			
Remote Locality Electricity Subsidy*	51	per annum					
Employee Single Rate							
Special Category			688				
Category 1			1374				
Category 2			2063	According to CPI			
Category 3			2751				
Employee with dependants / after hours rate							
Special Category			860				
Category 1			1720				
Category 2			2579	According to CPI			
Category 3			3440				

Uniform Allowance	Clause	Payable	Old Rate Effective (FFPP) 09.08.2016 \$	Rate Effective 09.18.2018 \$	Rate Effective 22.08.2019 \$	Rate Effective 20.08.2020 \$	Rate Effective 19.08.2021 \$
	33	per annum	462	488	500	513	526

Professional Development Allowance							
Reimbursement Payment	Clause	Payable	Old Rates Effective (FFPP) 01.09.2017 \$	Rate Effective 01.09.2018 \$	Rate Effective 01.09.2019 \$	Rate Effective 01.09.2020 \$	Rate Effective 01.09.2021 \$
1-3 years service	31.5	per annum	627	643	659	675	692
3 years or more service			1878	1925	1973	2022	2073
Upfront Fixed Payment			Old Rates Effective (FFPP) 30.08.2017 \$	Rate Effective (FFPP) 30.08.2018 \$	Rate Effective (FFPP) 30.08.2019 \$	Rate Effective (FFPP) 30.08.2020 \$	Rate Effective (FFPP) 30.08.2021 \$
1-3 years service	31.4	per annum	555	555	555	555	555
3 years or more service			1666	1666	1666	1666	1666

*Rates effective from first full pay period on or after date specified*


**Notes – TABLE 1**

- To calculate fortnightly pay from the annual salary in TABLE 1 refer clause 20.4.
- To calculate the hourly ordinary rate of pay divide the fortnightly pay by 76.


**Notes - TABLE 2 and TABLE 3:**

- Allowances marked with an asterisk (\*) will be adjusted annually in accordance with the annual September to September Darwin Consumer Price Index, and are effective from 1 January each year.
- The Allowances will not reduce if the Darwin Consumer Price Index is negative.
- The Commissioner will give effect to any subsequent annual adjustment required under this Agreement through a Determination. A copy of the Determination is available from the department's Human Resource Unit and on the Office of the Commissioner for Public Employment's website: [www.ocpe.nt.gov.au](http://www.ocpe.nt.gov.au)

## **SIGNATORIES to the Northern Territory Public Sector Nurses and Midwives' 2018 - 2022 Enterprise Agreement**

  
.....

Craig Allen  
Commissioner for Public Employment  
GPO Box 4371, DARWIN NT 0801  
Dated: 13/11/2018

  
.....

Yvonne Falckh  
Secretary  
Australian Nursing and Midwifery Federation  
Northern Territory Branch  
PO BOX 42533 CASUARINA NT 0811  
Dated: 14/11/2018

Signed as a Bargaining Representative of employees covered by this Agreement.

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## Schedule 2.2—Model flexibility term

(regulation 2.08)

### Model flexibility term

- (1) An employer and employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
  - (a) the agreement deals with 1 or more of the following matters:
    - (i) arrangements about when work is performed;
    - (ii) overtime rates;
    - (iii) penalty rates;
    - (iv) allowances;
    - (v) leave loading; and
  - (b) the arrangement meets the genuine needs of the employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
  - (c) the arrangement is genuinely agreed to by the employer and employee.
- (2) The employer must ensure that the terms of the individual flexibility arrangement:
  - (a) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
  - (b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
  - (c) result in the employee being better off overall than the employee would be if no arrangement was made.
- (3) The employer must ensure that the individual flexibility arrangement:
  - (a) is in writing; and
  - (b) includes the name of the employer and employee; and
  - (c) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
  - (d) includes details of:



- (i) the terms of the enterprise agreement that will be varied by the arrangement; and
  - (ii) how the arrangement will vary the effect of the terms; and
  - (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
- (e) states the day on which the arrangement commences.
- (4) The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- (5) The employer or employee may terminate the individual flexibility arrangement:
  - (a) by giving no more than 28 days written notice to the other party to the arrangement; or
  - (b) if the employer and employee agree in writing—at any time.