

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 - s. 698 - reprint of award

PRIVATE HOSPITALS AND NURSING HOMES INDUSTRY AWARD - STATE 2003

Following the Declaration of the General Ruling in the 2010 State Wage Case (matter numbers B/2010/20 and B/2010/21), the Private Hospitals and Nursing Homes Industry Award - State 2003 is hereby reprinted, pursuant to s. 698 of the *Industrial Relations Act 1999*.

I hereby certify that the Award contained herein is a true and correct copy of the Private Hospitals and Nursing Homes Industry Award - State 2003 as at 1 September 2010.

Dated 1 November 2010.

[L.S.] G.D. Savill
Industrial Registrar

PRIVATE HOSPITALS AND NURSING HOMES INDUSTRY AWARD - STATE 2003

PART 1 - APPLICATION AND OPERATION

1.1 Title

This Award is known as the Private Hospitals and Nursing Homes Industry Award - State 2003.

1.2 Arrangement

Subject Matter	Clause No.
PART 1 - APPLICATION AND OPERATION	
Title	1.1
Arrangement	1.2
Date of operation	1.3
Coverage	1.4
Definitions	1.5
Area of operation	1.6
PART 2 - FLEXIBILITY	
Enterprise flexibility	2.1
PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION	
Consultative mechanisms and procedures in the workplace	3.1
Grievance and dispute settling procedure	3.2
PART 4 - EMPLOYER AND EMPLOYEE'S DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED ARRANGEMENTS	
Employment categories	4.1
Part-time employment	4.2
Casual employment	4.3
Relieving of a higher grade	4.4
Incidental or peripheral tasks	4.5
Anti-discrimination	4.6
Termination of employment	4.7
Introduction of changes	4.8
Redundancy	4.9
Continuity of service - transfer of calling	4.10

PART 5 - WAGES AND WAGE RELATED MATTERS

Definition of classifications	5.1
Wage rates	5.2
Allowances	5.3
Payment of wages	5.4
Superannuation	5.5

PART 6 - HOURS OF WORK, BREAKS, OVERTIME, SHIFT WORK, WEEKEND WORK

Private hospital employees	6.1
Nursing home employees	6.2
Shift work	6.3
Weekend work	6.4

PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS

Annual leave	7.1
Sick leave	7.2
Bereavement leave	7.3
Long service leave	7.4
Family leave	7.5
Public holidays	7.6
Jury service	7.7

PART 8 - TRANSFERS, TRAVELLING AND WORKING AWAY FROM USUAL PLACE OF WORK

No provisions inserted in this Award relevant to this Part

PART 9 - TRAINING AND RELATED MATTERS

Training program	9.1
Commitments by parties	9.2

PART 10 - OCCUPATIONAL HEALTH AND SAFETY MATTERS, EQUIPMENT, TOOLS AND AMENITIES

Amenities	10.1
-----------	------

PART 11 - AWARD COMPLIANCE AND UNION RELATED MATTERS

Right of entry	11.1
Time and wage records	11.2
Posting of award	11.3

1.3 Date of operation

This Award takes effect from 14 July 2003.

1.4 Coverage

- 1.4.1 This Award shall apply to employees for whom rates of pay are prescribed in clause 5.2 and to their employers at private hospitals and nursing homes throughout the State of Queensland, and to contractors and/or subcontractors to the said private hospitals and nursing homes and their employees.
- 1.4.2 This Award shall not apply members of religious orders or employees covered by the Blue Care Enterprise Award - State 2004.

1.5 Definitions

- 1.5.1 The "Act" means the *Industrial Relations Act 1999* as amended or replaced from time to time.
- 1.5.2 "Commission" means the Queensland Industrial Relations Commission.
- 1.5.3 "Continuous Shift Work" means work done by an employee where the hours of work are regularly rotated in with a shift roster covering a 24 hour per day operation, and where 3 shifts per day are worked over a 7 day week.

- 1.5.4 "Nursing Home" means any house, apartment or premises, licensed or unlicensed, which is used or intended to be used for the reception, care and treatment of persons who on account of age, infirmity, chronic ill health or the effects of illness from which they are convalescent, require nursing, care, and supervision or care and supervision.
- 1.5.5 "Private Hospital" is an establishment licensed as such in accordance with the provisions of the *Health Act 1937* as amended from time to time.
- 1.5.6 "Shift Work" means work done by an employee where the hours of work are performed by separate relays of employees working recognised hours, preceding, during or following the ordinary working hours.
- 1.5.7 "Supervisor" means an employee directed by the employer to supervise staff and who is appointed as such to an appropriate skill level as set out in clause 5.1.
- 1.5.8 "Union" means The Australian Workers' Union of Employees, Queensland.

1.6 Area of operation

For the purpose of this Award the Divisions and Districts are as follows:

1.6.1 Divisions

Northern Division - That portion of the State along or north of a line commencing at the junction of the sea-coast with the parallel of south latitude; then by that parallel of latitude due west to 147 degrees of east longitude; then by that meridian of longitude due south to 22 degrees 30 minutes of south latitude; then by that parallel of latitude due west to the western border of the State.

Mackay Division - That portion of the State within the following boundaries: Commencing at the junction of the sea-coast with the 21st parallel of south latitude; then by that parallel of latitude due west to 147 degrees of east longitude; then by that meridian of longitude due south to 22 degrees of south latitude; then by that parallel of latitude due east to the sea-coast; then by the sea-coast northerly to the point of commencement.

Southern Division - That portion of the State not included in the Northern or Mackay Divisions.

1.6.2 Districts

(a) Northern Division:

Eastern District - That portion of the Northern Division along or east of 144 degrees 30 minutes of east longitude.

Western District - The remainder of the Northern Division.

(b) Southern Division:

Eastern District - That portion of the Southern Division along or east of a line commencing at the junction of the southern border of the State with 150 degrees of east longitude; then by that meridian of longitude due north to 25 degrees of south latitude; then by that parallel of latitude due west to 140 degrees of east longitude; then by that parallel of longitude due north to the boundary of the Mackay Division.

Western District - The remainder of the Southern Division.

PART 2 - FLEXIBILITY

2.1 Enterprise flexibility

- 2.1.1 As part of a process of improvement in productivity and efficiency, discussion should take place at each enterprise to provide more flexible working arrangements, improvement in the quality of working life, enhancement of skills, training and job satisfaction and to encourage consultative mechanisms across the workplace.
- 2.1.2 The consultative processes established in an enterprise in accordance with clause 2.1 may provide an appropriate mechanism for consideration of matters relevant to clause 2.1.1. Union delegates at the place of work may be involved in such discussions.
- 2.1.3 Any proposed genuine agreement reached between an employer and employee/s in an enterprise is contingent upon the agreement being submitted to the Commission in accordance with Chapter 6 of the Act and is to have

no force or effect until approval is given.

PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION

3.1 Consultative mechanisms and procedures in the workplace

- 3.1.1 The parties to this Award are committed to co-operating positively to increase the efficiency, productivity and competitiveness of the industries covered by this Award and to enhance the career opportunities and job security of employees in such industry.
- 3.1.2 At each facility, an employer, the employees and the Union commit themselves to establishing and/or continuing the consultative mechanisms and procedures appropriate to the size, structure and needs of that facility. Measures raised by the employer, employees or Union for consideration consistent with the objectives of clause 3.1.1 shall be processed through the consultative mechanism and procedures.

3.2 Grievance and dispute settling procedure

The matters to be dealt with in this procedure shall include all grievances or disputes between an employee and an employer in respect to any industrial matter and all other matters that the parties agree on and are specified herein. Such procedures shall apply to a single employee or to any number of employees.

- 3.2.1 In the event of an employee having a grievance or dispute the employee shall in the first instance attempt to resolve the matter with the immediate supervisor, who shall respond to such request as soon as reasonably practicable under the circumstances. Where the dispute concerns alleged actions of the immediate supervisor the employee/s may bypass this level in the procedure.
- 3.2.2 If the grievance or dispute is not resolved under clause 3.2.1, the employee or the employee's representative may refer the matter to the next higher level of management for discussion. Such discussion should, if possible, take place within 24 hours after the request by the employee or the employee's representative.
- 3.2.3 If the grievance involves allegations of unlawful discrimination by a supervisor the employee may commence the grievance resolution process by reporting the allegations to the next level of management beyond that of the supervisor concerned. If there is no level of management beyond that involved in the allegation the employee may proceed directly to the process outlined at clause 3.2.5.
- 3.2.4 If the grievance or dispute is still unresolved after discussions listed in clause 3.2.2, the matter shall, in the case of a member of a Union, be reported to the relevant officer of that Union and the senior management of the employer or the employer's nominated industrial representative. An employee who is not a member of a Union may report the grievance or dispute to senior management or the nominated industrial representative. This should occur as soon as it is evident that discussions under clause 3.2.2 will not result in resolution of the dispute.
- 3.2.5 If, after discussion between the parties, or their nominees mentioned in clause 3.2.4, the dispute remains unresolved after the parties have genuinely attempted to achieve a settlement thereof, then notification of the existence of the dispute is to be given in accordance with the provisions of the Act.
- 3.2.6 Whilst all of the above procedure is being followed, normal work shall continue except in the case of a genuine safety issue.
- 3.2.7 The *status quo* existing before the emergence of the grievance or dispute is to continue whilst the above procedure is being followed.
- 3.2.8 All parties shall give due consideration to matters raised or any suggestion or recommendation made by the Commission with a view to the prompt settlement of the dispute.
- 3.2.9 Any Order of the Commission (subject to the parties right of appeal under the Act) will be final and binding on all parties to the dispute.
- 3.2.10 Discussions at any stage of the procedure shall not be unreasonably delayed by any party, subject to acceptance that some matters may be of such complexity or importance that it may take a reasonable period of time for the appropriate response to be made. If genuine discussions are unreasonably delayed or hindered, it shall be open to any party to give notification of the dispute in accordance with the provisions of the Act.

PART 4 - EMPLOYER AND EMPLOYEE'S DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED ARRANGEMENTS

4.1 Employment categories

4.1.1 Employees covered by this Award shall be advised in writing of their employment category upon appointment.

Employment categories are:

- (a) full-time;
- (b) part-time (as prescribed in clause 4.2); or
- (c) casual (as prescribed in clause 4.3).

4.1.2 Except in the case of casual employees and in the absence of any agreement in writing to the contrary, the engagement shall be a weekly one.

4.2 Part-time employment

4.2.1 Private hospital employees

(a) A part-time employee means:

- (i) An employee, other than a casual employee, and who is engaged to work on a daily basis for less than 76 hours per fortnight in private hospitals.
- (ii) Part-time employees shall be paid at an hourly rate equal to the appropriate weekly rate prescribed by the Award and divided by 38 per hour with a minimum payment as for 3 hours on any day when work is performed, and in addition shall be entitled to a *pro rata* payment of the shift premium where appropriate. Such employees shall be further entitled to *pro rata* allowances where applicable under this Award.
- (iii) A part-time employee shall be entitled to *pro rata* annual leave, sick leave, long service leave, bereavement leave and all public holidays on the same basis as weekly employees on which the employee would have otherwise worked on a proportionate basis calculated on the ordinary hours of work worked in accordance with clause 4.2.1(a). Where a public holiday occurs during a period of the employee's annual leave, there shall be added to the employee's annual leave an extra day for each such day so occurring.
- (iv) A part-time employee shall be engaged to work rostered regular hours each week with a minimum engagement of 16 hours per fortnight. Such roster shall show the starting and ceasing times and the days upon which an employee is engaged to work as well as the number of hours to be worked each week or as otherwise arranged by mutual agreement between the employer and the branch secretary of the Union, to suit the exigencies of the establishment.
- (v) The ordinary daily working hours shall be worked continuously, excluding meal breaks, and shall not be less than 3 hours or more than 8 hours on any one day:

Provided the employer and the employee, may agree in writing that a part-time employee may work up to 10 hours on any one day.

(b) Rest pauses

Part-time employees who work a minimum of 4 consecutive ordinary hours on any day shall be entitled to a rest pause of 15 minutes' duration without loss of pay during the first 4 hours and a further rest pause where 8 consecutive hours are worked on any one day. Such rest pauses shall be taken at such times as will not interfere with the continuity of work where continuity in the opinion of the employer is necessary provided that where more than 5 hours are worked, such employees shall be entitled to a meal break of not less than 30 minutes nor more than one hour to be taken between the fourth and fifth hour for which time shall not be paid for.

Subject to clause 4.2.1(a)(v) and clause 6.1.2, a part-time employee who works more than 8 hours on any one day or more than 38 hours in any one week shall be paid overtime in accordance with clause 6.1.7 of the Award.

Subject to the provisions contained in clause 4.2.1 all other provisions of the Award relevant to weekly employees shall apply to part-time employees.

(c) Savings

Provided that no employee on a part-time basis shall suffer a reduction in ordinary time earnings as a consequence of the introduction of clause 4.2.1.

4.2.2 *Nursing home employees*

(a) A part-time employee means:

- (i) an employee, other than a casual employee, who is engaged to work rostered regular hours with a minimum of 15 hours per fortnight, with a minimum period of work of 3 hours on any day when work is performed.
- (ii) Part-time employees shall be paid at an hourly rate equal to the appropriate weekly rate prescribed by the Award and divided by 38 per hour with a minimum payment as for 3 hours on any day when work is performed, and in addition shall be entitled to a *pro rata* payment of the shift premium where appropriate. Such employees shall be further entitled to *pro rata* allowances where applicable under this Award.
- (iii) A part-time employee shall be entitled to *pro rata* annual leave, sick leave, long service leave, bereavement leave and all public holidays on the same basis as weekly employees on which the employee would have otherwise worked on a proportionate basis calculated on the ordinary hours of work worked in accordance with clause 4.2.2(a). Where a public holiday occurs during a period of the employee's annual leave, there shall be added to the employee's annual leave an extra day for each such day so occurring, provided further that the employee would have otherwise worked on that day of the week where the public holiday occurred.
- (iv) A part-time employee shall be engaged to work rostered regular hours each week with a minimum engagement of 15 hours per fortnight. Such roster shall show the starting and ceasing times and the days upon which an employee is engaged to work as well as the number of hours to be worked each week or as otherwise arranged by mutual agreement between the employer and the branch secretary of the Union, to suit the exigencies of the establishment.
- (v) The ordinary daily working hours shall be worked continuously, excluding meal breaks, and shall not be less than 3 hours or more than 8 hours on any one day:

Provided that by agreement between the employer and the employee, a part-time employee may work up to 10 hours on any one day.

(b) Rest pauses

Part-time employees who work a minimum of 4 consecutive ordinary hours on any day shall be entitled to a rest pause of 15 minutes' duration without loss of pay during the first 4 hours and a further rest pause where 8 or more consecutive hours are worked on any one day. Such rest pauses shall be taken at such times as will not interfere with the continuity of work where continuity in the opinion of the employer is necessary.

Where more than 5 hours are worked, such employees shall be entitled to a meal break of not less than 30 minutes nor more than one hour to be taken between the fourth and sixth hour for which time shall not be paid for.

Subject to clause 4.2.2(a)(v) and clause 6.2.2, a part-time employee who works more than 8 hours on any one day or more than 38 hours in any one week shall be paid overtime in accordance with clause 6.2.7.

Subject to the provisions contained in clause 4.2.2 all other provisions of the Award relevant to weekly employees shall apply to part-time employees.

(c) Savings

Provided that no employee employed on a part-time basis shall suffer a reduction in ordinary time earnings as a consequence of the introduction of clause 4.2.2.

4.3 **Casual employment**

4.3.1 *Private hospital employees*

"Casual employee" means an employee who is not regularly employed as a part-time employee and who is engaged to work on an hourly basis for less than 76 hours per fortnight, provided that a minimum of 3 hours shall be paid for each engagement.

Casual employees shall be paid at an hourly rate equal to the appropriate weekly rate prescribed by the Award and divided by 38 and an additional 23% per hour, calculated on the ordinary rate with a minimum payment as for 3 hours' work in respect of each engagement; and shall be further entitled to *pro rata* payment of any

applicable allowances under this Award:

Provided that any such employee on coming to work at the appointed time shall be engaged on the following basis:

- (a) the employee shall be provided with 3 hours work, or if not provided with 3 hours work, shall be paid for 3 hours in lieu thereof; or
- (b) the employee shall be provided with 2 hours work, or if not provided with such work shall be paid for 2 hours in lieu thereof:

Provided that an employee so employed shall be guaranteed at least 12 hours work in any one week.

4.3.2 *Nursing home employees*

"Casual employee" means an employee who is not regularly employed as a part-time employee and who is engaged to work on a daily basis for less than 32 hours in any one week.

Casual employees shall be paid at an hourly rate equal to the appropriate weekly rate prescribed by the Award and divided by 38 and an additional 23 % per hour. Casual employees shall be further entitled to a *pro rata* payment of any allowances applicable to this Award:

Provided that any such employee on coming to work at the appointed time shall be engaged on the following basis:

- (a) the employee shall be provided with 3 hours work, or if not provided with 3 hours work, shall be paid for 3 hours in lieu thereof; or
- (b) the employee shall be provided with 2 hours work, or if not provided with such work, shall be paid for 2 hours in lieu thereof:

Provided that an employee so employed shall be guaranteed at least 12 hours work in any one week.

4.4 Relieving at a higher grade

Where any person on any one day relieves at a higher grade, to which a differential rate fixed by this Award is applicable, such person, if employed for more than 4 hours on the grade carrying the higher rate, shall be paid in respect of the whole time during which the employee works on that day at the same rate, which shall be at the highest rate fixed by the Award in respect of any such grade of work, and if employed for 4 hours or less on the grade carrying a higher rate, the employee shall be paid at such highest rate for 4 hours.

4.5 Incidental or peripheral tasks

4.5.1 An employer may direct an employee to carry out such duties as are within the limits of the employee's skills, competence and training provided that such duties are not designed to promote de-skilling.

4.5.2 An employer may direct an employee to carry out duties and use such equipment and tools as may be required:

Provided that the employee has been properly trained in the use of such equipment and tools.

4.5.3 The assignment of incidental or peripheral tasks to an employee or a class of employees shall:

- (a) be consistent with the efficient performance of the employee's main task or functions;
- (b) be subject to the employee having skills or competence to perform the initial tasks;
- (c) be consistent with the employer's responsibilities to provide a safe and healthy working environment.

4.6 Anti-discrimination

4.6.1 It is the intention of the parties to this Award to prevent and eliminate discrimination as defined by the *Anti-Discrimination Act 1991* and the *Industrial Relations Act 1999* as amended from time to time, which includes:

- (a) discrimination on the basis of sex, marital status, family responsibilities, pregnancy, parental status, age, race, impairment, religion, political belief or activity, trade union activity, lawful sexual activity and association with, or relation to, a person identified on the basis of the above attributes;
- (b) sexual harassment; and

(c) racial and religious vilification.

4.6.2 Accordingly, in fulfilling their obligations under the grievance and disputes settling procedure in clause 3.2, the parties to this Award must take reasonable steps to ensure that neither the Award provisions nor their operation are directly or indirectly discriminatory in their effects.

4.6.3 Under the *Anti-Discrimination Act 1991* it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.

4.6.4 Nothing in clause 4.6 is to be taken to affect:

(a) any different treatment (or treatment having different outcomes) which is specifically exempted under the *Anti-Discrimination Act 1991*; or

(b) an employee, employer or registered organisation, pursuing matters of discrimination, including by application to the Human Rights and Equal Opportunity Commission/Anti-Discrimination Commission Queensland.

4.7 Termination of employment

4.7.1 *Statement of employment*

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

4.7.2 *Termination by employer*

(a) An employer may dismiss an employee only if the employee has been given the following notice:

Period of Continuous Service	Period of Notice
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

(b) In addition to the notice in (a) above, employees 45 years old or over and who have completed at least 2 years' continuous service with the employer shall be entitled to an additional week's notice.

(c) Payment in lieu of notice shall be made if the appropriate notice is not given:

Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

(d) In calculating any payment in lieu of notice the minimum compensation payable to an employee will be at least the total of the amounts the employer would have been liable to pay the employee if the employee's employment had continued until the end of the required notice period. The total must be worked out on the basis of:

- (i) the ordinary working hours to be worked by the employee; and
- (ii) the amounts payable to the employee for the hours including for example allowances, loadings and penalties; and
- (iii) any other amounts payable under the employee's employment contract.

(e) The period of notice in this clause shall not apply in the case of dismissal for misconduct or other grounds that justify instant dismissal, or in the case of a casual employee, or an employee engaged by the hour or day, or an employee engaged for a specific period or tasks.

4.7.3 *Notice of termination by employee*

The notice of termination required to be given by an employee shall be the same as that required of an employer, save and except that there shall be no additional notice based on the age of the employee concerned. If an employee fails to give notice, the employer shall have the right to withhold monies due to the employee with a maximum amount equal to the amount the employee would have received under clause 4.7.2.

4.7.4 *Time off during notice period*

During the period of notice of termination given by the employer, an employee shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. This time off shall be taken at times that are convenient to the employee after consultation with the employer.

4.8 Introduction of changes

4.8.1 Employer's duty to notify

- (a) Where an employer decides to introduce changes in production, program, organisation, structure or technology, that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and, where relevant, their Union or Unions.
- (b) 'Significant effects' includes termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs:

Provided that where the Award makes provision for alteration of any of the matters referred to herein an alteration shall be deemed not to have significant effect.

4.8.2 Employer's duty to consult over change

- (a) The employer shall consult the employees affected and, where relevant, their Union or Unions about the introduction of the changes, the effects the changes are likely to have on employees (including the number and categories of employees likely to be dismissed, and the time when, or the period over which, the employer intends to carry out the dismissals), and the ways to avoid or minimise the effects of the changes (e.g. by finding alternative employment).
- (b) The consultation must occur as soon as practicable after making the decision referred to in clause 4.8.1.
- (c) For the purpose of such consultation the employer shall provide in writing to the employees concerned and, where relevant, their union or unions, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees, and any other matters likely to affect employees, provided that any employer shall not be required to disclose confidential information, the disclosure of which would be adverse to the employer's interests.

4.9 Redundancy

4.9.1 Consultation before terminations

- (a) Where an employer decides that the employer no longer wishes the job the employee has been doing to be done by anyone, and this is not due to the ordinary and customary turnover of labour, and that decision may lead to termination of employment, the employer shall consult the employee directly affected and where relevant, their Union or Unions.
- (b) The consultation shall take place as soon as it is practicable after the employer has made a decision, which will invoke the provisions of clause 4.9.1(a) and shall cover the reasons for the proposed terminations, measures to avoid or minimise the terminations and/or their adverse effects on the employees concerned.
- (c) For the purpose of the consultation the employer shall, as soon as practicable, provide in writing to the employees concerned and, where relevant, their Union or Unions, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, the number of workers normally employed and the period over which the terminations are likely to be carried out:

Provided that any employer shall not be required to disclose confidential information, the disclosure of which would be adverse to the employer's interests.

4.9.2 Transfer to lower paid duties

- (a) Where an employee is transferred to lower paid duties for reasons set out in clause 4.9.1 the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated under clause 4.7.

- (b) The employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former amounts the employer would have been liable to pay and the new lower amount the employer is liable to pay the employee for the number of weeks of notice still owing.
- (c) The amounts must be worked out on the basis of:
 - (i) the ordinary working hours to be worked by the employee; and
 - (ii) the amounts payable to the employee for the hours including for example, allowances, loadings and penalties; and
 - (iii) any other amounts payable under the employee's employment contract.

4.9.3 *Transmission of business*

- (a) Where a business is, whether before or after the date of insertion of this clause in the Award transmitted from an employer (transmittor) to another employer (transmittee), and an employee who at the time of such transmission was an employee of the transmittor of the business, becomes an employee of the transmittee:
 - (i) the continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission; and
 - (ii) the period of employment which the employee has had with the transmittor or any prior transmittor shall be deemed to be service of the employee with the transmittee.
- (b) In clause 4.9.3, 'business' includes trade, process, business or occupation and includes a part or subsidiary (which means a corporation that would be taken to be a subsidiary under the Corporations Law, whether or not the Corporations Law applies in the particular case) of any such business and 'transmission' includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and 'transmitted' has a corresponding meaning.

4.9.4 *Time off during notice period*

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.9.1, the employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

4.9.5 *Notice to Centrelink*

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.9.1, the employer shall notify Centrelink as soon as possible giving all relevant information about the proposed terminations, including a written statement of the reasons for the terminations, the number and categories of the employees likely to be affected, the number of workers normally employed and the period over which the terminations are intended to be carried out.

4.9.6 *Severance pay*

- (a) In addition to the period of notice prescribed for ordinary termination in clause 4.7.2(a), and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.9.1(a), shall be entitled to the following amounts of severance pay:

Period of Continuous Service	Severance Pay (weeks' pay)
Less than 1 year	nil
1 year but not more than 2 years	4
More than 2 years but not more than 3 years	6
More than 3 years but not more than 4 years	7
More than 4 years but not more than 5 years	8
More than 5 years but not more than 6 years	9
More than 6 years but not more than 7 years	10
More than 7 years but not more than 8 years	11
More than 8 years but not more than 9 years	12
More than 9 years but not more than 10 years	13
More than 10 years but not more than 11 years	14
More than 11 years but not more than 12 years	15
More than 12 years	16

- (b) 'Weeks' Pay' means the ordinary time rate of pay for the employee concerned:

Provided that the following amounts are excluded from the calculation of the ordinary time rate of pay: overtime, penalty rates, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and any other ancillary payments.

4.9.7 *Superannuation benefits*

An employer may make an application to the Commission for relief from the obligation to make severance payments in circumstances where:

- (a) the employer has contributed to a superannuation scheme which provides a particular benefit to an employee in a redundancy situation; and
- (b) the particular benefit to the employee is over and above any benefit the employee might obtain from any legislative scheme providing for superannuation benefits (currently the federal Superannuation Guarantee levy) or an award based superannuation scheme.

4.9.8 *Employee leaving during notice*

An employee whose employment is terminated for reasons set out in clause 4.9.1(a), may terminate such employment during the period of notice, and, if so, shall be entitled to the same benefits and payments under this clause had such employee remained with the employer until the expiry of such notice:

Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

4.9.9 *Alternative employment*

An employer, in a particular case, may make application to the Commission to have the general severance pay prescription amended if the employer obtains acceptable alternative employment for an employee.

4.9.10 *Employees with less than one year's service*

Clause 4.9 shall not apply to employees with less than one year's continuous service and the general obligation on employers should be no more than to give relevant employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.

4.9.11 *Employees exempted*

Clause 4.9 shall not apply:

- (a) where employment is terminated as a consequence of misconduct on the part of the employee; or
- (b) to employees engaged for a specific period or task(s); or
- (c) to casual employees.

4.9.12 *Employers exempted*

- (a) Subject to an order of the Commission, in a particular redundancy case, clause 4.9 shall not apply to an employer including a company or companies that employ employees working a total of fewer than 550 hours on average per week, excluding overtime, Monday to Sunday. The 550 hours shall be averaged over the previous 12 months.
- (b) A 'company' shall be defined as:
 - (i) a company and the entities it controls; or
 - (ii) a company and its related company or related companies; or
 - (iii) a company where the company or companies has a common Director or common Directors or a common shareholder or common shareholders with another company or companies.

4.9.13 *Exemption where transmission of business*

- (a) The provisions of clause 4.9.6 are not applicable where a business is before or after the date of the insertion of this clause into the Award, transmitted from an employer (transmittor) to another employer (transmittee), in any of the following circumstances:

- (i) where the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmitter, and any prior transmitter, to be continuous service of the employee with the transmittee; or
 - (ii) where the employee rejects an offer of employment with the transmittee:
 - (A) in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the employee at the time of ceasing employment with the transmitter; and
 - (B) which recognises the period of continuous service which the employee had with the transmitter and any prior transmitter to be continuous service of the employee with the transmittee.
- (b) The Commission may amend clause 4.9.13(a)(ii) if it is satisfied that it would operate unfairly in a particular case, or in the instance of contrived arrangements.

4.9.14 *Incapacity to pay*

An employer in a particular redundancy case may make application to the Commission to have the general severance pay prescription amended on the basis of the employer's incapacity to pay.

4.10 Continuity of service - transfer of calling

In cases where a transfer of calling occurs, continuity of service should be determined in accordance with sections 67-71 of the Act as amended from time to time.

PART 5 - WAGES AND WAGE RELATED MATTERS

5.1 Definition of classifications

5.1.1 *Level 1*

An employee at this level may operate either individually or as a member of a team and will be responsible for the quality of their own work under general supervision. Work will be directly supervised but the employee may have discretion within procedures regarding the method of completing the task/duty.

An employee at this level may be receiving on or off the job training or have received appropriate training.

Indicative tasks/skills of this level could include:

Assisting supervision and training of lower level employees, cooking to level of training including specialised non-cooking kitchen duties and cooking snacks/breakfasts, cook non-trade, and foul linen handling, handyperson, security as part of duties, operation of mechanical/mobile lifting equipment including lifting devices and the responsibility for minor repairs and maintenance of such, basic keyboard skills, handling money, counting meal and portion numbers for meal preparation, domestic and general tasks, use of basic mechanical equipment to the level of training as part of duties, maintenance of simple records, specialist skills and responsibilities in own area of work (i.e. laundry, wards, cleaning, theatre, kitchen), inventory and store work, anaesthetic assistant no formal qualifications, provision of basic dietary advice.

5.1.2 *Level 2*

An employee at this level may work independently under limited supervision and may be responsible for the supervision of other employees at lower levels. Tasks performed may be complex requiring theoretical knowledge and motor skills and good communication skills. Such employee would perform all tasks incidental to the primary task and facilitate the completion of the entire task. An employee classified at this level will have, or be gaining, formal qualifications or have appropriate skills/experience/training in the field to enable them to carry out the duties of the position.

Indicative tasks/skills could include in addition to those at Level 1:

Therapy assistant, supervisor, dresser/orderly/theatre assistant, CSSD.

5.1.3 *Level 3*

A position at this level shall require formal qualifications equivalent to a trade certificate or similar or appropriate experience/training in the field to enable the duties of the position to be carried out.

An employee at this level may work independently but under limited supervision and perform tasks of some

complexity which require applied theoretical knowledge and motor skills and good interpersonal and communication techniques. The employee would perform all tasks incidental to the primary task and facilitate the completion of the entire task and be responsible for inspection (process, product and materials) for conformity with established operational standards, and supervise employees at lower levels.

Employees at this level would perform incidental and peripheral tasks to their main function and have the ability to move between areas to the level of their training.

Indicative tasks/skills at this level in addition to those at Level 2 may include:

Trade duties (qual), non-trade supervisory, clinic measurement (qual), non-nursing hygiene/pest control, housekeeper, therapy assistant (qual), fire safety and security, dresser, orderly, theatre assistant, anaesthetic technician.

5.2 Wage rates

REF LEVEL	STEP	RELATIVITY	WAGE RATE PER WEEK
		%	\$
Level 1	1	87.4	627.40
	2	91	642.50
	3	94.4	656.60
Level 2	1	98	671.70
	2	99	675.80
Level 3	1	100	682.00
	2	103	694.50
	3	105	702.90
	4	108	715.40

Level 4
Leave Reserve

Level 5
Leave Reserve

Level 6
Leave Reserve

Level 7
Leave Reserve

NOTE: The rates of pay in this Award are intended to include the arbitrated wage adjustment payable under the 1 September 2010 Declaration of General Ruling and earlier Safety Net Adjustments and arbitrated wage adjustments. This arbitrated wage adjustment may be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this Award which are above the wage rates prescribed in the Award. Such payments include wages payable pursuant to certified agreements, currently operating enterprise flexibility agreements, Queensland workplace agreements, award amendments to give effect to enterprise agreements and overaward arrangements. Absorption which is contrary to the terms of an agreement is not required.

Increases made under previous State Wage Cases or under the current Statement of Principles, excepting those resulting from enterprise agreements, are not to be used to offset arbitrated wage adjustments.

5.2.1 Juniors

Junior rates	%
Under 18 years of age	65
18 and under 19 years of age	75

Thereafter the appropriate adult rate.

5.2.2 Skill based assessment structures

(a) Where an employer has introduced appropriate skills based assessment structures, progression within levels may be dependent upon the employee successfully acquiring skills as set out in the skills based assessment structures. Where no skills based assessment structure exists progression for all employees (whether full-

time, part-time or casual) within each level will occur, when such employee has been employed at a particular rate of pay within a level for the equivalent of 12 months (1976 hours).

- (b) Where an employee declines an offer by their employer to participate in skills based assessment structures provided in accordance with clause 5.2.2, the employer may withhold progression of that employee within that employee's level of employment. Any disputes arising from clause 5.2.2 shall be dealt with in accordance with the Grievance and dispute settling procedure in clause 3.2.
- (c) Employers who introduce such skills based structures shall provide such structural training to the employee at no cost to the employee.
- (d) Progression from Level 1 (Step 3) to Level 2 (Step 1) shall be by the acquisition of appropriate skills and/or competencies, and by appointment on merit to vacancies.

5.3 Allowances

5.3.1 District allowances

- (a) Northern allowance - Adult employees covered by this Award employed in the Eastern District of the Northern Division shall be paid \$1.05 per week, and juniors 53¢ per week over and above the rates prescribed in this Award.
- (b) Mackay allowance - Adult employees covered by this Award in the Mackay Division shall be paid 90¢ per week, and Juniors 45¢ per week over and above the rates prescribed in this Award.
- (c) Western allowance - Employees in the Western District of the Southern Division shall be paid the following weekly allowance in addition to the rates prescribed for such employees in the corresponding Eastern District:
 - (i) \$1.05 per week for adults and 53¢ per week for juniors.
- (d) Employees in the Western district of the Northern Division shall be paid the following weekly allowance in addition to the rates prescribed for such employees in the corresponding Eastern District:
 - (i) \$2.20 per week for adults and \$1.10 per week for juniors.

5.3.2 Uniforms allowance

Uniforms of good quality shall be provided free of charge to wardspersons and dressers and also to any other employee who may be required to wear uniforms or, in lieu thereof, an allowance at the rate of \$159 per annum shall be paid on a *pro rata* basis each pay day. Uniforms shall be laundered at the expense of the employer or an allowance of \$1.85 per week paid. In the event of it becoming necessary to wear overcoats, such overcoats shall be provided by the employer free of charge.

5.3.3 Laundry employees handling foul linen

- (a) Laundry employees required to collect foul linen from the ward chutes and wrap such linen into bundles;
- (b) Employees required to sort foul linen at the laundry;
- (c) Employees in charge of the washing machines in which foul linen is cold rinsed and boiled while still in the foul condition;
 - shall be paid an allowance at the rate of \$5.20 per week in addition to the wages prescribed in clause 5.2 for laundry employees.
- (d) All other employees who handle linen of a foul nature other than linen bagged or packed in containers shall be paid 100c per day or part thereof in addition to the wages prescribed by clause 5.2 for the classification of the particular employee concerned.

5.3.4 Employees engaged in cleaning grease traps

Employees engaged on the cleaning of grease traps shall be paid \$7.90 per week in addition to the rates prescribed in clause 5.2 whilst so engaged.

5.4 Payment of wages

5.4.1 Wages shall be paid by the employer either by cash, cheque or electronic funds transfer, weekly where

practicable or otherwise fortnightly, provided that where payment is made by E.F.T that there is reasonable geographical access to a facility which enables the employee to withdraw some or all of their wages on the usual pay day.

- 5.4.2 Should public holiday/s occur during the close of the weekly or fortnightly pay period and, or on the usual pay day, payment of wages may be delayed no longer than the period of such holidays. Any alternative arrangements of paying wages shall be at the discretion of the employer.

5.5 Superannuation

5.5.1 Private Hospitals

Employees covered by this Award shall be entitled to occupational superannuation benefits pursuant to the Occupational Superannuation Award - Employees of Private Hospitals - State.

5.5.2 Nursing Homes

In addition to the rates of pay prescribed in clause 5.2, all employees employed under this section shall be entitled to occupational superannuation provisions as prescribed in clause 5.5.

5.5.3 Contributions

- (a) Amount - As from 1 January 2005 every employer shall contribute on behalf of each eligible employee an amount calculated at 9% of the employee's ordinary time earnings, into an approved fund, as defined in this clause. Each such payment of contributions shall be rounded off to the nearest ten (10) cents:

Provided that where an employee is absent and is receiving by way of workers' compensation an amount of money no less than the award rate of pay the contribution shall be calculated at 3%.

Provided that in any instance where the amount as calculated above represents less than \$2.00 no contribution will be payable by the employer.

- (b) The obligation upon an employer to make occupational superannuation contributions under clause 5.5 shall be in addition to, and distinguishable from, any contributions being made by such an employer in accordance with the rules of any other particular scheme, prior to the introduction of clause 5.5:

Provided that the obligation to make additional occupational superannuation contributions of 3% under clause 5.5.3(a) above shall not apply to those employers who have already commenced making additional contributions of 1.5% or more to an approved occupational superannuation scheme since 31 December 1987, provided further that the total additional contributions from 1 January 1989 shall not be less than 3%.

5.5.4 Definitions

- (a) "The Fund" shall mean SUNSUPER, as well as any other occupational superannuation scheme approved in accordance with the Commonwealth legislation for occupational superannuation funds.

- (b) "Contributory Wage" shall mean:

- (i) the ordinary weekly rate of pay applicable to each employee's classification as provided in clause 5.2; or
(ii) the hourly rate of pay for casual employees as prescribed clause 4.3.

5.5.5 Freedom of choice

- (a) Each employee shall be given equal access to information regarding SUNSUPER as well as such other approved occupational superannuation schemes made available by the employer for the employee's consideration, in order that the employee is able to make an informed choice as to which occupational superannuation scheme the employee wishes the employer to contribute the amount specified in clause 5.5.3.

- (b) The respective employer associations, or individual independent employers as necessary, and the Union, undertake to monitor co-operation and compliance with the intent of clause 5.5.5.

5.5.6 Cessation of contributions

The employer shall not be required to make any further contributions of behalf of any employee after the end of the last day from which the employee's resignation or dismissal becomes effective.

PART 6 - HOURS OF WORK, BREAKS, OVERTIME, SHIFT WORK, WEEKEND WORK

6.1 Private hospital employees

6.1.1 Hours of work

(a) Subject to clauses 6.1.2, 6.1.3 and 6.1.4 and unless as otherwise arranged by mutual agreement between the employer and the branch secretary of the Union the ordinary hours of work, exclusive of meal times, shall not exceed 7.6 hours per day or 38 hours per week or 76 hours per fortnight.

(i) Each employee shall be allowed 2 consecutive days off each week.

(ii) An employee's roster may provide for any one of the following combinations of days free from rostered work each fortnight:

periods comprising 2 days each or 3 consecutive days and one stand-alone day, or one period of 4 consecutive days.

(b) A roster setting out the employee's periods of duty and the starting and finishing times of such periods shall be displayed in a place conveniently accessible to employees at least 3 days before the commencement of each fortnight, provided that the accrued days off may be changed by mutual consent at any time.

(c) Broken shifts - Where practicable in private hospitals there shall be no broken shifts and the hours to be worked shall be arranged so that the continuity of work of the hospital shall not be interfered with.

Broken shifts shall only be worked where there is mutual agreement between the employer and the employee. When such a shift is rostered a total of 10 hours only shall be worked. One period of the broken shift shall be a minimum of 2 hours with only one break between shift portions exclusive of meal times and shall be worked within a spread of 12 hours.

(d) 10 hour break - employees shall be allowed a break of not less than 10 hours between the termination of one duty period and the commencing of another duty period:

Provided that in lieu thereof, such break shall not be less than 8 hours in any of the following circumstances:

(i) to permit changes of shift rosters;

(ii) in any other case agreed upon between the employee and the employer.

Where agreement has been reached between the employer and the employee to reduce the 10 hour break between duty periods to an 8 hour continuous break, due consideration shall be given to recognise that fatigue prevention must be, at all times, paramount to ensure that standards of care are not reduced.

(e) Night shift workers shall work the same number of hours in unbroken shifts as day workers and the period of night duty shall not exceed 4 weeks in any one period and every employee coming off night duty shall have 24 hours leave before again resuming duty. Unless agreed otherwise in writing, no employee shall be rostered to again do night duty until the employee has worked a period of at least 4 weeks on day work.

(f) 10 hours shifts - Where shifts of 10 hours per day are rostered for employees to work, employees working such hours shall not be rostered for work on more than 4 consecutive 10 hour days without a break of at least 3 days off.

6.1.2 Operation of a 38 hour week

(a) Subject to clause 6.13 (Working of a 38 hour week) and subject to the exceptions hereafter provided, the ordinary hours of work shall be an average of 38 per week, to be worked in one of the following ways:

(i) 38 hours within a cycle not exceeding 7 consecutive days; or

(ii) 76 hours within a work cycle not exceeding 14 consecutive days; or

(iii) 114 hours within a work cycle not exceeding 21 consecutive days; or

(iv) 152 hours within a work cycle not exceeding 28 consecutive days.

(b) The ordinary hours of work shall not exceed 10 hours per day.

(c) Where necessary the employees shall commence their ordinary hours and breaks at different times to ensure continuity of service.

- (d) The ordinary starting and finishing times may be altered to suit geographic safety, climatic or traffic conditions by the employer with the agreement of the employees concerned:

Provided further that any such altered starting and finishing time will not invoke any penalty payment that would not be payable if the Award spread of hours was observed.

- (e) Employees are required to observe the nominated starting and finishing times for the work day, including designated meal breaks and rest pauses, to maximise available working time. Preparation for work and cleaning up of the employee's person shall be in the employee's time.
- (f) Where accrued days off fall on a public holiday the following day may be taken where practicable in lieu or the employee and the employer may agree to an alternative day off duty as substitution.
- (g) Pay averaging - employees shall be entitled to a week's wages in accordance with clause 5.2 of this Award for each week of the cycle.
- (h) The entitlement to an accrued day off on full pay shall be subject to the following:
- (i) Each day of paid leave (not including annual leave, long service leave) and any public holiday occurring during any cycle of 4 weeks shall be regarded as a day worked for accrual purposes.
 - (ii) An employee who has not worked a complete 4 week cycle in order to accrue an accrued day off shall be paid a *pro rata* amount for credits accrued for each day worked in such cycle payable for the accrued day off (i.e. an amount of 24 minutes for each 8 hour day worked or 2 hours for each 40 hours worked).
- (i) For the purposes of clause 6.1.2 "worked" includes paid leave referred to in clause 6.1.2(h).
- (i) Sickness on an accrued day off which has resulted from the 19 day month work cycle - Where an employee is sick or injured on the accrued day off the employee shall not be entitled to sick pay nor shall the employee's sick pay entitlement be reduced as a result of this sickness or injury in that day.
 - (ii) Payment of wages - In the event that an employee by virtue of the arrangement of the employee's ordinary working hours is rostered off duty on a day which coincides with pay day, such employee shall be paid no later than the working day immediately following such pay day.

6.1.3 Working of a 38 hour week

- (a) The 38 hour week will be worked in one of the following ways, most suitable to each location, after consultation with and giving reasonable consideration to the wishes of the employees concerned:
- (i) by employees working less than 8 ordinary hours per day; or
 - (ii) by employees working less than 8 ordinary hours on one or more days in each work cycle; or
 - (iii) by fixing one or more work days on which all employees will be off during a particular work cycle; or
 - (iv) by rostering employees off on various days of the week during a particular work cycle, so that each employee has one work day off during that cycle.
- (b) Subject to the provisions of clause 6.1.3, employees may agree that the ordinary hours of work are to exceed 8 on any day, thus enabling more than one work day to be taken off during a particular work cycle.
- (c) Notwithstanding any other provisions in clause 6.1.3, where the arrangement of ordinary hours of work provides for an accrued day off, the employer and the employee concerned may agree to accrue up to a maximum of 5 accrued days off. Where such agreement has been reached, the accrued days off shall be taken within 12 calendar months from the date on which the first accrued day off was accrued. Consent to accrue days off shall not be unreasonably withheld by either party.
- (d) Different methods of implementation of the 38 hour week may apply to individual employees, groups or sections of employees in each location concerned.

6.1.4 Procedures for enterprise level discussions

- (a) The employer and all employees concerned in each establishment shall consult over the most appropriate means of implementing and working a 38 hour week.
- (b) The objective of such consultation shall be to reach agreement on the method of implementing and working

the 38 hour week in accordance with clause 6.1.4.

- (c) The outcomes of such consultation shall be recorded in writing.
- (d) In cases where agreement cannot be reached as a result of consultation between the parties, either party may request the assistance or advice of their relevant employee or employer organisation.
- (e) Notwithstanding the consultative procedures outlined above, and notwithstanding any lack of agreement by employees, the employer shall have the right to make the final determination as to the method by which the 38 hour week is implemented or worked from time to time.
- (f) After implementation of the 38 hour week, upon giving 7 days' notice or such shorter period as may be mutually agreed upon, the method of working the 38 hour week may be altered, from time to time, following negotiations between the employer and employees concerned, utilising the foregoing provisions of clause 6.1.4.

6.1.5 *Meal breaks*

Where an employee is rostered to work at least 6 hours continuously the employee shall be allowed an unpaid meal break of not less than 30 minutes and no more than one hour to be taken between the fourth and sixth hour after commencing work, at a time to be agreed between the employer and the employee.

All work performed during the meal break shall be paid for at the rate of double time, and the rate of double time shall continue to be paid until the meal break is taken and for which meal break no deduction of pay shall be made.

6.1.6 *Rest pauses*

Every employee shall be entitled to a rest pause of not less than 15 minutes' duration within each period of 4 ordinary hours of work at a time to be agreed between the employer and the employee.

Notwithstanding the above, at the discretion of the employer and having regard to the employee's health and welfare as well as taking into account peak periods of work load, the period of the 2 rest pauses may be combined into one 30 minutes rest pause, to be taken in the first part of the day.

6.1.7 *Overtime*

- (a) All time worked by any employee in excess of the employee's rostered hours of work or outside the spread of hours on any one day shall be deemed to be overtime and shall be paid for at the following rate:
 - (i) In the instance of shift workers at the rate of double time;
 - (ii) In the instance of all other employees at the rate of time and one-half for the first 3 hours and double time thereafter;
 - (iii) All overtime worked on a Sunday shall be paid or at the rate of double time;
 - (iv) All work performed during a designated meal period shall be paid at double time.

Such payments shall be in addition to the actual or weekly wage paid to each employee.

An employee may be required to work reasonable overtime subject to adequate prior notice.

Except in an emergency no employee shall work overtime unless instructed to do so by a person authorised to so instruct.

- (b) Time off in lieu of overtime

- (i) Subject to mutual agreement in writing between the employer and the employee, an employee may be compensated for overtime worked in lieu of payment by being allowed time off at the following rate:
 - (A) the first 3 hours of overtime in any one week may be taken at the rate of time worked for time taken;
 - (B) any period in excess of 3 hours of overtime in any one week may be taken of at a rate equivalent to the prescribed overtime penalty.

Should overtime in excess of 3 hours be consecutively worked on any one engagement, such excess overtime shall be taken or paid at the rate of double time:

Provided that the employee shall be required to clear accumulated time off in lieu within 3 months of the overtime being performed. If the employer is unable to release the employee accordingly, or at the time of termination for any reason be either party, then the employee shall be paid for the overtime worked at the appropriate overtime rate.

- (ii) Subject to prior approval by the employer, an employee may be granted time off notwithstanding that such time has not been worked as overtime in accordance with clause 6.1.7(a).
- (iii) The employer shall pay the employee's wages as if the employee worked ordinary hours during such time off:

Provided that the period of time off shall be made up in accordance with clause 6.1.7 through authorised overtime worked, within 4 weeks of the time off being taken, or the employees pay shall be reduced by the amount of such time off taken.

- (iv) The employer shall maintain an appropriate record of hours accumulated and taken off duty by each employee under clause 6.1.7

(c) Meal allowance

An employee who is called upon to work for more than one hour before the employee's rostered commencing time or after the employees rostered finishing time shall be supplied with a meal free of charge by the employer or paid \$9.60 per meal in lieu thereof, and shall be allowed one-half hour in the employers time for such meal.

When an employee has provided themselves with customary meals because of receipt of notice of intention to work overtime, the employee shall be entitled to an allowance of \$9.60 for each meal so provided in the event of the work not being so performed or ceasing before the respective meal times.

(d) Work on day off

Employees other than shift workers required to work on the first accrued day off shall be paid at one and a-half times the ordinary rate for the first 3 hours and double time thereafter with a minimum payment of 2 hours.

Employees other than shift workers required to work on the second accrued day off shall be paid at the rate of double time with a minimum payment of 2 hours.

(e) Fatigue break

An employee who works so much overtime between the termination of ordinary work on the one day and the commencement of ordinary work on the next day that at least 10 consecutive hours off duty have not been taken between those times shall, subject to clause 6.1.7(e) be released after the completion of such overtime until 10 consecutive hours off duty have been taken without loss of pay for ordinary working time occurring during such absence. If on the instructions of the employer, such an employee resumes or continues work without having had such 10 consecutive hours off duty, double rates shall be paid until such period off duty is provided without loss of ordinary pay for such time off.

The provisions of clause 6.1.7(e) shall apply in the case of shift workers who rotate from one shift to another as if 8 hours were substituted for 10 hours when overtime is worked:

- (i) for the purpose of changing shift rosters; or
- (ii) where a shift worker does not report for duty; or
- (iii) where a shift is worked by arrangement between the employees themselves.

6.2 Nursing home employees

6.2.1 Hours of work

- (a) Subject to clauses 6.2.2, 6.2.3 and 6.2.4 of this Award and unless as otherwise arranged by mutual agreement between the employer and the branch secretary of the Union the ordinary hours of work, exclusive of meal times, shall not exceed 7.6 hours per day or 38 hours per week or 76 hours per fortnight.
 - (i) Each employee shall be allowed 2 consecutive days off each week.

- (ii) An employee's roster may provide for any one of the following combinations of days free from rostered work each fortnight:

2 periods comprising 2 days each or 3 consecutive days and one stand-alone day, or one period of 4 consecutive days.

- (b) A roster setting out the employee's periods of duty and the starting and finishing times of such periods shall be displayed in a place conveniently accessible to employees at least 3 days before the commencement of each fortnight, provided that the accrued days off may be changed by mutual consent at any time.
- (c) Broken shifts - Broken shifts shall only be worked where there is mutual agreement between the employer and the employee. When such a shift is rostered a total of 10 hours only shall be worked. One period of the broken shift shall be a minimum of 2 hours with only one break between shift portions exclusive of meal times and shall be worked within a spread of 12 hours.
- (d) 10 hour break - employees shall be allowed a break of not less than 10 hours between the termination of one duty period and the commencing of another duty period:

Provided that in lieu thereof, such break shall not be less than 8 hours in any of the following circumstances:

- (i) to permit changes of shift rosters;
- (ii) in any other case agreed upon the employee and the employer.

Where agreement has been reached between the employer and the employee to reduce the 10 hour break between duty periods to an 8 hour continuous break, due consideration shall be given to recognise that fatigue prevention must be, at all times, paramount to ensure that standards of care are not reduced.

- (e) Night shift workers shall work the same number of hours in unbroken shifts as day workers and the period of night duty shall not exceed 4 weeks in any one period and every employee coming off night duty shall have 24 hours leave before again resuming duty. Unless agreed otherwise in writing, no employee shall be rostered to again do night duty until the employee has worked a period of at least 4 weeks on day work.
- (f) 10 hours shifts - Where shifts of 10 hours per day are rostered for employees to work, employees working such hours shall not be rostered for work on more than 4 consecutive 10 hour days without a break of at least 3 days off.

6.2.2 *Operation of a 38 hour week*

- (a) Subject to clause 6.2.3 (Working of a 38 hour week) and subject to the exceptions hereafter provided, the ordinary hours of work shall be an average of 38 per week, to be worked in one of the following ways:
 - (i) 38 hours within a cycle not exceeding 7 consecutive days; or
 - (ii) 76 hours within a work cycle not exceeding 14 consecutive days; or
 - (iii) 114 hours within a work cycle not exceeding 21 consecutive days; or
 - (iv) 152 hours within a work cycle not exceeding 28 consecutive days.
- (b) The ordinary hours of work shall not exceed 10 hours per day.
- (c) Where necessary the employees shall commence their ordinary hours and breaks at different times to ensure continuity of service.
- (d) The ordinary starting and finishing times may be altered to suit geographic safety, climatic or traffic conditions by the employer with the agreement of the employees concerned:

Provided further that any such altered starting and finishing time will not invoke any penalty payment that would not be payable if the Award spread of hours was observed.

- (e) Employees are required to observe the nominated starting and finishing times for the work day, including designated meal breaks and rest pauses, to maximise available working time. Preparation for work and cleaning up of the employee's person shall be in the employee's time.
- (f) Where accrued days off fall on a public holiday the following day may be taken where practicable in lieu or the employee and the employer may agree to an alternative day off duty as substitution.

- (g) Pay averaging - employees shall be entitled to a week's wages in accordance with clause 5.2 of this Award for each week of the cycle.
- (h) The entitlement to an accrued day off on full pay shall be subject to the following:
 - (i) Each day of paid leave (not including annual leave, long service leave) and any public holiday occurring during any cycle of 4 weeks shall be regarded as a day worked for accrual purposes.
 - (ii) An employee who has not worked a complete 4 week cycle in order to accrue a day off shall be paid a *pro rata* amount for credits accrued for each day worked in such cycle payable for the accrued day off (i.e. an amount of 24 minutes for each 8 hour day worked or 2 hours for each 40 hours worked).
- (i) For the purposes of clause 6.2.2 "worked" includes paid leave referred to in clause 6.2.2(h).
 - (i) Sickness on an accrued day off which has resulted from the 19 day month work cycle - Where an employee is sick or injured on the accrued day off the employee shall not be entitled to sick pay nor shall the employee's sick pay entitlement be reduced as a result of this sickness or injury in that day.
 - (ii) Payment of Wages - In the event that an employee by virtue of the arrangement of the employee's ordinary working hours is rostered off duty on a day which coincides with pay day, such employee shall be paid no later than the working day immediately following such pay day.

6.2.3 Working of a 38 hour week

- (a) The 38 hour week will be worked in one of the following ways, most suitable to each location, after consultation with and giving reasonable consideration to the wishes of the employees concerned:
 - (i) by employees working less than 8 ordinary hours per day; or
 - (ii) by employees working less than 8 ordinary hours on one or more days in each work cycle; or
 - (iii) by fixing one or more work days on which all employees will be off during a particular work cycle; or
 - (iv) by rostering employees off on various days of the week during a particular work cycle, so that each employee has one work day off during that cycle.
- (b) Subject to the provisions of clause 6.2.3, employees may agree that the ordinary hours of work are to exceed 8 on any day, thus enabling more than one work day to be taken off during a particular work cycle.
- (c) Notwithstanding any other provisions in clause 6.2.3, where the arrangement of ordinary hours of work provides for a rostered day off, the employer and the employee concerned may agree to accrue up to a maximum of 5 accrued days off. Where such agreement has been reached, the accrued days off shall be taken within 12 calendar months from the date on which the first accrued day off was accrued. Consent to accrue days off shall not be unreasonably withheld by either party.
- (d) Different methods of implementation of the 38 hour week may apply to individual employees, groups or sections of employees in each location concerned.

6.2.4 Procedures for enterprise level discussions

- (a) The employer and all employees concerned in each establishment shall consult over the most appropriate means of implementing and working a 38 hour week.
- (b) The objective of such consultation shall be to reach agreement on the method of implementing and working the 38 hour week in accordance with clause 6.2.4.
- (c) The outcomes of such consultation shall be recorded in writing.
- (d) In cases where agreement cannot be reached as a result of consultation between the parties, either party may request the assistance or advice of their relevant employee or employer organisation.
- (e) Notwithstanding the consultative procedures outlined above, and notwithstanding any lack of agreement by employees, the employer shall have the right to make the final determination as to the method by which the 38 hour week is implemented or worked from time to time.
- (f) After implementation of the 38 hour week, upon giving 7 days' notice or such shorter period as may be mutually agreed upon, the method of working the 38 hour week may be altered, from time to time, following negotiations between the employer and employees concerned, utilising the foregoing provisions of clause

6.2.4.

6.2.5 *Meal breaks*

Where an employee is rostered to work at least 6 hours continuously the employee shall be allowed an unpaid meal break of not less than 30 minutes and no more than one hour to be taken between the fourth and sixth hour after commencing work, at a time to be agreed between the employer and the employee.

All work performed during the meal break shall be paid for at the rate of double time, and the rate of double time shall continue to be paid until the meal break is taken and for which meal break no deduction of pay shall be made.

6.2.6 *Rest pauses*

Every employee shall be entitled to a rest pause of not less than 15 minutes' duration within each period of 4 ordinary hours of work at a time to be agreed between the employer and the employee.

Notwithstanding the above, at the discretion of the employer and having regard to the employee's health and welfare as well as taking into account peak periods of work load, the period of the 2 rest pauses may be combined into one 30 minutes rest pause, to be taken in the first part of the day.

6.2.7 *Overtime*

(a) All time worked by any employee in excess of the employee's rostered hours of work or outside the spread of hours on any one day shall be deemed to be overtime and shall be paid for at the following rate:

- (i) In the instance of shift workers at the rate of double time;
- (ii) In the instance of all other employees at the rate of time and one-half for the first 3 hours and double time thereafter;
- (iii) All overtime worked on a Sunday shall be paid or at the rate of double time;
- (iv) All work performed during a designated meal period shall be paid at double time.

Such payments shall be in addition to the actual or weekly wage paid to each employee.

An employee may be required to work reasonable overtime subject to adequate prior notice.

Except in an emergency no employee shall work overtime unless instructed to do so by a person authorised to so instruct.

(b) Time in lieu of overtime

(i) Subject to mutual agreement in writing between the employer and the employee, an employee may be compensated for overtime worked in lieu of payment by being allowed time off at the following rate:

- (1) the first 3 hours of overtime in any one week may be taken at the rate of time worked for time taken;
- (2) any period in excess of 3 hours of overtime in any one week may be taken of at a rate equivalent to the prescribed overtime penalty.

Should overtime in excess of 3 hours be consecutively worked on any one engagement, such excess overtime shall be taken or paid at the rate of double time:

Provided that the employee shall be required to clear accumulated time off in lieu within 3 months of the overtime being performed. If the employer is unable to release the employee accordingly, or at the time of termination for any reason be either party, then the employee shall be paid for the overtime worked at the appropriate overtime rate.

(ii) Subject to prior approval by the employer, an employee may be granted time off notwithstanding that such time has not been worked as overtime in accordance with clause 6.2.7(a). The employer shall pay the employee's wages as if the employee worked ordinary hours during such time off:

Provided that the period of time off shall be made up in accordance with clause 6.2.7 through authorised overtime worked, within 4 weeks of the time off being taken, or the employees pay shall be reduced by the amount of such time off taken.

(iii) The employer shall maintain an appropriate record of hours accumulated and taken off duty by each

employee under clause 6.2.7.

(c) Meal allowance

An employee who is called upon to work for more than one hour before the employee's rostered commencing or after the employees rostered finishing time shall be supplied with a meal free of charge by the employer or paid \$9.60 per meal in lieu thereof, and shall be allowed one-half hour in the employer's time for such meal.

When an employee has provided themselves with customary meals because of receipt of notice of intention to work overtime, the employee shall be entitled to an allowance of \$9.60 for each meal so provided in the event of the work not being so performed or ceasing before the respective meal times.

(d) Work on day off

Employees other than shift workers required to work on the first rostered day off shall be paid at one and a-half times the ordinary rate for the first 3 hours and double time thereafter with a minimum payment of 2 hours.

Employees other than shift workers required to work on the second rostered day off shall be paid at the rate of double time with a minimum payment of 2 hours.

(e) Fatigue break

An employee who works so much overtime between the termination of ordinary work on the one day and the commencement of ordinary work on the next day that at least 10 consecutive hours off duty have not been taken between those times shall, subject to clause 6.2.7(e) be released after the completion of such overtime until 10 consecutive hours off duty have been taken without loss of pay for ordinary working time occurring during such absence. If on the instructions of the employer, such an employee resumes or continues work without having had such 10 consecutive hours off duty, double rates shall be paid until such period off duty is provided without loss of ordinary pay for such time off.

The provisions of clause 6.2.7(e) shall apply in the case of shift workers who rotate from one shift to another as if 8 hours were substituted for 10 hours when overtime is worked:

- (i) for the purpose of changing shift rosters; or
- (ii) where a shift worker does not report for duty; or
- (iii) where a shift is worked by arrangement between the employees themselves.

6.3 Shift work

6.3.1 Change of rosters - hours of work

A roster setting out the employee's days off duty and starting and finishing times on such days shall be displayed in a place conveniently accessible to employees at least 3 days before the commencement of each fortnight, provided that the accrued days off may be changed by mutual consent at any time.

6.3.2 Extra payment for afternoon and night shifts - employees in nursing home

(a) In addition to the rates of pay prescribed by clause 5.2, employees whilst engaged on afternoon shift and night shift, as defined, shall be paid an additional penalty rate for each such shift as follows:

- (i) Afternoon Shift 12.5% (or \$9.70 whichever is the greater)
- (ii) Night Shift 15% (or \$9.70 whichever is the greater)

(b) For the purposes of clause 6.3.2:

- (i) "Afternoon shift" shall mean a shift, other than a night shift as defined herein, commencing at or after 12 midday;
- (ii) "Night shift" shall mean any shift commencing at or after 6.00pm or before 7.30am the following day, the major portion of which is worked between 6.00pm and 7.30am;
- (iii) The percentage which is quoted shall be the amount which is payable for each shift in addition to the employee's ordinary time wage rate.

- (c) This allowance shall not apply to work performed on Saturday and Sunday and public holidays where extra payments apply for such work.

6.3.3 *Extra payment for afternoon and night shifts - employees in private hospitals*

- (a) In addition to the rates of pay prescribed by clause 5.2, employees whilst engaged on afternoon shift and night shift, as defined, shall be paid an additional penalty rate for each such shift as follows:

- (i) Afternoon Shift 12.5% (or \$9.70 whichever is the greater)
- (ii) Night Shift 15% (or \$9.70 whichever is the greater)

- (b) For the purposes of clause 6.3.3:

- (i) "Afternoon shift" shall mean a shift, other than a night shift as defined herein, commencing at or after 12 midday;
- (ii) "Night shift" shall mean any shift commencing at or after 6.00pm or before 7.30am the following day, the major portion of which is worked between 6.00pm and 7.30am;
- (iii) The percentage which is quoted shall be the amount which is payable for each shift in addition to the employee's ordinary time wage rate.

- (c) This allowance shall not apply to work performed on Saturday and Sunday and public holidays where extra payments apply for such work.

6.4 Weekend work

6.4.1 *Extra payment for week-end work -employees in private hospitals*

All time worked by employees, not being overtime within the meaning of clause 6.1.7 of the Award, between midnight Friday and midnight Sunday, shall be paid for at the rate of time and a-half.

6.4.2 *Extra payment for week-end work - employees in nursing home*

All time worked by employees, not being overtime within the meaning of clause 6.2.7 of the Award, between midnight Friday and midnight Sunday, shall be paid for at the rate of time and a-half.

PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS

7.1 Annual leave

- 7.1.1 Every employee (other than a casual employee) covered by this Award shall at the end of each year of employment be entitled to annual leave on full pay as follows:

- (a) Not less than 5 weeks for employees employed as continuous shift workers, where work is performed in 3 shifts (morning, afternoon, and night) per 24 hour period, over 7 days per week, and where employees are regularly rotated through such shifts.
- (b) Not less than 4 weeks in any other case.

For the purpose of clause 7.1 "year of employment" shall mean and include any year of employment completed on or after 3 December 1973.

- 7.1.2 Such annual leave shall be exclusive of any public holiday which may occur during the period of that annual leave and (subject to clause 7.1.5) shall be paid for by the employer in advance:

- (a) In the case of any and every employee in receipt immediately prior to that leave of ordinary pay at a rate in excess of the ordinary rate payable under this Award at that excess rate; and
- (b) In every other case, at the ordinary rate payable to the employee concerned immediately prior to that leave under this Award.

- 7.1.3 If the employment of any employee is terminated at the expiration of a full year of employment, the employer shall be deemed to have given the leave to the employee from the date of termination of the employment and shall forthwith pay to the employee in addition to all other amounts due the employee's pay calculated in accordance with clause 7.1.5, for 4 weeks and also the employee's ordinary pay for any public holiday occurring during such period of 4 weeks.

7.1.4 If the employment of any employee is terminated before the expiration of a full year of employment, such employee shall be paid in addition to all other amounts due to the employee an amount equal to one-twelfth of the employee's pay for the period of employment calculated in accordance with clause 7.1.5.

7.1.5 *Calculation of annual leave pay*

In respect to annual leave entitlements to which clause 7.1 applies, annual leave pay (including any proportionate payments) shall be calculated as follows:

- (a) Shift workers - Subject to clause 7.1.5(b) wages to be paid to a shift worker shall be the rate payable for work in ordinary time according to the employee's roster or projected roster including Saturday, Sunday or holiday shifts.
- (b) All employees - Subject to clause 7.1.5(c), in no case shall the payment by an employer to an employee be less than the sum of the following amounts:
 - (i) the employee's ordinary wage rate as prescribed by the Award for the period of the annual leave (excluding shift premiums and week-end penalty rates).
 - (ii) skill or responsibility allowance, or payments of a like nature.
 - (iii) a further amount calculated at the rate of 17 1/2% of the amounts referred to in clauses 7.1.5(b)(i) and 7.1.5(b)(ii).
- (c) The provisions of clause 7.1.5(b) shall not apply to:
 - (i) any period or periods of annual leave exceeding:
 - (A) 5 weeks in the case of employees employed in a calling where 3 shifts per day are worked over a period of 7 days per week;
 - (B) 4 weeks in any other case; or
 - (ii) employers (and their employees) who are already paying (or receiving) an annual leave bonus, loading or other annual leave payment which is not less favourable to employees.

7.1.6 *Annual leave on separate days - nursing home employees*

Employees may take up to one week on annual leave in separate days. The appropriate annual leave loading of 17 1/2% is to be paid in the pay period when any portion of annual leave is taken.

7.2 Sick leave

7.2.1 *Entitlement*

- (a) Every employee, except casuals, pieceworkers and school-based apprentices and trainees, is entitled to 60.8 hours' sick leave for each completed year of their employment with their employer.
- (b) This entitlement will accrue at the rate of 7.6 hours' sick leave after each 6 weeks of employment.
- (c) Payment for sick leave will be made based on the ordinary number of hours that would have been worked if the employee were not absent on sick leave.
- (d) Sick leave may be taken for part of a day.
- (e) Sick leave shall be cumulative, but unless the employer and employee otherwise agree, no employee shall be entitled to receive, and no employer shall be bound to make, payment for more than 13 weeks' absence from work through illness in any one year.
- (f) Part-time employees accrue sick leave on a proportional basis.

7.2.2 *Employee must give notice.*

The payment of sick leave is subject to the employee promptly advising the employer of the employee's absence and its expected duration.

7.2.3 *Evidence supporting a claim*

When the employee's absence is for more than 2 days the employee is required to give the employer a doctor's certificate, or other reasonably acceptable evidence to the employer's satisfaction, about the nature and approximate duration of the illness.

7.2.4 *Accumulated sick leave*

An employee's accumulated sick leave entitlements are preserved when:

- (a) The employee is absent from work on unpaid leave granted by the employer;
- (b) The employer or employee terminates the employee's employment and the employee is re-employed within 3 months; or
- (c) The employee's employment is terminated because of illness or injury and the employee is re-employed by the same employer without having been employed in the interim.

The employee accumulates sick leave entitlements whilst absent from work on paid leave granted by the employer.

7.2.5 *Workers' compensation*

Where an employee is in receipt of workers' compensation, the employee is not entitled to payment of sick leave.

7.3 Bereavement leave

7.3.1 *Full-time and part-time employees*

Full-time and part-time employees shall, on the death of a member of their immediate family or household in Australia be entitled to paid bereavement leave up to and including the day of the funeral of such person. Such leave shall be without deduction of pay for a period not exceeding the number of hours worked by the employee in 2 ordinary days of work. Proof of such death is to be furnished by the employee to the satisfaction of the employer.

7.3.2 *Long-term casual employees*

- (a) A long-term casual employee is entitled to at least 2 days unpaid bereavement leave on the death of a member of the person's immediate family or household in Australia.
- (b) A "long-term casual employee" is a casual employee engaged by a particular employer, on a regular and systematic basis, for several periods of employment during a period of at least 1 year immediately before the employee seeks to access an entitlement under clause 7.3.2

7.3.3 "Immediate family" includes:

- (a) A spouse (including a former spouse, a *de facto* spouse and a former *de facto* spouse, spouse of the same sex) of the employee; and
- (b) A child or an adult child (including an adopted child, a foster child, an ex-foster child, a stepchild or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

7.3.4 An employee with the consent of the employer, may apply for unpaid leave when a member of the employee's immediate family or household in Australia dies and the period of bereavement leave entitlement provided above is insufficient.

7.4 Long service leave

All employees covered by this Award are entitled to long service leave on full pay under, subject to, and in accordance with, the provisions of Chapter 2, Part 3, sections 42-58 of the Act as amended from time to time.

7.5 Family leave

The provisions of the Family Leave Award apply to and are deemed to form part of this Award.

7.5.1 It is to be noted that:

- (a) part-time work can be performed by agreement in the circumstances specified in the Family Leave Award;
- (b) a copy of the Family Leave Award is required to be displayed in accordance with section 697 of the Act.

7.5.2 The Family Leave Award also provides for the terms and conditions of leave associated with:

- (a) Maternity leave
- (b) Parental leave
- (c) Adoption leave
- (d) Special responsibility leave for the care and support of the employee's immediate family or household.

7.6 Public holidays

7.6.1 All work done by any employee on:

- the 1st January;
- the 26th January;
- Good Friday;
- Easter Saturday (the day after Good Friday);
- Easter Monday;
- the 25th April (Anzac Day);
- The Birthday of the Sovereign;
- Christmas Day;
- Boxing Day; or
- any day appointed under the *Holidays Act 1983*, to be kept in place of any such holiday

will be paid for at the rate of double time and a-half with a minimum of 4 hours.

7.6.2 Labour Day

All employees covered by this Award are entitled to be paid a full day's wage for Labour Day (the first Monday in May or other day appointed under the *Holidays Act 1983*, to be kept in place of that holiday) irrespective of the fact that no work may be performed on such day, and if any employee concerned actually works on Labour Day, such employee will be paid a full day's wage for that day and in addition a payment for the time actually worked by the employee at one and a-half times the ordinary time rate of pay prescribed for such work with a minimum of 4 hours.

7.6.2 Annual show

All work done by an employee in a district specified from time to time by the Minister by notification published in the *Gazette* on the day appointed under the *Holidays Act 1983*, to be kept as a holiday in relation to annual agricultural, horticultural or industrial show held at the principle city or town, as specified in such notification of such district, shall be paid for at the rate of double time and a-half.

7.6.3 All time worked on any of the aforesaid holidays outside the ordinary starting and ceasing times prescribed by this Award for the day of the week on which such holiday falls shall be paid for at double the rate prescribed by the Award for such time when worked outside the ordinary starting and easing times on an ordinary working day.

7.6.4 Double time and a-half

Employees required to work on any of the aforesaid holidays shall be paid for a minimum of 4 hours worked at double time and a-half.

7.6.5 Stand down

Any and every employee, who having been dismissed or stood down by his employer during the months of December in any year, and is re-employed by the employer at any time before the end of the month of January in the next succeeding year shall, if that employee shall have been employed by that employer for a continuous period of 2 weeks or longer immediately prior to being dismissed or stood down, be entitled to be paid and shall be paid by the employer (at the ordinary rate payable to that employee when so dismissed or stood down) for any one or more of the following holidays, namely Christmas Day, Boxing Day, and the first day of January occurring during the period on and from the date of the employee's dismissal or standing down to and including the date of the employee's re-employment as aforesaid.

7.6.6 Holidays in lieu

Should any of the holidays mentioned in clause 7.6.1 fall on an employee's day off, such employee shall receive another one or 2 days off as the case may be in lieu thereof, or one or 2 days shall be added to the employee's annual leave or

alternatively, one or 2 days wages, at ordinary rates shall be paid in addition to the weekly wage.

7.6.7 Additional annual leave options (Private Hospitals Only)

Pursuant to section 15(7) of the Act, an employee may agree in writing with an employer to be compensated for an entitlement to extra payment for work performed as prescribed by clause 7.6.1 entitlement to additional annual leave on full pay to the appropriate rate calculated in accordance with clause 7.6.1.

7.6.8 Casual employees required to work on public holidays shall be paid at the rate of double time and a-half for all time worked on any public holiday.

A part-time employee who would, as part of their usual roster, have been rostered to work on a day of the week on which public holidays pass, and who is not required to work on that day, shall be paid for the hours which would otherwise have been worked on that day.

Should a part-time employee be rostered regularly to work on the day on which Labour Day, annual show day and Easter Saturday fall and such public holiday occurs during a period of the employee's annual leave, there shall be added to the employee's annual leave an extra day for each such day so occurring.

7.7 Jury service

- (a) An employee, other than a casual employee, required to attend for jury service during their ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the ordinary pay the employee would have been paid if the employee was not absent on jury service.
- (b) Alternatively, by agreement, fees (other than meal allowance) received by the employee to attend jury service will be paid to the employer and the employer will continue to pay the employee their ordinary pay for the time the employee was absent on jury service.
- (c) Employees shall notify their employer as soon as practicable of the date upon which they are required to attend for jury service and shall provide their employer with proof of such attendance, the duration of such attendance and the amount received in respect thereof.
- (d) If the employee is not required to serve on a jury for a day or part of a day after attending for jury service and the employee would ordinarily be working for all or part of the remaining day, the employee must, if practicable, present for work at the earliest reasonable opportunity.
- (e) "Ordinary pay" means the rate of pay that an employee would normally expect to receive for working ordinary hours on an ordinary day of the week, including any over-award payment. "Ordinary pay" excludes overtime, penalty rates of all types - including those attaching to working ordinary hours (for example) on a Saturday, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and other ancillary payments of a like nature.

PART 8 - TRANSFERS, TRAVELLING AND WORKING AWAY FROM USUAL PLACE OF WORK

No provisions inserted in this Award relevant to this Part

PART 9 - TRAINING AND RELATED MATTERS

9.1 Training program - Nursing home employees

- 9.1.1 The parties to this Award are jointly committed to the provision of appropriate training for all employees working under the Award and achieved by way of a training agreement to enhance and develop work skills of employees.
- 9.1.2 Employers who provide in-service training during working hours may require employees to spend an equivalent period of non-working time in training to a maximum of 2 hours of the employee's own time per month.

9.2 Commitments by parties

- 9.2.1 The parties acknowledge that various degrees of training are provided to employees in the industry, both by internal on the job training and through external training providers.
- 9.2.2 The parties commit themselves to continuing such training as is regarded by them as appropriate and improving training in such cases where this is required. The parties agree that training structures shall be consultative and involve employers, employees and the Union.

9.2.3 It is agreed that the parties will cooperate in ensuring that appropriate training is available for all employees in this industry and the parties agree to cooperate in encouraging both employers and employees to avail themselves of the benefits from such training.

9.2.4 The parties agree to continue discussions on issues raised in relation to training.

9.2.5 The parties are committed to encouraging young people to view this industry as one which has the capacity to provide them with an interesting career.

PART 10 - OCCUPATIONAL HEALTH AND SAFETY MATTERS, EQUIPMENT, TOOLS AND AMENITIES

10.1 Amenities

10.1.1 Board and lodgings

Should an employer provide board and lodging the maximum deduction for such board and lodging shall be \$5.00 per week.

10.1.2 Breakages

Employees shall not be charged any sum nor shall any deduction be made from the wages of any employee in respect of breakages of crockery or other utensils, except in the case of wilful misconduct.

10.1.3 Employees working in the wet

- (a) Employees who are required to perform work which results in their clothing becoming wet shall be supplied with waterproof aprons or overalls.
- (b) Employees whilst regularly working in the kitchen shall be provided with aprons which shall be maintained in a clean condition by the employee.
- (c) Employees who are required to perform work which results in the boots of such employees becoming wet shall be supplied with rubber waterproof boots.

PART 11 - AWARD COMPLIANCE AND UNION RELATED MATTERS

Preamble

Clauses 11.1 and 11.2 replicate legislative provisions contained within the Act. In order to ensure the currency of existing legal requirements parties are advised to refer to sections 366, 372 and 373 of the Act as amended from time to time.

11.1 Right of entry

11.1.1 Authorised industrial officer

- (a) An "Authorised industrial officer" is any Union official holding a current authority issued by the Industrial Registrar.
- (b) Right of entry is limited to workplaces where the work performed falls within the registered coverage of the Union.

11.1.2 Entry procedure

- (a) The authorised industrial officer is entitled to enter the workplace during normal business hours as long as:
 - (i) the authorised industrial officer alerts the employer or other person in charge of the workplace to their presence; and
 - (ii) shows their authorisation upon request.
- (b) Clause 11.1.2(a)(i) does not apply if the authorised industrial officer establishes that the employer or other person in charge is absent.
- (c) A person must not obstruct or hinder any authorised industrial officer exercising their right of entry.
- (d) If the authorised industrial officer intentionally disregards a condition of clause 11.1.2 the authorised

industrial officer may be treated as a trespasser.

11.1.3 *Inspection of records*

- (a) An authorised industrial officer is entitled to inspect the time and wages record required to be kept under section 366 of the Act.
- (b) An authorised industrial officer is entitled to inspect such time and wages records of any former or current employee except if the employee:
 - (i) is ineligible to become a member of the Union; or
 - (ii) is a party to a QWA or ancillary document, unless the employee has given written consent for the records to be inspected; or
 - (iii) has made a written request to the employer that they do not want their record inspected.
- (c) The authorised industrial officer may make a copy of the record, but cannot require any help from the employer.
- (d) A person must not coerce an employee or prospective employee into consenting, or refusing to consent, to the inspection of their records by an authorised industrial officer.

11.1.4 *Discussions with employees*

An authorised industrial officer is entitled to discuss with the employer, or a member or employee eligible to become a member of the Union:

- (a) matters under the Act during working or non-working time; and
- (b) any other matter with a member or employee eligible to become a member of the Union, during non-working time.

11.1.5 *Conduct*

An authorised industrial officer must not unreasonably interfere with the performance of work in exercising a right of entry.

11.2 Time and wages record

11.2.1 An employer must keep, at the place of work in Queensland, a time and wages record that contains the following particulars for each pay period for each employee, including apprentices and trainees:

- (a) the employee's award classification;
- (b) the employer's full name;
- (c) the name of the award under which the employee is working;
- (d) the number of hours worked by the employee during each day and week, the times at which the employee started and stopped work, and details of work breaks including meal breaks;
- (e) a weekly, daily or hourly wage rate - details of the wage rate for each week, day, or hour at which the employee is paid;
- (f) the gross and net wages paid to the employee;
- (g) details of any deductions made from the wages; and
- (h) contributions made by the employer to a superannuation fund.

11.2.2 The time and wages record must also contain:

- (a) the employee's full name and address;
- (b) the employee's date of birth;
- (c) details of sick leave credited or approved, and sick leave payments to the employee;

- (d) the date when the employee became an employee of the employer;
- (e) if appropriate, the date when the employee ceased employment with the employer; and
- (f) if a casual employee's entitlement to long service leave is worked out under section 47 of the Act - the total hours, other than overtime, worked by the employee since the start of the period to which the entitlement relates, worked out to and including 30 June in each year.

11.2.3 The employer must keep the record for 6 years.

11.2.4 Such records shall be open to inspection during the employer's business hours by an inspector of the Department of Industrial Relations, in accordance with section 371 of the Act or an authorised industrial officer in accordance with sections 372 and 373 of the Act.

11.3 Posting of award

A true copy of this Award shall be exhibited in a conspicuous and convenient place on the premises of the employer so as to be easily read by employees.

Dated 6 May 2003.

By the Commission,
[L.S.] E. EWALD,
Industrial Registrar.

Operative Date: 14 July 2003