

**Response to request for further information by the Australian  
Nursing and Midwifery Federation**

# **Senate Select Committee Work and Care**

**20 December 2022**



**Australian  
Nursing &  
Midwifery  
Federation**



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1. The ANMF wishes to thank the Senate Committee on Work and Care for the opportunity to appear before the Committee on 6 December 2022. During our appearance, members of the Committee requested we provide further information pertaining to our submission and evidence. Please find outlines below, addressing the questions taken on notice.

### The development of the Modern Award definitions of part-time employment in Nurses Award

2. An examination of submissions made by the ANMF and statements of the AIRC during the award modernisation process demonstrate that the issue most in contention was whether the nursing profession should have an occupation-based award. There is consequently less emphasis on other matters, including discussion pertaining to the part-time employment definition.
3. In submissions filed by the ANMF (previously known as the ANF) at the commencement of the award modernisation process<sup>1</sup>, an exemplar award was developed by the ANMF (see Attachment A). The part-time definition offered in that exemplar award was as follows:

#### ***"Part 3 – Types of employment and termination of employment***

##### ***X General***

*Employees under this award will be employed in one of the following categories:*

*Full-time employment; or*

*Part-time employment; or*

*Casual employment.*

*At the time of engagement an employer will inform each employee in writing of the terms of engagement and indicate whether the employee is a full-time, part-time or casual employee.*

##### ***x.2 Part-time employment***

*A part-time employee is an employee engaged as such who works a regular pattern of hours which average less than 38 hours per week or 76 in a fortnight.*

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<sup>1</sup> Submission of ANF, October 2008 at Attachment 2.



x.2.1 At the time of engagement, the employee and the employer will agree in writing upon the hours to be worked by the employee and the rostering arrangements which will apply to those hours.

x.2.2 *The number of hours worked by a part-time employee may be varied by mutual agreement between the employee and the employer and must be recorded in writing.*

x.2.3 *A part-time employee's roster may be changed in accordance with clause..... Rosters, provided that the agreed number of ordinary hours per week or fortnight can only be amended in accordance with clause x.2.2.*

x.2.4 *For ordinary working hours part-time employees shall be paid at an hourly rate equal to 1/38th of the weekly rate appropriate to the employee's classification and entitled, on a pro rata basis to:*

- a) *Annual leave, Personal leave, long service leave, parental leave and community service leave and;*
- b) *Such allowances, penalty rates and benefits as apply to full time employees where applicable.*

x.2.6 *In relation to the accumulation of pro rata entitlements, all authorised time worked in excess of rostered hours but within ordinary hours of work will be counted towards the accrual of pro rata entitlements.<sup>2</sup>*

4. The Committee will note, that this definition of part-time employment required;

- At the time of engagement, the parties reach an agreement on the number of hours to be worked and the rostering arrangements that would apply to those hours; and
- Payment of penalties, allowances and benefits (including overtime) to part-time employees

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<sup>2</sup> Ibid.



5. The definition put forward by the ANF was challenged by employer groups, citing a requirement for flexibility and a preference for minimum hours of engagement as contained in some other private sector state-based awards.<sup>3</sup>
6. In the submission of the ANF dated 11 December 2008 (see Attachment B), the ANF notes;

*"We note the various exchanges between the commissioners and employers with respect to part-time employment and refer the commission to the existing award provisions providing for part time employment, particularly the references to minimum hours and terms of engagement.*

*An examination of thirteen federal and state awards applying to nursing staff shows that 7 awards contain provisions for minimum hours of work. Of these, 4 specifically require hours to be agreed prior to or on commencement and cannot be altered without mutual consent.*

*The ANF draft exemplar nursing occupational award provision for part time employment is based on the latter and includes wording from the Nurses(ANF-SA Private Sector)Award 2003 for agreement in relation to the rostering arrangements which will apply to those hours."<sup>4</sup>*
7. Further evidence was provided to the Commission regarding the practices of employers engaging nurses in the aged care sector, offering part-time employment, but requiring nurses to work hours resembling full-time employment (see Attachment C).<sup>5</sup>
8. Despite evidence being provided by the ANF to demonstrate the negative consequences associated with a lack of certainty around hours to be worked for part-time employees the Commission ultimately accepted the position offered by employers, namely, that the number of additional hours worked by nurses, using a minimum hours of engagement model, would be insignificant and that not paying overtime to part-time employees who consented to work additional hours would represent important cost-savings for employers.

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<sup>3</sup> ANF Submission, 11 December 2008 at page 4, point 5 'Part-time Employment'.

<sup>4</sup> Ibid.

<sup>5</sup> ANF Submission, February 2009.



9. In the decision of the AIRC on 3 April 2009<sup>6</sup> (see Attachment D) in relation to outstanding matters in the award modernisation process, the Commission offered the following explanation regarding the part-time definition adopted in the Nurses Award;

[147] *"There were a number of key factors which the parties raised which require comment in this decision. One matter which was raised in all but the Medical Practitioners Award 2010, related to the use of part-time employees. There are a number of common features for the use of part-time employees. To begin, they must have reasonably predictable hours of duty. Underlying provisions vary but generally there is a requirement to provide certainty when employing part-timers. We have included a relevant provision. The next issue is in relation to changes to working hours of part-timers. There are of course notice periods for roster changes contained in the underlying awards but these seem not to be used in relation to part-timers. Instead, part-time hours appear to be changed regularly on a daily basis where the employee consents. Many employers saw this as a necessary flexibility. The private hospital industry employer associations estimated that, on average, part-timers would work an extra six hours per week. The impact of this consent is that the employee does not receive overtime for working in excess of the rostered hours when requested but is paid at the ordinary time rate.*

[148] *We have some reservations about the nature of the consent in circumstances where a supervisor directly requests a change in hours on a day where the part-timer had otherwise planned to cease work at a particular time. Existing provisions require that any amendment to the roster be in writing and we have retained this provision. We also have no doubt that many part-time employees would welcome the opportunity to earn additional income.*

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<sup>6</sup> [2009] AIRCFB 345.



*However, there may also be part-timers who would be concerned to ensure that their employment is not jeopardised by declining a direct request from a supervisor to work additional non-rostered hours at ordinary rates. From the submissions of the employers this is a major cost saving and used widely.*

*[149] Whilst all the relevant underlying awards have different provisions there is a general opportunity for part-time employees to consent to working additional hours at ordinary rates within an average of less than a 38 hour week. We have sought to provide some common provisions which retain cost savings for employers in the knowledge that any change requires written consent. There was never any suggestion that asking part-timers to work additional hours did not relate to unforeseen circumstances on the day.”*

10. The ANMF reiterates our points made in our submission and during the Senate Committee hearing that this definition has been exploited by employers to create a largely casualised workforce, without access to entitlements like overtime. This definition is exceptionally problematic in addressing issues of work value, gender equality and the gender pay-gap. It has significant implications for combining work and care and the ability of our members to engage in paid employment.

11. The definition should be examined as a matter of priority to ensure the compliance with the new modern award objectives included in the Secure Jobs, Better Pay amendments to the Fair Work Act<sup>7</sup> that require the commission set terms and conditions in modern awards that:

- improve access to secure work across the economy
- recognise the need to achieve gender equality in workplaces.

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<sup>7</sup> S347, *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022*.



## Rostering Practices

12. The Committee requested the ANMF provide any examples of rostering practices that allow employees to effectively combine work and care. We have sought to analyse practices across enterprise agreements nationally to which the ANMF is a party to. There are very few rostering provisions that aim to address the issue of combining work and care in a constructive way. The following represent the best practice at the current time:

- a. Victorian public sector Enterprise Agreement provides a right to request a fixed roster (limited to circumstances where employee can demonstrate a regular and systematic pattern of work in preceding 6 months).
- b. South Australian Public Sector Agreement contains a right to request a fixed day off
- c. Queensland Public Sector Agreement provides for a right to request changes to hours of work arrangements. Also, provides for employees to request different methods of working a 38 hour week, e.g. 9 day fortnight.



australian  
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## Award Modernisation

October 2008

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## 1. Introduction

The Australian Nursing Federation (ANF) makes the following submission to the Australian Industrial Relations Commission (AIRC) for the purpose of deliberations on the shape and scope of modern awards covering nursing employees in the health and welfare industries as part of the second stage of the award modernisation processes.

This submission is to be read in conjunction with our earlier submissions filed with the industrial registry in June 2008 as part of the initial award modernisation consultations by the AIRC.

This submission and those filed earlier support the continuation of historical arrangements of occupational awards for nurses. It is the firm view of the ANF that the health and welfare industries are best served by maintaining the status quo of covering nursing work by nursing occupational awards.

### 1.1 Executive Summary

It is the submission of the ANF and the strong view of the nursing profession that nurses, recipients of care and the community generally will benefit from the continuation of nursing occupational awards.

Conversely it is the submission of the ANF that new modern awards made on an industry basis will have a negative effect on parts of the industries, will create artificial distortions in the labour market and consequently hamper the ability to provide the levels of services the public expects.

The proposal by the ANF for a new modern occupational nursing award to replace around 100 federal awards and NAPSA's is consistent with the Ministerial Request, accords with the requirements of Part 10A of the Workplace Relations Act 1996 and meets the limited principles and guidelines in the Full Bench Decision of 20 June 2008.

In the 30 years that nursing federal awards (and much longer for the previous state instruments) have operated there has been little disputation regarding their interpretation and application. Further there has been minimal if any attempts by employers to alter the content of the awards.

This history in part demonstrates that there is an acceptance by nurses and their employers that the extant nursing safety net awards reflect appropriate minimum conditions and are understood and applied in workplaces across industries where nurses are employed.

Nursing makes up 55% of the health and welfare workforce and is recognised as highly mobile across all sectors of nursing employment.

There is no feature of the nursing workforce that is currently demarcated on the business of the employer. Educational, clinical, registration and training standards are consistent wherever nurses may be employed. The agreement of the commonwealth and all state and territory governments for national nursing registration in 2010 is characteristic of the community and industry view that “a nurse is a nurse is a nurse”.

In the submission of the ANF there is no case to support a different award safety net for nurses based on the business of the employer.

## 1.2 The role and interests of ANF and its members

The ANF has the most extensive interest and coverage of all of the employee and employer organisations who have indicated an interest in the making of new modern awards in the health and welfare industries. The ANF represents as members over 170,000 nursing staff employed across the breadth of nursing in all the states and territories. Our membership is aware of the award modernisation processes and supports their unions' approach and preferred outcomes. Their view is evidenced in the resolutions of annual branch conferences which form Attachment 1 to this submission and by the 7,320 nurses who have signed a petition calling for the continuation of nursing occupational awards.

## 2. An exemplar nursing occupational award

Attachment 2 to this submission is an exemplar nursing occupational award prepared on a without prejudice basis by the ANF to illustrate one approach to the scope and content of a new modern nursing occupational award. The draft award has been prepared to facilitate discussions between the industrial parties and to negate a number of claims in opposition to an occupational award.

The list of awards used in the drafting of the exemplar award forms Attachment 3 to this submission. Federal awards and NAPSA from each state and territory have been used.

The draft award reflects existing safety net provisions and where this is not possible establishes new safety net provisions and identifies the extent of the differences in the current safety net provisions.

### 3. The demographics of nursing and nursing services

In this part of the submission we provide demographic information regarding the nursing workforce and the industries in which nurses are employed.

In our submission an understanding of the relevant demographics and the associated industrial and workforce trends is relevant to the criteria in section 576B(2) and paragraph 3 of the Ministerial Request and is important to the broader deliberations by the AIRC of a move away from occupational awards to industry arrangements.

#### 3.1 Who are Nurses?

Nurses form the largest health profession, providing health care to people across their lifespan. They work independently or as collaborative members of a health care team in settings which include hospitals, rural and remote nursing posts, indigenous communities, schools, prisons, aged care homes, the armed forces, universities, mental health facilities, statutory authorities, general practice offices, businesses, professional organisations and peoples' homes.

Nurses work to promote good health, prevent illness, and provide care for the ill, disabled and dying. Nurses also work in non-clinical roles to educate new nurses, conduct research into nursing and health related issues and participate in developing health policy and systems of health care management.

#### 3.2 Nursing practice in Australia

Nursing is a regulated profession. By law, before nurses may practise, they must be registered, enrolled, endorsed or authorised by their state or territory nursing and midwifery regulatory authority (NMRA). The titles of 'registered nurse', 'enrolled nurse', 'midwife' and 'nurse practitioner' are protected by legislation, and these titles may only be used when permitted by the state or territory NMRA.

Another group of health care worker, assistants in nursing (AINs)<sup>1</sup>, also delivers aspects of nursing care and are an integral part of the nursing workforce. Assistants in nursing do not yet have a consistent minimum standard of educational preparation and are not regulated by the NMRAAs however their relationship with others is regulated.

### 3.3 Nursing Education

*Registered nurses* must complete a three year bachelor degree at university before they are eligible to register with their NMRA. They undertake a period of post-registration graduate support in a hospital, usually a year, and then go into general nursing practice. They may also undertake postgraduate study to specialise in one of many clinical practice areas.

*Enrolled nurses* are educated in the vocational education and training (VET) sector for one year to eighteen months, to either a Certificate IV or Diploma level, before being qualified to enrol with their NMRA. They may also undertake additional study to work at a more advanced level. In some states and territories, they are able to gain a qualification which enables them to administer some medications to patients.

*Midwives* either undertake a bachelor degree in midwifery, or are registered nurses who hold a recognised post-graduate midwifery qualification.

It is estimated that over 65% of the AIN workforce hold a Certificate III or IV related to their responsibility to assist in the provision of nursing care.

### 3.4 Nursing Workforce Numbers

With a combined total of 244,360, registered and enrolled nurses comprise over 55% of the entire health workforce<sup>2</sup>.

A census of the nursing workforce is conducted every two years. The most recent figures were released in 2008, and cover the year 2005<sup>3</sup>: In 2005 there were:

198315	Registered Nurses
46044	Enrolled Nurses
18297	Midwives
200	Nurse Practitioners

<sup>1</sup> Assistants in nursing and other unlicensed workers, however titled.

<sup>2</sup> Australia's Health 2006, p 317.

<sup>3</sup> Australian Institute of Health and Welfare (2008). Nursing and Midwifery Labour Force 2005. Canberra, pp 2, 6.

There are also around 68,500 AINs<sup>4</sup> in Australia, who are mostly employed in the aged care sectors.

### 3.5 Other Nurse Demographics<sup>5</sup>

Over 62% or 152,890 nurses work in major cities. Just over 31%, or 76,270 work in regional and rural areas, and 6%, or 5,480 nurses work in remote or very remote areas.

The average age of nurses is increasing. The average age of employed nurses in 2005 was 45.1 years, up from 42.2 years in 2001. The proportion of nurses aged over 50 is 35.8%.

### 3.6 Occupational Identity

Diversity in nursing work is characteristic of the occupation, across an extraordinary range of employment/practice contexts with a primary and shared identity with the profession and discipline of nursing.

All licensed nurses are prepared for professional practice through nursing-specific courses and programs derived from the discrete knowledge base and discipline of nursing. This is well established in tertiary, post-secondary (TAFE) and accredited hospital/health service training institutes and centres.

Professional and industrial association for nurses is almost universally with discrete nursing bodies (Australian Nursing Federation, Royal College of Nursing Australia, Coalition of National Nursing Organisations, etc) preoccupied with the common occupational concerns of nurses, nursing work, health and health delivery systems.

All contexts of practice/employment for nurses constitute similar occupational habitat concerns for example: role development; ongoing education; research and knowledge generation; service delivery models and innovation in the delivery of nursing; safe, quality professional practice environments (reasonable workloads, safe skill mix, adequate recruitment and retention of licensed workers, safe workplaces; participatory mechanisms, nursing models).

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<sup>4</sup> Australian Institute of Health and Welfare (2006). Australia's Health 2006. Canberra: AIHW, p 316.

<sup>5</sup> Nursing and Midwifery Labour Force 2005, pp viii, 12.

It is recognised that nursing identity derives from the core beliefs/values central to the role of nurse/midwife whatever the practice context. These are widely agreed and evidenced (in role statements, occupational research, international professional codes, statutes and regulations, policy and practice references) as knowledgeable human caring, professionalism, advocacy, and holism.

These tenets of the definition, intention, and outcomes of nursing identify the idea of the 'nurse', the role of 'nurse' and the discourses maintaining the existence, relevance, and the social contribution of the occupation of nursing.

The nursing discipline as a discrete and distinguishable body of knowledge, practice standards and work in various practice domains and specialisations, is the source of the nursing identity, its occupational existence, and its potential in meeting the nursing needs of people - individuals, families, and communities.

Nursing's professional obligation derived from nursing's collective ethic of care is first before all, to reproduce itself occupationally. This is essential in meeting the existing and increasing demand for the complex, knowledgeable, human caring that nursing provides for those who need nursing throughout their lives.

Nursing work, while flexible across professional boundaries and in meeting the unique needs of particular health service delivery contexts, (for example, remote, residential, clinic, outreach) can be regulated and managed precisely because it is distinguishable from the work of other health care providers. This is reinforced within a clear occupationally identified scope of practice with transparent processes of professional and public accountability. Nursing as an occupation is known and can be known as 'nursing'.

Nursing occupationally is recognised by the community as a highly regarded identity individually and collectively.

Nursing occupationally is recognised as highly mobile across employment sites.

Nursing occupationally is recognised as highly unionised with a well established capacity for professional and industrial mobilisation.

National and State/Territory regulation and professional governance is directed by bodies that are entitled (by State regulation and by professional entities) to govern both nursing and midwifery, for example, State Government Offices of Nursing and Midwifery; Australian Nursing and Midwifery Council.

#### 4. The nursing shortage

Section 576B(2)(a) requires the AIRC to have regard to *“promoting the creation of jobs, high levels of productivity, low inflation, high levels of employment and labour force participation, national and international competitiveness, the development of skills and a fair labour market;”*

Aspects of s.576B(2)(a) are relevant to the consideration of the nursing labour shortage in the context of award modernisation.

Over the past decade a number of reports have been produced examining the nursing workforce and various specialist nurse workforces.

Although each of the national nursing workforce reports differs slightly in its findings due to the various data sources and methodologies, there are consistencies in both identification of key drivers of supply and demand and findings in terms of projected supply and demand. Essentially the “sign posts” are pointing in the same direction and each of the reports highlight the same factors. These include:

- the general inadequacy of numbers of nursing graduates produced over recent years to meet demand (in terms of both replacement and growth in demand for health services);
- the ageing of the nursing workforce (and projected retirements), decreasing hours worked and turnover and the effect on the ability of the nursing workforce supply to replace itself; and
- growth in demand for health services expected to increase especially in the aged care sectors but also across acute care sectors.

While there is some variation in the projected supply and demand in each report, they all show this shortage becoming more marked.

The reports also find that there is a shortage across all states and one which is more significant in the aged care sectors. The preference of nurses to work in acute hospital sectors with a younger workforce, the existence of comparatively low rates of pay ( ie comparable EBA wage levels) and heavy work load requirements are factors which make nursing less attractive in the aged care sector.

Assessing the level of demand and the numbers of workers that are needed is not straightforward. While it requires sophisticated modelling, the estimated shortage for 2006 was between 10,000 and 12,000 nurses, rising to an expected shortage of between 10,000 and 13,000 in 2010 (AHWAC 2004).

## 5. The health and welfare industry

The term 'health and welfare industry' is a misnomer as it is rarely used and has little relevance beyond the AIRC panel system. A more accurate term to describe services and the coverage of awards within the grouping is the health and community services industry.

This is the term used by the Australian government, the Industry Skills Council and various state and territory instrumentalities.

The DEEWR divides the health and community industry into six broad sectors:

- Hospitals and Nursing Homes,
- Medical and Dental Services
- Other Health services ( including Pathology , Optometry Ambulance Services, Physiotherapy , and Chiropractic)
- Veterinary Services
- Child Care Services and
- Community Care Services.

On the basis of this definition in February 2008 the health and community services industry employed 1,124,500 people or 10.6 percent of the total workforce and was the third largest industry in Australia.

The July 2008 DEEWR industry report on the employment demographics of the industry forms Attachment 4 to this submission and can also be found at [www.skillsinfo.gov.au](http://www.skillsinfo.gov.au).

## 6. Aged care

Aged care services play a central role in the delivery of health care services in Australia. Aged care covers a number of services ranging from those provided in residential aged care facilities and acute hospitals, through to community health services such as home and community aged care programs (eg home help, home nursing services and home and centre based respite care) .

Arrangements for the provision of aged care services are complex and varied with all tiers of government involved either as regulators, providers of care services, or both.

As the table below shows in 2007 the main providers of residential aged care services were religious organisations (29%), private for profit providers (27%), community based providers (17.5%) and charitable organisations (15%).<sup>6</sup> In addition the federal government, state and territory governments and local governments also provided over 11% of the total number of aged care services.

**Table 2.4      Ownership of residential aged care facilities**  
As at 30 June 2007

	Number of facilities	Per cent
<b>Private not-for-profit</b>	<b>1762</b>	<b>61.4</b>
Religious	827	28.8
Community-based	504	17.5
Charitable	431	15.0
<b>Private for-profit</b>	<b>773</b>	<b>26.9</b>
<b>Government</b>	<b>337</b>	<b>11.7</b>
State/ Territory	262	9.1
Local	75	2.6
<b>Total</b>	<b>2872</b>	<b>100.0</b>

Source: AIHW (2008d).

<sup>6</sup> Productivity Commission 2008, *Trends in Aged Care Services: some implications*, Commission Research Paper, Canberra, page 16

In 1995 there were 134,810 residential aged care places, 2005 161,765 places and in 2006 there were 166,291 places.

This growth is expected to continue as a consequence of the aging population. During this period there was also a steady increase in the proportion of residents classified as requiring high levels of nursing and medical care. Between June 1998 and June 2007 the proportion of high care residents increased from 58% to 70%.<sup>7</sup>

These trends demonstrate that residential care places have been progressively provided to more people and those people are more dependent on nursing care.

The numbers of registered and enrolled nurses employed in aged care has fallen by 42112 in 1995 to 34031 in 2005 a decline of around 20%. Over the same time the number of residential aged care places has increased by 23%.

The decline in the number of registered nurses was highlighted in the AIHW Nursing Labour Force 2001 based on 1999 figures. It reported that the substantial skill loss resulting from the loss of registered nurses from this sector and the increase in dependency levels places further pressure on the residential aged care sector.

During this same period, the supply of Community Aged Care Packages, aimed at providing the equivalent of low care residential support to people living in their homes, has expanded significantly and now represents around 16% of all aged care services.<sup>8</sup>

This pattern is in keeping with established bi-partisan government policy, which aims to provide a greater proportion of aged services to people in their homes.

#### 6.1 The nursing workforce in aged care

Provision of nursing care in residential aged care ranges from the provision of basic care, such as the washing and dressing of residents, feeding, toileting, changing linen and the maintenance of skin integrity, to more complex or technical care such as medication delivery, continence care, oxygen therapy and tube feeding, stoma management,

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<sup>7</sup> AIHW Residential aged care in Australia 2006-07 at page 48

<sup>8</sup> Productivity Commission 2008, *Trends in Aged Care Services: some implications*, Commission Research Paper, Canberra, p.22

insertion of intravenous and naso-gastric tubes, dialysis management and complex pain management. The range of duties performed by the nursing care team can be extensive. The demand for more intense nursing care increases with more complex cases and the increasing demand for beds.

Most aged care facilities operate by reference to a “Nursing Care Plan” or “Care Plan” identifying the nature of care to be provided to an individual resident and the most appropriate manner of the delivery of care. The “Plan” approach is adopted to ensure that a consistent and holistic approach is undertaken to the delivery of the care by all persons providing nursing care or services. Such a plan also enables the identification of any change or increase in the need for care.

## 6.2 Nursing skills mix in aged care

In the aged care sectors the work of registered and enrolled nurses is progressively being substituted by unlicensed workers, which now represent the bulk of the workforce providing aged care services.

A recent Australian study found skill mix was a significant predictor of patient outcomes. Reinforcing the findings of other international studies, a skill mix with a higher proportion of registered nurses produced statistically significant decreased rates of negative patient outcomes such as decubitus ulcers; gastrointestinal bleeding; sepsis; shock; physiologic/metabolic derangement; pulmonary failure; and failure to rescue.

The study found one extra registered nurse per day would reduce the incidence of decubitus ulcers by 20 per 1000 patients; one extra registered nurse per day would reduce the incidence of pneumonia by 16 per 1000 patients; one registered nurse per day would reduce the incidence of sepsis by 8 per 1000 patients. Patients are also less likely to fall and suffer injury as registered nursing hours increase.<sup>9</sup>

Altering the skill mix of nursing staff in the aged care sectors is a practice which is clearly only motivated by desire among many aged care employers to drive down one of their major costs – that of staffing.

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<sup>9</sup> Duffield, C. et al. 2007. *Glueing it together: Nurses, their work environment and patient safety*, Centre for Health Services Management, University of Technology Sydney, Final report

It is in this context that many employers view the formal severing of the award safety net in aged care from the rest of the health sector as strengthening and legitimising their view that nursing care of the aged and infirmed can be provided at levels less than that provided in the acute sector.

In the absence of sound and robust evidence as to how aged care residents would benefit and how the community's expectations would be met by the establishment of an aged care industry award, this approach should be rejected.

### 6.3 Decline in the award safety net

Despite the notional obligation on the AIRC to establish and maintain a safety net of fair minimum wages and conditions of employment, award entitlements have been in decline.

For the thousands of nurses who continue to rely on safety net awards the award modernisation exercise provides some hope that the deterioration in their award wages and conditions of employment that has occurred principally over the last decade will be curtailed.

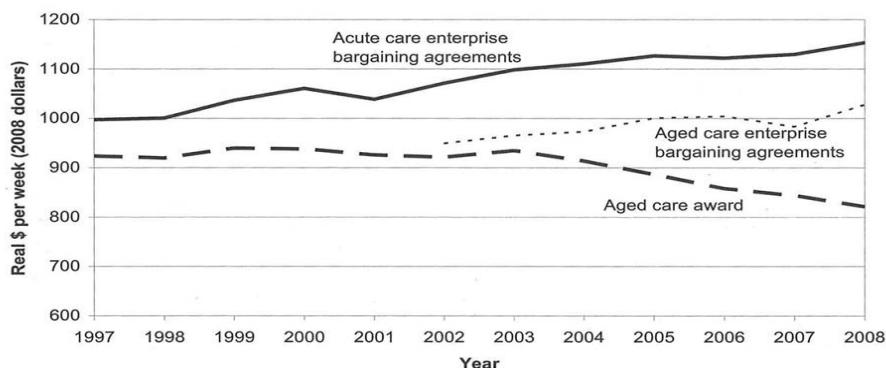
This decline accelerated upon the introduction of "WorkChoices" which radically altered the role of awards. WorkChoices introduced new legislative objects concerning the function of awards and the role of the Commission in relation to them. It significantly limited the extent to which awards could act as a comprehensive safety net of minimum working conditions by removing any reference to fairness and requiring that awards provide only 'a safety net of minimum entitlements'.

For nurses particularly those employed in the aged care sectors who have also been unable to reach an agreement with their employer the impact of the decline in the awards has been significant.

As the table below<sup>10</sup> demonstrates the Productivity Commission has concluded that real weekly award wage rates (as adjusted by the GDP deflator) for a nurse (level 1 Year 8) employed in the aged care sector, are less in 2008 than they were in 1997.

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<sup>10</sup> Productivity Commission 2008, *Trends in Aged Care Services: some implications*, Commission Research Paper, Canberra, p.44

Figure 6.2 Comparison of registered nurse remuneration<sup>a</sup>

<sup>a</sup> Median national Registered Nurse (Level 1, year 8) wage in January of each year, adjusted using the GDP deflator.

Data sources: ABS (*Australian National Accounts: National Income, Expenditure and Product, March 2008*, Cat. no. 5206.0); ANF (Melbourne, pers. comm. 21 May 2007 and 16 June 2008).

As submitted earlier there has been a general unwillingness by aged care employers to embrace enterprise bargaining and one consequence of this, as demonstrated in the table, is a growing wages gap.

The structural labour cost advantages that aged care employers enjoy is something they wish to now embed through a new modern aged care industry award. They can confidently hold this view because there is nothing in the policies of the federal government that suggests that in future they will have to bargain with their employees.

A new modern aged care industry award will provide comfort to aged care employers that they can continue to decline to engage with their employees in bargaining.

In the respectful submission of the ANF such an outcome would be inconsistent with the Ministerial Request as well as s576A (2) (d) as it would not promote collective enterprise bargaining.

#### 6.4 Bargaining in aged care

The extent, scope and content of agreements in the aged care sectors is relevant to the making of new modern awards for employers and employees in these industries.

Bargaining outcomes in the aged care sectors can be best described as patchy with collective agreements generally providing remuneration arrangements that fall well short of those provided for in both public and private acute health care settings.

While the content of federal safety net awards covering nursing staff in both the acute and aged care sectors remains broadly comparable, enterprise bargaining outcomes have led to significant differences in remuneration levels.

This difference is primarily due to the inability of aged care employees, including nurses, to secure comparable agreements to those in the acute sectors.

For example in NSW, where a State common rule award has been in place, that NAPSA still applies to approximately two thirds of aged care nurses and only a limited number of employers have engaged in bargaining. Those employers are mainly from the charitable sector with minimal participation by the private for profit sector.

In response to claims by employees and unions, employers have argued that enterprise bargaining is unsuited to the sector due to the lack of funding and the strict controls on the employers ability to raise revenue.

The aged care industry is primarily funded by the commonwealth and such funding does not recognise agreement outcomes.

The constraints of the funding arrangements and the employer's slavish reliance on such arrangements to decline to participate in meaningful bargaining with their employees have been subject to comment by the AIRC.

In granting a claim to adjust wages for nurses employed in aged care in the Northern Territory in 1999 a Full Bench of Munro J, Duncan DP and Eames C in decision Print S6646 stated :

***“The evidence before us in this matter justifies an observation that the RACFs in the Northern Territory are a particularly cogent example of not-for-profit private organisations partially dependent on public sector expenditure serving what is accepted to be a public purpose. There is an exigent and precarious character to these RACF’s operations. In our view those considerations demand a close and sympathetic examination of the adequacy of the funding formula in application to these institutions.***

***The circumstances in which these RACFs operate, and the needs that they alone provide services to satisfy, should attract a practical level of support. It is not consistent with equity and good conscience for a society, or for***

*that matter a government, to impose on those who staff such institutions an undue degree of responsibility for the dilemmas of funding and services that appear to be chronic. Nor is it consistent with good conscience to fail to address patent incapacity to deliver a relatively equivalent level of remuneration for work of equal value. Substantial differences which appear to exist in the effective remuneration available to professional aged care service providers in such institutions and comparable staff in other health and human services institutions in the public or private sectors. That circumstance should either be justified or redressed: it should not be simply ignored”*

(at page 17)

and further

*It is essentially unjust for the community to be so dependent on not-for-profit service providers and essential service nursing staff, but to fail to supply adequate funding to meet what we consider to be a base level movement in the rates of pay to ensure equitable treatment between comparable groups of nursing staff.*

(at page 23)

That said it should also be noted that since 2002 there have been a range of funding initiatives by the commonwealth government directed at enhancing the capacity of aged care employers to offer competitive wages. These initiatives include \$211 million over four years in the 2002-03 budget and a further \$877.8 million in 2004. Unfortunately these additional amounts were not tied to wages and much of the money was used for other purposes.

The parlous state of bargaining in the sector has led to an inability of employers to fully compete in the labour market and they have struggled to recruit and retain nurses and other health professionals.

Establishing a new modern industry aged care award would be the antithesis to the promotion of enterprise bargaining. It would entrench a different and inferior set of employment conditions for aged care employees.

## 6.5 Award Modernisation in aged care

The wide ranging services provided within the aged care sectors, the reduction in the numbers of nurses employed and the changing skills mix are all relevant considerations in the processes of award modernisation, in particular section 576B(2) and the terms of the Ministerial Request.

In our respectful submission the AIRC should not make new modern awards that will dissuade employees from entering or remaining within part of an industry. To do so would be inconsistent with promoting employment and workforce participation and therefore inconsistent with s576B(2)(a) & (f).

The making of a new industry award in aged care would accelerate and entrench the loss of qualified nurses, the inadequate skills mix and poor resident outcomes.

As previously noted aged care residents are increasingly requiring high levels of nursing care; they are frail, vulnerable people with multiple chronic illnesses and at a high risk of injury and side effects, who require complex medication and health care treatment regimes.

With the reduction in nurses and the consequent changes to skills mix, this is leading to a lower level of safety and quality of care and putting these vulnerable residents at risk.<sup>11</sup>

The aged care accreditation data on failed standards reveals that this has led to a decline in quality of care with residents exposed to serious risk from neglect, poor infection control, malnutrition and dehydration, and assault.<sup>12</sup>

The community's increasing alarm with this situation can be seen not only in the regular media reports but also from the following figures: in just six months last year, the federal government's Office of Aged Care Quality and Compliance received nearly 4,000 complaints (more than triple the number of complaints lodged in the previous twelve month period) about the treatment of people that potentially breached the *Aged Care Act 1997*. This included 418 reportable assaults.<sup>13</sup>

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<sup>11</sup> Richardson, S. and Martin, B. 2004. *The Care of Older Australians: A Picture of the Residential Aged Care Workforce*, National Institute of Labour Studies, Flinders University, Adelaide.

<sup>12</sup> Department of Health and Ageing, Report on the operation of the Office of Aged Care Quality and Compliance, 1 July – 31 December 2007.

<sup>13</sup> Ibid.

There is a substantial body of research which demonstrates clear links between nurse staffing levels and the quality of nursing home care.<sup>14</sup>

The range of findings are summarised well in the 2005 study by Horn et al which found care delivered by registered nurses in aged care facilities was strongly associated with better resident outcomes: fewer pressure ulcers (a major risk factor for the frail aged); fewer hospitalisations; lower incidence of urinary tract infections (thus reducing the requirements for more intensive care, catheterisation, and antibiotic therapy); less weight loss; and a much lower risk of deterioration in the resident's ability to perform activities of daily living – vital to optimising wellbeing and health status.<sup>15</sup>

#### 7. A nursing occupational award and pay equity

The continuation of nursing occupational awards is an important consideration for pay and gender equity.

S576B(2) (e) requires the Commission to have regard to “*the need to help prevent and eliminate discrimination on the grounds of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, and to promote the principle of equal remuneration for work of equal value*”.

The undervaluing of women's work in general is a critical factor in the many battles for fair wages and conditions for nurses across the different areas of nursing employment. Nursing work remains under-valued despite various wage cases, industrial campaigns, the widespread shortage of nurses and the numerous reports, inquires and reviews into nursing and workforce issues identifying improvements in wages and conditions as key issues in recruitment and retention of nurses and attracting students to nursing education.

In nursing, the under-valuing of women's work is one part (albeit a significant one) of the gender pay gap that has yet to be addressed.

Although highly regarded by the community, nurses are chronically undervalued by employers.

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<sup>14</sup> Zhang, N.J. et al. 2006. Minimum nurse staffing ratios for nursing homes, *Nursing Economics*, 24(2):78-95.

<sup>15</sup> Horn, S., et al. 2005. RN staffing and outcomes of long term nursing home residents, *American Journal of Nursing*, 105(11):58-70.

The enduring failure to remedy the situation has entrenched nursing recruitment and retention problems in all states and territories across the country, particularly in the aged care sectors.

The nature, size and distribution of the industry and profession also has led to limitations on the adjustment of nurses' wages because, unfortunately, the issue of costs has repeatedly been a feature in the fixation of nurses' wages, often regardless of other factors attaching to the valuation of their work. The fact that they are the largest single group within the health system has often put the brake on increases in award/agreements rates.

The acknowledgement of this by industrial tribunals is reflected in the history of the establishment and maintenance of awards and is significant because the history in part reflects the insistence of the industrial tribunals (particularly the AIRC) to establish and preserve distinct national nursing industrial standards.

While problems do remain many of the pay and gender advances for nursing that have occurred will be lost if nursing classifications are buried in generic industry awards where nurses become a shrinking minority.

The issues and concerns raised in this submission are similar to those raised by a number of significant women's organisations who jointly supported a statement that appeared in a number of daily newspapers on 30 October 2008. A copy of that statement forms Attachment 5 to this submission.

Finally on this point we recognise that the AIRC is to have regard to the needs of the low paid consistent with s576B(2)(c). And we note that a significant proportion of Assistants in Nursing employed in aged care are in this category. They earn as little as \$16 per hour and are predominately female.

#### 8. The nursing vs care debate & avoiding the overlap

A number of organisations have sought to portray the ANF support for nursing occupational awards as an attempt by the ANF to extend the scope of our traditional award coverage.

This claim doesn't stand up to even a cursory examination.

In the initial submissions of the ANF the following scope for a new modern nursing award was proposed:

***The scope of an award to apply to the occupation of nursing shall apply to all persons who are primarily employed to provide or assist in the provision of nursing care and/or nursing services. Nursing care and nursing services encompass any care or services provided in the course of the provision of care to persons in need of medical or health care and/or in need of assistance in daily living.***

As stated in the initial submission the draft scope was intended to encompass employees who are primarily employed to provide or assist in the provision of nursing care and not to apply to employees who may undertake tasks or responsibilities that are subsidiary to providing nursing care or nursing service. It was also stated that such employees are registered nurses, enrolled nurses, and assistants in nursing.

These employees are currently covered by nursing federal and state awards to which the ANF is a respondent.

The terms of the draft scope are consistent with a number of decisions of the AIRC and the courts generally. Examples are set out below:

In an application pursuant to s.111(g) the Health Services Union sought the dismissal of an application by the ANF under s204 in part on the grounds that ;

*“The HSUA contended that there are two instances of ambiguity in the proposed alteration. Firstly, it alleged that it is unclear what is meant or intended by the terms “nursing care” and “nursing services” when read in the context of the eligibility rule as a whole. The eligibility rules provide for membership for persons who are nurses. If “nursing care” and “nursing services” are intended to mean something other than the work that nurses do, then that needs to be defined and the proposed rule alteration does not define it.*

*Secondly, it alleged that it is unclear what is meant by the term “to assist”. That term is not defined even in terms of the proportion of time that a person is to spend on “assisting”. Taken at its broadest, every employee at an establishment*

*wherein professional nurses carry out their profession might be said to assist in the provision of nursing care or nursing services by keeping the facility going.”*

(Print R7043 at paras 8 and 9)

In rejecting the application the AIRC observed:

*“Further, in this particular case, there is nothing obviously vague or ambiguous about the proposed rule alteration. The terms and language used are not unusual and are capable of being given meaning. I cannot accept that the proposed alteration is lacking in precision merely because the HSUA may have*

*some difficulty in deciding upon its meaning. The mere fact that the terms of a proposed rule may mean different things to different people is insufficient “*

(Print R7043 at para 14)

In deciding the substantive application the AIRC made the following observations on the appropriate industrial interpretations of the term “nursing, nursing care and nursing services”.

[37] *Having considered all the material before me, I am of the view that the appropriate approach, for the purposes of determining this application, is to give the terms contained in the proposed alteration a broad interpretation, constrained only by the context in which those terms appear. For that reason, I intend to interpret the term “nursing” as meaning providing care to the sick, infirm and/or those who, for any reason, are unable to look after themselves. I include amongst such persons those who are not only in need of medical care but also those who are in need of assistance for the purposes of daily living. Without attempting to provide an exhaustive list, I would identify the tasks performed by such persons as including bathing, showering, ensuring the hygiene of the immediate environment, changing beds and toileting, implementing nursing care plans, implementing appropriate behaviour management, dementia management, dressing and assisting in the dressing of wounds, identifying skin lesions or damage, identification of behavioural or health changes, observation of patients/residents and observation and supervision of other staff providing such care. Many of these tasks are, in my view, basic nursing tasks. They are tasks that may be performed by a registered nurse wheresoever employed. The terms “nursing care” and “nursing services”, would therefore encompass any care or services provided in the course of the provision of care to such persons whatever title is given to the person providing such care.*

[38] *For the purpose of industrial or workplace relations, in the context of the provision of nursing care and/or nursing services to the residents of aged care facilities, it is, in my view, neither possible nor appropriate to distinguish between the nursing care and personal care. Such a distinction may well be made for the purposes of determining the levels of funding of residential aged care facilities.*

*However, the evidence before me demonstrates that, for the purpose of the actual provision of care, the distinction is artificial. In this context, nursing care cannot be properly described as being limited to care of a medical nature. Personal care, or, as it was described by some witnesses, the provision of assistance with daily living needs, is but a part of the provision of nursing care.*

(Print T4652 at paras 37 and 38)

There have been a number of decisions coming to the same or similar conclusions including: RANF ex parte NSW & Ors 167 IR 185, RANF v. Private Hospitals etc 1984 11 IR 220 and Decisions PR 953970 and R9776.

#### 9. The span of businesses in the health and welfare industries

The claims by employers that parts of the health and welfare industries may be neatly segmented into clean and separate entities based on the industry of the employer is perniciously inaccurate.

It is the rule rather than the exception that employers in these industries have inter state/territory business interests spanning different parts of the industries.

Set out below are examples of the current range of services provided by major employers in the industries.

#### Healthscope

Healthscope is one of Australia's leading private healthcare operators and is the second largest private hospital provider. It manages hospitals within every state and territory within Australia. Healthscope owns and operates psychiatric, medical/surgical rehabilitation and psychiatric hospitals. It has 2,400 beds and 2,000 employees. In addition, it operates a leading pathology business with facilities throughout Australia, New Zealand, Singapore and Malaysia.

### Ramsay

Ramsay Health Care operates over 100 hospitals and day surgery facilities nationally and internationally and is Australia's largest private hospital operator.

Ramsay Health Care facilities provide a range of health care needs from day surgery procedures to highly complex surgery, as well as psychiatric care and rehabilitation. With over 8000 beds, the Company employs almost 25,000 staff across three countries.

### Little Company of Mary

Little Company of Mary Health Care (LCM Health Care) is a Catholic not-for-profit national health provider that offers a broad range of health and aged care services in five States and Territories - NSW, Victoria, Tasmania, South Australia and the Australian Capital Territory (ACT). There are about 3,600 full time and part time staff.

LCM health care services include public and private hospital care, acute and sub-acute care, and retirement and aged care services. Other health care services include specialist, sub-specialist and general medical and surgical services, maternity, rehabilitation, alcohol and other drugs, breast screening, outpatient medical and allied health services, emergency departments, inpatient and outpatient mental health services, community based palliative care and rehabilitation, respite care, artificial limbs services, community nursing and other outreach services.

### Catholic Health Care

Catholic Health Care, is the largest non-government provider grouping of health community and aged care services in Australia. Catholic Health Care represents about 13 per cent of the health care industry – 21 public hospitals, 54 private hospitals, and more than 550 aged care services.

### Uniting Care Australia

The UnitingCare network is one of the largest providers of community services in Australia, providing services to 1.8 million Australians each year, employing 35,000 staff and 24,000 volunteers nationally. It provides services to older Australians, children, young people and families, Indigenous Australians, people with disabilities, the poor and disadvantaged, people from culturally diverse backgrounds and older Australians in urban, rural and remote communities.

In NSW there are about 2000 nurses under the Public Health System Nurses' and Midwives' (State) Award who work in hospitals/facilities known as Affiliated Health Organisations (AHO) There are currently 16 AHOs.

These AHO hospitals/facilities are considered part of the NSW public health system but are in the federal system. They include: St Vincent's Hospital Sydney Limited; The Sacred Heart Hospice; St Joseph's Hospital Limited; Karitane; Calvary Health Care Sydney Limited; Mercy Care Centre Young; Newcastle Mater Misericordiae Hospital, Waratah; Hope Healthcare [trading as: Neringah Hospital, Wahroonga, Greenwich Hospital, Greenwich, Graythwaite Nursing Home, North Sydney, Braeside Hospital, Prairiewood, Northern Beaches Palliative Care Service, Mona Vale]; Mercy Health Service Albury Limited; Royal Society for the Welfare of Mothers and Babies (known as Tresillian Family Care Centres, Belmore, Nepean, Willoughby, Wollstonecraft) and others.

NSW Health Policy Directives, Determinations and State legislation operate in conjunction with the state award. These instruments comprise their safety net of minimum conditions.

There is a Subsidy Agreement between NSW Health and each the AHOs which in part provides that employees are to be paid no more or no less than public hospital employees.

#### Victoria public sector

All Melbourne metropolitan public health services have acute and aged care , psychiatric and palliative beds.

The majority of aged care in rural Victoria is delivered by public sector health services or not-for-profit hospitals (bush nursing) in conjunction with acute and mental health.

A list of public health entities in Victoria which also operate residential aged care facilities forms Attachment 6 to this submission.

### Victorian private sector

Several metropolitan, private hospitals provide additional services, including Cabrini, The Bays, Vaucluse, and Mercy Health & Aged Care which are major providers of aged and acute services across Victoria.

#### 10. Conclusion

In conclusion this submission, along with materials filed by the ANF earlier in these proceedings provide, in our view a number of convincing reasons why the AIRC should support a new modern occupational award for nurses.

It appears to our union that the principal argument of employers in their support of industry awards is that this may reduce the number of awards applying to their particular business. While a reduction in the numbers of awards is one object in the award modernisation processes this does not, and should not, take precedence over the industrial and public interest benefits of an occupational award for nurses across all settings, which provides a consistent and fair safety net of minimum terms and conditions of employment..

BH:LM

12 August 2008

Ms Ged Kearney  
Federal Secretary  
Australian Nursing Federation  
Level 1, 365 Queen Street,  
Melbourne VIC 3000

Dear Ged

**RE: NSW NURSES' ASSOCIATION ANNUAL CONFERENCE**

Last week, the NSW Nurses' Association held its Annual Conference with over 400 of our nursing delegates in attendance.

Consistent with the wishes of our delegates, the Association advises you that the following resolution was passed unanimously:

*"This Conference of NSWNA Delegates representing 51,000 NSW nurses and midwives:*

1. *Calls on the Federal Labor Government to strengthen Forward with Fairness and restore our industrial rights by:*
  - *Establishing new collective bargaining rights.*
  - *Restoring unfair dismissal protection.*
  - *Ensuring that no NSW nurses and midwives are disadvantaged as a result of Award Modernisation by allowing State-based differentials to continue in a nursing occupational award.*
2. *Pledges to:*
  - *Actively approach and inform all NSW nurses and midwives and invite them to support a nursing occupational award by signing the petition.*
  - *Continue to inform and encourage NSW nurses and midwives to organise to achieve Union Collective Agreements for fair wages and conditions which would be better than any proposed modern award safety net.*

***Background:***

***Winding back WorkChoices***

*The current Federal Government promised to remove WorkChoices as a result of the successful campaign by the Union movement, and particularly NSW nurses and midwives. The Government must live up to their promises and introduce such industrial relation reforms to return fairness to the workplace.*

### **Government's Award Modernisation Process**

*Award Modernisation is intended to provide a safety net of fair and flexible wages and conditions.*

- *NSW nurses and midwives generally enjoy the highest wages in the country but fear that the new award/s that will apply across Australia will cut their wages and conditions.*
- *Thousands of aged care nurses who are mostly award reliant are vulnerable to the impact of Award Modernisation but all nurses subject to corporation powers in NSW are likely to be affected.*

### **Nursing Occupational Award**

*The best modern award for nurses and midwives is a nursing specific award, rather than splitting nurses and midwives into a range of industry awards.*

- *Industrial awards covering nursing work have traditionally been occupationally based awards.*
- *Nurses and midwives have benefited from nurse occupation based awards as a consequence of consistency in nursing classification and career structures and consistency in conditions that recognise the unique nature of our work.*
- *The health industry including aged care and the general public have benefited as a consequence of the application of consistent standards of practice.*
- *The benefits derived from nurse occupation based awards have applied to all nurses and midwives irrespective of where they work or whether their conditions are directly determined by the award or the award forms part of the 'no disadvantage' test for agreements.*

### **Communication of this message**

*Endorsement by NSWNA Conference delegates of the resolution will see continued actions to achieve a nursing occupational award and this resolution being conveyed to:*

- *The ACTU;*
- *The Federal Secretary and Council of the ANF;*
- *Minister Julia Gillard, Deputy Prime Minister, Minister for Education, Minister for Employment and Workplace Relations , Minister for Social Inclusion; and,*
- *Minister Nicola Roxon, Minister for Health and Ageing.”*

The resolution reflects our members' interest in having a strong safety net and their desire to have fairness returned to the workplace.

The Association appreciates the ongoing efforts of the ANF in this regard.

Yours sincerely

**BRETT HOLMES**  
General Secretary

Victorian Branch Annual Delegates Meeting – 2008

Resolution

63. That this conference of ANF members representing 46000 nurses in Victoria notes that:

- Industrial awards covering nursing work have traditionally been occupationally based awards;
- Nurses have benefited from nursing occupationally based awards as a consequence of consistency in nursing classification and career structures and consistency in conditions that recognise the unique nature of nursing work;
- The health industry including aged care and the general public have benefited from nursing occupational awards as a consequence of the application of consistent standards of practice and competencies contained in nursing classification structures and the maintenance of nursing occupational identity;
- The benefits derived from nursing occupationally based awards have applied to all nurses irrespective of where they work or whether their conditions are directly determined by the award or the award forms part of the 'no disadvantage' test for agreements;
- Nurses contributed significantly to the campaign against Work Choices as a direct consequence of the attacks on nursing occupational awards and other rights, inherent in that draconian legislation;
- Nurses have in the past contributed significantly to the campaigns of other unions in solidarity with those unions;

And further this conference of ANF members notes that:

- The Federal Government's Forward With Fairness industrial legislation proposals promised us a restoration of our industrial rights;
- The Federal Government's Forward With Fairness industrial legislation proposals promised us a restoration of a comprehensive modern award system that allowed for occupational awards;
- Nurses will measure any new industrial legislation or proposals, and hence the promises of the Federal Government, against the key criteria of maintaining nursing identity through occupational nursing awards;

And further this conference of ANF members notes that:

- The federal industrial relations Minister Julia Gillard has made an award modernisation request to the Australian Industrial Relations Commission;
- The Australian Industrial Relations Commission has conducted a round of consultations by way of submission and hearing into the scope of new modern awards;
- The ANF representing both the industrial and professional interests of over [ NUMBER ] of nurses in Australia, far more than any other organisation, submitted that a nursing occupational award should be made to cover nursing work across Australia;
- The ANF proposal was supported by the ACTU;

And further this conference of ANF members notes that:

- The ANF proposal for a nursing occupational award is being opposed by our fellow unions the LHMU, HSU and AWU despite them having limited nursing membership;
- ANF proposal for a nursing occupational award is being opposed by a number of employers;

As a consequence of the Commitments on industrial relation reform made by the current Federal government as part of the Union movement's successful campaign to remove Work Choices, as outlined in the background statement to this resolution, this conference resolves the following:

- That we condemn the position adopted by those parties opposing a nursing occupational award as being directly opposed to the interest of the [ NUMBER ] of nursing employees in Australia and the [ NUMBER ] of other employees working in the health industry;
- That we condemn the position adopted by those parties opposing a nursing occupational award as being short sighted, based on narrow sectional interests and concerns over coverage, and a direct attack on nursing industrial conditions;
- That we specifically denounce the position of those employers opposing a nursing occupational award as being against the interest on nursing staff and of the health industry including aged care as it will, if successful, exasperate the critical nursing shortages and contribute to a lowering of standards of nursing care;

And further, this conference of ANF members calls on the Branch Secretary and Council to:

- Convey the contents of this resolution to the executives of the ACTU and VTHC to ensure all other Unions are made aware of the view of Victorian nurses;
- Convey the contents of this resolution to the Federal Secretary and Council of the ANF;
- Convey the contents of this resolution to Minister Gillard;
- Both directly and through the ANF, actively approach any nurses generally, to make them aware of our concerns about the actions of other parties opposing nursing occupational awards and invite them to support a nursing occupational award; continue to take all appropriate actions to promote and achieve a nursing occupational award.

MOVED:

SECONDED:

Queensland Nurses Union Annual delegate Conference 2008

Urgency Motion

Forward with Fairness and the Award Modernisation Agenda

As a consequence of the progress in implementing commitments on industrial relations reform made by the current Federal government as part of the Union movement's successful campaign to remove Work Choices, this conference of QNU members resolves the following:

- That we condemn the position adopted by those parties opposing a nursing occupational award as being directly opposed to the interests of the more than 257,000 nursing employees in Australia;
- That we condemn the position adopted by those parties opposing a nursing occupational award as being short sighted, based on narrow sectional interests and concerns over coverage, and a direct attack on nursing industrial conditions; and
- That we specifically denounce the position of those employers opposing a nursing occupational award as being against the interests of nursing staff and of the health industry including aged care as it will, if successful, exacerbate the critical nursing shortages and contribute to a lowering of standards of nursing care.

MOVED Gay Hawksworth  
SECONDED Beth Mohle

Passed unanimously

Resolution for Branch Council August 2008

Forward with Fairness and the Award Modernisation Agenda

As a consequence of the commitments on industrial relation reform made by the current Federal government as part of the Union movements successful campaign to remove Work Choices. We ask Council to consider the following recommendation:

- that ANF (SA Branch) condemn the position adopted by those parties opposing a nursing occupational award as being directly opposed to the interests of 280,000 nursing employees in Australia and the 250,000 of other employees working in the health industry;
- that ANF (SA Branch) condemn the position adopted by those parties opposing a nursing occupational award as being short sighted, based on narrow sectional interests and concerns over coverage, and a direct attack on nursing industrial conditions;
- that ANF (SA Branch) specifically denounce the position of those employers opposing a nursing occupational award as being against the interests of nursing staff and of the health industry including aged care as it will, if successful, exasperate the critical nursing shortages and contribute to a lowering of standards of nursing care;

And further, that the Council calls on the ANF (SA Branch) Secretary to:

- convey the contents of this resolution to the executives of the ACTU and SA Unions to ensure all other Unions are made aware of view of South Australian nurses;;
- convey the contents of this resolution to the Federal Secretary and Council of the ANF;
- convey the contents of this resolution to Minister Gillard;
- both directly and through the ANF, actively approach any nurses generally, to make them aware of our concerns about the actions of other parties opposing nursing occupational awards and invite them to support a nursing occupational award;
- continue to take all appropriate actions to promote and achieve a nursing occupational award.

MOVED

SECONDED

# Exemplar Nursing Occupational Award

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**Please Note: Any existing safety net entitlements above the provisions contained in this draft will need to be identified and dealt with to ensure no employee is disadvantaged as part of this process.**

## **Part 1 – Application and Operation**

### **1. Title**

Exemplar Nursing Occupational Award.

### **2. Commencement Date**

This award commences on 1 January 2010.

### **3. Definitions and Interpretation (This clause to be completed. Definitions will be included for specific classifications of nurses such as nurse practitioners, midwives, occupational health nurses, and others).**

**3.1** In this award, unless the contrary intention appears:

**Continuous service** means (to be inserted)

**Standard rate** means the minimum weekly wage for a RN level 1 year 1 prescribed in clause

**Transmission of business** means (to be inserted)

### **4. Application**

This award applies to the occupation of nursing and shall apply to all persons employed in the classifications listed in Schedule A of this award and who are primarily employed to provide or assist in the provision of nursing care and/or nursing services. Nursing care and nursing services encompass any care or services provided in the course of the provision of care to persons in need of medical or health care and/or in need of assistance in daily living.

### **5. The National Employment Standards and this award**

The NES along with this award combine to form the minimum conditions of employment for employees covered by this award.

## **X. Award Flexibility**

### **x.1** An employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of are those concerning:

(a) arrangements for when work is performed;

(b) overtime rates;

(c) penalty rates;

(d) allowances; and

(e) leave loading.

**x.2** The employer and the individual employee must have genuinely made the agreement without coercion or duress.

**x.3** The agreement between the employer and the individual employee must:

- (a) be confined to a variation in the application of one or more of the terms listed in sub-clause 1; and
- (b) not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment.

**x.4** For the purposes of sub-clause **x.3(b)** the agreement will be taken not to disadvantage the individual employee in relation to the individual employee's terms and conditions of employment if:

- (a) the agreement does not result, on balance, in a reduction in the overall terms and conditions of employment of the individual employee under this award and any applicable agreement made under the Workplace Relations Act 1996 (Cth), as those instruments applied as at the date the agreement commences to operate; and
- (b) the agreement does not result in a reduction in the terms and conditions of employment of the individual employee under any other relevant laws of the Commonwealth or any relevant laws of a State or Territory.

**x.5** The Agreement between the employer and the individual employee must also:

- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
- (b) state each term of this award that the employer and the individual employee have agreed to vary;
- (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
- (d) detail how the agreement does not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment; and
- (e) state the date the agreement commences to operate.

**x.6** The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.

**x.7** The employer must give the employee up to seven working days to enable the employee to seek advice, where appropriate, from her/his union.

**x.8** The agreement may be terminated:

- (a) by the employer or the individual employee giving four weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or

- (b) at any time, by written agreement between the employer and the individual employee.

**x.9** The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

## **Part 2 – Consultation and dispute resolution**

### **X Consultation**

#### **x.1 Employer to notify**

- (a)** Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (b)** **Significant effects** include 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, promotion 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 is deemed not to have significant effect.

#### **x.2 Employer to discuss change**

- (a)** The employer must discuss with the employees affected and their representatives the introduction of the changes referred to in clause x.1, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
- (b)** The discussion must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause x.1.
- (c)** For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, 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 no employer is required to disclose confidential information the disclosure of which would be contrary to the interests of the employer.

### **X Dispute resolution**

**x.1** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.

**x.2** In the event of a dispute in relation to a matter arising under this award, the NES, or in respect to any industrial matter in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor who shall respond to such request as soon as reasonably practicable under the circumstances. Where the dispute concerns alleged actions or allegations of unlawful discrimination by a supervisor, the employee or employees may refer the matter to the next higher level of management for discussion.

**x.3** If such discussions do not resolve the dispute, the parties must endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.

**x.4** If a dispute in relation to a matter arising under this award is unable to be resolved at the workplace, and all appropriate steps under clauses **x.2** and **x.3** have been taken, a party to the dispute may refer the dispute to the Commission for conciliation and arbitration if necessary.

**x.5** While the dispute resolution procedure is being conducted

- (a)** work must continue normally unless an employee has a reasonable concern about an imminent risk to their health or safety. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform other available work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.
- (b)** The status quo existing before the emergence of the grievance or dispute is to continue whilst the above procedure is being followed.

#### **X. Dispute resolution procedure training leave**

**x.1** Subject to clauses **x.7**, **x.8** and **x.9**, an eligible employee representative is entitled to, and the employer must grant, up to five days training leave with pay to attend courses which are directed at the enhancement of the operation of the dispute resolution procedure including its operation in connection with this award and with the Act, or with any relevant agreement which provides it is to be read in conjunction with this award.

**x.2** An eligible employee representative must give the employer six weeks' notice of the employee representative's intention to attend such courses and the leave to be taken, or such shorter period of notice as the employer may agree to accept.

**x.3** The notice to the employer must include details of the type, content and duration of the course to be attended.

**x.4** The taking of such leave must be arranged having regard to the operational requirements of the employer so as to minimise any adverse effect on those requirements.

**x.5** An eligible employee representative taking such leave must be paid the wages the employee would have received in respect of the ordinary time the employee would have worked had they not been on leave during the relevant period.

**x.6** Leave of absence granted pursuant to clause X - Dispute resolution procedure training leave counts as service for all purposes of this award.

**x.7** For the purpose of determining the entitlement of employee representatives to dispute resolution procedure training leave, an **eligible employee representative** is an employee:

(a) who is a shop steward, a delegate, or an employee representative duly elected or appointed by the employees in an enterprise or workplace generally or collectively for all or part of an enterprise or workplace for the purpose of representing those employees in the dispute resolution procedure; and

(b) who is within the class and number of employee representatives entitled from year to year to take paid dispute resolution procedure training leave according to the following quota table:

<b>Number of employees employed by the employer in an enterprise or workplace</b>	<b>Maximum number of eligible employee representatives entitled per year</b>
5–15	1
16–30	2
31–50	3
51–90	4
More than 90	5

x.8 Where the number of eligible employee representatives exceeds the quota at any particular time for a relevant enterprise or workplace, priority of entitlement for the relevant year must be resolved by agreement between those entitled or, if not agreed, be given to the more senior of the employee representatives otherwise eligible who seeks leave.

x.9 For the purpose of applying the quota table, **employees employed by the employer in an enterprise or workplace** are full-time and part-time employees, and casual employees with six months or more service, covered by this award who are employed by the employer and engaged in the enterprise or workplace to which the procedure established under clause X - Dispute resolution applies.

*Notes:*

*From Metals Exposure draft except for clause x..4*

## **Part 3 – Types of employment and termination of employment**

### **X General**

Employees under this award will be employed in one of the following categories:

Full-time employment; or  
Part-time employment; or  
Casual employment.

At the time of engagement an employer will inform each employee in writing of the terms of engagement and indicate whether the employee is a full-time, part-time or casual employee.

#### **x.1 Full-time employment**

A full-time employee is one engaged as such and who works 38 hours per week or an average of 38 hours per week as per clause ..... Hours of work.

#### **x.2 Part-time employment**

A part-time employee is an employee engaged as such who works a regular pattern of hours which average less than 38 hours per week or 76 in a fortnight.

- x.2.1** At the time of engagement, the employee and the employer will agree in writing upon the hours to be worked by the employee and the rostering arrangements which will apply to those hours.
- x.2.2** The number of hours worked by a part-time employee may be varied by mutual agreement between the employee and the employer and must be recorded in writing.
- x.2.3** A part-time employee's roster may be changed in accordance with clause..... Rosters, provided that the agreed number of ordinary hours per week or fortnight can only be amended in accordance with clause **x.2.2**.
- x.2.4** For ordinary working hours part-time employees shall be paid at an hourly rate equal to 1/38<sup>th</sup> of the weekly rate appropriate to the employee's classification and entitled, on a pro rata basis to:
  - (a)** Annual leave, Personal leave, long service leave, parental leave and community service leave and;
  - (b)** Such allowances, penalty rates and benefits as apply to full time employees where applicable.
- 2.6** In relation to the accumulation of pro rata entitlements, all authorised time worked in excess of rostered hours but within ordinary hours of work will be counted towards the accrual of pro rata entitlements.

#### **X.3 Casual employment**

- x.3.1** A casual employee is one engaged on an hourly basis in relieving work or work of a casual nature but does not include an employee who could be properly classified as full-time or part-time.

- x.3.2** A casual employee shall be paid an hourly rate equal to 1/38<sup>th</sup> of the weekly rate appropriate to the employee's classification plus a casual loading of 25% in lieu of payment for annual leave and sick leave and payment for not working a public holiday.
- x.3.3** A casual employee shall receive a minimum payment equivalent to 2 hours work at the casual rate specified in clause **x.3.2** for each occasion required to attend work.
- x.3.4** A casual employee is entitled to receive appropriate penalties and allowances in accordance with this award.
- x.3.5** For purposes of calculating penalties, including shift allowances, the penalty rate will be calculated on the ordinary rate of pay excluding the casual loading, with the casual loading component added to the penalty rate of pay. (see notes below)

**OR**

- x.3.5** For purposes of calculating penalties, including shift allowances, the ordinary rate for a casual employee is the ordinary rate of pay plus the 25% casual loading.

*Notes:*

*In WA TAS and VIC (except for VIC ENs re public holidays), the ordinary rate for casuals includes the casual loading and the penalty is applied to that rate.*

*In NSW and ACT, the standard weekend shift penalties apply with no casual loading.*

*In the middle is the situation in QLD, SA and NT where penalties are calculated on ordinary time with the casual loading component added. Eg. NT Private sector award:*

**24** *The additional penalty rates referred to in 24.3 and 24.4 do not include any percentage addition by reason of the fact that an employee is a casual employee. That is, the shift penalty is calculated upon the ordinary rate, prior to the addition of the 20% casual loading. For example, if the ordinary rate = \$8.00, the payment is calculated as follows:*

$$\$8.00 + 15\% = \$9.20 + \$1.60 (\$8.00 \times 20\%) = \$10.80$$

## **X. Termination of employment**

### **x.1 Termination by employer**

- x.1.1** An employer may terminate the employment of an employee only if the employee has been given the following notice:

<b>Period of Continuous Service</b>	<b>Period of Notice</b>
Not more than 1 year	At least 1 week
More than 1 year but not more than 3 years	At least 2 weeks
More than 3 years but not more than 5 years	At least 3 weeks
More than 5 years	At least 4 weeks

- x.1.2** In addition to the notice 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.

- x.1.3** 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.

**x.1.4** Payment in lieu of notice 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:

- x.1.4(a)** the ordinary working hours to be worked by the employee; and
- x.1.4(b)** the amounts payable to the employee for the hours including for example allowances, loadings and penalties; and
- x.1.4(c)** any other amounts payable under the employee's employment contract.

**x.1.5** The period of notice in this clause does not apply:

- x.1.5 (a)** in the case of dismissal for serious misconduct;
- x.1.5 (b)** to employees engaged for a specific period of time or for a specific task or tasks;
- x.1.5 (c)** to trainees whose employment under a traineeship agreement or an approved traineeship is for a specified period or is, for any other reason, limited to the duration of the agreement; or
- x.1.5 (d)** to casual employees.

**x.1.6** For purposes of this clause, continuity of service shall be calculated in the manner prescribed in clause 3 Definitions.

**x.1.7** Where an employee's employment terminates, and the employee has accrued credits which have not been utilised under the ADO system, such credits shall be paid to the employee on termination. Where an ADO has been taken in anticipation of credits, any shortfall at the date of termination shall be recovered from the employee. The shortfall may be recovered from any final monies payable to the employee on termination.

**x.1.8** In the absence of mutual agreement between the employer and the employee annual leave or any part of annual leave shall not be deemed to be or nominated as notice by the Employer for the purpose of termination of employment.

## **x.2 Notice of termination by employee**

- x.2.1** An employee (other than a casual) shall give one week's notice to the employer of the termination of service.
- x.2.2** If an employee fails to give notice, the employer shall have the right to withhold monies due to the employee with the maximum being an amount equal to the ordinary time rate for the period of notice.

## **x.3 Casual employees**

The employment of a casual employee may be terminated by giving or receiving of one hour's notice or payment thereof.

#### **x.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.

#### **x.5 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.

### **X. Redundancy**

#### **x.1 Definitions relating to redundancy**

**x.1.1** **Business** includes trade, process, business or occupation and includes part of any such business.

**x.1.2** **Redundancy** occurs where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone and that decision leads to the termination of employment of the employee, except where this is due to the ordinary and customary turnover of labour.

**x.1.3** **Small employer** means an employer who employs fewer than 15 employees.

**x.1.4** **Transmission** includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and **transmitted** has a corresponding meaning.

**x.1.5** **Week's pay** means the ordinary time rate of pay for the employee concerned. Provided that such rate shall exclude:

- overtime;
- penalty rates;
- disability allowances;
- shift allowances;
- special rates;
- fares and travelling time allowances;
- bonuses; and
- any other ancillary payments of a like nature.

#### **x.2 Transfer to lower paid duties**

Where an employee is transferred to lower paid duties by reason of redundancy the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary rate of pay and the new ordinary time rate for the number of weeks of notice still owing.

### x.3 Severance pay

#### x.3.1 Severance pay - other than employees of a small employer

An employee, other than an employee of a small employer as defined in x.1.3, whose employment is terminated by reason of redundancy is entitled to the following amount of severance pay in respect of a period of continuous service:

Period of continuous service	Severance pay
Less than 1 year	Nil
1 year and less than 2 years	4 weeks' pay*
2 years and less than 3 years	6 weeks' pay
3 years and less than 4 years	7 weeks' pay
4 years and less than 5 years	8 weeks' pay
5 years and less than 6 years	10 weeks' pay
6 years and less than 7 years	11 weeks' pay
7 years and less than 8 years	13 weeks' pay
8 years and less than 9 years	14 weeks' pay
9 years and less than 10 years	16 weeks' pay
10 years and over	12 weeks' pay

\* Week's pay is defined in x.1.5

#### x.3.2 Severance pay - employees of a small employer

An employee of a small employer as defined in x.1.3 whose employment is terminated by reason of redundancy is entitled to the following amount of severance pay in respect of a period of continuous service:

Period of continuous service	Severance pay
Less than 1 year	Nil
1 year and less than 2 years	4 weeks' pay*
2 years and less than 3 years	6 weeks' pay
3 years and less than 4 years	7 weeks' pay
4 years and over	8 weeks' pay

\* Week's pay is defined in x.1.5

x.3.3 Provided that the severance payments shall not exceed the amount which the employee would have earned if employment with the employer had proceeded to the employee's normal retirement date.

x.3.4 Application may be made for variation of the severance pay provided for in this clause in a particular redundancy situation in accordance with the *Redundancy Case Decision* [PR032004, 26 March 2004] and the *Redundancy Case Supplementary Decision* [PR062004, 8 June 2004].

#### **x.4 Employee leaving during notice period**

An employee given notice of termination in circumstances of redundancy may terminate his/her employment during the period of notice. In this circumstance the employee will be entitled to receive the benefits and payments they would have received under this clause had they remained with the employer until the expiry of the notice, but will not be entitled to payment in lieu of notice.

#### **x.5 Alternative employment**

- x.5.1** An employer, in a particular redundancy case, may make application to the Commission to have the general severance pay prescription varied if the employer obtains acceptable alternative employment for an employee.
- x.5.2** This provision does not apply in circumstances involving transmission of business as set in x.7.

#### **x.6 Job search entitlement**

- x.6.1** 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 during each week of notice for the purpose of seeking other employment.
- x.6.2** 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 he or she shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.
- x.6.3** The job search entitlements under this subclause apply in lieu of the provisions of 31.4.

#### **x.7 Transmission of business**

- x.7.1** The provisions of this clause are not applicable where a business is before or after the date of this award, transmitted from an employer (in this subclause called the **transmitter**) to another employer (in this subclause called the **transmittee**), in any of the following circumstances:
  - x.7.1(a)** 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
  - x.7.1(b)** Where the employee rejects an offer of employment with the transmittee:
    - 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

- 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.

**x.7.2** The Commission may vary **x.7.1(b)** if it is satisfied that this provision would operate unfairly in a particular case.

**x.8 Employees exempted**

Redundancy entitlements do not apply to:

- employees terminated as a consequence of serious misconduct that justifies dismissal without notice;
- probationary employees;
- employees engaged for a specific period of time or for a specified task or tasks; or
- casual employees.

**x.9 Incapacity to pay**

The Commission may vary the severance pay prescription on the basis of an employer's incapacity to pay. An application for variation may be made by an employer or a group of employers.

**x.10 Redundancy Disputes Procedure**

**x.10.1** Sub-clauses **x.10.2** and **x.10.3** impose additional obligations on an employer where an employer contemplates termination of employment due to redundancy and a dispute arises ('a redundancy dispute').

**x.10.2** Where a redundancy dispute arises, and if it has not already done so, an employer must provide affected employees and the relevant union or unions (if requested by an affected employee) in good time, with relevant information including:

- x.10.2 (a)** the reasons for any proposed redundancy;
- x.10.2 (b)** the number and categories of workers likely to be affected; and
- x.10.2 (c)** the period over which any proposed redundancies are intended to be carried out.

**x.10.3** Where a redundancy dispute arises and discussions occur in accordance with this clause the employer will, as early as possible, consult on measures taken to avert or to minimise any proposed redundancies and measures to mitigate the adverse affects of any proposed redundancies on the employees concerned.

## Part 4 – Rates of pay and related matters

### X. Classifications

x.1 The definitions for the classifications below are contained in Schedule A of this award.

### X. Minimum weekly wage rates

<b>Assistant in Nursing</b>	
Level 1	
Level 2	
1 <sup>st</sup> Year	
2 <sup>nd</sup> Year	
Level 3	
<b>Student Enrolled Nurse</b>	
Less than 21 years of age	
21 years of age and over	
<b>Enrolled Nurse</b>	
1 <sup>st</sup> year	
2 <sup>nd</sup> year	
3 <sup>rd</sup> year	
4 <sup>th</sup> year	
5 <sup>th</sup> year	
<b>Mothercraft Nurse</b>	
1 <sup>st</sup> year	
2 <sup>nd</sup> year	
3 <sup>rd</sup> year	
4 <sup>th</sup> year	
5 <sup>th</sup> year and thereafter	
<b>Undergraduate student Registered Nurse</b>	
<b>Registered Nurse (Level 1)</b>	
1 <sup>st</sup> year	
2 <sup>nd</sup> year	
3 <sup>rd</sup> year	
4 <sup>th</sup> year	
5 <sup>th</sup> year	
6 <sup>th</sup> year	
7 <sup>th</sup> year	
8th year and thereafter	
<b>Registered Nurse (Level 2)</b>	
1 <sup>st</sup> year	
2 <sup>nd</sup> year	
3 <sup>rd</sup> year	
4 <sup>th</sup> year and thereafter	

<b>Registered Nurse (Level 3)</b>	
1 <sup>st</sup> year	
2 <sup>nd</sup> year	
3 <sup>rd</sup> year	
4 <sup>th</sup> year and thereafter	
<b>Registered Nurse (Level 4)</b>	
Grade 1	
Grade 2	
Grade 3	
<b>Registered Nurse (Level 5)</b>	
Grade 1	
Grade 2	
Grade 3	
Grade 4	
Grade 5	
Grade 6	
<b>Nurse Practitioner</b>	
<b>Level One Occupational Health Nurse</b>	
1 <sup>st</sup> year	
2 <sup>nd</sup> year	
3 <sup>rd</sup> year	
4 <sup>th</sup> year	
5 <sup>th</sup> year	
<b>Level Two Occupational Health Nurse</b>	
1 <sup>st</sup> year	
2 <sup>nd</sup> year	
3 <sup>rd</sup> year	
4 <sup>th</sup> year	
<b>Senior Occupational Health Clinical Nurse</b>	
<b>Level Three Occupational Health Nurse</b>	
1 <sup>st</sup> year	
2 <sup>nd</sup> year	
3 <sup>rd</sup> year	
4 <sup>th</sup> year and thereafter	

#### **x.1 Incremental payments**

An employee is entitled to increments for service in their classification as follows:  
On the accumulation of 1200 hours or 12 months service which ever occurs later.

#### **x.2 Progression through paypoints**

Progression for all classifications for which there is more than one wage point, shall be by annual increments, having regard to the acquisition and utilisation of skills and knowledge through experience in his or her practice settings(s) over such period.

**x.3      Salary on appointment**

**x.3.1**      An RN, on appointment will be paid a rate of salary by reference to the employee's relevant continuous experience since becoming an RN.

**x.3.2**      Any employee who was employed as a Nurse attendant/direct client contact services employee immediately prior to undertaking a recognised course of study to become an EN and who is recognised as an EN by the relevant Nurses Board must, on appointment as an EN, receive a rate of pay within the EN salary scale which is consistent with the recognition of relevant training, experience and skill gained immediately prior to undertaking the recognised EN training course.

**x.3.3**      For the purpose of **x.3.1** and **x.3.2**, in determining relevant continuous experience:

**x.3.3.(a)**      any period of service prior to an absence of less than five years from active nursing duties relevant to the classification in which the employee is employed, or is to be employed, will be taken into account;

**x.3.3(b)**      any period of service prior to an absence of five years or more from active nursing duties relevant to the classification in which the employee is employed or is to be employed, will be taken into account where the employee has successfully completed a refresher course approved by the relevant Nurses Board but will be subject to a reduction of one year on the relevant incremental scales;

**x.3.3(c)**      completed months will be taken into account;

**x.3.3(d)**      recognised service averaging less than fifteen hours per week in any year will not count, but be regarded as establishing continuous employment;

**x.3.3(e)**      recognised service in a classification higher than that in which the employee is employed or is to be employed is that service directly relevant to the duties performed or to be performed;

**x.3.3(f)**      the onus of proof of previous continuous employment will be on the employee and will be established at the time of employment. An employer will, when provided with evidence by an employee, accept, reject or request further particulars to establish continuous experience; and

**x.3.3(g)** if an employee deliberately misrepresents previous continuous experience, such action will amount to misconduct and any service misrepresented will be disregarded in calculating the employee's position on the relevant incremental scale. When non-disclosure is not by virtue of deliberate misrepresentation, previous continuous experience will only be taken into account in determining the employee's position on the relevant scale from the time.

*Notes:*

*AIN structure from ACT Private Award and Qld aged care State award  
Remaining structure and classification definitions from Nurses SA Private Sector Award*

## X. HIGHER DUTIES

**x.1** An employee engaged in any one day or shift for more than two hours on duties carrying a higher rate than the classification in which she/he is ordinarily employed shall be paid for the full day or shift at the minimum rate for that higher classification but if so engaged for two hours or less only the time so worked shall be paid for at that higher rate.

**x.2** Notwithstanding the provisions of **x.1**, Employees whose permanent position has an Award classification preceded by "Deputy" or "Associate" are deemed to include the performance of the higher duties during the off duty periods of the employee to whom they are appointed as Deputy or Associate up to and including five days. For absences in excess of five days, the relieving "Deputy" or "Associate" shall be paid higher duties for the entire period of relief.

**x.3** Notwithstanding the provisions of **x.1**, Employees whose permanent position is not that of "Deputy" or "Associate" and are required to relieve a "Deputy" or "Associate" such employees are to be paid higher duties for the entire period of relief to the position of the employee to whom they are Deputy or Associate.

## X. ALLOWANCES

### x.1 Qualifications

#### x.1.1 Continuing education allowance

- (a)** A registered nurse or enrolled nurse who holds a continuing education qualification in a clinical field, in addition to the qualification leading to registration or enrolment, shall be paid an allowance subject to the conditions set out in this clause.
- (b)** The qualification must be accepted by the employer to be directly relevant to the competency and skills used by the employee in the duties of the position.
- (c)** The allowance is not payable to Deputy Directors of Nursing or Directors of Nursing unless it can be demonstrated to the satisfaction of the employer that more than fifty per cent of the employee's time is spent doing clinical work.
- (d)** The allowance is not payable to Clinical Nurse Specialists, Clinical Nurse Consultants or Clinical Nurse Educators.

- (e) An RN or EN holding more than one relevant qualification is only entitled to the payment of one allowance, being the allowance of the highest monetary value.
- (f) The employee claiming entitlement to a continuing education allowance must provide evidence to the employer that they hold that qualification.
- (g) An RN who holds a relevant postgraduate certificate in a clinical field (not including a hospital certificate) that is accepted by the employer to be directly relevant to the competency and skills used by the RN in carrying out the duties of the position shall be paid a weekly allowance as set out in Item 1 of Clause **x.1.2**, Allowance Rates.
- (h) An RN who holds a relevant postgraduate diploma or degree in a clinical field (other than a nursing undergraduate degree) that is accepted by the employer to be directly relevant to the competency and skills used by the RN in carrying out the duties of the position shall be paid a weekly allowance as set out in Item 2 of Clause **x.1.2**, Allowance Rates.
- (i) An RN who holds a relevant masters degree or doctorate in a clinical field that is accepted by the employer to be directly relevant to the competency and skills used by the RN in carrying out the duties of the position shall be paid a weekly allowance as set out in Item 3 of Clause **x.1.2**, Allowance Rates.
- (j) An EN who holds a relevant certificate IV qualification in a clinical field (not including a certificate IV qualification which has the effect of upgrading the qualification leading to enrolment) that is accepted by the employer to be directly relevant to the competency and skills used by the EN in carrying out the duties of the position shall be paid a weekly allowance as set out in Item 4 of Clause **x.1.2**, Allowance Rates..
- (k) The allowances set out in sub-clauses (g), (h), (i) and (j) hereof are not included in the employee's ordinary rate of pay and will not constitute part of the all-purpose rate.
- (l) A registered nurse or enrolled nurse who is employed on a part-time or casual basis shall be paid these allowances on a pro rata basis.
- (m) The rates for these allowances shall be adjusted in accordance with increases in other wage- related allowances contained in this award.
- (n) Disagreement or disputes arising about the eligibility of an employee for payment of a continuing education allowance will be dealt with through the dispute resolution process in clause X.

#### **x.1.2 – Allowance rates:**

Item No.	Brief Description	Clause No	(\$)
1	Continuing education allowance: RN	<b>x.1.1(g)</b>	15.90 per week
2	Continuing education allowance: RN	<b>x.1.1(h)</b>	26.50 per week
3	Continuing education allowance: RN:	<b>x.1.1(i)</b>	31.80 per week
4	Continuing education allowance: EN	<b>x.1.1(j)</b>	10.60 per week

*Notes:*

Awards with provision:

*Nurses (Northern Territory) Private Sector Award 2002*

*Nurses (Victorian Health Services) Award 2000 [Transitional]*

*Nursing Homes, &C., Nurses' (State) Award*

Summary:

*Three out of the ten awards have a qualification allowance. The rate in the NT Award provides for \$450 per annum maximum. The Victorian Award provides for an allowance for ENs only. The NSW Award is the most comprehensive and provides allowances for both RNs and ENs.*

*The purpose of creating model clauses is not to create additional benefits for nurses but to average out conditions across Australia. Bearing this in mind a savings provision should be sought to protect these award conditions for a length of 3-5 years before they are removed from the Award.*

**x.2 Nurse in-charge allowance**

An RN Level 1 or an RN2 Level 2 directed by the employer to take charge of a health unit, on a Saturday, Sunday, public holiday, or between the hours of 6.00 p.m. and 8.00 a.m. on any day, will:

- x.2.1** If in charge of a worksite of 180 beds or greater, be paid an allowance to bring the employee's substantive rate of pay per hour to that of an RN-3 1st year of service.
- x.2.2** If in charge of a worksite of 100 beds or more but less than 180 beds, be paid an allowance to bring the employee's substantive rate of pay per hour to that of an RN-2, 3rd year of service.
- x.2.3** If in charge of a worksite of greater than 60 beds but less than 100 beds, be paid an allowance to bring the employee's substantive rate of pay per hour to that of an RN-2, 2nd year of service.
- x.2.4** If in charge of a worksite of less than 60 beds, be paid an allowance to bring the employee's substantive rate of pay per hour to that of an RN-2, 1st year of service.

**OR**

In-Charge Allowance – NSW Nursing Homes

In-Charge Allowance – NSW Private Hospital Industry

In-Charge Allowance – SA Private Sector

*Notes:*

*The final wording of these above clauses would be dependent on how the Award is phrased with respect to classifications*

Awards with provision:

*Nurses' Aged Care Award – State 2005 (Night Shift only) \**

*Nurses Private Employment (A.C.T.) Award 2002 (payable at 2 facilities only) \**

*Nurses (Victorian Health Services) Award 2000 [Transitional] (payable at Vision Australia only)*

*Nurses (ANF – South Australian Private Sector) Award 2003 [Transitional] (nights, public holidays and weekends only)*

*Nursing Homes, &C., Nurses' (State) Award \**

*Private Hospital Industry Nurses' (State) Award \**

*\* = flat allowance paid on a per shift basis*

Background:

*Six out of the ten awards have an In Charge or Additional Responsibilities allowance. Of those six four pay it as a flat amount per shift. Only the Nurses (Victorian Health Services) Award 2000 provides any allowance for ENs. Only the NSW awards allowance provide for payment at any time or day. South Australia is restricted to nights, weekends and public holidays.*

### **x.3 On-call Allowance and Payment for Re-call to duty**

#### **x.3.1 On-call Allowance**

An employee required by the employer to be on-call at their private residence, or at any other mutually agreed place is entitled to receive the following additional amounts for each 24 hour period or part thereof:

- x.3.1(a)** Between rostered shifts of ordinary hours Monday to Friday inclusive - \$16.42
- x.3.1(b)** Between rostered shifts of ordinary hours on a Saturday - \$24.67
- x.3.1(c)** On a Sunday, public holiday or any day when the employee is not rostered to work - \$28.78
- x.3.1(d)** For purpose of this clause the whole of the on call period is calculated according to the day on which the major portion of the on call period falls.

#### **x.3.2 Recall to duty**

An employee required to be on call who is recalled to duty must be paid at the appropriate overtime rate set out in clause .... Overtime for a minimum period of three hours for each time recalled to duty.

### **x.3.3 Employees not required to be on call – recall to duty**

An employee who is not required to be on call and who is recalled to duty must be paid at the appropriate overtime rate set out in clause .... Overtime for a minimum period of 3 hours for each time recalled to duty. The time spent travelling to and from the place of duty shall be deemed to be time worked.

Provided that where an employee is recalled within 3 hours of rostered commencement time and remains at work, only time spent in travelling to work shall be included with actual time worked for the purpose of payment for the period of overtime.

### **x.3.4 Employees recalled to duty – travel expenses**

Any employee recalled to duty (whether or not the employee was required to be on call), will be provided with transport to and from duty or reimbursed all expenses incurred in attending for duty and returning home or if using a private vehicle, paid travel allowance in accordance with Clause ..... Travel allowance.

*Notes:*

*The majority of on call provisions in the 10 awards, (not Vic, Tas and ACT) exclude RN levels 4 and 5, or in NSW its DON/DDON/ADON. The above clause does not include any exclusions at this stage.*

*Re the allowance rates – 2x Qld awards, NT, SA and WA have similar allowance rates. NSW has a higher rate (\$33.78) for on-call on days off. Tas has a “close call” arrangement which provides a minimum payment of 6 hours @ ord. rate if not required for duty. ACT silent on allowance rates.*

*Have adopted the majority provision in the Qld awards. NT uses rate for day on which on call period commences; WA and SA get the higher rate. Others appear to be silent.*

*Recall payment arrangements:*

*Above clause provides payment at OT rates for min. of 3 hours as provided in 2xQld awards, ACT and NT. Vic provides for min of 2 hours while Tas and NSW provide for min. of 4 hours payment.*

*Not included in the clause is provision in 2xQld awards that e/ee is not obliged to work the 3 hours if work is completed in a shorter time. The other awards are silent re this matter.*

*Payment for travel time has been included only for e/ees not rostered but are recalled to duty as per 2x Qld awards, NT, SA, TAS. This matter is silent in Vic WA, ACT and 2x NSW awards.*

*When rostered on call and re called, TAS and SA include payment for travel time. This is not included in the above clause.*

*Also not included is provision for e/er to contribute to telephone related expenses provided in the Vic and WA awards.*

#### **X.4 Uniform and Laundry Allowance**

##### **x.4.1 Uniform Allowance**

Where an employer requires an employee to wear a uniform, the employee must be paid a uniform allowance of \$5.00 per week. This allowance does not apply where the employer reimburses the employee for the cost of purchasing. This allowance does not apply where the employer supplies a uniform to an employee.

Where the employer supplies uniforms to an employee, in the absence of a good reason (fair wear and tear constitutes a good reason), an employee will not be entitled to have the uniforms replaced by the employer without reasonable cost to him or herself.

##### **x.4.2 Where an employer provides an employee with uniforms, all articles so provided remain the property of the employer. Upon termination all uniforms supplied by the employer are to be returned to the employer.**

#### **x.5 Laundry Allowance**

##### **x.5.1 Where the uniforms of any employee are not laundered by the employer, free of cost to the employee, an allowance of \$2.31 per week will be paid to the employee.**

*Notes: Clause based on:*

*Nurses (Northern Territory) Private Sector Award 2002*

*Nurses (Victorian Health Services) Award 2000 [Transitional]*

*Nurses' (ANF - WA Private Hospitals and Nursing Homes) Award 1999 [Transitional]*

*All awards provide for the payment of uniform and/or laundry allowance where a uniform is not supplied and laundered. The awards and their respective amounts are listed below.*

*In the Model Clause uniform allowance and laundry allowance have been kept separate as this is how the Awards have been constructed in most cases. As such the averaged amount has been split to reflect the common position of uniform allowance being higher than laundry allowance.*

**Rates for Uniform and Laundry Allowances**

*Nurses' Aged Care Award – State 2005: \$3.05/week (uniform) + \$1.85/week (laundry) = \$4.90/week*

*Private Hospital Nurses' Award – State 2003: \$3.05/week (uniform only)*

*Nurses Private Employment (A.C.T.) Award 2002: \$5.70/week (\$0.15/hour)*

*Nurses (Northern Territory) Private Sector Award 2002: \$6.58/week (\$0.14/hour)*

*Nurses' (ANF – WA Private Hospitals and Nursing Homes) Award 1999 [Transitional]: \$1.05/week (laundry) + \$4.00/week (uniform) = \$5.05/week*

*Nurses (Victorian Health Services) Award 2000 [Transitional]: \$5.05/week (uniform) + \$1.30/week (laundry) = \$6.35/week for RNs and ENs. \$4.84/week (uniform) + \$0.95/week (laundry) = \$5.79/week for Mothercraft Nurses*

*Nurses (ANF – South Australian Private Sector) Award 2003 [Transitional]: \$5.24/week (uniform) + \$0.67/week (socks) + \$1.33/week (stockings/pantyhose) + \$1.51/week (footwear) = \$8.75/week*

*Nurses (Tasmanian Private Sector) Award 2005 [Transitional]: \$4.71/week or \$4.08/week dependent on whether leave is taken*

*Nursing Homes, &C., Nurses' (State) Award: \$5.40/week (uniform) + \$1.68/week (Shoes) + \$1.62/week (cardigan/jacket) + \$2.80/week (stockings) + \$0.55/week (socks) + \$4.50/week laundry = \$16.55/week*

*Private Hospital Industry Nurses' (State) Award: \$5.31/week (uniform) + \$1.64/week (Shoes) + \$1.60/week (cardigan/jacket) + \$2.75/week (stockings) + \$0.54/week (socks) + \$4.42/week laundry = \$16.26/week*

*Average of above = \$87.77 ÷ 12 = \$7.31*

**x.6 Travelling expenses and vehicle allowance**

**x.6.1** An employee required and authorised to use his or her own motor vehicle in the course of his/her duties will be paid an allowance of not less than 60 cents per kilometre.

Awards with no provision:

Nurses' Aged Care Award – State 2005  
 Private Hospital Nurses' Award – State 2003  
 Nurses Private Employment (A.C.T.) Award 2002

Background information:

Two awards provide for a cents/kilometre re-imbursement only, whilst the other 5 provide for scenarios including fares re-imbursements and the like.

Only one award deals with the issue of employees working overtime being reimbursed when public transport ceases to operate.

Rates for cents/kilometre re-imbursement

Nurses (Northern Territory) Private Sector Award 2002: 53c/km

Nurses' (ANF – WA Private Hospitals and Nursing Homes) Award 1999 [Transitional]: 54.9c/km

Nurses (Victorian Health Services) Award 2000 [Transitional]:

		<b>A kilometre (cents)</b>
<b>Motor Cars</b>	35 PMU and over	80
	Under 35 PMU	70
<b>Motor Cycles</b>	250cc and over	40
	Under 250cc	30
<b>Bicycles</b>		10

Note: PMU means power mass units as stated in the certificate of registration for the vehicle.

Provided that there be a minimum payment of (60) cents for each occasion of use.

## Nurses (ANF – South Australian Private Sector) Award 2003 [Transitional]

Vehicles with an engine of 4 cylinders or less	47.6 cents per kilometer
Vehicles with an engine of more than 4 cylinders or with rotary engine	61 cents per kilometer
For motorcycles or motor scooters	24.5 cents per kilometer

## Nurses (Tasmanian Private Sector Award 2005 [Transitional]: (Public sector parity)

Annual kilometreage travelled on duty in a financial year	Cents per kilometre	
	Rate 1	Rate 2
	2 litres and above	less than 2 litres
First 10,000 kilometres	63.91(100%)	54.96 (86%)
Any additional kilometres	33.87 (53%)	29.40 (46%)

Nursing Homes, &C., Nurses' (State) Award: 55.57c/km

Private Hospital Industry Nurses' (State) Award: Public Sector

REFER TABLE BELOW

Allowances in Public Health System for Private Use of Vehicle								
Rate	Cents/km	Source of Entitlement	Written Approval required	Employer Approval required	No official vehicle available	No other transport available	Essential Neccesary	Employee Agreeable
<b>Official Business Rate</b>		PD2005_619: Travel - Official	X	X	X	X	X	
Over 2601cc	86.2	& PEO Circular C2007-37						
1601-2600cc	80.3							
1600cc or less	57.5							
<b>Transport Rate</b>		Award: Car Allowance [Cl.21]; PD2005_619: Travel - Official		X	X			X
Over 1600cc	36.8	& PEO Circular C2007-37						
1600cc and under	30.8							
<b>Motor Cycle Allowance</b>		PD2005_619: Travel - Official		X	X			X
One rate	37.8	& PEO Circular C2007-37						
<b>Report Alternate place of work</b>		Award: Mobility, Excess Fares & Travelling [Cl.20]; Pub Sec Man (Gen) Reg & PEO Circular C2007-37		X				
(Excess kms)								
Over 2700cc	86.2							
1600-2700cc	80.3							
Under 1600cc	57.5							

Note: 'Regular relievers' receive excess kms minus \$5.20 [Award: 20(iv)(c)]

As at 16/9/08

**x.7 Location allowances****(Still to be included)****X. Payment of wages**

**x.1** Salaries must be paid fortnightly, unless there is a written contract to the contrary in which case the period is limited to a monthly maximum period.

**x.2** All employees shall be paid by electronic funds transfer provided 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. Any alternative arrangement of paying wages shall be at the discretion of the employer.

**x.3** Employers must provide each employee in a written form at the time when salaries are paid, particulars as follows:

- (a) gross earnings of salaries including overtime and other earnings;
- (b) the amount paid as overtime;
- (c) the amount deducted for tax;
- (d) particulars of other deductions;
- (e) the net amount paid;
- (f) the number of hours worked during that pay period and the hourly or fortnightly rate paid; and
- (g) the amount of superannuation contributions.

**x.4** When notice of termination of employment has been given by an employee or an employee's services have been terminated by an employer, payment of all wages and other moneys owing to an employee shall be made to the employee.

**x.5** If an employee is kept waiting for more than 24 hours such employee shall be paid overtime rates for the duration of the period until such moneys owing are paid with a minimum payment of two hours and a maximum payment of 7 hours and 36 minutes per day.

**x.6** Notwithstanding the above, this subclause will not come into effect if the payment of wages or other moneys owed falls on a bank holiday or declared public holiday. This clause will come into effect upon the expiration of such a bank holiday or declared public holiday.

**x.7** This subclause will not come into effect if any unforeseen event outside the control of the employer prevents the employer's ability to meet the requirements of this subclause.

**x.8** An employee who is rostered off duty on a pay day will be paid either during working hours before completing duty prior to the pay day or on the employee's next rostered period of duty, or if pay is not provided in the normal manner, the employees' salary must be available for collection on the pay day when requested by the employee.

**X. Superannuation**

**x.1 Superannuation legislation**

- (a) Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a superannuation fund, the superannuation fund nominated in the award covering the employee applies.
- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

**x.2 Employer contributions**

- (a)** An employer must make such superannuation contributions to a superannuation fund for the benefit of an employee as will avoid the employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that employee; and
- (b)** Contributions into the nominated fund shall be paid monthly and within 30 days of the end of each month.

**x.3 Voluntary employee contributions**

- (a)** Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause x.2.
- (b)** An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
- (c)** The employer must pay the amount authorised under (a) or (b) at the same time as the employer makes the superannuation contributions provided for in clause x.2.

**x.4 Superannuation fund**

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause x.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause x.2 and pay the amount authorised under clauses x.3(a) or x.3(b) to HESTA.

**x.5 Absence from work**

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions provided for in clause x.2 and pay the amount authorised under clauses x.3(a) or x.3(b):

- (a)** **Paid leave** While the employee is on any paid leave.
- (b)** **Work related injury or illness** For the period of absence from work (subject to a maximum of 52 weeks in total) of the employee due to work related injury or work related illness provided that:
  - (i)** the employee is receiving workers' compensation payments or is receiving regular payments directly from the employer in accordance with statutory requirements; and
  - (ii)** the employee remains employed by the employer.

*Notes:*

*The above exemplar clauses mirrors the best case scenario contained in Exposure Drafts released to date. The "Absence from work" clause is not contained in all Exposure Drafts.*

*Most private sector nursing awards make provision for a superannuation clause of some kind, although the content can vary. Only NSW awards appear to provide for SGC contributions to be paid on the amount before salary sacrificing, so this has not been translated into the exemplar award.*

*The Private Hospital Nurses' Award - State 2003, Nurses' (ANF - WA Private Hospitals and Nursing Homes) Award 1999 and Nurses (Victorian Health Services) Award 2000 provide for monthly payments.*

*Nurses' (ANF - WA Private Hospitals and Nursing Homes) Award 1999 (3%), Nurses' Aged Care Award - State 2005 (3%), Nurses Private Employment (A.C.T.) Award 2002 provide for payment of superannuation whilst on workers' compensation.*

## Part 5 – Hours of work and related matters

### X. Ordinary hours of work

**x.1** (Subject to the clauses following this clause) The hours for an ordinary week's work shall be 38, or be an average 38 per week in a fortnight or in a four week period and must be worked either:

- (a) in a week of not more than five days in shifts of not more than eight hours each; or
- (b) by mutual agreement, in a week of four days in shifts of not more than ten hours each; or
- (c) by mutual agreement, provided that the length of any ordinary shift shall not exceed ten hours<sup>1</sup>; or
- (d) in 76 hours per fortnight to be worked as not more than ten days of not more than eight hours each; or
- (e) in 152 hours per four week period to be worked as nineteen days each of eight hours, with a twentieth day taken as an additional paid day off (ADO).<sup>2</sup>

**x.2** Except for meal breaks, the hours of work on any day will be continuous.<sup>3</sup>

**x.3** Each employee shall be free from duty for not less than two full days in each week or four full days in each fortnight or eight full days in each 28-day cycle. Where practicable, days off shall be consecutive.<sup>4</sup>

**x.4** The employer shall consult with employees over the most appropriate means of implementing and working a 38 hour week.

**x.5** 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 xx.

**x.6** The outcome of such consultation shall be recorded in writing.

**x.7** Either party may request the assistance or advice of their relevant employee or employer organisation.

**x.8** 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.<sup>5</sup>

#### *Maximum accumulation of ADOs (& taking of)*

**x.9** Employees who receive an accrued day off may, with the consent of the employer, accumulate such ADOs up to a maximum of six in any one year. The ADOs shall be taken within 12 months of the date on which the first ADO accrued. In the case of termination of employment for whatever reason, accumulated ADOs will be paid to the employee by the employer.<sup>6</sup>

#### *Notes:*

<sup>1</sup> Most awards provide for 10 hour maximum shifts, some with additional protections, eg. SA – research and trials required if above 8. NSW awards provide for 11 hour night shifts, and NSW Private allows intro of 12 hour shifts if certain requirements are met.

<sup>2</sup> Mainly adapted from Vic and NT clauses

<sup>3</sup> Note NSW awards provide for broken shifts in some circumstances.

<sup>4</sup> Mainly adapted from NSW awards. WA has something similar. Vic – no more than 6 consecutive periods of ord duty without 24 hours off duty, otherwise treble time.

<sup>5</sup> Adapted from Qld private award

<sup>6</sup> NSW, Vic max 6, Qld max 5, ACT 13.

## X. Meal and rest breaks

### x.1 Meal Breaks:

- x.1.1 Each employee who works in excess of 5 hours shall be entitled to an unpaid meal break of not less than 30 minutes and not more than 1 hour's duration, to be taken between the 3<sup>rd</sup> and 5th hour after commencing work.
- x.1.2 Where an employee is required to remain available or on duty during a meal break the employee shall be paid at ordinary rates for the period of the meal break and the period counted as time worked for the purposes of clause ..... overtime.
- x.1.3 The meal break on night shift must not exceed 30 minutes and is counted as time worked. Employees on night shift not relieved from duty during the meal break will be provided with a break of no less than 20 minutes to be taken after completing 3 hours and not more than 5 hours of duty.

### x.2 Rest Breaks:

- x.2.1 All employees shall be entitled to a rest break of 10 minutes duration in each 4 hours worked or part thereof being greater than 1 hour. Such breaks shall be counted as time worked.
- x.2.2 Subject to agreement between the employee and employer such break may be taken as one 20 minute rest period or, as one 10 minute break with the employee entitled to proceed off duty 10 minutes before the completion of the normal finishing time.

*Notes:*

*Main differences:*

*Qld Private and aged care award provisions requires a min. period of 6 hours to be worked before an entitlement to a meal break. Where there is an entitlement the break must be taken between the 4th and 6<sup>th</sup> hour after commencing.*

*Most other provisions just state e/ees are not required to work more than 5 hours without a meal break (6 in WA private).*

*Working during the meal break is variable. 2xQld awards provide for payment of double time until released from duty for a meal break. TAS, SA and NSW aged care and private awards paid OT rate at time and half if have to work through break. They also provide for an allowance if required to remain on call during a meal break.*

*Rest breaks generally 2 X 10 mins but 1X 7 in WA, and 2x15 in NT*

## X. Rosters and breaks between rostered duty

### x.1 Rosters

- x.1.1 A fortnightly roster setting out the employee's daily ordinary working hours and starting and finishing times shall be displayed in a place accessible to employees at least 7 days before the commencement of the roster period.
- x.1.2 Except as in emergency situations including absence due to illness, seven days notice shall be given by an employer of a change of roster.

**x.1.3** A part-time employee who agrees to work shift(s) in addition to those already rostered will not require the seven day notice period in clause x.1.2.

**x.1.4** Except as in emergency situations including absence due to illness or unless the employer otherwise agrees, an employee shall give the employer 7 days notice of a desired rostered change.

## **x.2 Self rostering**

**x.2.1** Notwithstanding any other provision of this clause, employees in a particular establishment or work location may, with the consent of the employer or her/his nominated representative, perform their ordinary hours of duty on a self rostering system.

**x.2.2** A **self rostering system** means a system of rostering whereby employees undertake responsibility for the designation of shift arrangements, working days and days off, ensuring always that such system provides an adequate and safe level of appropriate qualified staff such that quality nursing care is maintained at all times.

**x.2.3** Employees in a particular establishment or work location, who elect to perform ordinary hours of duty on a self rostering system, must develop appropriate guidelines for the implementation and operation of the said system. Without limiting the guidelines, these will include:

- x.2.3(a)** number and mix of staff required by hospital policy and government legislation/ regulation to provide quality nursing care to the patients on each shift during the roster period; and
- x.2.3(b)** periodic review of rosters, to avoid conflicts that may result in under or over staffing; and
- x.2.3(c)** the distribution of shifts should be evenly spread amongst the staff; and
- x.2.3(d)** significant input by staff such that the need to change rosters is reduced to a minimum; and
- x.2.3(e)** where changes to the roster are necessary, the obligation to find replacement staff rests with the employee requiring the change. Such replacement staff must be suitably qualified and of equivalent grade; and
- x.2.3(f)** rosters should ensure maximum continuity of staff; and
- x.2.3(g)** rosters must ensure that all off duty periods of the Charge Nurse are covered by in charge personnel; and
- x.2.3(h)** rosters should include provision for attendance at meetings, seminars and in-service education.

**x.2.4** An employee working in accordance with a self rostering system, may cease to work in accordance with such system, by providing the employer or her/his nominated representative, seven days notice in writing. The provisions of X.1 will commence to apply at the expiration of the seven days.

**x.2.5** The provisions of **X.1** will not apply to employees who elect to work ordinary hours on a self rostering system. Provided that clauses **x.1.2** and **x.3** will apply in circumstances where a roster change is required without the consent or participation of the employee(s) affected.

**x.3 Rest between periods of rostered work**

**x.3.1** An employee shall be allowed a break of not less than 10 hours between the termination of one shift and the commencement of another.

**x.3.2** the 10 hour break may be reduced to 8 hours by agreement between the employer and the employee in circumstances where they are of the opinion the employee will not be unduly fatigued and the employee's professional competence will not be adversely affected.

**x.3.3** Clause **x.3.2** shall not apply in the instance of an employee rostered to work following a 10 hour shift.

**x.3.4** An employee changing from night to day shift or from day shift to night shift shall not be rostered on duty during the twenty hours immediately preceding the changed shift.

*Notes:*

In terms of the period of the roster, Qld x2 and Vic contained clauses with 14 days. Others are silent.

All except Vic required 7 days notice before commencement. Vic requires 14 days

7 days notice of a change is consistent except for WA and NSWx2 which can be at any time for operational reasons. Most of the others allow changes without the 7 day notice for emergency situations etc.

The self-rostering arrangement from the Vic award is included as it requires employer agreement before it can be implemented.

Not included is the provision for 12 hour shifts (under specific conditions) in the NSW Private Hospitals award and a limitation on the period of night duty (no longer than 8 consecutive weeks) in the NSW aged care award.

Breaks between rostered duty is 8 in Vic SA and NSWx2; 10 but can be 8 in Qld x2 and 8 but should be 10 in ACT; and 9.5 in NT and WA.

The WA provision re changing from day to night and vice versa is included. No other awards contained any reference to this except in NSW where there is a restriction on the number of quick shifts changes where break is less than 10 hours.

## X. Overtime

### x.1 Reasonable additional hours & refusal

[NES clause 12 provides that an employer may require an employee to work reasonable additional hours. The employee may refuse to work additional hours if they are unreasonable, with various factors considered in determining reasonableness.]

### x.2 Overtime rates

An employee will be paid the following payments for all work done in addition to his or her rostered ordinary hours on any day:<sup>7</sup>

- (a) for all authorised overtime on Monday to Saturday, payment shall be made at the rate of **time and a-half** for the first **2 hours** and **double** time thereafter<sup>8</sup>
- (b) for all authorised overtime on a Sunday, payment shall be made at the rate of **double** time
- (c) public holiday, payment shall be made at the rate of **double time and a half**.

### x.3 Time in lieu

In lieu of receiving payment for overtime, an employee may take time off at times agreed with the employer.

- x.3.1 The employee may take one hour of time off for each hour of overtime, plus a period of time equivalent to the overtime penalty incurred
- x.3.2 An employee is required to clear accumulated time off in lieu within **2 months** of the overtime being worked. If the accrued time has not been taken within this period,<sup>9</sup> the employee will be paid in accordance with the overtime rate of pay which applied on the day the overtime was worked.

### x.4 Rest/meal breaks during overtime

An employee required to work overtime following on the completion of his or her normal shift for more than two hours shall be allowed 20 minutes for the partaking of a meal and a further 20 minutes after each subsequent four hours overtime. All such time shall be counted as time worked.<sup>10</sup>

#### Notes

<sup>7</sup> does this also need to refer to time worked in excess of the total ordinary hours in the work cycle?

<sup>8</sup> Vic, Tas, NSW refer to 2 hours. Qld, ACT, NT, WA, SA refer to 3. ACT is immediately double time on Saturday (unlike others). Tas has double time for shift workers on all days (with exceptions).

<sup>9</sup> Variations – Qld 3 months, ACT 4 weeks, NT 2 weeks, Vic 28 days, NSW 3&4 months

<sup>10</sup> Only some awards appear to refer to the actual break, eg NSW. See Allowances – Meal clause for provision of a meal during overtime or a meal allowance.

**x.5 Minimum break after overtime**

- x.5.1** When overtime work (including recall to duty) is necessary it shall, wherever reasonably practicable, be so arranged that employees have at least **ten** hours continuously off duty between the work of successive shifts.
- x.5.2** An employee (other than a casual employee) who works so much overtime between the termination of her/his last previously rostered ordinary hours of duty and the commencement of her/his next succeeding rostered period of duty that she/he would not have had at least **ten** hours continuously off duty between those times, shall subject to this subclause, be released after completion of such overtime worked until she/he had ten hours continuously off duty without loss of pay for rostered ordinary hours occurring during such an absence.
- x.5.3** If on the instructions of her/his employer such an employee resumes or continues work without having had such ten hours continuously off duty she/he shall be paid at the rate of **double** time until she/he is released from duty for such rest period and she/he shall be entitled to be absent until she/he has had ten hours continuously off duty without loss of pay for rostered ordinary hours occurring during such an absence.<sup>11</sup>
- x.5.4** In the event of any employee finishing any period of overtime or recall at a time when reasonable means of transport are not available for the employee to return to her/his place of residence the employer shall provide adequate transport free of cost to the employee.<sup>12</sup>

**x.6 Part-timers and casuals<sup>13</sup>**

All authorised time worked in excess of rostered ordinary hours of work on any day shall be deemed to be overtime and shall be paid as prescribed in clause x.2 .

**X. Shift allowances and penalty rates**

- x.1** Where on any weekday an employee works a complete rostered afternoon shift commencing at 12 noon or after, and finishing after 6 p.m., the employee shall be paid a loading of 12.5% on the ordinary rates of pay.
- x.2** Where on any weekday an employee works a complete rostered night shift between the hours of 6 p.m. and 7.30 a.m., the employee shall be paid a loading of 15% on the ordinary rates of pay.
- x.3** The provisions of this clause do not apply where the employee commences her/his ordinary hours of work after 12.00 noon and completes those hours at or before 6.00 p.m. on that day.

*Notes*

<sup>11</sup> Vic, Qld is also 10. NT is 9.5. WA, SA, Tas and NSW are 8. ACT is silent?

<sup>12</sup> Only in a couple of awards, eg. Vic, SA?

<sup>13</sup> Variation re this: OT for above rostered part-time hours: both Qld awards (as above), ACT except listed homes (?). OT only where above full-time hours: NT, SA, both NSW awards (above clause from NSW private). Unsure about WA, Vic, Tas. Re casuals, SA has entitlement (although PT doesn't?). Other states that I have found reference to do not have entitlement for casuals.

**x.4** Where an employee is rostered to work ordinary hours between midnight Friday and midnight Saturday, the employee shall be paid a loading of 50% on the ordinary rates of pay for the actual hours worked during this period.

**x.5** Where an employee is rostered to work ordinary hours between midnight Saturday and midnight on the following Sunday, the employee shall be paid a loading of 75% on the ordinary rates of pay for the actual hours worked during this period.

**x.6** The provisions of this clause shall not apply to any registered nurse level 4 or 5.

*Notes:*

*Victorian penalty rates are different to all other states. See table below:*

<b>Allowance rate</b>	<b>%</b>
Morning shift	2.5
Afternoon shift	2.5
Night shift	4.0
Permanent night shift	5.0
Change of shift	4.0

*Does not apply to DON or DDON*

*Is paid in addition to any other rates eg. Weekend penalty and PH penalties*

## Part 6 – Leave and public holidays

### X. Annual leave

#### x.1 Service entitling annual leave

- x.1.1 All employees, other than casual employees, shall at the end of each year of employment become entitled to annual leave.
- x.2 For the purposes of this clause a year of employment shall be deemed to be unbroken notwithstanding:
  - x.2(a) any annual leave or long service leave taken therein;
  - x.2(b) any interruption or ending of the employment by the Employer if such interruption or ending is made with the intention of avoiding obligations in respect of annual leave or long service leave;
  - x.2(c) any absence from work of not more than fourteen days in the year of employment on account of sickness or accident;
  - x.2(d) any absence on account of leave (other than annual leave or long service leave) granted, imposed or agreed to by the Employer;
  - x.2(e) any absence on any other account not involving termination of employment;
- x.3 In calculating a year of employment any absence of a kind mentioned in **sub-clauses (a) through (c)** shall be counted as part of the year of employment but in respect of absences of a kind mentioned in **sub-clauses (c) and (d)** it will be necessary for the Employee as part of her/his qualification for annual leave to serve such additional period as equals the period of such absences.

#### x.2 Quantum of Annual Leave

- x.2.1 All employees are entitled to 5 weeks of annual leave<sup>14</sup>.
- x.2.2 An<sup>15</sup> employee whose roster may require that employee to work on a weekend day during the qualifying twelve months period of service shall be granted an additional 1 week. This applies on a pro-rata basis where the employee has not been employed for the full 12 months, or where the employment arrangements of the employee change during the 12 month period.

#### x.3 Payment for Annual Leave

- x.3.1 Employees shall receive their ordinary pay during all periods of annual leave and, before going on leave, may on request be paid in advance for the period of such leave.
- x.3.2 “**Ordinary pay**” means remuneration for the Employee’s normal weekly number of hours of work calculated at the ordinary time rate of pay.

<sup>14</sup> This is based on the assumption that public holidays are paid at double time, and shift and weekend penalties are in addition to public holiday penalties.

<sup>15</sup> As above

**x.3.3** Part-time employees shall be entitled to annual leave based on the number of ordinary hours worked in the leave year. The leave entitlement shall be calculated as follows:

$$\frac{\text{Part-time hours worked per annum} \\ (\text{including any periods of annual leave})}{\text{full-time hours per annum}}$$

x

$$\frac{\text{Full-time leave entitlement}}{1}$$

**x.3.4** An employee whose employment is terminated prior to the expiration of a full year of employment shall be entitled to a pro rata equivalent of annual leave as provided for above.

**x.3.5** In addition to ordinary pay all Employees shall receive either the higher of:

**x.3.5(a)** a loading of 17½ % of ordinary pay

OR

**x.3.5(b)** in respect of each week of leave granted an amount comprising the following:

- shift work premiums according to roster or projected roster;
- Saturday, Sunday premiums according to roster or projected roster;
- All Allowances (excluding laundry allowance)
- higher duties
- or all purpose payments

**x.3.5(c) Cap on Leave Loading**

Provided that the loading shall be on a maximum of 152 hours in respect of any year of employment.

**x.3.5(d)** the annual leave loading shall apply to payment of leave on termination of employment.

#### **x.4 Payment in lieu of annual leave**

Except on termination, payment shall not be made or accepted in lieu of annual leave.

#### **x.5 Public Holidays Occurring During Annual Leave**

Where a public holiday occurs during any period of annual leave the Employee's annual leave accrual will be increased by one day in respect of that public holiday.

### **x.6 Accrued days off and annual leave**

Where the system of working provides for the taking of accrued days off, the maximum number of accrued days off shall be thirteen in any calendar year. One day of a year's annual leave period shall be regarded as an accrued day off for which no additional payment is to be made.

### **x.7 Taking of leave**

- x.7.1** Annual leave shall be given and shall be taken within a period of 6 months after the date when the right to annual leave accrued; provided that the giving and taking of such leave may be postponed, by mutual agreement between the parties for a further period not exceeding 6 months.
- x.7.2** An Employee is entitled to apply to take annual leave at anytime and the Employer shall not unreasonably refuse such an application, provided that not less than two weeks notice of the date from which an Employee shall commence his or her annual leave shall be given unless otherwise mutually agreed upon between the parties concerned.
- x.7.3** Annual leave, by mutual agreement between the Employer and employee, may be taken in one or more parts of not less than one week's duration
- x.7.4** On application by the Employee and by agreement with the Employer a maximum of ten days annual leave may be taken as single days in each year of employment. These ten days may be taken consecutively. Annual leave taken under this **sub-clause** shall be exempt from **payment in advance** and shall be paid in the next pay period.
- x.7.5** An employee by agreement with the employer may take annual leave before the right to that leave has accrued. Where leave is taken in such a case a further period of annual leave will not commence to accrue until the expiration of the 12 months in respect of which annual leave was taken before it accrued.

### **x.8 Sickness while on annual leave**

- x.8.1** Where an Employee becomes sick whilst on annual leave, and immediately forwards to the Employer a certificate of a legally qualified medical practitioner, then the number of days specified in the certificate shall be deducted from any paid personal leave entitlement standing to the Employee's credit, and shall be re-credited to the employee's annual leave entitlement.
- x.8.2** The amount of annual leave loading received for any period of annual leave converted into paid personal leave in accordance with **sub-clause x.8.1** shall be deducted from any future entitlement to annual leave loading or if the Employee resigns, from termination pay.

## **X. Personal carers leave and compassionate leave**

Personal/carer's leave and compassionate leave are provided for in the NES.

The provisions of this clause apply to full-time and part-time employees (on a pro rata basis) but do not apply to casual employees. The entitlements of casual employees are set out in **x.11**.

### **x.1 Definitions**

References to immediate family and members of the employee's household include:

- (a) the person concerned being:
  - a spouse of the employee; or
  - a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
  - a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
  - a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
  - a relative of the employee who is a member of the same household where, for the purposes of this subparagraph:
    - (1) "relative" means a person related by blood, marriage or affinity;
    - (2) "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and
    - (3) "household" means a family group living in the same domestic dwelling.

### **x.2 Entitlement to paid personal/carer's leave**

- (a) Subject to subclause (b), for each year of service with the employer, an employee is entitled to 106 hours and 24 minutes of paid personal/carer's leave.
- (b) An employee's entitlement to paid personal/carer's leave accrues progressively during a year of service according to the employee's ordinary hours of work and shall be cumulative year to year.
- (c) Subject to the evidentiary and notice requirements payment for paid personal/carer's leave must be paid at the employee's full rate of pay for the employee's ordinary hours of work in the period.

### **x.3 Taking paid personal leave**

- (a) An employee may take paid personal/carer's leave if the leave is taken:
  - Because the employee is unfit for work because of a personal illness or personal injury, affecting the employee; or
  - To provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of:
    - A personal illness, or personal injury, affecting the member; or
    - An unexpected emergency.

#### **x.4 Continuity of Service**

(a) For the purpose of this clause, "service" and "continuity of service" is calculated in accordance with provisions in clause 3 definitions.

#### **x.5 Reimbursement while on other forms of leave**

(a) Where an employee who is eligible for sick leave and who produces satisfactory evidence to the effect that they have been incapacitated for a period of at least one week's duration while on annual or long service leave, the employer may re-credit such employee with an equivalent period of annual or long service leave, provided that no such re-crediting shall be granted to an employee on leave prior to retirement, resignation or termination of services and provided further the employer is satisfied on the circumstances and the nature of the incapacity.

### **Unpaid Personal/Carer's leave**

#### **x.6 Entitlement to unpaid carer's leave**

(a) An employee is entitled to 2 days of unpaid carer's leave for each occasion (*a permissible occasion*) when the employee is required to give care or support to a class of person set out in subclause x.1 Definitions because of:

- a personal illness, or personal injury, affecting the member; or
- an unexpected emergency affecting the member.

#### **x.7 Taking unpaid carer's leave**

(a) An employee may take unpaid carer's leave as:

- a single continuous period of up to 2 days; or
- any separate periods to which the employee and the employer agree.

(b) An employee cannot take unpaid carer's leave during a particular period if the employee could instead take paid personal/carer's leave.

#### **x.8 Personal Carers Entitlement for casual employees**

(a) Subject to the evidentiary and notice requirements casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

(b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

(c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

## Compassionate leave

### x.9 Entitlement to compassionate leave

- (a) An employee is entitled to 2 days of compassionate leave for each occasion (*a permissible occasion*) when a member of the employee's immediate family, or a member of the employee's household:
  - contracts or develops a personal illness that poses a serious threat to his or her life; or
  - sustains a personal injury that poses a serious threat to his or her life; or
  - dies.
- (b) Provided that, where the employee is involved in funeral arrangements, travelling, etc., leave may be allowed for up to three days.
- (c) Payment for compassionate leave must be paid at the employee's full rate of pay for the employee's ordinary hours of work in the period.

### x.10 Taking compassionate leave

- (a) An employee may take compassionate leave for a particular permissible occasion if the leave is taken:
  - for the purpose of spending time with the member of the employee's immediate family or household who has contracted or developed the personal illness, or sustained the personal injury, or
  - after the death of the member of the employee's immediate family or household.
- (b) An employee may take compassionate leave for a particular permissible occasion as:
  - a single continuous period of 2 days; or
  - 2 separate periods of 1 day each; or
  - any separate periods to which the employee and the employer agree.
- (c) If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the employee may take the compassionate leave for that occasion at any time while the illness or injury persists.

### x.11 Compassionate entitlements for casual employees

- (a) Subject to the evidentiary and notice requirements casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause x.1 Definitions.
- (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance

(c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

### **Notice and evidence requirements**

#### **x.12 Notice**

(a) An employee who wants an absence from their employment must give the employer notice of the absence.

(b) The notice:

- must be given to the employer as soon as is reasonably practicable (which may be a time after the leave has started); and
- must advise the employer of the period, or expected period, of the leave.

#### **x.13 Evidence**

(a) An employee who has given his or her employer notice of the taking of leave under this clause must, if required by the employer, give the employer evidence that would satisfy a reasonable person that:

- if it is paid personal/carer's leave—the leave is taken for a reason specified; or
- if it is unpaid carer's leave—the leave is taken for a permissible occasion in circumstances specified; or
- if it is compassionate leave—the leave is taken for a permissible occasion in circumstances specified.

(b) Such evidence, if required, may be in the form of either:

- a certificate by a legally qualified medical practitioner or,
- on the production of a Statutory Declaration signed by the employee.

(c) An employee is entitled to a maximum of two single day absences per year for such leave, concerning unfitness for work because of personal illness or injury, without being required to produce to the employer a medical certificate or a statutory declaration.

## **X. Community service leave**

Subject to the terms of this clause employees are entitled to community services leave, which includes:

- Jury service (including attendance for selection) required by a law of the Commonwealth or State or Territory; or
- voluntary emergency management activity.

### **x.1 Jury Service**

**x.1.1** 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.

**x.1.2** 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.

**x.1.3** 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.

**x.1.4** 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.

**x.1.5** '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.

## **x.2. Voluntary Emergency Management Activity**

### **x.2.1 Meaning of *eligible community service activity***

(a) Each of the following is an *eligible community service activity*:

- (i) carrying out a voluntary emergency management activity (within the meaning of section 659); or
- (ii) an activity prescribed in regulations made for the purpose of subsection (b).

(b) The regulations may prescribe an activity that is of a community service nature as an eligible community service activity for the purpose of this Division.

### **x.2.2 Entitlement to be absent from employment for engaging in eligible community service activity**

(a) An employee who engages in an eligible community service activity is entitled to be absent from his or her employment for a period if:

- (i) the period consists of one or more of the following:
  - time when the employee engages in the activity;
  - reasonable travelling time associated with the activity;
  - reasonable rest time immediately following the activity; and
- (ii) unless the activity is jury service—the employee's absence is reasonable in all the circumstances.

### **x.2.3 Notice and evidence requirements**

#### *Notice*

- (a) An employee who wants an absence from his or her employment to be covered by this Division must give his or her employer notice of the absence.
- (b) The notice:
  - (i) must be given to the employer as soon as reasonably practicable (which may be a time after the absence has started); and
  - (ii) must advise the employer of the period, or expected period, of the absence.

#### *Evidence*

- (c) An employee who has given his or her employer notice of an absence under subsection (1) must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the absence is because the employee has been or will be engaging in an eligible community service activity.

#### *Compliance*

- (d) An employee's absence from his or her employment is not covered by this Division unless the employee complies with this section.

*Notes:*

*Based on Nurses' Aged Care Award - State 2005 and Principles from Metals Exposure Draft Award*

NES jury service has a cap of 10 days

Re, Voluntary Emergency Management Activity NES-Awards silent

## **X. Public holidays**

### **x.1 All Employees shall be entitled to holidays on the following days:**

- x.1.1** New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day and Boxing Day, Australia Day, Anzac Day, Queen's Birthday and Labour Day; and
- x.1.2** In addition to those public holidays prescribed in subclause **x.1.1**, there shall be an extra public holiday each year being Melbourne Cup Day, a local Cup Day, May Day, Picnic Day, Hobart Regatta Day, Canberra Day, Foundation Day, Show Day, Proclamation Day or another day as may be observed in the locality in lieu thereof.

### **x.2 Substitution**

- x.2.1** Provided that for employees who work only between Monday to Friday inclusive:

**x.2.1(a)** When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December.

**x.2.1(b)** When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 28 December.

**x.2.1(c)** When New Year's Day or Australia Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on the next Monday.

**x.2.2** Provided that for all other employees, including casuals:

**x.2.2(a)** Christmas Day shall be observed on 25 December.

**x.2.2(b)** Boxing Day shall be observed on 26 December.

**x.2.2(c)** New Year's Day shall be observed on 1 January.

**x.2.2(d)** When Australia Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on the next Monday.

**x.2.3** Where public holidays are declared or prescribed in accordance with State or Territory legislation on days other than those set out in **sub-clauses x.1**, those days shall constitute additional holidays for the purpose of this Award in the localities to which the declaration or gazettal relates.

**x.3 Payment for work performed on a public holiday<sup>16</sup>**

**x.3.1** Any Employee required to be on duty on a day referred to in **sub-clause x.1** or **x.2.3** shall receive an additional sum equal to a day's ordinary pay for that day. Such payment shall be in addition to any rate for shift work or weekend work which would otherwise be payable had the day not been a public holiday.

**x.3.2** Provided that Employees rostered to work on public holidays and who fail to do so shall not be entitled to holiday pay for the said holiday.

**x.3.3** Casual employees shall not have an entitlement to pay or leave for public holidays not worked. However the ordinary rate of pay for a casual performing work on public holidays shall be 250% for weekday public holidays and 312.5% for public holidays occurring on a weekend.

**x.4 Accrued days off on public holidays**

Where an Employee's accrued day off falls on a public holiday on which the Employee would have been required to be on duty, another day shall be determined by the Employer to be taken in lieu thereof, such day to be within the same four week (or five week) work cycle where practical, as the case may be.

**x.5 Public holidays occurring on rostered days off**

**x.5.1** All full time employees shall receive a sum equal to a day's ordinary pay for public holidays that occur on their rostered day off, excepting holidays falling on Saturday or Sunday with respect to Monday-Friday employees

<sup>16</sup> Some awards provide for double time and a half eg. WA Private Sector, Vic Award re ENs

**x.5.2** Provided that part-time continuous shift nurses are entitled to be paid for **11 public holidays per annum** on a proportionate basis according to the ratio between full time hours of work and that employee's average hours in the pay period during which the public holiday falls.

**x.5.3** Where a public holiday occurs on a day that a part-time employee would normally work, but the employee is not required by the Employer to work, the part-time Employee is entitled to receive the public holiday benefit prescribed in **sub-clause x.6**.

#### **x.6 Public Holiday resulting in not being required to attend for work**

A public holiday occurring on an ordinary working day shall be allowed to employees without loss of pay

#### **x.7 Night Shift Workers**

**x.7.1** Shift workers who work a night shift which commences on one day and concludes on the next following day, the public holiday shift will be regarded as being the shift on which more than half of the total rostered shift hours falls on the public holidays.

**x.7.1(a)** For example: If a rostered shift of eight hours commences at 10.00 p.m. on a public holiday, that shift is not be regarded as a public holiday shift.

**x.7.1(b)** If a rostered shift commences at 10.00 p.m. on the day before a public holiday and finishes at 6.00 a.m. on the public holiday, such shifts will be regarded as a public holiday shift.

### **X. Parental Leave**

Subject to the terms of this clause employees are entitled to maternity, paternity and adoption leave and to work part-time in connection with the birth or adoption of a child.

The provisions of this clause apply to full time, part time and eligible casual employees, but do not apply to other casual employees.

An **eligible casual employee** means a casual employee:

- employed by an employer on a regular and systematic basis for several periods of employment or on a regular and systematic basis for an ongoing period of employment during a period of at least 12 months; and
- who has, but for the pregnancy or the decision to adopt, a reasonable expectation of ongoing employment.

For the purposes of this clause, **continuous service** is work for an employer on a regular and systematic basis (including any period of authorised leave or absence).

An employer must not fail to re-engage a casual employee because:

- the employee or employee's spouse is pregnant; or
- the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

### **x.1 Definitions**

- x.1.1** For the purpose of this clause **child** means a child of the employee under the age of one year except for adoption of a child where 'child' means a person under the age of eighteen years who is placed with the employee for the purposes of adoption, other than a child or step-child of the employee or of the spouse of the employee or a child who has previously lived continuously with the employee for a period of six months or more.
- x.1.2** Subject to **x.1.3**, in this clause, **spouse** includes a de facto or former spouse.
- x.1.3** In relation to **x.5**, **spouse** includes a de facto spouse but does not include a former spouse.

### **x.2 Basic entitlement**

- x.2.1** After twelve months continuous service, parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child. For females, maternity leave may be taken and for males, paternity leave may be taken. Adoption leave may be taken in the case of adoption.
- x.2.2** Subject to **x.4**, parental leave is to be available to only one parent at a time, in a single unbroken period, except that both parents may simultaneously take:
  - x.2.2(a)** for maternity and paternity leave, an unbroken period of up to one week at the time of the birth of the child;
  - x.2.2(b)** for adoption leave, an unbroken period of up to three weeks at the time of placement of the child.

#### **Entitlement to Paid Maternity Leave**

- x.2.3** An eligible employee is entitled to nine weeks at the ordinary rate of pay from the date maternity leave commences. This leave may commence up to nine weeks prior to the expected date of birth.
- x.2.4** It is not compulsory for an employee to take this period off work. However, if an employee decides to work during the six weeks prior to the expected date of birth it is subject to the employee being able to perform satisfactorily the full range of normal duties.
- x.2.5** Paid maternity leave may be paid:
  - on a normal fortnightly basis; or
  - in advance in a lump sum; or
  - at the rate of half pay over a period of twenty-eight weeks on a regular fortnightly basis.
- x.2.6** Annual and/or long service leave credits can be combined with periods of maternity leave on half pay to enable an employee to remain on full pay for that period.

## Unpaid Maternity Leave

- x.2.7** Full time and permanent part time employees who are entitled to paid maternity leave are entitled to a further period of unpaid maternity leave of not more than 12 months after the actual date of birth.
- x.2.8** Full time and permanent part time employees who are not eligible for paid maternity leave are entitled to unpaid maternity leave of not more than 12 months.
- x.2.9** Full time and permanent part time employees may also apply for additional unpaid maternity leave as provided for in subclause **x.12** Right to Request of this clause.

## x.3 Maternity leave

- x.3.1** An employee must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:
  - x.3.1(a)** of the expected date of confinement (included in a certificate from a registered medical practitioner or Registered Midwife stating that the employee is pregnant) - at least ten weeks;
  - x.3.1(b)** of the date on which the employee proposes to commence maternity leave and the period of leave to be taken - at least four weeks.
  - x.3.1(c)** An employer by not less than fourteen days notice in writing to the employee may require her to commence maternity leave at any time within the six weeks immediately prior to her presumed date of confinement.
  - x.3.1(d)** An employee shall not be in breach of this clause as a consequence of failure to give the stipulated period of notice in accordance with **x.3.1** if such failure is occasioned by the confinement occurring earlier than the presumed date.
- x.3.2** When the employee gives notice under **x.3.1(a)** the employee must also provide a statutory declaration stating particulars of any period of paternity leave sought or taken by her spouse and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.
- x.3.3** An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date.
- x.3.4** Subject to **x.2.1** and unless agreed otherwise between the employer and employee, an employee may commence parental leave at any time within six weeks immediately prior to the expected date of birth.
- x.3.5** Where an employee continues to work within the six week period immediately prior to the expected date of birth, or where the employee elects to return to work within six weeks after the birth of the child, an employer may require the employee to provide a medical certificate stating that she is fit to work on her normal duties.

#### x.4 Special maternity leave and sick leave

x.4.1 Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child then:

- x.4.1(a) she shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a registered medical practitioner or registered midwife certifies as necessary before her return to work; or
- x.4.1(b) for illness other than the normal consequences of confinement she shall be entitled, either in lieu of or in addition to special maternity leave, to such paid sick leave as to which she is then entitled and which a registered medical practitioner or registered midwife certifies as necessary before her return to work.

x.4.2 Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take such paid sick leave as to which she is then entitled and such further unpaid leave (to be known as special maternity leave) as a registered practitioner or registered midwife certifies as necessary before her return to work, provided that the aggregate of paid sick leave, special maternity leave and maternity leave shall not exceed the period to which the employee is entitled under x.2.1.

x.4.3 For all award purposes maternity leave shall include special maternity leave.

#### x.5 Paternity leave

x.5.1 An employee will provide to the employer at least ten weeks prior to each proposed period of paternity leave, with:

- x.5.1(a) a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement, or states the date on which the birth took place; and
- x.5.1(b) written notification of the dates on which he proposes to start and finish the period of paternity leave; and
- x.5.1(c) a statutory declaration stating:
  - 21.5.1(c)(i) he will take that period of paternity leave to become the primary care-giver of a child;
  - 21.5.1(c)(ii) particulars of any period of maternity leave sought or taken by his spouse; and
  - 21.5.1(c)(iii) that for the period of paternity leave he will not engage in any conduct inconsistent with his contract of employment.

x.5.2 The employee will not be in breach of x.5.1 if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances.

**x.6 Adoption leave**

- x.6.1** The employee will notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An employee may commence adoption leave prior to providing such notice, where through circumstances beyond the control of the employee, the adoption of a child takes place earlier.
- x.6.2** Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:
  - x.6.2(a)** the employee is seeking adoption leave to become the primary care-giver of the child;
  - 21.6.2(b)** particulars of any period of adoption leave sought or taken by the employee's spouse; and
  - 21.6.2(c)** that for the period of adoption leave the employee will not engage in any conduct inconsistent with their contract of employment.
- x.6.3** An employer may require an employee to provide confirmation from the appropriate government authority of the placement.
- x.6.4** Where the placement of child for adoption with an employee does not proceed or continue, the employee will notify the employer immediately and the employer will nominate a time not exceeding four weeks from receipt of notification for the employee's return to work.
- x.6.5** An employee will not be in breach of this clause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of a spouse, or other compelling circumstances.
- x.6.6** An employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The employee and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to two days unpaid leave. Where paid leave is available to the employee, the employer may require the employee to take such leave instead.

**x.7 Variation of period of parental leave**

Unless agreed otherwise between the employer and employee, an employee may apply to their employer to change the period of parental leave on one occasion. Any such change to be notified at least four weeks prior to the commencement of the changed arrangements.

### **x.8 Parental leave and other entitlements**

An employee may in lieu of or in conjunction with parental leave, access any annual leave or long service leave entitlements which they have accrued subject to the total amount of leave not exceeding 52 weeks.

### **x.9 Transfer to a safe job**

- x.9.1** Where an employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee shall, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.
- x.9.2** If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee to commence parental leave for such period as is certified necessary by a registered medical practitioner or registered midwife. Such leave shall be treated as maternity leave for all award purposes.

### **x.10 Returning to work after a period of parental leave**

- x.10.1** An employee will notify of their intention to return to work after a period of parental leave at least four weeks prior to the expiration of the leave.
- x.10.2** An employee returning to work after a period of parental leave is entitled to be employed in:
  - (a) the position held by the employee immediately before proceeding on that leave, or
  - (b) if the employee worked part-time or on a less regular casual basis because of the pregnancy before proceeding on maternity leave--the position held immediately before commencing that part-time work or less regular casual work, or
  - (c) if the employee was transferred to a safe job before proceeding on maternity leave--the position held immediately before the transfer.
- x.10.3** Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee will be entitled to a position as nearly comparable in status and pay to that of their former position.
- x.10.4** In this clause, a reference to employment in a position includes, in the case of a casual employee, a reference to work for an employer on a regular and systematic basis.

### **x.11 Replacement employees**

- x.11.1** A replacement employee is an employee specifically engaged or temporarily promoted or transferred, as a result of an employee proceeding on parental leave.
- x.11.2** Before an employer engages a replacement employee the employer must inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

**x.11.3** A reference in this clause to an employee proceeding on parental leave includes a reference to a pregnant employee exercising a right to be transferred to a safe job.

## **x.12 Right to request**

**x.12.1** An employee entitled to parental leave pursuant to the provisions of clause **X** may request the employer to allow the employee:

**x.12.1(a)** to extend the period of simultaneous unpaid parental leave provided for in clause **x.2.2(a)** up to a maximum of eight weeks;

**x.12.1(b)** to extend the period of unpaid parental leave provided for in clause **x.2.1** by a further continuous period of leave not exceeding 12 months;

**x.12.1(c)** to return from a period of parental leave on a part-time basis until the child reaches school age;

to assist the employee in reconciling work and parental responsibilities.

**x.12.2** The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect of the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

**x.12.3** Employee's request and the employer's decision to be in writing. The employee's request and the employer's decision made under **x.12.1(b)** and **x.12.1(c)** must be recorded in writing

### **x.12.4 Request to return to work part-time**

Where an employee wishes to make a request under **x.12.1(c)**, such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

## **x.13 Communication during Parental Leave**

**x.13.1** Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

**x.13.1(a)** make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and

**x.13.1(b)** provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

**x.13.2** The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

**x.13.3** The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with **x.13.1**.

*Notes*

*Mainly based on Nurses (Victorian Health Services) Award 2000 [Transitional]*

*Definitions Clause variations - NSW IR ACT 18 yrs for adoption, Vic award 5 yrs*

*Transfer to safe job and Returning to work after leave contains some NSW IR Act ref*

DRAFT

**SCHEDULE A<sup>17</sup>****X. CLASSIFICATION DEFINITIONS****x.1 Assistant in Nursing****x.1.1 Definitions**

The Assistant in Nursing (however titled) shall mean an employee engaged to assist in the performance of nursing duties together with such other duties as may be required by the employer being duties incidental and related to the provision of nursing care services. The Assistant in Nursing at all times assists in the provision of nursing care under the direct or indirect supervision of a registered nurse.

**x.1.2 Supervision**

“Direct supervision” is that which allows direct and continuous observation by a registered nurse of an employee undertaking delegated activities, in circumstances where, in the judgment of the registered nurse accountable for such delegation, direct supervision is warranted in the interests of safe and effective practice.

**x.1.3 Indirect Supervision**

“Indirect supervision” means such other supervisions provided to an employee assuming responsibility for functions delegated by a registered nurse in circumstances where, in the judgment of the registered nurse accountable for such delegation, direct supervision of the employee is not required, provided there is immediate onsite access to a registered nurse at all times.

**x.1.4 Assistant in Nursing Level 1**

An employee at this level shall be working towards the attainment of a Level III Certificate in Community Services or may be deemed equivalent through recognition of prior learning assessment.

An employee at this level is required to:

- work under the direct or indirect supervision of a registered nurse when providing care; and
- demonstrate an understanding of standards of conduct and care required.

Indicative tasks/skills of this level may include but not be limited to the following:

- provide input into care assessments within their scope of knowledge and experience; and
- record care delivery by self on standard structured forms.

<sup>17</sup> Further work is required to complete the classification definitions and ensure the classification structure is consistent with state and territory regulations.

**x.1.5 Assistant in Nursing Level 2**

An employee at this level shall have obtained proficiency and qualifications to perform work at this level.

An employee at this level has all the skills of a Level 1 and is required to:

- have obtained a Level III Certificate in Community Services or equivalent;
- operate under the direct or indirect supervision of a registered nurse when providing care;
- exercise discretion and judgment within their level of skill and training; and
- demonstrate an understanding of standards of conduct and care as required in the facility and the sector as a whole.

Indicative tasks/skills of this level may include but not be limited to the following:

- provide input into care assessments within their scope of knowledge and experience;
- implement care plans as delegated by a registered nurse;
- document care using relevant charts; and
- operate under the direct or indirect supervision of a registered nurse; and

**x.1.6 Assistant Nurse Level 3**

An employee appointed to this level shall perform work above and beyond the skills of a Level 2 and shall have obtained proficiency and qualifications to perform work at this level.

**x.1.6.1** An employee at this level is required to:

- x.1.6.1(a)** have obtained a Level IV certificate in Residential Age Care or equivalent qualification or level of experience and competency;
- x.1.6.1(b)** exercise discretion and decision making/responsibility within their level of skill and training;
- x.1.6.1(c)** demonstrate the effective application of standards required in the age care Industry;
- x.1.6.1(d)** provide on the job and In Service training as directed;
- x.1.6.1(e)** work under direct or indirect supervision.

**x.1.6.2** Indicative tasks/skills of this level, in addition to Level 2, may include but not limited to:

- x.1.6.1(a)** team leader

### x.1.7 Labour Flexibility

Assistants in Nursing may be employed under this award to perform mixed functions, provided that:

- (a) The primary duties performed by the Assistant in Nursing being the delivery of direct care to occupy no less than the majority of the hours for which they are employed in any 28 day cycle;
- (b) The Assistant in Nursing shall be paid at the appropriate rate for an assistant in nursing for all work performed;
- (c) an Assistant in Nursing shall not be required to perform mixed functions where the employer does not provide adequate staff to ensure that the level of the quality of the service that would have otherwise been provided if the Assistant in Nursing did not perform mixed functions, is in fact provided;
- (d) Subject to paragraph (a), an Assistant in Nursing may perform duties associated with a residents well being and comfort, including functions of a laundry, kitchen or other personal support nature.

### x.2 Enrolled nurses

**x.2.1** **Pay point Y1** means the pay point to which an employee will be appointed as an EN, based on:

**x.2.1(a)** Training and experience, which includes:

- having satisfactorily completed a hospital based course of training in nursing of not more than twelve months duration leading to enrolment as an EN; or
- having satisfactorily completed a course of training of twelve months duration in a specified branch of nursing leading to enrolment on a register or roll maintained by a State/Territory Nurses Registration Board; and
- having practical experience of up to but not more than twelve months in the provision of nursing care and/or services, and, the undertaking of in-service training, subject to its provision by the employing agency, from time to time.

**x.2.1(b)** Nursing skills and knowledge which the employee possesses and may be required to utilise at this pay point. Skill indicators at this pay point are as follows. The employee:

- has limited or no practical experience of current situations; and
- exercises limited discretionary judgement, not yet developed by practical experience.

**x.2.2** **Pay point Y2** means the pay point to which an employee will be appointed as an EN or progress from Pay point Y1, having been assessed as being competent at Pay point Y1. This assessment will be based on:

(a) Training and experience, which includes:

- having satisfactorily completed a hospital based course of general training in nursing of more than twelve months duration and/or 500 or more hours theory content or a course accredited at advanced certificate level leading to enrolment as an EN; or
- not more than one further year of practical experience in the provision of nursing care and/or services in addition to the experience, skill and knowledge requirements specified for Pay point Y1; and
- the undertaking of in-service training, subject to its provision by the employing agency, from time to time.

(b) Nursing skills and knowledge which the employee possesses and may be required to utilise at this pay point. Skill Indicators at this pay point are as follows. The employee is required to demonstrate some of the following skills in the performance of their work:

- a developing ability to recognise changes required in nursing activity and in consultation with the RN, implement and record such changes, as necessary; and/or
- is able to relate theoretical concepts to practice; and/or
- requires assistance in complex situations and in determining priorities.

**x.2.3** **Pay point Y3** means the pay point to which an employee will be appointed as an EN or progress from Pay point Y2, having been assessed as being competent at Pay point Y2. This assessment will be based on:

(a) Training and experience, which includes:

- not more than one further year of practical experience in the provision of nursing care and/or services, in addition to the experience, skill and knowledge requirements specified for Pay point Y2; and
- the undertaking of in-service training, subject to its provision by the employing agency, from time to time.

(b) Nursing skills and knowledge which the employee possesses and may be required to utilise at this pay point. Skill Indicators at this pay point are as follows. The employee is required to demonstrate some of the following in the performance of their work:

- an ability to organise, practise and complete nursing functions in stable situations with limited direct supervision; and/or
- the use of observation and assessment skills to recognise and report deviations from stable conditions; and/or
- demonstrated flexibility in the capacity to undertake work across the broad range of nursing activity and/or competency in a specialised area of practice; and/or

- uses communication and interpersonal skills to assist in meeting psycho-social needs of individuals/groups.

**x.2.4**

**Pay point Y4** means the pay point to which an employee will be appointed as an EN or progress from Pay point Y3, having been assessed as being competent at Pay point Y3. This assessment will be based on:

- (a) Training and experience, which includes:
  - not more than one further year of practical experience in the provision of nursing care and/or services in addition to the experience, skill and knowledge requirements specified for Pay point Y3; and
  - the undertaking of in-service training, subject to its provision by the employing agency, from time to time; and
- (b) Nursing skills and knowledge which the employee possesses and may be required to utilise at this pay point. Skill Indicators at this pay point are as follows. The employee is required to demonstrate some of the following in the performance of their work:
  - speed and flexibility in accurate decision making; and/or
  - organises own workload and sets own priorities with minimal direct supervision; and/or
  - uses observation and assessment skills to recognise and report deviations from stable conditions across a broad range of patient and/or service needs; and/or
  - uses communication and interpersonal skills to meet psycho-social needs of individual/groups.

**x.2.5**

**Pay point Y5** means the pay point to which an employee will be appointed as an EN or will progress from Pay point Y4, having been assessed as being competent at Pay point Y4. This assessment will be based on:

- (a) Training and experience, which includes:
  - not more than one further year of practical experience in the provision of nursing care and/or services in addition to the experience, skill and knowledge requirements specified for Pay point Y4; and the undertaking of relevant in-service training, subject to its provision by the employing agency, from time to time.
- (b) Nursing skills and knowledge which the employee possesses and may be required to utilise at this pay point. Skill Indicators at this pay point are as follows. The employee is required to demonstrate all of the following in the performance of the employee's work:
  - contributes information in assisting the RN with development of nursing strategies/improvements within the employee's own practice setting and/or nursing team, as necessary;

- responds to situations in less stable and/or changed circumstances resulting in positive outcomes, with minimal direct supervision; and
- efficiency and sound judgement in identifying situations requiring assistance from an RN.

#### **x.2.6 Specific definitions**

**(a) In-service training** means the formal and/or informal work related learning activities undertaken by an employee through opportunities provided by the employing agency, which contribute to an employee's professional development and efficiency by:

- the acquisition and updating of skills and knowledge beneficial to effective performance within a team; and/or
- reducing the degree of direct supervision required by the employee; and/or
- enhancing the breadth and/or depth of knowledge and skills required by an employee in a specific area and/or range of areas of nursing practice, as the case may be.

**(b) Supervision** means the oversight, direction, instruction, guidance and/or support provided to an employee by the RN responsible for ensuring such an employee is not placed in situations where required to function beyond the preparation and competence of the employee.

**(c) Specifically:**

- **direct supervision** means the employee works side by side continuously with an RN responsible for observing and directing the employee's activities in circumstances where, in the judgement of the RN, such an arrangement is warranted -in the interests of safe and/or effective practice;
- **indirect supervision** means such other supervision provided to an employee assuming responsibility for functions delegated by an RN in circumstances where, in the judgement of the RN accountable for such delegation, direct supervision of the employee is not required.

### **x.3 Mothercraft nurses**

Classification descriptions to be provided.

### **x.4 Registered nurses**

#### **x.4.1 Registered nurses level 1 (RN-1)**

Means an RN who:

- According to the employee's level of competence; and
- Under the general guidance of, or with general access to a more competent RN who provides work related support and direction,
- Is required to perform general nursing duties which include substantially, but are not confined to:
- Delivering direct and comprehensive nursing care and individual case management to patients or clients within the practice setting.
- Coordinating services, including those of other disciplines or agencies, to individual patients or clients within the practice setting.
- Providing education, counselling and group work services orientated towards the promotion of health status improvement of patients and clients within the practice setting.
- Providing support, direction and education to newer or less experienced staff, including EN's, and student EN's and Student Nurses.
- Accepting accountability for the employee's own standards of nursing care and service delivery.
- Participating in action research and policy development within the practice setting.

- Subject to higher duties 5.3.4 relieving Clinical nurses as described in 5.1.2(b).

#### **x.4.2 Registered nurse level 2 (RN-2)**

Means an RN who:

- (a)** Holds any other qualification required for working in the employee's particular practice setting, and who is appointed as such by a selection process or by reclassification from a lower level in the circumstances that the employee is required to perform the duties detailed in this subclause on a continuing basis.
- (b)** Appointed at this level (to be known as a Clinical nurse), is required in addition to the duties of an RN1, to perform duties delegated by a Clinical nurse consultant or higher level classification, and clinical nursing duties which will substantially include, but are not confined to:
  - (b)(i)** Delivering direct and comprehensive nursing care and individual case management to a specific group of patients or clients in a particular area of nursing practice within the practice setting;
  - (b)(ii)** Providing support, direction, orientation and education to RN1's, EN's, student nurses and student EN's;
  - (b)(iii)** Being responsible for planning and coordinating services relating to a particular group of clients or patients in the practice setting, as delegated by the Clinical nurse consultant;
  - (b)(iv)** Acting as a role model in the provision of holistic care to patients or clients in the practice setting;
  - (b)(v)** Assisting in the management of action research projects, and participating in quality assurance programs and policy development within the practice setting; and
  - (b)(vi)** Subject to (Higher duties clause) relieving RN-3's as required.

Means an RN who:

- (a) Holds any other qualification required for working in the employee's particular practice setting, and who is appointed as such by a selection process or by reclassification from a lower level in the circumstances that the employee is required to perform the duties detailed in this subclause on a continuing basis;
- (b) Appointed at this level (to be known as a Clinical nurse consultant, Nurse manager or a Nurse educator), according to practice setting and patient or client group, is required in addition to the duties of an RN-2:
  - (b)(i) In the case of an employee appointed as an RN-3, subject to (Higher duties clause), relieve an RN-4 as required.
  - (b)(ii) In the case of a Clinical nurse consultant to perform duties which will substantially include but are not confined to:
    - providing leadership and role modelling, in collaboration with others including the Nurse manager and the Nurse educator, particularly in the areas of action research and quality assurance programs; staff and patient/client education; staff selection, management, development and appraisal; participating in policy development and implementation; and acting as a consultant on request in the employee's own area of proficiency; for the purpose of facilitating the provision of quality nursing care;
    - delivering direct and comprehensive nursing care to a specific group of patients or clients with complex nursing care needs, in a particular area of nursing practice within a practice setting;
    - coordinating, and ensuring the maintenance of standards of the nursing care of a specific group or population of patients or clients within a practice setting; and
    - coordinating or managing nursing or multi-disciplinary service teams providing acute nursing and community services.

**(b)(iii)**

In the case of a Nurse manager, to perform duties which will substantially include, but are not confined to:

- providing leadership and role modelling, in collaboration with others including the Clinical nurse consultant and the Nurse educator, particularly in the areas of action research and quality assurance programs, staff selection and education, allocation and rostering of staff, occupational health, and initiation and evaluation of research related to staff and resource management; participating in policy development and implementation; and acting as a consultant on request in the employee's own area of proficiency; for the purpose of facilitating the provision of quality nursing care;
- being accountable for the management of human and material resources within a specified span of control, including the development and evaluation of staffing methodologies; and
- managing financial matters, budget preparation and cost control in respect of nursing within that span of control.

**(b)(iv)**

In the case of Nurse educator, to perform duties which will substantially include, but are not confined to:

- providing leadership and role modelling, in collaboration with others including the Clinical nurse consultant and the Nurse manager, particularly in the areas of action research, implementation and evaluation of staff education and development programs, staff selection, and implementation and evaluation of patient or client education programs; participating in policy development and implementation; and acting as a consultant on request in the employee's own area of proficiency; for the purpose of facilitating the provision of quality nursing care; and
- being accountable for the assessment, planning, implementation and evaluation of nursing education and staff development programs for a specified population.

Means an RN who:

- (a) Holds any other qualification required for working in the employee's particular practice setting, and who is appointed as such by a selection process or by reclassification from a lower level in the circumstances that the employee is required to perform the duties detailed in this subclause on a continuing basis.
- (b) An employee appointed at this level (to be known as an Assistant director of nursing (clinical), Assistant director of nursing (management), or Assistant director of nursing (education) is required, in addition to the duties of an RN-3:
- (c) In the case of any employee appointed as an RN-4, subject to higher duties 5.3.4 to relieve the Director of nursing as required.
- (d) In the case of an Assistant director of nursing (clinical) to perform duties which will substantially include, but are not confined to:
  - providing leadership and role modelling, in collaboration with others including the Assistant director of nursing (management) and Assistant director of nursing (education), particularly in the areas of selection of staff within the employee's area of responsibility, provision of appropriate education programs, coordination and promotion of clinical research projects; participating as a member of the nursing executive team; and contributing to the development of nursing and health unit policy for the purpose of facilitating the provision of quality nursing care;
  - managing the activities of, and providing leadership, coordination and support to, a specified group of Clinical nurse consultants;
  - being accountable for the establishment, implementation and evaluation of systems to ensure the standard of nursing care for a specified span of control;

- being accountable for the development, implementation and evaluation of patterns of patient care for a specified span of control;
- being accountable for clinical operational planning and decision making for a specified span of control; and
- being accountable for appropriate clinical standards, through quality assurance programs, for a specified span of control.

**(b)(iii)** In the case of an Assistant director of nursing (management), to perform duties which will substantially include, but are not confined to:

- providing leadership and role modelling, in collaboration with others including the Assistant director of nursing (clinical) and Assistant director of nursing (education), particularly in the areas of selection of staff within the employee's area of responsibility, coordination and promotion of nursing management research projects; participating as a member of the nursing executive team; and contributing to the development of nursing and health unit policy for the purpose of facilitating the provision of quality nursing care;
- managing the activities of, and providing leadership, coordination and support to, a specified group of Nurse managers;
- being accountable for the effective and efficient management of human and material resources within a specified span of control;
- being accountable for the development and coordination of nursing management systems within a specified span of control; and
- being accountable for the structural elements of quality assurance for a specified span of control.

**(b)(iv)** In the case of an Assistant director of nursing (education) to perform duties which will substantially include, but are not confined to:

- providing leadership and role modelling, in conjunction with others including the Assistant director of nursing (clinical) and the Assistant director of nursing (management), particularly in the areas of selection of staff within the employee's area of responsibility, coordination and promotion of nurse education research projects; participating as a member of the nursing executive team, and contributing to the development of nursing and health unit policy for the purpose of facilitating the provision of quality nursing care;
- managing the activities of, and providing leadership, coordination and support to a specific group of Nurse educators;
- being accountable for the standards and effective coordination of education programs for a specified population;
- being accountable for the development, implementation and evaluation of education and staff development programs for a specified population;
- being accountable for the management of educational resources including their financial management and budgeting control; and
- undertaking career counselling for nursing staff.

(b)(v)

Where significant and demonstrable reasons exist for two or more of these functions to be combined, the employer will seek the agreement of the union, which will not be unreasonably withheld.

x.4.5

#### Registered nurse level 5 (RN-5)

Means an RN who:

(a)

Holds any other qualification required for working in the employee's particular practice setting, and who is appointed as such by a selection process or by reclassification from a lower level in the circumstances that the employee is required to perform the duties detailed in this subclause on a continuing basis.

(b) An employee appointed at this level (to be known as Director of nursing) is required to perform duties which will substantially include, but are not confined to:

(b)(i) Being accountable for the standards of nursing care for the health unit and for coordination of the nursing service of the health unit.

(b)(ii) Participating as a member of the executive of the health unit, being accountable to the executive for the development and evaluation of nursing policy, and generally contributing to the development of health unit policy.

(b)(iii) Providing leadership, direction and management of the nursing division of the health unit in accordance with policies, philosophies, objectives and goals established through consultation with staff and in accordance with the directions of the Board of Directors of the health unit.

(b)(iv) Providing leadership and role modelling, in collaboration with others, particularly in the areas of staff selection, promotion of participative decision making and decentralisation of nursing management; and generally advocating for the interests of nursing to the executive team of the health unit.

(b)(v) Managing the budget of the nursing division of the health unit.

(b)(vi) Ensuring that nursing services meet changing needs of clients or patients through proper strategic planning; and

(b)(vii) Complying, and ensuring the compliance of others, with the code of ethics and legal requirements of the nursing profession.

#### x.4.6

#### **Occupational health nurses**

**Occupational health** includes, but is not necessarily confined to:

(a) Maintenance of appropriate records relating to the activities of the occupational health unit and services to clients.

(b) Rehabilitation of injured workers.

(c) Preventative action in relation to occupational hazards that may lead to injury and/or illness.

(d) Immediate and continuing treatment of occupational injuries and/or illness.

(e) Health promotion.

(f) Counselling of clients on health related matters.

#### **4.6.1 Occupational health nurse level 1**

Means an RN with at least four years post registration experience who performs duties in relation to occupational health consistent with:

(a) Giving direct nursing care to a group of clients.

(b) Assessing nursing care needs of clients.

(c) Participating in provision of education to clients.

#### **4.6.2 Occupational health clinical nurse level 2**

Means a RN with at least four years post registration experience who performs duties in connection with occupational health which are more complex than the duties performed by an Occupational health nurse (level 1). These duties may include, but are not necessarily confined to the prevention of injury/illness, rehabilitation and occupational hazard identification.

(a) Appointment to level 2 of this salary structure is only upon successful completion of a relevant post-registration qualification to this field of employment.

(b) Payment at this level will commence when the employer receives reasonable proof from the employee that the qualification has been obtained. Onus of proof rests with the employee.

#### **4.6.3 Senior occupational health nurse level 2**

Means an RN with at least five years post registration experience who:

(a) Coordinates the occupational health nursing service; and

(b) Provides support and direction to four or less Occupational health nurses and/or Occupational health clinical nurses.

#### 4.6.4 Occupational health nurse consultant level 3

Means an RN with at least five years post registration experience who:

- (a) Coordinates the Occupational health nursing services; and
- (b) Provides support, and direction to five or more Occupational nurses and/or Occupational health clinical nurses.

#### Undergraduate student Nurse

An undergraduate student nurse is a student employed in a health setting, who is undertaking an accredited undergraduate course in nursing or midwifery. They require direct supervision within a clinical area. However these students are recognised separately to other health care workers such as assistants in nursing, when working within the team/model of care.

An undergraduate student nurse means they

- Are either in their 2<sup>nd</sup> or 3<sup>rd</sup> year of their undergraduate nursing or midwifery degree program
- Are only able to undertake activities delegated by the registered nurse or midwife in the clinical context
- Work under the direct supervision of a registered nurse or midwife for activities of which they are required to develop practical skills, provided they have acquired the necessary theoretical knowledge
- Are rostered with a clinical support and supervisor on a shift by shift basis
- Are not responsible for a clinical case load
- Work within the limits of their competence and confidence
- Actively seek feedback on their performance
- Are not undergraduate students on clinical placements

#### Nurse Practitioner

*A nurse practitioner* is a registered nurse/midwife appointed to the role, who has obtained an additional qualification relevant to the state regulating authority to enable them to become licensed Nurse Practitioners. They are authorized to function autonomously and collaboratively in an advanced and extended clinical role.

**The role of the licensed nurse practitioner means that**

- The nurse practitioner is able to assess and manage the care of clients/residence using nursing knowledge and skills. It is dynamic practice that incorporates application of high level knowledge and skills , beyond that required of a registered nurse /midwife in extended practice across stable, unpredictable and complex situations
- The nurse practitioner role is grounded in the nursing profession's values, knowledge, theories and practice and provides innovative and flexible health care delivery that complements other health care providers

- The scope of practice of the nurse practitioner is determined by the context in which
- the nurse practitioner is authorized to practice. The nurse practitioner therefore remains accountable for the practice for which they directed.
- Professional efficacy whereby practice is structured in a nursing model and enhanced by autonomy and accountability
- Is authorized to directly refer clients/ residents to other health professionals, prescribe medications and order diagnostic investigations including pathology and plain screen X rays.
- The exhibit clinical leadership that influences and progresses clinical care, policy and collaboration through all levels of health service.

DRAFT

## **LIST OF AWARDS FOR DRAFTING EXERCISE**

AN140193	Nurses' Aged Care Award – State 2005
AN140223	Private Hospital Nurses' Award – State 2003
AP818792CRA	Nurses Private Employment (A.C.T.) Award 2002
AP819211CRN	Nurses (Northern Territory) Private Sector Award 2002
AT790754	Nurses' (ANF – WA Private Hospitals and Nursing Homes) Award 1999 [Transitional]
AT790805CRV	Nurses (Victorian Health Services) Award 2000 [Transitional]
AT825646	Nurses (ANF – South Australian Private Sector) Award 2003 [Transitional]
AT838634	Nurses (Tasmanian Private Sector) Award 2005 [Transitional]
AN120387	Nursing Homes, &C., Nurses' (State) Award
AN120435	Private Hospital Industry Nurses' (State) Award

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# Health and community services

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The **Health and Community Services** industry employs approximately 1,121,000 persons, full-time and part-time, which is around 10.9 per cent of the total workforce. Over the past five years, employment in the industry has increased at a rate of 3.9 per cent per annum. The median age for workers in this industry is 43 years and earnings are around \$880 per week (full-time and before tax).

**Industry Employment Outlooks** provide detailed analysis of employment characteristics, trends and prospects by industry, and highlight specific sectors where job growth is the strongest. Specific issues highlighted in these outlooks include workforce ageing, employment share by gender, educational profile, weekly earnings, average hours worked, regional and occupational employment.

[\*\*Health and Community Services Employment Outlook \(PDF 850KB\)\*\*](#)



## ***Industry Employment Overview***

Below is a 'snapshot' of the Health and Community Services industry. For more detailed information go to [\*\*Industry Employment Profiles\*\*](#) or directly to the Industry Tables page for data on broad (ANZSIC 1 digit) industries.

For information on data sources, including time periods, go to Further Information.

## ***Recent Employment Growth***

The following shows trend employment growth for the Health and Community Services industry over the past one, two, five and ten years.

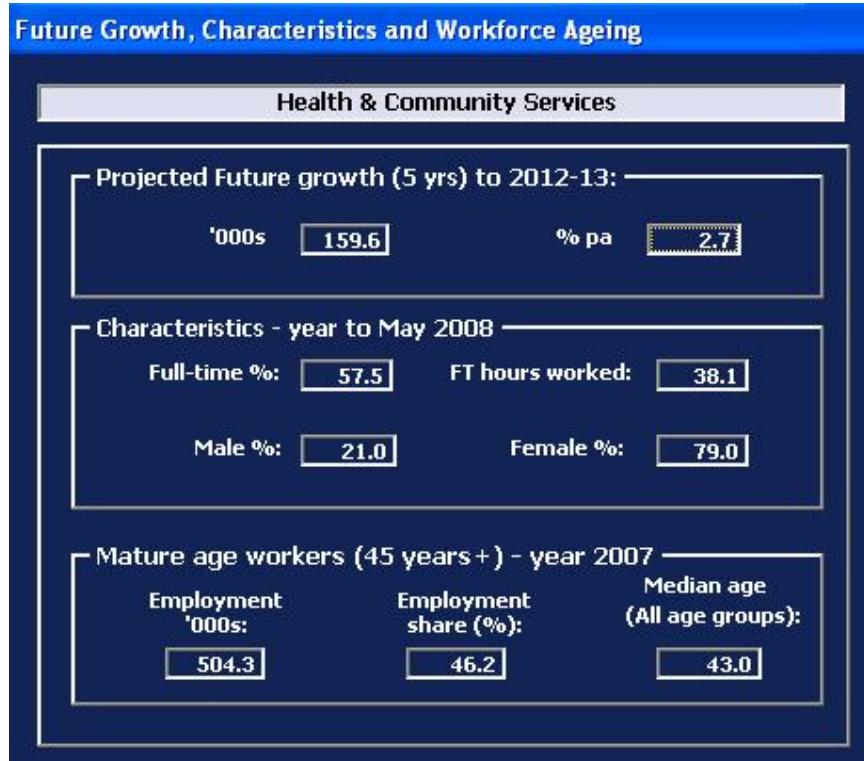
## Employment Change



Source: DEEWR Trend Data based on ABS Labour Force, Australia, Cat no: 6291.0.55.003 – May 2008.

## Future Growth and Characteristics

The following shows projected future growth, general employment characteristics and the proportion of workers aged 45 years and over in the Health and Community Services industry.



*Characteristics and Mature Age Source: DEEWR Special Order based on ABS Labour Force, Australia, Cat no: 6291.0.55.003 – Calendar Year Average 2007.*

## Regions

The following shows the top 10 employing (ABS) Labour Force Regions (LFRs) for this industry including the number employed by each region (in 000's):

<a href="#">Sydney</a>	218.5
<a href="#">Melbourne</a>	190.3
<a href="#">Brisbane</a>	151.6
<a href="#">Perth</a>	90.3
<a href="#">Adelaide</a>	76.1
<a href="#">Hunter &amp; North Coast (NSW)</a>	64.4
<a href="#">Western Victoria</a>	53.0
<a href="#">Central &amp; Northern QLD</a>	38.9
<a href="#">Illawarra &amp; South East NSW</a>	31.3
<a href="#">Eastern Victoria</a>	30.4

*Source: Four quarter average based on ABS Labour Force, Australia, Cat no: 6291.0.55.003 – May 2008.*

Employment in the Health and Community Services by DEEWR [Labour Market Region](#) or by ABS [Labour Force Region](#) can be viewed by clicking the relevant link.

## Occupations

The top employing occupations in Health and Community Services are shown below. Click on any of the occupation titles to go to the Job Outlook web page for that occupation. [Job Outlook](#) contains a comprehensive statistical profile for each occupation, as well as links to [Australian JobSearch](#) and [Australian Training](#).

<a href="#">Registered Nurses</a>	162.0
<a href="#">Child Care Worker</a>	74.3
<a href="#">Nurses Aides and Personal Care Assistants</a>	66.5
<a href="#">Aged and Disabled Carers</a>	66.1
<a href="#">Receptionists</a>	59.2
<a href="#">General Medical Practitioners</a>	34.7
<a href="#">Office Assistants and Office Managers</a>	27.2
<a href="#">Enrolled Nurses</a>	26.7
<a href="#">Welfare and Community Workers</a>	25.0
<a href="#">Kitchenhands</a>	23.7

*Source: DEEWR Special Order based on ABS Labour Force, Australia, Cat no: 6291.0.55.003 – Calendar Year Average 2007.*

## ***Skills Information Links***

### ***Education and Training***

- [Community Services and Health \(CS&H\) Industry Skills Council](#)
- [CS&H Industry Skills Council - Community Services Training Package](#)
- [CS&H Industry Skills Council - Health Training Package](#)
- [CS&H Industry Skills Council - Career Pathways for Community Services](#)
- [CS&H Industry Skills Council - Career Pathways for Health](#)
- [CS&H Industry Skills Council - Qualifications Search](#)

### ***Industry Skill Needs***

- [Australia's Health Workforce - Productivity Commission Report](#)
- [Industry Action Agenda - Biotechnology](#)
- [Industry Action Agenda - Medical Devices](#)
- [Industry Action Agenda - Pharmaceuticals](#)
- [Medical Labour Force 2005 - AIHW Report](#)
- [Nursing and Midwifery Labour Force 2005 - AIHW Report](#)
- [National Nursing and Nursing Education Taskforce - Final Report 2006](#)
- [NCVER - Responding to health skills shortages: Innovative directions from vocational education and training](#)
- [NCVER - Workplace training practices in the residential aged care sector](#)

### ***Careers and Job Opportunities***

- [Australian Psychological Society - Careers](#)
- [Australian Veterinary Association - Careers](#)
- [Community Active Careers - Career Resources](#)
- [Dietitians Association of Australia - Careers](#)
- [Genetics and Molecular Biology - Career Profile](#)
- [Graduate Careers in Health - New South Wales](#)
- [Health - Career Profile](#)
- [Nursing and Midwifery - Career Profile](#)
- [Psychology - Career Profile](#)

### ***Industry and Training Organisations***

- [ACT Health](#)
- [Aged and Community Services Australia](#)
- [Australian Institute of Health and Welfare \(AIHW\)](#)
- [Community Services and Health \(CS&H\) Industry Skills Council](#)
- [Department of Families, Housing, Community Services and Indigenous Affairs](#)
- [Department of Health and Ageing](#)
- [NSW Health](#)
- [NSW Department of Community Services](#)
- [NSW Department of Ageing, Disability and Home Care](#)

- [NT Department of Health and Community Services](#)
- [QLD Health](#)
- [QLD Department of Communities](#)
- [SA Department of Health](#)
- [TAS Department of Health and Human Services](#)
- [VicHealth](#)
- [VIC Department of Human Services](#)
- [WA Department of Health](#)

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# Value of women's work threatened by award modernisation

The value of work performed by Australian women is being threatened by moves currently underway to modernise awards.

Our achievements in gaining recognition for skills that are traditionally performed by women are under threat.

For 100 years women have campaigned for the right to have their skills recognised and rewarded. Women employed in occupations such as nursing, childcare, social welfare or clerical and administrative work were not sufficiently rewarded or valued for the work they did. Training was informal and pay was a lot less than male dominated occupations.

For most of the last century, women were not even paid the same award wages as men when doing the same work or work of equal value.

Despite the introduction of equal pay in the 1970s, women are still struggling to gain the same pay as that of their male colleagues.

In the early 1990s, government reforms meant we had greater ability to fight for, achieve and implement our objectives around recognition of skills and career paths.

Award restructuring and training reform delivered historic shifts in the attitudes to women's work.

The great steps forward for women must not be undermined by proposals to abolish occupational awards and submerge them into industry awards.

This will turn the clock back and make it hard for women to achieve reward for their skills in industries where women have little voice or influence.

We call upon the Deputy Prime Minister, Julia Gillard, the Australian Industrial Relations Commission, unions and employers to protect the hard won gains of women workers. We must ensure that their skills, pay and conditions are protected and advanced through the continued existence of occupational awards.

## Our equality at work is under threat and we cannot allow this to happen.



Name of Agency	Name of Service	Street Number	Street Address	Locality	Post-code	Operational High Care Places	Operational Low Care Places
Alpine Health (MPS)	Barwidgee Lodge	30	O'Donnell, AV	MYRTLEFORD	3737	30	0
Alpine Health (MPS)	Hawthorn Village		Hawthorn, LANE	BRIGHT	3741	0	40
Alpine Health (MPS)	Kiewa Valley House		Holland, ST	MOUNT BEAUTY	3699	20	0
Austin Health	Darley House	300	Waterdale, RD	HEIDELBERG	3081	60	0
Austin Health	Mary Guthrie House Nursing Home		Yarra, BVD	KEW	3101	20	0
Bairnsdale Regional Health Service	Bairnsdale Regional Health Service	125	McKean, ST	BAIRNSDALE	3875	17	0
Bairnsdale Regional Health Service	Jacaranda House Hostel	125	McKean, ST	BAIRNSDALE	3875	0	41
Bairnsdale Regional Health Service	Sutherland Lodge	125	McKean, ST	BAIRNSDALE	3875	0	32
Ballarat Health Services	Bill Crawford Lodge	1101	Dana, ST	BALLARAT	3350	30	0
Ballarat Health Services	Eureka Village Hostel	14-60	Balmoral, DR	BALLARAT	3350	0	45
Ballarat Health Services	Geoffrey Cutter Centre		Kenny, ST	BALLARAT	3350	60	0
Ballarat Health Services	Hailey House Hostel	703	Norman, ST	BALLARAT	3350	0	60
Ballarat Health Services	Jack Lonsdale Lodge	232	Spencer, ST	SEBASTOPOL	3356	60	0
Ballarat Health Services	James Thomas Court	170	Morgan, ST	SEBASTOPOL	3356	0	44
Ballarat Health Services	Jessie Gillett Court	170	Morgan, ST	SEBASTOPOL	3356	0	42
Ballarat Health Services	PS Hobson Nursing Home	311	Gillies, ST	WENDOUREE	3355	60	0
Ballarat Health Services	Queen Elizabeth Centre (Steele Haughton Unit)	102	Ascot, ST	BALLARAT	3350	20	0
Ballarat Health Services	Queen Elizabeth Village Hostel	311	Gillies, ST	WENDOUREE	3355	0	45
Ballarat Health Services	Talbot Place Aged Care Facility	1205	Dana, ST	BALLARAT	3350	30	0
Barwon Health	John Robb House	19-25	Colac, GRV	BELMONT	3216	30	0
Barwon Health	McKellar Centre	45-95	Ballarat, RD	NORTH GEELONG	3215	276	0
Barwon Health	Percy Baxter Lodges	45-95	Ballarat, RD	NORTH GEELONG	3215	0	105
Bass Coast Regional Health	Armitage House Nursing Home	225	Graham, ST	WONTHAGGI	3995	30	0
Bass Coast Regional Health	Griffiths Point Lodge Hostel		Davis Point, RD	SAN REMO	3925	0	29
Bass Coast Regional Health	Kirrak House	225-23	Graham, ST	WONTHAGGI	3995	30	0
Bayside Health	Caulfield Hospital Nursing Home	260	Kooyong, RD	CAULFIELD	3162	60	0
Bayside Health	Montgomery Nursing Home	260	Kooyong, RD	CAULFIELD	3162	30	0
Bayside Health	Namarra Nursing Home	294	Kooyong, RD	CAULFIELD	3162	30	0
Beaufort & Skipton Health Service	Beaufort Hostel	1-3	Burton, ST	BEAUFORT	3373	0	12
Beaufort & Skipton Health Service	Beaufort Nursing Home	28	Havelock, ST	BEAUFORT	3373	15	0
Beaufort & Skipton Health Service	Skipton Hostel		Blake, ST	SKIPTON	3361	0	9
Beaufort & Skipton Health Service	Skipton Nursing Home		Blake, ST	SKIPTON	3361	11	0

Beechworth Health Service	Beechworth Hospital Residential Care Program, The	20	Sydney, RD	BEECHWORTH	3747	45	30
Benalla & District Memorial Hospital	Morrie Evans Wing Nursing Home		Coster, ST	BENALLA	3672	30	0
Bendigo Health Care Group	Carshalton House Hostel		Stoneham, ST	GOLDEN SQUARE	3555	0	45
Bendigo Health Care Group	Golden Oaks Nursing Home	15-39	Hattam, ST	GOLDEN SQUARE	3555	60	0
Bendigo Health Care Group	Joan Pinder Nursing Home	26	Gibson, ST	BENDIGO	3550	60	0
Bendigo Health Care Group	Simpkin House Nursing Home		Cnr Gibson & Holdsworth, RD	BENDIGO	3550	40	0
Bendigo Health Care Group	Stella Anderson Nursing Home	100-10	Barnard, ST	BENDIGO	3550	60	0
Boort District Hospital	Boort District Hospital Hostel		Andrew, ST	BOORT	3537	0	30
Boort District Hospital	Boort District Hospital Nursing Home		Kiniry, ST	BOORT	3537	10	0
Casterton Memorial Hospital	Casterton Nursing Home	63	Russell, ST	CASTERTON	3311	30	0
Central Gippsland Health Service	JHF Mc Donald Wing Nursing Home	48	Kent, ST	MAFFRA	3860	30	0
Central Gippsland Health Service	Wilson Lodge	155	Cnr Foster & Palmerston, ST	SALE	3850	50	0
Cobram District Hospital	Irvin House		Broadway, ST	COBRAM	3644	30	0
Cohuna District Hospital	Cohuna District Nursing Home	144-15	King George, ST	COHUNA	3568	16	0
Colac Area Health	Corangamarah	2-28	Connor, ST	COLAC	3250	75	0
Darlingford Upper Goulburn Nursing Home Inc	Darlingford Upper Goulburn Nursing Home	5	Eildon, RD	EILDON	3713	40	10
Djerriwarrh Health Services	Grant Lodge Aged Care Facility	123	Clarinda, ST	BACCHUS MARSH	3340	30	0
Dunmunkle Health Services	Rupanyup District Nursing Home	89	Cromie, ST	RUPANYUP	3388	21	0
East Grampians Health Service	70 Lowe Street	70	Lowe, ST	ARARAT	3377	45	0
East Grampians Health Service	Garden View Court Hostel		Lowe, ST	ARARAT	3377	0	24
East Grampians Health Service	Parkland House Hostel		Delacombe, WAY	WILLAURA	3379	0	10
East Grampians Health Service	Willaura Hospital Nursing Home		Delacombe, WAY	WILLAURA	3379	2	0
East Wimmera Health Service	Birchip Nursing Home		Taverner, ST	BIRCHIP	3483	10	0
East Wimmera Health Service	Charlton Hostel	4-8	Menzies, ST	CHARLTON	3525	0	5
East Wimmera Health Service	Grandview Lodge		Grandview, ST	WYCHEPROOF	3527	20	10
East Wimmera Health Service	Kara Court Nursing Home		North Western, RD	ST ARNAUD	3478	30	0
East Wimmera Health Service	Kara-Linga Nursing Home	4-8	Menzies, ST	CHARLTON	3525	10	0
East Wimmera Health Service	Riverview Aged Care		Aitken, AV	DONALD	3480	12	0
Eastern Health	Edward Street Nursing Home	2-6	Edward, ST	UPPER FERNTREE GULLY	3156	30	0
Eastern Health	Monda Lodge Hostel	377	Maroondah, HWY	HEALESVILLE	3777	0	30
Eastern Health	Mooroolbark Aged Persons Mental Health Residential Care Facility	73 A	Cambridge, RD	MOOROOLBARK	3138	30	0
Eastern Health	Northside Aged Persons Mental Health Residential Care Facility		Mahoneys, RD	BURWOOD EAST	3151	30	0
Echuca Regional Health	Glanville Village	9-27	Francis, ST	ECHUCA	3564	69	10
Edenhope & District Memorial Hospital	Kowree Nursing Home Unit	128-13	Elizabeth, ST	EDENHOPE	3318	18	0

Edenhope & District Memorial Hospital	Lakes Hostel, The		Lake, ST	EDENHOPE	3318	0	22
Gippsland Southern Health Service	Alchera House	6	Gordon, ST	KORUMBURRA	3950	20	0
Gippsland Southern Health Service	Hillside Lodge Hostel	6	Gordon, ST	KORUMBURRA	3950	0	30
Gippsland Southern Health Service	Koorooman House Nursing Home	64	Koonwarra, RD	LEONGATHA	3953	32	0
Glenview Community Care Inc	Glenview Community Care Nursing Home	168	High, ST	RUTHERGLEN	3685	30	10
Goulburn Valley Health	Grutzner House		Graham, ST	SHEPPARTON	3630	20	0
Goulburn Valley Health	Parkville Aged Care Facility	64-68	Park, ST	TATURA	3616	15	0
Goulburn Valley Health	Waranga Aged Care Hostel	14	High, ST	RUSHWORTH	3612	0	32
Goulburn Valley Health	Waranga Nursing Home		Coyle, ST	RUSHWORTH	3612	10	0
Hepburn Health Service	Creswick Nursing Home		Napier, ST	CRESWICK	3363	30	0
Hepburn Health Service	Daylesford Nursing Home	13	Hospital, ST	DAYLESFORD	3460	18	0
Hepburn Health Service	Lumeah Lodge Hostel		Hospital, ST	DAYLESFORD	3460	0	12
Hepburn Health Service	Trentham Hostel	22-24	Victoria, ST	TRENTHAM	3458	0	20
Hepburn Health Service	Trentham Nursing Home	22-24	Victoria, ST	TRENTHAM	3458	15	0
Hesse Rural Health Service	Hesse Rural Health Service Nursing Home	8	Gosney, ST	WINCHELSEA	3241	17	7
Heywood Rural Health	Heywood Nursing Home	21	Barclay, ST	HEYWOOD	3304	12	0
Heywood Rural Health	Sydney-Lynne Quayle & Fitzroy Lodge Hostel	21	Barclay, ST	HEYWOOD	3304	0	33
Inglewood & District Health Service	Inglewood & Districts Health Service (Nursing Home)	3	Hospital, ST	INGLEWOOD	3517	15	0
Inglewood & District Health Service	Inglewood & Districts Health Service Hostel	3	Hospital, ST	INGLEWOOD	3517	0	20
Kerang District Health	Glenarm Nursing Home		Burgoyne, ST	KERANG	3579	30	0
Kilmore & District Hospital, The	Caladenia Nursing Home		Rutledge, ST	KILMORE	3764	30	0
Kilmore & District Hospital, The	Dianella Hostel		Rutledge, ST	KILMORE	3764	0	30
Kooweeup Regional Health Service	Killara Hostel	215	Rossiter, RD	KOOWEEUP	3981	0	40
Kooweeup Regional Health Service	Westernport Nursing Home	235	Rossiter, RD	KOOWEEUP	3981	20	0
Koroit & District Memorial Health Services Inc	Koroit & District Memorial Services	33	Mill, ST	KOROIT	3282	30	0
Kyabram and District Health Services	Kyabram Nursing Home		Fenaughty, ST	KYABRAM	3620	42	0
Kyneton District Health Service	Thomas Hogan Wing Nursing Home		Caroline Chisholm, DR	KYNETON	3444	30	0
LaTrobe Regional Hospital	Latrobe Regional Hospital Nursing Home		Princess, HWY	TRARALGON	3824	10	0
Lorne Community Hospital	Lorne Nursing Home	Lot 1	Albert, ST	LORNE	3232	20	0

Lyndoch Warrnambool Inc	Lyndoch Hostel		Hopkins, RD	WARRNAMBOOL	3280	0	113
Lyndoch Warrnambool Inc	Lyndoch Nursing Home		Hopkins, RD	WARRNAMBOOL	3280	85	0
Maldon Hospital	Jessie Bowe House		Chapel, ST N	MALDON	3463	0	12
Maldon Hospital	Maldon Hospital - Mountview Nursing Home		Chapel, ST N	MALDON	3463	16	0
Mallee Track Health & Community Service (MPS)	Cannon T D Martin Nursing Home	28	Britt, ST	OUYEN	3490	30	0
Mallee Track Health & Community Service (MPS)	Dr R W Pattinson Hostel	53	Hughes, ST	OUYEN	3490	0	20
Manangatang & District Hospital	Manangatang & District Nursing Home		Pioneer, ST	MANANGATANG	3546	10	0
Mansfield District Hospital	Bindaree Retirement Centre		Cnr Highett Street & Lovick, AV	MANSFIELD	3722	0	42
Mansfield District Hospital	Buckland House Nursing Home		Highett, ST	MANSFIELD	3722	30	0
Maryborough District Health Service	Avoca Hostel	13	Liebig, ST	AVOCA	3467	0	10
Maryborough District Health Service	Avoca Nursing Home	10	Templeton, ST	AVOCA	3467	20	0
Maryborough District Health Service	Dunolly Nursing Home	12	Havelock, ST	DUNOLLY	3472	15	4
Maryborough District Health Service	Maryborough Nursing Home	77-87	Clarendon, ST	MARYBOROUGH	3465	45	0
McIvor Health & Community Services	Heathcote Aged Care Service	39	Hospital, ST	HEATHCOTE	3523	0	30
McIvor Health & Community Services	McIvor Health & Community Services Nursing Home	39	Hospital, ST	HEATHCOTE	3523	12	0
Melbourne Health	Boyne Russell House	184-18	Victoria, ST	BRUNSWICK	3056	30	0
Melbourne Health	Cyril Jewel House	68	Hassett, CR	KEILOR EAST	3033	45	0
Melbourne Health	Gardenview House		Poplar, RD	PARKVILLE	3052	21	0
Melbourne Health	McLellan House Hostel	2	Robinson, ST	BROADMEADOWS	3047	0	32
Melbourne Health	Merv Irvine Nursing Home	1231	Plenty, RD	BUNDOORA	3083	30	0
Melbourne Health	Parkville Hostel	83	Poplar, RD	PARKVILLE	3052	0	50
Melbourne Health	South Stone Lodge Residential Facility	276	Princes, HWY	WERRIBEE	3030	30	0
Melbourne Health	Weighbridge Residential Care Facility	72	Ascot Vale, RD	FLEMINGTON	3031	30	0
Melbourne Health	Westside Lodge Nursing Home		Santiago, ST	ST ALBANS	3021	30	0
Moyne Health Services	Moyne Health Services-Belfast House	97	Regent, ST	PORT FAIRY	3284	30	0
Moyne Health Services	Moyne Health Services-Moyneyana House	31	College, ST	PORT FAIRY	3284	0	52
Mt Alexander Hospital	Mt Alexander Hostel	20	Cornish, ST	CASTLEMAINE	3450	0	90
Mt Alexander Hospital	Mt Alexander Nursing Home	20	Cornish, ST	CASTLEMAINE	3450	90	0
Nathalia District Hospital	Banawah	31 - 3	Elizabeth, ST	NATHALIA	3638	16	0
Northeast Health Wangaratta	Illoura - Residential Aged Care	32-50	College, ST	WANGARATTA	3677	62	0

Northern Health	Ian Brand Nursing Home	1231	Plenty, RD	BUNDOORA	3083	30	0
Numurkah District Health Service	Karinya		Katamatite-Nathalia, RD	NUMURKAH	3636	30	0
Numurkah District Health Service	Numurkah Pioneers Memorial Lodge	11-17	Katamatite-Nathalia, RD	NUMURKAH	3636	0	36
Omeo District Health	Omeo District Hospital /Hostel	12	Easton, ST	OMEO	3898	0	4
Omeo District Health	Omeo District Hospital Nursing Home	12	Easton, ST	OMEO	3898	10	0
Orbost Regional Health (MPS)	Lochiel House	112	Stanley, RD	ORBOST	3888	0	20
Orbost Regional Health (MPS)	Waratah Lodge	104	Boundary, RD	ORBOST	3888	15	0
Otway Health and Community Services (MPS)	Otway Health Community Services	39-43	McLachlan, ST	APOLLO BAY	3233	9	15
Peninsula Health	Carinya Nursing Home (Frankston Extended Care)	125	Golf Links, RD	FRANKSTON	3199	30	0
Peninsula Health	Jean Turner Nursing Home	14	Cairns, AV	ROSEBUD	3939	30	0
Peninsula Health	Lotus Lodge Hostel	1497	Nepean, HWY	ROSEBUD	3939	0	65
Peninsula Health	Michael Court Hostel	32	Michael, CT	SEAFORD	3198	0	18
Portland District Health	Harbourside Lodge	141	Bentinck, ST	PORTLAND	3305	30	0
Red Cliffs & Community Aged Care Services Inc.	Red Cliffs Nursing Home	220C	Calotis, ST	RED CLIFFS	3496	30	0
Red Cliffs & Community Aged Care Services Inc.	Sunraysia Hostel for the Elderly	220A	Calotis, ST	RED CLIFFS	3496	0	45
Robinvale District Health Services (MPS)	Riverside Hostel	39	Latje, RD	ROBINVALE	3549	0	30
Robinvale District Health Services (MPS)	Robinvale Nursing Home	39	Latje, RD	ROBINVALE	3549	14	0
Rochester & Elmore District Health Service	Rochester and District Hostel		Village, DR	ROCHESTER	3561	0	30
Rochester & Elmore District Health Service	Rochester Nursing Home Annexe		Village, DR	ROCHESTER	3561	30	0
Rural Northwest Health	Corrong Village Hostel	100	Toole, ST	HOPETOUN	3396	0	23
Rural Northwest Health	Hopetoun Nursing Home	107	Lascelles, ST	HOPETOUN	3396	10	0
Rural Northwest Health	J.R & A.E Landt Hostel		Cox, ST	WARRACKNABEAL	3393	0	30
Rural Northwest Health	J.R & A.E Landt Nursing Home		Dimboola, RD	WARRACKNABEAL	3393	32	0
Seymour District Memorial Hospital	Seymour District Nursing Home		Brettoneux, ST	SEYMORE	3661	30	0
South West Healthcare	Merindah Lodge Aged Care Facility		York, ST	CAMPERDOWN	3260	0	8
South West Healthcare	Merindah Lodge Nursing Home		York, ST	CAMPERDOWN	3260	28	0
Southern Health	A G Eastwood Hostel	376	Warrigal, RD	CHELTONHAM	3192	0	100
Southern Health	Allambee Nursing Home Kingston Centre	376	Warrigal, RD	CHELTONHAM	3192	35	0

Southern Health	Kingston Centre Nursing Home	376	Warrigal, RD	CHELTONHAM	3192	112	0
Southern Health	Mooraleigh Hostel	748	Centre, RD	BENTLEIGH EAST	3165	0	29
Southern Health	Yarraman Nursing Home		Yarraman, RD	NOBLE PARK	3174	30	0
St Vincents Health	Auburn House	98	Camberwell, RD	HAWTHORN EAST	3123	30	0
St Vincents Health	Cambridge House	3	Cambridge, ST	COLLINGWOOD	3066	30	0
St Vincents Health	Riverside House	2	River, ST	RICHMOND	3121	30	0
Stawell Regional Health	Macpherson Smith Nursing Home		Sloane, ST	STA WELL	3380	35	0
Swan Hill District Hospital	Nyah District Aged Care Service (Jacaranda Lodge)	1	Monash, AV	NYAH WEST	3595	0	15
Swan Hill District Hospital	Swan Hill District (Nyah Campus)		Monash, AV	NYAH WEST	3595	12	0
Swan Hill District Hospital	Swan Hill District Nursing Home		Splatt, ST	SWAN HILL	3585	52	0
Tallangatta Health Service	Bolga Court Hostel		Lakeside, DR	TALLANGATTA	3700	0	36
Tallangatta Health Service	Lakeview Nursing Home		Barree, ST	TALLANGATTA	3700	15	0
Terang and Mortlake Health Service	Mount View Aged Care Facility	1	Austin, AV	TERANG	3264	15	0
Timboon & District Health Service (MPS)	Timboon & District Healthcare Service	21	Hospital, ST	TIMBOON	3268	8	0
Upper Murray Health & Community Services (MPS)	Upper Murray Health & Community Services		Kiell, ST	CORRYONG	3707	24	21
West Gippsland Healthcare Group	Andrews House	42	School, RD	TRA FALGAR	3824	20	30
West Gippsland Healthcare Group	Cooinda Lodge Nursing Home		Landsborough, ST	WARRAGUL	3820	60	0
West Wimmera Health Service	Allan W Lockwood Special Care Hostel		Schurmann, ST	NATIMUK	3409	0	11
West Wimmera Health Service	Archie Gray Nursing Home Unit		Roache, ST	KANIVA	3419	11	0
West Wimmera Health Service	Iona Digby Harris Home	49	Nelson, ST	NHILL	3418	26	0
West Wimmera Health Service	Jeparit & District Nursing Home	2	Charles, ST	JEPARIT	3423	10	5
West Wimmera Health Service	Kaniva Hostel	9	Farmers, ST	KANIVA	3419	0	10
West Wimmera Health Service	Natimuk BNH-Nursing Home Annexe		Nelson, ST	NHILL	3418	20	0
West Wimmera Health Service	Rainbow Bush Nursing Home Annexe	2	Swinbourne, AV	RAINBOW	3424	10	0
West Wimmera Health Service	Rainbow Bush Nursing Hospital Hostel	12	Sanders, ST	RAINBOW	3424	0	10
West Wimmera Health Service	Trescowthick House Hostel	6	Schurmann, ST	NATIMUK	3409	0	10
Western District Health Service	Birches - Specialist Extended Care Facility, The	20	Foster, ST	HAMILTON	3300	30	15
Western District Health Service	Grange Residential Care Services	19	Gray, ST	HAMILTON	3300	30	15
Western District Health Service	Kolor Lodge Hostel	148	Watton, ST	PENSHURST	3289	0	10
Western District Health Service	Penshurst Nursing Home	148	Watton, ST	PENSHURST	3289	17	0
Western District Health Service	Valley View Nursing Home	119	McKebery, ST	COLERAINE	3315	12	0
Western District Health Service	Wannon Court Hostel	67	McLeod, ST	COLERAINE	3315	0	41
Western Health	Hazeldean Nursing Home	211-21	Osborne, ST	WILLIAMSTOWN	3016	40	0

Western Health	Reg Geary Nursing Home	54	Pinnacle, CR	MELTON	3337	30	0
Wimmera Health Care Group	Dimboola District Hospital Nursing Home Unit	32-36	Anderson, ST	DIMBOOLA	3414	20	8
Wimmera Health Care Group	Kurrajong Lodge		Cnr Arnott & Robinson, ST	HORSHAM	3400	0	36
Wimmera Health Care Group	Wimmera Nursing Home	100	Baillie, ST	HORSHAM	3400	70	0
Yarram & District Health Services	St Elmo's Nursing Home	85	Commercial, RD	YARRAM	3971	15	15
Yarrawonga District Health Service	Allawah Special Care Hostel		Piper, ST	YARRAWONGA	3730	10	20
Yarrawonga District Health Service	Karana		Piper, ST	YARRAWONGA	3730	30	0
Yarrawonga District Health Service	Warrina Hostel		Cnr Piper & Hume, ST	YARRAWONGA	3730	0	28
Yea and District Memorial Hospital	Rosebank Hostel	20	Miller, ST	YEA	3717	0	15
Yea and District Memorial Hospital	Rosebank Nursing Home	45	Station, ST	YEA	3717	10	0

## AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

*Workplace Relations Act 1996*

s.576E – Procedure for carrying out award modernisation process

### **Award Modernisation**

(AM2008/13)

#### **Stage 2 Health and Welfare Industries**

### **FURTHER SUBMISSION OF THE AUSTRALIAN NURSING FEDERATION**

In addition to the written and oral submissions of the Australian Nursing Federation (ANF), we seek to respond to a number of matters that arose during the consultation hearings of 3 and 4 December.

#### **1. The role of nursing**

A number of employer groups including the AFEI (PN432 and PN433), the Aged Care Employer Group (PN677 and PN678) and the WACCI (PN964) made sweeping and unsubstantiated assertions that nursing work differed according to the employers' setting. We note that in no case did the employers provide any supporting evidence for the assertion such as decisions of industrial tribunals, relevant organisational structures, position descriptions etc.

Evidence to the contrary can be found in the Report **“Working in Aged Care: Medication Practices, Workplace Aggression, and Employee and Resident Outcomes”** a study by the University of Melbourne of aged care nursing staff employed in public and private facilities across Victoria. The report *inter alia* concluded that there were no significant differences in the role and environment between different facilities be they public or private. The report is attached to this submission.

The employers' assertion is also inconsistent with the approach taken by the state and territory registering authorities as well as the providers of nurse education. It is particularly inconsistent having regard to the recent COAG decision to establish nationally consistent nurse regulation.

The aged care employers draft award provided for a truncated nursing classification structure. We note that the draft award indicated that the employers intended to elaborate on the reasons as to why a truncated classification structure was suitable for the aged care sector. We note that the employers did not do so.

On this issue it is relevant that there are strong parallels in nomenclature and structures across nursing classifications both within and across the public and private sectors of the health and welfare industries.

It is also noteworthy that the private hospitals representatives have echoed the written submissions of the ANF as to the appropriateness and acceptability of the current classification descriptors and structures as follows:

*Traditionally industrial instruments governing Health Industry employees have been crafted along occupational lines, specific to the environment in which the service is being provided and as the ANF noted in its submission in the 30 years that Nursing Federal Awards and much longer for the previous State instruments have operated there has been little disputation regarding their interpretation and application. The history in part demonstrates that there is an acceptance by nurses and their employers that the extant Nursing Safety Net Awards reflect appropriate minimum conditions and are understood and applied in workplaces across industries where nurses are employed. We would concur that State based occupational instruments have indeed served the sectors well within the overall Health Industry. (See Fisher PN 484)*

## **2. Award scope of an aged care industry award**

At PN188 the HSU assert that aged care is quite an identifiable, growing and large part of the overall health care sector. Unfortunately, neither the HSU nor any other party supporting an “aged care industry” award was able to provide the Commission with a succinct or clear definition of the reach of aged care services that are to be covered by an industry award.

Examples of this inability can be found at PN673 to PN678 where the aged care employers are unclear as to the definition of the industry, similarly Blue Care at PN879 to 881 and finally the ASU at PN1017 to PN1022 where they submit (convincingly) that rather than an industry award the employers are seeking an award that is, in many respects, confined to selected and arbitrary activities and services provided by particular employers.

In the written submissions of 31 October, the ANF put forward that aged care covers a number of services ranging from those provided in a residential aged care facilities in acute hospitals through to community health services such as home and aged care programmes eg. health, nursing services at home and centre based respite care. We also submitted that arrangements for the provision of aged care services are complex and varied with all tiers of government involved as regulators, providers of care or both, (see para 6).

The oral submissions of 3 and 4 December support the ANF view that aged care (however defined) is an extremely complicated and complex area. Accordingly we respectfully submit that the Commission should proceed cautiously when considering whether the aged care sector can be neatly described for the purposes of determining the scope of a modern award given its complexity and the acknowledged fact that it is continually changing.

Finally on this matter we note that historically this hasn't been an issue as , in the main, employees in health and welfare industries have been covered by occupational awards.

### 3. Demographics of an aged care workforce

In his attempts to distinguish the aged care sector from the health and welfare industries Mr Boyce on behalf of the aged care employers stated at PN 608:

*The other important profiling issue for the workforce that sets it apart from the other health sectors is that the workforce is more likely to be female, work shorter hours and be older. And again some of the data there talks about 94 per cent of the aged care workforce being female, 65 per cent being part time, and that issue of part time is central to some of the issues created in the exposure draft awards that the parties have put before the Commission. And then 57 per cent of employees are over the age of 45.*

In the written submissions of June and October 2008 the ANF provided the Commission with a range of demographics relating to the national nursing workforce. These included that in 2005 the average age of all nurses was 45.1 years and 49.8% worked part time. In addition approximately 95% of the nursing workforce was female.

The foregoing demonstrates that nurses employed in the aged care sector reflect similar (if not the same) demographics to nurses employed throughout the health and welfare industries.

#### **4. Scope of nursing occupational award**

Employers and some unions sought to argue that the potential overlap between the role and responsibility of an Assistant in Nursing and a Personal Care Worker acted against the making of an occupational award.

Whether or not such overlap exists is not relevant to whether nurses are covered by occupational or industry awards.

We submit that any difficulties that the parties may have with the proposed scope of the nursing occupational award are matters for the refinement of the scope, if necessary.

A proposed scope clause should not be fatal to the creation of an occupational award.

#### **5. Part time Employment**

We note the various exchanges between the commissioners and employers with respect to part time employment and refer the commission to the existing award provisions providing for part time employment, particularly the references to minimum hours and terms of engagement. An examination of thirteen federal and state awards applying to nursing staff shows that 7 awards contain provisions for minimum hours of work. Of these 4 specifically require hours to be agreed prior to or on commencement and cannot be altered without mutual consent. The ANF draft exemplar nursing occupational award provision for part time employment is based on the latter and includes wording from the Nurses (ANF-SA Private Sector) Award 2003 for agreement in relation to the rostering arrangements which will apply to those hours.

## **6. Time off in lieu of overtime**

We draw the Commissions attention to PN 539 to 547 in transcript on Wednesday 3 December 2008 and comments by the PHAQ in relation to awards containing provisions for the taking of time in lieu at the penalty rate equivalent rather than at time for time. In addition to the awards identified by Ms Hepworth (Victoria, Western Australia and Northern Territory), other federal and state nursing awards that also provide for the taking of time in lieu at the penalty rate equivalent are as follows: The Nurses (Tasmanian Private Sector) Award 2005; and in Queensland the Private Hospital Nurses' Award – State 2003. Other Queensland state awards such as the Nurses' Aged Care Award – State 2005, Hospital Nurses' Award – State 2003 and the Nurses' Domiciliary Services Award – State 2003 all have similar provisions providing for time off in lieu at time for time for the first 3 hours of overtime in any one fortnight and time off in lieu at the penalty rate equivalent for any period in excess of 3 hours overtime in any one fortnight.

## **7. Blue Care Costings**

Blake Dawson Waldron on behalf of Blue Care make submissions [PN915 – PN916] as to the cost impact. The matters they complain about are however already contained in the Blue Care/Wesley Mission Brisbane – QNU/ANF Workplace Agreement No. 6, a nursing only agreement. Clause 5.1.4(f) of that agreement provides that part time employees are paid at loaded overtime rates for overtime worked in excess of rostered hours. Clause 8.1 of that agreement provides for not less than 5 weeks annual leave, and 6 weeks in the case of continuous shift workers.

## **8. The inconsistency that is the employers**

Much has been said by and on behalf of the aged care employers in an attempt to distinguish themselves both from other sections of the health and welfare industry, and from the history of occupational nursing awards that have applied for many many years. Yet these employer submissions are at odds with submissions made by aged care employers in other forums. Attached to this supplementary submission is a copy of a submission made by a number of aged care employers including Blue Care, TriCare, RSL Care and the peak organisation Aged Care Queensland (who are all said to be represented in these proceedings and who it is said support the submissions that have been made on their behalf) to the National Health and Hospital Reform Commission in May of 2008 (the NHHRC Submission).

At PN605 and PN607 of transcript Mr Boyce submits that Aged Care is an industry because the Commonwealth Govt. says it's an industry and "The industry is basically wholly regulated by the Commonwealth..." In the NHHRC Submission the aged care employers submit that:

*The financial management of these organisations is complex due to the numerous government funding regimes, their complexity, the government policy of co-contribution by residents or clients. This complexity is a consequence of both federal and state involvement in program delivery and regulation with both state and federal government involvement in a number of significant areas.*

*..... Against this background it is important to stress that private organizations must meet the normal governance obligations expected in commercial and corporate organizations.*

The NHHRC Submission goes on to discuss health policy:

*The group supporting this submission is cognizant of the many facets of health policy which have to be considered, their inter-relationships and the history of policy development.*

The NHHRC Submission argues for a greater integration of the residential and community care sectors and the acute sector

*Identification of areas of greater cooperation on health care related activity, potential coordination between sectors, the physical infrastructure of both sectors and the potential for their efficient mutual use and consideration of issues related to demand and supply for services.*

The NHHRC Submission argues further that there are important relationships with other sectors for the industry

*An important relationship that supports those services is medical practitioner clinics*

The NHHRC Submission rejects the proposition [PN607- PN608] that alleged distinctions in the workforce between aged care and other sectors should be continued:

*There are substantial and significant differences between the two sectors in respect to wages, conditions, career structures and training which significantly disadvantage aged care providers when competing for staff with the public sector. This issue will require positive resolution if the goal of intergration and resource efficiency is to be achieved.*

*... In health services the stability and skills of management and workforce respectively are key factors to achieving outcomes for patients or residents in all care delivery settings. The issue of workforce sustainability is related to wage levels and influences recruitment as prospective employees make choices cover wage and career opportunities.*

At PN686 the aged care employers sought again to argue for distinct 'aged care' based structures however the NHHRC Submission argues that:

*The integration of the sectors from and education and development perspective would invite an examination of the most efficient and cost effective agenda for training and development...*

The NHHRC Submission seeks

*... the establishment of a clear policy goal...to establish a partnership between the public and private sectors on infrastructure needs, access, areas of cooperation, and coordination and measurement of achieving agreed goals and a mechanism for review, evaluation and rectification.*

In summary, it would appear the aged care employers are quite willing to change their position depending on the forum.

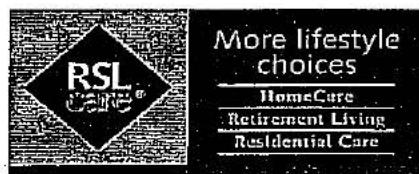
Submission to the National Health and Hospital  
Reform Commission

30 May 2008

Submitted on behalf of the Chief Executive Forum  
Queensland



Queensland Hibernian  
Friendly Society (Ltd)



More lifestyle  
choices  
HomeCare  
Retirement Living  
Residential Care



## Submission Summary

The attached submission addresses four issues that directly affect the delivery of aged and residential care services by major providers in Queensland. The submission is supported by BlueCare, Queensland Baptist Care, Queensland Hibernian Friendly Society, RSL Care, Sundale, TriCare and Aged Care Queensland.

The Chief Executives of the provider organizations have direct responsibilities for the effective operation of their organization. Their responsibilities include the financial management, strategic planning, developing and implementing investment decisions and meeting statutory and compliance requirements under both state and federal legislation. The impact of policy, regulation and funding are substantial issues impinging upon the effective management of their organisations. The challenges for the sector are significant.

This submission discusses those issues that should form part of the examination of the current health system. The aged and community care sector can make a significant contribution to the future, effective delivery of health services in a mixed public-private system.

The organizations supporting this submission collectively employ in excess of 15,000 staff in the delivery of a broad range of services in either residential care, community care. Their organizations utilize sophisticated management, financial, and employee relations processes to meet the obligations of the boards, employees, residents, relatives of residents and the regulators.

The financial management of these organizations is complex due to the numerous government funding regimes, their complexity, the government policy of co-contribution by residents or clients. This complexity is a consequence of both federal and state involvement in program delivery and regulation with both state and federal government involvement in a number of significant areas.

Regulatory compliance obligations are extensive and they extend well beyond original issues of service quality to encompass funding claims, their verification, prudential regulation and allocation of new subsidized places. The multiplicity of regulations, overlapping of compliance, alterations in care subsidy policy, the impact of policy change on existing investment in infrastructure and viability are significant features of the structure of the sector and therefore the efficiency and effectiveness of the sector.

Against this background it is important to stress that private organizations must meet the normal governance obligations expected in commercial and corporate organizations. The financing of service delivery under current policy is inadequate and inappropriate for the dynamics of a modern integrated system as presaged by the Commission. While the participants in this submission are subject to similar corporate governance obligations to the commercial sector, the degree of control over revenue and organizational management is limited by current policy.

Revenue is explicitly controlled by various care subsidies regimes which set the price, planning for innovation in service. Scope or efficiency in these circumstances is impeded by the Department of Health and Ageing' annual allocation round. Also regulatory changes impose significant costs and human resource diversion as providers respond with little compensation in care subsidies.

The development of aged care policy and how it is modified by the federal government can and does have deleterious effect on all providers in respect of past and future investment decisions in the sector. The significance of policy is amplified in a service sector where most of the revenue is determined by government policy and this has a direct effect on the financial viability of providers and their obligations to financial institutions.

Very considerable investments were made under the "Ageing in Place" policy in Hostels. Recent changes to the funding policy have impacted on this long-standing policy commitment which providers have relied upon. The introduction in 2008 of a new care funding regime called the Aged Care Funding Instrument will have a significant effect on the operational viability of many such facilities because of the effect on revenue. The pattern of policy development since 1996 has been based on the budgetary imperatives of the federal government with little regard for its impact. We believe that governance should extend to the impact that such shifts in policy will have on sector viability, sustainability and investment as part of a shared responsibility between the sector and government.

The Chief Executives believe that the consideration of all of the dimensions of the health reform agenda is an opportunity to develop new and improved structures for a responsive and adaptive health system which is overdue. The group supporting this submission is cognizant of the many facets of health policy which have to be considered, their inter-relationships and the history of policy development.

The CEO forum would welcome the opportunity to expand upon policy reform issues addressed in this submission.

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**Submission to the National Health and Hospital Reform Commission**

**1. Integrating acute services and aged care services, and improve the transition between hospital and aged care**

The public hospital sector operates at state and territory level without any formal structure ensuring efficient interaction with the government funded and largely non-government owned aged and community care sector.

The absence of formal cooperative structures to ensure appropriate and efficient utilisation of the unique strengths of both sectors reflects the separate historical development of the acute care and residential care sectors.

○ The emphasis of the federal government reform until 2007 has been focused on the Australian Health Care Agreements and efficiency of public hospitals. The theme of integration is a logical extension of the major policy and funding role that the federal government exercises in both sectors.

To achieve the goal of effective integration, it is essential to first recognise that aged care and community services, though not publicly owned, are publicly funded. The aged and community services sector has a focus on long term care in contrast with the acute sector. The status of the non-government aged care providers is one of private contractors, where almost complete control is exercised by the federal government over major aspects of service delivery, quality and financial return. Current health policy has no clear emphasis on health care efficiency or effective resource utilisation through the coordination of the aged and community care sectors capacity and capability with that held by the acute sector.

○ A policy goal of integration will require consideration of the relative capabilities of the two sectors. Identification of areas of greater cooperation on health care related activity, potential coordination between sectors, the physical infrastructure of both sectors and the potential for their efficient mutual use and consideration of issues related to demand and supply for services.

The aged and community care sector has substantial infrastructure where residential care beds number 167,070 beds providing care to ten percent of Australians over 70 years of age. (1). Home and Community Care Services reach approximately 700,000 individuals in their homes. The size of the residential and community care sectors is significant with an infrastructure that has the potential to both augment public health service delivery and contribute to the more efficient use of acute beds. The sector has an extensive presence in regional and rural areas and is often a major employer within the community.

Residential care is part of the total of 4,461 health service organisations which deliver services outside of the acute public health system and is comprised of 2,840 residential care facilities, 1,098 community aged care services and 523 flexible aged care services (2). A considerable number of providers deliver both residential care and community care. Expansion of the sector in terms of the beds, by comparison with the acute sector has proceeded at much greater rate which reflects trends in demand.

The scale and scope of such services reflects the unprecedented demographic change and the progressive development, complexity and extension of programs either in residential care or community in response. The threefold expansion of Community Aged Care Packages from 10,000 in 1998 to 35,574 in 2006 in particular indicates the level of demand for care in an ageing population (10).

An important relationship that supports those services is medical general practitioner clinics. Federal government aged and community care policy has and remains based on the use of external providers who contract for care subsidies based on licenses for a specific allocation of beds or community services as outlined in the paragraph above.

The introduction of the transition care arrangements under the previous government of funding 2,000 places was an allocation to state and territory health departments with no clear outcomes as to their purpose. There was no strategy to actively identify the real potential of the aged care sector to alleviate pressure on public hospital and to ensure a more cost effective use of public hospital beds. The places have been used with a range of funding mechanisms having a limited impact on acute bed availability.

To facilitate access to transition care places from the acute sector, consideration should be given to the establishment of a preferred provider status under a heads of agreement process. New criteria should include those aged care providers who are deemed to have the capacity and demonstrated track record, may be contracted specifically to facilitate discharge from acute hospitals into transition care programs.

The current method for allocation of transition care funding which requires aged care providers to tender to state government departments on a district by district basis is inefficient, costly and a protracted process which is inhibitive in the objective of facilitating patients out of the acute care system to more appropriate settings. Significant efficiencies can be obtained by streamlining this process through amendment to the state government's state purchasing policy.

## **2. Providing a well qualified and sustainable workforce**

There are substantial and significant differences between the two sectors in respect of wages, conditions, career structures and training which significantly disadvantage aged care providers when competing for staff with the public sector. This issue will require progressive resolution if the goal of integration and resource efficiency is to be achieved.

Consideration of the relative wage levels across comparable occupations in both sectors is necessary if sustainable changes are to be achieved. Since 1996 wage increases, either through the centralised arbitration process or more commonly through enterprise bargaining negotiations in aged and community care, have not been fully funded despite achieving significant improvements in productivity and work practices. These productivity reforms in respect of care delivery are now at risk because of an increasingly casualised and transitory workforce.

Retention of employees in aged care is directly affected by the considerable wage disparity between the two government funded sectors. The effect of this wage disparity has been raised in federal parliament on a consistent basis by Labor when it was the Opposition. It is also included as part of the ALP national policy platform.

In health services the stability and skills of management and workforce respectively are key factors to achieving outcomes for patients or residents in all care delivery settings. The issue of workforce sustainability is related to wage levels and influences recruitment as prospective employees make choices over wages and career opportunities. Similarly long term employees in the sector ultimately choose to move to the public health system when the parity gap reaches a critical point where personal financial considerations dictate it.

Staff turnover in the aged and community care sector is a serious challenge for employers. A survey of providers including church, community and private providers in 2002 (5) and in 2004 (6) identified recruitment and retention as a trend unlikely to reverse in a tight employment market. The results suggested that 25 percent of personal carers and 20 percent of qualified nurses have to be replaced each year.

Turnover represents a major impediment to organizational efficiency in the aged and community care sector where continuous improvement is mandated by regulation. It is very difficult to develop the reliability and consistency of outcomes when considerable management resources are continually devoted to recruitment. The growth in nursing agencies in parallel with those turnover trends has further compounded costs and operational difficulties in aged care facilities. Providers and staff will overwhelmingly confirm the considerable emotional and physical benefits of the retention of permanent staff in a long term care environment.

The risk of declining standards via turnover and wage disparity is compounding under the effects of funding policies over the last 12 years. The Stewart Brown 2007 annual survey of residential homes found the vital hands-on care residents receive had declined to 90 minutes a day under the pressure of the combination of staff shortages and increased demand on financial resources (7).

It is equally valid to propose that training and education should have the same emphasis in aged care as in the government funded public health care system where particular educational strategies are responses to changes in skill needs. However, current funding levels are too restrictive to allow for the significant staff development necessary to respond to the growing demands of our ageing population. An ageing population will require an increasing emphasis on training and education on core competencies that are needed to respond to the health care needs of that group.

Quality care of the elderly cannot be achieved without aged care specific training for tertiary qualified and vocationally trained staff. There is significant recruitment of unqualified staff occurring which needs to be addressed through the regime of industry training strategy. Aged care is subject to a continuous improvement regime imposed by legislation and supervised by the Aged Care Standards and Accreditation Agency which has significant compliance and enforcement powers.

Existing programs by the federal government are based on scholarships and training for particular categories with limited evaluation processes in respect of a measurable impact on known skill shortages. There is no direct sector wide engagement on training strategy or structured involvement of providers where ownership of outcomes can be established with major providers. The integration of the sectors from an education and development perspective would invite an examination of the most efficient and cost effective agenda for training and development in contrast to existing programs which are based on scholarships.

### **3. Maximizing a productive relationship between public and private sectors**

The goal of a productive relationship implies that the principal administrative arm of current federal government health policy which is the state and territory health departments, share the Commission's goal to ensure that the necessary priority occurs. The aged care sector would welcome a process of engagement on how to contribute to the potential architecture for health care delivery.

- Current policy is to treat both acute private hospital services and aged care as separate and unrelated parts of a national health system, even though the federal government exerts considerable funding and regulatory control over both areas of health care delivery. Improved cooperation between the acute sector and the residential/ community sectors should be considered as part of the reform process.

The goal of creating and maximising a productive relationship would first require the establishment of a clear policy goal by the Commission to establish a partnership between the public and private sectors on infrastructure needs, access, areas of cooperation, and coordination and measurement of achieving agreed goals and a mechanism for review, evaluation and rectification. Under current arrangements between the federal and state governments' a key mechanism which needs review is the role of Aged Care Assessment Teams which are funded by the federal government and operationally managed by the state governments. A significant responsibility of these teams is the discharge processes of older patients from acute hospitals to aged care sector. There remain a number of significant issues related to the efficiency of this process and related to maximizing a productive relationship between the public and private sectors.

○ The achievement of a productive relationship would require better use of information technology for admissions to hospitals, discharges to the residential sector and reliance on GP clinics. The use of assistive technology in aged care facilities at the point of interaction with residents would lead to enhanced clinical documentation and quality control. Assistive technology should advance to a stage where efficiencies and quality improvements are underpinned by an efficient and productive relationship with the acute sector.

### **4. Providing for an ageing population**

The significance of an ageing population and its impact on the health care system are well understood and the debate revolves around cost, strategy and revenue. The reform of health should consider all those facets on the basis of efficiency and effectiveness. We believe that to reach those objectives, it is necessary to question the effect of current policy and departmental practice on providers and examine how reform will enhance structural efficiency.

The Residential Care Sector with 167,070 government funded beds is by any measure substantial particularly when community care services which provide care to the elderly in their homes are included. These services only reflect the current needs for care and other forms of support.

An emerging area of health care needs is the retirement village sector which represents a growing alternative lifestyle and supported living accommodation choice. Those residents who exercise a preference for care and support to be delivered to a physical environment which they own and resource rather than traditional residential care. Current policy does not identify the retirement village sector as an area of growing service which is tangentially related to health need because there are no direct federal subsidies involved, and state governments regulate that segment of commercial activity.

It would be better if the design of the policy architecture of national health reform considers the future needs of people in retirement villages who make an accommodation choice that provides appropriate and suitable accommodation options in a communal supportive environment. As their "home" the policy architecture should also promote the effective use of care and support services such as HACC and CACP in retirement villages as an important part of the general community.

Lifestyle accommodation and supported living while a current generational preference is also a very considerable component of residential accommodation and reflects the long standing federal government policy of ageing in place. This was first stipulated for aged care hostels and described in 1997 Aged Care Act as low care residential care facilities.

This submission assumes that if health and hospital reform will build on the 5 year timescale of Australian Health Care Agreements in which case the architecture of an integrated acute and aged care sector should be matched so that funding, planning and policy relate to performance objectives. The ageing population will present significant challenges for the capital funding of infrastructure with the cost of the construction of new aged facilities estimated at \$5.7billion over the 12 years to 2020. (3) That estimate is contained in a report by Price Waterhouse Coopers commissioned in 2007 by the Aged Care Industry Council which represents the Australian aged care industry. The report released prior to the 2007 federal election advocates the need for changes in policy on capital investment in the sector.

The scale of the projected capital needs cannot be met by existing subsidies and charges and revenue derived from the bonds. Unlike acute public hospitals where capital funding is directly derived from government in a budget process based on priorities, in aged care it is assumed that capacity to fund investment in new or upgraded facilities can be met from operating surpluses. In an integrated publicly funded health system a better alternative is required for the organisations operating in aged and community services to grow sustainably.

It is reported that over 40% of all residential aged care providers now record annual operating deficits and therefore existing reserves are being exhausted. (4) In 2008 financial institutions now regard that trend as a major impediment to capital loans to providers, as the deterioration in financial profiles indicates that providers will not be able to service debt.

Catholic Health Australia (CHA) made the observation that the Aged Care Funding Instrument which is the principal source of revenue for providers will diminish the revenue contribution that bonds in low care make. CHA considers that the current artificially set high/low split under the ACFI will exacerbate the capital income situation. (9). The deterioration in revenues particularly for church and community providers who hold a preponderance of low care beds introduces a new factor into the existing trend of declining financial profiles since such previous surveys precede the introduction of ACFI on March 20, 2008. However, those trends have to be considered in conjunction with the structural issues that determine the viability of providers.

Aged and community care providers are overwhelmingly constrained by significant regulatory impediments which do not apply to other non-government funded sectors of the economy to the same extent. In this sector, the cost of regulatory compliance has to be met from government subsidies and similar revenue. The impact in cost terms is greater in a sector where it is unable to transfer such financial impact to its clients or customers as would be the case in the other areas of the economy. The Aged Care Act 1997 specifically excludes any financial arrangement direct with residents rather than through the subsidised system, therefore full cost recovery cannot be achieved.

The Department of Health and Ageing sets the price for the service provision of care through the Aged Care Funding Instrument, but assumes no direct responsibility for funding wage and other direct care costs which impact on the quality of care and accommodation. There is not even a regular formal review of the impact of wage and non wage costs on providers' capacity to deliver on current mandated outcomes, much less to encourage investment in more efficient and innovative care and accommodation delivery. The annual adjustment based on the Commonwealth Own Purpose Outlays (COPO) index typically underfunds the impact of inflation in a service sector where staff costs are up to 75% of operating costs. The application of the COPO index since 1996 has not reflected trends in operational costs. The introduction on the conditional adjustment payment following the 2004 Hogan report serves to emphasize those effects.

The scope for providers to improve their economies of scale based on efficient facility size is impeded by the uncertainty of the annual bed allocation round which has the effect of capping access to residential care and therefore care subsidies claims. The Australian National Audit Office in its 2007 review of the Annual Allocation Round (ACAR) reached the view that, "there is a need for DoHA to comprehensively improve the way it provides information to providers following the ACAR" as part of providing "greater transparency about the actual reasons for decisions on allocations" (8). The Hogan report in 2004 identified the allocation system as a major impediment to the efficient supply of places and the negative effect on access and choice for the community.

The shape and efficiency of provider organisations is effectively determined by the annual budgetary objectives of the department and an allocation process that is opaque and which does not use formal published criteria and relative weightings. The importance of the allocation system necessitates improved criteria. The process of selecting suitable applicant providers for new allocations may benefit from an alternative to the existing process.

The significance of the care subsidy regime and the allocation process is that the goal of structural and service reform is captive to processes which have no direct responsibility for efficient participation in the national health system.

Normal business planning in service sectors operates on a 3 to 5 year model which would be desirable in aged care, but again the restrictive nature of annual allocation rounds makes investment in land for construction a significant risk due to the uncertainty in the approval of applications.

Providing for an ageing population will be the principal responsibility of private and community organisations in the future. The importance of meeting those significant challenges will require a substantial shift in policy in respect of how providers access adequate revenue flows from government and consumers and the relative contribution of each. A review of the revenue required to sustain a viable and skilled workforce and generate a capacity for long-term investment in the required infrastructure should be undertaken. Those significant challenges require a fresh approach and analysis of both policy and the regulatory framework.

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# **Working in Aged Care: Medication Practices, Workplace Aggression, and Employee and Resident Outcomes**

Report prepared for the Australian Nursing Federation

Victorian Branch

by  
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## Executive Summary

This report contains the findings from a survey of 1038 members of the Australian Nursing Federation (Victorian Branch) working in public, private for profit and private not for profit aged care facilities conducted in 2007. The study finds that workers are under significant stress stemming from excessive workloads, cost cutting, a hostile work environment, and competing role demands. There appears to be few differences across job or facility type. It is noteworthy that participants said that they were not committed to their facility, were emotionally exhausted and almost a third of them were thinking about leaving their job. This is of concern because it suggests that they are disengaged from their organisation and are experiencing symptoms associated with 'burnout'. On the positive side it appears that perceptions of facility satisfaction, resident care, safety and staff responsiveness were quite high. There does however, appear to be some concern with medication errors, particularly in private for profit and private not for profit facilities. There appear to be no major concerns with scope of practice, though public sector participants (both Division 1, 2, 3, and 4) would like more training. In general, more training, rigorous recruitment and selection practices, performance management and grievance procedures led to better resident and worker outcomes.

**Registered nurse to resident ratios** ranged from 1:5 to 1:53 across public, private for profit and private not for profit facilities. Analyses revealed that in public facilities, as compared to private not for profit and private for profit facilities, there were fewer residents for each registered nurse to care for. This probably reflects that within the public sector there are legally enforceable nurse to resident ratios in high-care facilities. In facilities where each nurse had to care for fewer residents there were significantly better outcomes in relation to employee turnover intentions, fewer medication errors, resident safety, facility satisfaction and better overall resident care. Not surprisingly, the ability of staff to respond to resident needs in a timely fashion was also significantly related to registered nurses to resident ratios. For all shifts the more residents each registered nurse had to care for the poorer resident safety was and the more frequently medication errors were reported as being made. For more detailed information on these findings please refer to section 3.2 (pages 16-19) of the report.

In relation to **medication practices** most registered nurses reported that they felt they had received adequate training in relation to the changes to their scope of practice concerning the administration of medications (Division 2 endorsed nurses) or the supervision of medication administration by others (Division 1,3 and 4 nurses). Over 25% of the sample reported that on average residents at their facility either missed their medication or received it at the wrong time once, or twice a month. Eight per cent of participants also reported that dose administration aids (DAAs) were found to be incorrectly filled at least once or twice a week, suggesting these repackaging systems are potentially unsafe. The study's findings also indicate that medication errors are likely to happen more frequently in situations where levels of role conflict, co-worker aggression and resident quality of living cost-cutting are high. Medication errors are likely to happen less frequently if the organisation has good grievance procedures and training practices. For more detailed information on the findings in relation to the medication practices examined please refer to section 3.3 (pages 19-36) of the report.

## Executive Summary

Two forms of **workplace aggression** were assessed in the study; co-worker aggression towards residents and aggression from residents towards employees. Forty per cent of participants had seen a co-worker yell at a resident one or more times and 15% had seen a co-worker push, grab, shove, or pinch a resident one or more times in the past 6 months. The frequency with which participants' experienced resident aggression varied based on the type of aggression. Eighty six per cent of workers reported being yelled, shouted or sworn at and subjected to verbal aggression by residents at least once in the past six months and 64% had a resident try to hit them with something at least once in the past six months. Those who worked at public facilities tended to experience aggression from residents more frequently than those from private not for profit or private for profit facilities. For more detailed information on the findings in relation to workplace aggression please refer to section 3.4 (pages 36-47) of the report.

The seven key **work, psychological and physical health outcomes** examined in the study were job satisfaction, turnover intentions, organisational commitment, emotional exhaustion, social functioning, depression and, physical symptoms. Overall participants across the sample reported that they were somewhat satisfied with their current job, with individuals who worked at private for profit facilities reporting significantly lower levels of job satisfaction compared to individuals who worked at public or private not for profit facilities. Of note is the fact that over 30% of participants said that they were likely to leave their job, with those who worked at private for profit facilities more likely to report an intention to leave compared to those participants who worked in public or private not for profit organisations. Consistent with this finding, participants also reported relatively low levels of commitment to their current organisation. Significantly, 70% of participants reported feeling emotionally exhausted as a result of their work at least monthly; with 30% reporting being emotionally exhausted daily, a few times a day or weekly. Consistent with these findings in relation to emotional exhaustion, on average participants also reported that they had experienced five physical health symptoms in the past month. Further analysis of the study's findings also revealed that overall participants who worked in facilities where there were heavy workloads, high levels of role conflict, resident aggression, and staff and resident quality of living cost cutting were more likely to report more negative work related attitudes and poorer health outcomes. Effective grievance procedures and training were found to be important in minimising poor health outcomes for the study's participants. For more detailed information on the findings in relation to the work, psychological and physical health outcomes examined please refer to section 3.5 (pages 47-68) of the report.

The six key **resident outcomes** examined in the study were facility satisfaction, staff responsiveness, resident safety, resident care, resident sleep quality and, medication errors. Overall 81.2% of participants reported being satisfied with their facility and 70.8% of participants reporting that staff at their facility were responsive to resident needs. Fifty four per cent of participants felt that resident safety was a high priority at their facility, with 79.2% of participants reporting that resident care at their facility was of a high standard. However, those participants who worked at private for profit facilities reported significantly lower levels of resident safety than those participants who worked at public or private not for profit facilities. Participants in public facilities reported significantly higher levels of resident sleep quality than individuals from private not for profit or private for profit facilities. Additional analyses revealed that participants who worked in facilities where there were high levels of role conflict, co-

worker aggression towards residents and, staff and resident quality of living cost cutting were also more likely to report poorer outcomes for residents. In contrast, participants who worked at facilities with well developed grievance procedures and performance appraisal practices were more likely to report more positive outcomes for residents. For more detailed information on the findings in relation to the resident outcomes examined please refer to section 3.6 (pages 68-83) of the report.

The majority of participants were married females, working part-time as registered nurses, with average tenure in their occupation of 17 years and 9 years in their current job. Just under half were employed in private facilities. More detailed information on the key characteristics of the study's **participants** and their **workplaces** can be found in sections 3.1 (pages 11-16) and 3.2 (pages 16-19) of the report, respectively.

## 1. Introduction

This report presents data from the first survey conducted as part of an ongoing research project based on surveys of Victorian aged-care workers. The current study builds on a project which we conducted in 2005 (reported in October 2006), but the current project is a separate one which involves a longitudinal research design comprising three surveys. The ongoing program of research is concerned with how, in an environment which is placing increasing pressure on aged-care provision, working arrangements are affecting quality of working life for aged-care workers and the quality of care which they are able to provide to residents. Accordingly, as well as providing descriptive data on the characteristics of aged-care workers and their working lives, we explore links between job design, work organisation and human resource management practices on one hand and employee and resident outcomes on the other. Our central motivation in conducting the research is to provide a solid empirical basis to inform practices within aged-care facilities, as well as government policy, in pursuit of favourable outcomes for aged-care residents, employees and providers.

The rapidly-ageing population in Australia is placing unprecedented pressure on aged-care provision and it seems likely that this pressure will continue to increase over coming decades. In addition, the passage of the Commonwealth Aged Care Act (1997) brought changes in funding arrangements. An additional key contextual change concerns the scope of practice for staff, with endorsed Division 2 Registered Nurses now permitted to administer medication under supervision. These contextual changes all pose significant challenges for the aged-care industry. These challenges relate both to the quality of care which can be provided to residents of aged-care facilities and the quality of working life for staff, in an environment of increasing pressure.

The data presented here are based on 1038 responses from ANF (Victorian Branch) members working in aged-care in Victoria, surveyed in September-October 2007. The report provides a “snapshot” of our respondents, their workplace characteristics, work practices, management practices and of worker and resident outcomes. In addition, it presents analysis of links between a range of these aforementioned factors, allowing inferences to be drawn about the impact of specific practices on the quality of working life and resident care.

The report is divided into four sections. In the section that follows, we set out the method employed in the study. In Section Three we present our findings. This section commences with overviews of the participants and of their workplaces, then turns to the, medication practices and workplace aggression. The section concludes by presenting data on quality of working life for respondents and quality of care provided to residents. Finally, the key findings of the study are summarised in section four of the report.

## 2. Methodology

### 2.1. Study Design

This was a cross-sectional study carried out in October 2007. The study forms the first wave of data in a three year study of the quality of working lives for nurses and personal care workers in aged care. Based on the award of an Australian Research Council linkage grant, two additional rounds of data will be collected in 2008 and 2009. This will be the first large scale longitudinal study of work organisation in Australian Aged Care.

The study consisted of a series of scales relating to the quality of work organisation (e.g., scope of practice, work stressors) in aged care along with several outcome measures relating to facility functioning and resident quality of care (including medication errors) as well as work (e.g., job satisfaction, turnover intentions) and employee well-being outcomes (e.g., social functioning, physical symptoms, emotional exhaustion).

### 2.2. Study Population

A questionnaire was mailed to 3102 individuals randomly selected from the membership roll of the Australian Nursing Federation (Victorian Branch) who were working in an Aged Care Facility either as a registered nurse (Division 1, 2,3, 4) or a personal care worker. The questionnaire was mailed out by the ANF to preserve the anonymity of participants. Completed surveys were returned directly to the researchers at University of Melbourne. One hundred and one questionnaires were excluded because the respondent had ceased working in aged care or the address was incorrect. In total there were 1038 useable and completed questionnaires (a 35% response rate).

It is important to make clear that our unit of analysis is the employee. When we report data on workplace characteristics, these are based on the employees' reports of the characteristics of their workplaces, not on data collected from a sample of workplaces. Consequently, we cannot draw any inferences about the population of aged-care workplaces in Victoria, but only the reported characteristics of workplaces in which our respondents worked. Thus, for example, when we report that 46.3% of respondents worked in private for profit facilities, it is important to be clear that this does not mean that 46.3% of Victorian aged care workplaces are in the private sector.

Analyses were conducted to assess the representativeness of our sample relative to the Victorian aged care nursing population. On three demographics (average age, gender and average work hours per week) that we were able to compare, the sample characteristics were statistically different from those of the Victorian aged care nursing labour force (Australian Institute of Health and Welfare, 2005). Unfortunately there are no available statistics for 2007 so we used the 2005 statistics and as a consequence the statistical differences we found between our sample and the population need to be interpreted with caution. Registered nurses are working fewer hours than in 2005 (28.7 hrs per week vs. 31.1 hrs per week) and are older (50.6 yrs vs. 49 yrs) though this is not surprising given the comparison is between 2007 and 2005. There were also slightly fewer males who are registered nurses in the sample

(5.1 % vs. 5.6 %). It is noteworthy that we were unable to find any population level data on personal care workers.

### **2.3. Study Measures**

Below a brief description of the scales used to measure the variables examined in the study is provided. Where possible existing scales with well established high levels of reliability and validity were used. All scales used in the study demonstrated acceptable levels of internal validity. For a full listing of the items used in each scale please refer to Appendix A.

#### **Medication Practices**

##### *Scope of Practice Training Div 2s*

The five items in this scale asked Division 2 Registered Nurses (only) to reflect on changes to their scope of practice that now enabled them to administer medications under supervision. Participants were asked to indicate whether they felt they had received adequate training to administer medications, whether their organisation had clear policies and procedures in relation to medication administration, and whether they received adequate and appropriate supervision when administering medications. An example of an item used is "I have received training which has given me a good understanding of which medications I can administer and which I cannot." Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 7 (Strongly Agree).

##### *Scope of Practice Training Div 1,3,4s*

The six items in this scale asked Division 1, 3 and 4 Registered Nurses (only) to reflect on the recent changes to scope of practice that now enabled them to supervise Div 2s administering medications. Participants were asked to indicate whether they felt they had received adequate training to supervise the administration of medications, whether their organisation had clear policies and procedures in relation to medication administration, and whether they had read and understood the Nurses Board of Victoria (NBV) code for the administration of medications. An example of an item used is "I have received training which has given me a good understanding of my responsibilities when supervising Division 2 Registered Nurses as they administer medication. Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 7 (Strongly Agree).

##### *Medication Administration Self-Efficacy*

Those participants who administered medications as part of their role were asked to reflect on how confident they felt in obtaining consent from residents, identifying different medications correctly by name, administering medications, and monitoring residents for potential adverse reactions. Division 1, 3 and 4 RNs were also asked how confident they felt in assessing the qualifications of another staff member when delegating medication administration. In total there were four items in the scale. An example of an item used is "Indicate the extent to which you feel confident you can correctly identify different medications by name." Participants were asked to record their responses using a scale which ranged from 1 (Totally Unconfident) to 9 (Totally Confident).

##### *Medication Administration by Non-Endorsed Div 2s & Personal Care Workers (PCWs)*

This single item asked whether they had seen non-endorsed Div 2s and PCWs administering medication from a Dose Administration Aid (DAAs) (e.g., blister packs)

without supervision at their facility. Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 5 (Strongly Agree).

#### *Medication Errors*

The seven items in this scale asked participants to indicate the frequency with which a series of different medication errors were made at their facility. An example of an item used is “In the past 6 months how often has a wrong dose been given to a resident?” The response scale participants were asked to use ranged from 1 (Less than once per month or never) to 5 (Several times per day).

### **Workplace Aggression**

#### *Co-Worker Aggression towards Residents*

The four items in this scale assessed how frequently in the past 6 months participants had witnessed co-workers behaving in an either verbally or physically aggressive way towards residents. An example of an item used is “In the past 6 months how often have you seen other staff push, grab, shove, or pinch a resident.” Participants were asked to record their responses using a scale which ranged from 0 (Never) to 5 (Five or more times).

#### *Resident Aggression*

The five items in this scale assessed how frequently in the past 6 months participants had personally experienced either verbal or physical aggression from residents. An example of an item used is “How often in the past 6 months have you been yelled at, shouted at, or sworn at by a resident?” Participants were asked to record their responses using a scale which ranged from 0 (Never) to 5 (Five or more times).

### **Job Stressors**

#### *Workload*

The five items in this scale assessed how frequently participants felt that in their job there was often a great deal of work to be done and that they had little time to get things done. An example of an item used is “How often does your job leave you with little time to get things done?” Participants were asked to record their responses using a scale which ranged from 1 (Rarely) to 5 (Very Often).

#### *Role Conflict*

The eight items in this scale assessed how frequently participants felt that they received incompatible requests and/or inadequate equipment or staff in executing their job tasks. An example of an item used is “I work with two or more group who operate quite differently.” Participants were asked to record their responses using a scale which ranged from 1 (Rarely) to 5 (Constantly).

#### *Interpersonal Conflict*

The four items in this scale assessed how frequently participants got into arguments with co-workers or had co-workers be rude to them. An example item used is “How often are co-workers rude to you at work?” Participants were asked to record their responses using a scale which ranged from 1 (Never) to 5 (Very Often).

#### *Staff Cost-Cutting*

The five items in this scale assessed the extent to which participants felt their facility had fewer and/or less qualified staff on shifts than previously in an attempt to cut costs. An example of an item used is “My facility focuses on cost saving by reducing staffing levels at the expense of resident care.” Participants were asked to record

their responses using a scale which ranged from 1 (Strongly Disagree) to 5 (Strongly Agree).

#### *Resident Quality of Living Cost-Cutting*

The seven items in this scale assessed the extent to which participants felt their facility had lowered the quality of things like residents' meals and dressings in an attempt to cut costs. An example of an item used is "My facility has reduced the nutritional quality of food for residents to save money." Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 5 (Strongly Agree).

### **Management Practices**

#### *Grievance Procedures*

The eight items in this scale assessed the extent to which participants felt their facility had clear and effective procedures for resolving disputes or complaints between residents, staff and/or management. An example of an item used is "My organisation has clear and effective policies and procedures in place for resolving complaints by staff". Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 7 (Strongly Agree).

#### *Recruitment & Selection Practices*

The two items in this scale asked participants about how rigorous they felt the employee selection processes were in their organisation. An example of an item used is "How rigorous is the employee selection processes for a job in this organisation (e.g., Does the process involve tests, interviews etc?)? Participants responded using a scale which ranged from 1 to 7.

#### *Performance Practices*

The five items in this scale asked participants to indicate how much effort went into measuring and assessing employee performance in their facility. Items in the scale also asked participants to indicate how closely job performance was tied to pay in their facility. An example of an item used is "How often is performance discussed with employees?" Participants responded using a scale which ranged from 1 to 7.

#### *Training*

Three questions were used to assess the amount of training the participant's employer had paid for them to undertake in the last 12 months and the extent to which they felt that overall they had received sufficient training to do their job. An example of an item used is "To what extent do you agree or disagree that you get the training needed to do your job effectively?"

### **Work, Psychological & Physical Health Outcomes**

#### *Job Satisfaction*

The three items in this scale assessed the extent to which participants were satisfied with their current job. An example of an item used is "All in all, I am satisfied with my job." Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 7 (Strongly Agree).

#### *Turnover Intentions*

The three items in this scale assessed the likelihood that participants would leave their current job and/or how much they would like to get a new job. An example of an item used is "How like is it that you will look for a job outside of this organisation

during the next year?" Participants were asked to record their responses using a scale which ranged from 1 to 7.

#### *Organisational Commitment*

The six items in this scale assessed the extent to which participants felt committed or emotionally attached to their current organisation. An example of an item used is "I do not feel a strong sense of belonging to my organisation." Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 7 (Strongly Agree).

#### *Emotional Exhaustion*

The nine items in this scale assessed how frequently participants felt emotionally drained and fatigued as a result of their work. An example of an item used is "How often do you feel emotionally drained from your work?" Participants were asked to record their responses using a scale which ranged from 1 (Never) to 7 (Every Day).

#### *Social Functioning*

The four items in this scale assessed how frequently over the past few weeks participants had felt able to enjoy their life and capable of making decisions and dealing with problems. An example of an item used is "Have you recently been able to enjoy your normal day-to-day activities?" Participants were asked to record their responses using a scale which ranged from 0 (Never) to 6 (All the time).

#### *Depression*

The four items in this scale assessed how frequently over the past few weeks participants had felt unhappy and unable to cope. An example of an item used is "Have you recently been feeling unhappy or depressed?" Participants were asked to record their responses using a scale which ranged from 0 (Never) to 6 (All the time).

#### *Physical Symptoms*

This scale was designed to assess out of a total of 18 possible physical symptoms how many the participant had experienced in the past 30 days. Examples of physical symptoms listed include backache, headache, chest pain, and an upset stomach or nausea.

### **Resident Outcomes**

#### *Facility Satisfaction*

The twelve items in this scale assessed the extent to which participants felt that residents' rooms and nutrition were of a high standard. The privacy of residents and the extent to which family and friends were welcome to visit residents were also assessed. An example of an item used is "Family and friends are welcome to visit residents and be involved in their care." Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 5 (Strongly Agree).

#### *Staff Responsiveness*

The ten items in this scale assessed how responsive participants felt staff were able to be to the different needs of residents. An example of an item used is "How responsive are staff to a resident requesting assistance using their buzzer or call system." Participants were asked to record their responses using a scale which ranged from 1 (Very Unresponsive) to 7 (Very Responsive).

#### *Resident Safety*

The nine items in this scale assessed the extent to which participants felt resident safety was a high priority at their facility, with the extent to which management provided the resources, procedures and training needed to ensure resident safety also being assessed. An example of an item used is "Management provides a working environment that promotes resident safety." Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 5 (Strongly Agree).

#### *Resident Care*

The six items in this scale assessed the extent to which participants felt residents were able to talk to staff as needed; staff showed a real interest in residents and residents in the facility were provided with appropriate care by staff. An example of an item used is "The nurses and personal carers have the skills to provide appropriate care." Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 5 (Strongly Agree).

#### *Resident Sleep Quality*

The two items in this scale assessed the extent to which participants felt residents were able to sleep free from noise and interruptions at night. An example of an item used is "The amount of noise disrupts residents' sleep." Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 5 (Strongly Agree).

### **2.4. Data Analysis**

Data were analysed using SPSS 15.0. The results section of the report contains information on both the descriptive statistical analyses and, inferential statistical analyses (specifically regression analysis) conducted on the different measures. More specific information on the analyses conducted for each measure is provided in the results section of the report.

### **2.5. Limitations of the Data**

In a number of instances items are negatively skewed, for example resident aggression. For these reasons we have provided the dispersion of responses to the statement rather than relying solely on means and standard deviations. *Missing data* was treated as such and was not imputed.

### 3. Results

Please note where participants did not respond to an item this has been reported as *missing data*.

#### 3.1. The Participants

**Table 3.1.1**

Age (Mean <sup>1</sup> )	Total Sample
Years	50.5
Gender (%)	
Female	93.8
Males	4.3
<i>Missing Data</i>	1.8
Relationship Status (%)	
Single	7.6
Widowed	3.5
Married	65.3
Divorced/Separated	14.3
De facto relationship	7.0
<i>Missing Data</i>	2.3
Job Title (%)	
Managers	7.8
RNs	71.3
Div 1	32.8
Div 2	37.8
Div 3	0.4
Div 4	0.3
Personal Care Workers (PCWs)	20.9
<i>Missing Data</i>	2.9
Overtime worked per week (Mean)	
Hours	6.0

<sup>1</sup> A mean is an average and is calculated by summing the responses of all the participants and then dividing this total by the total number of participants.

**Table 3.1.1 (cont)**

<b>Number of Jobs (%)</b>	
1 job	78.5
2 jobs	18.8
3 jobs	2.2
4 jobs	0.3
5 jobs	0.1
6 jobs	0.1
<b>Div 2s Endorsed to Administer Medications (%) as a percentage of all Div 2s in the sample</b>	
Yes	34.1
No	63.1
<i>Missing Data</i>	2.8

**Group Comparisons – Job Type**

The following table presents the data for those participant variables where there was a significant difference between the three job categories; management (Managers), registered nurses (RNs) and personal care workers (PCWs). On all of the remaining participant variables (not listed) there were no significant differences between the different job categories.

**Table 3.1.2**

<b>Highest Nursing Qualification (%)</b>	<b>Managers</b>	<b>RNs</b>	<b>PCWs *<sup>2</sup></b>	<b>Total</b>
Hospital Trained	39.2	38.0	0.9	26.0
Certificate III Aged Care/Nursing	0.0	1.1	67.3	22.8
Certificate IV Aged Care/Nursing	5.1	1.7	21.8	9.5
Advanced Certificate in Nursing	7.6	39.1	5.2	17.3
Bachelor of Nursing	21.5	11.2	0.5	11.1
Graduate Certificate/Diploma in Nursing	24.1	6.2	0.5	10.3
Masters of Nursing	2.5	0.6	0.0	1.0
None	0.0	0.0	2.4	0.8
<i>Missing Data</i>	0.0	2.1	1.4	1.2

<sup>2</sup> Those groups marked with an asterisk (\*) were statistically significantly different from the other job types. For example if there is an asterisk next to the PCW column it means in relation to that particular item PCWs were significantly different from managers and registered nurses.

**Table 3.1.2 (cont)**

<b>Employment Status (%)</b>	<b>Managers *</b>	<b>RNs</b>	<b>PCWs</b>	<b>Total</b>
Full-time	49.4	14.6	9.0	24.3
Part-time	48.1	78.6	84.8	70.5
Casual/Temporary	0.0	5.7	4.3	3.3
Fixed Term	0.0	0.3	0.0	0.1
<i>Missing Data</i>	2.5	0.8	1.9	1.8
<b>Hours worked per week (Mean)</b>	<b>Managers *</b>	<b>RNs</b>	<b>PCWs</b>	<b>Total</b>
Hours	37.9	28.7	30.2	32.3
<b>Time working in occupation (Mean)</b>	<b>Managers</b>	<b>RNs</b>	<b>PCWs *</b>	<b>Total</b>
Years	18.3	19.2	9.4	15.6
<b>Time working at current organisation (Mean)</b>	<b>Managers</b>	<b>RNs</b>	<b>PCWs *</b>	<b>Total</b>
Years	7.7	9.4	6.0	7.7
<b>Working shifts less than 2 hours (%)</b>	<b>Managers</b>	<b>RNs</b>	<b>PCWs *</b>	<b>Total</b>
Yes	2.5	4.2	8.5	5.1
No	86.1	88.6	77.3	84.0
<i>Missing Data</i>	11.4	7.2	14.2	10.9
<b>Desire for full-time employment by participants currently employed on a part-time or casual basis (%)</b>	<b>Managers</b>	<b>RNs</b>	<b>PCWs *</b>	<b>Total</b>
Yes	3.8	14.6	24.2	14.2
No	91.1	82.1	68.2	80.5
<i>Missing Data</i>	5.1	3.3	7.6	5.3

## Group Comparisons – Organisation Type

The next table presents the data for those participant variables where there was a significant difference between the three organisation types; public, private not for profit and private for profit. On all of the remaining participant variables (not listed) there were no significant differences between the different organisation types.

**Table 3.1.3**

Time working in occupation (Mean)	Public * <sup>3</sup>	Private Not for Profit	Private for Profit	Total
Years	19.2	16.7	16.4	17.4
Time working in organisation (Mean)	Public	Private Not for Profit	Private for Profit	Total
Years	10.0	9.1	7.7	8.9

### Summary: The Participants

Overall the majority of participants were married females who were working part-time as registered nurses. On average participants had been working in their current occupation for 17 years and for their current organisation for 8.6 years with the majority of participants not working short-shifts. Overall, very few of the participants desired full-time employment or more hours. Of the Division 2 nurses in the sample 34.1 % were endorsed to administer medications.

In the job type comparisons significant differences were found in the level of qualifications held by managers, registered nurses and personal care workers. A higher percentage of managers worked full-time as compared to registered nurses and personal care workers who both predominantly worked part-time. On average managers and registered nurses had worked significantly longer in the occupation as compared to personal care workers. Personal care workers tended to work more short shifts than managers and registered nurses, and also reported a greater desire for full-time employment than these two other groups.

In the organisation type comparisons participants who worked in public facilities reported working in the occupation for significantly longer than those participants who worked in private not for profit or private for profit facilities. Individuals working at private for profit facilities had worked at their current organisation for significantly less time than individuals employed at public or private not for profit facilities.

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<sup>3</sup> Those groups marked with an asterisk (\*) were statistically significantly different from the other organisation types. For example if there is an asterisk next to the public column it means in relation to that particular item public facilities were significantly different from not for profit and private facilities.

### 3.2. The Workplace

**Table 3.2.1**

Facility Ownership (%)	Total Sample
Public	21.8
Private Not for Profit	27.9
Private for Profit	46.3
<i>Missing data</i>	3.9

#### Mean Registered Nurse to Resident Ratios

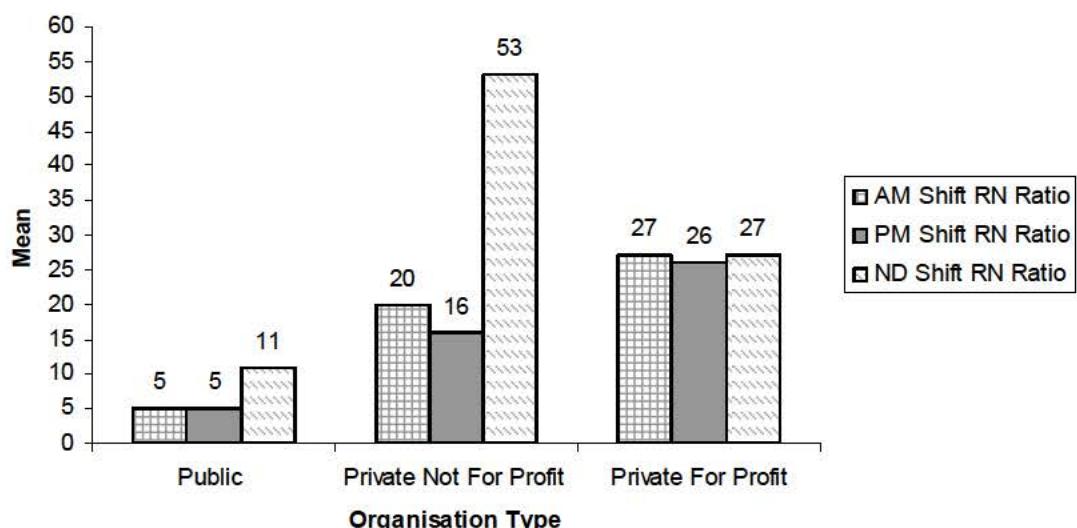
The next series of tables and graphs depict the mean registered nurse to resident ratio based on the type of care provided by the facility (low, mixed or, high), the type of organisation the facility is (public, private not for profit or, private for profit) and the timing of the shift (am, pm or, night). There was only a very small number of participants (N=13) working at low care facilities in the sample so the below figures should be interpreted with caution.

**Table 3.2.2 Low Care Facilities**

Shift	Organisation Type		
	Public	Private Not For Profit	Private for Profit
AM	1:5	1:20	1:27
PM	1:5	1:16	1:26
ND	1:11	1:53	1:27

**Figure 3.2.1**

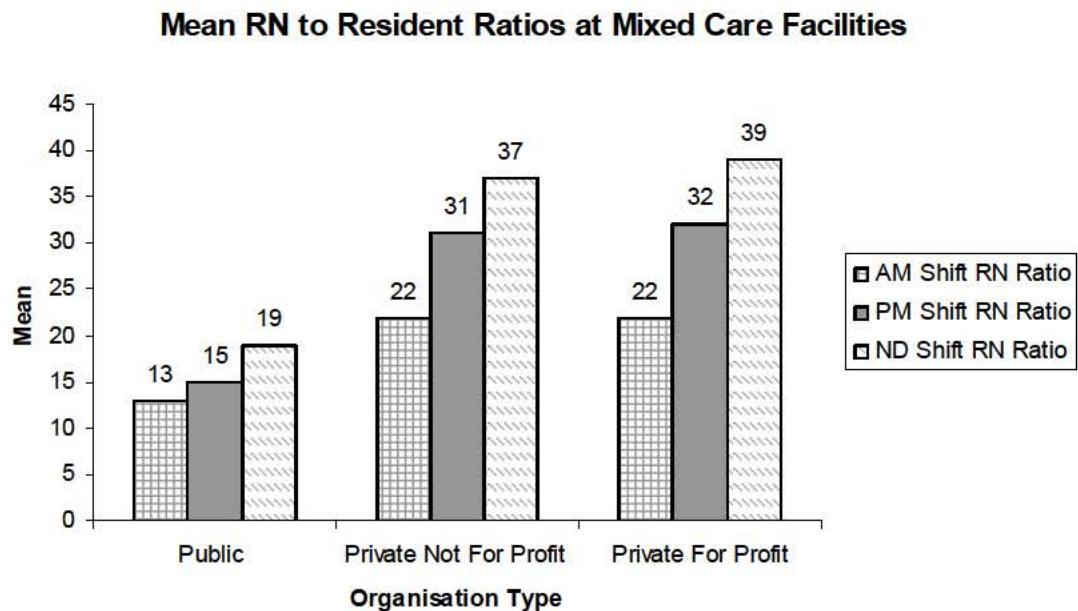
#### Mean RN to Resident Ratios at Low Care Facilities



**Table 3.2.3 Mixed Care Facilities**

Shift	Organisation Type		
	Public	Private Not for Profit	Private for Profit
AM	1:13	1:22	1:22
PM	1:15	1:31	1:32
ND	1:19	1:37	1:39

**Figure 3.2.2**

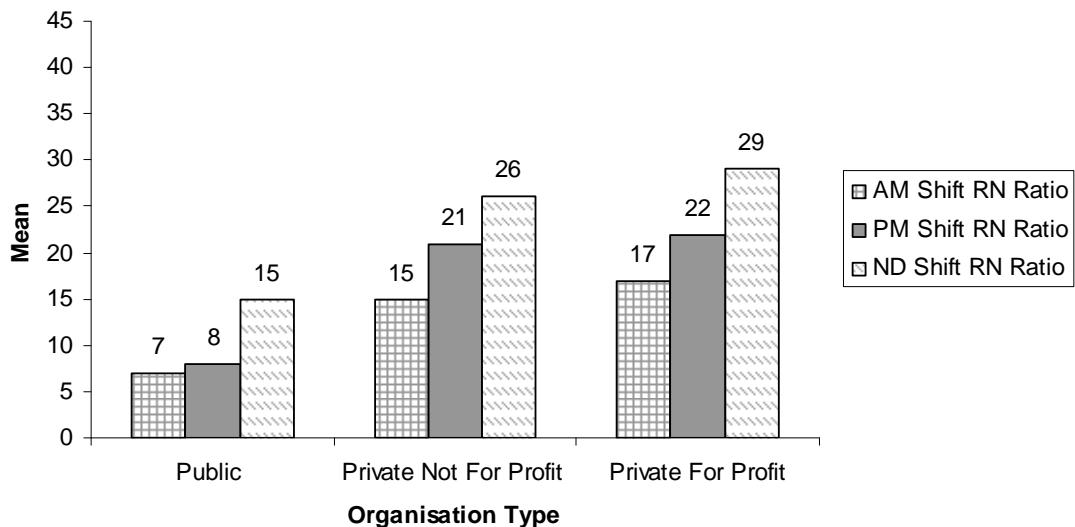


**Table 3.2.4 High Care Facilities**

Shift	Organisation Type		
	Public	Private Not For Profit	Private for Profit
AM	1:7	1:15	1:17
PM	1:8	1:21	1:22
ND	1:15	1:26	1:29

**Figure 3.2.3**

### Mean RN to Resident Ratios at High Care Facilities



#### Group Comparisons – Organisation Type

Analyses revealed that across the three different types of care provision (low, mixed, high) in private not for profit and private for profit facilities each registered nurse had more residents to care for as compared to the public facilities where each registered nurse had to care for fewer residents.

#### Group Comparisons – Type of Care Provided

Analyses revealed that across two different types of care provision (mixed, high; low care facilities were excluded due to the low numbers of these facilities (N=13) in the sample) there were significant differences in relation to only two of the job stressor variables examined. Participants from high care facilities reported significantly higher workloads and levels of staff cost-cutting as compared to participants from mixed care facilities. These significant differences are depicted in the graph below.

**Figure 3.2.4**



### **Registered Nurse to Resident Ratios as Predictors of Outcomes**

A set of statistical analyses (regressions) were conducted to determine the extent to which the average registered nurse to resident ratios for each of the shifts (averaging across the different organisation types and types of care provided) predicted worker, organisational and resident related outcomes. As part of the analyses the possible influence of a number of employee/facility variables were also controlled. The analyses revealed that registered nurse to resident ratio levels on the AM shift significantly predicted turnover intentions, levels of emotional exhaustion and number of physical symptoms experienced by participants. The greater number of residents there were for each nurse to care for during night duty the more likely individuals were to intend to leave their current job.

In relation to resident outcomes the registered nurse to resident ratio across all three shifts was a significant predictor of resident safety and medication errors. For all shifts the more residents there were for each registered nurse to care for the poorer resident safety was and the more frequently medication errors were reported as being made. Both the registered nurse to resident ratio on the AM shift and the night shift were also significant predictors of facility satisfaction and resident care. Analyses revealed that where there were more residents for each registered nurse to care for, individuals were less satisfied and felt the resident care at their facility was poorer. The registered nurse to resident ratio on the AM shift and the PM shift also significantly predicted resident sleep quality, with more residents per registered nurse being associated with poorer resident sleep quality. Finally, the registered nurse to resident ratio on the night shift also significantly predicted how responsive staff were to residents' needs. The more residents each registered nurse had to care for on the night shift the less responsive staff were able to be to residents' needs. Overall, the data indicates that having poor registered nurse to resident ratios on the night shift results in the most negative outcomes for residents.

### **Summary: The Workplace**

Forty-six per cent of the participants were employed at private for profit facilities. Registered nurse to resident ratios ranged from 1:5 to 1:53. A number of the participants commented on their questionnaire that they felt staffing levels were

inadequate. In the words of one participant “*It does not matter where you work; staffing levels are inadequate to meet resident’s needs and regulatory compliance*”. In the organisation type comparisons significant differences were found in relation to registered nurse to resident ratios, such that public facilities (across the different types of care provision) had significantly fewer residents for each registered nurse to care for. This probably reflects that within the public sector there are legally enforceable nurse to resident ratios in high care. Registered nurse to resident ratios emerged as significant predictors of both employee and resident related outcomes. In particular, the ratios seemed particularly important for predicting resident outcomes. This seemed to especially be the case for the registered nurse to resident ratio on the night shift with this ratio being a strong predictor of staff responsiveness, resident safety, facility satisfaction, resident care and medication errors. In all cases the more residents each registered nurse had to care for the poorer the reported resident outcomes.

### **3.3. Medication Practices**

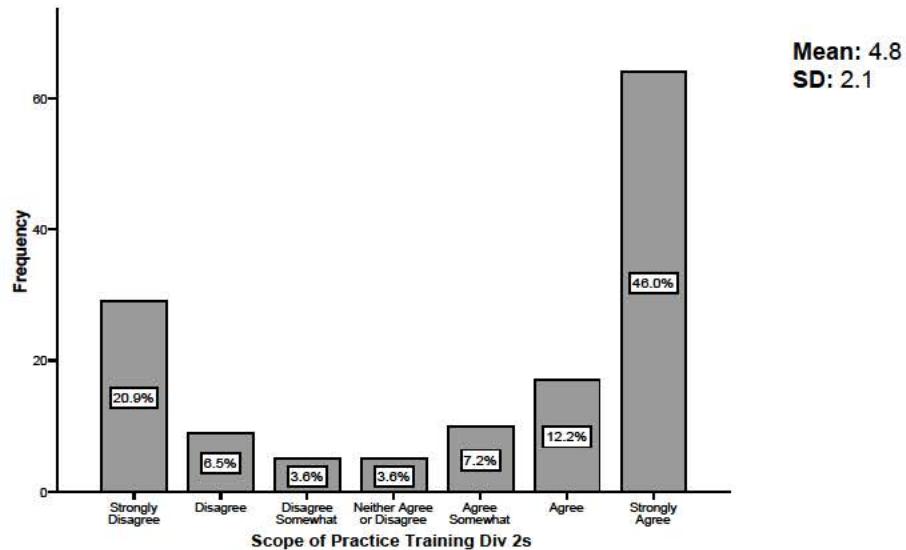
In order to assess the effect of recent changes to the administration of medications to residents this section of the survey asked participants to think about the practices related to medication administration in their facility and how they felt about the recent scope of practice changes. Below a summary in relation to each of the different scales used in this section of the survey is provided. A bar chart for each scale indicating the dispersion of responses based on the entire sample is also provided. This is followed by comparisons for each of the scales across different job (Managers, Registered Nurses, & Personal Care Workers) and organisation types (Public, Private Not for Profit, Private for Profit). Appendix A provides the individual items for each of the different scales.

#### **Scope of Practice Training – Div 2s**

##### *Total Sample*

This scale asked Division 2 Registered Nurses (only) to reflect on the changes to their scope of practice that now enabled them to administer medications under supervision. Participants were asked to indicate whether they felt they had received adequate training to administer medications, whether their organisation had clear policies and procedures in relation to medication administration, and whether they received adequate and appropriate supervision when administering medications. Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 7 (Strongly Agree). The higher the score the more adequate participants felt the training they had received had been. Appendix A provides the individual items for the scale. The proceeding graph indicates the dispersion of responses based on the entire sample for the item.

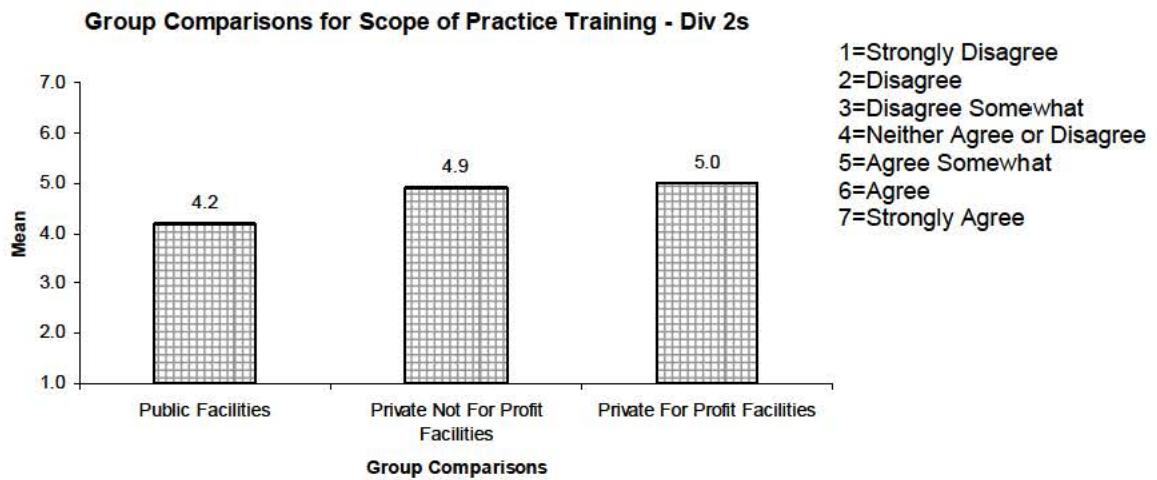
**Figure 3.3.1**



#### *Group Comparisons*

The following graph presents means for scope of practice training for DIV 2s for the different groups based on organisation type. The higher the score the more adequate participants felt the training they had received had been. Overall division 2 registered nurses working in public facilities reported significantly lower levels of training as compared to those participants who were working in private not for profit or private for profit facilities.

**Figure 3.3.2**



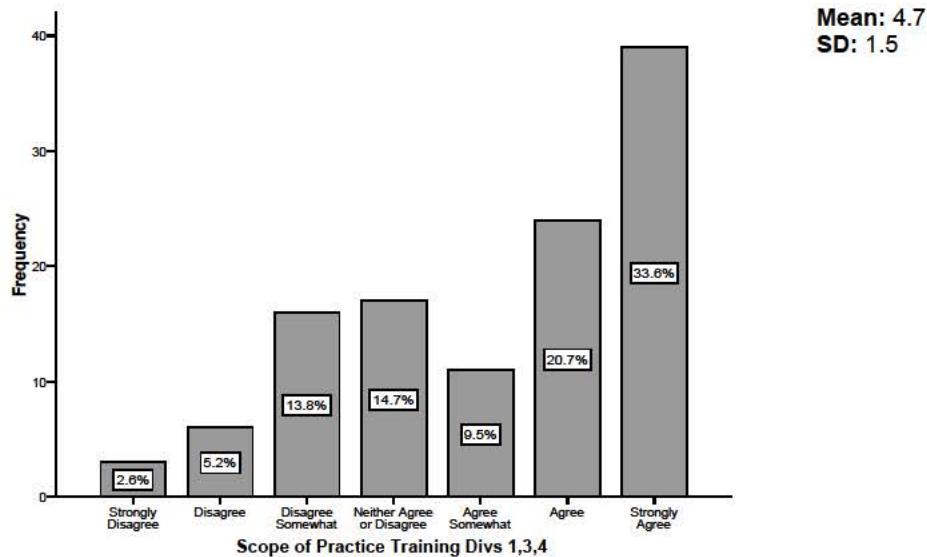
#### **Scope of Practice Training – Div 1,3 and 4s**

##### *Total Sample*

This scale asked Division 1, 3 and 4 RNs (only) to reflect on the recent changes to scope of practice that now enabled them to supervise Div 2s administering medications. Participants were asked to indicate whether they felt they had received adequate training to supervise the administration of medications, whether their organisation had clear policies and procedures in relation to medication administration, and whether they read and understood the Nurses Board of Victoria (NBV) code for the administration of medications. Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 7 (Strongly Agree).

Agree). The higher the score the more adequate participants felt the training they had received had been. Appendix A provides the individual items for the scale. The proceeding graph indicates the dispersion of responses based on the entire sample for the item.

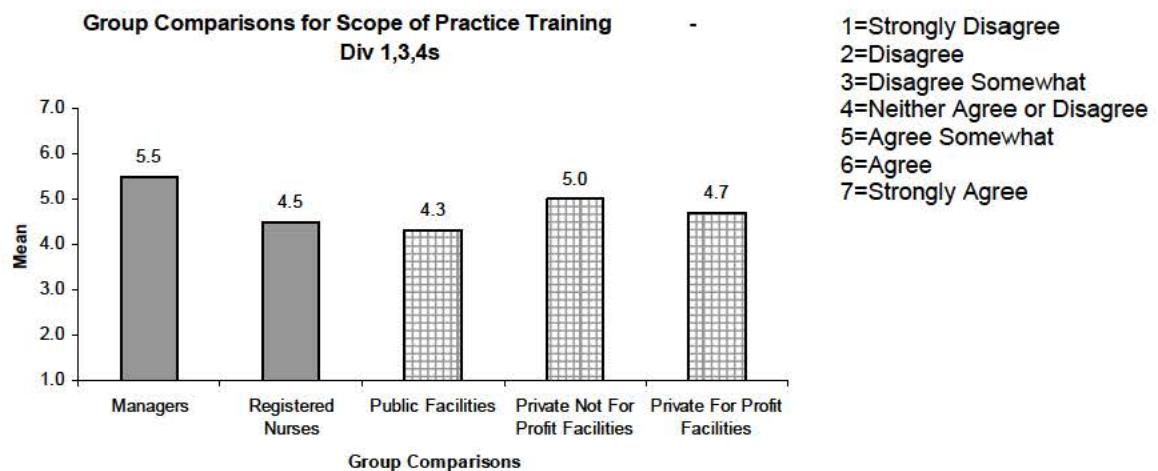
**Figure 3.3.3**



#### **Group Comparisons**

The following graph presents means for scope of practice training for Registered Nurses DIVs 1, 3 and 4 for the different groups based on job type and organisation type. The higher the score the more adequate participants felt the training they had received had been. In relation to the job type comparisons managers reported significantly more positive perceptions in relation to the scope of practice training they had received as compared to registered nurses. In relation to the organisation type comparisons participants working in public facilities reported significantly lower levels of satisfaction with the training they had received as compared to participants working in private not for profit or private for profit facilities.

**Figure 3.3.4**

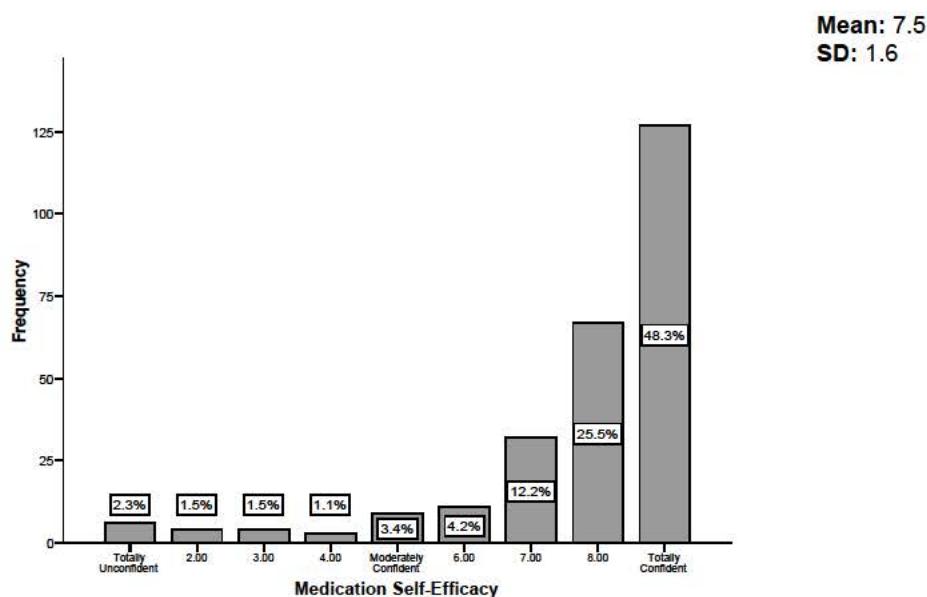


### Medication Administration Self-Efficacy

#### *Total Sample*

Those participants who administered medications as part of their role were asked to reflect on how confident they felt in obtaining consent from residents, identifying different medications correctly by name, administering medications, and monitoring residents for potential adverse reactions. Division 1, 3 and 4 RNs were also asked how confident they felt in assessing the qualifications of another staff member when delegating medication administration. Participants were asked to record their responses using a scale which ranged from 1 (Totally Unconfident) to 9 (Totally Confident). Higher scores indicate greater levels of confidence in relation to the administration of medications. The proceeding graph indicates the dispersion of responses based on the entire sample for the scale. See Appendix A for full details of the items which make up this scale.

**Figure 3.3.5**

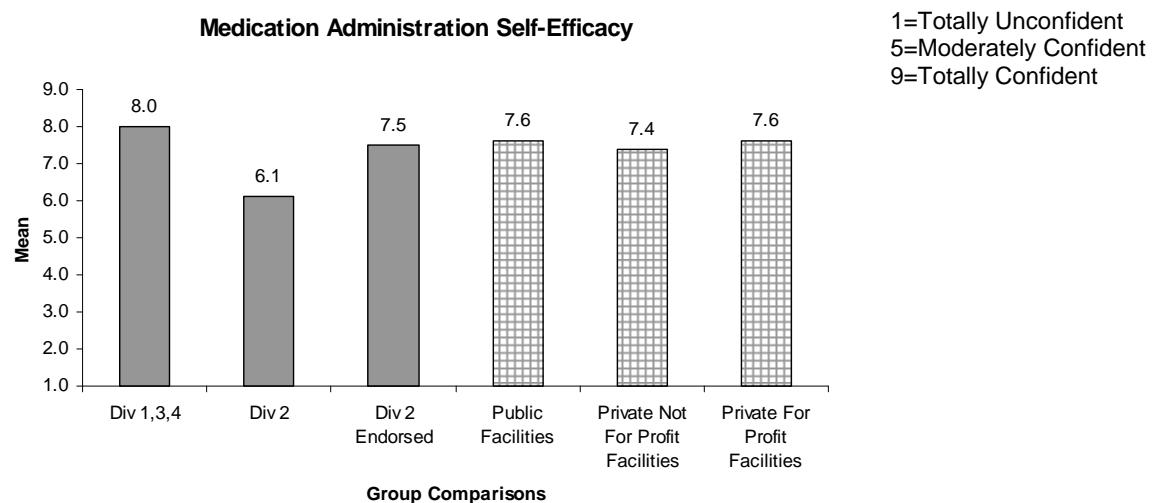


#### *Group Comparisons*

The following graph presents means for medication administration self-efficacy for the different groups based on job type and organisation type. Higher scores indicate

greater levels of confidence in relation to the administration of medications. In relation to the job type comparisons registered nurses Div 2 reported significantly lower levels of confidence in administering medications, with Div 1,3,4 registered nurses reporting the highest levels of confidence. In relation to the organisation type comparisons there were no significant differences across the categories in terms of reported levels of medication administration self-efficacy.

**Figure 3.3.6**

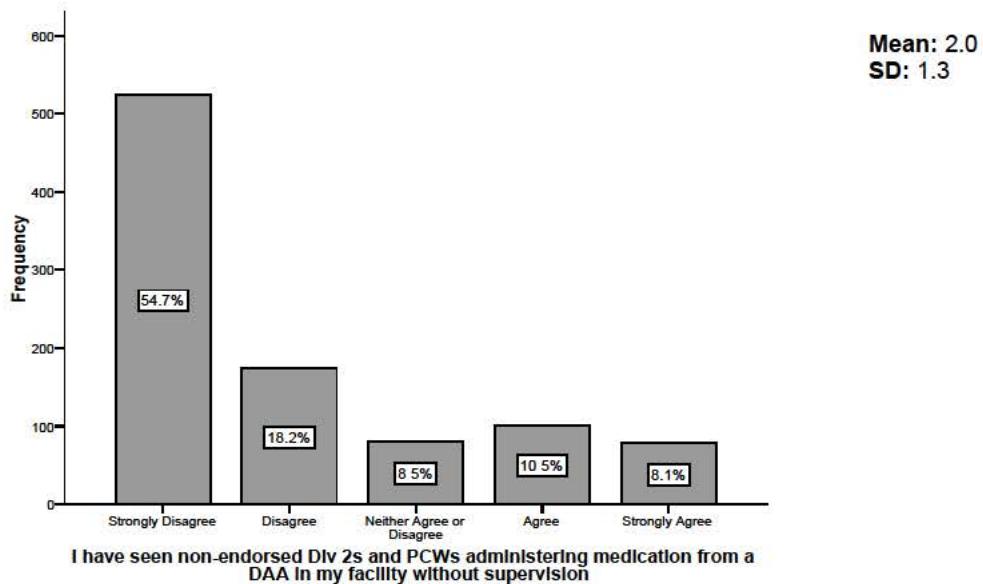


### **Medication Administration by Non-Endorsed Div 2s & Personal Care Workers (PCWs)**

#### *Total Sample*

Participants were asked whether they had seen non-endorsed Div 2s and PCWs administering medication from a Dose Administration Aid (DAAs) (e.g., blister packs) without supervision at their facility. Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 5 (Strongly Agree). Higher scores indicate that the participant had witnessed medications being administered by non-endorsed Div 2s and PCWs. Appendix A provides the individual items for the scale. The proceeding graph indicates the dispersion of responses based on the entire sample for the item.

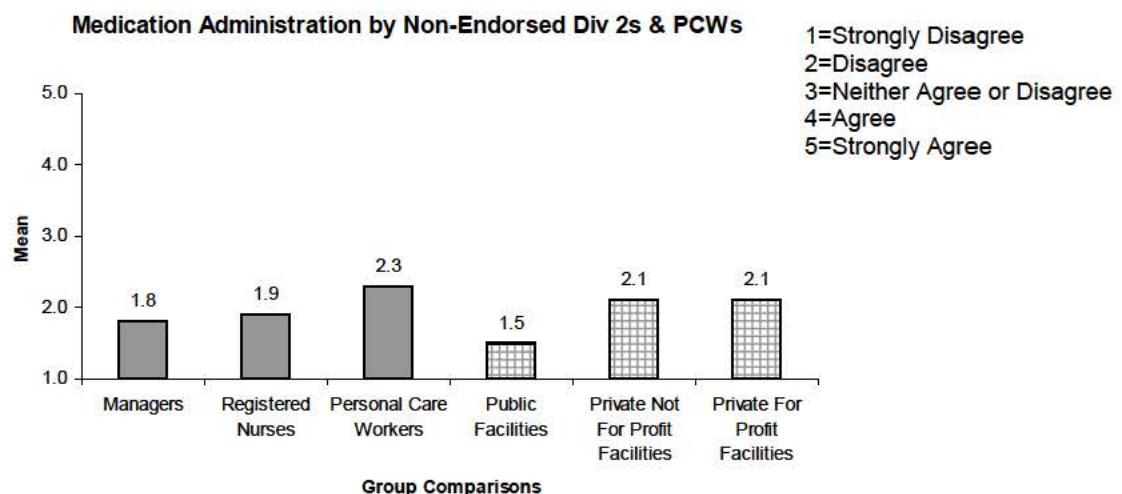
**Figure 3.3.7**



#### *Group Comparisons*

The following graph presents means for medication administration by non-endorsed DIV 2s and PCWs for the different groups based on job type and organisation type. Higher scores indicate that the participant had witnessed medications being administered by non-endorsed Div 2s and PCWs. In relation to the job type comparisons personal care workers agreed significantly more strongly with the statement as compared to registered nurses and managers. Dive 2 endorsed nurses also agreed significantly more strongly with the statement compared to Div 1,3,4 and Div 2 nurses. In relation to the organisation type comparisons participants from public facilities agreed significantly less strongly with the statement compared to those participants from private not for profit and private for profit facilities. Participants from mixed care facilities agreed more strongly that they had seen medication administered by non-endorsed Div 2s and PCWs compared to those participants from high care facilities.

**Figure 3.3.8**

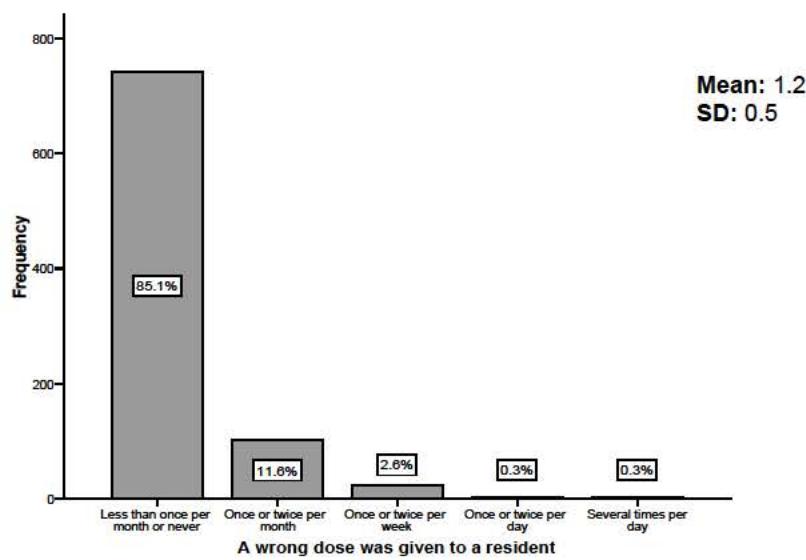


## Medication Errors

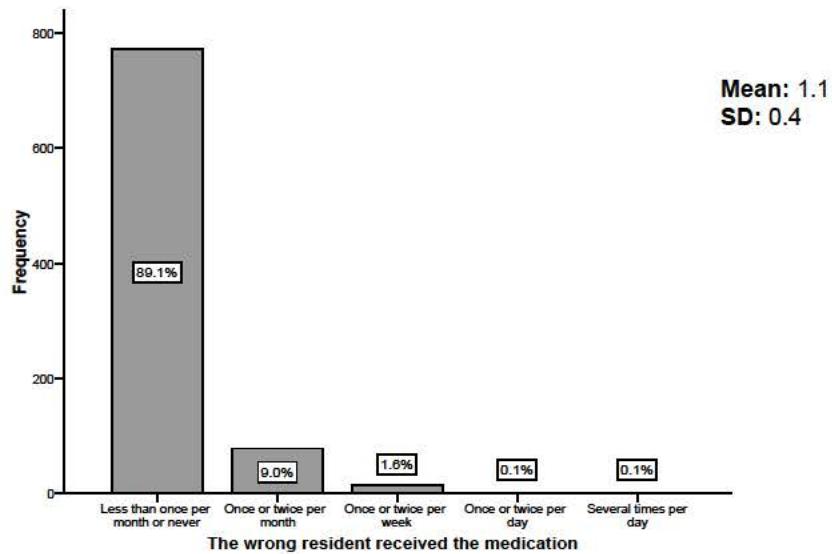
### Total Sample

These items asked participants to indicate the frequency with which a series of different medication errors were made at their facility. The response scale participants were asked to use ranged from 1 (Less than once per month or never) to 5 (Several times per day). Higher scores indicate the medication error was made more frequently. The proceeding graphs indicate the dispersion of responses based on the entire sample for each scale item.

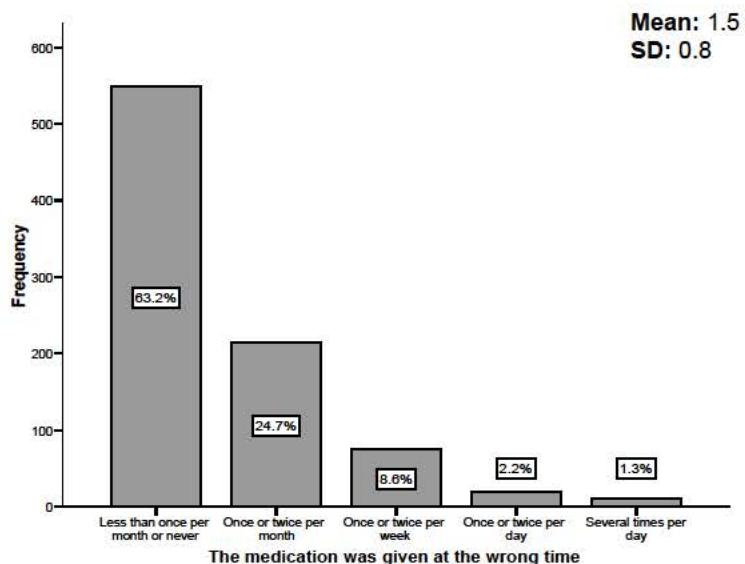
**Figure 3.3.9**



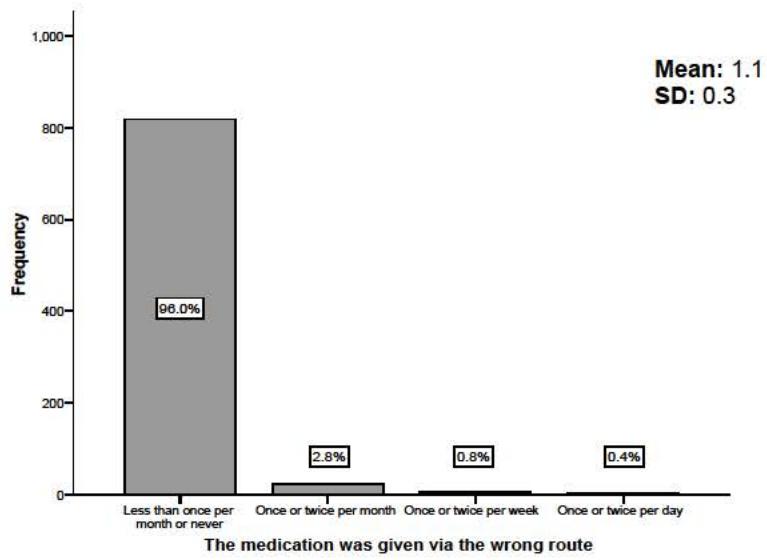
**Figure 3.3.10**



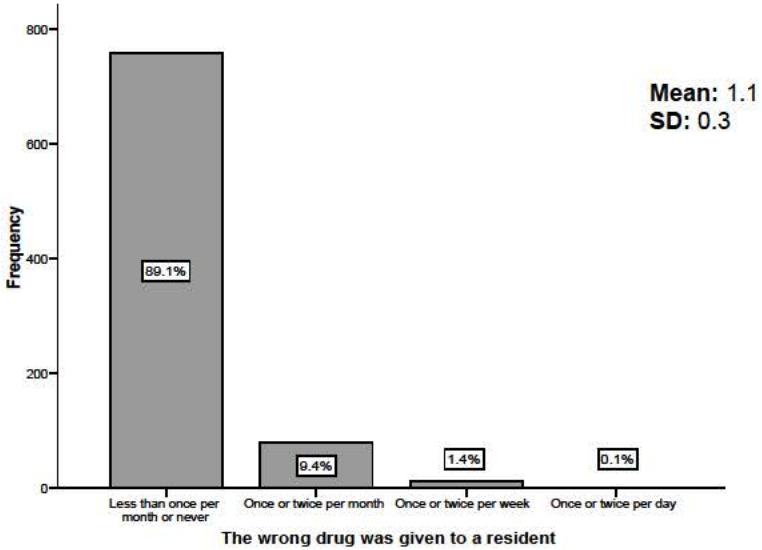
**Figure 3.3.11**



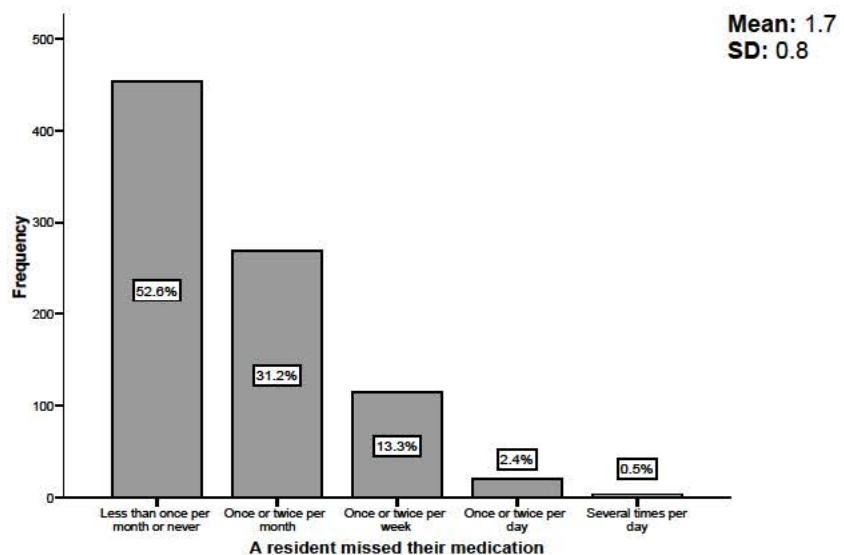
**Figure 3.3.12**



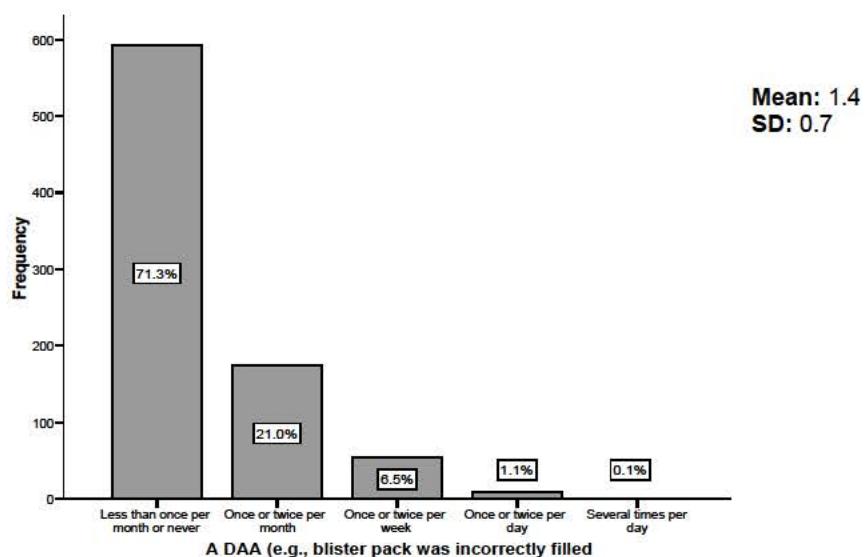
**Figure 3.3.13**



**Figure 3.3.14**



**Figure 3.3.15**

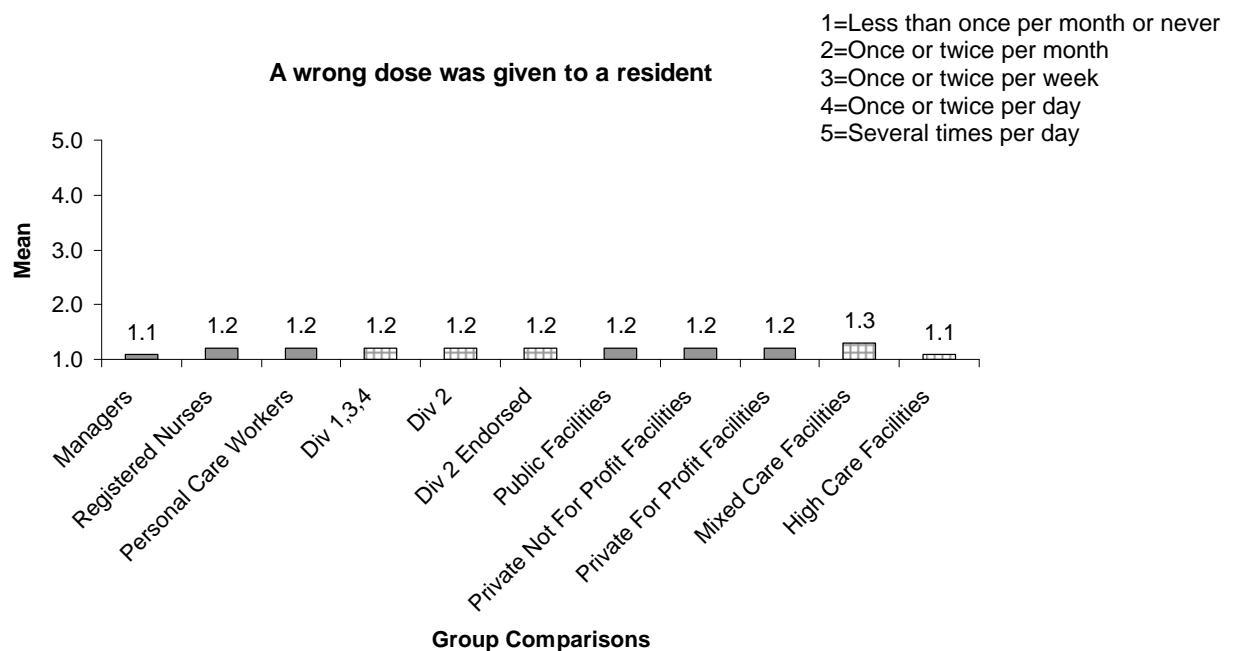


#### *Group Comparisons*

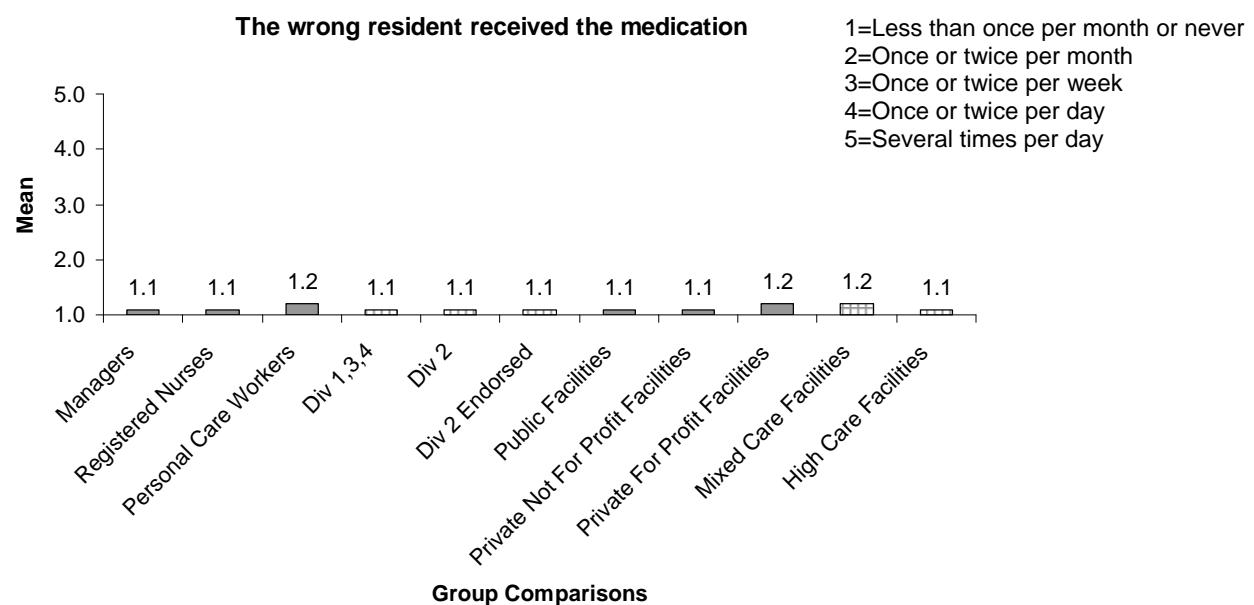
The following graphs present the means for each of the different medication errors for the different groups based on job type and organisation type. Higher scores indicate the medication error was made more frequently. For the job type comparisons personal care workers reported that the wrong resident received the medication and that the medication was given via the wrong route more frequently as compared to the rates reported by managers and registered nurses. In relation to the other types of medication errors there were no statistically significant differences between the different job types. In relation to differences in the reporting rates by the different categories of nurses, Div 2 nurses reported that DAAs were incorrectly filled as compared to Div 1,3,4 and Div 2 endorsed nurses. On all of the other medication error items there were no significant differences based on nursing category. There were no significant differences based on organisation type for any of the different medication errors. Overall, in relation to differences based on the type of care the facility provided participants from mixed care facilities, as compared to participants from high care facilities, reported that medication errors occurred more frequently. Only for two of the medication error items (medication given at the wrong time and

medication given via the wrong route) there were there no significant differences between mixed and high care facilities.

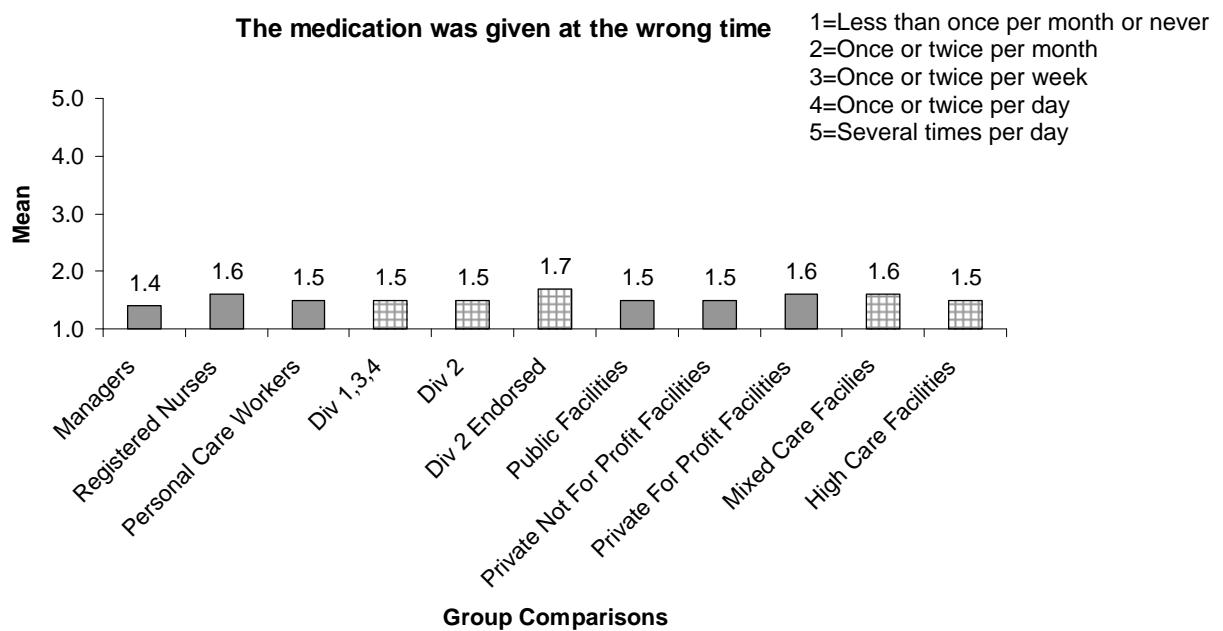
**Figure 3.3.16**



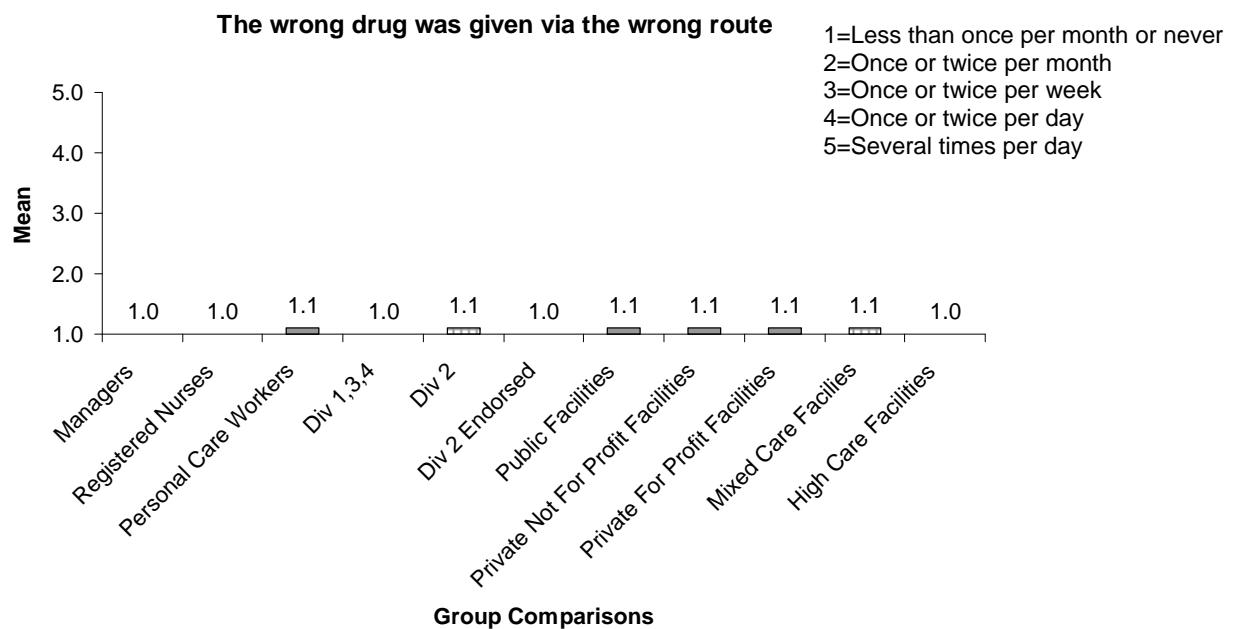
**Figure 3.3.17**



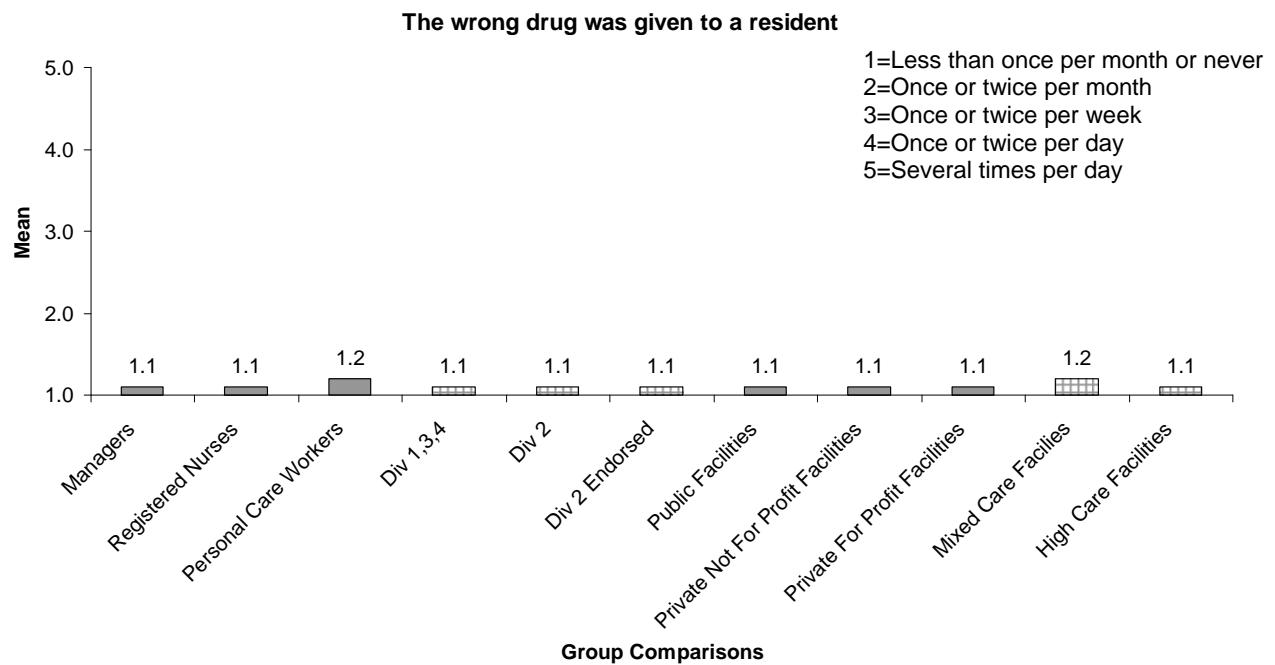
**Figure 3.3.18**



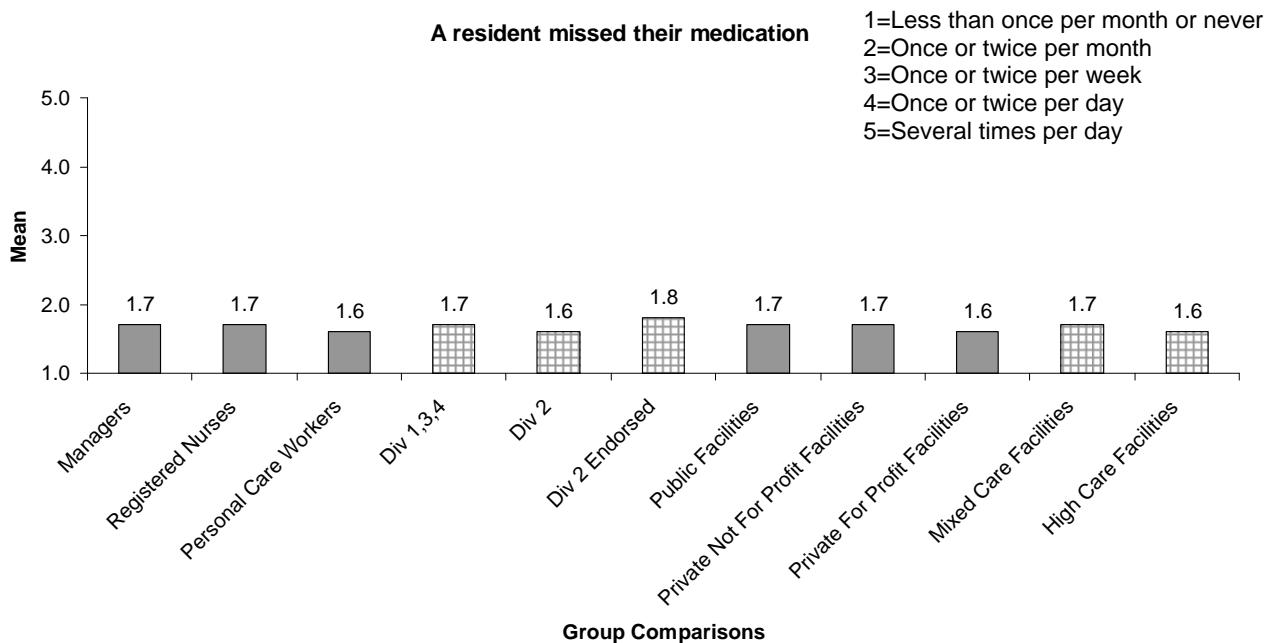
**Figure 3.3.19**



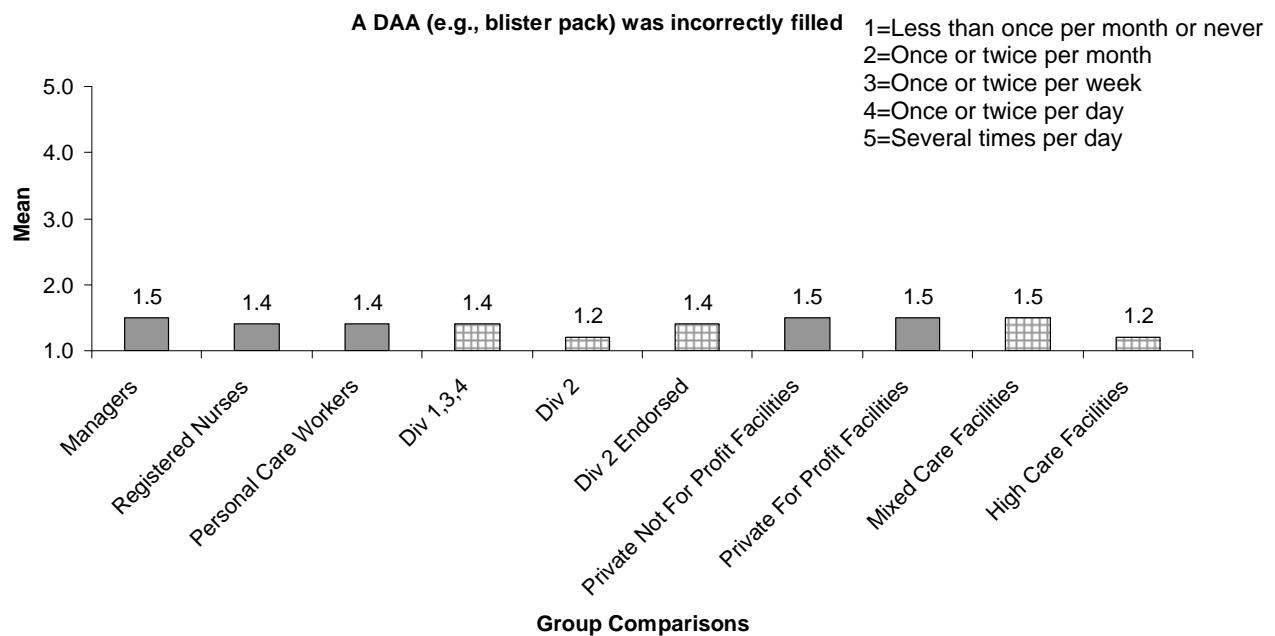
**Figure 3.3.20**



**Figure 3.3.21**



**Figure 3.3.22**



#### *Predictors of Medication Errors*

A set of statistical analyses (regressions) were conducted to determine the extent to which work stressors (i.e., workload, role conflict, interpersonal conflict, co-worker aggression, resident aggression, staff cost-cutting, & resident quality of living cost-cutting) and management practices (i.e., grievance procedures, recruitment & selection practices, performance practices, & training) predicted the frequency with which medication errors were made (Appendix A contains a complete listing of the individual items used to measure each variable). As part of the analyses the possible influence of a number of employee/facility variables were also controlled. Next, information on the variables in each of the three categories (employee/facility variables, work stressors, & management practices) that were significant predictors is presented.

- Significant Predictors of Medication Errors:
  - Employee/Facility Variables
    - Nursing Qualifications: Individuals with higher/more advanced nursing qualifications tended to report that medication errors were made more frequently in their facilities. Unfortunately, the questionnaire did not ask participants to explain why this is the case. It may be that individuals with higher levels of education and training are more equipped to recognise medication errors when they occur.
  - Work Stressors
    - Role Conflict: Individuals who perceived high levels of role conflict tended to report medication errors were made more frequently at their facility.

- Work Stressors (cont)
  - Co-Worker Aggression: The more frequently an individual witnessed co-workers being aggressive towards residents the more frequently they also reported medication errors were made at their facility.
  - Resident Quality of Living Cost-Cutting: Individuals who worked in facilities where there was a high level of cost-cutting in relation to the quality of living for residents tended to also report that medication errors were made more frequently at their facility.
- Management Practices
  - Grievance Procedures: Individuals who felt their organisation had effective grievance procedures tended to report that medication errors were made less frequently at their facility.
  - Training: Individuals who felt they received adequate training to do their job effectively tended to report that medication errors were made less frequently at their facility.
- Overall the employee/facility variables accounted for 7% of the variance in medication errors. The work stressor variables and the management practices variables each accounted for an additional 15.1% and 1.6% of the variance respectively<sup>4</sup>.

### **Summary: Medication Practices**

Most division 2 registered nurses felt they had received adequate training in relation to changes to their scope of practice with participants working at public facilities reporting the lowest levels of training. Similarly, most division 1, 3 and 4 registered nurses felt they had received adequate training in relation to the changes to their scope of practice. Again participants who worked at public facilities reported the lowest levels. Overall, most participants reported high levels of self-efficacy or confidence in relation to administering medications. There were no significant differences based on organisation type. Across the total sample participants reported that most medication errors occurred less than once per month or never. Personal care workers tended to report that medication errors occurred more frequently than did managers and registered nurses. No significant differences were found based on type of organisation. Medication errors were likely to happen more frequently in situations where levels of role conflict, co-worker aggression and resident quality of living cost-cutting were higher. Medication errors were likely to happen less frequently if the organisation had good grievance procedures and training practices.

### **3.4. Workplace Aggression**

In this section of the survey participants were asked to assess the frequency with which they witnessed co-workers behaving aggressively towards residents and the frequency with which they experienced aggression from residents. Below a summary

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<sup>4</sup> The simplest way to make sense of this is that it suggests that 23.7 per cent of the differences in the frequency with which medication errors are made can be explained by differences in these variables. The remaining 76.3 per cent of difference in the frequency with which medication errors are made must, therefore, be accounted for by other variables or factors. This logic applies whenever we report the percentage of variance accounted for by variables.

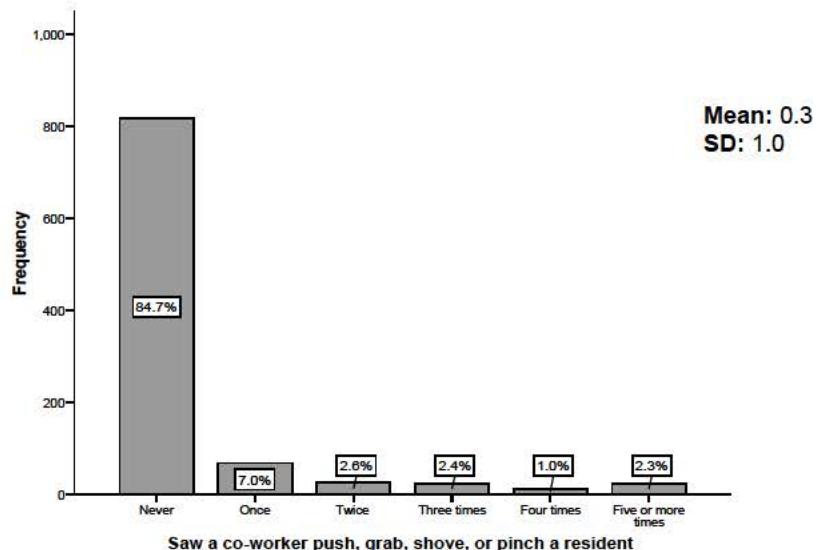
in relation to each of these different forms of aggression is provided. A bar chart for each scale indicating the dispersion of responses based on the entire sample is also provided. This is followed by comparisons for each of the scales across different job types (Managers, Registered Nurses, & Personal Care Workers) and organisation types (Public, Private Not for Profit, Private for Profit). Appendix A provides the individual items for each of the aggression scales.

### Co-worker Aggression towards Residents

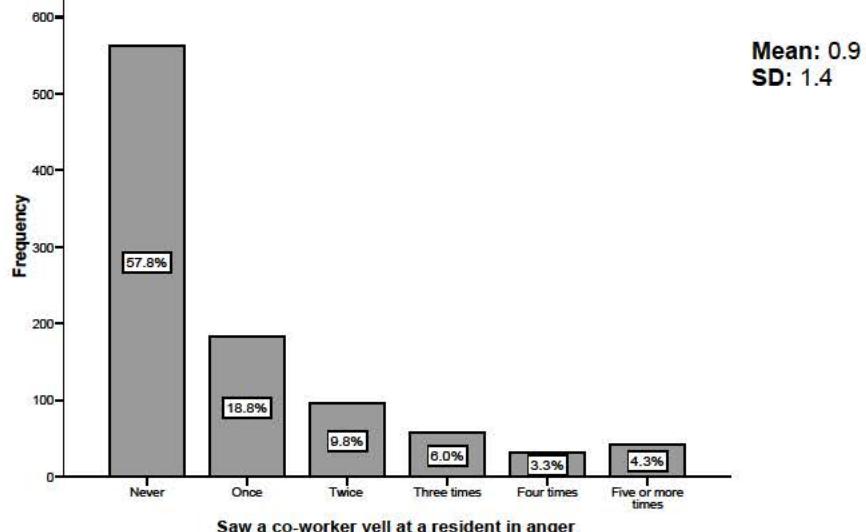
#### *Total Sample*

The items in this scale assessed how frequently in the past 6 months participants had witnessed co-workers behaving in either a verbally or physically aggressive way towards residents. Participants were asked to record their responses using a scale which ranged from 0 (Never) to 5 (Five or more times). Higher scores indicate participants witnessed co-workers behaving aggressively towards residents more frequently. The proceeding graphs indicates the dispersion of responses based on the entire sample for each of the items in the scale.

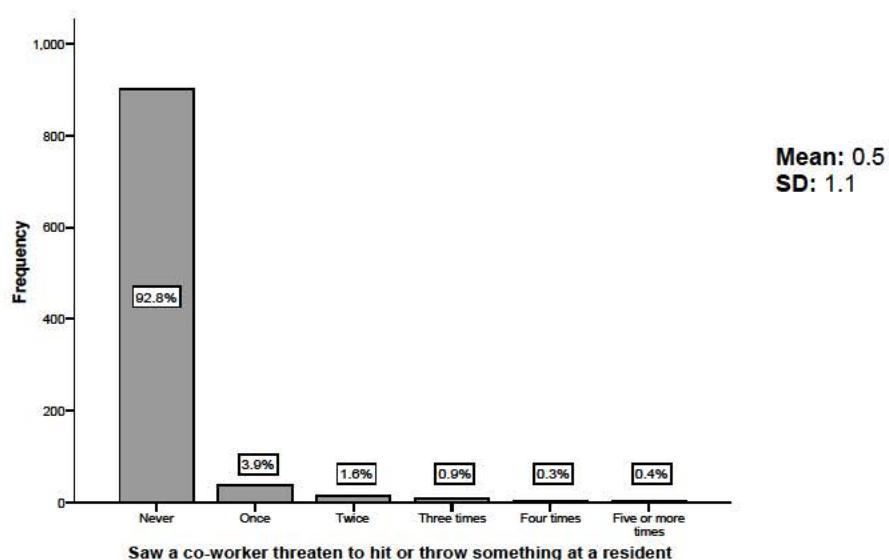
**Figure 3.4.1**



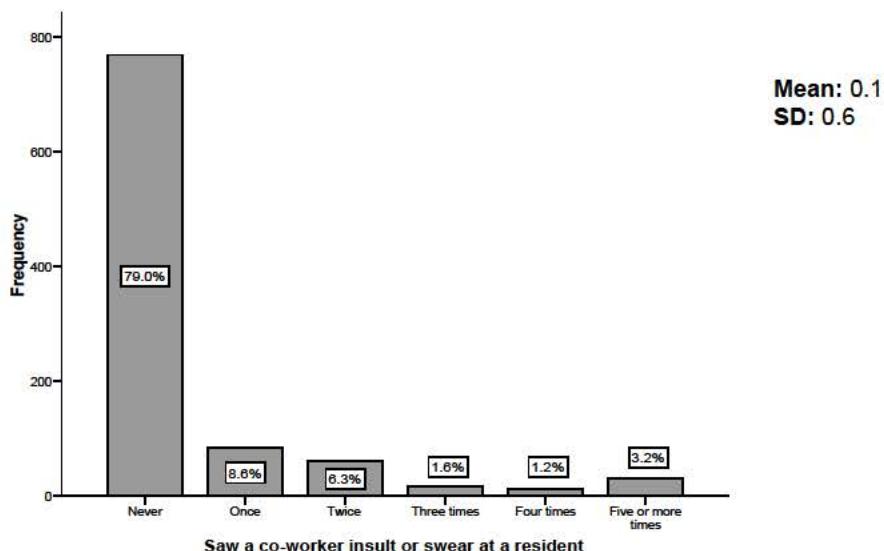
**Figure 3.4.2**



**Figure 3.4.3**



**Figure 3.4.4**

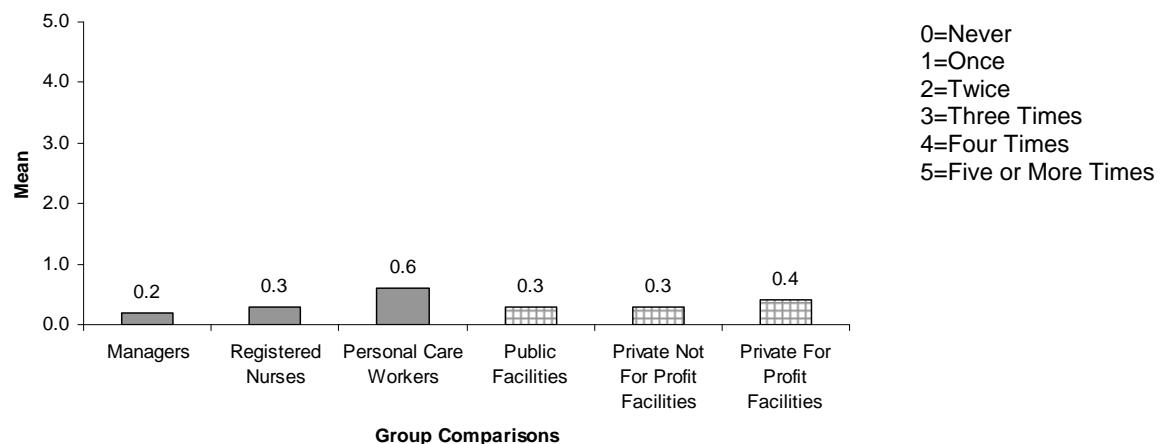


#### *Group Comparisons*

The following graphs present the means for co-worker aggression for the different groups based on job type and organisation type. Higher scores indicate participants witnessed co-workers behaving aggressively towards residents more frequently in the past 6 months. In the job type comparisons personal care workers reported witnessing co-workers yell at residents in anger significantly more frequently than did managers and registered nurses. There were no other significant differences across the different job types on the co-worker aggression items. In relation to the organisation type comparisons there were no significant differences for any of the items across the different categories.

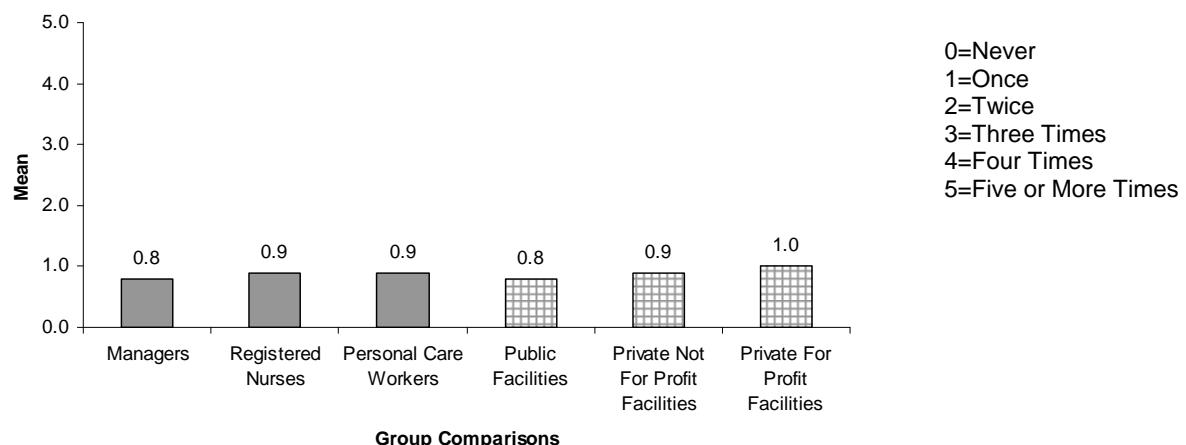
**Figure 3.4.5**

**Saw a Co-Worker Push, Grab, Shove or Pinch a Resident**



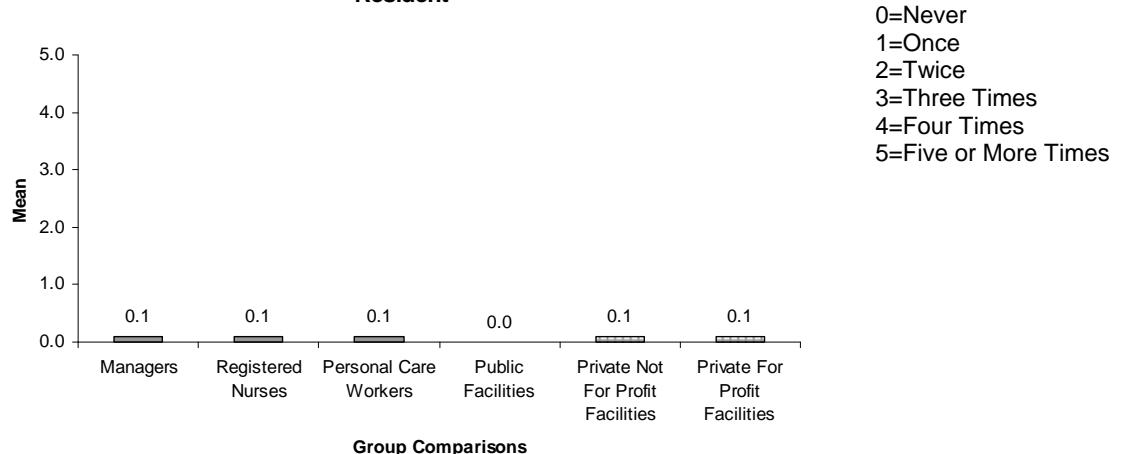
**Figure 3.4.6**

**Saw a Co-Worker Yell at a Resident in Anger**



**Figure 3.4.7**

**Saw a Co-Worker Threaten to Hit or Throw Something at a Resident**

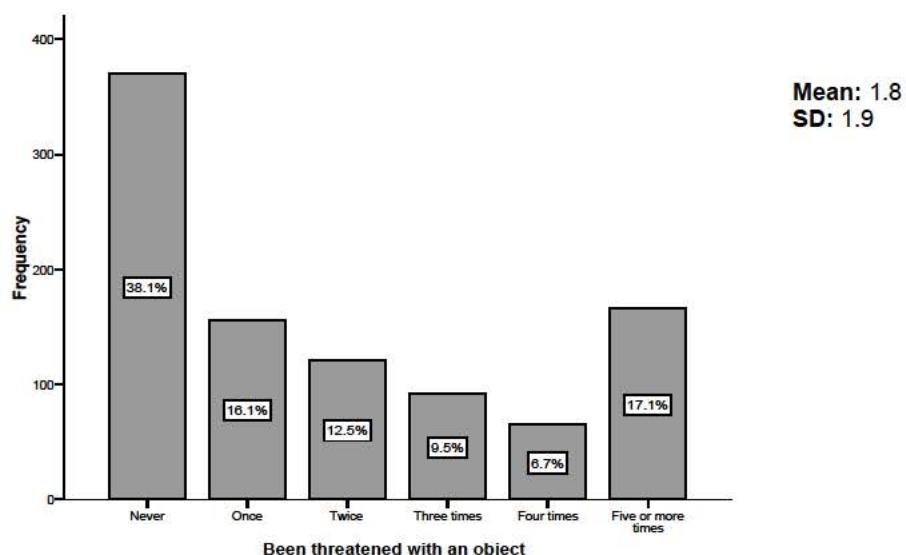


## Resident Aggression

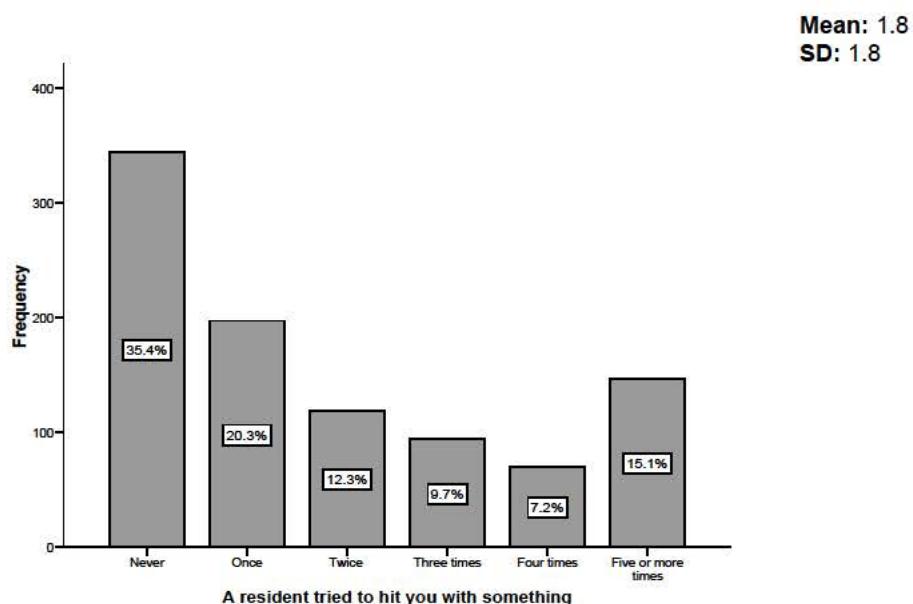
### Total Sample

The items in this scale assessed how frequently in the past 6 months participants had personally experienced either verbal or physical aggression from residents. Participants were asked to record their responses using a scale which ranged from 0 (Never) to 5 (Five or more times). Higher scores indicate participants experienced aggression from residents more frequently. The proceeding graphs indicate the dispersion of responses based on the entire sample for each scale item.

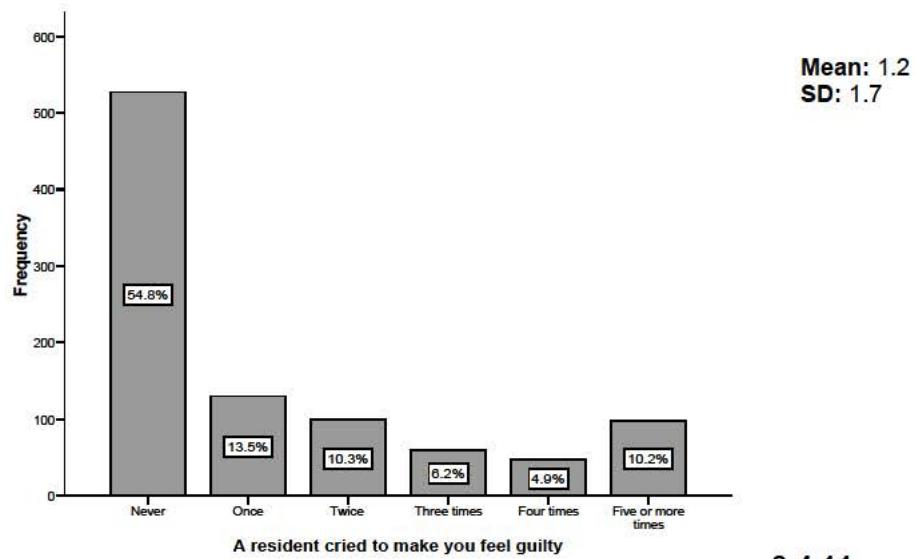
**Figure 3.4.8**



**Figure 3.4.9**

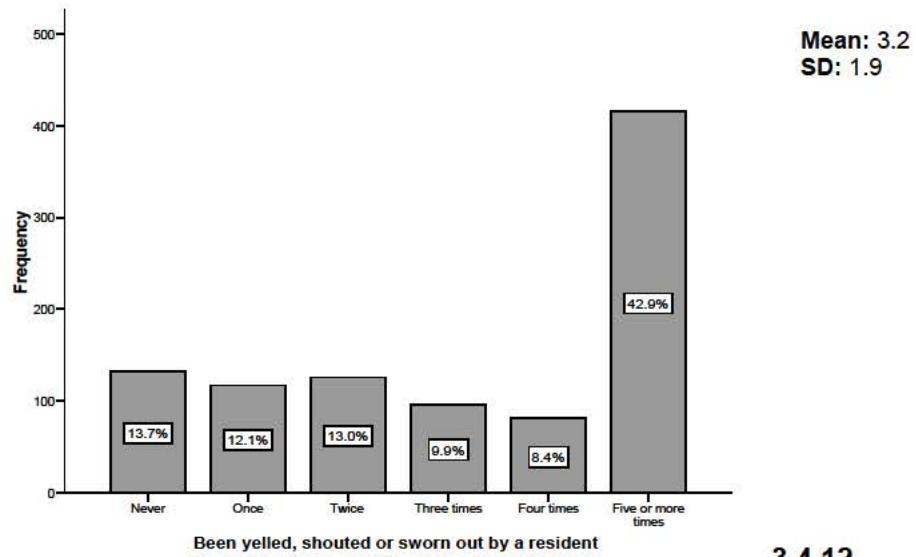


**Figure 3.4.10**



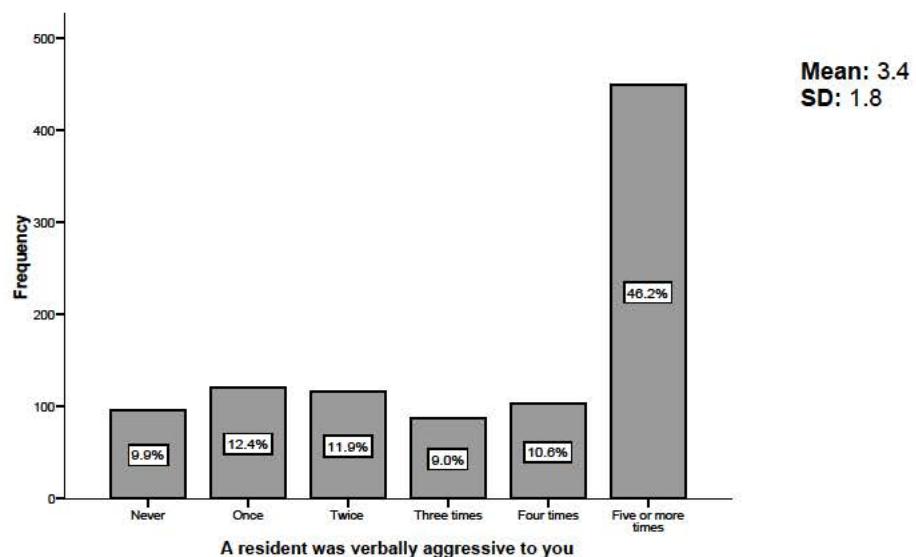
**Figure**

**3.4.11**



**Figure**

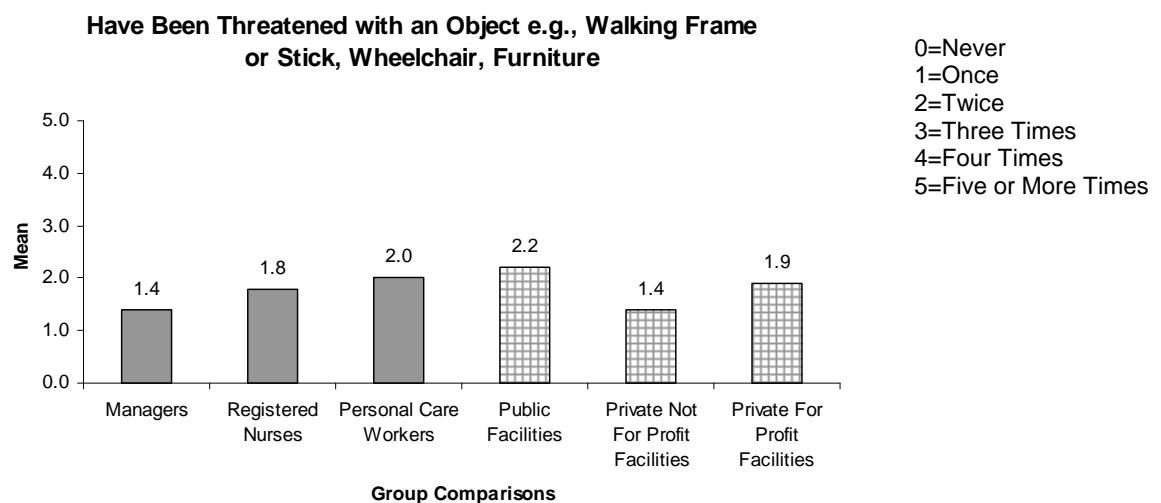
**3.4.12**



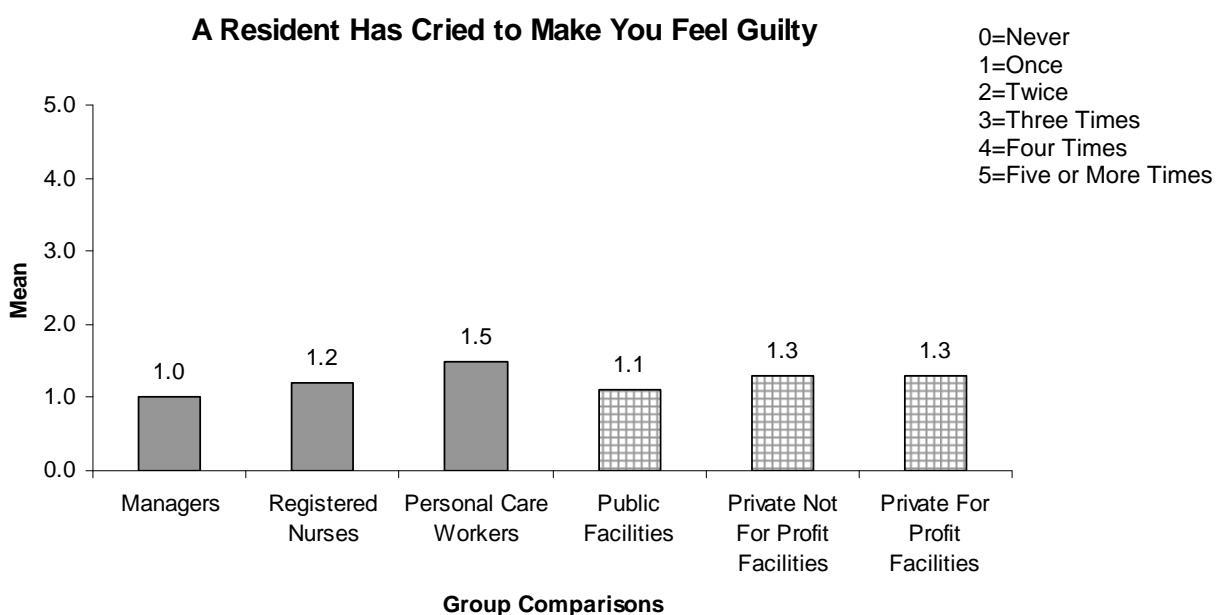
### Group Comparisons

The following graphs present the means for the resident aggression items for the different groups based on job type and organisation type. Higher scores indicate participants experienced aggression from residents more frequently in the past 6 months. In relation to the job type comparisons personal care workers reported having residents try to hit them with something significantly more frequently than did managers or registered nurses. Registered nurses and personal care workers reported that residents yelled at them and were verbally aggressive towards them significantly more frequently than was the case for managers. In relation to the organisation type comparisons participants who worked at private not for profit facilities reported significantly fewer incidents where they had been threatened with an object, hit or yelled, shouted or sworn at by residents than did participants who worked in public or private for profit facilities.

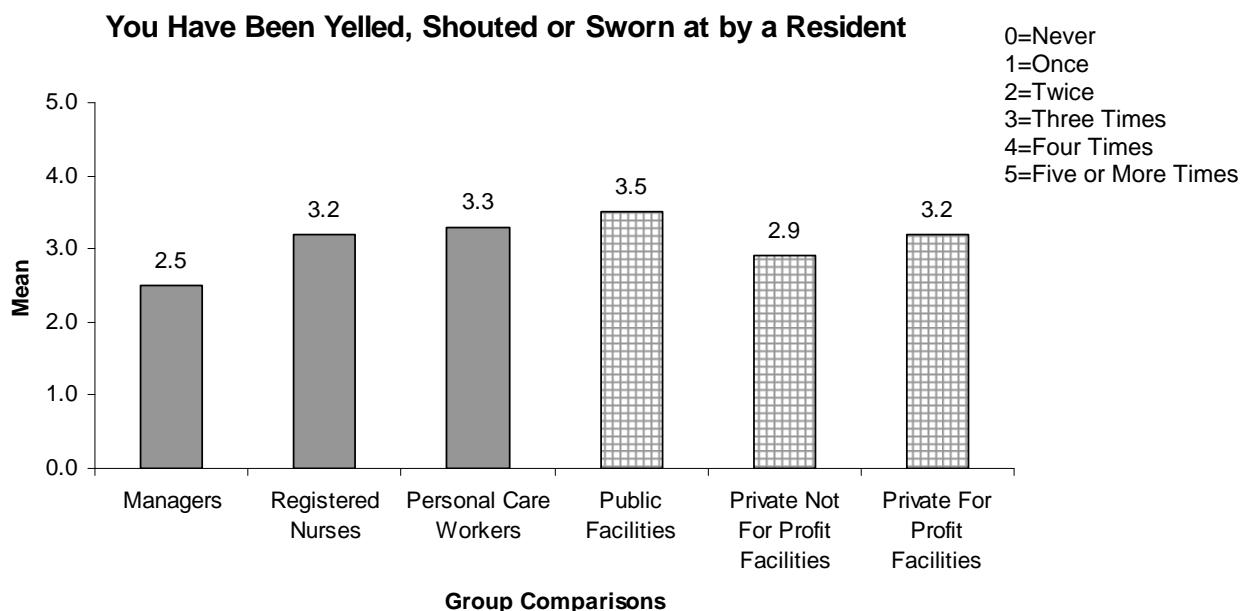
**Figure 3.4.13**



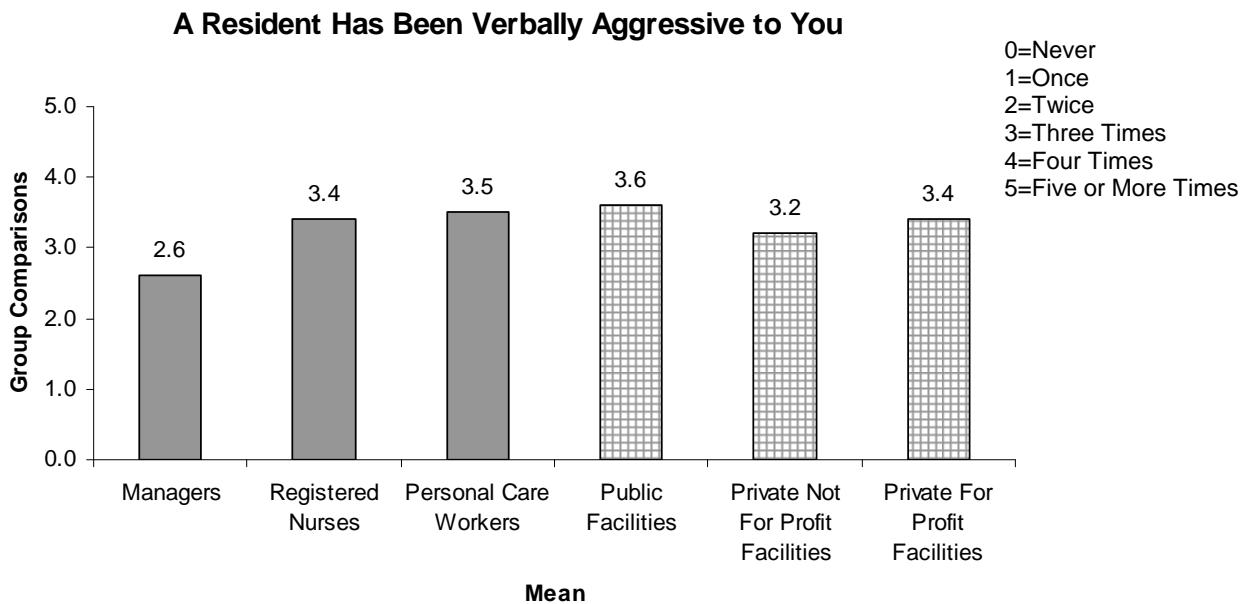
**Figure 3.4.14**



**Figure 3.4.15**



**Figure 3.4.16**



### Summary: Workplace Aggression

Forty per cent of participants had seen a co-worker yell at a resident one or more times, and 15% had seen a co-worker push, grab, shove, or pinch a resident one or more times in the past 6 months. Other forms of aggression were reported less frequently. Managers tended to report witnessing significantly less co-worker aggression. No significant differences were found across the different types of organisations. The frequency with which participants' experienced resident aggression varied based on the type of aggression. Participants reported being

yelled, shouted or sworn at and verbal aggression by residents occurred most frequently. Registered nurses and personal care workers reported experiencing aggression from residents significantly more frequently than managers. Participants who worked at public facilities tended to experience aggression from residents more frequently than participants from private not for profit or private for profit facilities.

### 3.5. Work, Psychological & Physical Health Outcomes

The scales in this section were designed to assess the extent to which participants were satisfied with their current job, intended to leave their current job, were committed to their current organisation, were emotionally exhausted as a result of their job, were functioning well psychologically and were exhibiting a range of different physical symptoms. A summary of each these different outcomes are provided below. A bar chart for each scale indicating the dispersion of responses based on the entire sample is also provided. This is followed by comparisons for each of the scales across different job types (Managers, Registered Nurses, & Personal Care Workers) and organisation types (Public, Private Not for Profit, Private for Profit). Appendix A provides the individual items for each of the scales.

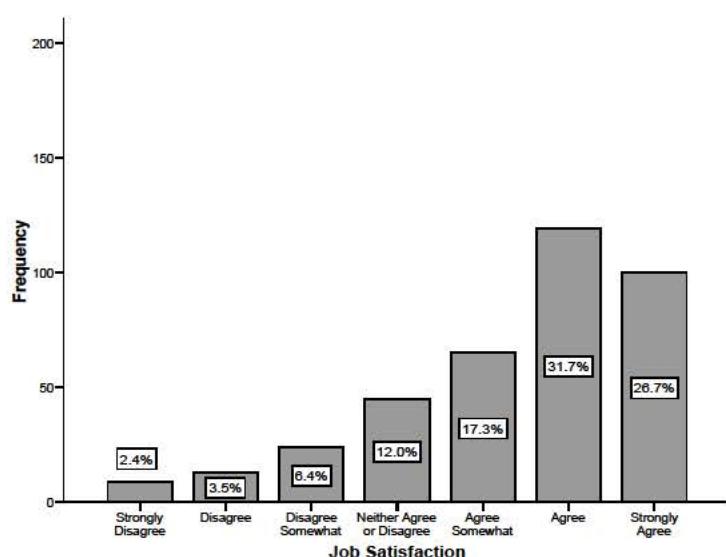
#### Job Satisfaction

##### *Total Sample*

This scale assessed the extent to which participants were satisfied with their current job. An example of one of the items used in the scale is "All in all, I am satisfied with my job". Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 7 (Strongly Agree). Higher scores indicate higher levels of job satisfaction. Appendix A provides the individual items for the scale. The proceeding graphs indicate the dispersion of responses based on the entire sample for each scale item.

**Figure 3.5.1**

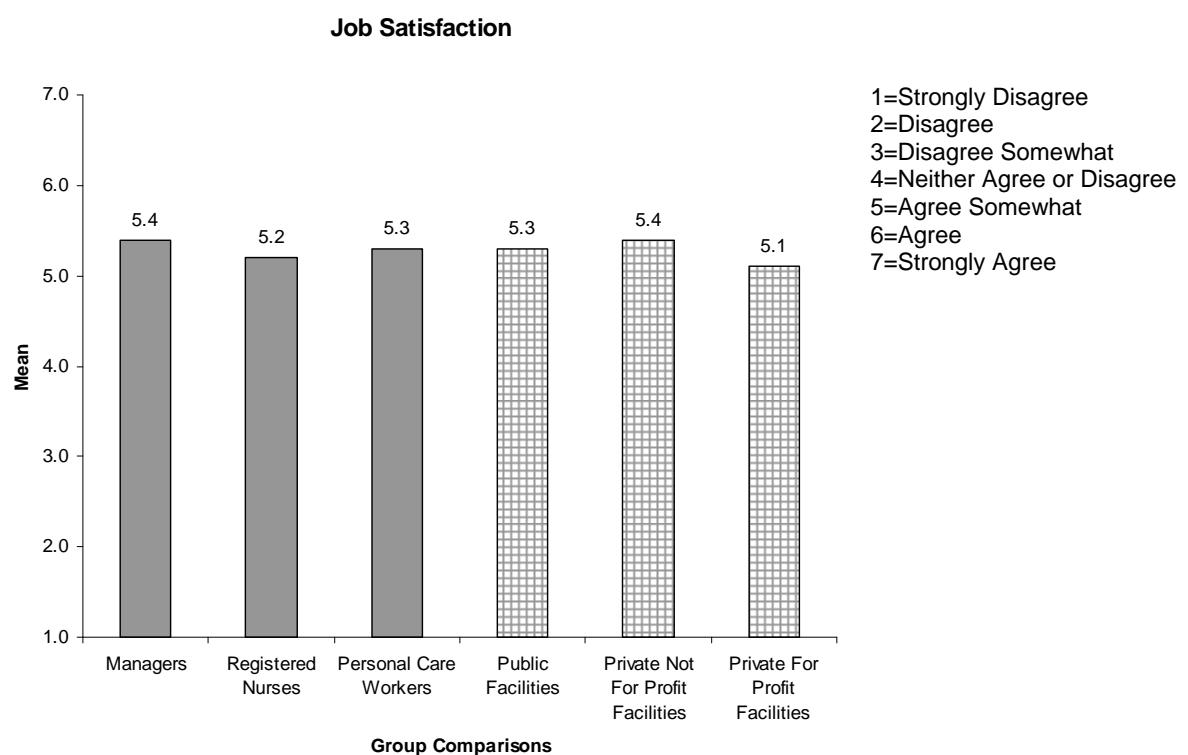
Mean: 5.3  
SD: 1.4



### Group Comparisons

The following graph presents the means for job satisfaction for the different groups based on job type and organisation type. Higher scores indicate higher levels of job satisfaction. In relation to the job type comparisons there were no significant differences in the levels of job satisfaction reported by participants across the different categories. For the organisation type comparisons participants who worked in private for profit facilities reported significantly lower levels of job satisfaction than participants who worked in public or private not for profit facilities.

**Figure 3.5.2**



### Predictors of Job Satisfaction

A set of statistical analyses (regressions) were conducted to determine the extent to which work stressors (i.e., workload, role conflict, interpersonal conflict, co-worker aggression, resident aggression, staff cost-cutting, & resident quality of living cost-cutting) and management practices (i.e., grievance procedures, recruitment & selection practices, performance practices, & training) predicted the degree to which individuals were satisfied with their job (Appendix A contains a complete listing of the individual items used to measure each variable). As part of the analyses the possible influence of a number of employee/facility variables were also controlled. Next, information on the variables in each of the three categories (employee/facility variables, work stressors, & management practices) that were significant predictors is presented.

- Significant Predictors of Job Satisfaction:
  - Employee/Facility Variables
    - Gender: Females were more satisfied with their job.
    - Age: Older workers were more satisfied with their job.

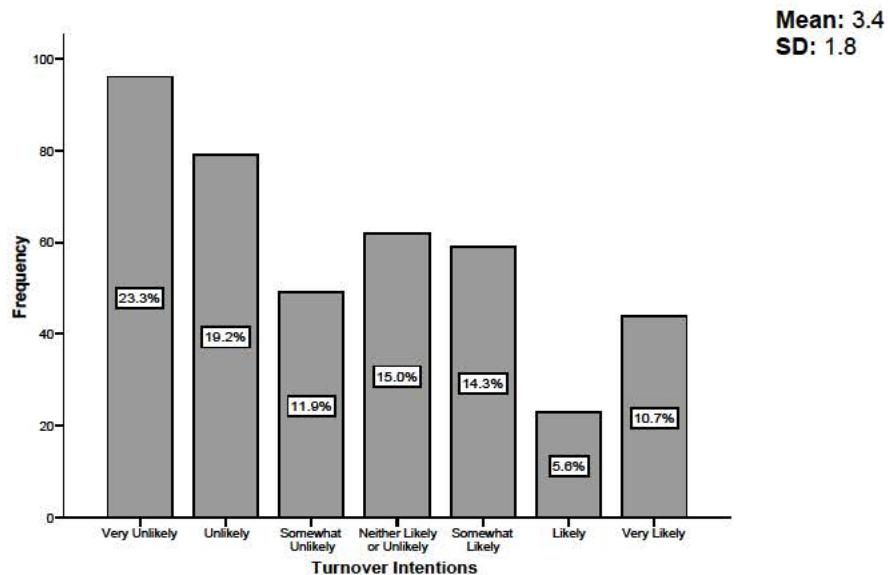
- Employee/Facility Variables (cont)
  - Negative Affect: Individuals who in general had a more negative outlook/attitude were less satisfied with their job.
  - Occupation Time: The longer an individual had been working in their current occupation the less likely they were to be satisfied with their job.
- Work Stressors
  - Role Conflict: Individuals who experienced high levels of role conflict reported lower levels of job satisfaction.
  - Resident Quality of Living Cost-Cutting: Individuals who worked in facilities where there was a high level of cost-cutting in relation to the quality of living of residents were less likely to be satisfied with their job.
- Management Practices
  - Grievance Procedures: Individuals who felt their organisation had effective grievance procedures were more likely to be satisfied with their job.
  - Performance Practices: Individuals who worked in organisations where job performance was regularly assessed and tied to raises, promotions etc were more satisfied with their job.
  - Training: Individuals who received adequate training to do their job effectively were more satisfied.
- Overall the employee/facility variables accounted for 26% of the variance in job satisfaction. The work stressor variables and the management practices variables each accounted for an additional 9.7% and 5.5% of the variance respectively.

## Turnover Intentions

### *Total Sample*

This scale assessed the likelihood that participants would leave their current job and/or how much they would like to get a new job. An example of one of the items used in the scale is "How likely is it that you will look for a job outside of this organisation during the coming year?" Participants were asked to record their responses using a scale which ranged from 1 to 7. Higher scores indicate a greater likelihood participants will leave their current job. Appendix A provides the individual items for the scale. The proceeding graphs indicate the dispersion of responses based on the entire sample for each scale item.

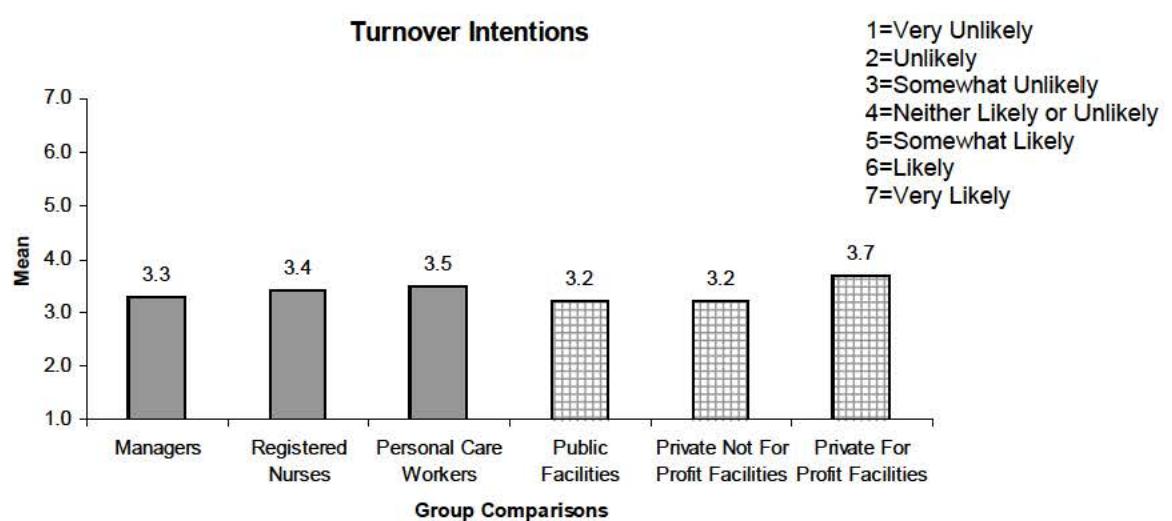
**Figure 3.5.3**



#### *Group Comparisons*

The following graph presents the means for turnover intentions for the different groups based on job type and organisation type. Higher scores indicate a greater likelihood participants will leave their current job. In relation to the job type comparisons there were no significant differences in turnover intentions across the different job categories. In the organisation type comparisons participants who worked in private for profit facilities reported significantly higher intentions to leave their current job than participants who worked in public or private not for profit facilities.

**Figure 3.5.4**



#### *Predictors of Turnover Intentions*

A set of statistical analyses (regressions) were conducted to determine the extent to which work stressors (i.e., workload, role conflict, interpersonal conflict, co-worker aggression, resident aggression, staff cost-cutting, & resident quality of living cost-cutting) and management practices (i.e., grievance procedures, recruitment & selection practices, performance practices, & training) predicted the likelihood an

individual would leave their job in the next year (Appendix A contains a complete listing of the individual items used to measure each variable). As part of the analyses the possible influence of a number of employee/facility variables were also controlled. Next, information on the variables in each of the three categories (employee/facility variables, work stressors, & management practices) that were significant predictors is presented.

- Significant Predictors of Turnover Intentions:
  - Employee/Facility Variables
    - Age: Older workers were less likely to leave their current job.
    - Relationship Status: Individuals who were currently in a relationship were less likely to leave their current job.
    - Negative Affect: Individuals who in general had a more negative outlook/attitude were more likely to leave their current job.
    - Organisation Time: The longer an individual had been working at their current organisation the less likely they were to leave.
    - Organisation Ownership: Individuals who worked at a facility that was privately owned were less likely to leave their current job.
  - Work Stressors
    - Workload: Individuals who felt they had heavy workloads were more likely to leave their current job.
    - Role Conflict: Individuals who reported high levels of role conflict were more likely to leave their job.
    - Staff Cost-Cutting: Individuals who worked in facilities where there was a high level of cost-cutting in relation to staff were more likely to leave their current job.
  - Management Practices
    - Grievance Procedures: Individuals who felt their organisation had effective grievance procedures were less likely to leave their current job.
    - Training: Individuals who received adequate training to do their job effectively were less likely to leave their current job.
  - Overall the employee/facility variables accounted for 23.1% of the variance in turnover intentions. The work stressor variables and the management practices variables each accounted for an additional 11.4% and 3.7% of the variance respectively.

#### *Further Qualitative Evidence on the causes of turnover in Aged Care*

Qualitative comments provided by a small number of participants who had actually left the aged care sector in the last 12 months would seem to support the above findings and reinforce the particularly negative role excessive workloads and cost-cutting play in contributing to the likelihood that individuals will stop working in the sector. Of the small number of surveyed participants who had actually left aged care most had however remained in the health care sector with only a smaller number opting to leave the health care sector all together.

**Table 3.5.1**

Type of Occupational Drift	Number of Participants	
Voluntarily changed organisations & left aged care in the last 12 months	25	<p><b>Most common reasons for leaving:</b></p> <ul style="list-style-type: none"> <li>• Didn't like job changes introduced by management</li> <li>• Redundancy</li> <li>• Retirement</li> <li>• Stress</li> <li>• Bullying</li> <li>• Desire for better working conditions</li> <li>• Wanted a career change</li> </ul> <p><b>Most common new positions:</b></p> <ul style="list-style-type: none"> <li>• RN position in a hospital</li> <li>• Palliative/home care nursing</li> <li>• Diversional therapies</li> </ul>
Type of Occupational Drift	Number of Participants	
Voluntarily changed jobs and left the health care sector	10	<p><b>New Industries</b></p> <ul style="list-style-type: none"> <li>• Teaching</li> <li>• Started own small business</li> </ul>

**Qualitative Comments**

“I no longer work in aged care. I stopped working in aged care because I could not nurse the residents the way I would have liked to because of limited time.”

“I stopped working in aged care due to management cost cutting which put extra strain on workers resulting in not enough time to care properly for residents.”

“I no longer work in aged care due to the extensive cost cutting measures employed in aged care. Many jobs were subcontracted out, i.e., cleaning staff and kitchen staff (and these staff are only trained for 6 weeks to become PCWs). Division 1 nurses were cut from 3 on night shift to 1 for 150 residents – 90 were high level care. I did not agree with this and so I left!”

“I left aged care in March of this year after becoming increasingly disillusioned with the ever increasing amount of paper work, management that had ‘no idea’ and who lacked compassion, commitment, empathy and a general understanding of the ageing process. The facility where I worked has since lost a number of staff – older and not so old carers with life experience and aged care/dementia expertise who felt they could no longer work within the ‘farce’ that has become aged care”.

“I felt I had to stop work in Aged Care out of complete frustration at the nurse to resident ratios and so many other issues”.

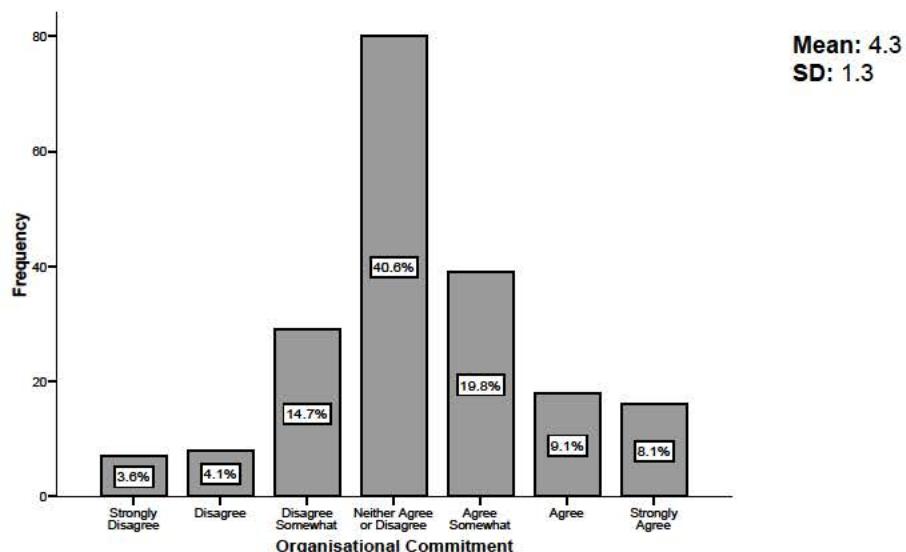
“I have not worked in aged care for the last year at least: conditions difficult – not enough time to give residents what I consider excellent care. I find it quite depressing”.

## Organisational Commitment

### Total Sample

This scale assessed the extent to which participants felt committed or emotionally attached to their current organisation. An example of one of the items used in the scale is "I would be very happy to spend the rest of my career in this organisation". Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 7 (Strongly Agree). Higher scores indicate individuals are more committed to their current organisation. Appendix A provides the individual items for the scale. The proceeding graphs indicate the dispersion of responses based on the entire sample for each scale item.

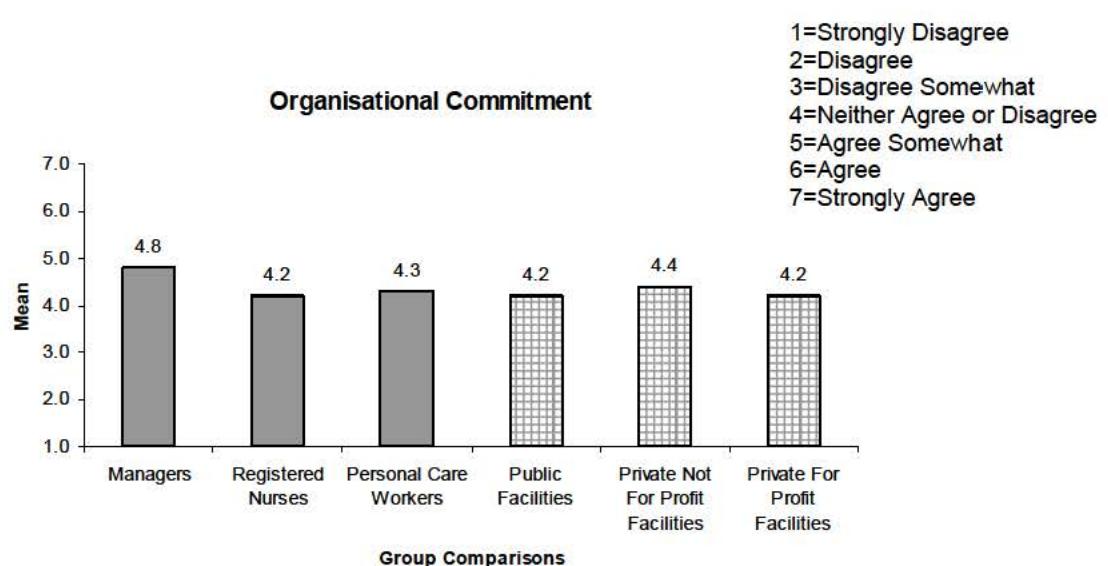
**Figure 3.5.5**



### Group Comparisons

The following graph presents the means for organisational commitment for the different groups based on job type and organisation type. Higher scores indicate individuals are more committed to their current organisation. In relation to the job type comparisons managers reported significantly higher levels of organisational commitment than registered nurses and personal care workers. In the organisation type comparisons there were no significant differences across the different categories.

**Figure 3.5.6**



### *Predictors of Organisational Commitment*

A set of statistical analyses (regressions) were conducted to determine the extent to which work stressors (i.e., workload, role conflict, interpersonal conflict, co-worker aggression, resident aggression, staff cost-cutting, & resident quality of living cost-cutting) and management practices (i.e., grievance procedures, recruitment & selection practices, performance practices, & training) predicted the degree to which individuals were committed to their organisation (Appendix A contains a complete listing of the individual items used to measure each variable). As part of the analyses the possible influence of a number of employee/facility variables was also controlled. Next, information on the variables in each of the three categories (employee/facility variables, work stressors, & management practices) that were significant predictors is presented.

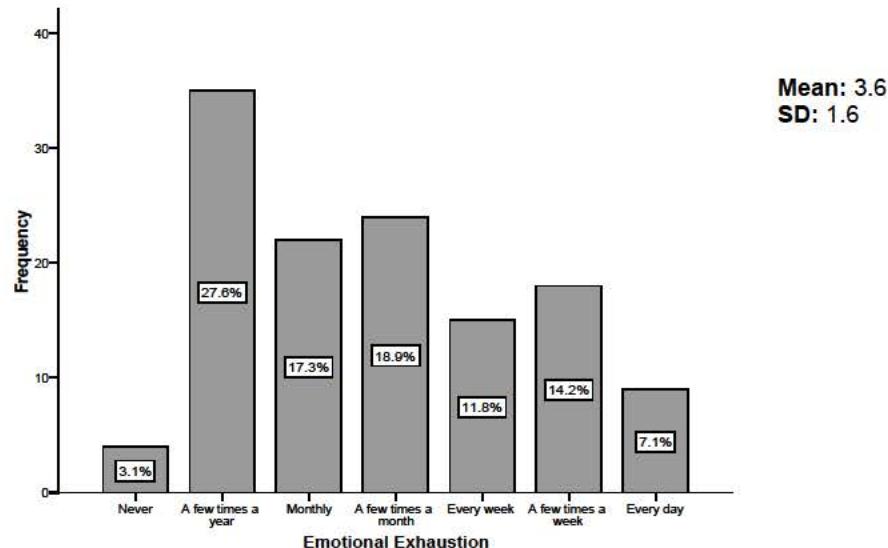
- Significant Predictors of Organisational Commitment:
  - Employee/Facility Variables
    - Gender: Females reported higher levels of organisational commitment compared to males.
    - Negative Affect: Individuals who in general had a more negative outlook/attitude were less likely to be committed to their organisation.
    - Employment Status: Individuals who were employed on a full-time basis tended to report higher levels of organisational commitment.
    - Organisation Time: The longer an individual had worked for their organisation the more committed they were likely to be.
  - Work Stressors
    - Interpersonal Conflict: Individuals who experienced high levels of interpersonal conflict were more likely to report lower levels of organisational commitment.
    - Staff Cost-Cutting: Individuals who worked in facilities where there was a high level of cost-cutting in relation to staff tended to report lower levels of organisational commitment.
  - Management Practices
    - Grievance Procedures: Individuals who felt their organisation had effective grievance procedures were more likely to report higher levels of organisational commitment.
    - Performance Practices: Individuals who worked in organisations where job performance was regularly assessed and tied to raises, promotions etc were more likely to report higher levels of organisational commitment.
- Overall the employee/facility variables accounted for 14.9% of the variance in organisational commitment. The work stressor variables and the management practices variables each accounted for an additional 11.6% and 5.2% of the variance respectively.

## Emotional Exhaustion

### Total Sample

This scale assessed how frequently participants felt emotionally drained and fatigued as a result of their work. An example of one of the items used in the scale is "How often do you feel burned out from your work?". Participants were asked to record their responses using a scale which ranged from 1 (Never) to 7 (Every Day). Higher scores indicate that individuals reported that they felt emotionally exhausted more frequently. Appendix A provides the individual items for the scale. The proceeding graphs indicate the dispersion of responses based on the entire sample for each scale item.

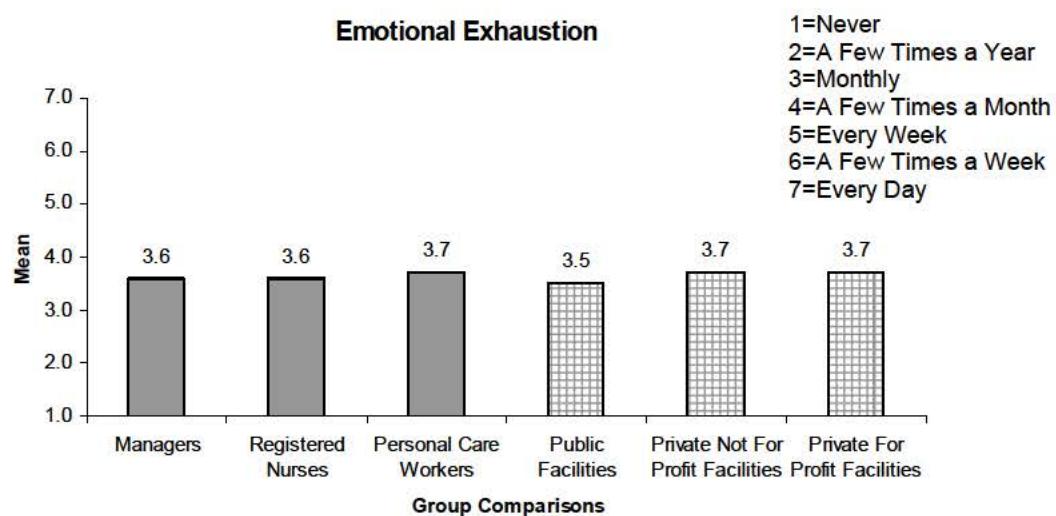
**Figure 3.5.7**



### Group Comparisons

The following graph presents the means for emotional exhaustion for the different groups based on job type and organisation type. Higher scores indicate that individuals reported that they felt emotionally exhausted more frequently. In relation to the job type comparisons there were no significant differences in emotional exhaustion across the different job categories. There were also no significant differences across the different types of organisations.

**Figure 3.5.8**



### *Predictors of Emotional Exhaustion*

A set of statistical analyses (regressions) were conducted to determine the extent to which work stressors (i.e., workload, role conflict, interpersonal conflict, co-worker aggression, resident aggression, staff cost-cutting, & resident quality of living cost-cutting) and management practices (i.e., grievance procedures, recruitment & selection practices, performance practices, & training) predicted the frequency with which individuals felt emotionally exhausted as a result of their job (Appendix A contains a complete listing of the individual items used to measure each variable). As part of the analyses the possible influence of a number of employee/facility variables was also controlled. Next, information on the variables in each of the three categories (employee/facility variables, work stressors, & management practices) that were significant predictors is presented.

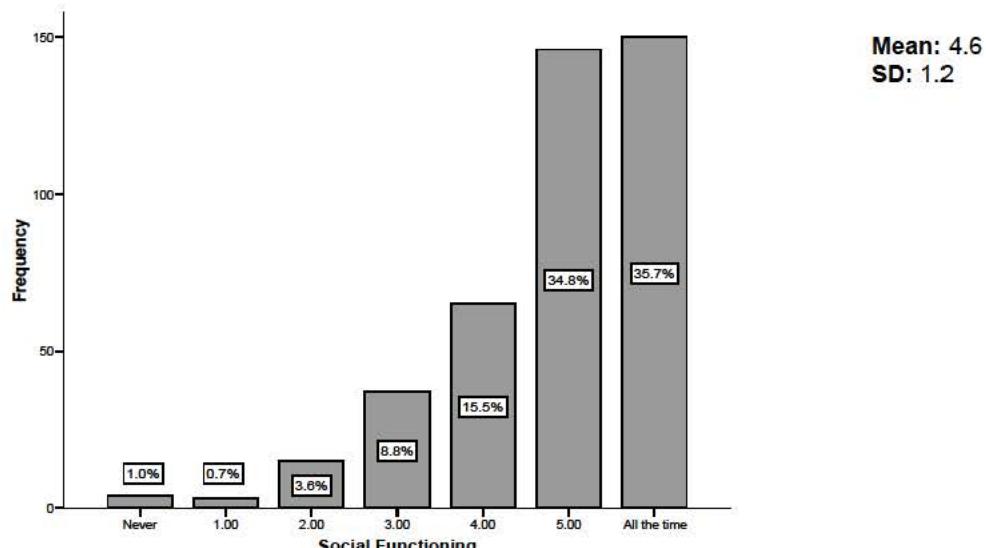
- Significant Predictors of Emotional Exhaustion:
  - Employee/Facility Variables
    - Negative Affect: Individuals who in general had a more negative outlook/attitude were more likely to feel emotionally exhausted.
    - Hours worked per week: The more hours per week an individual worked the more likely they were to report feeling emotionally exhausted.
  - Work Stressors
    - Workload: Individuals who felt they had heavy workloads were more likely to report feeling emotionally exhausted.
    - Role Conflict: Individuals who reported high levels of role conflict were more likely to report feeling emotionally exhausted.
    - Resident Aggression: The more frequently an individual experienced aggression from residents the higher their levels of emotional exhaustion tended to be.
    - Staff Cost-Cutting: Individuals who worked in facilities where there was a high level of cost-cutting in relation to staff tended to report higher levels of emotional exhaustion.
  - Management Practices
    - Training: Individuals who received adequate training to do their job effectively tended to report lower levels of emotional exhaustion.
- Overall the employee/facility variables accounted for 35.9% of the variance in emotional exhaustion. The work stressor variables and the management practices variables each accounted for an additional 15.9% and 0.05% of the variance respectively.
- Qualitative comments provided by some participants also provide further evidence of the way in which heavy workloads and cost-cutting in particular contribute to feelings of emotional exhaustion amongst aged care workers. In the words of one participant: *“To sum up my feelings in aged care (15 years): Understaffing – not enough time for residents, ridiculous levels of paper work, resident care rushed by staff to get through work.... all of which causes too much burn out”*.

## Social Functioning

### Total Sample

This scale assessed how frequently over the past few weeks participants had felt able to enjoy their life and capable of making decisions and dealing with problems. An example of one of the items used in the scale is "Have you recently been able to enjoy your normal day-to-day activities?". Participants were asked to record their responses using a scale which ranged from 0 (Never) to 6 (All the time). Higher scores indicate a higher level of social functioning. Appendix A provides the individual items for the scale. The proceeding graphs indicate the dispersion of responses based on the entire sample for each scale item.

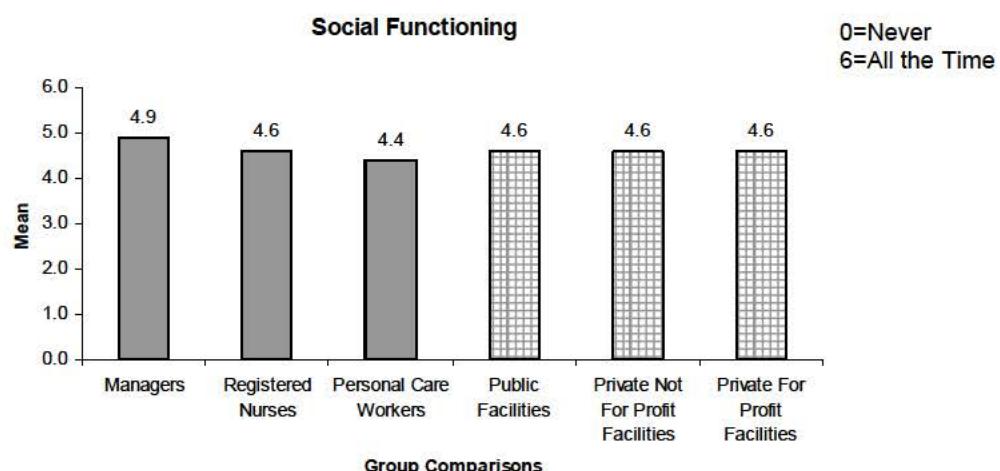
**Figure 3.5.9**



### Group Comparisons

The following graph presents the means for social functioning for the different groups based on job type and organisation type. Higher scores indicate a higher level of social functioning. In relation to the job type comparisons personal care workers reported significantly lower levels of social functioning as compared to managers and registered nurses. In the organisation type comparisons there were no significant differences across the different categories.

**Figure 3.5.10**



### *Predictors of Social Functioning*

A set of statistical analyses (regressions) were conducted to determine the extent to which work stressors (i.e., workload, role conflict, interpersonal conflict, co-worker aggression, resident aggression, staff cost-cutting, & resident quality of living cost-cutting) and management practices (i.e., grievance procedures, recruitment & selection practices, performance practices, & training) predicted the frequency with which individuals reported they were able to function effectively socially (Appendix A contains a complete listing of the individual items used to measure each variable). As part of the analyses the possible influence of a number of employee/facility variables were also controlled. Next, information on the variables in each of the three categories (employee/facility variables, work stressors, & management practices) that were significant predictors is presented.

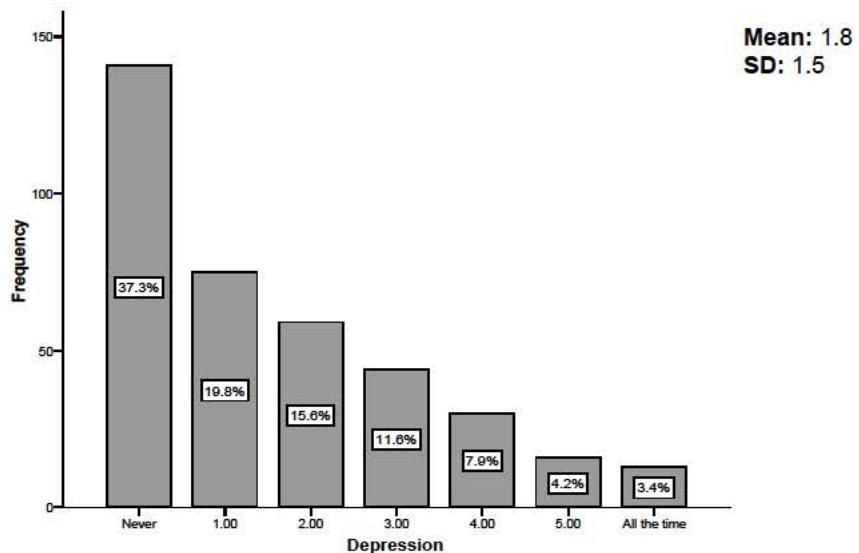
- Significant Predictors of Social Functioning:
  - Employee/Facility Variables
    - Age: Older workers reported more positive social functioning.
    - Negative Affect: Individuals who in general had a more negative outlook/attitude were more likely to report lower levels of social functioning.
    - Occupation Time: The longer an individual had worked in their current occupation the more likely they were to report positive social functioning.
  - Work Stressors
    - None of the work stressor variables were significant predictors of social functioning.
  - Management Practices
    - Grievance Procedures: Individuals who felt their organisation had effective grievance procedures were more likely to report higher levels of social functioning.
    - Training: Individuals who received adequate training to do their job effectively tended to report higher levels of social functioning.
- Overall the employee/facility variables accounted for 26.5% of the variance in social functioning. The work stressor variables and the management practices variables each accounted for an additional 1.5% and 1.3% of the variance respectively.

### **Depression**

#### *Total Sample*

This scale assessed how frequently over the past few weeks participants had felt unhappy and unable to cope. An example of one of the items used in the scale is "Have you recently been feeling unhappy or depressed?". Participants were asked to record their responses using a scale which ranged from 0 (Never) to 6 (All the time). Higher scores indicate individuals felt depressed more frequently. Appendix A provides the individual items for the scale. The proceeding graphs indicate the dispersion of responses based on the entire sample for each scale item.

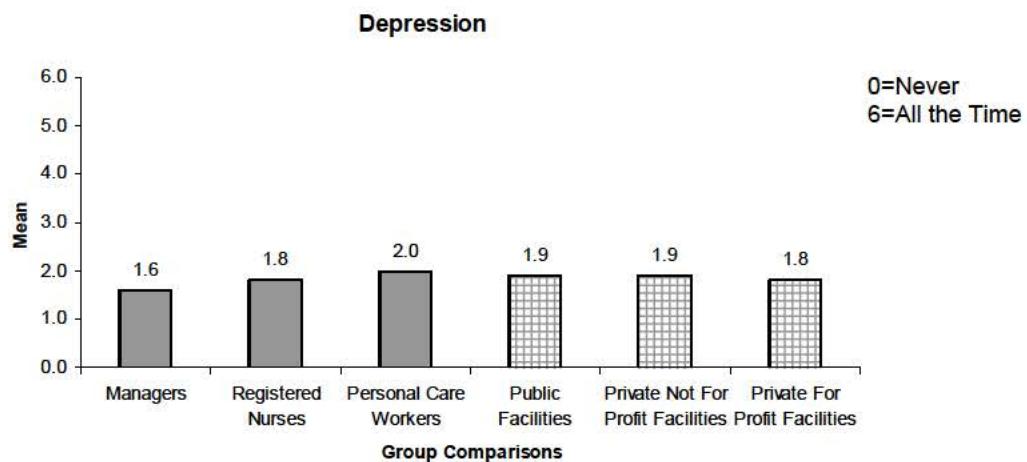
**Figure 3.5.11**



#### *Group Comparisons*

The following table presents the means for depression for the different groups based on job type and organisation type. Higher scores indicate individuals felt depressed more frequently. In both the job type and organisation type comparisons there were no significant differences in depression across the different groups.

**Figure 3.5.12**



#### *Predictors of Depression*

A set of statistical analyses (regressions) were conducted to determine the extent to which work stressors (i.e., workload, role conflict, interpersonal conflict, co-worker aggression, resident aggression, staff cost-cutting, & resident quality of living cost-cutting) and management practices (i.e., grievance procedures, recruitment & selection practices, performance practices, & training) predicted the frequency with which individuals reported feeling depressed (Appendix A contains a complete listing of the individual items used to measure each variable). As part of the analyses the possible influence of a number of employee/facility variables were also controlled. Next, information on the variables in each of the three categories (employee/facility variables, work stressors, & management practices) that were significant predictors is presented.

- Significant Predictors of Depression:
  - Employee/Facility Variables
    - Negative Affect: Individuals who in general had a more negative outlook/attitude were more likely to report higher levels of depression.
    - Hours worked per week: The more hours an individual worked per week the more likely they were to report feeling depressed.
    - Organisation Ownership: Individuals working in public/NFP facilities tended to report higher levels of depression.
  - Work Stressors
    - Role Conflict: Individuals who reported experiencing high levels of role conflict also tended to report feeling more depressed.
    - Resident Quality of Living Cost-Cutting: Individuals who worked in facilities where there was a high level of cost-cutting in relation to the quality of living for residents tended to also report higher levels of depression.
  - Management Practices
    - Training: Individuals who felt they received adequate training to do their job effectively tended to report lower levels of depression.
  - Overall the employee/facility variables accounted for 19.2% of the variance in depression. The work stressor variables and the management practices variables each accounted for an additional 3.9% and 1.2% of the variance respectively.

## **Physical Symptoms**

### *Total Sample*

This scale was designed to assess out of a total of 18 possible physical symptoms (e.g., had an upset stomach or nausea) how many the participant had experienced in the past 30 days. Ten per cent of respondents had experienced ten or more physical symptoms in the past month. The top five physical symptoms participants reported experiencing were:

1. Tiredness or Fatigue (80.7% of participants reported experiencing this physical symptom).
2. Headaches (66.7% of participants reported experiencing this physical symptom).
3. Backache (64.0% of participants reported experiencing this physical symptom).
4. Trouble Sleeping (62.9% of participants reported experiencing this physical symptom).
5. Eye Strain (35.7% of participants reported experiencing this physical symptom).

Across job and organisation type comparisons there were no significant differences in the number of physical symptoms reported by participants across the different groups. Appendix A provides the individual items for the scale.

### *Predictors of Physical Symptoms*

A set of statistical analyses (regressions) were conducted to determine the extent to which work stressors (i.e., workload, role conflict, interpersonal conflict, co-worker aggression, resident aggression, staff cost-cutting, & resident quality of living cost-cutting) and management practices (i.e., grievance procedures, recruitment & selection practices, performance practices, & training) predicted the number of physical symptoms individuals reported experiencing in the past month (Appendix A contains a complete listing of the individual items used to measure each variable). As part of the analyses the possible influence of a number of employee/facility variables was also controlled. Next, information on the variables in each of the three categories (employee/facility variables, work stressors, & management practices) that were significant predictors is presented.

- Significant Predictors of Physical Symptoms:
  - Employee/Facility Variables
    - Age: Older workers tended to report experiencing fewer physical symptoms.
    - Negative Affect: Individuals who in general had a more negative outlook/attitude tended to report a higher number of physical symptoms.
    - Organisation Time: The longer an individual had been working at their current organisation the fewer physical symptoms they tended to report experiencing.
  - Work Stressors
    - Role Conflict: Individuals who perceived high levels of role conflict also tended to report experiencing more physical symptoms.
    - Resident Aggression: The more frequently an individual experienced aggression from residents the more physical symptoms they reported experiencing.
    - Resident Quality of Living Cost-Cutting: Individuals who worked in facilities where there was a high level of cost-cutting in relation to the quality of living for residents tended to also report experiencing more physical symptoms.
  - Management Practices
    - Training: Individuals who felt they received adequate training to do their job effectively tended to report experiencing fewer physical symptoms.
- Overall the employee/facility variables accounted for 14.2% of the variance in physical symptoms. The work stressor variables and the management practices variables each accounted for an additional 5.8% and 1.1% of the variance respectively.

### **Summary: Work, Psychological & Physical Health Outcomes**

Overall participants across the sample reported that they were somewhat satisfied with their current job. There were no significant differences based on job type, but individuals who worked at private for profit facilities reported significantly lower levels than individuals who worked at public or private not for profit facilities. In addition to some of the employee and facility variables, role conflict and resident quality of living

cost-cutting were key negative predictors of job satisfaction, while grievance procedures, performance practices and training were positive predictors.

Participants who worked at private for profit facilities reported significantly higher intentions to leave their current job than participants from public and private not for profit organisations. The significant work stressors that positively predicted turnover intentions were role conflict, workload and staff cost-cutting, while training and grievance procedures were negative predictors of turnover intentions. Across the sample participants reported some commitment to their current organisation. Managers reported significantly higher levels of commitment than registered nurses and personal care workers. There were no significant differences across the different organisation types. Organisational commitment was negatively predicted by interpersonal conflict, staff cost-cutting and positively predicted by performance appraisal practices and grievance procedures.

On average participants across the sample reported feeling emotionally exhausted monthly if not more frequently. There were no significant differences based on job or organisation type. Workload, role conflict resident aggression and staff cost-cutting were all found to be significant positive predictors of emotional exhaustion, while training was a negative predictor. Overall, participants reported high levels of social functioning. Personal care workers did however report significantly lower levels than managers and registered nurses. No significant differences were found based on organisation type. Social functioning was significantly predicted by grievance procedures and training. Participants across the sample reported relatively low levels of depression with there being no significant differences based on job or organisation type. Role conflict and resident quality of living cost-cutting were both significant positive predictors of depression while training was a negative predictor. Finally, on average participants reported experiencing five physical symptoms in the past month with there being no significant differences based on job or organisation type. Role conflict, resident aggression and resident quality of living cost-cutting were found to be significant positive predictors and training was a negative predictor of the number of physical symptoms reported by participants.

### **3.6. Resident Outcomes**

The scales in this section were designed to assess the extent to which participants felt the facility was of a high standard, staff were responsive to resident needs, resident safety was prioritised, resident care was of a high standard, residents had good sleep quality, and medication errors were made less often. A summary of results for each of these resident outcomes is provided below. A bar chart for each scale indicating the dispersion of responses based on the entire sample is also provided. This is followed by comparisons for each of the scales across different job (Managers, Registered Nurses, & Personal Care Workers) and organisation types (Public, Private Not for Profit, Private for Profit). Appendix A provides the individual items for each of the resident outcome scales.

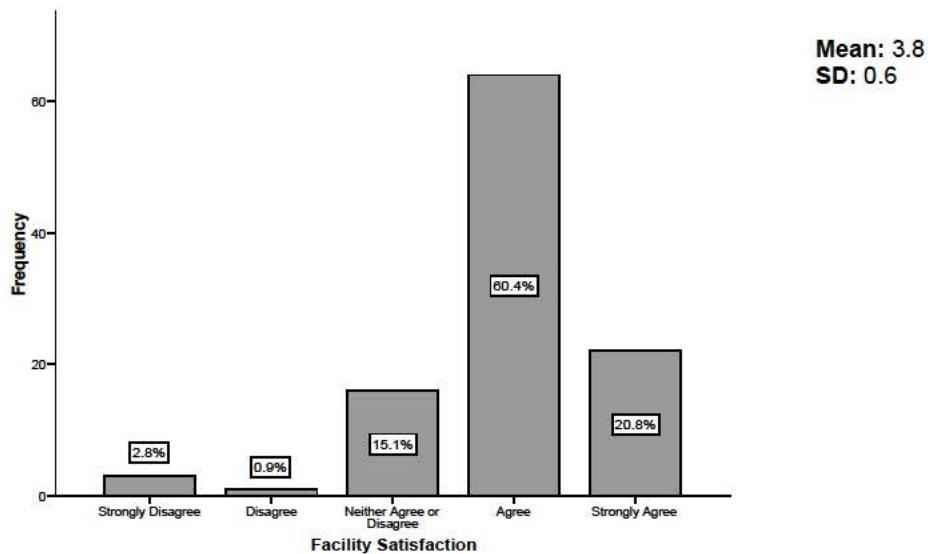
#### **Facility Satisfaction**

##### *Total Sample*

This scale assessed the extent to which participants felt that residents' rooms and nutrition were of a high standard. The privacy of residents and the extent to which family and friends were welcome to visit residents were also assessed. An example of one of the items used in the scale is "When residents have a complaint something is done about it". Participants were asked to record their responses using a scale

which ranged from 1 (Strongly Disagree) to 5 (Strongly Agree). Appendix A provides the individual items for the scale. Higher scores indicate higher levels of facility satisfaction. The proceeding graphs indicate the dispersion of responses based on the entire sample for each scale item.

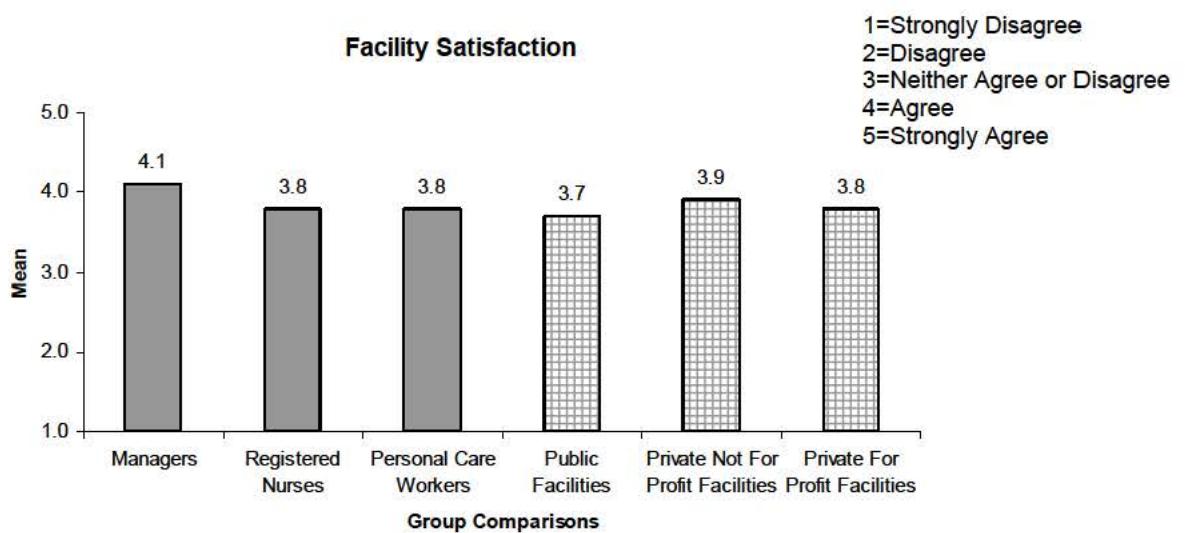
**Figure 3.6.1**



#### *Group Comparisons*

The following graph presents the means for facility satisfaction for the different groups based on job type and organisation type. Higher scores indicate higher levels of facility satisfaction. In relation to the job type comparisons managers reported significantly higher levels of facility satisfaction as compared to registered nurses and personal care workers. In the organisation type comparisons there were no significant differences across the different categories.

**Figure 3.6.2**



### *Predictors of Facility Satisfaction*

A set of statistical analyses (regressions) were conducted to assess the extent to which work stressors (i.e., workload, role conflict, interpersonal conflict, co-worker aggression, resident aggression, staff cost-cutting, & resident quality of living cost-cutting) and management practices (i.e., grievance procedures, recruitment & selection practices, performance practices, & training) predicted the levels of facility satisfaction reported by individuals (Appendix A contains a complete listing of the individual items used to measure each variable). As part of the analyses the possible influence of a number of employee/facility variables was also controlled. Next, information on the variables in each of the three categories (employee/facility variables, work stressors, & management practices) that were significant predictors is presented.

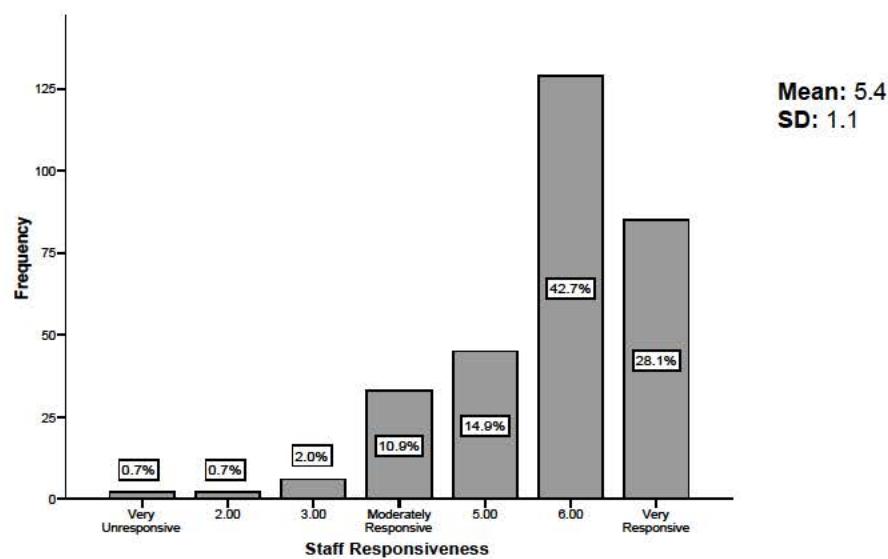
- Signification Predictors of Facility Satisfaction:
  - Employee/Facility Variables
    - Negative Affect: Individuals who in general had a more negative outlook/attitude were more likely to report lower levels of facility satisfaction.
    - Organisation Ownership: Individuals who worked in privately owned facilities tended to report higher levels of facility satisfaction.
    - Percentage of residents with dementia: The higher the percentage of residents with dementia at the facility the lower individuals tended to report facility satisfaction as being.
  - Work Stressors
    - Interpersonal Conflict: Individuals who perceived high levels of interpersonal conflict tended to report lower levels of facility satisfaction.
    - Co-Worker Aggression: The more frequently an individual witnessed co-workers being aggressive towards residents the lower they tended to perceive facility satisfaction as being.
    - Resident Quality of Living Cost-Cutting: Individuals who worked in facilities where there was a high level of cost-cutting in relation to the quality of living for residents tended to also perceive lower levels of facility satisfaction.
  - Management Practices
    - Grievance Procedures: Individuals who felt their organisation had effective grievance procedures were more likely to report higher levels of facility satisfaction.
    - Performance Practices: Individuals who worked in organisations where job performance was regularly assessed and tied to raises, promotions etc were more likely to report higher levels of facility satisfaction.
  - Overall the employee/facility variables accounted for 18.6% of the variance in resident care. The work stressor variables and the management practices variables each accounted for an additional 25.7% and 12% of the variance respectively.

## Staff Responsiveness

### Total Sample

This scale assessed how responsive participants felt staff were to the different needs of residents. An example of one of the items used in the scale is "How responsive are staff to a resident requesting assistance using their buzzer or call system". Participants were asked to record their responses using a scale which ranged from 1 (Very Unresponsive) to 7 (Very Responsive). Higher scores indicate higher levels of staff responsiveness. Appendix A provides the individual items for the scale. The proceeding graphs indicate the dispersion of responses based on the entire sample for each scale item.

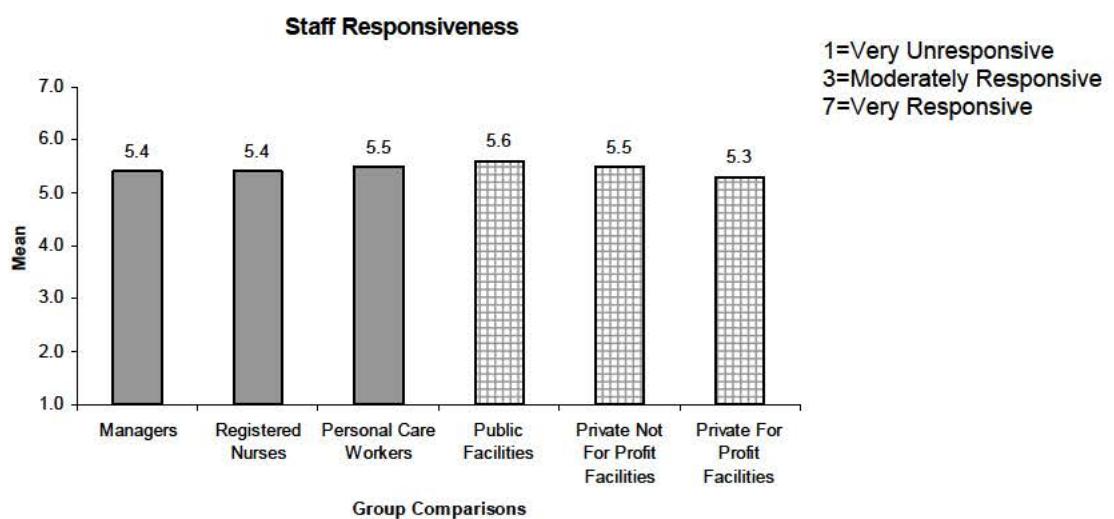
**Figure 3.6.3**



### Group Comparisons

The following graph presents the means for staff responsiveness for the different groups based on job type and organisation type. Higher scores indicate higher levels of staff responsiveness. In both the job type and organisation type comparisons there were no significant differences in staff responsiveness across the different groups.

**Figure 3.6.4**



### *Predictors of Staff Responsiveness*

A set of statistical analyses (regression) were conducted to assess the extent to which work stressors (i.e., workload, role conflict, interpersonal conflict, co-worker aggression, resident aggression, staff cost-cutting, & resident quality of living cost-cutting) and management practices (i.e., grievance procedures, recruitment & selection practices, performance practices, & training) predicted the degree to which individuals felt staff were able to be responsive to residents' needs (Appendix A contains a complete listing of the individual items used to measure each variable). As part of the analyses the possible influence of a number of employee/facility variables was also controlled. Next, information on the variables in each of the three categories (employee/facility variables, work stressors, & management practices) that were significant predictors is presented.

- Significant Predictors of Staff Responsiveness:
  - Employee/Facility Variables
    - Percentage of residents with dementia: The lower the percentage of residents with dementia the more responsive individuals reporting staff as being.
    - Ownership Changes: Individuals who worked at organisations where there had been an ownership change in the last 12 months tended to report staff as being less responsive to residents.
  - Work Stressors
    - Role Conflict: Individuals who perceived high levels of role conflict tended to report lower levels of staff responsiveness.
    - Interpersonal Conflict: Individuals who perceived high levels of interpersonal conflict tended to report lower levels of staff responsiveness.
    - Co-Worker Aggression: The more frequently an individual witnessed co-workers being aggressive towards residents the less responsive they perceived staff to be.
    - Resident Aggression: The more frequently an individual experienced aggression from residents the more responsive they perceived staff to be.
    - Staff Cost-Cutting: Individuals who worked in facilities where there was a high level of cost-cutting in relation to staff tended to also perceive staff as being less responsive.
    - Resident Quality of Living Cost-Cutting: Individuals who worked in facilities where there was a high level of cost-cutting in relation to the quality of living for residents tended to also perceive staff as being less responsive.
  - Management Practices
    - Performance Practices: Individuals who worked in organisations where job performance was regularly assessed and tied to raises, promotions etc were more likely to report staff as being more responsive to residents.
- Overall the employee/facility variables accounted for 13.5% of the variance in staff responsiveness. The work stressor variables and the

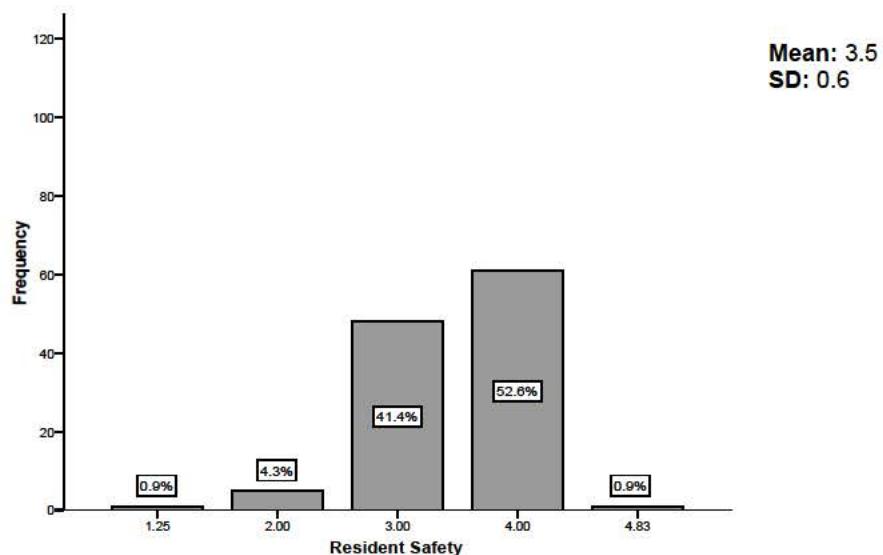
management practices variables each accounted for an additional 20.5% and 1.8% of the variance respectively.

## Resident Safety

### *Total Sample*

This scale assessed the extent to which participants felt resident safety was a high priority at their facility, with the extent to which management provided the resources, procedures and training needed to ensure resident safety being assessed. An example of one of the items used in the scale is "The actions of management show that resident safety is a top priority". Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 5 (Strongly Agree). Higher scores indicate higher levels of reported resident safety. Appendix A provides the individual items for the scale. The proceeding graphs indicate the dispersion of responses based on the entire sample for each scale item.

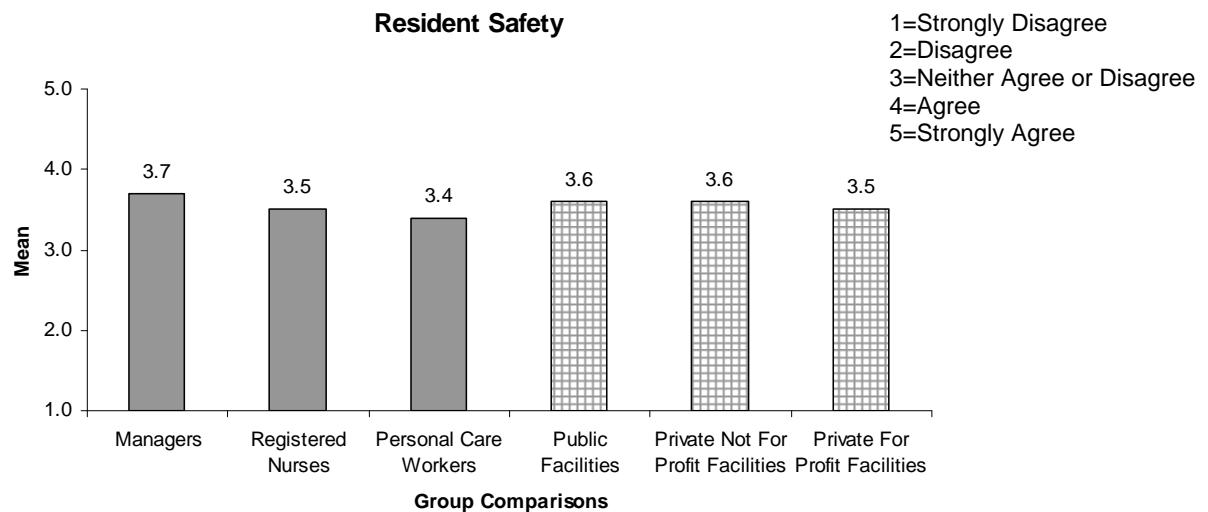
**Figure 3.6.5**



### *Group Comparisons*

The following graph presents the means for resident safety for the different groups based on job type and organisation type. Higher scores indicate higher levels of reported resident safety. In relation to the job type comparisons managers reported significantly higher levels of resident safety as compared to registered nurses and personal care workers. In relation to the organisation type comparisons participants who worked in private for profit facilities reported significantly lower levels of resident safety as compared to participants who worked at public and private not for profit facilities.

**Figure 3.6.6**



*Predictors of Resident Safety*

A set of statistical analyses (regressions) were conducted to determine the extent to which job stressors (i.e., workload, role conflict, interpersonal conflict, co-worker aggression, resident aggression, staff cost-cutting, & resident quality of living cost-cutting) and management practices (i.e., grievance procedures, recruitment & selection practices, performance practices, & training) predicted the level of resident safety individuals reported by individuals (Appendix A contains a complete listing of the individual items used to measure each variable). As part of the analyses the possible influence of a number of employee/facility variables was also controlled. Next, information on the variables in each of the three categories (employee/facility, job stressors, & management practices) that were significant predictors is presented.

- Significant Predictors of Resident Safety:
  - Employee/Facility Variables
    - Age: Older workers tended to report higher levels of resident safety.
  - Work Stressors
    - Role Conflict: Individuals who perceived high levels of role conflict were more likely to report lower levels of resident safety.
    - Co-Worker Aggression: The more frequently an individual witnessed co-workers being aggressive towards residents the lower they perceived resident safety to be.
    - Staff Cost-Cutting: Individuals who worked in facilities where there was a high level of cost-cutting in relation to staff tended to also perceive lower levels of resident safety.
    - Resident Quality of Living Cost-Cutting: Individuals who worked in facilities where there was a high level of cost-cutting in relation to the quality of living for residents tended to also perceive lower levels of resident safety.

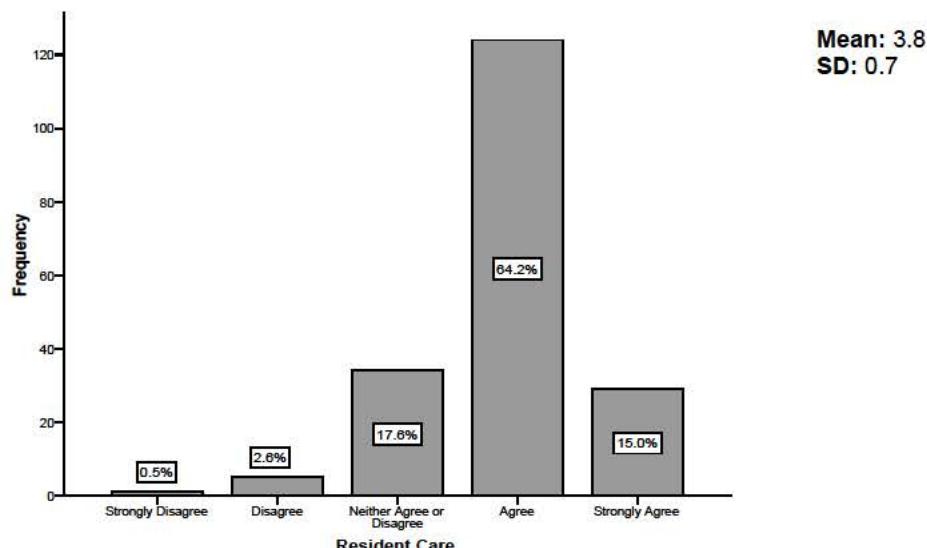
- Management Practices
  - Grievance Procedures: Individuals who felt their organisation had effective grievance procedures were more likely to report higher levels of resident safety.
  - Recruitment & Selection Practices: Individuals who felt their organisation devoted adequate time and resources to recruiting and selecting the right people for positions were more likely to report higher levels of resident safety.
  - Performance Practices: Individuals who worked in organisations where job performance was regularly assessed and tied to raises, promotions etc were more likely to report higher levels of resident safety.
  - Training: Individuals who felt they received adequate training to do their job effectively tended to report higher levels of resident safety.
- Overall the employee/facility variables accounted for 19.4% of the variance in resident safety. The work stressor variables and the management practices variables each accounted for an additional 28.1% and 9.8% of the variance respectively.

## Resident Care

### *Total Sample*

This scale assessed the extent to which participants felt residents were able to talk to staff as needed, staff showed a real interest in residents and residents in the facility were provided with appropriate care by staff. An example of one of the items used in the scale is “The nurses and personal carers have the skills to provide appropriate care for the residents”. Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 5 (Strongly Agree). Higher scores indicate higher reported levels of resident care. Appendix A provides the individual items for the scale. The proceeding graphs indicate the dispersion of responses based on the entire sample for each scale item.

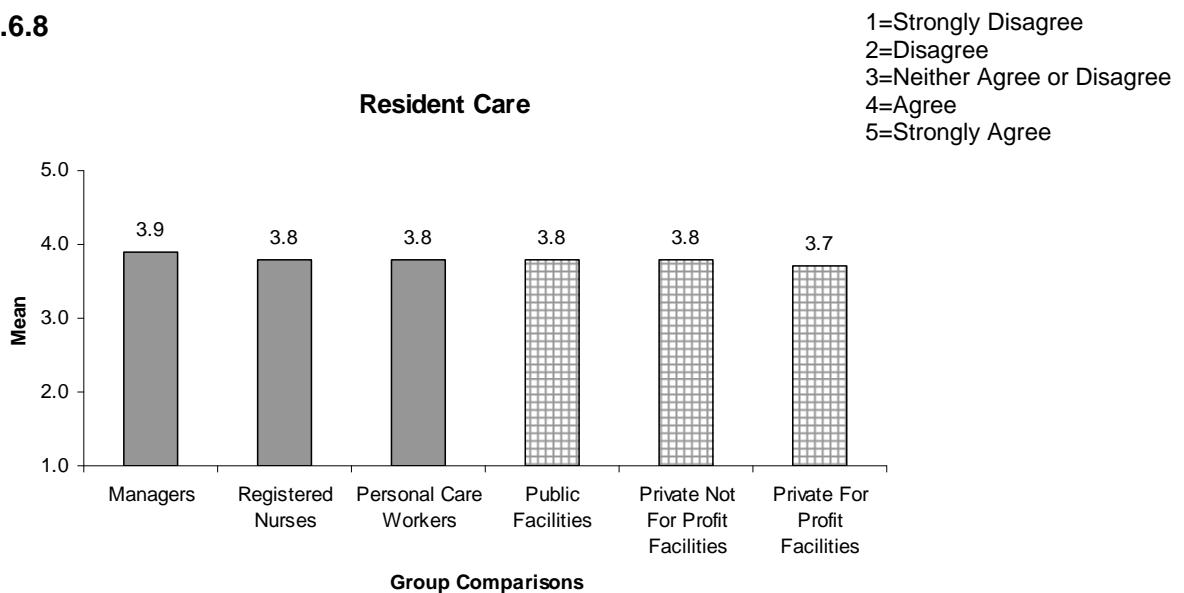
**Figure 3.6.7**



### Group Comparisons

The following graph presents the means for resident care for the different groups based on job type and organisation type. Higher scores indicate higher reported levels of resident care. In relation to the job type comparisons managers reported significantly higher levels of resident care compared to both registered nurses and personal care workers. There were no significant differences in the levels of resident care reported by participants across the different organisational categories.

**Figure 3.6.8**



### Predictors of Resident Care

A set of statistical analyses (regressions) were conducted to determine the extent to which work stressors (i.e., workload, role conflict, interpersonal conflict, co-worker aggression, resident aggression, staff cost-cutting, & resident quality of living cost-cutting) and management practices (i.e., grievance procedures, recruitment & selection practices, performance practices, & training) predicted the quality of resident care report by individuals (Appendix A contains a complete listing of the individual items used to measure each variable). As part of the analyses the possible influence of a number of employee/facility variables was also controlled. Next, information on the variables in each of the three categories (employee/facility variables, work stressors, & management practices) that were significant predictors is presented.

- Significant Predictors of Resident Care:
  - Employee/Facility Variables
    - Nursing Qualifications: Individuals with higher/more advanced nursing qualifications tended to report lower levels of resident care.
    - Percentage of residents with dementia: The higher the percentage of residents with dementia at the facility the lower individuals perceived resident care to be.

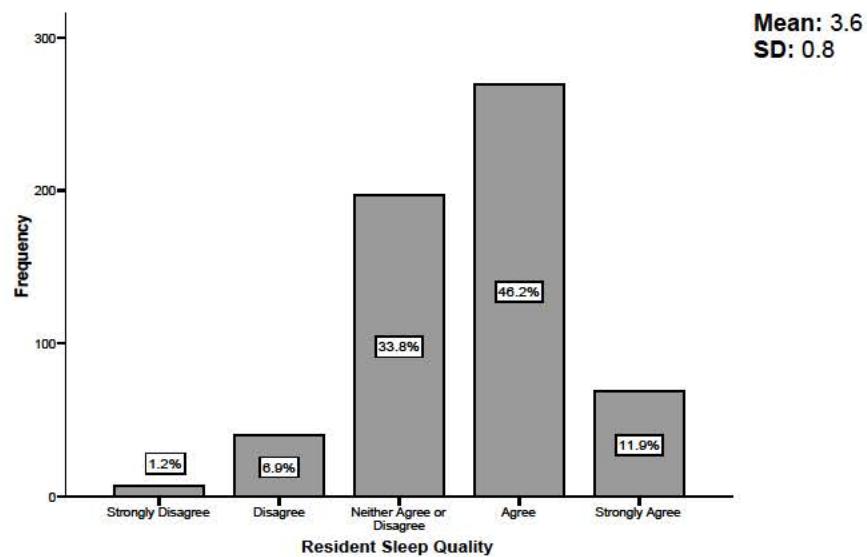
- Work Stressors
  - Co-Worker Aggression: The more frequently an individual witnessed co-workers being aggressive towards residents the lower they tended to perceive resident care to be.
  - Staff Cost-Cutting: Individuals who worked in facilities where there was a high level of cost-cutting in relation to staff tended to also perceive lower levels of resident care.
  - Resident Quality of Living Cost-Cutting: Individuals who worked in facilities where there was a high level of cost-cutting in relation to the quality of living for residents tended to also perceive lower levels of resident care.
- Management Practices
  - Grievance Procedures: Individuals who felt their organisation had effective grievance procedures were more likely to report higher levels of resident care.
  - Recruitment & Selection Practices: Individuals who felt their organisation devoted adequate time and resources to recruiting and selecting the right people for positions were more likely to report higher levels of resident care.
- Overall the employee/facility variables accounted for 16.8% of the variance in resident care. The work stressor variables and the management practices variables each accounted for an additional 20.7% and 7.3% of the variance respectively.
- Qualitative comments provided by some participants also provide further evidence of the way in which heavy workloads and cost-cutting in particular contribute to lower levels of resident care. In the words of one participant: *“Our facility is purely profit driven. Residents get the least care as possible due to management greed”. The CARE has been taken out of AGED CARE”.*

## Resident Sleep Quality

### *Total Sample*

This scale assessed the extent to which participants felt residents were able to sleep free from noise and interruptions at night. An example of one of the items used in the scale is “The amount of noise disrupts residents’ sleep”. Participants were asked to record their responses using a scale which ranged from 1 (Strongly Disagree) to 5 (Strongly Agree). Higher scores indicated participants felt residents had better sleep quality. Appendix A provides the individual items for the scale. The proceeding graphs indicate the dispersion of responses based on the entire sample for each scale item.

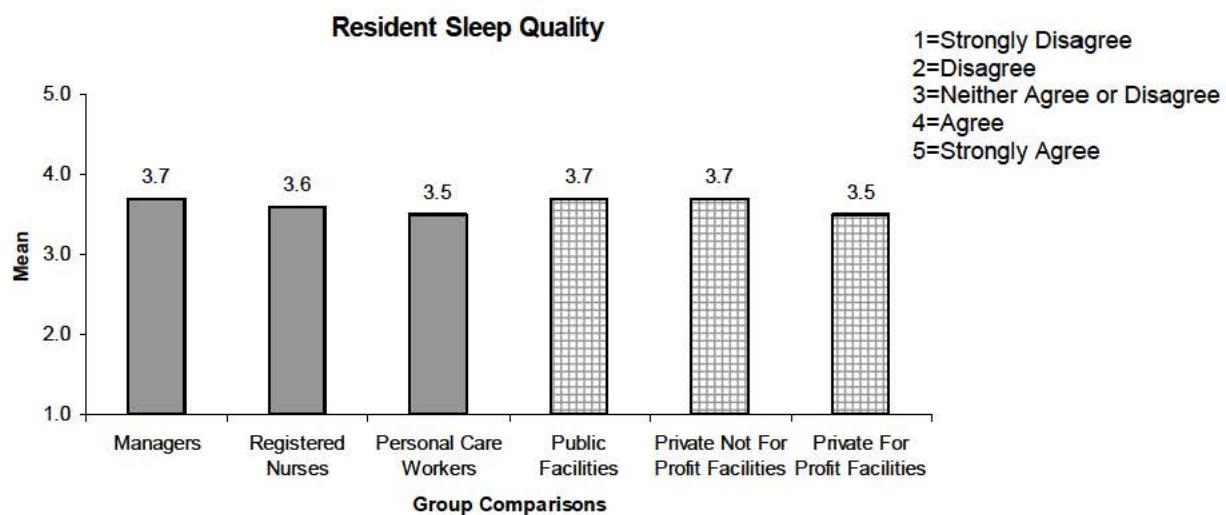
**Figure 3.6.9**



#### *Group Comparisons*

The following graph presents the means for resident sleep quality for the different groups based on job type and organisation type. Higher scores indicated participants felt residents had better sleep quality. In the job type comparisons there were no significant differences in the levels of sleep quality reported by participants across the different job categories. In relation to the organisation type comparisons participants who worked at private for profit facilities reported significantly lower levels of resident sleep quality as compared to participants who worked at public and private not for profit facilities.

**Figure 3.6.10**



#### *Predictors of Resident Sleep Quality*

A set of statistical analyses (regressions) were conducted to assess the extent to which job stressors (i.e., workload, role conflict, interpersonal conflict, co-worker aggression, resident aggression, staff cost-cutting, & resident quality of living cost-cutting) and management practices (i.e., grievance procedures, recruitment &

selection practices, performance practices, & training) predicted the level of resident sleep quality reported by individuals (Appendix A contains a complete listing of the individual items used to measure each variable). As part of the analyses the possible influence of a number of employee/facility variables was also controlled. Next, information on the variables in each of the three categories (employee/facility, job stressors, & management practices) that were significant predictors is presented.

- Significant Predictors of Resident Sleep Quality:
  - Employee/Facility Variables
    - Negative Affect: Individuals who in general had a more negative outlook/attitude were more likely to report that residents had lower levels sleep quality.
    - Organisation Time: The longer an individual had been working at their current organisation the better they tended to perceive resident sleep quality to be.
    - Percentage of resident with dementia: The higher the percentage of residents with dementia at the facility the lower individuals tended to report resident sleep quality to be.
  - Work Stressors
    - Role Conflict: Individuals who perceived high levels of role conflict were more likely to report lower levels of resident sleep quality.
    - Co-Worker Aggression: The more frequently an individual witnessed co-workers being aggressive towards residents the lower they tended to perceive resident sleep quality to be.
    - Resident Quality of Living Cost-Cutting: Individuals who worked in facilities where there was a high level of cost-cutting in relation to the quality of living for residents.
  - Overall the employee/facility variables accounted for 14.4% of the variance in resident sleep quality. The work stressor variables and the management practices variables each accounted for an additional 9.4% and 0.9% of the variance respectively.

### **Summary: Resident Outcomes**

Overall participants reported relatively high levels of facility satisfaction, with managers reporting significantly higher levels than registered nurses and personal care workers. There were no significant differences based on organisation type. Higher levels of interpersonal conflict, co-worker aggression and resident quality of living cost-cutting, were associated with lower facility satisfaction, while grievance procedures and performance appraisal practices were associated with higher facility satisfaction. Overall participants reported high levels of staff responsiveness. There were no significant differences based on job or organisation type. Participants agreed that their facility was safe for residents, with managers reporting higher levels of resident safety than registered nurses and personal care workers. In addition to the employee and facility variables staff responsiveness was significantly and negatively predicted by role conflict, interpersonal conflict, co-worker aggression, resident aggression, and staff and resident quality of living cost cutting variables. Performance appraisal practices were positively related to staff responsiveness. Individuals who worked at private for profit facilities reported significantly lower levels

of resident safety than individuals who worked at public or private not for profit facilities. Resident safety was also significantly and negatively predicted by role conflict, co-worker aggression and staff and resident quality of living cost-cutting, but positively predicted by grievance procedures, recruitment and selection practices, performance appraisal practices and training. Across the sample relatively high levels of resident care were also reported with managers reporting significantly higher levels than registered nurses and personal care workers. There were no significant differences based on organisation type. Resident care was also significantly and negatively predicted by co-worker aggression, and staff and resident quality of care cost cutting, but positively predicted by grievance procedures and recruitment and selection practices. Finally, participants across the sample reported moderate levels of resident sleep quality. Individuals who worked in private not for profit facilities reported significantly higher levels than individuals from public or private not for profit facilities. Resident sleep quality was negatively predicted by role conflict, co-worker aggression and resident quality of living cost-cutting.

## 4. Conclusion

This report contains the findings from a cross sectional questionnaire study of 1038 members of the Victorian Branch of the Australian Nursing Federation. The majority of participants were married females who were working part-time as registered nurses and on average had been working in their current occupation for 17 years with them being on average in their current place of work for 8.6 years.

Forty-six per cent of the participants were employed at private for profit facilities. Staff to resident ratios ranged from 1:5 to 1:53. Analyses revealed that across the three different types of care provision (low, mixed, high) private not for profit and private for profit facilities had fewer staff per resident than public facilities where there are legally enforceable RN to resident ratios.

Most Division 2 registered nurses felt they had received adequate training in relation to changes to their scope of practice with participants working at public facilities reporting the lowest levels of training. Similarly, most Division 1, 3 and 4 registered nurses felt they had received adequate training in relation to the changes to their scope of practice. Again participants who worked at public facilities reported the lowest levels. Overall, most participants for whom medication administration was part of their job reported high levels of self-efficacy or confidence in relation to administering medications. Analysis revealed that medication errors were likely to happen more frequently, the higher the levels of role conflict, co-worker aggression, and resident quality of living cost-cutting were. Medication errors were less likely to happen if the organisation had good grievance procedures and training practices.

Forty per cent of participants had seen a co-worker yell at a resident one or more times, while 15% had seen a co-worker push, grab, shove, or pinch a resident one or more times in the past 6 months with no differences across facility type. Other forms of aggression towards residents were reported less frequently. The frequency with which participants' experienced resident aggression varied based on the type of aggression. Eighty-six per cent of workers reported being yelled, shouted or sworn at and verbal aggression by residents at least once in the past six months and 64% had a resident try to hit them with something at least once in the past six months. Registered nurses and personal care workers reported experiencing more aggression from residents than managers. Those who worked at public facilities tended to also experience aggression from residents more frequently than those from private not for profit or private for profit facilities.

Employees in private for profit facilities reported significantly lower levels of job satisfaction and were more likely to leave their job than those in public and private not for profit facilities. Over 30% of participants were somewhat likely, likely or very likely to leave their job. Across the sample participants reported relatively low levels of commitment to their current organisation. On average 70% of participants reported feeling emotionally exhausted at least monthly, with 30% being daily, a few times a day or weekly. There were no significant differences based on job or organisation type. Consistent with the emotional exhaustion finding workers on average reported experiencing five physical health symptoms in the past month with there being no significant differences based on job or organisation type.

In relation to predicting work and health outcomes such as turnover intentions and emotional exhaustion the main work stressor predictors were workload, role conflict, resident aggression, staff and resident quality of living cost cutting. As expected participants working in facilities with better management practices reported fewer negative psychological and physical health outcomes and had more positive work related attitudes.

Overall participants reported relatively high levels of facility satisfaction, staff responsiveness and resident care (and this did not differ by facility type) and agreed that their facility was safe for residents. With the exception of individuals who worked at private for profit facilities who reported significantly lower levels of resident safety compared to those at public or private not for profit facilities. In relation to predicting resident based outcomes such as resident safety, facility satisfaction the main work stressor predictors were role conflict, witnessing co-worker aggression, staff and resident quality of living cost cutting. Well developed grievance procedures and performance appraisal practices were shown to result in more positive outcomes for residents.

To conclude, the study finds that workers are under significant stress stemming from excessive workloads, cost cutting, a hostile work environment, and competing role demands. There appears to be few differences across job or facility type. It is noteworthy that participants said that they were not committed to their facility, were emotionally exhausted and almost a third of them were thinking about leaving their job. This is of concern because it suggests that they are disengaged from their organisation and are experiencing symptoms associated with 'burnout'. On the positive side it appears that perceptions of facility satisfaction, resident care, safety and staff responsiveness were quite high. There does however, appear to be some concern with medication errors, particularly in private for profit and private not for profit facilities. In terms of scope of practice, public sector participants (Division 1, 2, 3, 4) would like more training. In general, more training, rigorous recruitment and selection practices, performance management and grievance procedures led to better resident and worker outcomes.

## Appendix A: Individual Scale Items

### Medication Practices

Until recently, Division 2 RNs in Victoria were not allowed to administer medication. Recent changes to the scope of practice for RNs Division 2 mean that administration of medication is now allowed by endorsed Division 2 RNs, under the supervision of a Division 1, 3 or 4 RN. We would like to ask you some questions about these changes. Please circle the number which best describes your response.

#### **Scope of Practice Training – Answered by Div 2s**

1. I have received training which has given me a good understanding of which medications I can administer and which I cannot.
2. I have received training which has given me a good understanding of my responsibilities and those of my supervisor when I administer medication.
3. I have received training which has given me the necessary understanding of pharmacology to administer and monitor medication.
4. My organisation has clear policies and procedures in place regarding the administration of medication.
5. I receive adequate and appropriate supervision and direction from my supervisor when I administer medication.

Note: Response scale ranged from 1 “Strongly Disagree” through to 7 “Strongly Agree”.

#### **Scope of Practice Training – Answered by Div 1,3,4s**

1. I have received training which has given me a good understanding of which medications endorsed Division 2 RNs can administer and which they cannot.
2. I have received training which has given me a good understanding of my responsibilities when supervising Division 2 RNs as they administer medication.
3. My organisation has clear policies and procedures in place regarding the administration of medication.
4. I have received training on how to access the knowledge, education, and training of a Div 2 when allocating them to residents.
5. I have read the NBV “*Code for guidance in the management of high care residents in aged care services.*”
6. I understand fully my obligations under the NBV “*Code for guidance in the management of high care residents in aged care services.*”

Note: Response scale ranged from 1 “Strongly Disagree” through to 7 “Strongly Agree”.

### **Medication Administration Self-Efficacy**

Please indicate the degree to which you feel confident:

1. You can identify methods by which consent from the resident can be obtained prior to the administration of medication.
2. You can correctly identify different medications by name.
3. You can safely administer medications to residents.
4. You can accurately identify appropriate methods for monitoring unexpected and potential adverse reactions to different medications.

Note: Response scale ranged from 1 “Totally Unconfident” through to 9 “Totally Confident”.

### **Medication Administration by Non-Endorsed Div 2s or PCWs**

1. I have seen non-endorsed Div 2s and PCWs administering medication from a DAA (e.g., blister packs) in my facility without supervision.

Note: Response scale ranged from 1 “Strongly Disagree” through to 5 “Strongly Agree”.

---

### **Medication Errors**

---

Please indicate how often each of the following has occurred at your facility in the past 6 months:

1. A wrong dose was given to a resident.
2. The wrong resident received the medication.
3. The medication was given at the wrong time.
4. The medication was given via the wrong route.
5. The wrong drug was given to a resident.
6. A resident missed their medication.
7. A DAA (e.g., blister pack) was incorrectly filled.

---

Note: Response scale ranged from 1 "Less than once per month or never" through to 5 "Several times per day".

---

### **Workplace Aggression**

---

#### **Co-worker Aggression towards Residents**

---

Sometimes when conflicts occur with residents, the staff may find it difficult to respond in ways they are supposed to. Please use the scale to indicate how frequently in the past 6 months you have seen others act in each of the following ways towards residents:

1. Pushed, grabbed, shoved, or pinched a resident.
2. Yelled at a resident in anger.
3. Insulted or swore at a resident.
4. Threatened to hit or throw something at a resident.

---

Note: Response scale ranged from 0 "Never" through to 5 "Five or more times".

---

### **Resident Aggression**

---

Please indicate how often you have experienced each of the following in the past 6 months:

1. Been threatened with an object e.g. walking frame or stick, wheelchair, furniture.
2. A resident tried to hit you with something e.g. cup, saucer, plate, furniture, walking stick.
3. A resident cried to make you feel guilty.
4. Been yelled, shouted or sworn at by a resident.
5. A resident was verbally aggressive to you.

---

Note: Response scale ranged from 0 "Never" through to 5 "Five or more times".

---

### **Job Stressors**

These questions deal with different aspects of work. Please indicate how often these aspects appear in your job.

---

#### **Workload**

1. How often does your job require you to work very fast?
2. How often does your job require you to work very hard?
3. How often does your job leave you with little time to get things done?
4. How often is there a great deal to be done?
5. How often do you have to do more work than you can do well?

---

Note: Response scale ranged from 1 "Rarely" through to 5 "Very Often".

---

### **Role Conflict**

---

1. I have to do things that I believe should be done in a different way.
2. I receive an assignment without the manpower to complete it.
3. I have to break a rule or policy in order to carry out my job.
4. I work with two or more groups who operate quite differently.
5. I receive incompatible requests from two or more people.
6. I do things that are likely to be accepted by one person and not accepted by others.
7. I receive an assignment without adequate resources and materials to execute it.
8. I work on unnecessary things.

---

Note: Response scale ranged from 1 "Rarely" through to 5 "Constantly".

---

### ***Interpersonal Conflict***

---

1. How often do you get into arguments with co-workers at work?
2. How often do other co-workers yell at you at work?
3. How often are co-workers rude to you at work?
4. How often do co-workers do nasty things to you at work?

---

Note: Response scale ranged from 1 "Never" through to 5 "Very Often".

---

### ***Staff Cost-Cutting***

---

1. My facility focuses on cost saving by reducing staffing levels at the expense of resident care.
2. My facility has fewer registered nurses on than they used to reduce labour costs.
3. My facility emphasises getting the job done as quickly as possible.
4. My facility cuts corners to get the job done.
5. My facility focuses on saving costs by having fewer activities and diversional therapies for residents than they used to.

---

Note: Response scale ranged from 1 "Strongly Disagree" through to 5 "Strongly Agree".

---

### ***Resident Quality of Living Cost-Cutting***

---

1. My facility has reduced the nutritional quality of food for residents to save money.
2. My facility has reduced the portion size of meals to save money.
3. My facility has reduced the quality of dressings available for wound care.
4. My facility has reduced the quantity and quality of incontinence aids.
5. My facility is using DAAs (e.g., blister packs) to reduce costs.
6. My facility has the air conditioning turned off/down during the day to save money.
7. My facility has the heating turned off/down during the day to save money.

---

Note: Response scale ranged from 1 "Strongly Disagree" through to 5 "Strongly Agree".

---

### ***Management Practices***

---

#### ***Grievance Procedures***

1. My organisation has clear and effective policies and procedures in place for resolving complaints by residents or their families.
2. Complaints by residents or their families are resolved in a timely fashion in my organisation.
3. My organisation has clear and effective policies and procedures in place for resolving complaints by staff.
4. Complaints by staff are resolved in a timely fashion in my organisation.
5. Staff here are aware of the policies and procedures for resolving complaints by staff.
6. I have received adequate training from my employer in the policies and procedures for resolving complaints by residents or their families.
7. I have received adequate training from my employer in the policies and procedures for resolving complaints by staff.
8. Staff are allowed representation at meetings with management when a complaint is made against the staff member.

---

Note: Response scale ranged from 1 "Strongly Disagree" through to 7 "Strongly Agree".

---

#### ***Recruitment & Selection Practices***

---

1. How rigorous is the employee selection processes for a job in this organisation? (e.g. Does the process involve tests, interviews etc?)  
Response scale ranged from 1 "Not rigorous" through to 7 "Very rigorous".
2. How much money is generally spent selecting people for a job?

Response scale ranged from 1 "Very little" through to 7 "A great deal".

---

---

### **Performance Practices**

---

1. How much effort is given to measuring employee performance?

Response scale ranged from 1 "Very little" through to 7 "A great deal".

2. How often is performance discussed with employees?

Response scale ranged from 1 "Rarely" through to 7 "Daily".

3. How closely are raises, promotions, etc., tied to performance appraisal?

Response scale ranged from 1 "Not closely" through to 7 "Very closely".

4. The wages in this organisation are not very competitive for this industry.

Response scale ranged from 1 "Completely true" through to 7 "Completely false"

5. How closely is pay tied to individual performance?

Response scale ranged from 1 "Not closely" through to "Very closely"

---

### **Training**

---

1. During the past 12 months, how much training have you had, paid for by your employer? Include only training away from your normal place of work, but it could be on or off the premises.

2. To what extent do you agree or disagree that you get the training needed to do your job effectively?

3. To what extent do you agree or disagree that you've had sufficient training and education to do the work you're doing?

Note: Response categories for question 1 were 1- none, 2- less than one day, 3 – one to less than two days, 4 – two to less than five days, 5- five to less than ten days, 6 – ten or more days. The response scale for questions 2 & 3 ranged from 1 "Strongly Disagree" through to 5 "Strongly Agree".

---

### **Work, Psychological & Physical Health Outcomes**

---

#### **Job Satisfaction**

---

1. All in all, I am satisfied with my job.
2. In general, I don't like my job. [R]
3. In general, I like working here.

Note: Response scale ranged from 1 "Strongly Disagree" through to 7 "Strongly Agree".

---

#### **Turnover Intentions**

---

1. How likely is it that you will look for a job outside of this organisation during the next year?

Response scale ranged from 1 "Very Unlikely" through to 7 "Very Likely".

2. If it were possible, how much would you like to get a new job?

Response scale ranged from 1 "Not at all" through to 7 "A great deal".

3. How often do you think about quitting your job at this organisation?

Response scale ranged from 1 "Never" through to 7 "All the time".

---

#### **Organisational Commitment**

---

1. I would be very happy to spend the rest of my career in this organisation.
2. I really feel as if this organisation's problems are my own.
3. I do not feel like "part of the family" at my organisation. [R]
4. I do not feel "emotionally attached" to this organisation. [R]
5. This organisation has a great deal of personal meaning for me.
6. I do not feel a strong sense of belonging to my organisation. [R]

Note: Response scale ranged from 1 "Strongly Disagree" through to 7 "Strongly Agree".

---

---

### ***Emotional Exhaustion***

---

How often do you feel:

1. Emotionally drained from your work.
2. Used up at the end of the workday.
3. Fatigued when you wake up and have to face another day on the job.
4. Working with people all day is really a strain for you.
5. Burned out from your work.
6. Frustrated by your job.
7. You're working too hard on your job.
8. Working with people directly, puts too much stress on you.
9. Like you're at the end of your rope.

---

Note: Response scale ranged from 1 "Never" through to 7 "Every day".

---

### ***Social Functioning***

---

We would like to know how your health has been in general, over the past few weeks. Please answer the following questions by circling the answer which most nearly applies to you. Have you recently...

1. Felt capable of making decisions about things?
2. Been able to enjoy your normal day-to-day activities?
3. Been able to face up to your problems?
4. Been feeling reasonably happy, all things considered?

---

Note: Response scale ranged from 0 "Never" through to 6 "All the time".

---

### ***Depression***

---

We would like to know how your health has been in general, over the past few weeks. Please answer the following questions by circling the answer which most nearly applies to you. Have you recently...

1. Felt that you couldn't overcome your difficulties?
2. Been feeling unhappy or depressed?
3. Been losing self-confidence in yourself?
4. Been thinking of yourself as a worthless person?

---

Note: Response scale ranged from 0 "Never" through to 6 "All the time".

---

### ***Physical Symptoms***

---

During the past 30 days did you have any of the following symptoms? If you did have the symptom, did you see a doctor about it?

1. An upset stomach or nausea
2. A backache
3. Trouble sleeping
4. A skin rash
5. Shortness of breath
6. Chest pain
7. Headache
8. Fever
9. Acid indigestion or heartburn
10. Eye strain
11. Diarrhoea
12. Stomach cramps (not menstrual)
13. Constipation
14. Heart pounding when not exercising
15. An infection
16. Loss of appetite
17. Dizziness
18. Tiredness or fatigue

---

Note: Response scale 0 = "No", 1 = "Yes, but I didn't see a doctor", 2 = "Yes, and I saw a doctor"

---

## **Resident Outcomes**

---

### **Facility Satisfaction**

---

1. The food is good and nutritious here.
2. Residents are kept well hydrated.
3. Rooms and surroundings are clean.
4. Residents can keep many personal possessions in their room.
5. It is easy to arrange for a doctor to see a resident.
6. At night residents decide when they will go to bed.
7. Residents have privacy.
8. It is a cheerful place.
9. When residents have a complaint, something is done about it.
10. There are a range of activities for residents to be involved in.
11. Family and friends are welcome to visit residents and be involved in their care.
12. This facility utilises a community visiting scheme.

---

Note: Response scale ranged from 1 "Strongly Disagree" through to 5 "Strongly Agree".

---

### **Staff Responsiveness**

---

How responsive are staff to:

1. A resident requesting assistance using their buzzer or call system.
2. A resident calling out for assistance.
3. A resident requesting assistance to go to the toilet.
4. Resident incontinence.
5. Resident pain.
6. Resident nausea.
7. Residents' inability to sleep.
8. Resident discomfort.
9. Resident difficulty getting around.
10. Personal grooming of residents.

---

Note: Response scale ranged from 1 "Very Unresponsive" through to 7 "Very Responsive".

---

### **Resident Safety**

---

1. Resident safety is never sacrificed to get more work done.
2. Our procedures and systems are good at preventing errors from happening.
3. Staff will speak up freely if they see something that may negatively affect resident care.
4. Staff feel free to question the decisions or actions of those with more authority.
5. Staff feel pressured to administer medications without appropriate supervision. [R]
6. Management provides a working environment that promotes resident safety.
7. The actions of management show that resident safety is a top priority.
8. This facility has a falls prevention program.
9. Staff at this facility receive education and training in resident safety on a regular and ongoing basis.

---

Note: Response scale ranged from 1 "Strongly Disagree" through to 5 "Strongly Agree".

---

### **Resident Care**

---

1. The nurses and personal carers have the skills to provide appropriate care.
2. Residents decide what they will wear each day.
3. Residents are able to talk to staff as needed.
4. Nurses show real interest in residents.
5. Personal carers show real interest in residents.
6. Life is better than residents expected when they first moved in.

---

Note: Response scale ranged from 1 "Strongly Disagree" through to 5 "Strongly Agree".

---

### **Resident Sleep Quality**

---

1. The amount of noise disrupts residents' sleep. [R]
2. When a resident needs help someone will come within a reasonable time.

---

Note: Response scale ranged from 1 "Strongly Disagree" through to 5 "Strongly Agree".

Dear Commissioner ,

I write in regard to the consultation hearings of 23 February and the submissions relating to the draft health and welfare awards.

We note that there has been ongoing discussion on the flexibility and certainty of the hours and patterns of work for part time employees , particulary those engaged in the aged care sectors.

You may recall that ANF submitted a national aged care labour report during the award modernisation proceedings and its available at the following web link

[http://www.irc.gov.au/awardmod/databases/health/Submissions/ANF\\_further\\_submission2.pdf](http://www.irc.gov.au/awardmod/databases/health/Submissions/ANF_further_submission2.pdf)

I set out hereunder part of the report ( without the tables) that deals with the contracted and actual hours of work of part time aged care workers. And I trust that it is of assistance

Kind Regards

Nick Blake

### ***3.1.3 Employment Arrangements And Hours Worked***

*The arrangements through which direct care workers are employed are important for a range of reasons. They can provide an indication of the extent to which employers and employees are able to achieve employment arrangements that suit them, thus acting as an indicator of the state of the labour market. They are also an important measure of the availability of additional labour within the existing workforce.*

*Table 3.3 shows that the majority of direct care employees in all occupations continue to be employed on permanent part-time contracts, with around 70% of personal carers and 60% of registered nurses being permanent part-time workers. However, this proportion has declined slightly since 2003, when about 62% of RNs and 72% of PCs were employed on such contracts. The proportion of direct care workers on permanent full-time contracts also fell for all occupations, with the result that only 9.1% of all workers (16.6% of RNs and 6.7% of PCs) are now permanent full-time employees. More direct care workers in all occupations are now employed casually than in 2003, with the steepest rise being amongst RNs (from 19.6% of RNs to 23.6%). Our estimates indicate that, although the total number of RNs employed in residential aged care homes fell between 2003 and 2007, the number employed casually rose by over 500. At the same time the number of PCs working on casual contracts rose by just over 6,000 (corresponding to about a third of the increase in PC numbers), so that casuals were 23.4% of PCs in 2007, compared to 20.5% in 2003.*

*More detail about the direct care workers' hours of employment is available from both the census of homes and the employee survey. These sources give different pictures of the patterns, with home responses suggesting many more workers work short hours (1-15 hours per week) and fewer work full-time than do worker responses, irrespective of occupation (Table 3.4(a)). For example, the home census suggests that about 22% of personal carers work short hours and 21% work full-time, compared to 6% and 37% according to the employee survey. Very similar results were found in the 2003 survey and census. While we cannot be certain about which source is more accurate, it seems*

*most likely that the home responses are more reliable. The estimates derived from worker responses will be affected by any bias away from short hours workers in the employee sample, and such a bias seems very plausible for two reasons. Short hours workers may have been less likely to receive questionnaires than others because employers see them less often, and may have been less likely to return questionnaires if they did receive them because they are less engaged with their jobs. For these reasons, we believe the home responses are more reliable.*

*There is something of a contradiction between home responses on hours worked and the information they provided about full and part-time employment numbers. Table 3.3 indicates that homes said that only 9% of direct care employees were permanent full-time workers, whereas Table 3.4(a) shows that homes' responses imply that 21% worked full-time hours. This suggests that a very high proportion of contract and casual workers are employed full-time hours, or there is flexibility in the hours of work of even part-time permanent employees, or both. This pattern was also noted in the 2003 data.*

*The distribution of hours of work has not changed much since 2003. The most notable change is an increase in the proportion of PCs who say that they usually work full-time hours (35 or 10 more), from 30% to 37%. However, home returns suggest a much more modest increase, from 19% working full-time hours in 2003 to 21% in 2007. There are certainly consistent indications that more direct care workers were working full-time hours in 2007 than in 2003. However, the shift was generally very small.*

*In Table 3.4(b) we examine whether recently hired workers ('new hires', defined as those who have been in their jobs for one year or less) work different hours from the whole direct care workforce, the preferred hours of workers, and how our sample's hours compare with those of the wider workforce. New hires work much the same hours as the whole direct care workforce. Though we cannot be certain, it seems likely that new hires were working hours closer to those of the whole workforce in 2007 than they were in 2003 (when they worked slightly shorter hours). Compared to the Australian female workforce, aged care workers are much less likely to work long hours (more than 40 per week), and more likely to work part-time. This conclusion is clearer still if we use the home supplied data on hours worked.*

*Table 3.4(b) also suggests quite significant willingness to work longer hours amongst the residential aged care workforce, with about 39% actually working full-time (more than 34 hours per week) and 47% being willing to work these hours. Table 3.4(c) confirms this view, indicating that some 28% of employees would like to work longer hours, while only 11% would choose to work shorter hours. Around 60% are happy with their current hours. Comparing these results to those from the 2003 survey indicates no significant change. However, there is an intriguing suggestion of increased unused capacity in the aged care workforce, despite the small increase in average hours worked. In 2003, if all workers had worked their preferred hours, hours worked would have increased by about 2%, and if those preferring to work longer had been able to do so with all others continuing to work the same hours, hours worked would have increased by about 7%. In 2007, the equivalent figures are 4% and 7%, suggesting no significant change in unused capacity in this workforce.*



# DECISION

*Workplace Relations Act 1996*

s.576E—Procedure for carrying out award modernisation process  
 Request from the Minister for Employment and Workplace Relations—28 March 2008

## Award Modernisation

(AM2008/5, 7 and 13–24)

JUSTICE GIUDICE, PRESIDENT  
 VICE PRESIDENT WATSON  
 SENIOR DEPUTY PRESIDENT WATSON  
 SENIOR DEPUTY PRESIDENT HARRISON  
 SENIOR DEPUTY PRESIDENT ACTON  
 COMMISSIONER SMITH

MELBOURNE, 3 APRIL 2009

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## LIST OF MAIN ABBREVIATIONS

In this decision the following abbreviations are used:

ACCI	The Australian Chamber of Commerce and Industry
ACG Association	The Australian Cotton Ginning Association
Act	<i>Workplace Relations Act 1996</i>
ACTU	Australian Council of Trade Unions
AiGroup	Australian Industry Group and the Engineering Employers Association, South Australia
ANF	Australian Nursing Federation
ASU	Australian Municipal, Administrative, Clerical and Services Union
AWU	Australian Workers' Union, The
BECC Modern Award	<i>Building, Engineering and Civil Construction Industry General On-site Award 2010</i>
Building and Construction Award	<i>National Building and Construction Industry Award 2000</i>
CCC Award 2003	<i>Contract Call Centre Industry Award 2003</i>
CCC Modern Award	<i>Contract Call Centres Award 2010</i>
CCNT	Chamber of Commerce Northern Territory
CEPU	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia
CFMEU	Construction, Forestry, Mining and Energy Union
CICA	Crane Industry Council of Australia
CIT Modern Award	<i>Transport (Cash in Transit) Award 2010</i>
Clerks Modern Award	<i>Clerks—Private Sector Award 2010</i>
Electrical Contracting Award	<i>National Electrical, Electronic and Communications Contracting Industry Award 1998</i>
Engine Drivers' (ACT) Award	<i>Engine Drivers' and Firemen's (ACT) Award 2000</i>
Federal Waste Award	<i>Transport Workers' (Refuse, Recycling and Waste</i>

	<i>Management) Award 2001</i>
Furnishing Award	<i>Furnishing Industry National Award 2003</i>
General Retail Modern Award	<i>General Retail Industry Award 2010</i>
Graphic Arts Award	<i>Graphic Arts Award 2000</i>
joint amendments	Master Plumbers' and Mechanical Services Association of Australia, National Fire Industry Association and CEPU joint submissions of 19 March 2009.
Manufacturing Modern Award	<i>Manufacturing and Associated Industries and Occupations Award 2010</i>
MBA	Master Builders Australia
Metal and Engineering On-site Award	<i>National Metal and Engineering On-site Construction Industry Award 2002</i>
Minister	Minister for Employment and Workplace Relations
Mixed Industries Award	<i>Transport Workers (Mixed Industries) Award 2002</i>
Mobile Crane Hiring Award	<i>Mobile Crane Hiring Award 2002</i>
NACCHO	Aboriginal & Torres Strait Islanders Community Controlled Health Organisations
NAPSA	Notional Agreements Preserving State Awards
NECA	National Electrical and Communications Association
NES	National Employment Standards
NFF	National Farmers Federation
NSW NAPSA	<i>Transport Industry (State) Award NSW</i>
Pastoral Industry Award	<i>Pastoral Industry Award 1998</i>
RT&D Modern Award	<i>Road Transport and Distribution Award 2010</i>
RT Long Distance Modern Award	<i>Road Transport (Long Distance Operations) Award 2010</i>
TCR Case	<i>Termination, Change and Redundancy Case</i>
TWU	Transport Workers' Union
TWU Award 1998	<i>Transport Workers Award 1998</i>

## INTRODUCTION

[1] This decision deals with a number of matters in the award modernisation process. It should be read in conjunction with earlier statements and decisions. The Commission's statement of 23 January 2009 is particularly relevant.<sup>1</sup> In that statement the Commission drew attention to a number of issues of general importance to award modernisation and published exposure drafts of a number of awards for Stage 2. Since that time the Commission has had the benefit of a large number of written and oral submissions on the issues of general importance and on the Stage 2 exposure drafts. This decision sets out the Commission's conclusions. We have decided to make a further 27 modern awards which we publish with this decision. We also publish the *Manufacturing and Associated Industries and Occupations Award 2010* (Manufacturing Modern Award)<sup>2</sup> and the *Clerks—Private Sector Award 2010* (Clerks Modern Award)<sup>3</sup> as varied by this decision. Variations in relation to those two awards are published separately.

[2] This decision is divided into the following sections:

- general issues
- Stage 2 modern awards
- other matters

## GENERAL ISSUES

[3] In this section of the decision we deal with a number of matters of general importance in the award modernisation process:

- amendments to the award modernisation request
- transitional provisions
- other variations to modern awards
- supported wage system, school-based apprentices and national training wage provisions

### Amendments to the award modernisation request

[4] The award modernisation process is governed by the provisions in Part 10A of the *Workplace Relations Act 1996* (the Act) and a request made by the Minister for Employment and Workplace Relations (the Minister) pursuant to s.576C(4) of the Act. The Minister's request was made on 28 March 2008 and subsequently amended on 16 June and 18 December 2008.<sup>4</sup> We shall refer to the request as amended as the consolidated request. The priority modern awards were made by the Commission on 19 December 2008. Because of the timing there was no opportunity to take the amendment to the request made on 18 December 2008 into account before publishing the priority modern awards. In its statement of 23 January 2009 the Commission sought views on how the amendment might affect the terms of modern awards. It appears that there are three main areas in which the 18 December amendment

might have effect. Those areas are: coverage, award flexibility and annual leave. We deal first with coverage.

[5] As a result of the 18 December amendment cl.2(e) of the consolidated request now requires that “a modern award should be expressed so as not to bind an employer who is bound by an enterprise award or a Notional Agreement Preserving a State Award (NAPSA) derived from a state enterprise award.” Each of the modern awards made so far contains the following sentence in the coverage clause:

“The award does not cover an employer bound by an enterprise award with respect to any employee who is covered by the enterprise award.”

[6] It appears to us that the most direct way to ensure compliance with cl.2(e) is to amend the sentence in the coverage clause so that it reads:

“The award does not cover an employer bound by an enterprise award or an enterprise NAPSA with respect to any employee who is covered by the enterprise award or NAPSA.”

[7] The Australian Council of Trade Unions (ACTU) proposed that we should postpone action on this issue. It suggested that at the present time NAPSAs derived from State enterprise awards, like other NAPSAs, will cease to operate on 31 December 2009. Since modern awards do not commence to operate until 1 January 2010, a provision in the terms we have set out would only operate if the legislature extends the operation of NAPSAs beyond 31 December this year. While this is true, it seems to us that the terms of the request limit the Commission’s discretion in the matter. We should ensure, to the extent we can, that we comply with the request. We have included the amended provision in each of the Stage 2 modern awards. We have also included a definition of enterprise NAPSA in the definition clause. We decide later on the process for varying the modern awards which were made on 19 December 2008.

[8] We deal next with award flexibility. The Commission published a model flexibility clause in its decision of 20 June 2008.<sup>5</sup> The Commission changed the model clause in some respects in its decision of 19 December 2008. None of those changes was responsive to the 18 December amendment to the consolidated request. Clause 11AA of the consolidated request, which was included by the 18 December amendment, deals with the Commission’s obligation in relation to a flexibility term in a modern award. It reads:

“11AA The Commission must ensure that the flexibility term:

- identifies the terms of the modern award that may be varied by an individual flexibility arrangement;
- requires that the employee and the employer genuinely agree to an individual flexibility arrangement;
- requires the employer to ensure that any individual flexibility arrangement must result in the employee being better off overall;
- sets out how any flexibility arrangement may be terminated;

- requires the employer to ensure that any individual flexibility arrangement be in writing and signed:
  - (a) in all cases – by the employee and the employer;
  - (b) if the employee is under 18 – by the parent or guardian of the employee;
- requires the employer to ensure that a copy of the individual flexibility arrangement be given to the employee; and
- prohibits an individual flexibility arrangement agreed to by an employer and employee from requiring the approval or consent of another person, other than the consent of a parent or guardian where an employee is under 18.”

[9] It seems that there are only two requirements in cl.11AA which are not already accommodated in the model flexibility clause. The first is the requirement that any individual flexibility arrangement must result in the employee being better off overall. The second is the requirement that the flexibility clause prohibit an individual flexibility arrangement from requiring the approval or consent of a non-party, except in relation to minors. We deal with the better off overall requirement first.

[10] The model award flexibility provision published by the Commission in its decision of 20 June 2008 was based on a test of no-disadvantage to the employee.<sup>6</sup> The relevant terms of the model clause are sub-clauses 3, 4 and 5(d). They read:

- “3. The agreement between the employer and the individual employee must:
  - (a) be confined to a variation in the application of one or more of the terms listed in clause x.1; and
  - (b) not disadvantage the individual employee in relation to the individual employee’s terms and conditions of employment.
- 4. For the purposes of clause 3(b) the agreement will be taken not to disadvantage the individual employee in relation to the individual employee’s terms and conditions of employment if:
  - (a) the agreement does not result, on balance, in a reduction in the overall terms and conditions of employment of the individual employee under this award and any applicable agreement made under the Act, as those instruments applied as at the date the agreement commences to operate; and
  - (b) the agreement does not result in a reduction in the terms and conditions of employment of the individual employee under any other relevant laws of the Commonwealth or any relevant laws of a State or Territory.
- 5. The agreement between the employer and the individual employee must also:

....

(d) detail how the agreement does not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment; and

...."

**[11]** To the extent that the model clause is based on the no-disadvantage test it is now inconsistent with the consolidated request and must be altered. Reference to "no-disadvantage" in sub-clauses 3(b) and 5(d) will be replaced with references to "better off overall." The terms of sub-clause 4 deal with the application of the no-disadvantage test and will be deleted.

**[12]** We deal now with the requirement that the flexibility clause prohibit an individual flexibility arrangement from requiring the approval or consent of a non-party, other than the consent of a parent or guardian where the employee is under 18. We think this requirement is best met by including a standard clause to that effect.

**[13]** Some parties suggested that other changes should be made to the model flexibility clause to meet the new requirements of the consolidated request. For example the Australian Chamber of Commerce and Industry (ACCI) suggested that we should prescribe criteria by which it might be concluded that an agreement would result in an employee being better off overall. ACCI proposed the following:

"7.4 For the purposes of clause 7.3(b) the agreement will be taken to result in the employee being better off overall in relation to his or her individual terms and conditions of employment if:

(a) the agreement assists in meeting, reflects or responds to an employee request;

(b) the agreement is mutually agreed to result in the employee being better off overall in relation to the individual employee's terms and conditions of employment;

(c) the agreement does not result, on balance, in a reduction in the overall terms and conditions of employment of the individual employee under this award and any applicable agreement made under the Act, as those instruments applied as at the date the agreement commences to operate; and

(d) the agreement does not result in a reduction in the terms and conditions of employment of the individual employee under any other relevant laws of the Commonwealth or any relevant laws of a State or Territory."

**[14]** Proposed sub-clause (a) seems to accord a preference to an arrangement which relates to an employee request over an arrangement which relates to an employer request. Proposed sub-clause (b) introduces an element of subjectivity and it is inconsistent with proposed sub-clauses (c) and (d) which seem to be a reversion to the no-disadvantage test. We do not think that the proposal overall is consistent with the requirements of the consolidated request.

Furthermore it is desirable to permit the model clause to operate for some time before contemplating any refinement of the better off overall criterion.

[15] The model clause as amended reads:

“X. Award flexibility

- X.1 Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of are those concerning:
  - (a) arrangements for when work is performed;
  - (b) overtime rates;
  - (c) penalty rates;
  - (d) allowances; and
  - (e) leave loading.
- X.2 The employer and the individual employee must have genuinely made the agreement without coercion or duress.
- X.3 The agreement between the employer and the individual employee must:
  - (a) be confined to a variation in the application of one or more of the terms listed in clause X.1; and
  - (b) result in the employee being better off overall than the employee would have been if no individual flexibility agreement had been agreed to.
- X.4 The agreement between the employer and the individual employee must also:
  - (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee’s parent or guardian;
  - (b) state each term of this award that the employer and the individual employee have agreed to vary;
  - (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
  - (d) detail how the agreement results in the individual employee being better off overall in relation to the individual employee’s terms and conditions of employment; and

(e) state the date the agreement commences to operate.

X.5 The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.

X.6 Except as provided in X.4(a), the agreement must not require the approval or consent of a person other than the employer and the individual employee.

X.7 An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.

X.8 The agreement may be terminated:

(a) by the employer or the individual employee giving four weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or

(b) at any time, by written agreement between the employer and the individual employee.

X.9 The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award."

**[16]** We turn now to the annual leave issue. The National Employment Standards (NES) deal, among other things, with the manner in which annual leave is to be taken. They provide that leave is to be taken at a time which is agreed between the employer and the employee. Despite that provision, the consolidated request allows the Commission to make a modern award which, in some circumstances, permits an employer to compel an employee to take annual leave. The relevant provision is in cl.33 of the consolidated request. We set out the provision as it stands following the 18 December 2008 amendment:

"33 The NES provides that particular types of provisions are able to be included in modern awards even though they might otherwise be inconsistent with the NES. The Commission may include provisions dealing with these issues in a modern award. The NES allows, but does not require, modern awards to include terms that:

"..."

- require employees, or allow employees to be required, to take paid annual leave, but only if the requirement is reasonable;
- ...."

[17] Although the structure of the provision has altered, it is the last few words of the provision, “but only if the requirement is reasonable,” which require attention. Some of the priority modern awards made on 19 December 2008 permit an employer to require an employee to take annual leave in specified circumstances. The circumstances are mainly of two kinds. The first kind deals with annual close down. The second kind deals with excessive accumulations of annual leave. A number of the exposure drafts for the Stage 2 modern awards also contain such provisions.

[18] It was not suggested that any provision, either in the modern awards already made or in the exposure drafts, allowed an unreasonable requirement to take leave or should be altered as a result of the 18 December 2008 amendment. In particular it was not suggested that any of the provisions should be altered to include a general requirement for reasonableness in relation to the exercise of the rights given to employers. In the circumstances we have decided not to alter any of the existing modern award provisions and we have included similar provisions in a number of the Stage 2 modern awards.

### **Transitional provisions**

[19] In its 23 January 2009 statement the Commission sought proposals and submissions as to the manner in which transitional issues should be dealt with.<sup>7</sup> Most modern awards will contain terms which involve changes in minimum terms and conditions for many employees. That is because modern awards will replace a number, in some cases many, pre-reform awards and NAPSAs and establish a uniform safety net for employees and employers formerly covered by those pre-reform awards and NAPSAs. The effect of s.576T is that while modern awards must not include terms and conditions of employment that are determined by reference to State or Territory boundaries, a modern award may include such terms for an initial period of five years. It is no doubt the legislature’s intention to permit the Commission to include transitional provisions in modern awards to cushion the impact of changes in wages and other conditions. In the case of employees such provisions might deal with any reductions in their terms and conditions. In the case of employers the focus might be on increases in costs.

[20] The Act deals specifically with issues relating to the terms and conditions in modern awards which are determined by reference to State boundaries. The relevant statutory provision is s.576T of the Act. The section reads:

#### **“576T Terms that contain State-based differences**

(1) A modern award must not include terms and conditions of employment that:

- (a) are determined by reference to State or Territory boundaries; or
- (b) do not have effect in each State and Territory.

(2) Despite subsection (1), a modern award may include terms and conditions of employment of the kind referred to in subsection (1) for a period of up to 5 years starting on the day on which the modern award commences.

(3) If, at the end of the period of 5 years starting on the day on which a modern award commences, the modern award includes terms and conditions of employment of the kind referred to in subsection (1), those terms and conditions of employment cease to have effect at the end of that period."

[21] In its 19 December 2008 decision, the Commission included some transitional provisions in the priority modern awards but indicated that, in general, transitional provisions were better considered later.<sup>8</sup> The decision contains the following passage:

"[106] We have received many submissions and suggestions concerning the way in which modern awards should deal with the multitude of transitional issues which may arise in the establishment of a safety net based predominately on modern awards and the NES. Transitional provisions must be developed, that, in a practical way, take account of the intention of the consolidated request that modern awards not disadvantage employees or increase costs for employers. In the case of some conditions of employment we have decided to include a specific transitional provision in the priority awards. These conditions are redundancy pay, accident pay and district allowances in Western Australia and the Northern Territory. There are also a small number of transitional provisions of limited application. In general, however, we are convinced that, as many contended, transitional provisions are best dealt with after the terms of the priority awards have been published, if it is practical to do so. There are a number of reasons. The first and obvious reason is that it is difficult to know what the effect of the award will be until those affected have had an opportunity to consider the impact in detail. The second reason is that in many cases the effect of the award upon employees and employers is not uniform and depends upon the terms of the NAPSA or pre-reform award which applied previously. More debate will be needed as to how the differing situations of employers and employees are to be viewed and dealt with. In some cases an aggregate or overall approach may be the appropriate one. Finally, it follows that the representatives of employers and employees will be in a better position to assess the overall effect of the awards, taking potential gains and losses into account and will be in a position to give practical assistance to the Commission.

[107] There is an additional consideration. It is desirable that transitional provisions, including supersession provisions, take account of the legislative scheme in which they will operate. For that reason it is our intention not to deal with transitional provisions until the legislation, including the foreshadowed transitional legislation, has been passed by the Parliament. At that time we shall be in a position to assess the overall economic impact and to give consideration to how transitional provisions are to be finalised for the remaining stages of the modernisation process. On current indications we would expect to address these matters towards the middle of 2009."

[22] As already indicated, in its 23 January 2009 statement the Commission sought views on how transitional provisions should be dealt with. Most parties which addressed the issue, and many did, suggested a process in which transitional provisions were addressed after the terms of the Stage 2 modern awards are known. There was some disagreement as to the precise timing.

[23] As foreshadowed, we have decided to programme a separate proceeding to deal with transitional provisions. We are aware of the difficulties faced by parties, particularly parties with interests in a number of modern awards, in meeting the deadlines in the award modernisation program. We have sought to develop a process for dealing with transitional provisions which takes those deadlines into account. Nevertheless it is not practical to delay consideration of transitional provisions until much later in the year. For that reason we shall deal initially with transitional provisions for the modern awards made in the priority stage and in Stage 2. This will also provide an opportunity to address some matters of principle. Although consideration of transitional provisions for Stages 3 and 4 will be delayed until later in the year, with the benefit of a decision in relation to the earlier stages that consideration should be less complex than otherwise.

[24] We shall provide for transitional issues relating to the priority and Stage 2 modern awards to be dealt with in a consultation process over the period from 29 May to 18 July. The consultations will be conducted mainly in writing, by email and on the internet. Parties' proposals and submissions must be filed by 29 May 2009. There will be an opportunity for parties to comment on each others' proposals and submissions. Any party wishing to take advantage of this opportunity must file any additional or reply submissions by 26 June 2009. The Commission will sit in the week of 13 July to hear any supplementary oral submissions. By providing two opportunities for written submissions the amount of time required in the week of 13 July will be minimised. While the main focus of this proceeding will be the transitional provisions to be included in the priority and Stage 2 awards, submissions relating to issues of general principle or other transitional matters will be welcome. A process for dealing with any transitional provisions to be included in Stage 3 and 4 awards will be announced later in the year.

[25] There are two important matters of principle which deserve emphasis. First, we remain of the view, expressed by the Commission in its 19 December 2008 decision, that transitional provisions are better considered after the terms of modern awards are known. There are some cases in which it may be possible to deal with transitional provisions at the same time as the award is being made but these cases will be rare and likely to be limited to particular conditions. As the Commission indicated in its 19 December 2008 decision we shall also consider the overall economic impact of the move to modern awards. The actual cost impact will also be relevant. Secondly, we are concerned that there is a potential for transitional provisions in some awards to be overly-complicated. This is a danger in particular where the modern award is to replace a range of disparate conditions in pre-reform awards and NAPSAs. If transitional provisions are too complicated they will not serve the award modernisation objective and their implementation might be compromised. An approach is required which deals with the net effect of changes in conditions or perhaps which focuses on the main changes.

### Other variations to modern awards

[26] It is well recognised that modern awards are likely to require other variations before 1 January 2010. Changes will almost certainly be required to recognise changes in legislation. For example, some awards include references to specific provisions of the NES. Those references will have to be replaced with references to sections of the Fair Work Bill 2009. Wage rates may require updating. In some cases supported wage system, adult apprenticeship and national training wage provisions will need to be added to awards. These variations might

be seen as a cleaning-up exercise. In large part they will be directed to the implementation of changes which are necessary because of legislation or changes which have already been decided upon in principle. They could be described as residual variations.

[27] With the exception of transitional provisions, which we have dealt with separately, we have decided to defer consideration of residual variations until the final quarter of 2009. By that time most of the issues of principle will have been decided and most of the standard provisions will be settled. By leaving the residual variations until late in the process we also hope to minimise the number of occasions on which a particular modern award will require variation before the commencement date of 1 January 2010.

### **Supported wage system, school-based apprentices and national training wage provisions**

[28] With our 23 January 2009 statement we published three draft schedules. The draft schedules deal with the supported wage system for employees with a disability, school-based apprentices and the national training wage. We indicated in the statement that we wished to finalise our consideration of these provisions as part of Stage 2. We received numerous helpful proposals and submissions. We shall deal first with the supported wage system.

[29] Apart from some relatively minor matters there was general agreement to the terms of the supported wage system draft schedule. The only issue worthy of comment relates to the parties' reluctance to take on the responsibility of notifying unions which are not party to an assessment of the fact that an assessment has been made and of their right to object. We shall provide for the notification to be the responsibility of the Industrial Registrar. In due course we would expect the reference to be amended to the General Manager of Fair Work Australia.

[30] Some submissions suggested that the schedule should not be included in some awards because conditions in the industry covered by the award are not conducive to the employment of persons with a disability. This was the position taken by the Construction, Forestry, Mining and Energy Union (CFMEU) in relation to the construction industry. While the schedule should be included in most awards, we accept that there should be some limits based on safety considerations and the nature of the work the award covers. The schedule will not be included in a number of the Stage 2 awards, such as the main on-site building and construction award or in most of the awards in the health and welfare services group.

[31] We deal next with the draft schedule for school-based apprentices. There was general agreement with the terms of the draft. The ACTU suggested that the operation of the schedule should be limited to the trades provided for in the modern award concerned. We agree in general with that approach. To put the matter beyond doubt we shall include a provision limiting the schedule to trades covered by the award. The ACTU also pointed out that the schedule should specifically recognise the possibility of a three year apprenticeship. We shall include an appropriate clause. The schedule should be included in every award in which an apprenticeship is possible. It is desirable that other provisions in the body of the award should be deleted. This will ensure consistency of approach and make review and variation simpler.

[32] We note that in the Queensland jurisdiction school-based apprentices can be paid a loading of 20% in place of award leave entitlements. The Queensland Department of Education, Training and the Arts proposed that a similar clause be included in the schedule. While we are not opposed to the suggestion it did not receive much support from other

interested parties. We would be prepared to consider including such a provision when next the schedule is reviewed.

[33] Many parties provided detailed submissions on the draft schedule for the national training wage. However, others indicated they needed more time to properly consider the draft. In the circumstances, we have decided to publish a further draft schedule. The further draft removes definitions which are not used in the schedule and simplifies others. It also recognises that there are full-time and part-time traineeships and, within those types, school-based and certain Australian Qualifications Framework Certificate Level IV traineeships. In addition it modernises provisions dealing with training and employment conditions in respect of traineeships. The further draft schedule provides that where its terms and conditions conflict with other terms and conditions in the award to which it is a schedule and which also deal with traineeships, the other terms and conditions prevail.

[34] We shall consider submissions on the further draft schedule in Stage 4 of the award modernisation process. This should give parties sufficient time to consider the range of issues involved, including amendments needed to Appendix 1 which allocates certain traineeships to wage levels, whether default wage rates should be set for traineeships not included in Appendix 1, whether the schedule should automatically apply to training packages which replace those in Appendix 1 and how competency based training should be dealt with.

[35] Parties making submissions on the national training wage draft schedule in Stage 4 should detail the specific amendments they consider need to be made and the reasons for such amendments.

## STAGE 2 INDUSTRIES/OCCUPATIONS

[36] In this section of the decision we deal with the modern awards to be made in Stage 2. The industries and occupations to be dealt with in Stage 2 were identified in the Commission's statement of 3 September 2008.<sup>9</sup> Pre-drafting consultations were held towards the end of 2008 and a number of exposure drafts were published on 23 January this year. We now publish 27 Stage 2 modern awards. Before dealing with the awards on a more detailed basis it is appropriate to make some general observations.

[37] The award modernisation process is to be carried out according to ss.576A(2) and 576B(2) of the Act. Section 576A(2) is as follows:

“(2) Modern awards:

- (a) must be simple to understand and easy to apply, and must reduce the regulatory burden on business; and
- (b) together with any legislated employment standards, must provide a fair minimum safety net of enforceable terms and conditions of employment for employees; and
- (c) must be economically sustainable, and promote flexible modern work practices and the efficient and productive performance of work; and

(d) must be in a form that is appropriate for a fair and productive workplace relations system that promotes collective enterprise bargaining but does not provide for statutory individual employment agreements; and

(e) must result in a certain, stable and sustainable modern award system for Australia.”

**[38]** These characteristics of modern awards are to be achieved in the context of the further guidance provided by s.576B(2). That section requires the Commission to have regard to a number of specified factors in performing award modernisation functions. We shall not repeat those factors here. The Commission is also required to observe the objects in ss.1 and 2 of the consolidated request. Section 1 of the consolidated request repeats the terms of s.576A(2). Section 2 is as follows:

“2. The creation of modern awards is not intended to:

(a) extend award coverage to those classes of employees, such as managerial employees, who, because of the nature or seniority of their role, have traditionally been award free. This does not preclude the extension of modern award coverage to new industries or new occupations where the work performed by employees in those industries or occupations is of a similar nature to work that has historically been regulated by awards (including State awards) in Australia;

(b) result in high-income employees being covered by modern awards;

(c) disadvantage employees;

(d) increase costs for employers;

(e) result in the modification of enterprise awards or Notional Agreements Preserving State Awards (NAPSA) that are derived from state enterprise awards. This does not preclude the creation of a modern award for an industry or occupation in which enterprise awards or NAPSA that are derived from state enterprise awards operate. However a modern award should be expressed so as not to bind an employer who is bound by an enterprise award or a NAPSA derived from a state enterprise award in respect of an employee to whom the enterprise award or NAPSA applies.”

**[39]** This section deals with questions of award coverage of employees, disadvantage to employees, increased costs for employers and the exclusion of enterprise awards and NAPSA from the process. Each of these matters has been treated as of central importance. We have avoided repetitive references to them, however, in dealing with individual modern awards. While issues relating to disadvantage for employees and increased employer cost have been dealt with in formulating the terms of the modern awards themselves, they will also be addressed in considering transitional provisions.

**[40]** In the 23 January 2009 statement we referred to the large number of allowances in some industries and raised the possibility of rationalising them. Progress on this issue has not been rapid. While we have not included many allowances which are either obsolete or for one reason or another inappropriate for inclusion in a safety net award, there are large national industries such as manufacturing and building and construction which still have far too many detailed allowance provisions. Despite our urging little has been achieved by consent in those

industries. Regrettably further rationalisation will have to await the foreshadowed award reviews.

[41] We refer also to piecework provisions generally. The terms of the NES require that modern awards should specify the base rate of pay and the full rate of pay which are to apply to pieceworkers. The base rate of pay is relevant to annual leave, personal/carer's leave, community service leave and redundancy pay. The full rate of pay is relevant to notice of termination and that part of the parental leave provisions which deals with transfer to a safe job. Since casual employees do not have any entitlement to annual leave under the NES, the issue only arises in relation to weekly employees who are pieceworkers and who therefore have a fixed number of hours of work per week. Debate on the question was extremely limited. We have decided to apply the definitions of base rate of pay and full rate of pay in the NES to pieceworkers as if they were not pieceworkers. Should this approach give rise to problems the matter can be reviewed in due course at the appropriate time.

[42] Questions also arose concerning the types of exclusions which should be specified in modern awards. In many awards, for example, it was suggested that we should include a specific exclusion for local Government bodies. Suggestions were also made that we should exclude some operations conducted by State Governments. We do not consider it appropriate, as a general rule, to incorporate in awards exclusions which simply restate or define the statutory or Constitutional boundaries of the Commission's jurisdiction. We see no benefit in attempting to define the limits of the jurisdiction in relation to Government or quasi-Government bodies or corporations generally. To the contrary, we see dangers in that approach. There are differences as between the States. In Victoria, for example, there is a referral of power to the Commonwealth. Again, various Commonwealth statutory corporations may be in a different position to State Government corporations. The situation in the Territories differs from the situation in the States. There are always exceptions, of course, but we have decided that as a general rule modern awards should not exclude State, Territory or local Government corporations of any kind. The coverage of the award will be left to the operation of the legislation and the Constitution. In this way the full extent of the power granted to the Commission by the Parliament will be utilised.

[43] Some parties, particularly in the building, metal and civil construction group of industries, proposed the inclusion in modern awards of rolled-up wage rates i.e. rates comprised of minimum wages and all-purpose allowances, such as industry allowances. In our statement of 23 January 2009<sup>10</sup> we decided against such an approach in relation to the draft *Electrical, Electronic and Communications Contracting Award 2010* despite the submissions of the National Electrical and Communications Association (NECA) and the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU). It remains our view that minimum classification rates should be shown separately from all-purpose allowances in modern awards. The combination of minimum classification rates and industry allowances would confuse minimum award payments of two different types, prescribed for different purposes. It is essential that properly fixed minimum classification rates are retained and shown separately in modern awards, in order to maintain consistent properly fixed minimum classification rates. The development and maintenance of properly fixed minimum rates have been important underpinning elements of the Commission's awards since August 1988.<sup>11</sup> A stable system of minimum wage relativities has developed throughout much of the award system over the last twenty years. A departure from those relativities would have the potential to destabilise minimum

wage fixation and generate unsustainable claims. Because of that potential we are not prepared, given the limited debate that has occurred so far, to move away from the principle that minimum wages should be kept separate from allowances.

**[44]** In a number of clerical and administrative awards questions arose concerning exemption rates. By exemption rates we mean the specification of a rate of pay above which an employee is not entitled to specified award provisions. Such provisions would typically include overtime but in many cases might include a range of other award entitlements as well. Some parties, the ACTU and the Australian Municipal, Administrative, Clerical and Services Union (ASU) in particular, expressed great concern about the inclusion of exemption provisions in modern awards and suggested that the Commission should, at least, severely limit their application.

**[45]** The ACTU raised an issue of principle. It submitted that “neither the Act (nor the Fair Work Bill), the proposed NES nor the Request contemplate the inclusion of an exemption clause in modern awards that denies a class of employees, otherwise covered by the award, access to specific conditions contained in the award.” It supported this submission by reference to statutory provisions for annualised salaries and for the exemption of high income earners from the modern award system. This submission was directed at the exemption provision in the Clerks Modern Award, which is not currently before us in that respect, and the exemption provisions in two of the Stage 2 exposure drafts.

**[46]** Exemption provisions are not uncommon in some areas of federal and State award regulation, although the number of award entitlements they exclude varies. There are exemption provisions in a number of the priority modern awards. The detailed provisions of the Act and the consolidated request do not expressly prohibit exemption provisions. To the extent that the ACTU, supported by the ASU, has asked us to decide a question of principle we have concluded that we have neither the material nor the breadth of argument to do so at this stage. It is desirable, however, that we indicate the approach we have adopted.

**[47]** In considering whether to include exemption provisions in modern awards, and where relevant the terms of the exemption, a number of matters have been considered. Those matters include the extent to which exemption provisions appear in pre-reform awards and NAPSAs which the modern award will replace, the level of the exemption rate in those instruments and the award entitlements which the various exemption provisions exclude. We have been conscious of the need to provide a safety net which as far as practical recognises existing arrangements. The provisions we have decided upon in each of the modern awards reflect our examination and assessment of a diverse range of award provisions in all of the relevant pre-reform awards and NAPSAs including those without exemption clauses. It should be clear that in this decision the Commission is not deciding any questions of principle relating to exemption provisions. Such questions must wait for another time.

**[48]** Turning to another matter, the ACTU submitted that the Commission has so far taken a view of its power to supplement the terms of the NES which is too restrictive. It referred in particular to passages in the 19 December 2008 decision relating to concurrent parental leave, community service leave and public holidays. We adhere to those views. We think that we should give proper weight to the Parliament’s decision to regulate minimum standards in relation to the matters covered by the NES. It cannot have been Parliament’s intention that the Commission could make general provision for higher standards. We accept, however, that there may be room for argument about what constitutes supplementation in a particular case.

[49] From time to time we refer in this decision to rates of pay in pre-reform awards and NAPSAs. Technically these references should be to Australian Pay and Classifications Scales and should be so regarded. We have adopted the language generally used by parties for simplicity and ease of reference.

### **Agriculture group**

[50] We have decided to make six modern awards to apply in what has been broadly identified as the agriculture group for the purposes of the award modernisation process. The awards are:

*Pastoral Award 2010*  
*Horticulture Award 2010*  
*Cotton Ginning Award 2010*  
*Nursery Award 2010*  
*Silviculture Award 2010*  
*Wool Storage, Sampling and Testing Award 2010*

[51] We have made a number of variations to the provisions of the exposure drafts. We shall deal with some of the more significant changes. It will be noted that we have dealt with piecework in a variety of contexts.

[52] We have dealt with the effect of the NES upon pieceworkers' pay for leave and other purposes in the way discussed more generally above.

[53] Our overall approach to coverage of the pastoral and horticultural awards is that they should be confined to agricultural production within the "farm gate." Other questions of coverage also arose. It will be seen that we have excluded aquaculture and viticulture for wine production from coverage pending further consideration of those industries in the following stages of the award modernisation process as indicated in our 23 January 2009 statement.<sup>12</sup>

### *Pastoral Award 2010*

[54] Following the submissions of the parties filed in response to the exposure draft and the consultations on 26 and 27 February 2009, we have been persuaded to vary the terms of the exposure draft significantly. The ordinary hours of work and overtime provisions of the *Pastoral Award 2010*, with the exception of those applying to pig breeding and raising, will now reflect the existing provisions of the *Pastoral Industry Award 1998* (Pastoral Industry Award).<sup>13</sup> We have also altered the classifications, classification structure and pay scales to more closely align the pay levels for different classifications of work with the pay levels in the Pastoral Industry Award. However, we have retained the extensive classification descriptors for various industry settings.

[55] A number of other changes have been made to the terms of the exposure draft. These include the deletion of the casual conversion provision and an alteration to the superannuation provision to better reflect the pattern of existing regulation and an amendment to the public holidays provision to allow the NES substitution arrangements to operate. There are some other technical or consequential changes.

[56] We have also made some changes to the coverage of the award from that contained in the exposure draft. These changes are designed to more clearly define the coverage of the *Pastoral Award 2010* and the *Horticulture Award 2010*. We now deal with questions related to standard hours of work for shearing classifications.

[57] A submission was received from the Western Australian Shearing Contractors Association Inc. and the Western Australian Farmers Industrial Association contending, among other things, that the Commission is not obliged to include a 38 hour week in all awards and that there is no legislative prohibition on awards prescribing ordinary hours of work in excess of 38. This submission was made primarily in relation to shearers and crutchers but was said to be equally relevant to other classifications such as shed hands, pressers and cooks. We think this submission is misconceived. Maximum hours of work are not fixed by the Commission but by the NES. Section 12(1) of the NES provides that maximum standard hours of work for full time employees are 38 per week. In making modern awards the Commission is bound by cl.30 of the consolidated request not to exclude the NES or any of their provisions. While cl.33 of the consolidated request permits averaging of hours of work over a specified period there is no other indication in the consolidated request or in the Act permitting the Commission to provide for standard, or “ordinary” hours, in excess of 38. It is therefore the Commission’s duty to ensure that modern award provisions dealing with the pay and other conditions of casual employees, such as shearers, are consistent with the standard hours requirement.

[58] For these reasons the relevant award provisions will be based on a 38 hour week. As to the method of implementation, we have decided not to adopt the Australian Workers’ Union’s (AWU) suggestion.<sup>14</sup> Instead, we have increased the relevant piecework rates to reflect a reduction of ordinary hours from 40 to 38 with respect to shearing, crutching, wool pressing and related classifications broadly along the lines suggested by the National Farmers Federation (NFF).

[59] To avoid any doubt we emphasise the fact that any necessary transitional provisions relating to hours of work and other matters will be considered in the proceeding to deal with transitional provisions which we have provided for earlier in this decision. This may be particularly relevant for employers in Western Australia.

#### *Horticulture Award 2010*

[60] We have revised the ordinary hours and overtime provisions of the exposure draft. The provisions in the *Horticulture Award 2010* are generally in line with the relevant provisions of the *Horticultural Industry (AWU) Award 2000*,<sup>15</sup> as it applies to what are referred to as the Schedule A respondents to that award. We have also included more extensive provisions for pieceworkers and included piecework provisions we consider are consistent with the requirements of the consolidated request. A number of other provisions have been altered to make the interaction with the NES clearer.

#### *Cotton Ginning Award 2010*

[61] The Australian Cotton Ginning Association (ACG Association) pointed out in response to the exposure draft that the majority of cotton gins are situated in New South Wales and that the ordinary hours provisions of the *Cotton Ginneries, Cotton Oil and Other*

*Seed Oil Manufacturing employees Award - State 2003 (Qld),<sup>16</sup> which provide for a three shift roster system, are complex and rarely used. Accordingly, we have deleted those provisions from the draft and based the ordinary hours, overtime, and shift work provisions in the *Cotton Ginning Award 2010* on those in the *Cotton Ginning &C. Employees (State) Award (NSW)*.<sup>17</sup>*

[62] We have deleted the prohibition on casuals being employed beyond 16 weeks or the season and some related clauses, on the basis that a prohibition of that kind is not appropriate in a modern award. We have, however, included a provision for casual conversion in the form which is found in a number of modern awards. We have also deleted that part of the superannuation clause which deals with contributions during absence from work on the basis that it is not a feature of the State award applying in New South Wales.

[63] We have adopted, with some modification, the classification descriptors proposed by the ACG Association to create a new classification structure. We have also included the pay levels and rates proposed by the ACG Association.

#### *Nursery Award 2010*

[64] We have made some modifications to the coverage provisions in the exposure draft and to the related definition of associated nursery products in order to reduce the possibility of overlap with the retail industry. To that end we have also provided for an exclusion in relation to the operation of the *General Retail Industry Award 2010* (General Retail Modern Award).<sup>18</sup> An adjustment to the entry level pay rates has also been made. In addition two provisions which were in the exposure draft have not been included because they are not features of the existing award and NAPSA coverage. The most significant of those is the casual conversion clause. The other related to hours for part-time employees.

#### *Silviculture Award 2010*

[65] There were few changes suggested to the exposure draft. We have revised the pieceworkers provision and the resulting clause differs in some respects from the piecework provisions of the only industrial instrument specifically regulating the industry of silviculture, the *Silviculture and Afforestation Award (Tas)*.<sup>19</sup>

#### *Wool Storage, Sampling and Testing Award 2010*

[66] We published an exposure draft of an award entitled the Skin, Hide and Wool Stores Award 2010. We have altered the title in the final modern award. It is now called the *Wool Storage, Sampling and Testing Award 2010*. Some alterations have been made to the coverage, definitions and classifications. Most of these changes have been made in response to a submission made by the Australian Wool Testing Authority. The pieceworkers provision has been amended slightly to make the operation of the NES in relation to pieceworkers clearer.

### **Building, metal and civil construction group**

[67] We have decided to make five modern awards in the building, metal and civil construction group of industries and occupations. They are:

*Building, Engineering and Civil Construction Industry General On-site Award 2010*  
*Electrical, Electronic and Communications Contracting Industry Award 2010*  
*Plumbing and Fire Sprinklers Contracting Award 2010*  
*Joinery and Building Trades Award 2010*  
*Mobile Crane Hiring Industry Award 2010*

*Building, Engineering and Civil Construction Industry General On-site Award 2010*

[68] Notwithstanding the continued pursuit, by some interested parties in the post-exposure draft consultations, of separate modern awards for the general building and construction, engineering construction and civil construction sectors, we have decided to proceed with a single award covering each of the sectors in respect of on-site work. We have renamed the award the *Building, Engineering and Civil Construction Industry General On-site Award 2010* (BECC Modern Award). In our view, the award terms and conditions currently applying and the nature of the work favour a single modern award, albeit with some limited differential conditions between the sectors.

[69] The final award incorporates some alterations in the definitions clause, including minor changes to adult apprentice and air-conditioning work definitions. We have also added a definition of continuous service, reflecting the award definition in the *National Building and Construction Industry Award 2000* (Building and Construction Award),<sup>20</sup> to apply in respect of redundancy arrangements and the living away from home-distant work provision. We have removed foreperson/supervisor and general foreperson/supervisor from the definitions clause, placing that definition with special conditions for foremen and supervisors in the metal and engineering construction sector within Part 7 – Industry Specific Provisions. These special provisions reflect Appendix B of the *National Metal and Engineering On-site Construction Industry Award 2002* (Metal and Engineering On-site Award).<sup>21</sup>

[70] The coverage clause has been amended in a number of respects. An exclusion has been included in respect of the *Quarrying Award 2010*. We have included “maintenance, in respect to buildings” to the definition of general building and construction but confined to maintenance undertaken by employees of employers covered by the award. We have also added an exclusion to the definition of metal and engineering construction in respect of incidental metal trades work performed by an employee of an employer not engaged substantially in metal and engineering construction. This is consistent with the exclusion in cl.6.3.1 of the Metal and Engineering On-site Award. The coverage clause may be further amended to take account of other modern awards resulting from Stages 3 and 4.

[71] We have retained, at this stage, within both the coverage clause and the classification structure appendix, references to the pre-mixed concrete, asphalt and bitumen industries, pending consideration of those industries in Stage 3. These references can be reviewed and if necessary altered or deleted in light of the outcome of that consideration.

[72] We have altered the means by which access to the award can be provided by an employer. This is reflected in a change to the standard clause dealing with access to the award and the NES. The change recognises the peculiar physical environment of on-site construction.

[73] We have added a dispute resolution procedure training leave provision, on the basis that it is a prevailing industry standard.<sup>22</sup>

[74] We have deleted the reference to notice under the NES which appeared in cl.11.2 of the exposure draft from the award because the NES expressly exclude building and construction industry daily hire employees from them.

[75] We have decided to include the current industry award redundancy provisions in the modern award as an industry-specific redundancy scheme.

[76] Section 141 of the Fair Work Bill 2009 permits the inclusion of such a scheme in a modern award. The consolidated request deals with industry specific redundancy schemes in the following way:

“Termination and Redundancy

36. The NES excludes employees from redundancy entitlements where their award contains an ‘industry specific redundancy scheme’. An ‘industry specific redundancy scheme’ in a modern award will operate in place of the NES entitlement in these circumstances.
37. An ‘industry specific redundancy scheme’ is one identified as such in a modern award.
38. The Commission may include an ‘industry specific redundancy scheme’ in a modern award.
39. In determining whether particular redundancy arrangements constitute an ‘industry specific redundancy scheme’, the Commission may have regard to the following factors:
  - when considered in totality, whether the scheme is no less beneficial to employees in that industry than the redundancy provisions of the NES; and
  - whether the scheme is an established feature of the relevant industry.”

[77] We are satisfied that the redundancy scheme in the building industry award redundancy provisions is an established feature of the building and construction industry. Having regard to the arbitral history and general application of the current redundancy prescriptions within awards in the building and construction industry the scheme is properly described as an industry specific redundancy scheme.

[78] The redundancy benefits in the NES had their origin in the *Termination, Change and Redundancy Case*, (TCR Case)<sup>23</sup> modified in the *Redundancy Case 2004*.<sup>24</sup> However, award provisions for redundancy in the building and construction industry took a different path, reflecting the particular circumstances of employment in that industry. That arbitral history commenced with a decision in 1989 of a Full Bench,<sup>25</sup> which applied the TCR Case with modifications to suit the employment terms and conditions applying in the industry. Special provision was included for the accrual of redundancy benefits because of the high labour

mobility in the industry. Before an order could be issued, however, some employer parties to the relevant awards obtained an order nisi for prohibition in the High Court. The Full Bench orders, and the High Court proceedings, were overtaken by a 1990 decision<sup>26</sup> which determined what was to become the final form of the redundancy provisions for the building and construction industry. That decision was based on an in-principle agreement between organisations respondent to the awards. Two appeals against this decision were dismissed.<sup>27</sup>

[79] In June 1998, another Full Bench of the Commission considered the redundancy scheme within building and construction industry awards, inserting the provisions in the *Building and Construction Industry (Northern Territory) Award 1996*,<sup>28</sup> against the opposition of employers. The Full Bench stated:

“We are satisfied that the variation of the Award in the terms set out in Exhibit B13 would bring that award into conformity with comparable federal awards that apply generally in the building and construction industry throughout Australia. Those provisions, and ...the corresponding State awards, reflect the outcome of a relatively tortuous process of arbitration and negotiation. That process resulted in the development of what was described by several Full Benches as “one general statement of benefits to apply to redundancy in the building and construction industry.... ....

We are satisfied that it is appropriate, and consistent with the merits of the case, that the award should be varied to reflect what we accept to be effectively a national minimum award or safety net standard condition applicable to the building and construction industry.”<sup>29</sup>

[80] Whilst, as noted in our 23 January 2009 statement, the current award prescription does not reflect the standard for larger employers arising from the *Redundancy Case 2004* decision,<sup>30</sup> when regard is had to the slightly more beneficial scale of benefits in earlier years, the broader application of the benefit and the pattern of limited periods of continuous service within the industry to which the building and construction redundancy provisions were directed we are also satisfied that when considered in totality, the scheme is no less beneficial to employees in the industry than the redundancy provisions of the NES. In relation to the pattern of service in the industry, we have relied on to the data supplied by Incolink, BERT and CoINVEST contained in the CFMEU submission of 11 March 2009.

[81] The Master Builders Australia (MBA) and some other employer bodies contended that the building industry arrangements cannot constitute an industry specific redundancy scheme. It was pointed out that the application of the scheme extends beyond redundancy as defined by the NES. Some suggested that the definition of redundancy in the current award provisions should be modified to reflect the NES. We do not accept these submissions. There are several reasons. First, in determining whether a particular scheme is an “industry specific redundancy scheme” the Commission can have regard to the factors mentioned in the passage we have set out above. Having regard to those factors, we are satisfied that they apply to the scheme. Secondly the definition of redundancy in the NES does not apply to an industry specific scheme. Clause 64, which is in Subdivision C—Limits on scope of this Division – of the NES, provides that Subdivision B does not apply to an employee covered by a modern award which includes an industry-specific redundancy scheme. While Subdivision B sets out the circumstances in which the NES entitlement to redundancy pay arises and to the amount of the entitlement that sub-division does not apply to an industry-specific redundancy scheme. It follows that an industry-specific redundancy scheme can deviate from the NES redundancy

prescription in relation to both the circumstances in which the benefits arise and the amount of the benefits. Thirdly, the ability to include an industry-specific redundancy scheme in a modern award implies that the scheme as a whole can be included. A modified scheme might not meet the criterion, found in the consolidated request, that the scheme be a feature of the industry. Finally, the building industry scheme clearly falls within the definition of industry specific redundancy scheme in s.12 of the Fair Work Bill 2009, the relevant part of s.12 reads:

**“industry-specific redundancy scheme** means redundancy or termination payment arrangements in a modern award that are described in the award as an industry-specific redundancy scheme.”

[82] The modern award has clarified provisions permitting some other payments to be offset against payments required under the industry specific redundancy scheme. Payments made to an employee from a redundancy pay fund, where such payments are made, or contributions on behalf of an employee to such a fund where no payments are made upon termination can be offset.

[83] We have added additional content to the apprentices clause, drawing on current award prescription and applied the payments arrangements from the Metal and Engineering On-site Award in respect of adult apprentices. We have, however, added a provision to make it clear that notice of termination and redundancy provisions do not apply to apprentices, subject to the apprenticeship period being counted as service in the event that the employment is continued at the completion of an apprenticeship or resumed within six months of completion.

[84] We have not included the trainee provisions for civil traineeship and the more general traineeship provision in cl.39 of the Building and Construction Award. The application of the National Training Wage Schedule will be applied with any necessary modification to maintain the current award provisions in respect of wages and additional payments for trainees.

[85] We have not included the supported wage system schedule in the award. There is no supported wage provision in current awards and no party has sought to alter that position.

[86] The rate for Level 8 in the minimum rates clause has been corrected and a note has been added to the clause, drawing attention to the applicability of specified allowances, with a reference to the clause setting out the method for calculating hourly rates. That provision has been amended to refer to the title of relevant allowances to assist users of the award.

[87] The piece rate provision in the exposure draft has been amended to specify the base and full rates of pay for an employee working under a piece rate agreement for the purposes of the NES.

[88] We have deleted cl.20.6 from the exposure draft. That provision was based on rates payable under the Building and Construction Award but applied only to forepersons in Tasmania and bridge and wharf carpenters in New South Wales. Transitional arrangements may be required in respect to these State based payments. Otherwise, we have retained the allowances provisions in the exposure draft. They reflect current award provisions. We have referred above to our preference for a rationalisation of such allowances, as expressed at paragraphs [20] and [21] of our statement of 23 January 2009. Notwithstanding, efforts by the

MBA to address this issue, most recently in its eleventh submission (dated March 2009), we have not received sufficient material and input from interested parties to allow us to attempt to rationalise allowances at this stage. Such an exercise should, however, be given some priority in any future review of the modern award.

[89] We have amended the exposure draft provisions dealing with the fares and travel patterns allowance, inclement weather and annual leave to reflect the additional current terms of the Building and Construction Award.

[90] We have not included the administrative process for programming rostered days off for any particular year in the modern award. The relevant clause deals with the scheduling of rostered days off.

[91] The Queensland CEPU referred to a number of provisions in the Queensland NAPSA<sup>31</sup> which have not been incorporated into the exposure draft. Such matters will be addressed in the context of transitional provisions.

#### *Electrical, Electronic and Communications Contracting Industry Award 2010*

[92] The Australian Industry Group (AiGroup) raised concerns about the possible overlap of the *Electrical, Electronic and Communications Contracting Industry Award 2010* with the Manufacturing Modern Award. We think the distinction between contractors and employers in the manufacturing sector is reasonably clear. Nonetheless, we have included in cl.4.2 of the modern award an additional exclusion derived from the electrical contracting NAPSA in New South Wales. The exclusion reads:

*“employers operating a business, the primary purpose of which is the manufacture and/or vending of plant and equipment in respect of those parts or divisions of the business which predominantly engage in the manufacture and/or vending of plant and equipment or the installation, assembly, refurbishment and maintenance of that plant and equipment or their employees engaged in that part or division.”<sup>32</sup>*

[93] We have also altered the coverage clause to make it clear that manufacturing or vendors of plant or equipment in high or low tension power stations are not included. This corrects an inadvertent alteration to the meaning of that exclusion in the exposure draft.

[94] In our 23 January 2009 statement we explained the modifications we had made to the wage rates proposed jointly by the CEPU and NECA in the pre-exposure draft consultations.<sup>33</sup> The modifications were principally directed to separating the minimum classification rate and all-purpose allowances from the rolled-up rate proposed and deducting the special payments on the basis that they constituted the residual amounts arising from the conversion of paid rates to minimum rates in June 1998. We invited the CEPU and NECA to address us on the appropriateness of the level of the minimum classification rates and the level of and rationale for the inclusion in a safety net award of the various allowances in the total weekly rates they proposed by reference to State NAPSA rates.<sup>34</sup>

[95] In a joint submission dated 6 March 2009, the CEPU and the NECA pointed out that the minimum safety rates in the exposure draft were low when compared with the *National Electrical, Electronic and Communications Contracting Industry Award 1998* (Electrical Contracting Award)<sup>35</sup> and NAPSA in each State. They contended that such an outcome was

inconsistent with s.2(c) of the consolidated request. That paragraph states that the creation of modern awards is not intended to disadvantage employees. They proposed that the differential between the current Federal award and NAPSA all-purpose rate and that arising from the exposure draft minimum classification rate and all-purpose allowances should be remedied by increasing the industry allowance from \$23.60 to \$80.00 or 3.7% and 12.55% respectively of the standard rate. They justify that proposition on the basis of incorporation of additional factors, separately accounted for in some NAPSAAs.

[96] We have given careful consideration to this proposition but cannot accede to it. The increase in the industry allowance proposed by the CEPU and NECA appears to offset at lower classification levels and exceed at higher classification levels the special payment we decided not to include in the exposure draft for the reasons given in our 23 January 2009 statement and referred to above. The CEPU and NECA proposal seeks to restore the payments. We remain of the view that a residual payment arising from the conversion of the Electrical Contracting Award from a paid rates award to a minimum rates award should have been absorbed into minimum wage increases and is not a legitimate element of properly fixed rates and allowances within a modern minimum rates award. Notwithstanding our invitation to the CEPU and the NECA to explain the basis of NAPSA rates no explanation was provided. We cannot be confident that the NAPSA rates do not have a similar foundation.

[97] In addition, on the information before us, we are not satisfied that an increase in the industry allowance to the level proposed by the CEPU and the NECA is justified by the additional factors they seek to incorporate within it. The level of the allowance proposed by the CEPU and NECA would increase the weekly all-purpose rates (inclusive of all-purpose allowances) at the higher classifications in the Electrical Contracting Award and all NAPSAAs other than the New South Wales NAPSA. Such an outcome could not be justified by reference to s.2(c) of the consolidated request, particularly when regard is had to s.2(d).

[98] We understand that the rates proposed in the exposure draft, and maintained in the modern award, may lead to disadvantage for some employees. Any disadvantage can be addressed in the transitional provisions proceeding.

[99] We have not included the additional factors proposed by the CEPU and NECA as matters to which the industry allowance is directed in the modern award published. If there is a basis for their inclusion and for an appropriate increase in the industry allowance, an application can be made to vary the modern award at some future time.

[100] An issue arose concerning adult apprentices. The Queensland CEPU and Electrical Contractors' Association proposed that adult apprenticeship provisions reflective of those in the Queensland NAPSA should be adopted. The CEPU support that course. The NECA oppose it. We have included provisions in the modern award but they will operate only in Queensland. The provisions will cease operation on 31 December 2014. This transitional arrangement will accommodate current arrangements in Queensland, and what we understand to be the current practice in other States, whereby trades assistants are invited to undertake an adult apprenticeship by employers and normally retain their trades assistant rate until the normal apprentice rate overtakes that rate. While the transitional arrangement is operating the parties should attempt to reach agreement on appropriate adult apprenticeship provisions to be included in the award.

*Plumbing and Fire Sprinklers Award 2010*

**[101]** The *Plumbing and Fire Sprinklers Award 2010* is both an industry and occupational award. It will operate as an occupational award in industries where modern awards do not contain relevant classifications. Rather than refer to specific awards, we have excluded from coverage employers bound by a modern industry award that contains plumbing and fire sprinkler fitting classifications. This is consistent with the approach taken in the Clerks Modern Award.

**[102]** We have decided that the current award arrangements for redundancy constitute an industry specific redundancy scheme and have included them in the modern award. They are very similar to the building and construction industry arrangements which we have already dealt with. Our reasons for including them in the award are similar to the reasons given above in relation to the BECC Modern Award.

**[103]** At the request of the major parties, we have identified allowances referred to in other major clauses in order by title as well as clause number to assist users of the award. We have amended the provisions in respect of protective clothing and equipment and lost or damaged tools. This accommodates current arrangements for plumbers and sprinkler pipe fitters by giving employers the option of providing such equipment or reimbursing employees for the expenses associated with their provision. The special allowance, in cl.21.1(v) has been reformulated as a dollar amount, and will not be varied. This reflects the current award provision.

**[104]** Allowances for confined space, swing scaffold, wet work, dirty work and ladder work, which operate only in South Australia, have not been included in the award and will be further considered in the context of transitional arrangements, as will a number of other State-specific provisions identified in the joint amendments of 19 March 2009, filed by the Master Plumbers' and Mechanical Services Association of Australia, National Fire Industry Association and CEPU (joint amendments).

**[105]** We have adopted a number of changes to the exposure draft proposed in the joint amendments:

- the addition of a definition of a sprinkler fitter's assistant;
- the limitation of daily hire to plumbing and mechanical service classifications, consistent with current award provisions;
- some minor amendment to the types of employment provision in the exposure draft;
- the provision of separate adult apprenticeship provisions for plumbing and sprinkler fitter apprentices;
- changes to the daily hire employees lost time loading allowance provision, which provides greater clarity for users of the award;
- the general rationalisation of allowances, including the fares and travelling time provision; and

- rationalisation of the hours provision.

**[106]** We think that the rationalisation of the allowance provisions, the fares and travelling time provision and the hours provision suggested in the joint amendments provide a better structure. We have also added a number of differential conditions as between plumbing and mechanical employees and sprinkler fitting employees identified in the joint amendments, most notably in the penalty rates and overtime provisions.

**[107]** We have not acceded to the proposal in the joint amendments to alter the casual loading in the exposure draft from 25% to 20%. We see no reason not to implement the level which will apply generally to casual employment. We have deleted the whole of cl.17.4 – employment as an adult apprentice.

**[108]** The centre for employment identified in the fares and travelling time provision has been amended to reflect the national operation of the modern award. We have retained the 50 kilometres radius in light of current award provisions.

**[109]** We have amended the exposure draft provisions dealing with inclement weather and annual leave to reflect the additional current terms of the *Plumbing Trades (Southern States) Construction Award 1999*.<sup>36</sup>

**[110]** We have added a provision for annual close down to the annual leave clause, again a current award provision.

**[111]** The two highest minimum rates have been altered to achieve consistency with minimum rates at the same skill level in the Manufacturing Modern Award and the BECC Modern Award.

#### *Joinery and Building Trades Award 2010*

**[112]** The *Joinery and Building Trades Award 2010* is both an industry and an occupational award. The industries covered by the award are joinery work, shopfitting, prefabricated building, stonemasonry and glazing contracting work. The occupations covered by the award are a carver, letter cutter, carpenter, joiner, signwriter, painter, stonemason and plasterer. An employer employing an employee in those occupations will be covered by the award unless the employer is covered by another modern award containing a classification which is more appropriate to the work performed by the employee. This provision in the coverage clause is designed to overcome the overlap the exposure draft had with other modern awards and has necessitated amendments to or deletion of some of the definitions in the exposure draft. The award specifically excludes those covered by the BECC Modern Award. Pre-cast concrete manufacturing and associated occupations have not been included in the award pending the consideration of the cement and concrete products industry in Stage 3.

**[113]** The terms and conditions in the award largely reflect those in the *National Joinery and Building Trades Products Award 2002*.<sup>37</sup> However, the casual conversion clause reflects that in other modern awards. The apprentice provisions have been simplified and adult apprentice wage rates consistent with those in other modern awards have been included. The apprentice provisions recognise there are both 3 and 4 year apprenticeships covered by the award. Where

practical allowances have been simplified. The adjustment of allowances reflects industry practice.

*Mobile Crane Hiring Award 2010*

**[114]** We have published a separate award for the mobile crane hiring industry – the *Mobile Crane Hiring Award 2010*. We accept there is a need for a separate award for the industry reflecting the existence of a distinct industry servicing a range of other industries. The modern award is based on the drafts submitted by the AiGroup/CICA and the CFMEU, which were broadly consistent in their content and largely reflect the terms and conditions of the current *Mobile Crane Hiring Award 2002* (Mobile Crane Hiring Award).<sup>38</sup>

**[115]** We have utilised the dispute resolution clause which appears in modern awards generally in place of the clause from the Mobile Crane Hiring Award, and we have inserted the casual conversion provision generally included in modern awards, instead of the current restrictive provision which prohibits a casual engagement extending beyond four weeks.

**[116]** We have included the redundancy provision of the industry Mobile Crane Hiring Award as a specific redundancy scheme, replacing the redundancy entitlements under the NES. The redundancy scheme incorporated in the current award is an established feature of the industry and is no less beneficial to employees in the industry than the redundancy provisions of the NES, when considered in its totality. We have placed the definition of continuous service proposed by the CFMEU within the industry specific redundancy scheme to which it relates.

**[117]** Both the CFMEU and AiGroup/CICA have proposed a new qualification based classification structure in place of the 22 different classifications, encompassing mobile cranes (with differential rates in New South Wales), operators and mobile elevated work platforms within the current structure. The new structures proposed seek to align the classification structure with current licensing requirements and incorporate equipment changes. We have decided to incorporate a new structure, directed to these ends, in the modern award.

**[118]** The CFMEU and AiGroup/CICA propose slightly different structures in relation to the groupings of employee functions and minimum rates. In relation to the groupings the major differences arise in respect of the level at which slew crane operators are placed and the splitting by the AiGroup/CICA of the rigger function into three levels based on the licenses required. We have adopted the position of the AiGroup/CICA in both respects. Their proposal in relation to slew crane operators better reflects the current award groupings and minimum wage levels. The recognition of licence requirements for riggers results in a more rational structure.

**[119]** With respect to minimum wage rates both the CFMEU and AiGroup/CICA identify a key rate, although not at the same classification level, and calculate other minimum rates as percentages of the key rate. The result, in both cases, is to apply old relativities associated with the incorporation of skill-based classification structures into awards in the late 1980s. This approach removes the effect of flat dollar and/or differential percentage safety net adjustments of minimum wage rates since that time. AiGroup/CICA proposes a minimum rate which incorporates an industry allowance, whereas the CFMEU proposes a separate minimum classification rate, augmented by a separate industry allowance.

[120] We have applied our general approach of separately identifying minimum classification rates and industry allowances. We have established the first classification (MCE1) at 100% of the tradesperson rate having regard to the current rates in the Mobile Crane Hiring Award, which include an industry allowance, and the fact that the dogger and mobile crane operator are classified at that level in the building industry award.

[121] We have not adopted the approach of applying percentage relativities to a key rate, as proposed by both the CFMEU and AiGroup/CICA. Instead, we have included in the new classification structure minimum rates which reflect those in the Manufacturing Modern Award, at each equivalent classification level, by reference to the percentage relativities to the key classification rate, proposed by the CFMEU and/or the AiGroup/CICA. In doing so, we have had regard to the current rates in the Mobile Crane Hiring Award.

[122] Having established a set of minimum classification rates, we have then derived a separate industry allowance which is the difference between the minimum rate for the new MCE1 level and the rate in the Mobile Crane Hiring Award for the classifications of dogger, mobile elevated platform less than 17 metres and the operator of a mobile crane of less than 20 tonnes, which currently incorporate an industry allowance. The difference, 5.7% of the standard weekly rate, is the industry allowance. The industry allowance will apply at all levels.

[123] The new classification structure results in minimum classification rates and an industry allowance which, in aggregate, are below those proposed by the CFMEU and the AiGroup/CICA and below those in the Mobile Crane Hiring Award at the higher classification levels. It may be necessary to address any potential impact on employees through transitional provisions, depending on the practical effect of the new rates.

[124] We have not included a definition of crane crew. The definition related to a classification, operating only in Victoria, in the Mobile Crane Hiring Award. Given the new qualifications based classification structure and the single State operation of the old classification, we have not included such a classification in the modern award, and the definition is therefore unnecessary.

[125] We have not included a number of allowances applying in only one State. Where we have included a State-based allowance, it will not operate beyond 31 December 2014.

[126] We have included a payment of wages provision which simplifies the current overly prescriptive provision, although not to the full extent suggested by the AiGroup/CICA.

## Cleaning Services

[127] We have decided to make an award called the *Cleaning Services Award 2010*. For the most part it is in the same terms as the exposure draft published on 23 January this year, although there are a number of changes which should be mentioned.

[128] The coverage clause has been amended. An exclusion has been added to make it clear that trolley collection, which is covered by the General Retail Modern Award is not covered

by the award. The definition of event cleaning has been varied to make it clear that the award does not cover repair and maintenance services

**[129]** Some allowances included in the exposure draft have not been included in the modern award because they are not appropriate or are State-based. As we have indicated elsewhere State-based allowances are not appropriate for a safety net award applying on a national basis. Where State-based allowances in pre-reform awards and NAPSA still have application they can be the subject of discussion in the proceeding to deal with transitional provisions.

**[130]** Provisions relating to overtime worked on weekends and public holidays have been included as well as provision for time off instead of payment of overtime.

**[131]** The annual leave clause has been amended to provide that “ordinary pay” in relation to payment of annual leave does not apply to the calculation of leave loading. Consistent with the provision that leave loading should be 17½% or where shift or penalty rates are greater than 17½% these will apply, the draft has been varied to clarify that the 17½% is calculated on the ordinary hourly rate. These amendments have been made to bring the award into line with prevailing standards in the industry.

**[132]** Other variations to the clause clarify that shift workers, as defined, accrue an additional five days annual leave, rather than six, and that leave loading is only paid on termination of employment on completed years of service.

### **Financial services group**

**[133]** We publish the *Banking, Finance and Insurance Award 2010*. The exposure draft published in January 2009 attracted comment from various parties. Some parties reiterated their opposition to their coverage under a broad industry award and, in the alternative, submitted that changes were necessary to properly cater for the needs and achieve the objects of award modernisation. Other parties commented on particular terms of the exposure draft.

**[134]** The ASU requested that the health insurance industry be split from the coverage of the award. The Agribusiness Employers Federation submitted that the agribusiness industry should be separate. We have decided not to accede to these requests. In our view the industry is capable of being covered by a single set of safety net provisions and making a single modern award best achieves the objects of award modernisation.

**[135]** The health insurance industry is not sufficiently different to other parts of the banking, finance and insurance industry to warrant separate regulation. The agribusiness industry has many aspects in common with parts of the finance sector and no other industry is a more logical fit. The reach of the current award appears broad but it is not clear that it is confined to the limits of the union party’s eligibility rules. Further, many provisions of the award are unclear and would need to be reconsidered in the light of the need for a fair safety net. In our view applying the finance sector safety net to all award covered employees in the agribusiness industry is a sound and fair approach. We accept that changes to the content of the modern award are appropriate.

**[136]** As far as the content of the modern award is concerned, employers and unions sought changes to the exposure draft. We have acceded to many of these requests and made other changes. We shall briefly deal with the important changes.

[137] Some alterations have been made to the coverage clause. We have added superannuation and agribusiness to the definition of the banking, finance and insurance industry to ensure that the coverage of the award is comprehensive for the financial services sector. Section 576V(3) of the Act requires a modern award to be expressed not to bind an employer who is bound by an enterprise award in respect of an employee to whom an enterprise award applies. Some employers submitted that the coverage clause should exclude all employees of employers covered by enterprise awards. Such a provision would be inconsistent with s.576V(3) and there is in any event no sound basis for expanding the exclusion. We have not included accountancy practices as these will be considered in Stage 4. We have decided to make a contract call centre award, which we deal with below. Accordingly contract call centres covered by that award are excluded from coverage. The industry of the employer will therefore determine which of the two awards applies.

[138] There are also some alterations in the provisions dealing with pay, allowances and related conditions. The casual provisions will clarify the application of the loading and reflect the usual approach in modern awards. An adjustment has been made to the Level 6 annual salary to reflect the level of the weekly rate. The exemption provision in the exposure draft has been amended to more closely reflect the provision in the *Insurance Industry Award 1998*.<sup>39</sup> There is provision for the first aid allowance to be paid pro rata to part-time employees. Employers will be permitted to make deductions from salary with respect to the private use portion where vehicle running expenses are fully met by the employer. The standard superannuation provision has also been included.

[139] Special provisions have been included dealing with hours of work and penalties for employees in call centres. These provisions mirror the provisions in the *Contract Call Centres Award 2010* (CCC Modern Award). We accept the need for flexibilities in this type of work whether work is performed under this award or the CCC Modern Award. Other alterations to the hours of work clauses include the deletion of some unnecessary detail, inserting rest break provisions in line with the *Clerical and Administrative Employees (Health Insurance Industry) Award 2001*<sup>40</sup> and amending the shift work provisions to reflect more closely those currently applying in the insurance industry.

[140] There have also been some changes to the classification definitions to make the references to managerial employees clearer and to cover a broader range of employees in the agribusiness industry. We have not expanded or contracted the number of salary levels in response to requests by unions and employers respectively. We do not think that it is necessary to broaden the exemption in the consolidated request in relation to employers covered by enterprise awards or enterprise NAPSAs.

[141] The award we make as a result of these changes has comprehensive application in a large and important industry. It is concise and easy to apply. In our view the award reduces the regulatory burden on business and provides a fair and flexible safety net for employees in the industry.

### **Graphic arts group**

[142] We publish a *Graphic Arts, Printing and Publishing Award 2010*. We have made only minor alterations to the coverage provision in the exposure draft. Some concerns were

expressed about the potential for overlap between this award and other awards in relation to publishing and despatching. We have made a minor alteration to make it clear that the award only applies to despatching which is incidental to the industries or parts of industries covered by the award. Otherwise we do not think any greater clarification is warranted. We have not made any changes to the draft relating to coverage of web design, design generally, or metropolitan newspapers or plastics manufacturing. The provisions largely reflect the coverage of awards to be subsumed into the modern award.

**[143]** As a result of the consultations we have decided to include in the award the substance of the facilitative provisions in the *Graphic Arts – General - Award 2000* (Graphic Arts Award)<sup>41</sup> with appropriate changes. Alterations were sought in the leading hands allowances, public holiday provisions and the junior artist and designer rates. We have altered the junior rates to bring them into line with those in the Graphic Arts Award. We have not included the restrictions on the employment of casual employees which are in the Graphic Arts Award, but we have maintained the provision for casual conversion to weekly employment after six months which was in the exposure draft.

**[144]** A number of other minor changes have been made to the exposure draft to better reflect the existing award regulation to correct drafting errors, or both.

### **Health and welfare services (excluding social and community services)**

**[145]** We now publish four modern awards. They are the:

*Nurses Award 2010*

*Aged Care Industry Award 2010*

*Health Professionals and Support Services Award 2010*

*Medical Practitioners Award 2010*

**[146]** Each of the awards has been altered since the release of the exposure drafts. We have not adopted the proposal by the Health Services Union to create one award. This approach would have constituted a significant departure from the existing pattern of regulation. It would also have involved important work value considerations and posed a number of relativity issues.

**[147]** There were a number of key factors which the parties raised which require comment in this decision. One matter which was raised in all but the *Medical Practitioners Award 2010* related to the use of part-time employees. There are a number of common features for the use of part-time employees. To begin, they must have reasonably predictable hours of duty. Underlying provisions vary but generally there is a requirement to provide certainty when employing part-timers. We have included a relevant provision. The next issue is in relation to changes to working hours of part-timers. There are of course notice periods for roster changes contained in the underlying awards but these seem not to be used in relation to part-timers. Instead, part-time hours appear to be changed regularly on a daily basis where the employee consents. Many employers saw this as a necessary flexibility. The private hospital industry employer associations estimated that, on average, part-timers would work an extra six hours per week. The impact of this consent is that the employee does not receive overtime for working in excess of the rostered hours when requested but is paid at the ordinary time rate.

**[148]** We have some reservations about the nature of the consent in circumstances where a supervisor directly requests a change in hours on a day where the part-timer had otherwise planned to cease work at a particular time. Existing provisions require that any amendment to the roster be in writing and we have retained this provision. We also have no doubt that many part-time employees would welcome the opportunity to earn additional income. However, there may also be part-timers who would be concerned to ensure that their employment is not jeopardised by declining a direct request from a supervisor to work additional non-rostered hours at ordinary rates. From the submissions of the employers this is a major cost saving and used widely.

**[149]** Whilst all the relevant underlying awards have different provisions there is a general opportunity for part-time employees to consent to working additional hours at ordinary rates within an average of less than a 38 hour week. We have sought to provide some common provisions which retain cost savings for employers in the knowledge that any change requires written consent. There was never any suggestion that asking part-timers to work additional hours did not relate to unforeseen circumstances on the day.

**[150]** Some concern was raised in relation to the basis upon which a casual employee should be paid overtime. Two examples were given. The first is the separate calculation of overtime on the ordinary rate and the calculation of the casual loading also on the ordinary rate. The second is the cumulative approach. The ordinary rate plus the casual loading forms the rate for the purpose of the overtime calculation. We believe that the correct approach is to separate the calculations and then add the results together, as illustrated by the first example, rather than compounding the effect of the loadings.

**[151]** Another important matter related to annual leave for nurses. There was universal agreement that the history of annual leave for nurses is both complex and diverse. In the exposure draft we tentatively reached the conclusion that the provision of five weeks leave for all nurses was a reasonable balance between the existing award entitlements. This meant that there were some who may be entitled to an increase but clearly there were nurses whose annual leave would decrease. This quantum was raised as a cost increase in some areas however concern was expressed at the level of penalty rate for public holidays worked by nurses. The exposure draft contained a penalty of 250% for working on a public holiday. It was argued that there was a trade-off between extra leave and payment for a public holiday being reduced to 200%. The Australian Nursing Federation (ANF) submitted that no such trade-off existed. Whilst it appears true that no express trade-off is evident, nonetheless, where the greater annual leave amount is available there generally exists lower payments for public holidays. We have altered the exposure draft by reducing the payment of public holidays to 200%.

**[152]** In the *Nurses Award 2010* there is also a classification for nursing assistant. We were asked both to delete this classification and to make it more relevant. There were concerns about an overlap between this classification and the personal care worker. We have decided to retain the classification in the *Nurses Award 2010* and make it directly relevant to the work of nurses. In addition, we have adopted the suggestion of the ANF to provide an additional salary point at the Certificate III level.

**[153]** We have also provided an exclusion, at this stage, for nurses in secondary and primary schools. Our views are not fixed in this regard but we believe it preferable to hear from the

participants in the consultations on education before a final decision is made on the employment of nurses in a school environment.

**[154]** Particular submissions were made on the span of hours for various private practices which reflected the underlying awards and the needs of the sectors. Whilst some rationalisation has taken place we have sought to maintain a specific spread in these areas.

**[155]** A number of submissions were made going to general flexibilities which should be expressly contained in the awards. Some of these requests do not currently apply in underlying awards. Where some of these can be accommodated in accordance with the flexibility clause we have not included them as we believe that it is better to use that clause with its attendant protections.

**[156]** The Department of Human Services in the State of Victoria invited us to conclude that relevant modern awards would apply to Victorian public hospitals as they do not represent and are not a part of the Victorian government. It was also suggested that, if such a finding were made, we should conclude that some matters in the awards were beyond the constitutional power of the Commonwealth. As we explained earlier in this decision, we see no benefit in attempting to define the limits of the Commission's jurisdiction in relation to Government or quasi-Government bodies or corporations generally. To that we add the observation that coverage of particular entities may depend upon the nature of the legislative provisions operating on 1 January 2010 and thereafter.

**[157]** The National Aboriginal Community Controlled Health Organisation (NACCHO) submitted that the aboriginal and Torres Strait islander controlled health services deliver primary health care services and are operated by local aboriginal communities with elected boards of management. It argued that the services need separate regulation and it opposed the "mainstreaming" of staff through the award modernisation process which may have the affect of divorcing staff from the existing governance structures. It raised current award provisions dealing with self-determination and ceremonial leave. We have included ceremonial leave provisions in the relevant awards. We deal with the question of separate award coverage at the end of this decision.

### **Information and communications technology group**

**[158]** We publish four modern awards. They are the:

*Business Equipment Award 2010*

*Contract Call Centres Award 2010*

*Market and Social Research Award 2010*

*Telecommunications Services Award 2010*

**[159]** We also publish a varied Clerks Modern Award.

**[160]** These industries are of relatively recent origin and their growth is important to the Australian economy. We published two exposure draft awards covering market and social research operations and telecommunications services and proposed amendments to the Clerks Modern Award to cover call centre operations. A number of parties representing both employers and employees requested that additional awards be made covering the business

equipment industry and the contract call centre industry. We have decided to accede to these requests.

**[161]** It appears that there is an industry of selling and/or leasing business equipment of various types including computers, photocopiers and printers. Businesses involved in such activities are also involved in the installation and servicing of that equipment. It is not in the nature of a manufacturing, retail or electrical contracting business. The AiGroup proposed an award which effectively amalgamated three awards currently covering the servicing, clerical and sales activities of employers in the business equipment industry. The result is a comprehensive modern award covering all award-covered employees in this industry which largely reflects the terms of existing awards. In the modern award we have replicated the exemption provisions in the existing awards. The modern award makes minor changes in the draft submitted by AiGroup. The changes we have made provide greater clarity, reduce some of the prescription and conform to other modern awards. Nevertheless we are concerned at the length and complexity of the award. There is scope to revise it further in future award modernisation exercises.

**[162]** Parties to the existing *Contract Call Centre Industry Award 2003* (CCC Award 2003) supported the making of a separate award for contract call centres in preference to establishing call centre flexibilities within the Clerks Modern Award. In our view there should not be disparate safety net provisions for call centres. Flexibilities which reflect the needs of the industry while enhancing competitiveness and employment growth prospects should be generally available. We will make a CCC Modern Award based on the CCC Award 2003 – amended to reflect the Commission's standard approach to certain modern award provisions. We will also make amendments to the Clerks Modern Award to reflect appropriate call centre flexibilities.

**[163]** Minor changes have been made to exposure drafts of the telecommunications services and market and social research awards to reflect certain non-contentious matters raised by the parties.

### **Manufacturing group**

**[164]** The coverage clause of the Manufacturing Modern Award, one of the priority modern awards, has been varied to include all or a significant part of the brush and broom making, chemical, clay and ceramics, furnishing, glass, gypsum and plasterboard manufacturing, insulation materials manufacturing, paint manufacturing, rope, cordage and thread and saddlery, leather and canvas industries. Electrical contractors and glazing contractors have been excluded from the coverage of the award as they are covered by other awards. The production of polypropylene/polyethylene has also been excluded from the coverage of the award pending consideration of the oil and gas industry in Stage 3. The coverage clause of the Manufacturing Modern Award may require further variation once the coverage of other modern awards, in particular that to cover the timber industry, is known.

**[165]** The terms and conditions in the award are substantially the same as those in the award at the conclusion of the priority stage, reflecting prevailing industry standards. However, small employer redundancy provisions have been inserted for those who perform work within the manufacturing and associated industries and occupations which immediately prior to 1 January 2010 would have been covered by the *Engine Drivers' and Firemen's (ACT) Award*

2000 (Engine Drivers' (ACT) Award)<sup>42</sup> or was in clauses 6.1 to 6.6 of the *Furnishing Industry National Award 2003* (Furnishing Award).<sup>43</sup> They reflect the small employer redundancy provisions of these two awards. The Engine Drivers' (ACT) Award is a common rule award. The provision concerning the Engine Drivers' (ACT) Award is transitional given its application solely in the Australian Capital Territory. To provide a consistent approach to the application of the small employer redundancy provisions in modern awards, that concerning the Furnishing Award is not limited to the current respondents to the award. A number of allowances which are significant in the industries added to the award have also been included.

**[166]** The classification structure of the Manufacturing Modern Award remains unaltered. Issues concerning how the many employees now covered by the award will be classified in the Manufacturing Modern Award will need to be addressed prior to 1 January 2010.

#### **Private transport industry (road, non passenger)**

**[167]** We have decided to make three industry awards. They are the *Road Transport and Distribution Award 2010* (RT&D Modern Award), the *Road Transport (Long Distance Operations) Award 2010* (RT Long Distance Modern Award) and the *Transport (Cash in Transit) Award 2010* (CIT Modern Award).

**[168]** We have previously published exposure drafts of each of the awards we now propose to make. We should make a number of comments about issues raised by the parties concerning the exposure drafts and variations of substance that have been made to the drafts. We refer first to be RT&D Modern Award. In our statement of 23 January 2009<sup>44</sup> we said that the definition of the industry should be closely considered by the parties and submissions made as to whether the description was sufficient to encompass the various sectors of the industry that were being incorporated into the award. No party submitted that any additional paragraphs needed to be added to the definition and accordingly it retains paragraphs (a) to (i) however we have made some variations to make it clear that the award relates to the transport of goods etc by road. We have also adopted the definition of a distribution facility as proposed by the Transport Workers' Union (TWU) so it is clear that they are facilities which are operated by an employer as part of its road transport business.

**[169]** We have retained the reference in paragraph (a) of the definition of the road transport and distribution industry to the transport of goods etc where that work is ancillary to the principal business, undertaking or industry of the employer. In our January 2009 statement we raised this aspect of the award's coverage and, for the purposes of encouraging submissions about it, we put cl.4.3, as it then was, in the exposure draft. We also noted that this issue had not arisen before in the award modernisation process in any significant way.<sup>45</sup> As it transpired few parties made submissions about this matter. AiGroup submitted that it was appropriate that the award have a majority clause in terms similar to that in the *Transport Workers (Mixed Industries) Award 2002*<sup>46</sup> (Mixed Industries Award). We should comment on how that award, and the majority clause in it, operates. The incidence of award clause is in terms similar to paragraph (a) of the definition of the road transport and distribution industry in the RT&D Modern Award. However the Mixed Industries Award provides that it only binds an employer respondent to that award. Modern awards are not to have the equivalent of named respondent employers. The Mixed Industries Award makes it clear that it only applies where the employee of a respondent employer is required to perform work in one of the classifications in the award. In this respect we note that the classification structure is very similar to the

RT&D Modern Award which in turn has been based on the pre-reform *Transport Workers Award 1998* (TWU Award 1998).<sup>47</sup> Clause 9 of the Mixed Industries Award provides that if employees are in a minority of employees in a respondent employer's enterprise and the majority of the employer's employees are covered by another award then certain identified provisions would apply and the balance of provisions could be those applying in an award covering the majority of the employer's employees. The identified provisions included the rates of pay, and in this respect, we note that those rates were the same as in the TWU Award 1998.

**[170]** Based on the observations we have made above we have not been persuaded to put a majority clause in the RT&D Modern Award. The manner in which the clause in the Mixed Industries Award operated cannot easily be accommodated in the modern award regime. We also note in this respect, the submission that in the absence of named employers, the manner in which a majority and a minority of relevant employees may be identified and the time when that assessment should occur was likely to give rise to some doubts about award coverage.

**[171]** We also gave consideration to a number of other matters. Even though the RT&D Modern Award is an industry award it is clear that the practical effect of the various existing private transport awards it encompasses is that they operate by reference to a structure of types, models and classes of vehicle and, it follows, to the driver of those vehicles thereby having occupational coverage. We note that there are very few transport classifications in the modern awards made to date and it is likely that any transport functions of any significance are carried out by dedicated transport operators. If the transport of goods etc as defined in the RT&D Modern Award is ancillary to an employer's business but it is carried out by an employee in one of the classifications in the award it should be covered by the award. In this respect we are not persuaded that an employer will lose the ability to have those drivers, who may be a small number only of its workforce, work hours which the employer's business requirements dictate. The RT&D Modern Award contains numerous facilitative provisions which relate to matters like hours of work, shifts and spread of hours. The award also contains the standard award flexibility clause. We will monitor the practical implications of our decision to not put a majority clause in the RT&D Modern Award, and, at an appropriate time, the parties may wish to address us further about it.

**[172]** We turn next to the classification structure. We have retained the classification structure which was in the exposure draft which, as we have earlier observed, was based on the TWU Award 1998. Similar classifications or a subset of them were also in many of the other pre-reform transport awards. In our statement of 23 January 2009 we asked the parties to confer in relation to a proposed variation to the classification structure introduced by the TWU late in the consultation process. We also asked the parties to give consideration to grouping a number of the grades together. In the Full Bench post-exposure draft consultations we were informed that no agreement about either of these matters could be reached. In those circumstances, and as foreshadowed by us, we have decided to retain the long-standing existing classification structure.

**[173]** We indicated in January 2009 that the issue of appropriate rates had been considered by us when publishing the rates in the exposure draft. In the Full Bench post exposure draft consultations the TWU made further submissions again urging us to adopt the higher rates contained in the *Transport Industry (State) Award (NSW)*<sup>48</sup> (the NSW NAPSA) We have

considered all of those submissions and also the decisions of the Industrial Relations Commission of New South Wales referred to by the TWU and other parties. It seems clear to us that the wage increases granted in those decisions were considered as special cases. An attempt to flow on the first of them to the TWU Award 1998 (it was then known as the 1993 award) was not granted by this Commission.<sup>49</sup> Accepting the TWU submission that even if we were to discount the amounts granted in the special cases the NSW NAPSA rates would still be in excess of those operating federally that does not persuade us that a case is made out to adopt those rates in the RT&D Modern Award. It is also relevant to here note that it was not suggested by any party in the context of the simplification of the TWU Award 1998 that the rates should be those in the NSW NAPSA.

**[174]** The Act makes it clear that wage rates in a modern award must be minimum rates and can be included only to the extent that they provide a fair minimum safety net.<sup>50</sup>

**[175]** In performing award modernisation functions we are also obliged to have regard to a number of factors including the rates of pay in Australian Pay and Classification Scales and transitional awards.<sup>51</sup> The TWU would have us adopt the rates in the NSW NAPSA in preference to all other non-New South Wales NAPSA and transitional rates in pre-reform transport awards. As we have previously indicated the rates that are reflected in the modern award are those applying in the vast majority of the pre-reform awards and NAPSA's applying in various states other than New South Wales. Many of those NAPSA's reflect a regime whereby the predominant Federal awards were varied and thereafter the rates flowed to the state common rule awards.

**[176]** We acknowledge the fact that the rates in the *Transport Workers (Oil Distribution) Award 2001*<sup>52</sup> and the *Transport Workers (L.P. Gas Industry) Award 2005*<sup>53</sup> are higher than rates in the other pre-reform transport awards. We have considered the history of adjustment of the rates in those awards. It appears that each award had, in the past, operated as a paid rates award and it is not apparent that when the awards were simplified the rates were converted to minimum rates. In any event the majority of rates in other pre-reform transport awards and NAPSA's weigh heavily in favour of them being reflected in the rates in the RT&D Modern Award. We need say little about the TWU suggestion that we introduce an 11% industry allowance in the oil distribution and LP gas sectors. The union did not raise this proposal in submissions filed in accordance with the published timetable. When it was raised late in the consultation process little was said to justify it. Such an allowance would normally apply to all employees in the sector and for all purposes and before we would consider the introduction of such an allowance employers would need to first be alerted to the fact it was being sought and then an opportunity, on the days set aside for Full Bench consultations, to make submissions about it. We have decided that no such provision should be in the RT&D Modern Award. The rates for these two sectors can be considered further in the context of transitional provisions.

**[177]** We next turn to the hours clause in the RT&D Modern Award and in particular cl.23 which provides for ordinary hours of work for oil distribution workers. The exposure draft clause reflected the existing regime of hours being 35 per week or 70 per fortnight. We are aware that these hours have operated within these sectors of the transport industry for many decades. We considered whether, in the context of this modern award, the ordinary hours for this sector of the industry should be less than those for the remaining sectors. In this respect we acknowledge the submissions of the Oil Industry Industrial Committee as to why two different hours clauses may not be appropriate. On balance however we have decided it is

appropriate to retain the two minimum ordinary hours clauses. As a consequence of doing so we have inserted into the facilitative provisions and the provisions of cl.23 additional flexibilities contained in existing awards. We should indicate that it is not our intention that these minimum hours of work should extend any further than they have traditionally applied. It may be that, at an appropriate time, consideration needs to be given to variations to the award to ensure these constraints are reflected in it.

**[178]** The TWU submitted there was no need for the various flexibility or facilitative clauses in the award and suggested that the award need only contain the standard award flexibility clause. We have decided to maintain the existing flexibilities contained within various pre-reform awards as well as the award flexibility clause. We have decided that the making of this modern award should not reduce the range of existing flexibilities currently in relevant awards. Also in this context we refer to comments made in earlier statements that it is not intended that the existing facilitative provisions, particularly those requiring majority agreement, should reduce the operation of individual flexibility found elsewhere in the award and more recently in the award flexibility clause.<sup>54</sup>

**[179]** We have amended the shiftwork clause to reflect the provisions of the corresponding clause in the TWU Award 1998. We have also made a number of changes to the work on public holidays clause to reflect the penalty rates in a large number of pre-reform transport awards.

**[180]** We now turn to the RT Long Distance Modern Award. Few comments need be made about this award. It is largely in the terms of the exposure draft.

**[181]** The TWU submissions about this award both before and after the exposure draft were that long distance driving should not be paid by reference to cents per kilometre driven and that there was no justification for a separate modern award applying to long-distance operations; they should be contained in the RT&D Modern Award. The union made no submissions about the provisions contained in the exposure draft. Each of the employers maintained that a separate award should be made and the cents per kilometre method of remuneration, as well as other methods of remuneration that had always been in the award, should continue. We have not been persuaded to incorporate long-distance operations into the RT&D Modern Award. The long distance sector of this industry has been regulated federally for many years under a separate award and we accept the submission of the employers that it should continue to do so. As indicated in the Commission's 23 January 2009 statement, in the event there are some legislative provisions that impact on the method of remuneration contained in this award we shall revisit those provisions.

**[182]** Finally we refer to the CIT Modern Award. The TWU made no submissions in relation to the exposure draft and the employer submissions were limited and made only by Linfox Armaguard Pty Ltd and Chubb Australasia Pty Ltd. There were few significant issues raised and we have taken into account the various drafting changes suggested by them. We should indicate that there seemed to be some suggestion that the percentage by which allowances will be varied will vary by reference to each of the classifications in the award. That is not the case. There will be one reference point for the purposes of variations to allowances for responsibilities and skills and that is to the rate for the armoured vehicle operator.

**[183]** We have deleted the allowance that related to a contract for work for the Reserve Bank of Australia. We have also reinserted into the part-time employment clause a provision concerning the offering of additional hours of work and payment for those hours.

### **Quarrying industry**

**[184]** We publish the *Quarrying Award 2010*. In large measure the award is based on the agreement of the major parties. Little alteration has been made in the coverage provision in the exposure draft. Consistent with our general approach, which we have set out above, we have not included a specific exclusion for quarries operated by local councils.

**[185]** The AWU asked us to include the provision for voluntary conversion of casuals to weekly employees contained in the federal award applying to quarrying in Victoria. There was no employer objection to that course. Instead of the long and detailed provisions in that award, however, we have included a casual conversion provision in the terms found in the Modern Manufacturing Award. The AWU also sought a provision to supplement the NES redundancy pay arrangements for small business. For the reasons given in the Commission's 21 December 2008 decision we have not granted that request.

**[186]** We have included a new classification structure based on competencies acquired and exercised rather than on function groups. We have deleted the provision for additional payments for employees trained and accredited in more than two function groups, since progression through the structure will be based on competencies rather than function groups. Minor alterations have been made in the format of the minimum wages clause in the exposure draft but, consistent with our approach generally, we have not combined the industry allowance with the minimum wages. Each remains a separate element of remuneration. Some alterations have been made in tool and clothing allowance provisions. New provisions have been included, based on terms in the award applying in Victoria, relating to the reimbursement for the cost of obtaining an articulated vehicle licence, and transport home after overtime and shiftwork.

**[187]** We have not altered the spread of ordinary hours in the exposure draft, which is the same as that in the Victorian and New South Wales awards applying to quarrying. Nor have we altered the night shift penalties which are in line with prevailing federal standards in industry generally. By contrast, the night shift penalties applying to quarrying in the various States vary and it is not practical to reduce them to a standard provision. We have made some change to the provisions dealing with rostered days off. We have also deleted the provisions relating to the working of reasonable overtime which appeared in the exposure draft. On reflection we have decided that they add nothing to, and indeed may be inconsistent with, the terms of the NES.

### **Sanitary and garbage disposal services**

**[188]** We publish the *Waste Management Award 2010*. In our 23 January 2009 statement we drew attention to the significant differences between rates in the *Transport Workers' (Refuse, Recycling and Waste Management) Award 2001* (Federal Waste Award),<sup>55</sup> which applies in all States except New South Wales and in the Northern Territory, and the rates in the NAPSAAs applying in New South Wales. The minimum wages in the exposure draft were based on the minimum rates in the Federal Waste Award. The TWU submitted that the rates in the New South Wales NAPSA were appropriate for inclusion in the modern award and also

submitted that those rates could be integrated with the federal rates to produce a compromise set of minimum wages if need be.

**[189]** As we have already indicated in dealing with the private transport industry (road, non-passenger) group of industries, with very few exceptions, federal road transport driver rates are properly fixed minimum rates. The rates in the Federal Waste Award mirror the structure in the key federal road transport awards. We have not been persuaded to depart from those rates. We accept that transitional provisions may be necessary in New South Wales. Any proposals for transitional provisions should be advanced in the proceeding to deal with such provisions that we have provided for above. Proposals should take any other relevant changes in award regulation into account. We note that the junior rate provisions in the modern award will reflect those in the Federal Waste Award.

**[190]** Some alterations have been made to the classification structure as it appeared in the exposure draft. The new structure, which is primarily based on the Federal Waste Award, will provide for coverage of employees at waste management facilities and is agreed between the main parties.

**[191]** A number of other provisions in the exposure draft have been deleted and replaced with the equivalent provisions from the Federal Waste Award. That award covers the bulk of the private waste management industry nationally. These provisions primarily deal with highest function, hours of work, shift work, overtime and public holidays. While a number of these clauses will be more onerous for employers previously covered by the New South Wales NAPSAs, such changes should be balanced against the reduction in minimum award wages in New South Wales and taken into account in considering what transitional provisions might be necessary.

## OTHER MATTERS

**[192]** We received a submission from some employers in the fast food industry in which they sought an exemption from some of the terms of the *Fast Food Industry Award 2010*.<sup>56</sup> That award is one of the priority modern awards made on 21 December 2008. In particular exemption was sought from some of the management classifications in the award. Historically retail awards, including the *National Fast Food Retail Award 2000*,<sup>57</sup> have contained managerial classifications. We see no case for varying the modern award in the manner sought.

**[193]** In dealing with the modern awards in the health and welfare services group we referred to a submission by NACCHO seeking a separate, comprehensive modern award for aboriginal and Torres Strait islander community controlled health organisations. This is not the first occasion on which we have been asked to make specific provision for indigenous organisations. In the Commission's 19 December 2008 decision the following passage appears:

“[108] The Chamber of Commerce of the Northern Territory (CCNT) submitted that the award modernisation program should take account of the special needs of indigenous organisations in remote areas. The CCNT submission indicated that such organisations operate a variety of businesses which reflect a range of local factors such as geography, climate, community needs, tourism, industry needs and national

security. The view was expressed that the patterns of work in these organisations are unlikely to be catered for in modern awards. We think this submission raises some potentially important issues for the award modernisation process. We shall make provision for the matter to be further considered concurrently with Stage 4 when the terms of modern awards generally applying to indigenous organisations will be clearer and there will be an opportunity to properly consider the impact and decide upon the necessary modifications.”

**[194]** We shall appoint Commissioner Raffaelli to investigate the matters raised by the CCNT and NACCHO and any other similar matters. The Commissioner will visit the Northern Territory for this purpose at a time to be advised. The Commission will give further consideration to the issues in Stage 4, as already indicated. A possible outcome is that one or more separate awards may be made for indigenous organisations or services.

## CONCLUSION

**[195]** We express our appreciation to all of those who have made contributions to the consultation process and to the staff of the Australian Industrial Registry for their research and their administrative support to the Full Bench.

BY THE COMMISSION:

PRESIDENT

## Decision Summary

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AWARDS – award modernisation – amendments to award modernisation request – procedure for carrying out award modernisation – coverage – award flexibility – annual leave – Stage 2 modern awards – s576E Workplace Relations Act 1996 – 27 Stage 2 modern awards published – decision also varies Manufacturing Modern Award and Clerks Modern Award previously issued – amendment to request – when priority modern awards first made there was no opportunity to take into account Minister’s amended request of 18 December 2008 – clauses regarding coverage, award flexibility and annual leave altered to reflect this amendment – transitional provisions – transitional provisions for priority and Stage 2 awards to be dealt with in consultation process from 29 May to 18 July 2009 – proposals and submissions must be filed by 29 May – Commission to then hear oral submissions – Commission seeks to ensure that transitional provisions are not overly-complicated – other variations to modern awards – prior to 1 January 2010 modern awards may require other variations (for example, due to changes in legislation and increases in pay rates) – consideration of such residual

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variations deferred to last quarter of 2009 – supported wage system, school-based apprentices and national training wage provisions also discussed – Stage 2 modern awards – 27 awards issued as follows: agricultural group (6), building, metal and civil construction group (5), cleaning services (1), financial services group (1), graphic arts group (1), health and welfare services (excluding social and community services) (4), information and communications technology group (4), private transport industry (road, non passenger) (3), quarrying industry (1) and sanitary and garbage disposable services (1) – other matters – request for variation to management classifications in priority fast food award rejected – Raffaelli C to visit Northern Territory regarding affect of modern awards in health and welfare services group on indigenous organisations and/or services.

Award Modernisation – Request from the Minister for Employment and Workplace Relations – 28 March 2008

AM2008/5, 7 & 13-24

[2009] AIRCFB 345

Giudice J

Watson VP

Watson SDP

Harrison SDP

Acton SDP

Smith C

Melbourne

3 April 2009

**Citation:** *Award Modernisation – Request from the Minister for Employment and Workplace Relations – 28 March 2008* [2009] AIRCFB 345 (3 April 2009)

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<sup>1</sup> [2009] AIRCFB 50.

<sup>2</sup> MA000010.

<sup>3</sup> MA000002.

<sup>4</sup> [2008] AIRCFB 1000.

<sup>5</sup> [2008] AIRCFB 550.

<sup>6</sup> ibid at paras [177]–[181] and [187].

<sup>7</sup> [2009] AIRCFB 50.

<sup>8</sup> [2008] AIRCFB 1000.

<sup>9</sup> [2008] AIRCFB 708.

<sup>10</sup> [2009] AIRCFB 50, at para [45].

<sup>11</sup> *National Wage Case August 1988*, Print H4000, August 1988, 22 IR 461.

<sup>12</sup> op cit at para [23].

<sup>13</sup> AP792378CRV.

<sup>14</sup> op cit at para [29].

<sup>15</sup> AP784867CRV.

<sup>16</sup> AN140086.

<sup>17</sup> AN120160.

<sup>18</sup> MA000004.

<sup>19</sup> AN170096.

<sup>20</sup> AP790741CRV.

<sup>21</sup> AP816828CRV.

<sup>22</sup> [2008] AIRFB 1000 at para [46].

<sup>23</sup> Print F6230, 2 August 1984, (1984) 294 CAR 175.

<sup>24</sup> PR032004, 26 March 2004 and PR062004, 8 June 2004.

<sup>25</sup> *Building Industry Inquiry Case*, Print H7465, 22 March 1989.

<sup>26</sup> *Building, Metal and Construction Industries* decision, Print J4870, 10 October 1990.

<sup>27</sup> Print K4831, 1 October 1992 and Print K2799, 5 May 1992.

<sup>28</sup> AP812941CRN.

<sup>29</sup> Print Q1599, 4 June 1998.

<sup>30</sup> PR062004, 8 June 2004.

<sup>31</sup> *Building Construction Industry Award – State 2003* (Qld), AN140043.

<sup>32</sup> *Electrical, Electronic and Communications Contracting Industry (State) Award* (NSW), AN120191.

<sup>33</sup> [2009] AIRCFB 50 at paras [46]-[48].

<sup>34</sup> *ibid* at para [49].

<sup>35</sup> AP791396CRV.

<sup>36</sup> AP792355CRV.

<sup>37</sup> AP817265CRV.

<sup>38</sup> AP816842.

<sup>39</sup> AP784988CRV.

<sup>40</sup> AP809224.

<sup>41</sup> AP782505CR.

<sup>42</sup> AP805250CRA.

<sup>43</sup> AP825280CAV.

<sup>44</sup> [2009] AIRCFB 50.

<sup>45</sup> *Ibid* at para [101].

<sup>46</sup> AP813166.

<sup>47</sup> AP799474CNV.

<sup>48</sup> AN120594.

<sup>49</sup> P0926, 15 May 1997.

<sup>50</sup> ss.576A(2)(b), 576J(1) and 576L of the *Workplace Relations Act 1996* and s.576C(1) of the consolidated request.

<sup>51</sup> s.576B(2)(h).

<sup>52</sup> AP813252CAV.

<sup>53</sup> AP841105CAV.

<sup>54</sup> [2008] AIRCFB 100 at paras [35]-[39].

<sup>55</sup> AP812785CNV.

<sup>56</sup> MA000003.

<sup>57</sup> AP806313CRV.

## Stage 2 modern awards

Aged Care Award 2010

Banking, Finance and Insurance Award 2010

Building and Construction General On-site Award 2010

Business Equipment Award 2010

Cleaning Services Award 2010

Contract Call Centres Award 2010

Cotton Ginning Award 2010

Electrical, Electronic and Communications Contracting Award 2010

Graphic Arts, Printing and Publishing Award 2010

Health Professionals and Support Services Award 2010

Horticulture Award 2010

Joinery and Building Trades Award 2010

Market and Social Research Award 2010

Medical Practitioners Award 2010

Mobile Crane Hiring Award 2010

Nursery Award 2010

Nurses Award 2010

Pastoral Award 2010

Plumbing and Fire Sprinklers Award 2010

Quarrying Award 2010

Road Transport and Distribution Award 2010

Road Transport (Long Distance Operations) Award 2010

Silviculture Award 2010

Telecommunications Services Award 2010

Transport (Cash in Transit) Award 2010

Waste Management Award 2010

Wool Storage, Sampling and Testing Award 2010

The following modern awards have been amended:

Clerks—Private Sector Award 2010 – call centre provisions

Manufacturing and Associated Industries and Occupations Award 2010 – coverage clause and small employer redundancy in the furnishing industry

## **Supported Wage System Schedule**

**1.** This schedule defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this award.

**2.** In this schedule:

**approved assessor** means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system

**assessment instrument** means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system

**disability support pension** means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme

**relevant minimum wage** means the minimum wage prescribed in this award for the class of work for which an employee is engaged

**supported wage system** means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website: [www.jobaccess.gov.au](http://www.jobaccess.gov.au)

**SWS wage assessment agreement** means the document in the form required by the Department of Education, Employment and Workplace Relations that records the employee's productive capacity and agreed wage rate

### **3. Eligibility criteria**

**3.1** Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.

**3.2** This schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their employment.

## 4. Supported wage rates

**4.1** Employees to whom this schedule applies will be paid the applicable percentage of the relevant minimum wage according to the following schedule:

<b>Assessed capacity (clause 5)</b>	<b>Relevant minimum wage</b>
<b>%</b>	<b>%</b>
10	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

**4.2** Provided that the minimum amount payable must be not less than \$69 per week.

**4.3** Where an employee's assessed capacity is 10%, they must receive a high degree of assistance and support.

## 5. Assessment of capacity

**5.1** For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.

**5.2** All assessments made under this schedule must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

## 6 Lodgement of SWS wage assessment agreement

**6.1** All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Commission.

**6.2** All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Industrial Registrar to the union by certified mail and the agreement will take effect unless an objection is notified to the Commission within 10 working days.

## **7. Review of assessment**

The assessment of the applicable percentage should be subject to annual or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.

## **8. Other terms and conditions of employment**

Where an assessment has been made, the applicable percentage will apply to the relevant minimum wage only. Employees covered by the provisions of this schedule will be entitled to the same terms and conditions of employment as other workers covered by this award on a pro rata basis.

## **9. Workplace adjustment**

An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

## **10. Trial period**

**10.1** In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

**10.2** During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.

**10.3** The minimum amount payable to the employee during the trial period must be no less than \$69 per week.

**10.4** Work trials should include induction or training as appropriate to the job being trialled.

**10.5** Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause 5.

Attachment C to Full Bench decision of 3 April 2009

## **School-based Apprentices Schedule**

1. This schedule applies to school-based apprentices. A school-based apprentice is a person who is undertaking an apprenticeship in accordance with this schedule while also undertaking a course of secondary education.
2. A school-based apprenticeship may be undertaken in the trades covered by this award under a training agreement or contract of training for an apprentice declared or recognised by the relevant State or Territory authority.
3. The relevant minimum wages for full-time junior and adult apprentices provided for in this award, calculated hourly, will apply to school-based apprentices for total hours worked including time deemed to be spent in off-the-job training.
4. For the purposes of clause 3, where an apprentice is a full-time school student, the time spent in off-the-job training for which the apprentice must be paid is 25% of the actual hours worked each week on-the-job. The wages paid for training time may be averaged over the semester or year.
5. A school-based apprentice must be allowed, over the duration of the apprenticeship, the same amount of time to attend off-the-job training as an equivalent full-time apprentice.
6. For the purposes of this schedule, off-the-job training is structured training delivered by a Registered Training Organisation separate from normal work duties or general supervised practice undertaken on the job.
7. The duration of the apprenticeship must be as specified in the training agreement or contract for each apprentice but must not exceed six years.
8. School-based apprentices progress through the relevant wage scale at the rate of 12 months progression for each two years of employment as an apprentice.
9. The apprentice wage scales are based on a standard full-time apprenticeship of four years (unless the apprenticeship is of three years duration). The rate of progression reflects the average rate of skill acquisition expected from the typical combination of work and training for a school-based apprentice undertaking the applicable apprenticeship.
10. If an apprentice converts from school-based to full-time, all time spent as a full-time apprentice will count for the purposes of progression through the relevant wage scale in addition to the progression achieved as a school-based apprentice.
11. School-based apprentices are entitled pro rata to all of the other conditions in this award.

## National Training Wage Draft Schedule

### 1. Title

This is the *National Training Wage Schedule*.

### 2. Definitions

In this schedule:

**adult trainee** is a trainee who would qualify for the highest minimum wage in Wage Level A, B or C if covered by that wage level.

**Australian Qualifications Framework (AQF)** is a national framework for qualifications in post-compulsory education and training.

**approved training** means the training specified in the training contract.

**out of school** refers only to periods out of school beyond Year 10 as at the first of January in each year and is deemed to:

- (a) include any period of schooling beyond Year 10 which was not part of or did not contribute to a completed year of schooling;
- (b) include any period during which a trainee repeats in whole or part a year of schooling beyond Year 10; and
- (c) not include any period during a calendar year in which a year of schooling is completed.

**relevant State or Territory training authority** means the bodies in the relevant State or Territory which exercise approval powers in relation to traineeships and register training contracts under the relevant State or Territory vocational education and training legislation.

**relevant State or Territory vocational education and training legislation** means the following or any successor legislation:

Western Australia: *Vocational Education and Training Act 1996*

Northern Territory: *Northern Territory Employment and Training Act*

Victoria: *Education and Training Reform Act 2006*

New South Wales: *Apprenticeship and Traineeship Act 2001*

Australian Capital Territory: *Training and Tertiary Education Act 2003*

Queensland: *Vocational Education, Training and Employment Act 2000*

South Australia: *Training and Skills Development Act 2008*

Tasmania: *Vocational Education and Training Act 1994*.

**trainee** is an employee undertaking a traineeship.

**traineeship** means a system of training which has been approved by the relevant State or Territory training authority, or which meets the requirements of a training package developed by the relevant Industry Skills Council and endorsed by the National Quality Council, and which leads to an AQF certificate level qualification.

**training contract** means an agreement for a traineeship made between an employer and an employee which is registered with the relevant State or Territory training authority.

**training package** means the competency standards and associated assessment guidelines for an AQF certificate level qualification which have been endorsed for an industry or enterprise by the National Quality Council and placed on the National Training Information Service with the approval of the Commonwealth, State and Territory Ministers responsible for vocational education and training.

**Year 10** includes any year before Year 10.

### **3. Coverage**

- 3.1** Subject to clause 3.2 of this schedule, this schedule applies in respect of an employee covered by this award who is undertaking a traineeship whose training package and AQF certificate level is allocated to a wage level by Appendix 1 to this schedule.
- 3.2** This schedule only applies to AQF Certificate Level IV traineeships for which a relevant AQF Certificate Level III traineeship is listed in Appendix 1 to this schedule.
- 3.3** This schedule does not apply to the apprenticeship system or to any training program which applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 25 June 1997.
- 3.4** Where the terms and conditions of this schedule conflict with other terms and conditions of this award dealing with traineeships, the other terms and conditions of this award prevail.
- 3.5** At the conclusion of the traineeship, this schedule ceases to apply to the employee.

### **4. Types of Traineeship**

- 4.1** The following types of traineeship are available under this schedule:
  - (a)** a full-time traineeship based on 38 ordinary hours per week, with 20% of ordinary hours being approved training.
  - (b)** a part-time traineeship based on less than 38 ordinary hours per week, with 20% of ordinary hours being approved training solely on-the-job or partly on-the-job and partly off-the-job, or where training is fully off-the-job.

**4.2** Employment as a trainee does not commence until the relevant training contract has been signed by the employer and the employee and lodged for registration with the relevant State or Territory training authority, provided that if the training contract is not in a standard format employment as a trainee does not commence until the training contract has been registered with the relevant State or Territory training authority.

## **5. Minimum Wages**

### **5.1 Minimum wages for full-time traineeships**

#### **(a) Wage Level A**

Subject to clause 5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I-III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by Appendix 1 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>\$ per week</b>	<b>\$ per week</b>	<b>\$ per week</b>
School leaver	245.00	270.00	323.00
Plus 1 year out of school	270.00	323.00	375.00
Plus 2 years out of school	323.00	375.00	437.00
Plus 3 years out of school	375.00	437.00	500.00
Plus 4 years out of school	437.00	500.00	
Plus 5 or more years out of school	500.00		

#### **(b) Wage Level B**

Subject to clause 5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I-III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by Appendix 1 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>\$ per week</b>	<b>\$ per week</b>	<b>\$ per week</b>
School leaver	245.00	270.00	313.00
Plus 1 year out of school	270.00	313.00	360.00
Plus 2 years out of school	313.00	360.00	423.00
Plus 3 years out of school	360.00	423.00	482.00
Plus 4 years out of school	423.00	482.00	
Plus 5 or more years out of	482.00		

school

**(c) Wage Level C**

Subject to clause 5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level 1–III traineeship whose training package and AQF certificate levels are allocated to Wage Level C by Appendix 1 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>\$ per week</b>	<b>\$ per week</b>	<b>\$ per week</b>
School leaver	245.00	270.00	312.00
Plus 1 year out of school	270.00	312.00	351.00
Plus 2 years out of school	312.00	351.00	392.00
Plus 3 years out of school	351.00	392.00	437.00
Plus 4 years out of school	392.00	437.00	
Plus 5 or more years out of school	437.00		

**(d) School-based traineeships**

Subject to clause 5.3 of this schedule, the minimum wages for a trainee undertaking a school-based AQF certificate level traineeship whose training package and AQF certificate levels are allocated to Wage Levels A, B or C by Appendix 1 are as follows when the trainee works full-time ordinary hours:

<b>Year of schooling</b>	
<b>Year 11</b>	<b>Year 12</b>
<b>\$ per week</b>	<b>\$ per week</b>
245.00	270.00

**(e) AQF Certificate Level IV traineeships**

- (i)** Subject to clause 5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level IV traineeship are the minimum wages for the relevant full-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.
- (ii)** Subject to clause 5.3 of this schedule, the minimum wages for an adult trainee undertaking a full-time AQF Certificate Level IV traineeship are as follows, provided that the relevant wage level is that for the relevant AQF Certificate Level III traineeship:

<b>Wage level</b>	<b>First year of</b>	<b>Second year of</b>
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	traineeship \$ per week	traineeship \$ per week
Wage Level A	519.00	539.00
Wage Level B	500.00	519.00
Wage Level C	454.00	471.00

## 5.2 Minimum wages for part-time traineeships

### (a) Wage Level A

Subject to clauses 5.2(f) and 5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I-III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by Appendix 1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	\$ per hour	\$ per hour	\$ per hour
School leaver	8.06	8.88	10.63
Plus 1 year out of school	8.88	10.63	12.34
Plus 2 years out of school	10.63	12.34	14.38
Plus 3 years out of school	12.34	14.38	16.45
Plus 4 years out of school	14.38	16.45	
Plus 5 or more years out of school	16.45		

### (b) Wage Level B

Subject to clauses 5.2(f) and 5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I-III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by Appendix 1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	\$ per hour	\$ per hour	\$ per hour
School leaver	8.06	8.88	10.30
Plus 1 year out of school	8.88	10.30	11.84
Plus 2 years out of school	10.30	11.84	13.91
Plus 3 years out of school	11.84	13.91	15.86
Plus 4 years out of school	13.91	15.86	
Plus 5 or more years out of school	15.86		

**(c) Wage Level C**

Subject to clauses 5.2(f) and 5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I-III traineeship whose training package and AQF certificate levels are allocated to Wage Level C by Appendix 1 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>\$ per hour</b>	<b>\$ per hour</b>	<b>\$ per hour</b>
School leaver	8.06	8.88	10.26
Plus 1 year out of school	8.88	10.26	11.55
Plus 2 years out of school	10.26	11.55	12.89
Plus 3 years out of school	11.55	12.89	14.38
Plus 4 years out of school	12.89	14.38	
Plus 5 or more years out of school	14.38		

**(d) School-based traineeships**

Subject to clauses 5.2(f) and 5.3 of this schedule, the minimum wages for a trainee undertaking a school-based AQF certificate level traineeship whose training package and AQF certificate levels are allocated to Wage Levels A, B or C by Appendix 1 are as follows when the trainee works part-time ordinary hours:

<b>Year of schooling</b>	
<b>Year 11</b>	<b>Year 12</b>
<b>\$ per week</b>	<b>\$ per week</b>
8.06	8.88

**(e) AQF Certificate Level IV traineeships**

- (i) Subject to clauses 5.2(f) and 5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level IV traineeship are the minimum wages for the relevant part-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.
- (ii) Subject to clauses 5.2(f) and 5.3 of this schedule, the minimum wages for an adult trainee undertaking a part-time AQF Certificate Level IV traineeship are as follows, provided that the relevant wage level is that for the relevant AQF Certificate Level III traineeship:

<b>Wage level</b>	<b>First year of traineeship</b>	<b>Second year of traineeship</b>
	<b>\$ per hour</b>	<b>\$ per hour</b>

Wage Level A	17.07	17.73
Wage Level B	16.45	17.07
Wage Level C	14.93	15.49

**(f) Calculating the actual minimum wage**

- (i) Where the full-time ordinary hours of work are not 38 or an average of 38 per week, the appropriate hourly minimum wage is obtained by multiplying the relevant minimum wage in clauses 5.2(a)–(e) of this schedule by 38 and then dividing the figure obtained by the full-time ordinary hours of work per week.
- (ii) Where the approved training for a part-time traineeship is provided fully off-the-job by a registered training organisation, for example at school or at TAFE, the relevant minimum wage in clauses 5.2(a)–(e) of this schedule applies to each ordinary hour worked by the trainee.
- (iii) Where the approved training for a part-time traineeship is undertaken solely on-the-job or partly on-the-job and partly off-the-job, the relevant minimum wage in clauses 5.2(a)–(e) of this schedule minus 20% applies to each ordinary hour worked by the trainee.

**5.3 Other minimum wage provisions**

- (a) An employee who was employed by an employer immediately prior to becoming a trainee with that employer must not suffer a reduction in their minimum wage per week or per hour by virtue of becoming a trainee. Casual loadings will be disregarded when determining whether the employee has suffered a reduction in their minimum wage.
- (b) If a qualification is converted from an AQF Certificate Level II to an AQF Certificate Level III traineeship, or from an AQF Certificate Level III to an AQF Certificate Level IV traineeship, then the trainee must be paid the next highest minimum wage provided in this schedule, where a higher minimum wage is provided for the new AQF certificate level.

**6. Employment conditions**

- 6.1 A trainee is subject to a probation period of no longer than one month.
- 6.2 A trainee must be permitted to be absent from work without loss of continuity of employment and/or wages to attend approved training.
- 6.3 Subject to clause 3.4 of this schedule, all other terms and conditions of this award apply to a trainee unless specifically varied by this schedule.

## Appendix 1: Allocation of Traineeships to Wage Levels

The wage levels applying to training packages and their AQF certificate levels are:

### 1.1 Wage Level A

Training package	AQF certificate level
Aviation	I II III
Beauty	III
Business Services	I II III
Chemical, Hydrocarbons and Refining	I II III
Civil Construction	III
Coal Training Package	
Community Services	I II III
Construction, Plumbing and Services Integrated Framework	
Correctional Services	II III
Drilling	II III
Electricity Supply Industry Generation Sector	II III
Electricity Supply Industry Transmission, Distribution and Rail Sector	II III
Electrotechnology	I II III
Financial Services	I II III

<b>Training package</b>	<b>AQF certificate level</b>
Floristry	III
Food Processing Industry	III
Gas Industry	III
General Construction	I II III
Information and Communications	I II III
Laboratory Operations	II III
Local Government	I II III
Manufacturing	I II III
Manufactured Mineral Products	III
Maritime	I II III
Metal and Engineering Industry	II III
Metalliferous Mining	II III
Museum, Library and Library/Information Services	II III
Plastics, Rubber and Cablemaking	III
Public Safety	III
Public Sector	II III
Pulp and Paper Manufacturing Industries	III
Retail Services	III

<b>Training package</b>	<b>AQF certificate level</b>
Telecommunications	II III
Textiles, Clothing and Footwear	III
Tourism, Hospitality and Events	I II III
Training and Assessment	III
Transport and Distribution	III
Water Industry (Utilities)	III
Wholesale	III

## 1.2 Wage Level B

<b>Training package</b>	<b>AQF certificate level</b>
Aeroskills	II
Animal Care and Management	I II III
Asset Maintenance	I II III
Asset Security	I II III
Australian Meat Industry	I II III
Automotive Industry Manufacturing	II III
Automotive Industry Retail, Service and Repair	I II III
Beauty	II
Caravan Industry	II III

<b>Training package</b>	<b>AQF certificate level</b>
Civil Construction	I
Community Recreation Industry	I II III
Entertainment	I II III
Extractive Industries	II III
Screen and Media	I II III
Fitness Industry	III
Floristry	II
Food Processing Industry	I II
Forest & Forest Products Industry	I II III
Furnishing	I II III
Gas Industry	I II
Health	II III
Local Government	I II
Manufactured Mineral Products	I II
Metal and Engineering Industry	I II III

<b>Training package</b>	<b>AQF certificate level</b>
Off-Site Construction	I II III
Outdoor Recreation Industry	I II III
Plastics, Rubber and Cablemaking	II
Printing and Graphic Arts	II III
Property Services	I II III
Public Safety	I II
Pulp and Paper Manufacturing Industries	I II
Retail Services	I II
Sport Industry	II III
Sport, Fitness and Recreation	II III
Sugar Milling	I II III
Textiles, Clothing and Footwear	I II
Transport and Logistics	I II
Visual Arts, Craft and Design	I II III
Water Industry	I II

### 1.3 Wage Level C

<b>Training package</b>	<b>AQF certificate level</b>
Agri-Food	I
Amenity Horticulture	I II III
Conservation and Land Management	I II III
Funeral Services	I II III
Music	I II III
Racing Industry	I II III
Rural Production	I II III
Seafood Industry	I II III

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