

**DEPARTMENT OF HEALTH MEDICAL PRACTITIONERS (METROPOLITAN
HEALTH SERVICES) AMA INDUSTRIAL AGREEMENT 2007**

WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

PARTIES	THE MINISTER FOR HEALTH IN HIS INCORPORATED CAPACITY UNDER S.7 OF THE HOSPITALS AND HEALTH SERVICES ACT 1927 (WA) AS THE HOSPITALS FORMERLY COMPRISED IN THE METROPOLITAN HEALTH SERVICE BOARD	APPLICANT
	-v-	
	THE WESTERN AUSTRALIAN BRANCH OF THE AUSTRALIAN MEDICAL ASSOCIATION	RESPONDENT
CORAM	PUBLIC SERVICE ARBITRATOR COMMISSIONER P E SCOTT	
DATE	THURSDAY, 7 FEBRUARY 2008	
FILE NO	PSAAG 2 OF 2008	
CITATION NO.	2008 WAIRC 00075	

Result Registered

Representation

Applicant Mr S Gregory

Respondent Mr P Jennings

Order

HAVING heard Mr S Gregory on behalf of the Minister for Health in his incorporated capacity under s.7 of the Hospital and Health Services Act 1927 (WA) as the Hospitals formerly comprised in the Metropolitan Health Service Board and Mr P Jennings on behalf of the Western Australian Branch of the Australian Medical Association, and by consent, the Public Service Arbitrator, pursuant to the powers conferred under the Industrial Relations Act 1979, hereby orders:

THAT the Department of Health Medical Practitioners (Metropolitan Health Services) AMA Industrial Agreement 2007 in the terms of the following schedule be registered on the 7th day of February 2008 and shall replace the Medical Practitioners (Metropolitan Health Services) AMA Industrial Agreement 2004.

COMMISSIONER P E SCOTT
PUBLIC SERVICE ARBITRATOR

SCHEDULE

PART 1 - PRELIMINARIES**1. TITLE**

This Agreement shall be known as the Department of Health Medical Practitioners (Metropolitan Health Services) AMA Industrial Agreement 2007.

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3. APPLICATION

- (1) The parties to this Agreement are the “Minister for Health incorporated as the Board of the hospitals formerly comprised in the Metropolitan Health Service Board, under s7 of the Hospitals and Health Services Act 1927 (WA)” (“the Employer”) and the “Australian Medical Association (Western Australia) Incorporated” (“the Association”).
- (2) This Agreement shall extend to and bind all medical practitioners employed by the Employer except those employed as clinical academics pursuant to the Clinical Academics AMA Industrial Agreement 2003 or any industrial agreement that replaces the Clinical Academics AMA Industrial Agreement 2003.
- (3) The estimated number of practitioners bound by this Agreement upon registration is 1800.
- (4) While this Agreement is in operation, it shall override all provisions of the:
 - (a) Metropolitan Teaching Hospitals - Salaries and Conditions of Service Award 1986 (Medical Officers) No. PSA A 18 of 1986
 - (b) Western Australian State Public Hospitals, Medical Practitioners' Award 1987 No. A 19 of 1986
- (5) This Agreement cancels and replaces the Medical Practitioners (Metropolitan Health Services) AMA Industrial Agreement 2004.
- (6)
 - (a) The Director General of Health is the delegate of the “Minister for Health incorporated as the Board of the hospitals formerly comprised in the Metropolitan Health Service Board, under s7 of the Hospitals and Health Services Act 1927 (WA)”. In this capacity the Director General acts as the “employer” for the purposes of this Agreement.
 - (b) If the Director General of Health onward delegates any capacity to act as the “employer” to a Chief Executive of a Health Service or to any other office holder the Director General of Health shall inform the Association in writing of the terms of the delegation. An office holder who acts in accordance with the terms of a delegation from the Director General of Health shall be deemed to have acted as the “employer” for the purposes of this Agreement.

4. NO FURTHER CLAIMS

The parties undertake that for the period of this Agreement they shall not, other than as agreed or as provided in this Agreement, pursue any extra claims with respect to salaries and conditions to apply within the period of this Agreement to practitioners who are bound by it.

5. NO BANS OR LIMITATIONS

Practitioners shall not engage in any stoppage, ban or limitation on the performance of work required under their contracts of employment unless authorised or agreed to by the Employer. The Employer shall not lock out practitioners from their employment.

6. TERM, EXPIRY AND RENEGOTIATION OF AGREEMENT

- (1) This Agreement shall have effect from date of registration and shall expire on 30 September 2010.
- (2) Negotiations for a new agreement shall commence by 1 April 2010 and the parties are committed to expeditiously progressing negotiations to finalise the new agreement prior to the expiration of this Agreement.
- (3) If a new agreement is not registered by 30 September 2010, this Agreement shall continue in force until a new agreement is made.

7. AGREEMENT FLEXIBILITY

In recognition of the need for maximum flexibility within this Agreement, the employer, the Association and the majority of practitioner(s) concerned may agree to mutually acceptable terms and conditions to be implemented in substitution of those specified in this Agreement.

8. TRANSITION / RETENTION OF RIGHTS

- (1) Any pre-existing right of permanency of tenure in the WA Public Sector is not affected by this Agreement, but nothing in this Agreement shall prevent a practitioner from relinquishing permanency in accordance with the provisions of this Agreement.
- (2) Practitioners shall retain accrued and pro rata entitlements to sick leave, long service leave, conference and overseas study leave, and other benefits as agreed between the Employer and the Association, as at the date of effect of this Agreement. Such entitlements shall be paid at the rate of pay applicable at the time the leave is taken.

9. DEFINITIONS

“Board of Reference” means a panel consisting of a person nominated by the Employer, a person nominated by the Association and an independent Chairperson appointed by the Western Australian Industrial Relations Commission.

“Consultant / Specialist” means a medical practitioner who holds the appropriate higher qualification of a University or College, recognised by the Australian Medical Council (“the AMC”), and includes a Fellow of the Australian Chapter of Addiction Medicine, or, in exceptional circumstances to satisfy areas of unmet need, such other specialist qualification recognised by the Director General of Health and who, unless otherwise approved by the Director General of Health, is employed and practising in the specialty for which he/she is qualified.

“Director of Medical Services” means a medical practitioner who is the principal medical administrator of the hospital and / or health service.

“Doctor in Training” means a practitioner who is appointed as an Intern, Resident Medical Officer, Registrar, Supervised Medical Officer, Trainee Medical Administrator, Trainee Public Health Physician, Trainee Psychiatrist or Senior Registrar.

“General Practitioner” means a medical practitioner engaged in the provision of primary, continuing whole-patient care to individuals, families and their community not being a vocationally registered general practitioner.

“Health Service Medical Practitioner” means a non-specialist medical practitioner who is not in a recognised training program and who is authorised to perform duties without requiring clinical supervision by a consultant / specialist or senior medical practitioner. The classification includes a general practitioner (not vocationally registered).

“Hospital”, subject to the context, includes Health Service.

“Intern” means a medical practitioner employed by a teaching hospital during the first year of relevant experience following graduation, prior to full registration by the Medical Board of WA.

“Medical Administrator” means a Practitioner who is appointed as a Director of Medical Services or to a like position the duties of which are primarily associated with the management of hospitals or health services.

“Medical Practitioner” means a medical practitioner as defined under the Medical Act 1894 as amended from time to time.

“Practitioner” means a medical practitioner employed under this Agreement.

“Private Patient” means a patient of a public hospital who is not a public patient. A private patient elects to accept responsibility to pay for medical care and the provision of hospital services. Patients who are covered under Workers’ Compensation or Motor Vehicle Insurance Trust legislation or policies are deemed to be private patients for the purpose of this Agreement.

“Public Patient” means a patient in respect of whom a hospital or health service provides comprehensive care, including all necessary medical, nursing and diagnostic services and, if they are available at the hospital or health service, dental and paramedical services, by means of its own staff or by other agreed arrangements.

“Registrar” means a registered medical practitioner employed as a Registrar. A Registrar may be employed with or without the Part 1 Examination of an appropriate specialist qualification recognised by the AMC.

“Resident Medical Officer” means a registered medical practitioner employed as a Resident Medical Officer in the second or subsequent years of relevant experience following graduation.

“Senior Medical Practitioner” means a medical practitioner who does not have a recognised specialist qualification but practices without clinical supervision exclusively in a specialist area recognised by the AMC or such other area recognised by the Director General of Health as being a specialist area; and/or who clinically supervises other practitioners; and/or who has significant medical administration duties (50% as guide). Promotion to the position of Senior Medical Practitioner shall be by appointment only.

“Senior Registrar” means a registered medical practitioner who is either appointed as a Senior Registrar, or a registrar who has obtained an appropriate specialist qualification acceptable to the AMC or equivalent recognised by the Director General of Health.

“Supervised Medical Officer” means a registered non-specialist medical practitioner requiring clinical supervision by a Consultant / Specialist or Senior Medical Practitioner.

“Teaching Hospital” means a hospital declared to be a teaching hospital pursuant to the provisions of the University Medical School, Teaching Hospitals Act 1955 as amended.

“Tertiary Hospital” means Royal Perth Hospital, Sir Charles Gairdner Hospital, Fremantle Hospital, King Edward Memorial Hospital and Princess Margaret Hospital for Children.

“Trainee Medical Administrator” means a registered medical practitioner appointed to a recognised Medical Administration training position and enrolled in the Royal Australian College of Medical Administrators training program.

“Trainee Psychiatrist” means a Registrar or Senior Registrar appointed to a training position recognised by the Royal Australian and New Zealand College of Psychiatrists.

“Trainee Public Health Physician” means a registered medical practitioner appointed to the Department of Health’s Public Health Medicine training program or an advanced trainee of the Australasian Faculty of Public Health Medicine appointed to a position within public health services.

“Vocationally Registered General Practitioner” means a medical practitioner registered under section 3F of the Health Insurance Act 1973.

PART 2 - JUNIOR PRACTITIONERS

10. CONTRACT OF SERVICE

- (1) (a) Appointments shall be as agreed in writing between the Employer and the practitioner and shall normally be for 12 months.
- (b) Practitioners participating in accredited training programmes may be offered appointments for the period the training programme would be expected to take.
- (2) Practitioners shall be appointed subject to a probationary period of six months. During the period of probation either the practitioner or the Employer may terminate the contract of employment by giving four weeks notice or such lesser period as agreed. The probationary period shall not apply to:
 - (a) Interns; or
 - (b) practitioners appointed for a consecutive term; or
 - (c) casual practitioners

In the case of Interns, a performance review process shall commence no later than six months after engagement to assist the Intern to satisfactorily progress.

- (3) (a) Notwithstanding (1) above, all new appointments as Supervised Medical Officers shall be on 5 year fixed term contracts unless the Employer and practitioner agree otherwise.
- (b) There shall be no automatic right of reappointment upon expiry of a contract.

A Supervised Medical Officer who, upon expiry of a fixed term contract, is unsuccessful in seeking a new contract shall be paid a Contract Completion Payment equal to 10% of their final base salary, for each year of the contract, up to a maximum of 5 years.

No other termination, redundancy or severance payment shall be made except as provided for in this Agreement.

- (c) A Supervised Medical Officer with tenure shall not be required to convert to a fixed term contract but may agree to do so. If unsuccessful in seeking reappointment at the end of that fixed term contract for reasons other than misconduct, he/she shall be paid pro rata long service leave after 5 years of continuous service in addition to the amount specified in subclause 3 (b).
- (d) This subclause shall not apply to Supervised Medical Officers who are in:
 - (i) a recognised medical college approved training programme, or
 - (ii) service positions that are not recognised training programmes designed to offer experience and/or training.
- (4) (a) Subject to Clause 8(1) any contract of employment including a fixed term contract may be terminated by either the Employer or the practitioner giving the following notice:
 - (i) For contracts where the term is less than 12 months - 4 weeks' notice.
 - (ii) For contracts where the term is 12 months or more but less than 2 years - 6 weeks' notice.
 - (iii) For contracts of where the term is 2 years or more but less than 3 years - 8 weeks' notice.
 - (iv) For contracts where the term is 3 years or longer - 12 weeks' notice.
- (b) In lieu of giving of the required notice the Employer may pay or the practitioner may forfeit, as the case may be, salary commensurate with the residual period of notice otherwise required. The Employer and the practitioner may agree to a lesser period of notice.
- (c) Practitioners who have completed their probationary period may only be terminated by the Employer on the grounds of unsatisfactory service or redundancy.
- (5) Notwithstanding the other provisions of this Clause, the Employer may, without prior notice, dismiss a practitioner for refusal or neglect to obey lawful orders or for serious misconduct.
- (6) A practitioner who is dismissed may appeal to a Board of Reference if the application is made within one month of the operative date of the dismissal.
- (7) A practitioner whose contract of employment expires or is terminated shall be paid all monies due on the payday following the last day of employment.

- (8) (a) Practitioners may be seconded on the approval of, and after consultation between the relevant employing authorities, to any Government recognised hospital or agency, provided that satisfactory recognised supervision and training arrangements are in place.
- (b) Interns may be seconded in accordance with this subclause as appropriate to the practitioner's training.
- (9) Prior to the commencement of each year, practitioners shall be advised of the clinical rotations they shall be required to complete. The Employer shall, subject to operational requirements, make every endeavour to accommodate a practitioners clinical rotation preferences. These rotations shall only be changed after consultation with the practitioner.

- (10) Practitioners shall be provided with a job description stating the relevant duties and responsibilities of the position including the general percentage for clinical responsibilities, teaching, and supervision of any staff.

11. PART TIME PRACTITIONERS

- (1) A part time practitioner is one who is engaged on the same basis as a full-time practitioner but for less than an average of 38 hours per week. A full time practitioners request to work on a part time basis shall not be unreasonably refused.
- (2) Practitioners may be employed on a part time basis at level 2 and above. If a practitioner is in a recognised training programme approved by the appropriate College for the purpose of obtaining a postgraduate qualification, part time employment shall be subject to the College's training requirements.
- (3) A part time practitioner's minimum weekly hours shall be specified in writing at the commencement of the employment and be worked in minimum continuous periods of three hours. A practitioner may work additional hours by agreement with the Employer.
- (4) A part time practitioner shall, subject to Clause 32 - Shift, Weekend and Public Holiday Penalties, be paid 1/38th of the rate for their classification for each ordinary hour worked.
- (5) (a) A part time practitioner shall be entitled to pro rata leave entitlements in the same ratio as the practitioner's ordinary hours bear to 38.
- (b) If during a qualifying period the ordinary hours of a part time practitioner vary, the ordinary hours worked shall be averaged over the qualifying period.
- (c) A part time practitioner shall be entitled to be paid public holidays in accordance with Clause 35 - Public Holidays if the public holiday occurs on a day on which the practitioner is normally rostered to work. If a part time practitioner is required to work on a public holiday the provisions of Clause 32 - Shift, Weekend and Public Holiday Penalties shall apply.
- (6) The Employer shall notify the Association by February each year of the number of part time positions.

12. CASUAL PRACTITIONERS

- (1) Casual practitioners shall be engaged for minimum periods of three hours.
- (2) Casual practitioners shall not be employed at Level 1 and shall not normally be employed at Levels 2 or 3.

- (3) Casual practitioners shall be paid the hourly rate for their classification for each hour worked, plus an additional 20% casual loading. Penalty rates shall be calculated exclusive of the casual loading.
- (4) A casual practitioner shall not be entitled to receive leave entitlements.
- (5) The contract of employment of a casual practitioner may be terminated by the Employer or practitioner giving three hours notice or payment or forfeiture, as the case may be, of three hours salary in lieu thereof.
- (6) The Employer shall notify the Association by February each year the number of casual practitioners employed during the preceding calendar year.

13. SALARIES

- (1) Salaries or salary ranges applicable to practitioners covered by this Agreement shall be those prescribed in Schedule 1, provided that:
 - (a) The salary of an Intern shall be at Level 1.
 - (b) The salary of a Resident Medical Officer shall be within the range of Levels 2 to 4, based on years of relevant experience after graduation.
 - (c) The salary of a Registrar shall be within the range of Levels 5 to 11, based on years of relevant experience in that capacity.
 - (d) The salary of a Senior Registrar shall be within the range of Levels 12 to 13, based on years of relevant experience in that capacity.
 - (e) The salary of a Trainee Psychiatrist shall be within the range of Levels 7 to 13. Level 13 shall only be available to those undertaking their elective year.
 - (f) The salary of a Trainee Medical Administrator or a Trainee Public Health Physician shall be within the range of Levels 6 to 12, based on years of relevant experience in that capacity.
 - (g) The salary of a Supervised Medical Officer shall be within the range of Levels 5 to 13, based on years of relevant experience in that capacity.
 - (h) A practitioner who has received a specialist qualification in another clinical discipline, or is undertaking a dual fellowship, shall continue to progress automatically by annual increments, to a maximum of Level 13, for the period of their training.
 - (i) Subject to the provisions of this Agreement, a practitioner shall be employed in accordance with the level of work performed.
 - (j) Registrars shall proceed to Level 12 from the date of recognition by the relevant College of having satisfied all the requirements for admission to Fellowship of the College.
 - (k) Where a salary rate prescribed as at 1 October 2007 is below that which was applicable to the practitioner immediately prior to that date, the practitioner shall be placed at the next salary increment within the applicable classification range but shall not progress to the next salary increment until twelve months have elapsed.

- (2) Subject to good conduct, satisfactory performance, diligence and efficiency, a practitioner shall progress through the salary range by annual increments on their employment anniversary date.
- (3) Salaries shall be paid pro rata fortnightly.
- (4) The weekly base salary rate of a practitioner shall be calculated by dividing the annual salary rate by 52.1666.
- (5) (a) Practitioners shall receive the following annual Professional Development Allowance payable pro rata fortnightly from the first pay period on or after the dates specified.

	1-Apr-07	1-Oct-07	1-Oct-08	1-Oct-09
Intern	\$4,000	\$4,120	\$4,244	\$4,371
Resident Medical Officer	\$4,000	\$4,120	\$4,244	\$4,371
Registrar	\$7,000	\$7,210	\$7,426	\$7,649
Senior Registrar	\$10,000	\$10,300	\$10,609	\$10,927
Supervised Medical Officer	\$7,000	\$7,210	\$7,426	\$7,649
Trainee Medical Administrator	\$7,000	\$7,210	\$7,426	\$7,649
Trainee Psychiatrist	\$7,000	\$7,210	\$7,426	\$7,649
Trainee Public Health Physician	\$7,000	\$7,210	\$7,426	\$7,649

- (b) The Professional Development Allowance is payable during periods of paid leave but is not counted as salary for any other purpose of this Agreement.
- (c) The adjustments in the rates reflect increases in line with general percentage salary increases.
- (6) Payment Details

Practitioners shall be provided with access to their fortnightly details of:

- (a) Ordinary hours paid
- (b) Overtime hours paid
- (c) Penalty rates paid
- (d) Allowances paid
- (e) Leave entitlements paid

The Employer shall provide practitioners with a satisfactory explanation of such details.

14. SECONDMENT ARRANGEMENTS - WA COUNTRY HEALTH SERVICE

- (1) A practitioner on secondment to a facility controlled by the WA Country Health Service shall be provided with furnished accommodation whilst on secondment. If this is unable to be provided, the Employer shall either meet the cost of such accommodation or reimburse the practitioner, on a fortnightly basis, the reasonable cost of such accommodation on the presentation of receipts. Where feasible the accommodation provided shall be single occupancy.
- (2) A practitioner on secondment shall be provided with transport to:
- (a) travel to the facility to which the practitioner is seconded;
- (b) return from the facility at the end of the secondment;

- (c) enable additional travel during the term of the secondment where the practitioner is directed to return to Perth for approved training purposes.

or where agreed, be reimbursed reasonable expenses for such travel.

- (3) For the purposes of this clause “secondment” means the temporary deployment of a practitioner from a facility controlled by the Employer to a WA Country Health Service facility.
- (4) The terms under which a practitioner is seconded shall be agreed in writing prior to commencement of the secondment. Such terms shall ordinarily include the same general terms and conditions as are prescribed for other practitioners employed in that facility for a similar period.

15. SECONDMENT ARRANGEMENTS - NON-PUBLIC SECTOR TRAINING

- (1) The Employer may with agreement of the practitioner second a practitioner to work in a non-government hospital where there is an enabling agreement between the Employer and the non-government hospital.
- (2) Any such agreement shall provide for satisfactory supervision and training arrangements under equivalent terms to those which generally apply in the Employers hospital.
- (3) The Employer shall not initiate any such secondments without first consulting with the Association.
- (4) The Employer and the Association may agree in writing to terms and conditions of employment to be implemented in substitution of those specified in this Agreement for the purposes of facilitating secondments for training purposes.
- (5) Where a practitioner remains an employee during a secondment, the secondment shall be recognised as continuous service for all purposes of this Agreement.

16. HOURS OF DUTY

- (1) A practitioners ordinary hours of duty shall be 38 hours per week to be rostered in accordance with Clause 17 – Rosters.
- (2) Practitioners’ term appointments and hours of duty shall be allocated and worked having regard for training and occupational safety and health considerations and wherever possible, be shared equitably between the relevant practitioners.
- (3) The following time off duty shall be provided:
 - (a) Eight days free from ordinary hours of duty in each 28 day cycle which where practicable shall include at least four days free from all duty (including on-call).
 - (b) Where practicable, at least two consecutive days off duty in each 28 day cycle shall be provided and shall not be preceded by a night shift unless the practitioner is rostered to work on evening or night shift on the day immediately following those rostered days off.
 - (c) Where practicable, forty eight consecutive hours free from all duty (including on-call) after not more than 12 days work.
 - (d) Twelve evenings off, Monday to Friday inclusive between the hours of 6pm and 8am, in each 28 day cycle, provided that the Association and the Employer may agree designated positions be exempted from the provisions of this subclause.

- (e) Where practicable, every second weekend (on average – excluding periods of leave) free from all duty (including on-call).
- (4) (a) Rosters shall provide for at least an 8 hour break between periods of rostered duty. Where practicable the break shall be not less than 10 hours.
- (b) If a practitioner is required to resume rostered duty before having eight consecutive hours free from all duty the subsequent hours worked shall attract a 50% loading until the practitioner is released from duty for eight consecutive hours without affecting other entitlements under this Agreement.
- (c) The rostered hours of work of a practitioner shall not exceed 75 hours in any period of seven consecutive days and not more than 140 hours in any period of 14 consecutive days .
- (5) (a) Practitioners shall not normally be rostered to work more than four consecutive nights. Provided that a practitioner may be rostered to work a maximum of five consecutive nights if the total number of rostered hours do not exceed fifty. If five consecutive nights are worked a practitioner shall, where practicable, be given the following two days free from all duty.
- (b) Practitioners shall not be rostered for duty for more than 15 consecutive hours, inclusive of rest breaks.
- (c) Practitioners shall be rostered for duty for minimum periods of three hours.
- (d) With effect from 1 July 2008, practitioners commencing duty after 12 noon shall not be rostered for more than 12 consecutive hours inclusive of rest breaks.
- (6) A practitioner shall be entitled to a paid rest break of thirty minutes within each rostered period of duty. If a period of duty exceeds 10 hours, the practitioner shall be entitled to a second paid rest break of thirty minutes.
- (7) (a) The Employer shall meet its obligations under the Occupational Safety and Health Act 1984.
- (b) The Employer shall take reasonable steps to ensure practitioners are informed of and empowered to exercise their rights under the Occupational Safety and Health Act 1984.
- (c) Practitioners shall meet their obligations under the Occupational Safety and Health Act 1984.
- (8) Practitioners shall, where appropriate, be provided with adequate accommodation and other appropriate facilities.
- (9) Where due to work commitments practitioners are too tired to drive home safely, they shall be reimbursed reasonable expenses to travel home and to return to work to retrieve their car.
- (10) Notwithstanding any other provision of this Agreement, the Employer, the Association and the affected practitioners may agree to alternative arrangements for regulating hours of work.

17. ROSTERS

- (1) Rostered hours shall take account of all clinical and non clinical duties regularly required to be worked. "Non-clinical duties" means duties not directly associated with the diagnosis or management of patients.
- (2) Practitioner's hours of duty shall be worked according to a roster or rosters which shall operate over either a 14 day or 28 day period.
- (3) The roster or rosters shall set out the practitioners' times of commencing and ending each period of duty including, where practicable, the starting and ending times of the applicable rest breaks for a period of not less than 14 consecutive days. Such rosters shall be exhibited at some reasonably convenient place accessible to the practitioners to whom it applies at least 7 days prior to their commencement. Where possible, rosters shall be exhibited 14 days prior to their commencement.
- (4) Except in cases of emergency or if the practitioner concerned so agrees, rosters shall not be amended during their currency. By agreement amongst themselves and if appropriate clinically, practitioners may replace one another for periods of rostered duty if the practitioners receive approval from the appropriate Head of Department or nominee which shall not be unreasonably refused.
- (5) No intern shall be required to work in a position not accredited by the Postgraduate Medical Council WA.
- (6)
 - (a) The Employer and the practitioner may agree in writing to a roster that does not conform with this clause and Clause 16 – Hours of Duty.
 - (b) The Employer and the practitioner may agree special arrangements, should the practitioner need to remain on call or to work during off duty periods specified in the preceding subclauses in order to gain sufficient postgraduate medical training and experience to meet the requirements for a higher qualification.

18. PAYMENT FOR OVERTIME

- (1) Un-rostered overtime shall be authorised. Authorisation shall not be unreasonably refused.
- (2) Full Time Practitioners
 - (a) Time worked in excess of 76 paid hours in any two week pay cycle shall be paid at the rate of 150%.
 - (b) Time worked in excess of 116 paid hours in any two week cycle shall be paid at the rate of 200%.
- (3) Part Time Practitioners
 - (a) Time worked in excess of 76 paid hours in any two week pay cycle shall be paid at the rate of 150%.
 - (b) Time worked in excess of 116 paid hours in any two week cycle shall be paid at the rate of 200%.
- (4) A part-time practitioner who having commenced a rostered shift is explicitly directed to work additional hours such that the length of the shift is extended, shall be paid at overtime rates for the additional period.

- (5) In lieu of payment for overtime, the Employer and a practitioner may agree in writing that the practitioner be allowed time off proportional to the payment to which the practitioner is entitled, to be taken at a time convenient to the Employer.
- (6) For the purposes of sub clause (2) and (3) of this clause, "paid time" excludes time worked where payment is made pursuant to sub clause (2) of Clause 33. On Call and Call Back.

19. PROTECTIVE CLOTHING AND UNIFORMS

- (1) Protective clothing shall be supplied free of charge to each practitioner as required and shall be laundered by the Employer.
- (2) If the Employer requires uniforms to be worn they shall be supplied free of charge to each practitioner as required and shall be laundered by the Employer.
- (3) Any such clothing or uniforms shall remain the property of the Employer and must be returned at the completion of the practitioner's period of service.

20. PROFESSIONAL DEVELOPMENT LEAVE

- (1) The Employer recognises its obligations to provide high quality training and shall ensure appropriate mechanisms operate to monitor practitioners' satisfaction with the quality of training and address legitimate concerns.
- (2) Upon application, practitioners shall be entitled to take 4 days leave with pay in order to attend examinations within Australia or New Zealand, or elsewhere if appropriate, for higher qualifications which have been approved by the Employer.
- (3) Upon application a practitioner shall be entitled to take 2 weeks paid study / professional development leave each calendar year. Such leave shall be inclusive of any leave taken under subclause (2) above and may be used:
 - (a) to attend work / study related courses or conferences or related to obtaining or maintaining higher medical qualifications. In the case of Interns, such activities need to be compatible with their intern training / supervision requirements. The course or conference may be approved by the Director of Medical Services on the advice of the Director of Post Graduate Studies in relation to its educational value; and / or
 - (b) to prepare for examinations being sat within six months of the leave being taken or to study for modules towards higher medical qualifications.
- (4) In exceptional circumstances, after the Employer has used its best endeavours to grant such leave, an application may be declined due to operational requirements. If this occurs the leave shall accrue.
- (5) Applications for leave under this subclause shall, in the absence of any agreement to the contrary, be made to the Employer at least two months prior to the commencement of the leave. The Employer shall notify the practitioner whether the application has been approved in writing within 2 weeks of receiving the application.
- (6) Leave accrued under this clause can not be converted into a cash entitlement other than where the Employer has refused an application which meets the requirements for leave being granted under this clause and the practitioner is unreasonably denied the opportunity of taking the leave prior to concluding their employment.

- (7) Special leave with or without pay for additional study leave, conferences or other purposes, including interstate or overseas professional development, may be granted to junior practitioners for periods of up to twelve months or more at the discretion of the Employer.

PART 3 - SENIOR PRACTITIONERS

21. CONTRACT OF SERVICE

- (1) (a) All appointments shall be on 5 year contracts unless there is written agreement to the contrary between the Employer and practitioner.
- (b) To meet short term exigencies, the Employer may employ a practitioner on a short term contract of up to six months. In such cases the practitioner shall not be entitled to receive leave benefits (including leave for public holidays), but shall instead be paid a loading of 25% on the base salary. Penalty rates shall be calculated exclusive of the loading.
- (2) (a) Each practitioner shall be appointed for a probationary period of six months. During the probationary period either the Employer or the practitioner may give four weeks notice of termination or resignation of employment or such lesser period as agreed. The probationary period shall not apply if the practitioner is appointed for a consecutive term.
- (b) Following completion of the probationary period, practitioners shall be subject to regular performance management and may only be terminated by the employer on the grounds of unsatisfactory service or redundancy.
- (3) Practitioners shall be provided with a job description stating the relevant duties and responsibilities of the position. As a guide, 80% of a practitioners duties shall be allocated to clinical duties (including teaching) and 20% of a practitioner's duties shall be allocated for non-clinical duties. "Non-clinical duties" means duties not directly associated with the diagnosis or management of a particular patient. They may include administration, attendance at departmental meetings, audit or other quality assurance activities.
- (4) There shall be no automatic right of reappointment upon expiry of a contract.
- (5) A practitioner who, upon expiry of a fixed term contract, is unsuccessful in seeking a new contract shall be paid a Contract Completion Payment equal to 10% of their final base salary, for each year of the contract, up to a maximum of 5 years. No other termination, redundancy or severance payment shall be made except as provided for in this Agreement.
- (6) A practitioner with permanent tenure shall not be required to convert to a fixed term contract but may agree to do so.
- (7) Subject to subclause (2) any contract of employment including a fixed term contract may be terminated by either the Employer or the practitioner giving not less than 3 months' notice.
- (8) In lieu of the giving of the required notice the Employer may pay, or the practitioner may forfeit, as the case may be, salary commensurate with the residual period of notice otherwise required. The Employer and the practitioner may agree to a lesser period of notice.
- (9) Notwithstanding the other provisions of this clause, the Employer may, without prior notice, dismiss a practitioner for refusal to obey lawful orders or for serious misconduct.
- (10) A practitioner who is dismissed may appeal to a Board of Reference if the application is made within one month of the operative date of the dismissal.

- (11) A practitioner whose contract of employment expires or is terminated shall be paid all monies due on the payday following the last day of employment.

22. MOBILITY

- (1) The Employer may, following consultation with the practitioners affected, require a practitioner to transfer from one site to another within that practitioners metropolitan health service and/or work across more than one site within that practitioners metropolitan health service on either a continuing or ad hoc basis.
- (2) In respect of any consultation about the deployment of practitioners pursuant to subclause (1) the needs of the employer and the practitioner should be appropriately balanced, taking into account:
- (a) The role of practitioners as clinical leaders in facilitating excellence.
 - (b) The importance of teamwork in maximising morale, commitment and efficiency.
 - (c) The need to strive to improve flexibility and standards of care across the health system.
 - (d) The availability of viable alternatives.
 - (e) The needs and potential effects on existing services.
 - (f) The needs and effects on the practitioner and their colleagues including:
 - (i) their expertise and professional interests,
 - (ii) the role of the practitioner and the effect on teaching, research and other practitioners,
 - (iii) their family and carer responsibilities, and
 - (iv) such other issues as are relevant in the circumstances.
 - (g) The primacy of service delivery obligations.
- (3) Temporary Deployment
- Practitioners may at the discretion of the Employer be deployed with reasonable notice on a temporary basis, for periods of up to 3 months on each occasion, to work at other sites within the greater Perth Metropolitan area. A practitioner so deployed shall be entitled to payment of the prescribed travelling allowance for any additional distance reasonably required to be travelled by the practitioner using their own means.
- (4) If a dispute arises in relation to the application of this Clause, the provisions of Clause 52 - Dispute Settling Procedures, may be invoked. In accordance with subclause 52(5), the status quo that existed prior to the dispute arising shall remain in place while such procedures are followed.
- (5) For the purposes of this clause
- (a) “greater Perth metropolitan area” encompasses all those facilities under the control of the Employer and excludes those facilities under the control of the WA Country Health Service.

- (b) “metropolitan health service” means:
- (i) North Metropolitan Area Health Service; or
 - (ii) South Metropolitan Area Health Service; or
 - (iii) Child & Adolescent Health Service, or
 - (iv) PathWest Laboratory Medicine WA.

as the context requires and encompasses all those facilities or functions, from time to time, under the administrative control of the health service irrespective of the location of those facilities or functions within the greater Perth metropolitan area.

- (6) If the administrative organisation of the metropolitan health services is changed during the life of the Agreement, any reference to an individual metropolitan area health service shall be read as if it were a reference to the reorganised administrative entity or entities as the context requires.

23. HOURS

- (1) Practitioners are engaged on a no-fixed hours basis consistent with professional practice and are rostered accordingly.
- (2) (a) The ordinary full time professional commitment is an average of 40 hours per week and shall be rostered in accordance with health service needs and may be rostered over less than five days per week.
- (b) The expected commitment to clinical service and teaching shall be 80% of the professional commitment.
- (c) Rostered on-call and call-back commitments are not included in the ordinary professional commitment.

24. SESSIONAL PRACTITIONERS

- (1) Sessional practitioners are part-time employees engaged for a specified number of sessions per week and are rostered accordingly.
- (2) (a) One session is equal to one tenth of a full-time professional commitment and can be a continuous working period or be made up of any combination of part sessions.
- (b) Sessions shall usually be worked on Monday to Friday between 8:00am and 6:00pm, but subject to the convenience of the practitioner and with the approval of the employer, a session or part of a session may be worked outside these hours without shift or weekend penalties applying. However, if a sessional practitioner is rostered to work sessions outside of those specified in this subclause, the shift or weekend penalties prescribed in Clause 32 – Shift Weekend and Public Holiday Penalties, shall apply.
- (3) The Employer shall not vary the number of sessions a practitioner is contracted to perform without the consent of the practitioner.
- (4) A practitioner shall not be engaged for more than 5 sessions per week in the WA Public Sector without the prior approval of the Director General of Health.
- (5) A sessional practitioner shall, unless otherwise indicated, receive on a pro rata basis the same pay and conditions as a full time practitioner.

- (6) The base sessional rate is derived by dividing the prescribed annual salary by 52.1666 and dividing the product by 10.
- (7) Private Practice Cost Allowance.
- (a) If a sessional practitioner has demonstrated the incurrence of private practice costs outside the hospital, the practitioner shall be paid a Private Practice Cost Allowance on each session, up to and including 5 sessions. The prescribed allowance is payable from the first pay period on or after the specified date:
- (i) 1-Apr-07 \$77.09
 - (ii) 1-Oct-07 \$79.40 and thereafter increased in line with general percentage salary adjustments contained in this Agreement as prescribed hereunder:
 - (iii) 1-Oct-08 \$81.79
 - (iv) 1-Oct-09 \$84.24
- (b) A sessional practitioner must demonstrate the incurrence of private practice costs annually.
- (c) A sessional practitioner who does not qualify for the Private Practice Cost Allowance shall be paid an allowance of 16% of the applicable base sessional rate unless the sessional practitioner is engaged under Arrangement A.
- (d) No Private Practice Cost Allowance is payable for sessions worked in excess of 5 per week provided that a sessional practitioner who was, immediately prior to the date of commencement of this Agreement, engaged for more than five (5) sessions per week and was paid the allowance shall continue to be paid the allowance on all sessions.
- (e) No Private Practice Cost Allowance is payable for sessions which attract any shift or weekend penalty payment specified in this Agreement.
- (8) Leave Entitlements.
- (a) A sessional practitioner shall be entitled to pro rata leave entitlements in the same ratio as the number of sessions allocated bears to 10. If during any qualifying period the number of sessions allocated to a sessional practitioner varies, the number shall be averaged over the qualifying period.
- (b) A sessional practitioner shall be entitled to paid public holidays in accordance with Clause 35 – Public Holidays if the public holidays occur on a day on which a session is normally worked. If a sessional practitioner is required to work on a public holiday the provisions of Clause 32(6) shall apply.
- 25. RADIOLOGISTS**
- (1) (a) Radiologists shall be remunerated by a combination of salary and piece rates as prescribed hereunder and shall undertake all radiological services to patients referred to them in tertiary hospitals.
- (b) Subject to this clause, Radiologists shall exercise rights of private practice under the same terms and conditions as other consultants engaged under Arrangement A.

(2) Definitions.

- (a) “Radiological Service” means a radiological item of service as described in the Schedule to the Health Insurance Act 1973.
- (b) “Baseline Earnings Pool” means the amount of money available for distribution each financial year to radiologists for 50% of all radiological services undertaken within the hospital
- (c) “Piece rate” means the monetary value attributed to a radiological service for the purposes of the piece rate remuneration provisions of this subclause.
- (d) “Session” means one tenth of a full-time professional commitment.

(3) Monetary value of piece rate as at the specified date:

- (a) 1-Apr-07 \$37.10
- (b) 1-Oct-07 \$38.21 and thereafter increased in line with general percentage salary adjustments contained in this Agreement as prescribed hereunder:
- (c) 1-Oct-08 \$39.36
- (d) 1-Oct-09 \$40.54

(4) Weighting of radiological services.

The employer and the Association may from time to time agree in writing on a weighting to be given to particular items of radiological service such that those items are counted as more than one item of radiological service for the purposes of both piece rate remuneration provisions of this subclause.

(5) Value of baseline earnings pool.

- (a) The value of the baseline earnings pool is calculated each financial year by multiplying 50% of the number of radiological services by the specified piece rate undertaken in the hospital during the 12 month period from 1 January 2006 to 31 December 2006.
- (b) Where the piece rate changes during the course of a particular financial year the respective amounts shall be applied pro-rata to determine the value of the baseline earnings pool for that financial year.

(6) Remuneration by way of salary and allowances.

- (a) A Radiologist shall be paid at the applicable base salary, for 50% of the number of sessions for which the radiologist is engaged. These payments are for 50% of all radiological services undertaken within the hospital.
- (b) A Radiologist shall be paid pro rata the Arrangement A Professional Development and Expenses Allowance for the total number of sessions for which the radiologist is engaged.
- (c) A Radiologist shall be paid pro rata 100% of the Arrangement A Private Practice Income Allowance for the total number of sessions for which the Radiologist is engaged.

(d) Private Practice Cost Allowance

- (i) If a part-time Radiologist has demonstrated the incurrence of private practice costs outside the hospital, the practitioner shall be paid a Private Practice Cost Allowance on each session, up to and including 5 sessions. The prescribed allowance is payable from the first pay period on or after the specified date:
 - (aa) 1-Apr-07 \$77.09
 - (ab) 1-Oct-07 \$79.40 and thereafter increased in line with general percentage salary adjustments contained in this Agreement as prescribed hereunder:
 - (ac) 1-Oct-08 \$81.79
 - (ad) 1-Oct-09 \$84.24
- (ii) A Radiologist must demonstrate the incurrence of private practice costs annually.
- (iii) No private practice cost allowance is payable for sessions which attract any shift or weekend penalty payment specified in this Agreement.

(7) Remuneration by way of piece rate.

- (a) Radiologists shall be paid piece rates from the baseline earnings pool for 50% of the radiological services undertaken within the hospital.
- (b) The employer shall pay each month one twelfth of the value of the baseline earnings pool into an account administered by a private accounting service appointed, subject to the employers agreement, by the radiologists employed at the hospital pursuant to this subclause. The cost of the private accounting service shall be bourn by the radiologists.
- (c) The private accounting service shall act as agent for the employer in:
 - (i) Distributing the monthly payments to the radiologists in whatever proportion is agreed between the Employer and the radiologists. In the absence of any such agreement the disbursement shall be in the same proportion as the number of sessions each radiologist works during that month bears to the sum of all the sessions for which radiologists worked within the hospital during that month.
 - (ii) Withholding the relevant taxation from the distributed payments in accordance with Australian Taxation Office requirements.
- (d) If the employer and the radiologists do not agree on the appointment or reappointment of a private accounting service the monthly payments shall be paid directly by the employer and the associated accounting costs shall be bourn by the employer.

(8) Additional piece rate remuneration if actual activity in any financial year exceeds certain limits.

- (a) As soon as reasonably practicable after the end of each financial year the employer shall calculate what the value of the baseline earnings pool would have been if it had been calculated on the basis of actual radiological service activity during that financial year.
- (b) If the value derived under (a) above is greater than the previously established value of the baseline earnings pool, the employer shall top up the baseline earnings pool for that financial year by the difference between the two amounts.
- (c) This provision does not apply if the actual number of radiological services undertaken during a financial year falls below 90% of the number of radiological services undertaken in the hospital during the 12 month period from 1 January 2006 to 31 December 2006.

(9) Minimum staffing levels.

The number of sessions for which radiologists are employed to provide radiological services each financial year shall be determined in each tertiary hospital by dividing the number of radiological services undertaken in the previous financial year by one thousand.

(10) Head of Department Allowance.

- (a) A Head of the Department of Radiology shall be paid for two additional sessions at the base salary rate.
- (b) A Deputy Head of the Department of Radiology, if appointed, shall be paid for one additional session per week at the base salary rate.
- (c) Notwithstanding (a) and (b) above, the total number of sessions for which payment is made shall not exceed ten sessions per week in any circumstances.
- (d) The allowances may be reduced by agreement between the Association and the employer.

(11) For the purpose of superannuation contributions made by the employer, the salary of a radiologist shall be calculated as if the radiologist was paid at the salary rates prescribed for all the sessions worked.

(12) Notwithstanding any other provision of this Agreement, a Radiologist may elect to be engaged under a standard full-time Arrangement A contract. A Radiologist so engaged shall not be entitled to any piece rate payments and the work undertaken by the radiologist shall not be counted for such purposes.

(13) Notwithstanding this subclause, the employer and the Association may agree in writing to other arrangements for payment for radiological services.

26. PART TIME PRACTITIONERS

- (1) Part time practitioners are to be engaged on a 0.80 full time equivalent basis.
- (2) A part time practitioner shall, unless otherwise indicated, receive on a pro rata basis equivalent pay and conditions to those of an equivalent full time practitioner.

27. SALARIES

- (1) Full time practitioners shall be paid the relevant annual salary prescribed in Schedule 1.
- (2) Salary/payment levels apply as follows:

- (a) Health Service Medical Practitioner 14 - 16
- (b) Vocationally Registered General Practitioner 14 - 18
- (c) Non Specialist Qualified Medical Administrator 14 - 18
- (d) Senior Medical Practitioner 16 - 18
- (e) Consultant 16 - 24
- (3) (a) Subject to subclause (3)(b), practitioners shall be placed within the relevant classification range according to years of relevant experience.
- (b) Where a salary rate prescribed as at 1 October 2007 is below that which was applicable to the practitioner immediately prior to that date, the practitioner shall be placed at the next salary point within the applicable classification range but shall not progress to the next step until twelve months have elapsed.
- (c) Subject to subclause (3)(b), a practitioner shall progress through the applicable salary range by annual increments on their anniversary date subject to satisfactory performance.
- (4) (a) A Consultant shall be appointed at a salary within the range of levels 16 - 24, on the basis of years of experience gained in recognised specialist positions in Western Australia or elsewhere, recognised by the Employer.
- (b) A Vocationally Registered General Practitioner who ceases to maintain Vocationally Registered Status under the Health Insurance Act 1973 shall thereafter be classified as a Health Service Medical Practitioner or Senior Medical Practitioner as appropriate.
- (5) Head of Department Allowance
- (a) A practitioner, other than a Radiologist, appointed as a Head of Department in a hospital, shall be paid the following allowance:

No. of FTEs under direct supervision and control	Annual Rate 1-Apr-07	Annual Rate 1-Oct-07	Annual Rate 1-Oct-08	Annual Rate 1-Oct-09
0-4	\$3,236	\$3,333	\$3,433	\$3,536
5-9	\$5,752	\$5,925	\$6,103	\$6,286
10-20	\$10,605	\$10,923	\$11,251	\$11,588
Over 20	\$17,076	\$17,859	\$18,116	\$18,660

or an amount agreed in writing between the Employer and practitioner. The allowance is to be paid for service management responsibilities and administrative work performed in addition to the practitioner's clinical caseload and teaching and/or research responsibilities.

A practitioner with responsibilities for a number of Departments appointed as a Clinical Services Unit Director or equivalent, shall receive additional remuneration / benefits in accordance with terms mutually agreed in writing between the practitioner and the Employer.

- (b) For the purpose of this subclause, "No. of FTEs under direct supervision and control" shall mean:

- (i) immediate secretary reporting directly to, and performance managed by, the Head of Department;
- (ii) medical staff reporting to, and performance managed by, the Head of Department;
- (iii) chief technical staff under the direct control and supervision of, and performance managed by, the Head of Department;

measured on a full time equivalent basis.

- (c) A Head of Department shall be required to manage their Department's leave entitlements as a condition of receiving the allowance.
- (d) The Head of Department Allowance rates prescribed reflect adjustments in accordance with the general percentage salary adjustments contained in this Agreement.

(6) Psychiatrists

- (a) The psychiatrists allowance of 15% of base salary prescribed under the industrial agreement replaced by this industrial agreement shall be struck as a fixed rate, as at the date of commencement, and shall be continue to be paid at that rate until 30 September 2008.
- (b) A consultant psychiatrists who was, immediately prior to the commencement of this Agreement, provided with up to one and a half days paid time or three sessions per week for agreed special research interests, shall continue on those arrangements for the term of their current contract of employment.

(8) Deferred Salary Scheme for 12 Months

Practitioners shall have access to the 4/5 pay option whereby they work for four years at 80% pay and then take one year off at 80% pay in accordance with the relevant Department of Health policy and the following:

- (a) By written agreement between the Employer and practitioner, a practitioner may be paid 80% of their normal pay under this Agreement and or any replacement agreement over a 5 year period. The fifth year shall then be taken as leave with pay with the accrued pay annualised over the year. The fifth year shall be treated as continuous service. The leave may not be accrued unless the Employer agrees.
- (b) In deciding whether to support a particular request for this arrangement, the Employer shall take into account factors such as operational requirements. To satisfy operational requirements, the number of practitioners allowed to work under this arrangement may be restricted at any one time and/or the timing of the arrangements may need to be staggered.
- (c) A practitioner may withdraw from this arrangement in writing. They would then receive a lump sum equal to the accrued credit, paid at a time agreed between the Employer and practitioner but not more than 3 months from the time of the practitioner's withdrawal from the arrangement.
- (d) Any paid leave taken during the first four years of the arrangements shall be paid at 80% of the practitioner's normal salary.

- (e) It is the responsibility of the practitioner to investigate and/or address the impact of any of the arrangements under this sub clause on their superannuation or taxation.
- (9) The rates and allowances prescribed in this clause shall be paid pro rata fortnightly.
- (10) (a) Subject to subclause (10)(b), where this Agreement provides for a payment at an hourly rate, the hourly rate is established by dividing the prescribed ordinary salary by 52.1666 and dividing the product by 40.
- (b) The parties shall agree in writing to the preservation of hourly rates, prescribed under the previous Industrial Agreement for certain penalties and allowances paid at hourly rates, for the purposes of ensuring no disadvantage arises as result of the introduction of the 40 hour divisor.
- (c) These rates may be reviewed by the parties in the event that employment practices change. This may include consideration of piece rates.

(11) Payment Details

Practitioners shall be provided with access to their fortnightly details of:

- (a) Ordinary hours paid
- (b) Overtime hours paid
- (c) Penalty rates paid
- (d) Allowances paid
- (e) Leave entitlements paid

The Employer shall provide practitioners with a satisfactory explanation of such details.

28. PRIVATE PRACTICE GENERALLY

- (1) "Private Practice" means those services provided, in or using the hospital's facilities, and for which fees are charged by or on behalf of the practitioner.
- (2) The Employer shall normally grant rights of private practice to practitioners, provided that the Employer may at any time grant, refuse to grant or withdraw any right of private practice.
- (3) A disagreement relating to the Employer's decision to refuse to grant or withdraw any right of private practice may be referred to a Board of Reference.
- (4) The Minister for Health may from time to time prescribe the terms and conditions, including the payment of charges, under which facilities shall be made available to practitioners for the purposes of engaging in private practice within any public teaching hospital or in any other public sector health care facility. It is a condition of the granting right of private practice that practitioners comply with any such terms and conditions.
- (5) A Practitioner shall, to the fullest extent permissible by law, exercise rights of private practice in any public teaching hospital or in any other public sector health care facility in which the practitioner works.
- (6) The hospital shall provide to the practitioner a copy of the Patient Election form for those private patients admitted under the care of the practitioner.

- (7) A Practitioner who does not comply with the terms and conditions under which facilities are made available to the Practitioner for the purposes of engaging in private practice forfeits the ability to exercise rights of private practice.
- (8) If the Employer determines that a Practitioner is not exercising rights of private practice to the fullest extent permissible by law, the Practitioner forfeits the ability to exercise rights of private practice.
- (9) If a dispute arises in relation to the application of this Clause, the provisions of Clause 52 - Dispute Settling Procedures, may be invoked. In accordance with subclause 52(5), the status quo that existed prior to the dispute arising shall remain in place while such procedures are followed.
- (10) Nothing in this Agreement precludes the Employer and a Practitioner from agreeing in writing on other arrangements to regulate rights of private practice.
- (11) Use of Hospital Facilities

Practitioners granted rights of private practice, except practitioners under Arrangement A, shall contribute a percentage of net earnings from private practice within the hospital for the use of hospital facilities as follows:

EMG	50%
Radiation Oncology	50%
Pathology	50%
Nuclear Medicine	50%
Ultrasound (except if done in a Radiology Department)	50%
Pulmonary Physiology	50%
Audiology	50%
EEG	50%

- (12) Notwithstanding the provisions of this Agreement, the Employer and Association may agree in writing on other arrangements to govern the exercise of rights of private practice.

29. PRIVATE PRACTICE ARRANGEMENT A

- (1) A Practitioner may elect to relinquish all private practice income retention rights and other entitlements in respect of private practice rights exercised in any capacity in any teaching hospital or in any other public sector health care facility and assign such private practice income to the Employer. An election made pursuant to this sub clause shall not be varied other than by subsequent written agreement.
- (2) A Practitioner who assigns to the Employer private practice income generated from all work, whether publicly or privately funded, carried out on behalf of the Employer shall:
- be paid the applicable Private Practice Income Allowance;
 - authorise the employer to render accounts in the Practitioner's name; and
 - on each occasion the opportunity to exercise private practice rights arises, assess the fee to be charged and advise the Employer so that an account can be rendered by the Employer.
- (3) The employer in acting as agent for a practitioner shall ensure that no account is rendered which could place the practitioner in breach of the Health Insurance Act 1973 (Cwth). The employer shall, if requested, provide to the practitioner on a quarterly basis a statement detailing total amount of accounts rendered and amounts collected (exclusive of GST) in the practitioner's name.

- (4) Practitioners engaged under Arrangement A shall receive the following annual Private Practice Income Allowance payable pro rata fortnightly from first pay period on or after the dates specified.

	1-Jul-07 \$	1-Oct-07 \$	1-Oct-08 \$	1-Oct-09 \$
Consultant	43,629	49,510	71,394	84,041
Health Service Medical Practitioner	33,511	34,516	48,322	56,882
Non Specialist Qualified Medical Administrator	37,396	37,396	53,275	62,713
Snr Medical Practitioner	37,396	37,396	53,275	62,713
Medical Administrator	43,629	49,510	71,394	84,041
Vocationally Registered General Practitioner	37,396	37,396	53,275	62,713

30. PRIVATE PRACTICE - ARRANGEMENT B

- (1) A Practitioner may elect, with the written agreement of the Employer, to retain all the practitioners own private practice income generated in any public teaching hospital or in any other public sector health care facility under the control of the Employer. An election made pursuant to this sub clause shall not be varied other than by subsequent written agreement.
- (2) A Practitioner who elects to retain all private practice income shall:
- (a) take personal responsibility for billing private patients seen in the course of duty;
 - (b) pay any facilities charge according to such terms and conditions as are determined from time to time by the Minister; and
 - (c) account for private practice billings as prescribed hereunder.
- (3) Definitions
- (a) "Salary" for the purpose of this clause means the practitioner's annual base salary at the end of the financial year in question, as prescribed in this Agreement and any Head of Department allowance.
 - (b) "Nett earnings" for the purpose of this clause means the total amount received (exclusive of GST) by the practitioner from private practice within the hospital after the practitioner deducts an allowance of 17½% of private practice receipts for administration costs (exclusive of GST) and the proportion of the practitioner's total medical defence premium (exclusive of GST) relating to private practice within the hospital for the financial year in question. To avoid doubt the medical defence premium which may be deducted is the amount which the practitioner pays or would have paid if the practitioners private practice was undertaken exclusively within the hospital
- (4) Distribution of Nett Earnings after Deduction of Facility Charges
- (a) A practitioner under Arrangement B may, after the deduction of facility charges, retain from nett earnings from private practice within the hospital up to an amount equal to 25% of the practitioner's salary.
 - (b) In the case of practitioners, who are not Pathologists, or Nuclear Physicians, fees received from private practice within the hospital, in excess of the amount authorised under paragraph (a), shall be distributed as follows:

- (i) 50% to an approved special purpose account for hospital / departmental purposes; (exclusive of GST)
- (ii) the remainder to be retained by the practitioner.
- (c) In the case of Pathologists and Nuclear Physicians, fees received from private practice within the hospital, in excess of the amount authorised under paragraph (a), shall be distributed as follows:
- (i) 65% to an approved special purpose account for hospital / departmental purposes (exclusive of GST); and,
- (ii) the remainder equally among the Pathologists and Nuclear Physicians.
- (d) Notwithstanding paragraph (c) the Employer may, by agreement with the Pathologists or Nuclear Physicians, make other arrangements for the distribution of funds received from private practice in excess of the amount authorised under paragraph (a).
- (e) The distribution of funds to an approved Special Purpose Account under paragraphs (b), (c) or (d) and the GST applicable shall be made on receipt of a Tax Invoice from the hospital.
- (5) Statement of Earnings to be Provided
- (a) The practitioner shall provide to the hospital by 30 September each year a statement for the year to 30 June prepared and certified by a Certified Practising Accountant or Chartered Accountant in the following form together with cheques for the amounts to be paid to the hospital and into the approved special purpose account respectively:
- (i) Total amount of accounts (exclusive of GST) rendered during the year \$_____
- (ii) Total amount of accounts (exclusive of GST) collected \$_____
- (iii) Less:
- (A) 17½% (exclusive of GST) for administration and collection costs \$_____
- (B) Medical defence premium (exclusive of GST) for the year in question \$_____
- (iv) NETT amount for distribution in the following order: \$_____
- (A) To the hospital – payment (exclusive of GST) for the use of hospital facilities \$_____
- (B) Retained by the practitioner being up to an amount equal to 16% or 25% of the practitioner's salary as the case requires \$_____
- (C) To approved Special Purpose Account (exclusive of GST) for hospital / departmental purposes \$_____

(D) To the practitioner (exclusive of GST) \$

(b) The practitioner shall include the following certification at the end of the statement:

"I certify that all monies due to the hospital have been accounted for."

..... Signature

..... Date

(c) Example of Statement of Earnings to be Provided (example assumes all accounts rendered are for services for which a facilities fee is payable, in practice they may apply to none or only a proportion of services provided).

(i) Total amount (exclusive of GST) of accounts
Rendered for the year ended 30 June XX \$100,000

(ii) Total amount (exclusive of GST) of accounts collected \$ 80,000

LESS

(iii) (A) 17.5% for admin and collection costs \$ 14,000

(B) Medical Defence Premium (exclusive of GST)
for the year in question \$ 10,000*

* The relevant premium to deduct in the case of a member of MDA National is that applicable to the income band the practitioner's public hospital private practice income falls into. Where private practice income outside of the hospital results in the practitioner's total private practice income attracting a higher premium, only the subscription the practitioner would have paid relevant to income derived from private practice at the hospital, may be deducted. In this example the total premium paid by the practitioner was \$15,000 however only \$10,000 of this related to private practice at the public hospital.

NETT amount for distribution in the following order: \$ 56,000

(iv) (A) To the hospital – payment (exclusive of GST)
for the use of hospital facilities \$ 28,000

(B) Retained by the practitioner - being up to an amount
equal to 25% of the practitioner's salary
(exclusive of GST) \$ 18,000

(C) To approved Special Purpose Account (exclusive
of GST) for hospital/departmental purposes \$ 5,000

(D) Retained by the practitioner (exclusive of GST) \$ 5,000

(v) From the Statement, payments to be made by the practitioner to the hospital
(tax invoice to be provided by the hospital):-

(A) Use of facilities \$28,000 plus \$2800 GST \$30,800

(B)	To approved Special Purpose Account	\$5,000 plus \$500 GST	\$5,500
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- (d) The Employer and practitioner may agree in writing that the amount payable to an approved special purpose account for hospital/departmental purposes shall be paid on a quarterly basis in which case uncertified quarterly statements in the above general form shall be provided. Any end-of-year adjustment shall be made by payment accompanying the certified annual statement.
- (e) A practitioner who does not comply with the provisions of this subclause may have the right to render accounts directly to private patients withdrawn and the Employer may direct that the hospital act as the agent in the rendering of accounts.
- (f) For taxation purposes the earning of private practice income through the election of Arrangement B is deemed an enterprise and it is mandatory for the medical practitioner to obtain an Australian Business Number and be registered for GST purposes if the turnover exceeds \$50,000 per annum. A medical practitioner who has entered into a Recipient Created Tax Invoice arrangement with the hospital must inform the hospital if the GST registration is cancelled as GST does not apply to the transaction once registration is cancelled.
- (g) A medical practitioner who has obtained an ABN but is not registered for GST is entitled to claim the GST inclusive value of the Medical Defence Premium from the hospital.
- (h) In instances where the hospital acts as an agent in the rendering of accounts, GST is applicable to the 17.5% administration and collection costs fee when it is paid to the hospital.
- (6) A practitioner may ask the hospital to act as agent in rendering accounts to private patients after the practitioner has assessed the fee for services. In such cases the 17½% for administration and collection costs shall be retained by the hospital.
- (7) (a) If individual or agreed group contributions are insufficient to permit drawings of 16% of the practitioner's annual salary, payment shall be made up to 16% of the salary from the monies which would otherwise have been appropriated as facility charges.
- In such circumstances payment to the 16% of salary level shall be made once each year (for the financial year ended 30 June) following receipt of a certified statement from the practitioner to the hospital in accordance with subclause (4).
- (b) If individual or agreed group contributions are sufficient to permit drawings of 16% but less than 25% of the practitioner's salary, payment shall be made up to 25% of salary from the monies which would otherwise have been appropriated as facility charges.
- In such circumstances payment to the 25% of salary level shall be made once each year for the financial year ended 30 June following receipt of a certified statement from the practitioner to the hospital in accordance with subclause (4).
- (c) In no case shall the Employer be liable to pay, in respect of any hospital, more than the total amount that hospital received in that financial year as facility charges.

- (8) Amounts paid to practitioners under this Arrangement shall not be regarded as salary for the purpose of calculating superannuation entitlements nor for the purpose of any other entitlement under this Agreement.

31. PROFESSIONAL DEVELOPMENT

(1) Conference Leave

- (a) A practitioner shall be entitled up to a maximum of 2 weeks paid conference leave, during each year of continuous service. Part time and sessional practitioners shall receive a pro rata entitlement according to their contracted number of hours/sessions.
- (b) This leave shall not accumulate for more than two years. If the whole or part of this leave is not taken the entitlement to untaken leave shall lapse unless deferred by agreement between the practitioner and the Employer.

(2) Overseas Study Leave

- (a) A practitioner shall be entitled to an additional 5 weeks paid leave after each five years continuous service for the purpose of overseas training, education and study.
- (b) The taking of overseas study leave may be deferred by mutual agreement, but no practitioner shall be allowed to take accumulated leave in excess of 10 weeks in any one period.
- (c) Overseas study leave may be taken wholly or partly within Australia by agreement between the Employer and practitioner.
- (d) A practitioner may apply to take overseas study leave in advance, but if their employment is terminated before the end of the qualifying period they shall repay the Employer the value of the leave and the funding source any other amounts received. The Employer may deduct the amount determined by the funding source as repayable and repay the funding source from money due to the practitioner by reason of the other provisions of this Agreement at the time of termination. The funding source may waive all or part of the amount repayable.
- (3) Practitioners shall endeavour to give a minimum of 6 weeks notice but in any event shall give a minimum of 4 weeks notice when applying for conference leave, and 3 months notice when applying for overseas study leave. The period of notice may be shortened by agreement between the Employer and practitioner. The leave is to be taken at a mutually convenient time and the Employer shall not unreasonably refuse an application for leave that has been properly made.
- (4) The granting of conference and/or overseas study leave is conditional on the leave being used for professional development and the hospital being satisfied that the proposed conference or course of study is relevant to, and of shall benefit to, the hospital. Practitioners taking professional development leave must prepare a written report for their peers and the Hospital.
- (5) Unless otherwise agreed, not more than 50% of medical staff of any specialty or department are to be absent at any one time on Professional Development Leave. Every effort shall be made to ensure appropriate services are provided when staff are absent for the purposes of Professional Development.

(6) Subject to this clause, conference and overseas study leave benefits are not available as monetary payments in lieu.

(7) Professional Development and Expenses Allowance

Practitioners engaged under Arrangement A or as a sessional practitioner shall receive the following annual Professional Development and Expenses Allowance payable pro rata fortnightly from the first pay period on or after the dates specified

- (a) 1-Apr-07 \$20,000
- (b) 1-Oct-07 \$20,600 and thereafter increased in line with general percentage salary adjustments contained in this Agreement as prescribed hereunder:
- (c) 1-Oct-08 \$21,218
- (d) 1-Oct-09 \$21,855

- (8) (a) A practitioner who, at the time of the commencement of this Agreement was entitled to apply to a teaching hospital clinical staff education fund for funding of any form of accrued or pro rata professional development leave prescribed under this Agreement, shall retain the entitlement to apply for funding notwithstanding that under this Agreement the Professional Development and Expense Allowance for service after 1 April 2007 is paid.
- (b) A practitioner is not entitled to payment from more than one source for the same entitlement. The proscription does not apply to funding from other than hospital funds.
- (c) The rules which apply to administration of the teaching hospital clinical staff education fund shall be applied as if the practitioner had elected Arrangement B with respect to entitlements accrued prior to the commencement of this Agreement. This provision also applies with respect to prior service contributing to entitlements yet to be accrued, on a pro rata basis.

(9) Arrangement B Funding for Conference and Overseas Study Leave

- (a) Practitioners shall be eligible to apply for funding from the Special Purposes Account for payment in respect of each period of conference or overseas study leave, reasonable travel, registration and accommodation expenses in accordance with this clause for:
- (i) the actual cost of air fares up to a maximum of Business Class rates; with a maximum of two air fares paid in respect of each completed five years' continuous service where overseas study leave is taken in broken periods with the Employer's permission; and
 - (ii) a travelling allowance as follows:
 - (A) the actual cost of reasonable accommodation and expenses upon production of receipts; or
 - (B) an alternative system of payment agreed between the Employer and the practitioner.

- (iii) A part time practitioner shall be paid the amount specified in paragraph (i) and 80% of the amount specified in paragraph (ii).
- (iv) Fares and expenses associated with leave under this clause shall be paid only in accordance with the policy governing the administration of the Special Purposes Account. The Employer shall in no way be liable for payment of fares and expenses for practitioners under Arrangement B.

(10) Arrangement B Professional Expenses Allowance

A practitioner engaged under Arrangement B shall be paid, pro rata fortnightly, a Professional Expenses Allowance of 3% of the base salary for Level 21.

31A. STAFFING

- (1) Medical staffing levels shall be determined by the employer, having regard to contemporary benchmarking and best practice parameters.
- (2) Where a practitioner:
 - (a) resigns, is terminated, transfers or otherwise vacates a position; and
 - (b) the employer determines that the position will be filled,

action to fill the vacancy shall be commenced, in consultation with the Head of Department, as soon as reasonably practicable.

PART 4 - GENERAL PROVISIONS

32. SHIFT, WEEKEND AND PUBLIC HOLIDAY PENALTIES

- (1) If there is a demonstrated need determined by the Director of Medical Services or appointed Senior Medical Practitioner in consultation with the Head of Department (or where there is no Head of Department, with the Chairman of the Medical Advisory Committee) the Employer may require a practitioner to work shiftwork.
- (2) Hours worked between 6pm and 12 midnight on any weekday shall be paid at the rate of 120%.
- (3) Hours worked between 12 midnight and 8am on any weekday shall be paid at the rate of 125%.
- (4) Hours worked on a Saturday shall be paid at the rate of 150%.
- (5) Hours worked between midnight Saturday and 8am Monday shall be paid at the rate of 175%.
- (6) Hours worked between midnight at the commencement of a public holiday and 8am on the day after a public holiday shall be paid at:
 - (a) the rate of 250%;
 - (b) if the Employer and practitioner agree, the rate of 150% and in addition the practitioner shall be allowed to observe the holiday on a day acceptable to the Employer and the practitioner, but no more than five days may be accumulated at any one time.

33. ON CALL AND CALL BACK

- (1) On Call

- (a) For the purposes of this Agreement a practitioner is on call when the practitioner is rostered by the Employer to remain readily contactable and available to return to work outside of the practitioner's normal hours of duty.
- (b)
 - (i) Practitioners shall be rostered on call in accordance with clinical need by the Director of Medical Services or appointed Senior Medical Practitioner in consultation with the Head of the Department or if there is no Head of Department, the Chairman of the Medical Advisory Committee.
 - (ii) No practitioner shall be required to be on call more frequently than one day in three. However, with the written agreement of the Association, or in an emergency, an on call roster of more than one in three may be agreed.
- (c)
 - (i) A practitioner employed at or below Level 13 rostered on call shall be paid an hourly allowance of 18.75% of the ordinary base hourly rate prescribed for a Level 5 Practitioner.
 - (ii) A practitioner employed at or above level 13 (whether full time, part time or sessional) rostered on call shall be paid an hourly allowance of 18.75% of the ordinary base hourly rate prescribed for a Level 20 practitioner.
 - (iii) Payment in accordance with this sub clause shall not be made with respect to any period for which a practitioner receives payment for a call back in accordance with subclause (2) below.
- (d) Annualised payments.
 - (i) If an agreement between the Employer and all practitioners concerned is reached, the relevant on call payment may be annualised and paid fortnightly. There must be no additional cost to the Employer as a result.
 - (ii) The Employer or practitioners may, by giving four weeks written notice, withdraw from such an annualised payment system.

(e) Responsibilities of Practitioners Rostered On Call

Practitioners rostered on call must be available for consultation and recall to the Hospital/Health Service. The onus lies on the practitioner, once they are rostered to either negotiate with their peers about altering the roster, or to cover the work themselves. The onus on finding practitioners to cover the roster once the roster has been determined, should not fall back to the manager of the service, but should be borne by the particular practitioner rostered if they wish to change the roster and shall not result in additional cost to the employer. This requirement does not apply in the event of sickness or personal emergency, however the practitioner is required to notify the manager of their absence as soon as possible.

- (f) Where practicable on call rosters shall be posted at least 14 days in advance.

(2) Call Back

- (a) A practitioner recalled to work shall be paid a minimum of three hours for a call back as follows:
 - (i) for work on any day between 6.00am and midnight at the rate of 150%,

- (ii) for work on Sunday between 6.00am and midnight at the rate of 175%
 - (iii) for work on any day between midnight and 6.00am at the rate of 200%.
- (b) The practitioner shall not be obliged to work for three hours if the work for which they are recalled is completed in less time, provided that if the practitioner is called out and recommences work within three hours of starting work on a previous recall the practitioner shall not be entitled to a further minimum three hour payment.
- (c) If the call back period exceeds three hours, the practitioner shall be paid at the rate of 200% for each additional hour.
- (d) If a practitioner is recalled to work, payment for the call back shall commence from:
- (i) In the case of a practitioner who is on call, from the time the practitioner starts work;
 - (ii) In the case of a practitioner who is not on call, the time the practitioner embarks on the journey to attend the call. Provided that if a practitioner is recalled within two hours prior to commencing normal duty, any time spent in travelling to work shall not be included with actual duty performed for the purpose of determining payment under this sub clause.

Subject to the minimum three hours payment, payment for the call back shall cease when the work is completed or when the practitioner commences normal duty, whichever occurs first.

- (3) A practitioner who is required to use their motor vehicle when recalled to work shall be reimbursed all expenses incurred in accordance with the provisions of Schedule 2 .
- (4) A practitioner who is required to use their telephone after being contacted by the employer shall be reimbursed reasonable expenses for the cost of calls on application and presentation of satisfactory evidence that the call costs were incurred.
- (5) Notwithstanding the provisions of this clause, if the Employer and the Association agree, other arrangements may be made for compensation of on call and call back.

34. ANNUAL LEAVE

- (1) Practitioners shall be entitled to 20 days annual leave on full pay after each year of continuous service. The entitlement accrues pro rata on a weekly basis.
- (2) A practitioner regularly required to work on call shall receive up to an extra five days leave during a qualifying period of employment for annual leave in accordance with the following formula:

No of 4 week cycles on call	No of additional days leave
4	1
6	2
8	3
10	4
12	5

Provided that:

- (a) They are rostered on call:
 - (i) during weekend days or public holidays; or

- (ii) on days that they are not rostered for duty; and
 - (b) They are rostered on a minimum of two days per 4 week Cycle.
- (3) Practitioners who are rostered to work their ordinary hours on Sundays and/or public holidays during a qualifying period of employment for annual leave shall be entitled to receive additional annual leave as follows -
 - (a) If 35 ordinary shifts on such days have been worked – five days
 - (b) If less than 35 ordinary shifts on such days have been worked the practitioner shall be entitled to have one additional day's leave for each seven ordinary shifts so worked, however the maximum additional leave shall not exceed five working days.
- (4) Provided that a practitioner who is entitled to additional leave in accordance with subclause (2) and (3) above, the maximum combined entitlement shall be 5 additional days leave during a qualifying period of employment.
- (5) A practitioner who during a qualifying period towards an entitlement of annual leave was employed on a part time or sessional basis may elect to take a lesser period of annual leave calculated by converting the part time or sessional service to equivalent full time service.
- (6) The annual leave prescribed in this clause may be split into portions, and may be taken in periods of one day or less, by agreement between the Employer and the practitioner.
- (7) Accrued annual leave may, by agreement between the Employer and practitioner, be taken before the completion of 52 weeks continuous service.
- (8) Annual leave may also, by agreement between the Employer and practitioner, be taken in advance of it having accrued. In such a case the advance payment shall be offset against any future leave accrual or against monies otherwise payable to the practitioner on termination. No refund is required in the event of the death of the practitioner.
- (9) All annual leave taken shall be at the rate of salary applicable at the time of taking such leave.
- (10) When the convenience of the hospital is served, the Employer may approve the deferment of the commencing date for taking annual leave, but such approval shall only remain in force for one year. The Employer may renew the approval for a further period of a year or further periods of a year. If, as a result, the practitioner accumulates more than three years entitlement, the Employer may impose conditions on the taking of the leave.
- (11) The Employer undertakes to ensure adequate staffing levels to enable practitioners to take their accrued annual leave. The Employer shall confirm in writing when a practitioners annual leave entitlement may be taken within two weeks of receipt of the practitioner's written application for leave.
- (12) Annual Leave Loading has been annualised into the base salary.
- (13) Practitioners upon request shall receive their ordinary pay and any allowances due to them for the period of their annual leave prior to going on such annual leave.

- (14) (a) If a practitioner lawfully leaves their employment, or their employment is terminated by the Employer through no fault of the practitioner, before the practitioner has taken annual leave to which they are entitled, the practitioner is to be paid for the untaken leave.
- (b) If any practitioner leaves their employment, or their employment is terminated by the Employer, in circumstances other than those referred to in paragraph (a), before the practitioner has taken annual leave to which they are entitled, the practitioner is only to be paid for any untaken leave that relates to a completed year of service.
- (c) Payment in lieu of any untaken annual leave shall be made on the death of a practitioner.
- (15) In the case of a practitioner transferring from one hospital to another hospital the annual leave entitlement shall be transferred.
- (16) A practitioner who has accrued more than four weeks annual leave may by written agreement with the Employer cash out some or all of the excess.
- (17) Annual Leave Options
- (a) To exercise one or more of the options specified in this subclause, a practitioner must make written application in the manner prescribed by the Employer.
- (b) (i) At the request of a practitioner, the Employer may agree to an arrangement ('the arrangement') whereby the practitioner accrues either 1 (51/52), 2 (50/52), 3 (49/52) or 4 (48/52) weeks additional annual leave in lieu of salary of the equivalent value. Both the agreement to the arrangement and the time at which the additional leave is taken shall be dependent on the operational requirements of the Department where the practitioner works at the particular time.
- (ii) Unless otherwise agreed between the practitioner and the Employer, a practitioner who enters into an arrangement under this subclause does so in blocks of 12 months. Further, it shall be assumed that, a practitioner having entered into the arrangement shall be continuing from year to year unless the Employer is otherwise notified in writing by the practitioner.
- (c) For the purposes of this subclause and without limiting the meaning of the term 'operational requirements' may include:
- (i) the availability of suitable leave cover, if required;
- (ii) the cost implications;
- (iii) the impact on patient care;
- (iv) the impact on the work of other practitioners.
- (d) the portion of the practitioner's salary to be forfeited shall be calculated as a fortnightly amount and their fortnightly salary shall be decreased by that amount for the duration of the arrangement.
- (e) All annual leave taken during the course of the arrangement shall be paid at the reduced rate.

- (f) The additional annual leave shall continue to accrue while the practitioner is on leave during the course of the arrangement.
- (g) The reduced salary shall be used for all purposes during the course of the arrangement, apart from calculating contributions to superannuation.
- (h) Subject to operational requirements as defined in this subclause and with the agreement of the Employer, a practitioner may elect to take twice the period of any portion of their annual leave at half pay.
- (i) Unless otherwise agreed by the Employer, arrangements under subclauses (j) and (k) shall be for periods of 12 months.
- (j) If at the commencement of each 12 month block of this arrangement a practitioner has a minimum of four weeks of annual leave available to be taken in that year, the practitioner may opt to forfeit the accrual of 1 or 2 weeks annual leave in favour of receiving additional salary to the equivalent value of the leave that has been forfeited ('the arrangement').
- (k) The increased salary shall be used for all purposes during the course of the arrangement, apart from calculating contributions to superannuation.

35. PUBLIC HOLIDAYS

- (1) The following days shall be regarded as public holidays for the purpose of this Agreement and shall be granted to full time practitioners:
New Year's Day, Australia Day, Labour Day, Good Friday, Easter Monday, Anzac Day, Foundation Day, Sovereign's Birthday, Christmas Day, Boxing Day.
- (2) When a public holiday falls on a Saturday or Sunday the holiday shall be observed on the following Monday. When Boxing Day falls on a Sunday or Monday, the holiday shall be observed on the following Tuesday. When Christmas Day falls on a Saturday or Sunday, both the actual and substituted days shall be regarded as public holidays.
- (3) When one or more public holidays fall during a period of annual leave the holiday or holidays shall be observed on the next succeeding work day or days as the case may be after completion of that annual leave.
- (4) When a public holiday falls on a day when a practitioner is rostered off duty and the practitioner has not been required to work on that day the practitioner shall be paid as if the day was an ordinary working day or if the Employer agrees be allowed to take a day's holiday in lieu of the holiday at a time mutually acceptable to the Employer and the practitioner.
- (5) A practitioner who is required to be on call in accordance with Clause 33 - On Call and Call Back on a day observed as a public holiday during what would normally have been the practitioner's ordinary hours shall be allowed to observe that holiday on a day mutually acceptable to the Employer and the practitioner.

36. SICK LEAVE

- (1) A practitioner who is unfit for duty due to illness or injury shall be entitled to be paid sick leave in accordance with the provisions of this clause.
- (2)
 - (a) A full-time junior practitioner is entitled to 76 hours paid sick leave per year.
 - (b) A full-time senior practitioner is entitled to 80 hours paid sick leave per year.

- (c) Sick leave accrues pro-rata weekly.
- (3) Payment for sick leave shall be at the rate, excluding Shift, Weekend and Public Holiday Penalties but not excluding amounts which would otherwise have been paid pursuant to Clause 18, the employee would have received had the practitioner not proceeded on sick leave, and the accrued entitlement to sick leave shall be reduced by the number of hours the practitioner was rostered to work on the day the practitioner was absent on sick leave.
 - (4) A practitioner in their first 12 months of service may take up to the maximum entitlement of sick leave for that year in advance of the entitlement having accrued. Sick leave taken in advance may be offset against any future accrual or against monies otherwise payable to the practitioner at the end of their employment.
 - (5) The entitlement, to the extent that it is unused, shall accumulate from year to year and may be taken in any subsequent year.
 - (6) A practitioner who is unfit for duty due to illness or injury shall, as soon as possible, notify the Employer of the fact and also advise the likely date of resuming duty.
 - (7) No sick leave with pay exceeding two consecutive working days shall be granted without an adequate medical certificate or other evidence satisfactory to the Employer and the number of days sick leave which may be granted without the production of a medical certificate shall not exceed, in the aggregate, five working days in any one calendar year.
 - (8) A practitioner who is unable to resume duty on the expiration of the period shown in the first certificate, shall produce a further certificate and shall continue to do so upon the expiration of the period respectively covered by such certificates.
 - (9) If a practitioner is ill during a period of annual leave and produces at the time, or as soon as practicable thereafter, medical evidence to the satisfaction of the Employer that the practitioner is or was as a result of the illness confined to the practitioner's place of residence or a hospital for a period of at least seven consecutive calendar days, the Employer may grant the practitioner sick leave for the period during which the practitioner was so confined and reinstate the practitioner annual leave equivalent to the period of confinement.
 - (10) If a practitioner is ill during the period of long service leave and produces at the time or as soon as practicable thereafter, medical evidence to the satisfaction of the Employer that the practitioner is or was confined to the practitioner's place of residence or a hospital for a period of at least fourteen consecutive calendar days, the Employer may grant sick leave for the period during which the practitioner was so confined and reinstate the practitioner long service leave equivalent to the period of confinement.
 - (11) No leave on account of illness or injury shall be granted with pay if the illness or injury has been caused by misconduct of the practitioner or in any case of absence from duty without sufficient cause.
 - (12) If a practitioner suffers an injury within the meaning of s.5 of the Workers' Compensation and Injury Management Act 1981, which necessitates that practitioner being absent from duty sick leave with pay shall be granted to the extent of sick leave credits. In accordance with s.80(2) of the Workers' Compensation and Injury Management Act 1981 if the claim for workers' compensation is decided in favour of the practitioner, the sick leave credit shall be reinstated.

- (13) (a) If a practitioner resigns or is terminated by the Employer through no fault of the practitioner and is engaged by another Western Australian Government Health Service within seven days of the expiration of any period for which payment in lieu of annual leave or public holidays has been made, the period of sick leave that has accrued to the practitioner's credit shall remain to such practitioner's credit and subclauses (2) and (3) shall continue to apply to such practitioner.
- (b) If a practitioner was, immediately prior to being employed by the Employer, employed by any other WA government employer, or by the Commonwealth or any other State of Australia, and the period between the date when the practitioner ceased previous employment and the date of the practitioner commencing employment with the Employer does not exceed one week, or such further period as the Employer determines, the Employer may credit that practitioner additional sick leave credits up to those held at the date the practitioner ceased the previous employment.
- (14) A pregnant practitioner shall not be refused sick leave by reason only that the "illness or injury" encountered by the practitioner is associated with the pregnancy.

37. LONG SERVICE LEAVE

- (1) (a) A practitioner shall be entitled to thirteen weeks long service leave at their ordinary rate of pay on the completion of each ten years of continuous service.
- (b) Commencing from 1 July 2005 a practitioner shall be entitled to thirteen weeks long service leave at their ordinary rate of pay on the completion of ten years continuous services in the first instance and for subsequent service after each seven years of continuous service completed by the practitioner.
- (c) A Practitioner shall, unless otherwise agreed, give the Employer at least 3 months notice of their intention to take accrued long service leave.
- (d) If a practitioner is engaged on a fixed term contract of employment, and the contract of employment ends with effluxion of time, and the practitioner is not offered a subsequent contract of employment, and the practitioner has a minimum of five years continuous service as at the date of separation, then the practitioner shall be paid pro rata long service leave.
- (2) Notwithstanding the provisions of subclause (1) a practitioner who, during a qualifying period towards an entitlement of long service leave was employed on either a part time or sessional basis may elect to take a lesser period of long service leave calculated by converting the part time or sessional service to equivalent full time service.
- (3) A practitioner shall take the long service leave to which an entitlement has accrued at the convenience of the Employer.
- (4) Subject to the approval of the Employer, a practitioner shall take long service leave within three years of the leave becoming due. The Employer may approve the deferment of taking long service leave beyond three years in "exceptional circumstances", which shall include retirement within five years of the date of entitlement.

Approval to defer the taking of long service leave may be withdrawn or varied at any time by the Employer giving the practitioner notice in writing of the withdrawal or variation.

- (5) The Employer may approve the practitioner's application to take:

- (a) double the period of long service leave on half pay, instead of full pay; or
 - (b) half the period of long service leave on double pay, instead of full pay; or
 - (c) any portion(s) of their long service leave entitlement in weekly multiples on full, half or double pay, with any remaining entitlement able to be taken in one portion.
- (6) Any public holiday occurring during the period in which a practitioner is on long service leave shall be treated as part of the long service leave, and extra days in lieu thereof shall not be granted.
- (7) The Employer may approve a practitioner's application prior to commencing long service leave to change the commencement date.
- (8) Continuous service shall not include any period exceeding two weeks during which the practitioner is absent on leave without pay, unless the Employer determines otherwise;
- (9) (a) Given the nature of medical training, practitioners may break their employment to undertake a period of study or employment interstate or overseas to further their professional skills. If a practitioner obtains a new appointment following such an approved period of study or employment of up to 24 months duration, and if payment pursuant to subclause (11) has not been made, the break in employment shall not count as service but shall not constitute a break in continuous service for the purposes of this clause.
- (b) Given that employment of practitioners is generally by fixed term contract, practitioners may break their employment for what would otherwise be parental leave. If a practitioner obtains a new appointment immediately following an absence of up to 24 months for what would otherwise be parental leave purposes, and if payment pursuant to subclause (11) has not been made, the break in employment shall not count as service but shall not constitute a break in continuous service for the purposes of this clause.
- (10) Subject to subclause (8) the service of a practitioner shall not be deemed to have been broken if the practitioner's employment is ended by the Employer for any reason other than misconduct or unsatisfactory service, but only if:
- (a) the practitioner resumes employment under this Agreement not later than six months from the day on which the employment ended; and
 - (b) payment pursuant to subclause (11) has not been made.
- (11) A lump sum payment for long service leave accrued in accordance with this clause and for pro rata long service leave shall be made in the following cases:
- (a) To a practitioner who retires at or over the age of fifty five years or who is retired on the grounds of ill health, but no payment shall be made for pro rata long service leave unless the practitioner has completed twelve months' continuous service.
 - (b) To a practitioner who, not having resigned, is retired for any other cause; but no payment shall be made for pro-rata long service leave unless the practitioner has completed three years' continuous service before the date of retirement.

- (c) To the surviving spouse of a deceased practitioner or such other person (including the executor of the practitioner's estate) as may be approved by the Employer in the event of the death of a practitioner, but no payment shall be made for pro-rata long service leave unless the practitioner had completed twelve months' continuous service prior to their death.
- (12) (a) If a practitioner, immediately prior to being employed by the Employer was employed by any other WA Government Employer or by the Commonwealth or any other State of Australia, and the period between the date when that practitioner ceased the previous employment and the date of commencing employment with the new Employer does not exceed one week, or such further period as the Employer determines, that practitioner shall be entitled to thirteen weeks of long service leave on full pay on the date determined by:
- (i) calculating the pro rata portion of long service leave to which the practitioner would have been entitled up to the date of appointment by the Employer in accordance with the provisions that applied to the previous employment referred to, but in calculating that period of pro rata long service leave, any long service leave taken or any benefit granted in lieu of any such long service leave during that employment shall be deducted from any long service leave to which the practitioner may become entitled under this clause; and
- (ii) by calculating the balance of the long service leave entitlement of the practitioner upon appointment by the Employer in accordance with the provisions of subclause(1) of this clause.
- (b) In addition to any entitlement arising from the application of paragraph (a) of this subclause, a practitioner previously employed by any other WA Government Employer may, on approval of the Employer be credited with any period of long service leave to which the practitioner became entitled during the former employment but had not taken at the date of appointment with the Employer provided the former Employer had given approval for the practitioner to accumulate the entitlement.
- (c) A practitioner previously employed by the Commonwealth or by any other State of Australia shall not proceed on any period of long service leave without the express approval of the Employer until the practitioner has served a period of not less than three years' continuous service under this Agreement and becomes entitled to long service leave on full pay.
- (d) Nothing in this Agreement confers on any practitioner previously employed by the Commonwealth or by any other State of Australia any entitlement to a complete period of long service leave that accrued in the practitioner's favour prior to the date on which the practitioner commenced employment under this Agreement.
- (13) A practitioner who has elected to retire at or over the age of 55 years and who will complete not less than twelve months' continuous service before the date of retirement may apply to take pro rata long service leave before the date of retirement, based on continuous service of a lesser period than that prescribed by subclause (1) for a long service leave entitlement.
- (14) A practitioner may by written agreement with the Employer cash out some or all of their long service leave entitlement.

38. FAMILY, BEREAVEMENT AND PERSONAL LEAVE**(1) Family Leave**

- (a) For the purposes of this clause, 'family member' means the practitioner's spouse, defacto spouse, child, stepchild, parent or step-parent. This entitlement shall also apply to another person who lives with the practitioner as a member of the practitioner's family.
- (b) A practitioner is entitled to use up to 5 days of their personal accrued sick leave to care for an ill family member each year, but the practitioner must maintain a minimum of 10 days of sick leave available for personal use in each year. Subject to paragraph (e) of this subclause, all family leave taken is deducted from the practitioner's sick leave entitlement.
- (c) Family leave is not cumulative from year to year.
- (d) Medical certificate requirements are as specified for sick leave.
- (e) If a practitioner has insufficient accrued sick leave, by mutual agreement, up to 5 days of annual leave may be used for the purpose of family leave.

(2) Bereavement Leave

- (a) A practitioner shall on the death of:
 - (i) the spouse of the practitioner;
 - (ii) the child or step-child of the practitioner;
 - (iii) the parent or step-parent of the practitioner;
 - (iv) the brother, sister, step-brother or step-sister; or
 - (v) any other person, who immediately before that person's death, lived with the practitioner as a member of the practitioner's family,be eligible for up to 2 days bereavement leave. At the request of the practitioner, the Employer may grant bereavement leave in respect of some other person with whom the practitioner has a special relationship.
- (b) The 2 days need not be consecutive.
- (c) Bereavement leave is not to be taken during any other period of leave.
- (d) A practitioner who claims to be entitled to paid leave under paragraph (a) of this subclause is to provide to the Employer, if so requested, evidence that would satisfy a reasonable person as to:
 - (i) the death that is the subject of the leave sought; and
 - (ii) the relationship of the practitioner to the deceased person.

- (e) A practitioner requiring more than two days bereavement leave in order to travel overseas in the event of the death overseas of a member of the practitioner's immediate family may, upon providing adequate proof, in addition to any bereavement leave to which the practitioner is eligible, have immediate access to annual leave and / or accrued long service leave in weekly multiples and / or leave without pay provided all accrued leave is exhausted.

(3) Special Personal Leave

- (a) Without pay

The Employer may upon the request of a practitioner, grant that practitioner special leave without pay for any special or personal reason.

- (b) Use of Annual Leave

The Employer may, upon request of a practitioner and with sufficient cause being shown, which may in the circumstances be with little notice, grant that practitioner single days of annual leave for pressing personal emergencies.

39. DONOR LEAVE

- (1) Subject to operational convenience, a practitioner shall be granted paid leave for the purpose of donating blood or plasma to approved donor centres.
- (2)
 - (a) Subject to the production of appropriate evidence, a practitioner shall be entitled to up to 5 days paid leave for the purpose of donating an organ or body tissue.
 - (b) If this paid leave is not sufficient and upon the production of a medical certificate, a practitioner may access their accrued sick leave or other paid leave in order to cover their absence.

40. PARENTAL LEAVE

- (1) Definitions
 - (a) "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 5 years of age who is placed with the employee for the purpose of adoption, other than a child or step-child of the employee or of the partner of the employee or child who has previously lived continuously with the employee for a period of 6 months or more.
 - (b) "Employee" includes full time employees, part-time employees, permanent employees, fixed term contract employees up until the end of their contract period, and "eligible" casual employees.
 - (c) A casual employee is "eligible" if the employee –
 - (i) has been engaged on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months; and
 - (ii) but for an expected birth of a child to the employee or the employee's partner or an expected placement of a child with the employee with a view to the adoption of the child by the employee, would have a reasonable expectation of continuing engagement by the employer on a regular and systematic basis.

- (d) Without limiting subclause (1)(c) of this clause, a casual employee is also “eligible” if the employee -
- (i) was engaged on a regular and systematic basis for a sequence of periods during a period (the first period of employment) of less than 12 months; and
 - (ii) at the end of the first period of employment, the employee ceased, on the employer’s initiative, to be so engaged by the employer; and
 - (iii) the employer later again engaged the employee on a regular and systematic basis for a further sequence of periods during a period (the second period of employment) that started not more than three months after the end of the first period of employment; and
 - (iv) the combined length of the first period of employment and the second period of employment is at least 12 months; and
 - (v) the employee, for an expected birth of a child to the employee or the employee’s partner or an expected placement of a child with the employee with a view to the adoption of the child by the employee, would have a reasonable expectation of continuing engagement on a regular and systematic basis.
- (e) "Primary Care Giver" is the employee who will assume the principal role for the care and attention of a child/children. The employer may require confirmation of primary care giver status.

(2) Basic entitlement

- (a) Employees are entitled to 52 weeks parental leave in relation to the birth or adoption of their child.
- (b) Parental leave is to be available to only one parent at a time, except that both parents may simultaneously access the leave in the following circumstances:
 - (i) an unbroken period of one week at the time of the birth of the child;
 - (ii) an unbroken period of up to 3 weeks at the time of adoption / placement of the child; or
 - (iii) where the employer agrees.
- (c) In order to demonstrate to the employer that, subject to subclause 2 (b) of this clause, only one parent shall be off on parental leave at a time an employee shall, when applying for parental leave, provide the employer with a statutory declaration stating particulars of any period of parental leave sought or taken by his or her partner.
- (d) Except as provided by subclause (16) of this clause, parental leave is unpaid.

(3) Birth of a child

- (a) A pregnant employee shall provide to the employer at least 10 weeks in advance of the expected date of birth:

- (i) a certificate from a registered medical practitioner stating that she is pregnant and the expected date of birth; and
 - (ii) written notification of the date on which she proposes to commence parental leave, and the period of leave to be taken.
 - (b) Subject to subclause (3)(c) of this clause and unless agreed otherwise between employer and employee, a pregnant employee may commence parental leave at any time within 6 weeks immediately prior to the expected date of the birth.
 - (c) Where an employee continues to work within the 6 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.
 - (d) Where the pregnancy of an employee terminates after 27 weeks and the employee has not commenced parental leave, the employee may take unpaid leave (to be known as special parental leave) for such period as a registered medical practitioner certifies as necessary, except that where an employee is suffering from an illness not related to the direct consequences of the delivery, an employee shall be entitled to access paid personal leave to which she is entitled, in lieu of, or in addition to, special parental leave.
 - (e) Where leave is granted under subclause (3)(d) of this clause, during the period of leave an employee may return to work at any time, as agreed between the employer and the employee provided that time does not exceed 4 weeks from the recommencement date desired by the employee.
 - (f) Where the pregnancy of an employee then on parental leave terminates other than by the birth of a living child, it shall be the right of the employee to resume work at a time nominated by the employer which shall not exceed 4 weeks from the date of notice in writing by the employee to the employer that she desires to resume work.
 - (g) Where an employee then on parental leave suffers illness related to her pregnancy, she may take such paid personal leave as to which she is then entitled and such further unpaid leave (to be known as special parental leave) as a registered medical practitioner certifies as necessary before her return to work provided that the aggregate of paid personal leave, special parental leave and parental leave shall not exceed 12 months.
- (4) Adoption of a child
- (a) The employee shall notify the employer at least 10 weeks in advance of the date of commencement of parental leave and the period of leave to be taken. An employee may commence parental leave prior to providing such notice where through circumstances beyond the control of the employee, the adoption of a child takes place earlier.
 - (b) The employer may require an employee to provide confirmation from the appropriate government authority of the placement.

- (c) The employer shall grant an employee who is seeking to adopt a child such unpaid leave as is required by the employee to attend any compulsory interviews or examinations as are necessary as part of the adoption procedure. Where paid leave is available to the employee, the employer may require the employee to take such leave in lieu of unpaid leave.
- (d) Where the placement of child for adoption with an employee does not proceed or continue, the employee shall notify the employer immediately and the employer shall nominate a time not exceeding 4 weeks from the date of notification for the employee's return to work.

(5) Partner leave

An employee shall provide to the employer, at least 10 weeks prior to each proposed period of parental leave:

- (a)
 - (i) for the birth of a child, a certificate from a registered medical practitioner which names the employee's partner, states that she is pregnant and the expected date of birth, or states the date on which the birth took place; or
 - (ii) for the adoption / placement of a child the employer may require an employee to provide confirmation from the appropriate government authority of the placement, and

- (b) written notification of the date on which the employee proposes to start and finish the period of parental leave.

(6) Variation of notice period

Notwithstanding the requirement to give at least 10 weeks notice of the date of commencement of parental leave, such notice may be for a greater or lesser period, where it is necessary to vary the date of commencement of parental leave due to a variation in the actual date of arrival of the child. Such variation does not count as a variation for the purposes of subclause (7) of this clause.

(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 shall be notified at least four weeks prior to the commencement of the changed arrangements.

(8) Parental leave and other entitlements

- (a) An employee may in lieu of or in conjunction with parental leave, access other paid leave entitlements which the employee has accrued, such as annual leave, long service leave, and TOIL or other time off entitlements accrued under flexible working arrangements, subject to the total amount of leave not exceeding 52 weeks.
- (b) Subject to all other leave entitlements being exhausted an employee shall be entitled to apply for leave without pay following parental leave by up to 2 years. The employer's approval, which may not be unreasonably withheld, is required for such an extension.

(9) Transfer to a safe job

- (a) If the employee gives her employer a medical certificate from a medical practitioner containing a statement to the effect that, in the medical practitioner's opinion, the employee is fit to work, but that it is inadvisable for her to continue in her present position for a stated period because of:
 - (i) illness, or risks, arising out of her pregnancy; or
 - (ii) hazards connected with that position; then

the employer must modify the duties of the position or alternatively transfer the employee to a safe job at the same classification level for the period during which she is unable to continue in her present position.
- (b) If the employee's employer does not think it to be reasonably practicable to modify the duties of the position or transfer the employee to a safe job the employee is entitled to paid leave for the period during which she is unable to continue in her present position.
- (c) An entitlement to paid leave provided in subclause (9)(b) of this clause is in addition to any other leave entitlement the employee has and is to be paid the amount the employee would reasonably have expected to be paid if the employee had worked during that period.
- (d) An entitlement to paid leave provided in subclause (9)(b) of this clause ends at the earliest of whichever of the following times is applicable:
 - (i) the end of the period stated in the medical certificate;
 - (ii) if the employee's pregnancy results in the birth of a living child – the end of the day before the date of birth;
 - (iii) if the employee's pregnancy ends otherwise than with the birth of a living child – the end of the day before the end of the pregnancy.

(10) Entitlement to Part-Time employment

- (a) Where an employee is pregnant, and has a doctors certificate advising that it would be preferable for the employee to work part-time; the employee may enter into an agreement, the terms of which are to be in writing, work part-time in one or more periods at any time up to the child's third birthday or until the third anniversary of the placement of the child.
- (b) The work to be performed part-time need not be the work performed by the employee in his or her former position.

(11) Communication during Parental Leave

- (a) 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:
 - (i) make information available in relation to any significant effect the change will have on the location, status or responsibility level of the position the employee held before commencing parental leave; and

- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the location, status or responsibility level of the position the employee held before commencing parental leave.
 - (b) 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 return to work on a part-time basis.
 - (c) 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 subclause (11)(a) of this clause.
- (12) Returning to work after a period of parental leave or part-time work
- (a) An employee shall confirm the intention to return to work by notice in writing to the employer not less than four weeks prior to the expiration of parental leave.
 - (b) An employee on return to work from parental leave shall be entitled to the same position or a position equivalent in pay, conditions and status and commensurate with the employee's skill and abilities as the substantive position held immediately prior to proceeding on parental leave.
 - (c) Where the employee was transferred to a safe job or proceeded on leave as provided for in subclause (9)(b) of this clause, the employee is entitled to return to the position occupied immediately prior to the commencement of leave.
 - (d) An employee may return on a part-time or job-share basis to the substantive position occupied prior to the commencement of leave or to a different position at the same classification level.
 - (e) An employee may return on a modified basis that involves the employee working on different days or at different times, or both; or on fewer days or for a fewer hours or both, than the employee worked immediately before starting parental leave.
 - (f) Subject to the employer's approval an employee who has returned on a part-time or modified basis may revert to how the employee worked immediately before starting parental leave or full time work at the same classification level within two years of the recommencement of work.
 - (g) The employer shall only refuse such a request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include:
 - (i) cost;
 - (ii) lack of adequate replacement staff;
 - (iii) loss of efficiency; and
 - (iv) the impact on customer service.
 - (h) An employee who believes their request has been unreasonably refused may seek to enforce it as a minimum condition of employment and the onus shall be on the employer to demonstrate that the refusal was justified in the circumstances.

(13) Replacement employees

- (a) A replacement employee is an employee specifically engaged or temporarily promoted or transferred, as a result of an employee proceeding on parental leave.
- (b) A replacement employee shall be informed of the temporary nature of the employment and of the rights of the employee who is being replaced.

(14) Notwithstanding any agreement or other provision to the contrary:

- (a) absence on parental leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of this Agreement.
- (b) commencement of part-time employment in accordance with this clause, and return from part-time to full time work under this clause, shall not break the continuity of service or employment.

(15) Casual employment during parental leave

- (a) Notwithstanding any other provision of this clause, an employee may be employed on a casual basis during a period of parental leave, provided that any period of such service shall not count as service for the purposes of any other provision of this Agreement, and shall not break the continuity of employment of such an employee nor change the employees employment status in regard to their substantive employment.
- (b) An employee shall not be engaged by the employer as a casual employee whilst the employee is on a period of paid parental leave, or a period of accrued annual or long service leave taken concurrently with a period of unpaid parental leave.
- (c) An employee engaged for casual work pursuant to this subclause shall be employed at a level commensurate to the level of the available casual position.

(16) Paid parental leave

Paid parental leave shall be granted to employees subject to the following:

- (a) An employee, other than an eligible casual employee, who is the primary care giver, and who has completed 12 months continuous service with the employer or any Commonwealth, State or Territory public sector body or authority, shall be entitled from the anticipated birth date or for the purposes of adoption from the date of placement of the child, or from a later date nominated by the primary care giver, to paid parental leave at the base rate of pay that shall form part of the 52 week entitlement provided in subclause (2)(a) of this clause, as follows:
 - (i) twelve (12) weeks paid parental leave from 1 July 2007; and
 - (ii) fourteen (14) weeks paid parental leave from 1 July 2008.
- (b) A pregnant employee can commence the period of paid parental leave any time from six weeks before the expected date of birth.

- (c) An employee may take the paid parental leave specified in this subclause of this clause at half pay for a period equal to twice the period to which the employee would otherwise be entitled.
- (d) Definitions

“Continuous service” means service under an unbroken contract of employment and includes any period:

 - (i) of leave taken in accordance with this clause;
 - (ii) of part-time employment worked in accordance with this Agreement; and
 - (iii) of leave or absence authorised by the employer.
- (e) Only one period of paid parental leave is available for each birth or adoption.
- (f) Contract employees’ paid parental leave cannot continue beyond the expiry date of their contract.
- (g)
 - (i) Paid parental leave shall be paid at base rates and shall not include the payment of any form of allowance or penalty payment.
 - (ii) Notwithstanding this subclause, parental leave may be paid either before or after any other paid leave taken during a period of parental leave
- (h) Absence on paid parental leave counts as qualifying service for the purpose of accruing entitlements to personal leave, annual leave or long service leave.
- (i) The employer may request evidence of primary care giver status.
- (j) Part-time employees whose ordinary working hours have been subject to variations during the preceding 12 months may elect to average these hours for the purposes of calculating payment for paid parental leave. Alternatively, the employee may elect to be paid their ordinary working hours at the time of commencement of paid parental leave.
- (k) Subject to the provisions of this subclause, all other provisions of this clause apply to employees on paid parental leave.
- (l) An “eligible” casual employee has no entitlement to paid leave under this clause with the exception of the entitlement to paid leave as provided under subclause (9)(b) of this clause. Nothing in this clause confers a change in the employment status of a casual employee.

41. LEAVE FOR OFFICE BEARERS

National Office bearers of Medical Colleges and their Faculties (formally recognised by the Australian Medical Council), the Medical Board and such Associations as agreed between the Employer and the Association shall be allowed up to 5 days paid leave each year to attend to the functions required of the Office.

42. SPECIAL LEAVE

Special leave with or without pay for conferences and other purposes including study leave may be granted at the discretion of the Employer.

43. HIGHER DUTIES

A practitioner who is directed by the Employer to act in a position which carries a higher rate of pay than that which they usually perform, and who performs the full duties and accepts the full responsibility of the higher position for more than ten consecutive working days, shall be paid the higher rate whilst so engaged.

44. TRAVEL ALLOWANCE

Reasonable costs of travel:

- (a) for calls to the hospital out of normal working hours; or
- (b) if a practitioner is required by the Employer to visit another centre in the course of official duties, the practitioner shall have reasonable costs of travel provided. This shall not apply to travel between the practitioner's home and daily place of work unless otherwise agreed. Where the practitioner works at multiple sites or is seconded to work at another site, payment shall be made for any additional travel in excess of travel between the practitioners home and primary place of work, compared to the practitioners secondary place of work or secondment;

shall be paid in accordance with Schedule 2. Provided that these rates shall be automatically adjusted in accordance with adjustments to the rates prescribed in Schedule F of the Public Service Award 1992.

45. CALCULATION OF PENALTIES

If a practitioner works hours which would entitle that practitioner to payment of more than one of the monetary penalties payable in accordance with the relevant overtime, public holidays, on call and call back or shift and weekend work provisions of this Agreement, only the highest of any such penalty shall be payable.

46. MEAL ALLOWANCES

(1) A practitioner:

- (i) who works 10 hours or more (exclusive of rest breaks); or
- (ii) who is required to work overtime which necessitates the taking of a meal away from the practitioner's usual place of residence,

shall be paid a meal allowance as follows:-

Breakfast \$9.00

Lunch \$11.05

Dinner \$13.25

(2) These rates shall be automatically adjusted in accordance with adjustments to the rates prescribed in Schedule H - Overtime of the Public Service Award 1992.

47. CLAIMS FOR PAYMENT OF ENTITLEMENTS

(1) Practitioners shall submit claims for payment of overtime, call backs or other entitlements for which they have not been formally rostered in the pay period within which the entitlement arose or in the following period.

(2) Any claim that is not accepted or requires clarification shall be clearly communicated back to the practitioner to facilitate resolution.

48. RECOVERY OF OVERPAYMENTS

- (1) If a practitioner is paid for work not subsequently performed or is otherwise overpaid, the Employer shall, after consultation with the practitioner, make adjustments to the practitioner's subsequent fortnightly salary payments.
- (2) A one-off overpayment shall be recovered in the pay period immediately following the pay period in which it was made, or in the period immediately following the pay period in which it was discovered that overpayment had occurred.
- (3) Cumulative overpayments shall be recovered at a rate agreed between the Employer and the practitioner. The rate shall not be less than the rate at which it was overpaid or \$75 per week (Levels 1 - 13) or \$100 per week (Levels 14 - 24), whichever is the lesser amount per pay period.

49. REMUNERATION PACKAGING

- (1) A practitioner may elect to enter into a remuneration packaging arrangement.
- (2) The remuneration packaging arrangement entered into shall be by separate written agreement with the Employer which sets out the terms and conditions of the arrangement provided that the terms of such agreement shall comply with the terms of this clause.
- (3) Such agreement shall be formulated on the basis that, on balance, there shall be no material disadvantage to the practitioner concerned, and shall be cost neutral in relation to the total employment cost to the Employer.
- (4) The salary packaging arrangement must comply with relevant taxation laws and the Employer shall not be liable for additional tax, penalties or other costs payable or which may become payable by the practitioner.
- (5) A practitioner may elect to cancel any remuneration packaging arrangement by giving a minimum of four weeks' notice.
- (6) The Employer may elect to cancel any remuneration packaging arrangement by giving a minimum of four weeks' notice if the Employer incurs a liability to pay fringe benefits tax or any other tax in respect of the non-cash benefits provided, provided that the Employer cannot retrospectively cancel any remuneration packaging arrangement.
- (7) Notwithstanding subclauses (5) and (6) the Employer and the practitioner may agree to forgo the notice period.
- (8) The cancellation of remuneration packaging shall not cancel or otherwise effect the operation of this Agreement.
- (9) Any dispute arising from the operations of this clause shall be dealt with in accordance with the relevant dispute settlement provisions.
- (10) If there is an adverse change in the FBT arrangements, the parties shall meet as a matter of urgency with a view to minimising such adverse effect and the practitioner shall be given the choice of reviewing their arrangements or meeting the cost of any additional FBT.

50. PROFESSIONAL RESPONSIBILITIES / CONFIDENTIALITY / QUALITY ASSURANCE

- (1) Professional Responsibilities
 - (a) The parties recognise:

- (i) the importance of clinical independence in the context of the appropriate clinical governance framework and the primacy of the personal responsibility of practitioners to their patients.
 - (ii) that practitioners are professionally responsible and accountable to the statutory authorities including the Medical Board established under the Medical Act 1894.
 - (iii) that practitioners are responsible and accountable under the ethical codes and standards of relevant colleges and professional associations and under the Public Sector Management Act.
 - (iv) the need to provide best practice services and for practitioners to participate in the development and management of the health system and particular services.
- (b) The Employer undertakes to provide the appropriate time and resources for practitioners to meet these responsibilities.

(2) Confidentiality

A practitioner shall not be bound, without the patient's consent, to divulge any information which the practitioner has acquired in attending the patient to any person other than the Director of Medical Services or their Deputy or equivalent, other than in accordance with the requirements of this Agreement or as otherwise prescribed by law or any relevant agreement between the Association and the Employer.

(3) Quality Assurance

In recognition of the ongoing need to improve the quality of clinical services and support practitioners generally in their professional development the parties are committed to providing a quality assurance environment to assess the performance of the services provided and individuals through a positive approach directed towards improving the services provided and individuals skills and competencies.

The Employer and the Association shall review and endeavour to jointly develop agreed credentialing, peer review, clinical audit, performance management and quality assurance processes. In the absence of such agreement the health service policies applicable at the time shall apply.

(4) Teaching

- (a) The parties acknowledge the important role of practitioners in providing training of Doctors in Training in the achievement and maintenance of a sufficient medical workforce. It is further acknowledged that adequate levels of training for Doctors in Training are necessary to the maintenance of acceptable standards of quality and safety.
- (b) The Employer may require a practitioner, excluding interns, to engage in medical education/teaching as directed.

51. INTRODUCTION OF CHANGE

- (1) (a) If the Employer has made a definite decision to introduce major changes in production, programme, organisation, structure or technology that are likely to have significant effects on practitioners, the Employer shall notify the practitioners who may be affected by the proposed changes and the Association.
- (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 practitioners to other work or locations and restructuring of jobs.

If this Agreement provides for alteration of any of the matters referred to herein an alteration shall be deemed not to have significant effect.

- (2) (a) The Employer shall discuss with the practitioners affected and the Association, inter alia, the introduction of the changes referred to in subclause (1) hereof, the effects the changes are likely to have on practitioners, measures to avert or mitigate the adverse effects of such changes on practitioners and shall give prompt consideration to matters raised by the practitioners and/or the Association in relation to the changes.
- (b) The discussion shall commence as early as practicable after a firm decision has been made by the Employer to make the changes referred to in subclause (1) hereof.
- (c) For the purposes of such discussion, the Employer shall provide to the practitioners concerned and the Association, all relevant information about the changes including the nature of the changes proposed; the expected effects of the changes on practitioners and any other matters likely to affect practitioners, but the Employer shall not be required to disclose confidential information the disclosure of which would be inimical to their interests.

52. DISPUTE SETTLING PROCEDURES

- (1) Subject to Clause 4 - No Further Claims, to the provisions of the Industrial Relations Act, 1979 and Clause 51 - Introduction of Change, any questions, disputes or difficulties raised by a party to this Agreement, shall be settled in accordance with the following procedures.
- (2) If the matter is raised by a practitioner, or a group of practitioners, the following steps shall be observed -
- (a) The practitioner(s) concerned shall discuss the matter with the Head of Department. If the matter cannot be resolved at this level the Head of Department shall, within three working days, refer the matter to the Director of Medical Services and the practitioner(s) shall be advised accordingly.
- (b) The Director of Medical Services shall, if so able, answer the matter raised within one week of it being referred and, if the Director of Medical Services is not able, refer the matter to the Hospital Executive for its attention, and the practitioner(s) shall be advised accordingly.
- (c) If the matter has been referred in accordance with paragraph (b) above the practitioner(s) or the appropriate Association hospital medical practitioner representative shall notify the Association, to enable the opportunity of discussing the matter with the Employer.

- (d) The Employer shall, as soon as practicable after considering the matter before it, advise the practitioner(s) or, if necessary, the Association of its decision. Such advice shall be given within one month of the matter being referred to the Employer.
 - (e) If the parties agree that a matter is non-industrial it may by agreement be referred to other appropriate bodies (e.g. relevant Colleges) for advice and/or assistance.
 - (f) Nothing in this procedure shall prevent the parties agreeing to shorten or extend the periods prescribed.
- (3) Subject to Clause 4 - No Further Claims, should a question, dispute or difficulty remain in dispute after the above processes have been exhausted the matter may:
- (a) be referred by either party to the Western Australian Industrial Relations Commission (the persons involved in the question, dispute or difficulty must confer among themselves and make reasonable attempts to resolve questions, disputes or difficulties before taking these matters to the Commission); or
 - (b) if the parties agree, be referred to another independent arbitrator chosen by the parties or as a last resort nominated by the Western Australian Industrial Relations Commission. In such a case:
 - (i) either party may be represented in the arbitration by an agent or legal practitioner and shall bear the costs of that representation;
 - (ii) the Employer shall meet the costs of the arbitration, but if the arbitrator determines that a claim is frivolous or vexatious, the arbitrator may assign the costs of the arbitration (but not the costs of representation) against the claimant or apportion them in any manner between the parties. The parties undertake to accept the arbitrated decision as final and binding.
- (4) System wide issues shall be dealt with by discussions between the appropriate Association official(s) and Employer representative(s). Should a matter remain in dispute after discussions have been exhausted it may be dealt with in accordance with subclause (3).
- (5) While the above procedures are being followed no party shall take action, of any kind, which may frustrate a settlement in accordance with the above procedures. The status quo (i.e. the condition applying prior to the issue arising) shall remain until the issue is resolved in accordance with the above procedures.
- (6) If the Employer seeks to discipline or terminate a practitioner the principles of natural justice shall apply and the following steps shall be observed:
- (a) If a practitioner commits a misdemeanour, the practitioner's immediate supervisor or any authorised medical practitioner may reprimand the practitioner so that the practitioner understands the nature and implications of their conduct. The practitioner has a right to be represented when being reprimanded.
 - (b) The first two reprimands shall take the form of warnings and, if given verbally, shall be confirmed in writing as soon as practicable after the giving of the reprimand.

- (c) Should it be necessary, for any reason, to reprimand a practitioner three times, the contract of service shall, upon the giving of that third reprimand, be terminable in accordance with the provisions of this Agreement.
- (d) This procedure shall not limit the right of the Employer to summarily dismiss a practitioner for misconduct. Nor shall it limit the right of a practitioner to refer a claim for alleged wrongful or unlawful termination to a Board of Reference.

PART 5 - SIGNING OF AGREEMENT

Signed

_____ 23 / 1 / 08

Paul Boyatzis

Executive Director

for and on behalf of the Australian Medical Association (Western Australia) Incorporated

Signed

_____ 22 / 1 / 08

Dr Neale Fong

Director General of Health

as delegate of the "Minister for Health incorporated as the Board of the hospitals formerly comprised in the Metropolitan Health Service Board, under s7 of the Hospitals and Health Services Act 1927 (WA)"

SCHEDULE 1 – FULL-TIME SALARY

Classification and Increment Point	Pay Point	From first pay period on or after 1-Oct-07 \$	From first pay period on or after 1-Oct-08 \$	From first pay period on or after 1-Oct-09 \$
Intern	1	53,500	55,105	56,758
Resident Medical Officer Yr 1	2	58,850	60,616	62,434
Resident Medical Officer Yr 2	3	64,735	66,677	68,677
Resident Medical Officer Yr 3	4	71,209	73,345	75,545
Registrar Yr 1	5	74,769	77,012	79,322
Registrar Yr 2	6	78,507	80,863	83,288
Registrar Yr 3	7	84,395	86,927	89,535
Registrar Yr 4	8	88,615	91,274	94,012
Registrar Yr 5	9	93,046	95,837	98,712
Registrar Yr 6	10	97,698	100,629	103,648
Registrar Yr 7	11	102,583	105,661	108,830
Senior Registrar Yr 1	12	110,277	113,585	116,993
Senior Registrar Yr 2	13	115,791	119,264	122,842
Supervised Medical Officer Yr 1	5	74,769	77,012	79,322
Supervised Medical Officer Yr 2	6	78,507	80,863	83,288
Supervised Medical Officer Yr 3	7	84,395	86,927	89,535
Supervised Medical Officer Yr 4	8	88,615	91,274	94,012
Supervised Medical Officer Yr 5	9	93,046	95,837	98,712
Supervised Medical Officer Yr 6	10	97,698	100,629	103,648
Supervised Medical Officer Yr 7	11	102,583	105,661	108,830
Supervised Medical Officer Yr 8	12	110,277	113,585	116,993
Supervised Medical Officer Yr 9	13	115,791	119,264	122,842
Trainee Medical Administrator Yr 1	6	78,507	80,863	83,288
Trainee Medical Administrator Yr 2	7	84,395	86,927	89,535
Trainee Medical Administrator Yr 3	8	88,615	91,274	94,012
Trainee Medical Administrator Yr 4	9	93,046	95,837	98,712
Trainee Medical Administrator Yr 5	10	97,698	100,629	103,648
Trainee Medical Administrator Yr 6	11	102,583	105,661	108,830
Trainee Medical Administrator Yr 7	12	110,277	113,585	116,993
Trainee Psychiatrist Yr 1	7	84,395	86,927	89,535
Trainee Psychiatrist Yr 2	8	88,615	91,274	94,012
Trainee Psychiatrist Yr 3	9	93,046	95,837	98,712
Trainee Psychiatrist Yr 4	10	97,698	100,629	103,648
Trainee Psychiatrist Yr 5	11	102,583	105,661	108,830
Trainee Psychiatrist Yr 6	12	110,277	113,585	116,993
Trainee Psychiatrist Yr 7	13	115,791	119,264	122,842
Trainee Public Health Physician Yr 1	6	78,507	80,863	83,288
Trainee Public Health Physician Yr 2	7	84,395	86,927	89,535
Trainee Public Health Physician Yr 3	8	88,615	91,274	94,012
Trainee Public Health Physician Yr 4	9	93,046	95,837	98,712
Trainee Public Health Physician Yr 5	10	97,698	100,629	103,648
Trainee Public Health Physician Yr 6	11	102,583	105,661	108,830
Trainee Public Health Physician Yr 7	12	110,277	113,585	116,993
Consultant Yr 1	16	134,042	138,064	142,205
Consultant Yr 2	17	140,744	144,967	149,316
Consultant Yr 3	18	147,782	152,215	156,781
Consultant Yr 4	19	155,171	159,826	164,621
Consultant Yr 5	20	162,929	167,817	172,852

Classification and Increment Point	Pay Point	From first pay period on or after 1-Oct-07 \$	From first pay period on or after 1-Oct-08 \$	From first pay period on or after 1-Oct-09 \$
Consultant Yr 6	21	171,076	176,208	181,494
Consultant Yr 7	22	179,629	185,018	190,569
Consultant Yr 8	23	188,611	194,269	200,097
Consultant Yr 9	24	198,041	203,983	210,102
Health Service Medical Practitioner Yr 1	14	121,580	125,228	128,985
Health Service Medical Practitioner Yr 2	15	127,659	131,489	135,434
Health Service Medical Practitioner Yr 3	16	136,288	138,064	142,205
Non Specialist Qualified Medical Administrator Yr 1	14	121,580	125,228	128,985
Non Specialist Qualified Medical Administrator Yr 2	15	127,659	131,489	135,434
Non Specialist Qualified Medical Administrator Yr 3	16	134,042	138,064	142,205
Non Specialist Qualified Medical Administrator Yr 4	17	140,744	144,967	149,316
Non Specialist Qualified Medical Administrator Yr 5	18	149,584	152,215	156,781
Snr Medical Practitioner Yr 1	16	134,042	138,064	142,205
Snr Medical Practitioner Yr 2	17	140,744	144,967	149,316
Snr Medical Practitioner Yr 3	18	149,584	152,215	156,781
Medical Administrator Yr 1	16	134,042	138,064	142,205
Medical Administrator Yr 2	17	140,744	144,967	149,316
Medical Administrator Yr 3	18	147,782	152,215	156,781
Medical Administrator Yr 4	19	155,171	159,826	164,621
Medical Administrator Yr 5	20	162,929	167,817	172,852
Medical Administrator Yr 6	21	171,076	176,208	181,494
Medical Administrator Yr 7	22	179,629	185,018	190,569
Medical Administrator Yr 8	23	188,611	194,269	200,097
Medical Administrator Yr 9	24	198,041	203,983	210,102
Vocational Registered General Practitioner Yr 1	14	121,580	125,228	128,985
Vocational Registered General Practitioner Yr 2	15	127,659	131,489	135,434
Vocational Registered General Practitioner Yr 3	16	134,042	138,064	142,205
Vocational Registered General Practitioner Yr 4	17	140,744	144,967	149,316
Vocational Registered General Practitioner Yr 5	18	149,584	152,215	156,781

SCHEDULE 2 - MOTOR VEHICLE ALLOWANCES

AREA	CENTS / KM		
	ENGINE DISPLACEMENT		
	1600 cc and under	1600 cc to 2600 cc	Over 2600 cc
Metropolitan Area	48.9	58.9	69.0
South West Land Division	51.0	61.1	71.5
North of 23.5 South Latitude	56.4	67.3	78.7
Rest of State	52.4	62.9	73.7