

**NAMED NSW (NON-DECLARED) AFFILIATED HEALTH ORGANISATIONS’
PROFESSIONAL AND ASSOCIATED STAFF AGREEMENT**

Information about the terms and effect of the Named NSW (Non-Declared) Affiliated Health Organisations’ Professional and Associated Staff Agreement

The below table provides a brief explanation of the terms (and effect of the terms) of the proposed *Named NSW (Non-Declared) Affiliated Health Organisations’ Professional and Associated Staff Agreement 2022* (**‘Proposed Agreement’**).

The Proposed Agreement is an updated version of the *Named NSW (Non-Declared) Affiliated Health Organisations’ Professional and Associated Staff Agreement* (**the Current Agreement**).

This document is a general non-exhaustive summary only, it does not form part of the Proposed Agreement, and should be read in conjunction with the Proposed Agreement. Further to this, it is subject to change following negotiation with the Union should any of the clauses require further amendment.

In this summary, references to the **‘Modern Award’** refer to the *Health Professionals and Support Services Award 2010* and references to the **‘State Award’** refer to *Public Hospitals (Professional and Associated Staff) Conditions of Employment (State) Award*. The majority of the additions or amendments to the Proposed Agreement have been made in order to update the Proposed Agreement to better align with either the Modern Award or the State Award, and, more generally, the provisions of the *Fair Work Act 2009* (Cth).

Clause Number	Brief Explanation of Clause
<p>Clause 1 –Titles, parties and Duration</p>	<p>This clause outlines the following for the Proposed Agreement: the title, the parties that will be bound and when it will be in force.</p>
	<p>What’s changed?</p> <ul style="list-style-type: none"> • Amended the title of the NSW (Non-Declared) Affiliated Health Organisations’ Professional and Associated Staff Agreement to “2021” • Amended Agreement at clause 1(ii)(a) ‘Parties’ and clause 1(iii) ‘Duration’ to ensure currency. • Nominal expiry date updated to [to be determined].
<p>Clause 2 – Definitions</p>	<p>This clause provides definitions of terms used throughout the Proposed Agreement.</p>
	<p>What’s changed?</p>

	<ul style="list-style-type: none"> • Addition of shift worker for purposes of additional annual leave (counter leave) definition in accordance with other Agreements. • Inserted clear definition of “on call” work into the agreement. • Added NSW to the definition of “Union” as the Health Services Union NSW
Clause 3 – Hours	<p>This clause sets out the rostering systems.</p> <p>What’s changed?</p> <ul style="list-style-type: none"> • No substantive changes.
Clause 4 – Roster of Hours	<p>This clause sets out the hours of work of employees, including shift work and rostering systems.</p> <p>What’s changed?</p> <ul style="list-style-type: none"> • No substantive changes
Clause 5 - Climatic and Isolation Allowance	<p>This clause sets out allowances for employees in different areas impacted by climate and/or isolation.</p> <p>What’s changed?</p> <ul style="list-style-type: none"> • No substantive changes have been made to this clause.
Clause 6 – Part-Time Employees	<p>This clause specifies part-time employment arrangements, entitlements and progression for the purpose of continuity of service.</p> <p>What’s changed?</p> <ul style="list-style-type: none"> • No substantive changes have been made to this clause.
Clause 7 - Relieving Other Members of Staff	<p>This clause sets out the higher pay rates in the event an employee relieves another member of staff.</p>

	<p>What’s changed?</p> <ul style="list-style-type: none"> No Substantive changes have been made to this clause.
<p>Clause 8 – Overtime</p>	<p>This clause sets out the overtime entitlements that apply to employees.</p> <p>What’s changed?</p> <p>Updated the “Transport Allowance” to refer to the “Determination made under the Health Services Act 1997, as varied from time to time” to be consistent with the State Award and other Agreements, in lieu of reference to the Public Employment Industrial Relations Authority previously.</p>
<p>Clause 9 – Penalty Rates for Shift Work and Weekend Work</p>	<p>This clause sets out the relevant penalty rates that are payable for both shift and weekend work.</p> <p>What’s changed?</p> <ul style="list-style-type: none"> No Substantive changes have been made to this clause.
<p>Clause 10 – Meals</p>	<p>This clause provides for meal breaks and allowances.</p> <p>What’s changed?</p> <ul style="list-style-type: none"> Reference to the <i>Public Sector Employment and Management Act 2002</i> changes to the <i>Crown Employees (Public Service Conditions of Employment) Award Government Sector Employment Act 2013</i> as per State Award.

<p>Clause 11 – Public Holidays</p>	<p>This clause covers annual performance agreements developed jointly by staff specialists and designated supervisors.</p>
	<p>What’s changed?</p> <ul style="list-style-type: none"> • Addition of clause (i)(e) which deals with the cashing out of annual leave as per other Agreements.
<p>Clause 12 – Annual Leave</p>	<p>This clause provides for annual leave including how it is accrued; how it can be taken; directions to take annual leave; cashing out; and annual leave loading.</p>
	<p>What’s changed?</p> <ul style="list-style-type: none"> • Clause (i) inserted to explain interaction between Annual Leave in the Agreement and the National Employment Standards. Previously, the Agreement made a broad reference to the <i>Fair Work Act 2009</i> (Cth). • In (ii) definition of shift worker makes reference to this Agreement, previously made reference to the <i>Fair Work Act 2009</i> (Cth). • Insertion of clause (ii)(b)(2) including an option for employees to cash out their accrued annual leave. • Insertion of clause (iii) to deal with payment of accrued leave upon termination of employment. • Insertion of clause (iii) titled ‘Direction to take Annual Leave’ • Insertion of clause (iv) titled ‘Cashing Out of Annual Leave’
<p>Clause 13 – Long Service Leave</p>	<p>This clause sets out entitlements to Long Service Leave and Accrual.</p>
	<p>What’s changed?</p> <ul style="list-style-type: none"> • Updated policy directives for leave to the current policy directives. • Insertion of Clause vii(b) to Amend and broaden persons entitled to claim LSL on

	death to include legal personal representative in line with probate law.
Clause 14 – Sick Leave	This clause sets out entitlement to and accrual of sick leave
	<p>What’s changed?</p> <ul style="list-style-type: none"> At i(g) clause amended to provide for employees to give notice of absence prior to commencement of their shift, rather than within 24 hours before the commencement of the shift.
Clause 15 – Payment and Particulars of Salary	This clause provides for payment systems and how the employer and employee will deal with overpayment and underpayment.
	<p>What’s changed?</p> <ul style="list-style-type: none"> (ii) amended to removing reference to a “New South Wales” bank or financial institution.
Clause 16 – Termination of Employment	This clause confirms the notice required to terminate employment.
	<p>What’s changed?</p> <ul style="list-style-type: none"> Changed 28 days to 4 weeks for notice period due to ambiguity over part-time employees needing to provide/receive 28 actual days of notice. That is, ambiguity as to whether an employee needs to provide notice in terms of 28 days worked or 28 calendar days. <p>Probationary period changed from 3 months to 6 months.</p>
Clause 17 – Accommodation and Amenities	This clause sets out the accommodations and amenities provided to resident and non-resident employees.
	<p>What’s changed?</p>

	<ul style="list-style-type: none"> No substantive changes have been made to this clause.
Clause 18 – Inspection of Lockers of Employees	This clause sets out entitlement to and accrual of sick leave
	<p>What’s changed?</p> <ul style="list-style-type: none"> No substantive changes have been made to this clause.

Clause 19 – Uniforms and Protective Clothing	This clause sets out provision of uniform, laundry allowances and protective clothing.
	<p>What’s changed?</p> <ul style="list-style-type: none"> Added clause (iv) which provides that the employer will pay for necessary repairs or replacement uniform damage or soiling that may occur during the course of employment.
Clause 20 – Promotions and Appointments	This clause sets out the criteria for promotion for employees.
	<p>What’s changed?</p> <ul style="list-style-type: none"> Clause amended to remove reference to Public Health Employees (State) Industrial Committee and instead insert reference to relevant CEO.
Clause 21 – Consultation Regarding Major Workplace Change	This clause provides entitlement and parameters around maternity, adoption and parental leave.
	<p>What’s changed?</p> <ul style="list-style-type: none"> No substantive changes have been made to this clause.
Clause 22 – Mobility, Excess Fares and Travelling	<p>What’s changed?</p> <ul style="list-style-type: none"> Amended to “kilometre allowance prescribed from time to time in the Crown Employees (Public Service Conditions of Employment) Award” as per the State Award. Previously referred to Regulation 50 of the Public Service Regulation.

	<ul style="list-style-type: none"> Amended all references to “Department of Health” as per the Health Employees Agreement.
<p>Clause 23 – Dispute Resolution</p>	<p>What’s changed?</p> <ul style="list-style-type: none"> Disputes to be referred to the Fair Work Commission in lieu of the NSW Industrial Relations Commission. In Clause (iii) changed discussions must take place within 2 days to “within a reasonable time” Removed one level of internal escalation of disputes prior to referral to Fair Work Commission.
<p>Clause 24 - Family and Community Services Leave, Personal/Carer’s Leave, Family Violence Leave and Compassionate Leave</p>	<p>This clause provides the entitlements for Family and Community Services Leave and Personal/Carer’s Leave for employees.</p> <p>What’s changed?</p> <ul style="list-style-type: none"> Added Family Violence Leave and Compassionate Leave to the title of the clause <p>At clause A(ii) stated FACS leave is separate to but does not replace compassionate leave and consequently deleted clause A(v) in relation to additional FACs leave for bereavement purposes. Defer to NES</p> <ul style="list-style-type: none"> In Clause B(ii)(c) deletion of “from the previous 3 years” so not to limit the period of sick leave employee’s can access, in accordance with the NES. Inserting new clause D Family Violence Leave to provide employees with this new entitlement in accordance with the NES. Inserting new clause E Compassionate Leave to provide employees with this new entitlement in accordance with the NES.

<p>Clause 25 – General Conditions</p>	<p>This clause contains reimbursement entitlement to employees who receive emergency telephone calls outside of ordinary work hours.</p> <p>What’s changed?</p> <ul style="list-style-type: none"> • The clause has been amended to insert ‘landline’ before telephone as the reimbursement is restricted to landline calls.
<p>Clause 26 – Maternity, Adoption and Parental Leave</p>	<p>This clause deals with Maternity, Adoption and Parental Leave entitlement for employees.</p> <p>What’s changed?</p> <ul style="list-style-type: none"> • The Government Sector Employment Act 2013 replaced Public Sector Employment and Management Act 2002 in (ii) • Clause (x) inserted to provide for ‘safe job’ and ‘no safe job’ leave. Allows for transfer of an employee to an appropriate safe job due to illness, or risks, arising out of her pregnancy; or hazards connected with that position. Removed Transfer to a More Suitable Position: clause 32(x), replace with (broader) no safe job leave as per the National Employment Standards. • Inserted clause (xi) to provide for unpaid special maternity leave under the <i>Fair Work Act 2009</i> (Cth) • Add clause providing for unpaid pre-adoption leave. • Added clause 28A “Lactation Breaks” (in line with State Awards) Adding clause for “Keeping in Touch Days” in line with other Agreements.
<p>Clause 27 – Agreement Flexibility</p>	<p>This clause provides for flexibility on terms of employment under this agreement (as agreed upon by employees and employer).</p> <p>What’s changed?</p>

	<ul style="list-style-type: none"> • In Clause (i) inserting that the employer must give the employee a copy of the agreement “within 14 days”. • Termination of the agreement in clause (viii) by either party amended to “13 weeks” notice as opposed to the previous 14 days’ notice.
Clause 28 – Blood Count	This clause provides for a free blood count for eligible employees.
	<p>What’s changed?</p> <ul style="list-style-type: none"> • No substantive changes have been made to this clause.
Clause 29 – Anti-Discrimination	This clause covers how the employer seeks to prevent and eliminate discrimination in the workplace.
	<p>What’s changed?</p> <ul style="list-style-type: none"> • Amend wording in the Agreement to ensure it is in line with modern anti-discrimination terminology i.e. ‘homosexuality’ to ‘sexual preference’.
Clause 30 – Redundancy – Managing Displaced Employees	This clause covers how the employer will conduct its redundancy process and manage affected employees.
	<p>What’s changed?</p> <ul style="list-style-type: none"> • This clause defers to the policy directives of NSW Health for managing redundancy. Previous clause deleted in line with other Agreements.
Clause 31 – Labour FLeXibility	This clause provides for flexibility of an employee’s role as long as the new role is consistent with the employee’s former role (and does not promote deskilling).
	<p>What’s changed?</p> <ul style="list-style-type: none"> • No substantive changes have been made to this clause.
Clause 32 – Salary Packaging	This clause provides for flexibility of an employee salary packaging.
	<p>What’s changed?</p>

	<ul style="list-style-type: none"> No substantive changes have been made to this clause.
Clause 33 – Salary Sacrifice to Superannuation	<p>This clause provides for flexibility and terms in relation to an employee’s salary sacrifice to superannuation.</p> <p>What’s changed?</p> <ul style="list-style-type: none"> No substantive changes have been made to this clause.
Clause 34 – Reasonable Hours	<p>This clause defines what hours are considered reasonable, the requirement of reasonable overtime and an employees rights with respect to refusing to work overtime in some circumstances.</p> <p>What’s changed?</p> <ul style="list-style-type: none"> No substantive changes have been made to this clause.
Clause 35 – Union Representatives	<p>This clause provides for union representatives to interview the employer on Union matters during working hours.</p> <p>What’s changed?</p> <ul style="list-style-type: none"> Deleted outdated terminology “<i>and shall be allowed suitable facilities to collect the Union’s dues.</i>”
Clause 36 – Notice Boards	<p>This clause permits the use of a notice board in the hospital by union representatives.</p> <p>What’s changed?</p> <ul style="list-style-type: none"> Inserted “or health institution”

Additional Clauses

Clause number	Reason for Insertion
Clause 3A – Multiple Assignments	<p>This clause contemplates circumstances in which an employee covered by the Proposed Agreement has more than one position within NSW Health. A clause to this effect is included in the State Award.</p>

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Clause 17A – Remuneration	This clause is inserted in accordance with section 206 of the <i>Fair Work Act 2009</i> (Cth) ensuring that base rates of pay are not less than the <i>Modern Award</i> . It also provides that increase to Award Rates & allowances will be passed on.
Clause 28A – Lactation Breaks	This clause applies to employees who are lactating mothers. A lactation break is provided for breastfeeding, expressing milk or other activity necessary to the act of breastfeeding or expressing milk and is in addition to any other rest period and meal break as provided for in this agreement. A clause to this effect is included in the State Award.
Clause 37 - Induction and Orientation	This clause sets out the introduction and orientation process for the employer.
Clause 38 - No Extra Claims	This clause stipulates that there will be no grounds for extra claims under this agreement except as governed by the <i>Fair Work Act 2009</i> (Cth).
Clause 39 - Ceremonial Leave	This clause sets out employees entitlement for Aboriginal Ceremonial Leave purposes. A clause to this effect is included in the Modern Award.
Aboriginal Health Workers Schedule	Contains classification description for new area of covered classifications in the Proposed Agreement, being workers who would fall within the coverage of the <i>NSW Health Service Aboriginal Health Workers' (State) Award</i> .

Deleted Clauses

During the process of reviewing the Current Agreement, certain clauses were considered to be outdated or no longer applicable. Accordingly, please see below a list of deleted clauses:

Clause number (in Current Agreement)	Reason for Deletion
Clause 7 – Board and Lodging	No longer required.
Clause 22 – New Positions	No longer required.
Clause 31 - Exemptions	No longer required
Clause 38 – Leave Reserved	This clause has been deleted in accordance with the <i>Fair Work Act 2009</i> (Cth).

Renumbered Clauses

Clause Name	Clause number (in Current Agreement)	Clause Number (in Proposed Agreement)
Relieving Other Members of Staff	8	7
Overtime	9	8
On Call – Physiotherapists, Occupational Therapists and Speech Pathologists	9a	8a
On Call Allowance – Social Workers and Sexual Assault Workers	9b	8b
Call Out Allowance – Social Workers and Sexual Assault Workers	9c	8c
Penalty Rates for Shift Work and Weekend Work	10	9
Meals	11	10
Public Holidays	12	11
Annual Leave	13	12
Long Service Leave	14	13
Sick Leave	15	14
Payment and Particulars of Salary	16	15
Termination of Employment	17	16
Accommodation and Amenities	18	17
Inspection of Lockers of Employees	19	18
Uniforms and Protective Clothing	20	19

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Promotions and Appointments	21	20
Consultation Regarding Major Workplace Change	23	21
Mobility, Excess Fares and Travelling	24	22
Dispute Resolution	25	23
Family and Community Services Leave and Personal/Carers' Leave,	26	24
General Conditions	27	25
Maternity, Adoption and Parental Leave	28	26
Agreement Flexibility	29	27
Blood Count	30	28
Anti-Discrimination	32	29
Redundancy – Managing Displaced Employees	33	30
Labour Flexibility	34	31
Salary Packaging	35	32
Salary Sacrifice to Superannuation	36	33
Reasonable Hours	37	34
Union Representatives	39	35
Notice Boards	40	36