

## **REGISTER OF ENTERPRISE AGREEMENTS**

**ENTERPRISE AGREEMENT NO:** EA05/187

**TITLE: Anglican Retirement Villages (Diocese of Sydney)  
Enterprise Agreement**

**I.R.C. NO:** IRC5/2085

**DATE APPROVED/COMMENCEMENT:** 10 May 2005 / 10 May 2005

**TERM:** 12

**NEW AGREEMENT OR  
VARIATION:** New.

**GAZETTAL REFERENCE:** 12 August 2005

**DATE TERMINATED:**

**NUMBER OF PAGES:** 22

**COVERAGE/DESCRIPTION OF**

**EMPLOYEES:** The agreement applies to all employees employed by the Anglican Retirement Village (Diocese of Sydney), located at Level 2, Century Corporate Centre, 62, Norwest Boulevard, Castle Hill NSW 1765, operating at all locations of ARV, who fall within the coverage of the following awards: Nursing Homes, &c., Nurses' (State) Award, Charitable Sector Aged and Disability Care Services (State) Award 2003, Charitable Insitutions (Professional Paramedical Staff) (State) Award, and the Nurses (Private Sector) Redundancy (State) Award.

**PARTIES:** Anglican Retirement Villages -&- the New South Wales Nurses' Association

# ANGLICAN RETIREMENT VILLAGES (DIOCESE OF SYDNEY) ENTERPRISE AGREEMENT

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## PART 1

### ARRANGEMENTS COMMON TO ALL EMPLOYEES

#### 1. Purpose of this Agreement

- (i) This Agreement is designed to:
  - a. Recognise that ARV is a fully integrated provider of aged care services including home based care, independent living, hostels, nursing homes and associated support services;
  - b. Establish by agreement a common set of employment arrangements to enable ARV employees to work flexibly for the same employer and with the same purpose to serve the same residents and clients.
  - c. Set terms and conditions of employment at a level that will attract and retain the best employees to work with ARV to achieve it's specific vision, mission and values:

#### Vision

Creating Communities of Christian Care

#### Mission

Motivated by God's love through Christ, we will provide care and service that promotes the well being and enriches the lives of older people.

#### Values

We will seek to work together in a manner that reflects God's love, best demonstrated in the example of Jesus Christ in order to meet the physical, social, spiritual and emotional needs of our residents and community clients. This is our Christian witness.

#### Servanthood

Following the example of Christ, who came to serve and not be served, we will focus on achieving excellence in service to our residents, clients and staff.

#### Stewardship

We will strive to achieve excellence, continually seeking means for improvement and innovation in our care and services. Furthermore, we will, with integrity, adopt the highest standards of ethical behaviour in all our practices: care, legal, financial, environmental and all business practices.

People

We will place a high value on honesty and mutual respect. We will strive to see our people fulfilled through the creation of work environments where openness, communication, teamwork, learning, and safety are paramount.

## **2. Parties to this agreement & employees covered**

- i. The parties to this Agreement are A.R.V, the NSW Nurses Association and the Health Services Union.
- ii. This Agreement shall apply to all Award covered employees situated at all operating locations of A.R.V.
- iii. This Agreement shall be read in conjunction with the relevant Parent Awards listed below, and where inconsistent with the Parent Award, the terms of this Agreement shall prevail:
  - a. Nursing Homes & Nurses (State) Award (Hereafter referred to as the "Nurses Award")
  - b. Charitable Sector, Aged & Disability Care Services (State) Award 2003 (Hereafter referred to as the "Charitables Award")
  - c. Charitable Institutions (Professional Paramedical staff) (state) Award
  - d. Nurses (Private Sector) Redundancy (State) Award

## **3. Common Definitions**

All definitions will continue to operate as per the relevant Parent Award except for the following:

"Association" - means the relevant association of which the employee is a member. Depending on the Parent Award relevant to a classification, this could be either:

New South Wales Nurses Association or;

Health Services Union

"Ordinary Pay" and "Full Pay" and "Ordinary Time" and "Ordinary Rate" all mean the same thing which is pay that includes base pay and any over award payments for ordinary work; leading hand allowance, uniform allowance and any service allowance. It does not include shift or weekend penalties.

## **4. Employment Classifications & Structures**

- i. Employment classifications, definitions and career path structures remain unchanged by the terms of this Agreement. Refer to the relevant Parent Award.

## **5. Above - Award Rates of Pay**

- i. For the term of this agreement, ARV will maintain Over Award Payments as follows:
  - a. Nurses Award Classifications.....7% above Parent Award base rate
  - b. Charitables Award Classifications....7% above Parent Award base rate
- ii. Sub clause (i) shall not apply to the classifications of Physiotherapists and Occupational Therapists. Employees in these classifications will continue to have their Over Award Rates linked to the Health Professional and Medical Salaries (State) Award.
- iii. In instances where an employee's Base Rate is at a level higher than the Above Award percentages set out in sub clause (i), then their Base Rate will absorb any increases made during the term of the Agreement until their Base Rate is equal to the Above Award percentage levels set out in sub clause (i).

- iv. These Above - Award rates of Pay will be effective from the date on which this Agreement takes effect and will not be subject to any retrospective applications.
- v. All other allowances not specified in this agreement will continue at the levels set in the relevant Parent Award.

## **6. Superannuation**

- i. Default Superannuation Fund
  - a. If no choice of Superannuation Fund is made by an employee within 28 days of commencement of employment, then ARV will select the HESTA Fund as the default Fund for statutory Superannuation Fund payments.
- ii. Optional Salary Sacrifice for Additional Superannuation Fund contributions
  - a. Permanent full-time and permanent part-time employees may elect a fortnightly additional voluntary contribution (i.e. a personal contribution in addition to that paid by ARV under the Superannuation Guarantee) to be deducted from their salary before tax and paid by ARV to the Superannuation Fund on their behalf.
  - b. For tax purposes this additional contribution is deemed to be an additional employer contribution and as such will be subject to the Superannuation Contributions tax.
  - c. Once elected, the amount of the deduction may be changed once per year only, unless the employee's hours of work are increased or decreased or the basis of employment changes (eg transfer to Casual).
  - d. Employees should note that they are also still able to make additional contributions to superannuation as after tax deductions and under that arrangement may be eligible for the Federal Government's Co-contribution. (Please contact Payroll for more information on after tax deductions.)

## **7. Common Probationary Period**

- i. The employment of all new staff permanent part time, full time and temporary employees covered by this Agreement will be subject to the satisfactory completion of a 3 month probationary period. The probation period shall begin on the employee's first day of work.
- ii. During the probationary period, ARV or the employee has the right to terminate the employment at any time, with reasons for the termination to be provided. The period of notice, or payment in lieu of notice, during the probationary period will be one week.

## **8. Common Statement of Unacceptable Behaviour**

- i. There are certain types of behaviour for which ARV maintains "zero tolerance". These behaviours are considered totally unacceptable because they may seriously compromise the duty of care that we have to our clients or residents, or the duty of care that employees have to each other. These behaviours include:
  - a. Lying, misrepresenting or deceiving conduct at commencement of employment relating to personal history, work experience or medical history;
  - b. Threatened or actual violence (i.e. physical or verbal) toward a client, resident or staff member;
  - c. Theft from residents, clients, other employees or the organisation;
  - d. Harassment, bullying or sexual misconduct;

- e. Wilful failure to follow ARV policies or procedures, particularly those relating to care and those relating to occupational health and safety;
  - f. Conviction of a criminal offence that goes to the core of duty of care or the organisation's values;
  - g. Working under the influence of drugs or alcohol;
  - h. Giving and/or receiving of gifts or involvement in resident/client financial or legal transactions against ARV Policy.
- ii. ARV will provide employees with details of its policies and procedures on these behaviours, and will fairly investigate each incident of these behaviours on its own merits.
  - iii. Subject to the outcome of its investigations, ARV will consider these behaviours as serious misconduct requiring disciplinary action for staff or appropriate intervention according to care management procedures for residents or clients.

## **PART 2**

### **LEAVE & FAMILY-FRIENDLY WORKING ARRANGEMENTS COMMON TO ALL EMPLOYEES**

#### **9. Introduction of Family-Friendly Working Arrangements**

- (i) The following clauses of this Agreement establish options that provide ARV employees and their management with more flexibility in the organisation of work at the local level. It also recognises that face-to-face care of aged residents and clients can be a physically and emotionally demanding career choice, and provides benefits to employees who are required to juggle work, personal and family commitments.
- (ii) The parties agree that during the term of this Agreement, matters or issues concerning family-friendly arrangements can be discussed and implemented (if agreed) under the Consultative Arrangements clause.

#### **10. Ordinary Hours to be Calculated over the Fortnight**

- a. This Agreement will establish a common entitlement calculations based on "fortnight" for employees. It is ARV's intention that most employees will continue to work regular ordinary hours from week to week. However, if an employee requests and ARV agrees, an employee under this clause may work irregular hours on a week to week basis.
- b. In order to provide more options to employees (particularly part time employees) and ARV management for the working of ordinary hours, this Agreement will mean that ARV will always refer to a "fortnight" when calculating Award entitlements.
- c. "Fortnight" based calculations refer to either a:
  - 1) 76 hour working fortnight without the accrual of an Additional Day Off (ADO), or
  - 2) 80 hour working fortnight with the accrual of an ADO.
- d. The use of a "fortnight" calculation will apply to the exclusion of other calculations in the following clauses of the Parent Awards:

Nurses Award	Charitables Award
Clause 3 - Hours of work and free time of employees other than directors of nursing. (i) - Ordinary hours of work for day workers. (ii) - Ordinary hours of work for shift workers.	Clause 7 - Hours (i) (a) - Ordinary hours of work for day workers. (i) (b) - Ordinary hours of work for shiftworkers. (ii) (a) (b) (1 & 2) - Arrangement of hours of work.

(iii) (a - c) - Arrangement of hours of work described in subclauses (i) & (ii).

(vi) (a) - Arrangement of hours over a 35 days calendar (ie working 4 x 10 hour shift per week) -

### **11. Optional Salary Sacrifice for Expenses**

- i. Permanent employees (either full time or part time) may elect to have up to \$3,750 per annum set aside from pre-tax income for reimbursement of the following types of expenses:
  - a) Mortgage/Personal loan payments (by either direct credit or reimbursement)
  - b) Rent on principle place of residence
  - c) All Insurances
  - d) Motor Vehicle Registration
  - e) Other health costs - recognised health practitioners, including hospital costs
  - f) Holiday expenses - including travel and accommodation expenses
  - g) Education - preschool, primary, secondary, tertiary and HECS fees
  - h) Utilities - e.g. telephone, gas, council rates, water, etc
  - i) Alterations and additions to existing residence or repairs and replacements of permanent fixtures in residence
  - j) Personal computing requirements
  - k) Child Care
  - l) General purchases and entertainment
  - m) Itemised receipts e.g. Coles, Woolworths, lay-by etc.
- ii. This option allows ARV employees to take advantage of Fringe Benefits Tax exemptions available to ARV as a Public Benevolent Institution under the current provisions of the Fringe Benefits Tax Act (1986). Should these provisions change, ARV reserves the right to cease this benefit at no cost to ARV.
- iii. A before tax deduction of the amount of expenses to be claimed will be made from employees' salaries on a fortnightly basis and reimbursement of the incurred expenses paid to the employee with their fortnightly pay upon production of proper original receipted tax invoice(s) processed through ARV's confidential payroll system.
- iv. This option is not available to those employees who are paid monthly and have their salaries paid on a package basis.
- v. A total Administration Fee of 1% p.a (maximum \$38) of the value of expenses claimed will be payable to ARV for this option.
- vi. During the term of this Agreement, ARV will provide employees with details of the policy and procedures for accessing this optional scheme and will open the scheme to new members four times during the year).

### **12. Optional Arrangements for Changing Working of ADO**

- i. This clause is additional to ADO arrangements as specified in the relevant Parent Awards.

- ii. By agreement between an employee and ARV management an employee may elect to alter their ADO system to work 7.6 hours per day instead of working longer hours and accruing an ADO.
- iii. This decision can be made and reviewed once in each calendar year (i.e. on the employee's anniversary of commencement with ARV) and must be notified to the payroll department at least 1 fortnight in advance of commencement.

### **13. Optional Single Days of Leave**

- i. A permanent part time employee (with at least 12 months service) may elect to have up to 1 (one) week of annual leave stored and taken as single annual leave days.
- ii. This election must be made at the commencement of each year of employment and is irreversible during that period of employment, (i.e. this election can only be made once a year and remains the same for the duration of that year).
- iii. Payment for these days will be calculated on the basis of the average number of ordinary hours worked each fortnight over the accrual period.
- iv. Notice must be given to the employee's manager as soon as possible (and preferably one month ahead if known) when a single annual leave day will be required.

### **14. Parental Leave**

- i. Common arrangements will apply for all employees for Parental Leave. Parental Leave shall be in accordance with the following:
- ii. All employees are entitled to parental leave in accordance with the provisions of the *Industrial Relations Act 1996*.
- iii.
  - (a) Full-time employees and permanent part-time employees are eligible for paid parental leave in accordance with the following provisions:
    - 1. Permanent employees are eligible for paid parental leave when they have completed at least 40 weeks' of continuous service prior to the expected date of birth or prior to the date of taking custody of the child.
  - (b) Employees who are eligible for paid parental leave are entitled to such leave as follows:
    - (1) Paid Leave
      - (A) Paid Maternity Leave - an eligible employee is entitled to nine weeks paid maternity leave at ordinary pay from the date the maternity leave commences.  
  
Maternity leave may commence up to nine weeks prior to the expected date of birth. It is not compulsory for an employee to take this period off work. However, if an employee decides to work during this period, it is subject to the employee being able to satisfactorily perform the full range of normal duties.
      - (B) Paid Paternity Leave - an eligible employee is entitled to one week paid paternity leave in any one year at ordinary pay which must commence within four weeks of the birth of the child. (Eligible employees will be as defined in the *Industrial Relations Act 1996*.)
      - (C) Paid Adoption Leave - an eligible employee is entitled to paid adoption leave of three weeks from and including the date of taking custody of the child.



- (D) Such leave may be paid:
  - (i) on a normal fortnightly basis;
  - (ii) in advance in a lump sum;
  - (iii) at the rate of half pay over a period of 18 weeks on a regular fortnightly basis for maternity leave and at the rate of half pay over a period of six weeks on a regular fortnightly basis for adoption leave.

Annual and/or long service leave credits can be combined with periods of maternity leave or adoption leave on half pay to enable an employee to remain on full pay for that period.

(2) Unpaid Leave

- (A) Unpaid Maternity Leave - An employee is entitled to a further period of unpaid maternity leave of not more than twelve months after the actual date of birth of the child.
  - (B) Unpaid Paternity Leave - An employee is entitled to a further period of unpaid paternity leave of not more than three weeks, to be taken in conjunction with a period of paid paternity leave, unless otherwise agreed by ARV and employee.
  - (C) Unpaid Adoption Leave - An employee is entitled to unpaid adoption leave as follows:
    - (i) where the child is under the age of 12 months - a period of not more than 12 months from the date of taking custody;
    - (ii) where the child is over the age of 12 months - a period of up to 12 months, such period to be agreed upon by both the employee and ARV.
- (c) An employee who has once met the conditions for paid maternity leave and paid adoption leave will not be required to again work the 40 weeks' continuous service in order to qualify for a further period of maternity leave or adoption leave, unless:
- (1) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement or after her services have been otherwise dispensed with; or
  - (2) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the Workers' Compensation Act.
- (d) An employee who intends to proceed on maternity or paternity leave should formally notify ARV of such intention as early as possible, so that arrangements associated with the absence can be made. Written notice of not less than eight weeks prior to the commencement of the leave should accordingly be given. This notice must include a medical certificate stating the expected date of birth and should also indicate the period of leave desired.
- (e) In the case of notification of intention to take adoption leave, due to the fact that an employee may be given little notice of the date of taking custody of a child, employees who believe that, in the reasonably near future, they will take custody of a child, should formally notify ARV as early as practicable of the intention to take adoption leave. This will allow arrangements associated with the adoption leave to be made.

- (f) After commencing maternity leave or adoption leave, an employee may vary the period of her maternity leave or adoption leave, once, without the consent of ARV and otherwise, with the consent of ARV. A minimum of four weeks' notice must be given, although ARV may accept less notice if convenient.
- (g) Any person who occupies the position of an employee on parental leave must be informed that the employee has the right to return to her former position. Additionally, since an employee also has the right to vary the period of her maternity leave or adoption leave, offers of temporary employment should be in writing, stating clearly the temporary nature of the contract of employment. The duration of employment should also be set down clearly, to a fixed date or until the employee elects to return to duty, whichever occurs first.
- (h) When an employee has resumed duties, any period of full pay leave is counted in full for the accrual of annual and long service leave and any period of maternity leave or adoption leave on half pay is taken into account to the extent of one-half thereof when determining the accrual of annual and long service leave.
- (i) Except in the case of employees who have completed ten years service the period of parental leave without pay does not count as service for long service leave purposes. Where the employee has completed ten years service the period of parental leave without pay shall count as service for long service leave purposes provided such leave does not exceed six months.
- (j) Parental leave without pay does not count as service for incremental purposes. Periods of parental leave on full pay and at half pay are to be regarded as service for incremental progression on a pro-rata basis.
- (k) Where public holidays occur during a period of paid parental leave, payment is at the rate of parental leave received, that is the public holidays occurring in a period of full pay parental leave are paid at the full rate and those occurring during a period of half pay leave are paid at the half rate.
- (l) If because of an illness associated with her pregnancy an employee is unable to continue to work then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take leave without pay.
- (m) Where an employee is entitled to paid maternity leave, but because of illness, is on sick leave, long service leave, or leave without pay prior to the birth, such leave ceases nine weeks prior to the expected date of the birth. The employee then commences maternity leave with the normal provisions applying.
- (n) Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, ARV is obliged, as far as practicable, to provide employment in some other position that she is able to satisfactorily perform. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.
- (o) In the event of a miscarriage any absence from work is to be covered by the current sick leave provisions.
- (p) In the case of stillbirth and subject to the production of appropriate medical evidence, maternity and paternity leave provisions will still apply. The employee may resume duty at any time prior to the end of the period of Leave.
- (q) An employee who gives birth prematurely, and prior to proceeding on maternity leave shall be treated as being on maternity leave from the date leave is commenced to have the child. Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.

- (f) An employee returning from parental leave has the right to resume their former position. Where this position no longer exists the employee is entitled to be placed in a position nearest in status and salary to that of her former position and for which the employee is capable or qualified.
- (s) Employees may make application to ARV to return to duty for less than the full-time hours they previously worked by taking weekly leave without pay. Such return to work is to be according to the following principles:
  - (1) the period is to be limited to twenty four months after which the full-time duties must be resumed;
  - (2) the employee is to make an application for leave without pay to reduce her full-time weekly hours of work. This application should be made as early as possible to enable ARV to make suitable staffing arrangements. At least four weeks' notice must be given;
  - (3) the quantum of leave without pay to be granted to individual employees is to be at the absolute discretion and convenience of ARV;
  - (4) salary and conditions of employment are to be adjusted on a basis proportionate to the employee's full-time hours of work, that is for long service leave the period of service is to be converted to the full-time equivalent and credited accordingly.
  - (5) Full-time employees who return to work under this arrangement remain full-time employees.
  - (6) Where an employee becomes pregnant whilst on maternity leave, a further period of maternity leave may be granted. Should this second period of maternity leave commence during the currency of the existing period of maternity leave, then any residual maternity leave from the existing entitlement lapses.

### **15. Introduction of Common Public Holiday & Leave Entitlements**

The following clauses of this Agreement are based on the view that given ARV's Award covered employees work for the same employer, with the same purpose and for the same residents and clients (and in many cases in the same facilities), then it is logical that all employees should share the same entitlements for public holidays and leave.

### **16. Public Holidays**

Common arrangements will apply for all employees for Public Holidays. Public Holidays shall be in accordance with the following:

- (i) Public holidays shall be allowed to employees without loss of ordinary pay.
- (ii) For the purposes of this Agreement, the following shall be deemed to be public holidays: New Year's Day; Australia Day; Good Friday; Easter Saturday; Easter Monday; Anzac Day; Queen's Birthday; Labour Day; Christmas Day; Boxing Day; and any other day duly proclaimed and observed as a public holiday within the area in which ARV operates.
- (iii)
  - (a) In addition to those public holidays specified in sub-clause (ii) employees shall be entitled to an extra public holiday each year. Such public holiday shall occur on one of the following days as determined by ARV:
    - 1. On the day on which the August Bank Holiday is observed; or

2. On a day between Christmas and New Year within the days Monday to Friday inclusive and not coinciding with a date that is already a gazetted public holiday for that calendar year; or
  3. On a gazetted and proclaimed local public holiday. In areas where only one half-day is proclaimed and observed, the whole day will be regarded as a public holiday for the purposes of this Agreement. In these circumstances if a further one half day local public holiday occurs in that calendar year, it will not be observed for the purposes of this clause.
  4. ARV shall nominate before July 1 of each calendar year, the date on which this extra public holiday is to be observed for employees covered by each Parent Award. Once such an election is made, such date then becomes the date on which the extra public holiday is to be observed for all employees covered by the relevant Parent award, provided however that if no such election is duly made, the extra public holiday will be observed according to subclause (1) for Charitables Award employees and subclause (2) for Nurses award employees.
- (iv) An employee who is required to and does work on any public holiday prescribed in this clause shall be paid in lieu of all other shift allowances (except broken shift allowances), weekend penalties, casual loading and part-time loading, as follows:
- (a) Full-time Employees -
    - (1) Time and one half for all ordinary time worked in addition to the weekly rate.  
  
Alternatively, if the employee elects:
      - (2) Half-time extra for all time worked in addition to the weekly rate and have the equivalent number of hours worked to be taken in conjunction with the period of annual leave or at another time as agreed.
  - (b) Permanent Part-time Employees -
    - (1) Double and a half for all time worked on the public holiday, although where the time worked by agreement is less than the rostered shift, the balance of the rostered shift will be paid at ordinary pay.  
  
Alternatively, if the employee elects:
      - (2) Half-time extra for all time worked in addition to the weekly rate and have the equivalent number of hours worked to be taken in conjunction with the period of annual leave or at another time as agreed.
  - (c) Casual Employees:  
  
Double time and one-half for all time worked.
- (v) Full-time shift-workers rostered off duty on a public holiday shall:
- (a) be paid one day's pay in addition to the weekly rate; or
  - (b) if the employee so elects to have the equivalent number of hours worked to be taken in conjunction with their period of annual leave or at another time as agreed.
- (vi) The election referred to in sub-clauses (iv) and (v) is to be made in writing by the employee at the commencement of each year of employment and is irrevocable during that period of employment.

**17. Annual Leave**

Common arrangements will apply for all employees for Annual Leave. Annual Leave shall be in accordance with the following:

- (i) All employees shall be entitled to the provisions of the *Annual Holidays Act 1944*
- (ii)
  - (a) Full-time employees and permanent part-time employees who are rostered to work their ordinary hours on Sundays and/or public holidays shall be entitled to receive additional annual leave if, during a qualifying period of employment for annual leave purposes they have worked:

	Full-time Employees	Permanent part-time Employees
3 shifts or less	Nil	Nil
4 - 10 shifts	one day	0.2 weeks
11 - 17 shifts	two days	0.4 weeks
18 - 24 shifts	three days	0.6 weeks
25 - 31 shifts	four days	0.8 weeks
32 or more shifts	five days	1 week.

Provided that an employee, entitled to additional annual leave by virtue of this sub-clause, may elect to be paid an amount equivalent to the value of his/her additional leave entitlements in lieu of taking the additional leave. Such election is to be made in writing by the employee at the commencement of each year of employment and is irrevocable during the currency of that year of employment.

- (b) Live-in Housekeepers employed and paid as such shall accrue an additional weeks leave for every twelve (12) months of continuous service on a pro-rata basis.
- (iii) Provided that on termination of employment, employees shall be entitled to payment for any untaken annual leave due under sub-clause (ii) together with payment for any leave in respect of an uncompleted year of employment calculated in accordance with sub-clause (i).
- (iv) Employees entitled to ADO in accordance with the relevant Parent Award, shall accrue credits towards an ADO in respect of each day those employees are absent on additional annual leave in accordance with sub-clause (ii) of this clause and the Public Holidays clause of this Agreement.
- (v) With respect to an employee who is eligible for sick leave and who produces a satisfactory medical certificate to the effect that the employee has been incapacitated for a period of at least one week's duration while on annual leave, ARV may recredit such employee with an equivalent period of annual leave provided that no such recrediting shall be granted to an employee on leave prior to retirement, resignation or termination of services and provided further ARV is satisfied of the circumstances and the nature of the incapacity.

**18. Annual Leave Loading**

Common arrangements will apply for all employees for Annual Leave Loading. Annual Leave Loading shall be in accordance with the following:

- (i) Employees shall be entitled to annual leave loading of 17.5% on four weeks of the appropriate weekly rate of pay, or shift allowances and weekend penalties as set out in sub-clause (ii) of this clause, whichever is the greater.
- (ii) A shift worker shall be paid whilst on annual leave his/her ordinary pay plus shift allowances and weekend penalties relating to ordinary time the shift worker would have worked if the employee had not been on annual leave. Provided that shift allowances and weekend penalties shall not be payable for public holidays which occur during a period of annual leave, for days which have been added to annual

leave in accordance with the provisions of the Public Holidays or Annual Leave clauses of this Agreement.

- (iii) No loading is payable where the annual leave is taken wholly or partly in advance, provided however, that if the employment of such an employee continues until their next anniversary date, the loading then becomes payable.
- (iv) Where the employment of an employee is terminated for a cause other than misconduct and at the time of the termination the employee has not been given and has not taken the whole of the annual leave accrued as at their last anniversary date, they shall be paid the leave loading for such leave on termination. No leave loading is payable on pro-rata leave on termination.

### **19. Sick Leave**

Common arrangements will apply for all employees for Sick Leave. Sick Leave shall be in accordance with the following:

- (i)
  - (a) An employee during his/her first year of employment with ARV shall be entitled to sick leave at the rate of 7.6 hours or pro rata thereof on the anniversary date of each of the first three (3) months of continuous service.
  - (b) Upon completion of four (4) months continuous service the employee shall be entitled to a further 53.2 hours or pro rata thereof sick leave
- (ii) A full-time employee shall be entitled to sick leave on ordinary pay by allowing 76 rostered ordinary hours of work for each year of continuous service.
- (iii) Part-time employees shall be entitled to sick leave in the same proportion of seventy six hours as the average weekly hours worked over the preceding 12 months or from the time of the commencement of employment, whichever is the lesser, bears to 38 ordinary hours of one week for each year of continuous service. Such entitlements shall be subject to all the conditions applying to full-time employees.
- (iv)
  - (a) An employee, other than a homecare employee, shall notify ARV of an absence from work due to illness or injury prior to the commencement of his/her rostered shift or as soon as practicable thereafter, and shall inform ARV of the expected duration of the absence.
  - (b) A Homecare Employee shall notify ARV of an absence from work due to illness or injury at least 3 hours prior to the commencement of his/her rostered shift but in any case no later than 1 hour before the first client where the employee is not prevented from doing so and shall inform ARV of the expected duration of the absence.
  - (c) An employee who is working in two (2) different classifications shall be paid the relevant pay for the classification the employee would have been working on the day of their sick leave.
- (v) Periods of sickness shall not be required to be certified to by a legally registered medical practitioner, excepting where the absence exceeds two (2) consecutive days or where in ARV's opinion the circumstances are such as to warrant such requirements.
- (vi) ARV shall not change the rostered hours of work of an employee fixed by the roster or rosters applicable to the seven days immediately following the commencement of sick leave merely by reason of the fact that the employee is on sick leave.
- (vii) An employee shall not be entitled to sick leave on ordinary pay for any period in respect of which such employee is entitled to workers' compensation payments at full ordinary rate; provided however, that where an employee is not in receipt of such full ordinary compensation rate, ARV shall pay to an

employee who has sick leave entitlements under this clause, the difference between the amount received as workers' compensation and full pay.

The employee's sick leave entitlement under this clause shall, for each week during which such difference is paid, be reduced by the proportion of hours which the difference bears to full pay. On the expiration of available sick leave, weekly compensation payments only shall be payable.

Provided that this sub-clause shall not apply where an employee unreasonably refuses to undergo a rehabilitation program.

- (viii) For the purpose of determining a full-time employee's sick leave credit as at 1 May, 1985, sick leave entitlement shall be proportioned on the basis of 76:80.
- (ix) For the purposes of this clause, service shall mean continuous service with ARV.
- (x) Any unused sick leave shall remain to the employee's credit.

## **20. Personal/Carer's Leave**

Common arrangements will apply for all employees for Personal / Carer's Leave. Personal / Carer's Leave shall be in accordance with the following:

- (i) Use of Sick Leave
  - (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in sub-clause (2) of sub-clause (c), who needs the employee's care and support, shall be entitled to use, in accordance with this sub-clause any current or accrued sick leave entitlement, provided for in the Sick Leave Clause of this Agreement, for absences to provide care and support, for such persons when they are ill. Such leave may be taken for part of a single day.
  - (b) The employee shall, if required, establish either by production of a medical certificate or statutory declaration, the illness of the person concerned or that the illness is such as to require care by another person. In normal circumstances, an employee must not take carer's leave under this sub-clause where another person has taken leave to care for the same person.
  - (c) The entitlement to use sick leave in accordance with this sub-clause is subject to:
    - (1) the employee being responsible for the care of the person concerned; and
    - (2) the person concerned being:
      - (A) a spouse of the employee; or
      - (B) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
      - (C) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
      - (D) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
      - (E) a relative of the employee who is a member of the same household, where for the purposes of this sub-clause:

- (3) Where:
- (A) "relative" means a person related by blood, marriage or affinity;
  - (B) "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and
  - (C) "household" means a family group living in the same domestic dwelling.
- (d) An employee shall, wherever practicable, give ARV notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify ARV by telephone of such absence at the first opportunity on the day of absence.
- (e) An employee, in addition to the circumstances and manner stated in subclauses (a)-(d), shall also be entitled to access accrued sick leave for the purposes of personal/carer's leave in the following situation:
- (A) one permanent employee only per facility or operating location each calendar year shall be entitled to access one (1) day of such leave to attend training facilitated by each Association to increase awareness and knowledge of workplace issues and/or consultative mechanisms and/or statutory entitlements and obligations, which will contribute to a more productive, aware and harmonious workplace environment;
  - (B) such an employee will give a minimum of four weeks notice to ARV of attendance at such training, unless a lesser notification period is agreed to by ARV, and ARV shall be entitled to request written confirmation from the Association as to the time and nature of the training;
  - (C) access to this one (1) day per year in this subclause is not cumulative; and
  - (D) such an employee may, with the consent of ARV, access additional or alternative leave, as prescribed in subclauses (ii)-(vi) of this clause, for the purposes of attending such training as stated in subclause (e)(A) above.
- (ii) Unpaid Leave for carers leave purpose
- An employee may elect, with the consent of ARV, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in sub-clause (i) (c) (2) above, who is ill.
- (iii) Annual Leave
- (a) An employee may elect with the consent of ARV, subject to the Annual Holidays Act 1944, to take annual leave not exceeding five days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties.
  - (b) Access to annual leave, as prescribed in sub-clause (a) of this sub-clause, shall be exclusive of any shutdown period provided for elsewhere under the Annual Holidays Act 1944.
- (iv) Time Off in Lieu of Payment for Overtime
- (a) An employee may elect, with the consent of ARV, to take time off in lieu of payment for overtime at a time or times agreed with ARV within 12 months of the said election.
  - (b) Overtime taken as time off during ordinary time hours shall be taken as set out in the relevant Parent Award.



- (c) If, having elected to take time as leave in accordance with sub-clause (a) of this sub-clause, the leave is not taken for whatever reason payment for time accrued at overtime rates shall be made at the expiry of the 12 month period or on termination.
  - (d) Where no election is made in accordance with the said sub-clause (a), the employee shall be paid overtime rates in accordance with the award.
- (v) Make-up Time
- (a) An employee may elect, with the consent of ARV, to work "make-up time", under which the employee takes time off ordinary hours payable at the ordinary rate of pay, and works those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.
  - (b) An employee on shift work may elect, with the consent of ARV, to work "make-up time" (under which the employee takes time off ordinary hours and works those hours at a later time), at the shift work rate, which would have been applicable to the hours taken off.
- (vi) Allocated Days Off
- (a) An employee may elect with the consent of ARV, to take an ADO at any time.
  - (b) An employee may elect, with the consent of ARV, to take allocated days off in part day amounts.
  - (c) An employee may elect, with the consent of ARV, to accrue some or all allocated days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between ARV and employee or subject to reasonable notice by the employee or ARV.
  - (d) This sub-clause is subject to ARV informing the relevant association which is a party to the agreement and which has members employed at the particular location of its intention to introduce an enterprise system of ADO flexibility, and providing a reasonable opportunity for the association(s) to participate in negotiations.

## **21. Compassionate Leave**

Common arrangements will apply for all employees for Compassionate Leave. Compassionate Leave shall be in accordance with the following:

- (i) Compassionate leave with ordinary pay shall be granted only in extraordinary or emergent circumstances where an employee is forced to be absent from duty because of an urgent pressing necessity, and such leave as is granted should be limited to the time necessary to cover the immediate emergency.

An absence occasioned by personal exigencies which might fairly be regarded as an obligation on the employee, rather than ARV, may be covered by the grant of leave without pay, or if the employee so desires, charged against available annual leave credits.

- (ii) Compassionate leave shall be granted on the following principles:

- (a) Bereavement Leave

- (1) An employee, other than a casual employee, shall be entitled to up to two days bereavement leave without deduction of ordinary pay, on each occasion of the death of a person as prescribed in subparagraph (3) of this paragraph, provided that where the employee is involved in making funeral arrangements, travelling, etc., leave may be allowed for up to three days. Leave with pay would not ordinarily be granted for the death or attendance at a funeral for relatives not outlined in the said subparagraph (3) unless special circumstances exist, e.g., the employee resided with the deceased.

- (2) The employee must notify ARV as soon as practicable of the intention to take bereavement leave and will provide to the satisfaction of ARV proof of death.
  - (3) Bereavement leave shall be available to the employee in respect to the death of a person prescribed for the purposes of personal/carer's leave as set out in the Personal/Carer's Leave Clause, provided that, for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.
  - (4) An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.
  - (5) Bereavement leave may be taken in conjunction with other leave available under subclauses (ii), (iii), (iv), (v) and (vi) of Personal/Carer's Leave. In determining such a request, ARV will give consideration to the circumstances of the employee and the reasonable operational requirements of the organisation.
- (b) Where an illness in the family causes an immediate emergency, sufficient leave should be granted to meet the immediate emergencies and to allow the employee to make any other arrangements considered necessary. Except in very special cases, such leave with pay should be limited to one day and where no one but the employee was available to care for the sick family member.
  - (c) Compassionate leave may also be granted in cases of unforeseen emergencies, which clearly prevent attendance for duty, e.g., flood, bush fires etc.
- (iii) Only under the most exceptional circumstances shall compassionate leave be granted for a period exceeding three working days within any one year. This is provided that additional leave may be granted by ARV in exceptional circumstances.

## **22. Jury Duty Leave**

- (i) Common arrangements will apply for all employees for Jury Duty Leave. Jury Duty Leave shall be in accordance with the following:
- (ii) Should an employee be required to attend to jury duty on a day that they were rostered for work, ARV will allow such time off without loss of ordinary pay for the employee to attend.
- (iii) Without loss of ordinary payment means that ARV will make up the difference between any pay-outs made to the employee by a statutory authority and what would have been the employee's ordinary pay for the time spent on Jury Duty (excluding any travel allowance).
- (iv) To receive this make up pay, employees must submit evidence of their attendance at Jury Duty and receipts of any payments received immediately upon their return to work.

## **23. Leave Without Pay**

- (i) Common arrangements will apply for all employees for Leave Without Pay. Leave Without Pay shall be in accordance with the following:
  - (a) By agreement with ARV, a permanent employee may be granted a period of leave without pay. "By agreement with ARV" means:
    - 1) the employee is facing exceptional circumstances and
    - 2) final approval of up to one week's leave is subject to approval by a Manager, and
    - 3) final approval of one week or more is subject to approval by a General Manager, and

- 4) given length of service and circumstances of the request, entitlements to any annual leave and long service leave should be used first and have expired.
- (ii) The period of leave without pay will not break the continuity of service but will not count for the purpose of:
  - (a) accruing annual leave, incremental progression, sick leave and public holidays;
  - (b) accruing long service leave except in the case of employees who have completed at least ten years service (any period of absence without pay being excluded therefrom) in which case service shall include any period without pay not exceeding six months taken after 1 June, 1980;
  - (c) qualifying period for paid and unpaid paternity leave; and
  - (d) the calculation of notice and severance pay in accordance with Redundancy and Termination of Employment clauses in the relevant Parent Award.

**24. Long Service Leave**

Long Service Leave is unchanged by the terms of this Agreement. Refer to the relevant Parent Award.

**PART 3**

**ARRANGEMENTS SPECIFIC TO CHARITABLE AWARD EMPLOYEES**

**25. Homecare Worker Classifications**

- i) The approval of this Agreement means that all classifications listed in this clause will refer to the Charitables Award as the relevant Parent Award:

Old Classification - Miscellaneous Award	New Classification - Charitables Award
Field Care Worker Grade 1	Homecare Worker Grade 1
Field Care Worker Grade 2	Homecare Worker Grade 2
Field Care Worker Grade 3	Homecare Worker Grade 3

- ii) This is because:
 

the home care services provided by ARV employees are operated, resourced and managed as an adjunct to ARV’s core business of retirement villages, nursing homes and hostels and;

from time to time home care service employees may be required to cross service clients living within ARV’s range of retirement villages, nursing homes or hostels.
- iii) ARV will ensure that any employee who moves between community and residential operations will be appropriately classified, trained and paid according to the relevant Parent Award.
- iv) This is a new arrangement in ARV’s operations, and so the parties will monitor the application of this clause during the term of this Agreement in accordance with the Consultative Arrangements clause.

**26. Travel Allowance and Travel Time for Homecare Workers**

- (i) Travel Allowances and Travel Time for Homecare Workers will be paid according to Clause 17 Allowances and Special Conditions of the Charitables Award, except for the following modifications:
  - a) A Homecare worker may discuss flexibilities with their co-ordinator should there be a significant increase in the regular travel requirements to a first or last client.

- b) Where an employee's travel time is paid according to the ordinary hours method specified in Clause 17 of the Charitables Award, then travel time will be considered as ordinary time for all purposes including annual leave payments and sick leave accrual.
- c) The motor vehicle allowance for a Homecare worker using a private vehicle for ARV purposes shall be 65c per kilometre. ARV may review this amount during the term of this agreement subject to its assessment of motor vehicle costs and any allowance changes made under the Award.

#### **27. Uniforms and Protective Clothing for Homecare Workers**

- (i) Where ARV Management and an employee agree that there is a requirement for a Homecare worker to be supplied with a uniform, then it shall be provided in accordance with Clause 30, Uniforms and Protective Clothing of the Charitables Award.

#### **28. Therapist Classifications**

- (i) All ARV therapist classifications that currently have the Charitables (Paraprofessionals) Award as their Parent Award, will refer to the Charitables Award for all clauses except for those specifically covered by this Enterprise Agreement. Rates Of Pay, as per Clause 5 of this Agreement, will be as per the Health Professional and Medical Salaries (State) Award.
- (ii) Therapist classifications include:
  - (a) "Physiotherapist" meaning an officer registered or conditionally registered under the *Physiotherapists' Registration Act 1945*.
  - (b) "Occupational Therapist" meaning an officer employed in the industry of occupational therapy who has qualifications acceptable to the NSW Association of Occupational Therapists.
  - (c) "Speech Therapist" meaning an officer employed in the industry of speech therapy who has qualifications acceptable to the NSW Branch of Speech Pathology Australia.
  - (d) "Music Therapist" meaning an officer employed in the industry of music therapy.
  - (e) Any officer performing such other activities as may be conveniently related to the use of therapeutic method for the purpose of curing or alleviating any abnormal condition of the human mind or body and that may emerge as a professional discipline in the future.

### **PART 4**

#### **ARRANGEMENTS SPECIFIC TO NURSES AWARD EMPLOYEES**

##### **29. Introduction of Common Working Arrangements**

- (i) This section of the Agreement is intended to align a small number of working arrangements applying to employees covered by the Nurses Award with those arrangements applying to employees covered by the Charitables Award. These changes are intended to make rostering, handovers and shift planning easier in ARV's facilities where both groups of employees work closely together in the same location.
- (ii) Notwithstanding Clause 17 Annual Leave of this Enterprise Agreement, Nurses who are required to work on a seven (7) day basis in accordance with Clause 22 Annual Leave of the Nursing Homes & c., (State) Award will continue to accrue their entitlements as a Present Occupant Only until they elect otherwise.
- (iii) The parties will monitor the clauses in this Part during the term of this Agreement to ensure that there is no net disadvantage as a result of standardising these arrangements.

### **30. Spread of Hours Same as Charitables Award**

- (i) This Agreement will establish a common definition for a Day Worker

"Day Worker" - means an employee who works their ordinary hours from Monday to Friday inclusive and who commences work on such days at or after 6:00 a.m. and at or before 10:30 a.m., otherwise than as part of a shift system.

- (ii) This Agreement will establish a common spread of ordinary hours.

Ordinary hours can be worked between the hours of 6:00am and 7:00pm

### **31. Working Time Before a Meal Break Same as Charitables Award**

- (i) This Agreement will establish common ordinary time requiring a meal break.

Employees shall not be required to work more than six (6) hours without a meal break. Such meal break shall be of between 30 and 60 minutes duration and shall not count as time worked.

### **32. Shift Allowance Boundaries Same as Charitables Award**

- (i) This Agreement will establish common timings for application of shift penalty rates.
- (ii) Employees shall be paid the following percentages in addition to their ordinary pay, and where applicable, the 10% casual loading for shifts rostered as follows:
  - a) 10% for afternoon shift commencing after 10:30am and before 1:00pm
  - b) 12.5% for afternoon shift commencing at or after 1:00pm and before 4:00pm
  - c) 15% for night shift commencing at or after 4:00pm and before 4:00am
  - d) 10% for night shift commencing at or after 4:00am and before 6:00am.

### **33. Overtime for Casuals Same as Charitables Award**

- (i) This Agreement establishes a common practice of overtime arrangements for casuals in addition to the arrangements specified in the Nurses Award.
- (ii) Overtime rates shall be payable on the hourly rate (1/38th) in lieu of the 10% casual loading only when a casual works in excess of 38 hours per week or 76 hours per fortnight depending on the pay period.

## **PART 5**

### **ADMINISTRATIVE ARRANGEMENTS**

#### **34. Dispute Resolution Procedure**

The following procedure shall be followed in relation to all grievances or disputes. For any of these stages, either party may be represented by an industrial association of their choice:

- (i) The employee(s) is required to discuss the dispute or grievance with their immediate Supervisor (in writing or otherwise), this meeting will include details of the substance of the dispute and the remedies sought. Both parties will seek to resolve the dispute in good faith at this level.
- (ii) If resolution is not reached, the dispute or grievance shall be referred (by either party) to a higher level of Management. At the conclusion of these discussions, Management must provide a response to the employee's grievance in writing. If the matter has not been resolved, this response should include reasons for not implementing any proposed remedy.

- (iii) If resolution is not reached, then it shall be referred (by either party) to the Industrial Commission for settlement.
- (iv) Reasonable time limits must be allowed for discussion and resolution at each level of authority.
- (v) While the above procedure is being followed, work will continue as normal where it is agreed there is an existing practice, but in other cases work will continue on ARV's instructions. No party will be prejudiced as to the final settlement by continuation of work.

### **35. Anti-Discrimination Measures**

- (i) It is the intention of the parties to this Agreement to seek to achieve the object in s 3(f) of the *Industrial Relations Act* 1996 to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (ii) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this Agreement the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Agreement are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the agreement which, by its terms or operation, has a direct or indirect discriminatory effect.
- (iii) Under the *Anti-Discrimination Act* 1977, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (iv) Nothing in this clause is taken to affect:
  - (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
  - (b) offering or providing junior rates of pay to persons under 21 years of age;
  - (c) any act or practice of a body established to propagate religion which is exempted under s 56(d) of the *Anti-Discrimination Act* 1977;
  - (d) a party to this Agreement from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- (v) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

#### NOTES

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act* 1977 provides:
 

"Nothing in the Act affects ... any other practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

### **36. Right of Entry Provisions**

Right of Entry provisions are unchanged by the terms of this Agreement. Refer to the relevant Parent Award.

### 37. Consultative Arrangements

- (i) The parties to this Agreement (or their nominated representatives) will meet during its term to discuss difficulties that may arise associated with its implementation. The parties may also discuss improvements to ARV's operations, including:
  - a. Staff learning & development.
  - b. Improvements in care practices;
  - c. Implementation of automated time keeping systems;
- (ii) The parties continue to reserve their rights under the Dispute Settlement Procedures of this Agreement should disputes arise during the progress of these discussions.

### 38. Term & Renegotiation

This Agreement shall operate from the date of registration and shall remain in force for a period of twelve (12) months unless varied or terminated earlier by the provisions provided by the *Industrial Relations Act 1996*. Negotiations between the parties will commence one month before the expiration of this Agreement.

### 39. No Extra Claims

Apart from flowing on changes approved by the NSW Industrial Commission to Parent Award clauses not covered by this Agreement (as envisaged in Clause 2 (iii)), the parties agree not to pursue any extra claims during the term of this Agreement.

### 40. Signatures to Agreement

_____	23/3/05
For & On Behalf of Anglican Retirement Villages	Date
_____	31/3/05
For & On Behalf of NSW Nurses Association	Date
_____	24/3/05
For & On Behalf of Health Service Union	Date