

DEPARTMENT OF HEALTH MEDICAL PRACTITIONERS (METROPOLITAN
HEALTH SERVICES) AMA INDUSTRIAL AGREEMENT 2004

WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

PARTIES THE MINISTER FOR HEALTH INCORPORATED AS THE BOARD OF
THE HOSPITALS FORMERLY COMPRISED IN THE
METROPOLITAN HEALTH SERVICE BOARD

APPLICANT

-v-

AUSTRALIAN MEDICAL ASSOCIATION, (WESTERN AUSTRALIA)

RESPONDENT

CORAM COMMISSIONER P E SCOTT
PUBLIC SERVICE ARBITRATOR

DATE OF ORDER FRIDAY, 30 APRIL 2004

FILE NO PSAAG 3 OF 2004

CITATION NO. 2004 WAIRC 11317

Result Agreement registered

Order

HAVING heard Ms C Glenn on behalf of the Minister for Health and Mr P Jennings on behalf 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 2004 in the terms of the following schedule be registered on the 29th day of April 2004 and shall replace the Medical Practitioners (Metropolitan Health Services) AMA Industrial Agreement 2002 No. PSAAG 39 of 2002.

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 2004.

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2. 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 AMA”).
- (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 2002.
- (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 AMA 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.

3. NO FURTHER CLAIMS

The parties undertake that for the period of this Agreement they will 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.

The parties agree that in respect to salaries, there shall be no further adjustments until 1 October 2007.

4. NO BANS OR LIMITATIONS

Practitioners will 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 will not lock out practitioners from their employment.

5. TERM, EXPIRY AND RENEGOTIATION OF AGREEMENT

- (1) This Agreement shall have effect from 1 April 2004 and shall expire on 31 March 2007.
- (2) Negotiations for a new agreement will commence by 1 July 2006 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 31 March 2007, this Agreement shall continue in force until a new agreement is made.

6. AGREEMENT FLEXIBILITY

In recognition of the need for maximum flexibility within this Agreement, the employer, the AMA 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.

7. TRANSITION / RETENTION OF RIGHTS

- (1) Any pre-existing right of permanency or other term of service in the Public Sector of Western Australia 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 AMA, 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.

8. DEFINITIONS

“Board of Reference” means a panel consisting of a person nominated by the Employer, a person nominated by the AMA 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”), 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 and includes the Medical Superintendent.

“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 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 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 or King Edward Memorial Hospital / 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

9. CONTRACT OF SERVICE

- (1) (a) Appointments shall be as agreed in writing between the Employer and the practitioner and shall normally be for 52 continuous weeks.
- (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 give 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 will apply no later than six months after commencement 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 permanent 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 7(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 of less than 52 weeks - 4 weeks' notice.
 - (ii) For contracts of 52 weeks and up to but not including 104 weeks - 6 weeks' notice.
 - (iii) For contracts of 104 weeks and up to but not including 156 weeks - 8 weeks' notice.
 - (iv) For contracts of 156 weeks' duration 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.
- (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) Practitioners may be seconded on the approval of, and after consultation between the relevant employing authorities, to any Government recognised hospital or agency. In this subclause, "employing authority" is as defined in the Public Sector Management Act 1994.
- 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 will be required to complete. These terms shall only be changed after consultation with the practitioner.

10. PART TIME PRACTITIONERS

- (1) (a) A part time practitioner is one who is engaged in regular and continuing employment for less than an average of 40 hours per week.
- (b) With effect from 1 November 2006 a part time practitioner is one who is engaged in regular and continuing employment for less than an average of 38 hours per week.
- (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 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) A part time practitioner shall, subject to Clause 28 - Shift, Weekend and Public Holiday Penalties, be paid 1/40th of the rate for their classification for each ordinary hour worked. Clause 16 - Payment for Overtime shall apply if the practitioner works in excess of 80 hours in a two-week pay period.
- (b) With effect from 1 November 2006, a part time practitioner shall, subject to Clause 28 - Shift, Weekend and Public Holiday Penalties, be paid 1/38th of the rate for their classification for each ordinary hour worked. Clause 16 - Payment for Overtime shall apply if the practitioner works in excess of 76 hours in a two-week pay period.
- (5) (a) (i) A part time practitioner shall be entitled to pro rata leave entitlements in the same ratio as the practitioner's ordinary hours bear to 40.
- (ii) With effect from 1 November 2006, 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 31 - 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 28 - Shift, Weekend and Public Holiday Penalties shall apply.

(6) The Employer shall notify the AMA by February each year of the number of part time positions.

11. CASUAL PRACTITIONERS

- (1) Casual practitioners may be engaged for minimum periods of three hours.
- (2) Casual practitioners will 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 AMA by February each year the number of casual practitioners employed during the preceding calendar year.

12. 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 inclusive, based on years of relevant experience after graduation.
 - (c) The salary of a Registrar shall be within the range of Levels 5 to 10 inclusive based on years of relevant experience in that capacity.
 - (d) The salary of a Senior Registrar shall be within the range of Levels 11 to 12, 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 12. Level 12 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 11 inclusive 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 12 inclusive, based on years of relevant experience in that capacity.
 - (h) Subject to the provisions of this Agreement, a practitioner shall be employed in accordance with the level of work performed.

- (2) Subject to good conduct, satisfactory performance, diligence and efficiency, a practitioner shall progress through the salary range by annual increments on their anniversary date.
- (3) Salaries shall be paid fortnightly.
- (4) Practitioners shall receive a Professional Expenses Allowance equivalent to 3% of the base salary of a Level 5 to assist with the cost of professional expenses. Provided that the Employer may provide additional assistance to practitioners to cover the cost of professional development including training courses and exams.
- (5) Retention Payment
 - (a) A practitioner employed in Levels 1 – 12, at the completion of each 12 months service or the completion of a fixed term contract, whichever is earlier, shall be paid a Retention Payment equal to 2% of their base salary at the time of payment for the relevant period.
 - (b) The entitlement to a retention payment is extinguished on and from 1 July 2006 provided that a practitioner who would otherwise have been entitled to payment after 1 July 2006 will be paid on a pro rata basis for the applicable service up to and including 30 June 2006.
- (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.

13. SECONDMENT ARRANGEMENTS

- (a) A practitioner on secondment to a facility controlled by the WA Country Health Services or by the South West Health Service shall be provided with furnished accommodation whilst on secondment. If this is unable to be provided the Employer shall reimburse the practitioner the reasonable cost of renting furnished accommodation.
- (b) A practitioner on secondment shall be provided with transport to:
 - (i) travel to the facility to which the practitioner is seconded; and
 - (ii) return from the facility at the end of the secondment;or where agreed, be reimbursed reasonable expenses for such travel.
- (c) 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 Services facility or a South West Health Services facility.
- (d) The terms under which a practitioner is seconded shall be agreed in writing prior to commencement of the secondment. Such terms will ordinarily include the same general terms and conditions as are prescribed for other practitioners employed in that facility for a similar period.

14. HOURS OF DUTY

- (1)
 - (a) A practitioner's ordinary hours of duty shall be 40 hours per week to be rostered in accordance with Clause 15 - Rosters.
 - (b) With effect from 1 November 2006 a practitioners ordinary hours of duty shall be 38 hours per week to be rostered in accordance with Clause 15 – 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 oncall).
 - (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 oncall) 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, but the AMA 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 oncall).
- (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.
- (6)
 - (a) A practitioner shall be entitled to a paid rest break of thirty minutes within each period of rostered duty which is in excess of five hours. If the practitioner has been advised in writing that the job they will perform does not require them to be on call during a rest break, rest breaks actually taken shall be unpaid. If a period of duty exceeds 10 hours, the practitioner shall be entitled to a second rest break.

- (b) Provided that positions at a hospital in receipt of paid rest breaks as at 1 December 2003 shall continue to do so. The Employer shall consult the Association and address any inconsistencies / anomalies between hospitals.
 - (c) From 31 March 2007, 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 will 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 get home and 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.

15. 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 for a period of not less than 14 consecutive days and 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) (a) The Employer and the practitioner may agree in writing to a roster that does not conform with this clause and Clause 14 – 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.

16. PAYMENT FOR OVERTIME

- (1) Unrostered overtime shall be authorised. Authorisation shall not be unreasonably refused.
- (2) Full Time Practitioners

- (a) Time worked in excess of 160 hours in any four week cycle shall be paid at the rate of 150%.
- (b) Time worked in excess of 240 hours in any four week cycle shall be paid at the rate of 200%.

With effect from 1 July 2004:

- (a) Time worked in excess of 80 hours in any two week pay cycle shall be paid at the rate of 150%.
- (b) Time worked in excess of 120 hours in any two week pay cycle shall be paid at the rate of 200%.

With effect from 1 November 2006:

- (a) Time worked in excess of 76 hours in any two week pay cycle shall be paid at the rate of 150%.
- (b) Time worked in excess of 116 hours in any two week cycle shall be paid at the rate of 200%.

(3) **Part Time Practitioners**

- (a) Time worked in excess of 80 hours in any two week pay period shall be paid at the rate of 150%.
- (b) Time worked in excess of 120 hours in any two week pay period shall be paid at the rate of 200%.

With effect from 1 November 2006:

- (a) Time worked in excess of 76 hours in any two week pay cycle shall be paid at the rate of 150%.
- (b) Time worked in excess of 116 hours in any two week cycle shall be paid at the rate of 200%.

- (4) 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.

17. PROTECTIVE CLOTHING

Protective clothing shall be supplied free of charge to each practitioner as required and shall be laundered at the expense of the Employer. Any such clothing shall remain the property of the Employer and must be returned at the completion of the practitioner's period of service.

18. PROFESSIONAL DEVELOPMENT LEAVE

- (1) The Employer recognises its obligations to provide high quality training and will 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

19. CONTRACT OF SERVICE

- (1) (a) All new appointments shall usually be on 5 year contracts (unless there is written agreement to the contrary between the Employer and practitioner).
 - (b) Provided that 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) The parties recognise:
 - (i) the role of practitioners as clinical leaders in facilitating excellence;
 - (ii) the importance of teamwork and institutional allegiance in maximising morale, commitment and efficiency; and
 - (iii) the need to strive to further improve flexibility and standards of care across health services.
 - (b) It is recognised that in some circumstances where the Employer operates multiple sites, the need may arise (to meet short term exigencies or to maximise efficiency) for practitioners to provide short term relief or provide services across more than one of the Employer's sites.
 - (c) The parties agree that to meet service obligations by providing relief or multi site services, the needs of the organisation, the relevant Department and the individual practitioner should be appropriately balanced, taking into account:
 - (i) The availability of alternatives;

- (ii) The needs and potential effects on the relevant Department and services;
 - (iii) The needs and effects on the individual practitioner and their colleagues including:
 - (1) their expertise and professional interests
 - (2) the role of the practitioner and the effect on teaching, research and other practitioners
 - (3) their family and carer responsibilities
 - (4) such other issues as are relevant in the circumstances.
 - (d) The parties acknowledge that the above considerations can only be properly addressed through consultation, co-operation and mutual agreement.
 - (e) The parties agree that the following will apply:
 - (i) Appointments will generally be to a nominated hospital or health service location.
 - (ii) A practitioner appointed after 1 April 2002 may be appointed at more than one hospital and/or health service location operated by the Employer. Such appointment shall generally specify the proportion of time required to be spent at each site.
 - (iii) A practitioner appointed prior to the date of this Agreement may by mutual agreement:
 - (a) Transfer on a temporary basis (for periods of less than 3 months) to work at another hospital and / or health service within the Employer's health service; or
 - (b) Relocate to another hospital or health service location within a health service area
 - (iv) If a practitioner is transferred to another site on a temporary basis the practitioner shall be entitled to payment of the prescribed travelling allowance for any additional distance required to be travelled by the practitioner using their own means.
 - (f) If a dispute arises in relation to the application of this subclause, the provisions of Clause 48 - Dispute Settling Procedures, may be invoked. In accordance with subclause 48(5), the status quo that existed prior to the dispute arising shall remain in place while such procedures are followed.
- (3) Appointments shall be made by the Employer on the recommendation of the properly constituted appointments committee.
- (4) (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.

- (5) Practitioners shall be provided with a job description stating the relevant duties and responsibilities of the position including clinical responsibilities (including where appropriate theatre access), teaching, research, non clinical duties and supervision of any staff. As a guide, 30% 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, formal teaching sessions, audit or other quality assurance activities.
- (6) There shall be no automatic right of reappointment upon expiry of a contract.
- (7) 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.
- (8) A practitioner with permanent 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 the practitioner shall be paid pro rata long service leave after 5 years of continuous service in addition to the amount specified in subclause (7).
- (9) Subject to subclause (4) 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.
- (10) 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.
- (11) 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.
- (12) 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.
- (13) 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.

20. HOURS

- (1) Hours of work for senior practitioners are to be consistent with professional practice and shall be determined in consultation between the Employer and practitioner.
- (2) Solely for administrative purposes, when calculating entitlements under this Agreement, a full time practitioner's hours of work will nominally be 37.5 per week, which may be rostered to be worked over less than five days per week and a sessional practitioner's hours will nominally be 3.5 per session.

21. SESSIONAL PRACTITIONERS

- (1) A session shall be the time spent by the practitioner in attending public inpatients and outpatients and in teaching, research and other duties required by the Employer. A session can be a continuous working period or be made up of any combinations of part sessions.
- (2) 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 agrees to the Employer's request to work sessions outside of those specified in this subclause, the shift or weekend penalties prescribed in Clause 28 – 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. Allocation of sessions shall be the responsibility of the Employer after receiving appropriate clinical input.

(4) Limit on Number of Sessions.

(a) A practitioner shall not be allocated more than 7 sessions per week, however:

- (i) to meet short term exigencies within the hospital, the Employer may approve additional sessions for a practitioner for a period not exceeding 3 months;
- (ii) a practitioner may be allocated extra sessions or extended sessions if operational efficiencies can be achieved and if the total number of sessions in any year does not exceed an average of 7 sessions per week.

(b) If the practitioner is employed at more than one hospital covered by this Agreement, the aggregate of the sessions allocated in all hospitals shall be limited by the provisions of this subclause.

(5) Sessional Rate.

A practitioner employed on a sessional basis shall be paid a proportion of the full time salary prescribed by Schedule 2 appropriate to the practitioner's level of appointment and the number of sessions for which the practitioner is appointed, calculated as follows:

$$\text{Sessions worked each week} \quad \times \quad \frac{\text{Full time weekly salary}}{10}$$

and prescribed in Schedule 3.

(6) 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 Cost Allowance on each session allocated, up to and including 7 sessions at the rate of \$70.55 per session. This rate shall be increased in line with general percentage salary adjustments contained in this Agreement. The practitioner must demonstrate the incurrence of private practice costs annually.
- (b) Where a sessional practitioner does not qualify for the Practice Cost Allowance, they will be paid an allowance equivalent to the 16% Private Practice Allowance specified for Arrangement A.
- (c) No private practice cost allowance is payable for sessions worked in excess of 7 per week.
- (d) No private practice cost allowance is payable for sessions which attract any shift or weekend penalty payment specified in this Agreement.

(7) On Call and Call Back.

A sessional practitioner rostered on call for a specified period outside the practitioner's agreed hours, or called back to work to provide a service shall be paid in accordance with Clause 29 – On Call and Call Back .

(8) Leave Entitlements.

- (a) A sessional practitioner shall be entitled to pro rata leave entitlements (excluding paid overseas study leave) 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 31 – 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 28(6) shall apply.

(9) Sessional Radiologists.

- (a) Radiologists shall be appointed on a sessional basis at tertiary hospitals and shall undertake all radiological services to patients referred to them in tertiary hospitals.
- (b) Definitions.
 - (i) “Radiological Service” means subject to subclause (d) hereunder a radiological item of service as described in the Schedule to the Health Insurance Act 1973.
 - (ii) “Baseline Earnings Pool” means the amount of money available for distribution each financial year to sessional radiologists as baseline remuneration for 50% of all radiological services undertaken within the hospital
 - (iii) “Remuneration at sessional rate of pay” means the salary payments made to sessional radiologists as remuneration for 50% of all radiological services undertaken within the hospital.
 - (iv) “Piece rate” means the monetary value attributed to a radiological service for the purposes of the piece rate remuneration provisions of this subclause.

(c) Monetary value of piece rate.

As at 1 April 2004 the piece rate is \$33.95. The piece rate shall be increased in line with general percentage salary adjustments contained in this Agreement.

(d) 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.

(e) Value of baseline earnings pool.

- (i) The value of the baseline earnings pool is calculated each financial year by multiplying 50% of the number of radiological services, inclusive of any weighting factors, undertaken in the hospital in the 12 month period from 1 January 2003 to 31 December 2003 by the piece rates which apply during the financial year.
- (ii) Where the piece rate changes during the course of a particular financial year the respective amounts will be applied pro-rata to determine the value of the baseline earnings pool for that financial year.

(f) Remuneration at sessional rate of pay.

Each radiologist shall be paid at the sessional rate calculated in accordance with subclause (5) above, for 50% of the number of sessions for which the radiologist is appointed. These payments are for 50% of all radiological services undertaken within the hospital.

- (g) Piece rate remuneration from baseline earnings pool.
- (i) Radiologists shall be paid from the baseline earnings pool for 50% of the radiological services undertaken within the hospital.
 - (ii) 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 will be bourn by the radiologists.
 - (iii) The private accounting service will act as agent for the employer in:
 - (A) 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 the all the sessions for which radiologists worked within the hospital during that month.
 - (B) Withholding the relevant taxation from the distributed payments in accordance with Australian Taxation Office requirements.
 - (iv) If the employer and the radiologists do not agree on the appointment of a private accounting service the monthly payments will be paid directly by the employer and the associated accounting costs will be bourn by the employer.
- (h) Additional piece rate remuneration if actual activity in any financial year exceeds certain limits.
- (i) 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.
 - (ii) If the value derived under (i) 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.
 - (iii) 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 during the period 1 January 2003 to 31 December 2003.
- (i) 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.
- (j) Head of Department Allowance.
- (i) A Head of the Department of Radiology will be paid for two additional sessions per week calculated at the rates prescribed in subclause (5).
 - (ii) A Deputy Head of the Department of Radiology, if appointed, will be paid for one additional session per week calculated at the rates prescribed in subclause (5).

- (iii) Notwithstanding (i) and (ii) above, the total number of sessions for which payment is made shall not exceed ten sessions per week in any circumstances.
 - (iv) The allowances may be reduced by agreement between the Association and the employer.
 - (k) For the purposes of Clause 45 Remuneration Packaging the maximum amount which can be salary sacrificed by a radiologist shall be calculated as if the radiologist was paid at the rates prescribed in subclause (5) for the sessions worked.
 - (l) 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 rates prescribed in subclause (5) for the sessions worked.
 - (m) To avoid doubt, the provisions of this clause, except subclause (5), shall apply to sessional radiologists.
 - (n) Notwithstanding any other provision of this Agreement, a Radiologist may elect to accept a full-time appointment. A full-time radiologist so appointed shall not be entitled to any piece rate payments and the work undertaken by the radiologist shall not be counted for such purposes.
 - (o) Notwithstanding this subclause, the employer and the Association may agree in writing to other arrangements for payment for radiological services.
- (10) Superannuation.
- (a) For sessional practitioners employed prior to 6 August 1999, the Employer shall contribute, in respect of each session, an additional amount equivalent to 10% of the sessional rate prescribed in Schedule 3 into a fund nominated by the practitioner which complies with the Superannuation Guarantee (Administration) Act 1992 as amended. The contribution shall not be payable if the practitioner elects to become a contributing member to the State Government Superannuation Scheme.
 - (b) Sessional practitioners employed prior to 6 August 1999, may elect to irrevocably forego the entitlement prescribed in (a) above. If such an election is made the employer shall contribute the statutory minimum superannuation contributions based on total remuneration, as defined by law for that purpose, to a fund nominated by the practitioner which complies with the Superannuation Guarantee (Administration) Act 1992 as amended. The contribution shall not be payable if the practitioner elects to become a contributing member to the State Government Superannuation Scheme.

22. PART TIME PRACTITIONERS

- (1) Part time practitioners may be engaged to work 30 hours per week.
- (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.

23. SALARIES

- (1) Full time practitioners shall be paid the relevant annual salary prescribed in Schedule 2.
- (2) Sessional practitioners shall be paid the appropriate sessional rate calculated in accordance with Clause 21(5), payable on a fortnightly basis and prescribed in Schedule 3.
- (3) Salary/payment levels apply as follows:

Levels

- (a) Health Service Medical Practitioner 13-15 inclusive
 - (b) Vocationally Registered General Practitioner 13-17 inclusive
 - (c) Non Specialist Qualified Medical Administrator 13-17 inclusive
 - (d) Senior Medical Practitioner 15- 17 inclusive
 - (e) Consultant 15 - 23 inclusive
- (4) (a) A current practitioner on entering into this Agreement shall be placed at the point within the relevant salary range at which they were employed immediately prior to entering into this Agreement;
- (b) New practitioners shall be placed within the relevant salary range according to years of relevant experience;
- (c) Each practitioner shall then progress through the salary range by annual increments on their anniversary date subject to satisfactory performance.
- (5) (a) A Consultant shall be appointed at a salary within the range of levels 15 - 23 inclusive 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.
- (6) Level 23
- (a) (i) A practitioner shall not be appointed at or proceed by incremental progression to salary level 23 unless the practitioner has at least 13 years of experience gained in recognised specialist positions in Western Australia or elsewhere, recognised by the Employer.
 - (ii) Provided that from 1 October 2005 a practitioner shall not be appointed at or proceed by incremental progression to salary Level 23 unless the practitioner has at least 10 years of experience gained in recognised specialist positions in Western Australia or elsewhere recognised by the Employer.
 - (b) Payment of salary Level 23 is subject to annual review and shall be discontinued by the Employer if professional standards are not maintained in accordance with medical college requirements or the performance of the practitioner is not maintained to the standard required at this level. In this instance the practitioner shall revert to Level 22.
- (7) Practitioners shall receive a Professional Expenses Allowance equivalent to 3% of the base salary for Level 20 to assist with the cost of professional expenses as a salaried practitioner.
- (8) Head of Department Allowance
- (a) A practitioner, other than a sessional Radiologist paid in accordance with Clause 21(9), appointed as a Head of Department in a hospital, shall be paid the following allowance:

No. of FTEs under direct supervision and control	\$ per Annum 1/4/2004	\$ per Annum 1/10/2004

0-4	2,122	3,050
5-9	4,263	5,422
10-20	8,523	9,996
Over 20	14,205	16,096

or an amount agreed in writing between the Employer and practitioner. The allowance is to be paid for 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) The 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 shall be adjusted in accordance with the general percentage salary adjustments contained in this Agreement.

(9) Psychiatrists

Consultant psychiatrists shall be paid an additional 15% on the base salary prescribed as applicable.

By agreement with the hospital or health service concerned, consultant psychiatrists may also be provided with up to one and a half days paid time or three sessions per week for agreed special research interests. The research shall reflect priority areas relevant to the hospital / health service or State.

(10) Attraction and Retention Allowance

- (1) The purpose of this subclause is to address attraction and retention difficulties, particularly those leading to unmet service needs and / or reduced services, by the most appropriate means available, in an open and transparent manner.
- (2) Attraction, retention and / or unmet need difficulties brought to the notice of the parties by the practitioners, the Employer, or the AMA will be examined by the parties in consultation with the practitioners concerned, with a view to identifying whether there is a difficulty to be addressed and the strategies for addressing the difficulty identified.
- (3) Strategies for addressing an identified difficulty may include but shall not be limited to any one or combination of salary allowance, removal allowance, travel allowance, study assistance, family assistance, education assistance, professional development training and support, mentoring and professional supervision.

- (4) If the parties agree, an appropriately structured working party will be established to examine the identified difficulty referred to it and report within an agreed timeframe. The review may involve more than one health service and / or a number of callings.
- (5) If it is agreed that an identified difficulty or difficulties is to be addressed and strategies for addressing the difficulty (ies) are agreed the proposal will be put forward to the employing and / or approval authority for decision and / or implementation as the case may be.

(11) Deferred Salary Scheme for 12 Months

- (1) Practitioners will 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 will then be taken as leave with pay with the accrued pay annualised over the year. The fifth year will 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 will 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 will 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 subclause on their superannuation or taxation.

(12) The rates and allowances prescribed in this clause shall be paid fortnightly.

(13) These rates may be reviewed by the parties in the event that employment practices change. This may include consideration of introducing piece rates.

24. PRIVATE PRACTICE

(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) Subject to this clause, the Employer shall normally grant rights of private practice to

- (a) Consultants;
- (b) Other practitioners subject to Part 3 of this Agreement granted rights of private practice prior to the date of this Agreement for the duration of their current contract.

- (3) The Employer may in exceptional circumstances grant rights of private practice to a practitioner otherwise than under subclause 24(2) (“alternative rights of private practice”).
- (4) The Employer may at any time grant, refuse to grant or withdraw any right of private practice.
- (5) 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.
- (6)
 - (a) The right of private practice shall be exercised to the fullest extent available.
 - (b) Private practice within the hospital must not interfere with the practitioner’s responsibility to carry out all the necessary duties of the practitioner’s appointment, shall not give rise to a conflict of interest and shall be relevant to the practitioner’s specialty.
- (7) Full or part time practitioners granted the right of private practice under subclause (2) may elect to be employed under Arrangement A or B, as set out in Clauses 25 and 26. An election, once made, shall remain in force initially until the end of the financial year and thereafter in accordance with the practitioner’s election for each 12 months.

(8) Use of Hospital Facilities

- (a) The Minister for Health may from time to time determine the terms and conditions, including the payment of charges, on which hospital facilities may be made available. It is a condition of the right of private practice that practitioners comply with any such terms and conditions.
- (b) As at the date of this Agreement, the Minister has determined that practitioners granted rights of private practice, except practitioners under Arrangement A, shall be required to contribute a percentage of nett earnings from private practice within the hospital for the use of hospital facilities as follows:

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

- (c) Payment of facility charges shall, at the direction of the hospital, be made either to the hospital or an approved a Special Purposes Account.
- (d) Nothing in this Agreement precludes the Minister for Health from changing the facilities fees prescribed in this Agreement during the life of the Agreement.
- (e) Requirement to Provide Statement

Sessional practitioners granted rights of private practice and practitioners granted alternative rights of private practice 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 of all services in respect of which a payment for use of hospital facilities is due to the hospital in accordance with this subclause. The statement shall be in the following form and shall be accompanied by a cheque for the amount payable to the hospital:

- (i) Total amount (excluding GST) of all such accounts rendered during the year \$ _____
- (ii) Total amount (excluding GST) of all such accounts collected \$ _____
- (iii) Total amount (excluding GST) due to the hospital in accordance with subclause 24(7) \$ _____

(f) The Employer and practitioner may agree in writing that facility charges be paid on a quarterly basis in which case uncertified statements in the above form shall be provided. Any end of year adjustment shall be made by payment accompanying the certified annual statement.

- (9) Fees shall only be raised for services rendered personally or personally supervised by the practitioner and for all laboratory services. Accounts will be submitted on account forms that show the name of the practitioner providing the service. If a hospital acts as agent for a practitioner in laboratory service, the hospital shall ensure that no account may be rendered to a patient which could place the practitioner in breach of the undertaking they have given in terms of the Health Insurance Act 1973 (Cwth).

The practitioner shall assess the fee to be charged. If the fee is likely to exceed the Health Insurance Rebate(s) the patient may be entitled to, the practitioner shall inform the patient and shall, on request, provide the hospital with a certificate indicating that the patient has been informed.

- (10) 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.
- (11) Notwithstanding the provisions of this Agreement, the Employer and AMA may agree in writing on other arrangements to govern the exercise of rights of private practice.

25. ARRANGEMENT A (FULL OR PART TIME ONLY)

A full or part time practitioner, on electing Arrangement A shall, if appropriate, give the hospital written authority to render accounts in the practitioner's name on private patients seen in the course of duty. The practitioner shall assess the fee to be charged and must notify the hospital on each occasion that a private patient is seen so that the hospital can render an account. Such practitioners shall be paid a Private Practice Allowance equivalent to 16% of the practitioners base salary.

26. ARRANGEMENT B (FULL OR PART TIME ONLY)

- (1) A full or part time practitioner shall upon electing and commencing under Arrangement B render accounts directly to private patients within the hospital or to insurers if eligible under Workers Compensation or MVIT.

(2) 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

(3) 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.

(4) 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 in accordance with subclause 26(2)(b) \$ _____
 - (iv) NETT amount for distribution in the following order: \$ _____
 - (A) To the hospital – payment (exclusive of GST) for the use of hospital facilities in accordance with subclause. 24(8) \$ _____

- (B) Retained by the practitioner being up to an amount equal to the amount payable under subclause 26 (6) 16% or 25% of the practitioner's salary \$_____
- (C) To approved Special Purpose Account (exclusive of GST) for hospital / departmental purposes in accordance with subclause 26(3)(b) or (c) \$_____
- (D) To the practitioner (exclusive of GST) in accordance with subclause 26(3)(b) or (c) \$_____

(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 in accordance with subclause 26(2)(b)	\$ 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 in accordance with subclause 24(8)	\$ 28,000
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(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 in accordance with subclause 26(3)(b)	\$ 5,000
(D)	Retained by the practitioner (exclusive of GST) in accordance with subclause 26(3)(b) or (c)	\$ 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

- (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 (in which case the provisions of subclause (5) shall apply).
- (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.
- (5) 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.
- (6) (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.

- (7) 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.

27. PROFESSIONAL DEVELOPMENT LEAVE

(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 full time or part time practitioner shall be entitled to an additional 5 weeks paid leave, and a sessional practitioner 5 weeks unpaid 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) Funding for Conference and Overseas Study Leave

- (a) A practitioner employed under Arrangement A or as a sessional practitioner shall be paid a Professional Development Allowance for conference, travel, accommodation and overseas study leave, equivalent to 10% of the annual base salary prescribed for Level 15, pro rata to the number of hours or sessions worked. Payment shall be made on a fortnightly basis. The practitioner may apply for funding from the Special Purposes Account referred to in Clause 26 for supplementary assistance having regard for allowances already received.

- (b) Practitioners not in receipt of the allowance prescribed under subclause (a) 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 or granted alternative rights of private practice in accordance with subclause 24(3).
- (4) 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.
- (5) 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 will benefit, the hospital. Practitioners taking professional development leave must prepare a written report for their peers and the Hospital.
- (6) 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 will be made to ensure appropriate services are provided when staff are absent for the purposes of Professional Development.
- (7) Subject to this clause conference and overseas study leave benefits are not available as monetary payments in lieu.

PART 4 - GENERAL PROVISIONS

28. SHIFT, WEEKEND AND PUBLIC HOLIDAY PENALTIES

- (1) If there is a demonstrated clinical 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 12am on any weekday shall be paid at the rate of 120%.
- (3) Hours worked between 12am 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.

29. 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 approval of the AMA, 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 12 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 15 practitioner.
 - (iii) Payment in accordance with this paragraph 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 in a Department 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 Department) 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.

(2) Call Back

(a) This provision applies until 30 June 2005.

(aa) A practitioner recalled to work shall be paid a minimum of two hours for a call back as follows:

- (i) for work on any day between 6.00am and midnight at the rate of 150%,
- (ii) commencing from 1 July 2004, 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%.

(ab) The practitioner shall not be obliged to work for two 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 two hours of starting work on a previous recall the practitioner shall not be entitled to a further minimum two hour payment.

(ac) If the call back period exceeds two hours the practitioner shall be paid at the rate of 150% for the first additional hour and 200% thereafter. Provided that any time worked during the call back period between midnight and 6.00am on any day shall be paid at the rate of 200%.

(ad) 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 paragraph.

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

(b) This provision applies from 1 July 2005.

(ba) 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%.
- (bb) 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.
- (bc) If the call back period exceeds three hours, the practitioner shall be paid at the rate of 200% for each additional hour.
- (bd) 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 paragraph.

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 4 .
- (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 AMA agree, other arrangements may be made for compensation of on call and call back.

30. ANNUAL LEAVE

- (1) Practitioners shall be entitled to 4 weeks annual leave on full pay after 52 weeks continuous service. The entitlement accrues pro rata on a weekly basis.
- (2) Commencing 1 July 2005 a practitioner regularly required to work on call will 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 hospital shall confirm a practitioner's annual leave in writing, within two weeks of the practitioner's written application to take the 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 may 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 will 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 will be assumed that, a practitioner having entered into the arrangement will 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.

Double the leave on half pay

- (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.

Less Leave, more 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.

31. 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 29 - 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.

32. 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 full time practitioner shall accrue an entitlement of 10 days paid sick leave per year. A part time practitioner shall accrue a pro rata entitlement.
- (3) A practitioner in their first 12 months of service may take up to 10 days paid sick leave 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.
- (4) The entitlement, to the extent that it is unused, shall accumulate from year to year and may be taken in any subsequent year.

- (5) 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.
- (6) 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.
- (7) 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.
- (8) 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.
- (9) 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.
- (10) 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.
- (11) If a practitioner suffers a disability within the meaning of s.5 of the Workers' Compensation and Rehabilitation 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 Rehabilitation Act 1981 if the claim for workers' compensation is decided in favour of the practitioner, the sick leave credit will be reinstated.
- (12)
 - (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.
- (13) 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.

33. LONG SERVICE LEAVE

- (1) 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. 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. Practitioners shall, unless otherwise agreed, give the Employer at least 3 months notice of their intention to take accrued 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 will 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 will not count as service but will 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 will not count as service but will 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.

34. 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 will 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.

35. 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.

36. PARENTAL LEAVE

(1) Definitions

(a) "Practitioners" includes full time, part time, permanent and fixed term contract practitioners.

(b) "Primary Care Givers" are practitioners 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.

(c) "Replacement Practitioners" are practitioners specifically engaged to replace practitioners proceeding on parental leave.

(d) "Partner" means a person who is a spouse or de facto partner.

(e) "Public sector" means an employing authority as defined in s5 of the Public Sector Management Act 1994.

(2) Entitlement to Parental and Partner Leave

A practitioner is entitled to a period of up to 52 weeks unpaid parental leave in respect of the:

(a) birth of a child to the practitioner or the practitioner's partner; or

- (b) adoption of a child who is not the natural child or the stepchild of the practitioner or the practitioner's partner; is under the age of five (5); and has not lived continuously with the practitioner for six (6) months or longer.
- (c) A practitioner identified as the primary care giver of a child and who has completed a minimum of twelve months continuous service in the Western Australian public sector shall be entitled to six (6) weeks paid parental leave. On 1 January 2005 this entitlement will increase to seven (7) weeks paid parental leave and on 1 January 2006 it will increase again to an entitlement of eight (8) weeks paid parental leave. Paid parental leave will form part of the 52 week entitlement .
- (d) A pregnant practitioner can commence the period of paid parental leave any time up to six (6) weeks before the expected date of birth and no later than four (4) weeks after the birth. Any other primary care giver can commence the period of paid parental leave from the birth date or for the purposes of adoption from the placement of the child but no later than four (4) weeks after the birth or placement of the child.
- (e) The paid and unpaid parental leave entitlement up to a maximum of 52 weeks may be shared between partners assuming the role of primary care giver.
- (f) Parental leave may not be taken concurrently by a practitioner and his or her partner except under special circumstances and with the approval of the employer.
- (g) Where less than the standard parental leave is taken the unused portion of the period of paid or unpaid leave cannot be preserved in any way.
- (h) A practitioner may elect to receive pay in advance for the period of paid parental leave at the time the parental leave commences, or may elect to be paid the entitlement on a fortnightly basis over the period of the paid parental leave.
- (i) A practitioner is eligible, without resuming duty, for subsequent periods of parental leave in accordance with the provisions of this clause.

(3) Partner Leave

- (a) A practitioner who is not a primary care giver shall be entitled to a period of unpaid partner leave of up to one (1) week at the time of the birth of a child/children to his or her partner. In the case of adoption of a child this period shall be increased to up to three (3) weeks unpaid leave.

(4) Birth of a child

- (a) A practitioner shall provide the employer with a medical certificate from a registered medical practitioner naming the practitioner, or the practitioner's spouse / defacto partner confirming the pregnancy and the estimated date of birth.
- (b) If the pregnancy results in other than a live child or the child dies in the six weeks immediately after the birth, the entitlement to paid parental leave remains intact.

(5) Adoption of a child

- (a) A practitioner seeking to adopt a child shall be entitled to two (2) days unpaid leave to attend interviews or examinations required for the adoption procedure. Practitioners working or residing outside the Perth metropolitan area are entitled to an additional day's unpaid leave. The practitioner may take any paid leave entitlement in lieu of this leave.
- (b) If an application for parental leave has been granted for the adoption of a child, which does not eventuate, then the period of paid or unpaid parental leave is terminated. Practitioners may take any other paid leave entitlement in lieu of the terminated parental leave or return to work.

(6) Other leave entitlements

- (a) A practitioner proceeding on unpaid parental leave may elect to substitute any part of that leave with accrued annual leave or long service leave for the whole or part of the period of unpaid parental leave.
- (b) Subject to all other leave entitlements being exhausted a practitioner shall be entitled to apply for leave without pay following parental leave to extend their leave by up to two (2) years. The employer's approval is required for such an extension.
- (c) Any period of leave without pay must be applied for and approved in advance and will be granted on a year by year basis. Where both defacto partners work for the employer the total combined period of leave without pay following parental leave will not exceed two (2) years.
- (d) A practitioner on parental leave is not entitled to paid sick leave and other paid absences other than as specified in subclauses 6(e) and 6(f) .
- (e) Should the birth or adoption result in other than the arrival of a living child, the practitioner shall be entitled to such period of paid sick leave or unpaid leave for a period certified as necessary by a registered medical practitioner. Such paid sick leave cannot be taken concurrently with paid parental leave.
- (f) Where a pregnant practitioner not on parental leave suffers illness related to the pregnancy or is required to undergo a pregnancy related medical procedure the practitioner may take any paid sick leave to which the practitioner is entitled or unpaid leave for a period as certified necessary by a registered medical practitioner.

(7) Notice and Variation

- (a) The practitioner shall give not less than four (4) weeks notice in writing to the employer of the date the practitioner proposes to commence paid or unpaid parental leave stating the period of leave to be taken.
- (b) A practitioner seeking to adopt a child shall not be in breach of subclause 7(a) by failing to give the required period of notice if such failure is due to the requirement of the adoption agency to accept earlier or later placement of a child, or other compelling circumstances.
- (c) A practitioner proceeding on parental leave may elect to take a shorter period of parental leave and may at any time during that period elect to reduce or extend the period stated in the original application, provided four (4) weeks written notice is provided.

(8) Transfer to a Safe Job

- (a) Where illness or risks arising out of pregnancy or hazards connected with the work assigned to the pregnant practitioner make it inadvisable for the practitioner to continue in her present duties, the duties shall be modified or the practitioner may be transferred to a safe position at the same classification level until the commencement of parental leave.

(9) Replacement Practitioner

- (a) Prior to engaging a replacement practitioner the employer shall inform the person of the temporary nature of the employment and the entitlements relating to the return to work of the practitioner on parental leave.

(10) Return to Work

- (a) A practitioner shall confirm the intention to return to work by notice in writing to the employer not less than four (4) weeks prior to the expiration of parental leave.
- (b) Where an employer has made a definite decision to introduce major changes that are likely to have a significant effect on the practitioner's position the employer shall notify the practitioner while they are on parental leave.
- (c) A practitioner on return to work from parental leave will be entitled to the same position or a position equivalent in pay, conditions and status and commensurate with the practitioner's skill and abilities as the substantive position held immediately prior to proceeding on parental leave. Where the practitioner was transferred to a safe job the practitioner is entitled to return to the position occupied immediately prior to transfer.
- (d) A practitioner 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 in accordance with the part time provisions of the relevant award and agreement.
- (e) Subject to the employer's approval, a practitioner who has returned on a part time basis may revert to full time work at the same classification level within two (2) years of the recommencement of work.

(11) Effect of Parental Leave on the Contract of Employment

- (a) A practitioner employed for a fixed term contract shall have the same entitlement to parental leave, however the period of leave granted shall not extend beyond the term of that contract.
- (b) Paid parental leave will count as qualifying service for all purposes under this agreement. Absence on unpaid parental leave shall not break the continuity of service of practitioners but shall not be taken into account in calculating the period of service for any purpose under this agreement .
- (c) A practitioner on parental leave may terminate their employment at any time during the period of leave by written notice in accordance with this agreement.
- (d) An employer shall not terminate the employment of a practitioner on the grounds of the practitioner's application for parental leave or absence on parental leave but otherwise the rights of the employer in respect of termination of employment are not affected

37. 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 AMA shall be allowed up to 5 days paid leave each year to attend to the functions required of the Office.

38. 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.

Special leave shall not be available to sessional practitioners for conferences or education or professional development purposes. This shall not preclude Employer initiated programs.

39. 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.

40. TRAVEL ALLOWANCE

Reasonable costs of travel:

- (i) for calls to the hospital out of normal working hours; or
- (ii) if a practitioner is required by the Employer to visit another centre in the course of official duties 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.

shall be paid in accordance with Schedule 4. Provided that these rates will be automatically adjusted in accordance with adjustments to the rates prescribed in Schedule F of the Public Service Award 1992 as amended or its successor.

41. 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.

42. 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: \$7.90 Lunch \$9.75 Dinner: \$11.70

(2) These rates will be automatically adjusted in accordance with adjustments to the rates prescribed in Schedule H - Overtime of the Public Service Award 1992 as amended or its successor.

43. CLAIMS FOR PAYMENT OF ENTITLEMENTS

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.

44. RECOVERY OF OVERPAYMENTS

(1) If a practitioner is paid for work not subsequently performed or is otherwise overpaid, the Employer will, after consultation with the practitioner, make adjustments to the practitioner's subsequent fortnightly salary payments.

(2) A one-off overpayment will 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 will 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 - 12) or \$100 per week (Levels 13 - 23), whichever is the lesser amount per pay period.

45. REMUNERATION PACKAGING

- (1) A practitioner may elect to enter into a remuneration packaging arrangement.
- (2) A practitioner may elect to salary sacrifice up to a maximum of 50% of the practitioners total remuneration.
- (3) 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.
- (4) 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.
- (5) The salary packaging arrangement must comply with relevant taxation laws and the Employer will not be liable for additional tax, penalties or other costs payable or which may become payable by the practitioner.
- (6) A practitioner may elect to cancel any remuneration packaging arrangement by giving a minimum of four weeks' notice.
- (7) 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.
- (8) Notwithstanding subclauses (6) and (7) the Employer and the practitioner may agree to forgo the notice period.
- (9) The cancellation of remuneration packaging will not cancel or otherwise effect the operation of this Agreement.
- (10) Any dispute arising from the operations of this clause will be dealt with in accordance with the relevant dispute settlement provisions.
- (11) 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.

46. 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 AMA 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 AMA will review and jointly develop agreed credentialing, peer review, clinical audit, performance management and quality assurance processes.

47. 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 AMA.
- (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 AMA, 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 AMA 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 AMA, 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.

48. DISPUTE SETTLING PROCEDURES

- (1) Subject to Clause 3 - No Further Claims, to the provisions of the Industrial Relations Act, 1979 and Clause 47 - 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 AMA hospital medical practitioner representative shall notify the AMA, 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 AMA 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 (eg relevant Royal 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 3 - 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 will 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 will be dealt with by discussions between the appropriate AMA 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) will 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

(Signature)

(Signed)

(Date)

Paul Boyatzis
Executive Director
for and on behalf of the Australian Medical Association (Western Australia) Incorporated

(Signature)

(Signed)

(Date) 19/3/04

Mike Daube
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)"

PART 6 - SCHEDULES

SCHEDULE 1 - JUNIOR PRACTITIONERS - FULL TIME SALARIES

Classification	Level	Base Salary From 1 April 2004	Base Salary From 1 October 2004 3%	Base Salary From 1 October 2005 3%	Base Salary From 1 October 2006 3%
Intern	1	48,672	50,132	51,636	53,185
RMO (Yr 1)	2	53,236	54,833	56,478	58,172
RMO (Yr 2)	3	57,798	59,531	61,317	63,157
RMO (Yr 3)	4	62,361	64,231	66,158	68,143
Registrar (Yr 1) Supervised Medical Officer (Yr 1)	5	66,924	68,931	70,999	73,129
Registrar (Yr 2) Supervised Medical Officer (Yr 2) Trainee Medical Administrator (Yr 1) Trainee Public Health Physician (Yr 1)	6	71,488	73,632	75,841	78,116
Registrar (Yr 3) Supervised Medical Officer (Yr 3) Trainee Medical Administrator (Yr 2) Trainee Public Health Physician (Yr 2) Trainee Psychiatrist (Yr 1)	7	76,051	78,332	80,682	83,102
Registrar (Yr 4) Supervised Medical Officer (Yr 4) Trainee Medical Administrator (Yr 3) Trainee Public Health Physician (Yr 3) Trainee Psychiatrist (Yr 2)	8	80,614	83,032	85,523	88,089
Registrar (Yr 5) Supervised Medical Officer (Yr 5) Trainee Medical Administrator (Yr 4) Trainee Public Health Physician (Yr 4) Trainee Psychiatrist (Yr 3)	9	85,177	87,732	90,364	93,075
Registrar (Yr 6) Supervised Medical Officer (Yr 6) Trainee Medical Administrator (Yr 5) Trainee Public Health Physician (Yr 5) Trainee Psychiatrist (Yr 4)	10	89,740	92,432	95,205	98,061
Senior Registrar (Yr 1) Supervised Medical Officer (Yr 7) Trainee Medical Administrator (Yr 6) Trainee Public Health Physician (Yr 6) Trainee Psychiatrist (Yr 5)	11	95,824	98,698	101,659	104,709
Senior Registrar (Yr 2) Supervised Medical Officer (Yr 8) Trainee Psychiatrist (Yr 6) - Elective Year Only	12	101,908	104,965	108,114	111,357

SCHEDULE 2 - SENIOR PRACTITIONERS - FULL TIME SALARIES

Classification	Level	Base Salary From 1 April 2004	Base Salary From 1 October 2004 3%	Base Salary From 1 October 2005 3%	Base Salary From 1 October 2006 3%
Health Service Medical Practitioner (Yr 1) Non Specialist Qualified Medical Administrator (Yr 1) VRGP (Yr 1)	13	112,555	115,931	119,409	122,991
Health Service Medical Practitioner (Yr 2) Non Specialist Qualified Medical Administrator (Yr 2) VRGP (Yr 2)	14	118,640	122,199	125,865	129,641
Health Service Medical Practitioner (Yr 3) Non Specialist Qualified Medical Administrator (Yr 3) VRGP (Yr 3) Snr Medical Practitioner (Yr 1) Consultant (Yr 1)	15	124,723	128,464	132,318	136,288
Non Specialist Qualified Medical Administrator (Yr 4) VRGP (Yr 4) Snr Medical Practitioner (Yr 2) Consultant (Yr 2)	16	130,807	134,731	138,773	142,936
Non Specialist Qualified Medical Administrator (Yr 5) VRGP (Yr 5) Snr Medical Practitioner (Yr 3) Consultant (Yr 3)	17	136,891	140,997	145,227	149,584
Consultant (Yr 4)	18	139,933	144,130	148,454	152,908
Consultant (Yr 5)	19	142,975	147,264	151,682	156,232
Consultant (Yr 6)	20	146,017	150,397	154,909	159,556
Consultant (Yr 7)	21	149,060	153,531	158,137	162,881
Consultant (Yr 8)	22	152,101	156,664	161,363	166,204
Consultant	23	159,707	164,498	169,433	174,516

SCHEDULE 3 – SESSIONAL RATES

Classification	Level	Sessional Rate From 1 April 2004	Sessional Rate From 1 October 2004 3%	Sessional Rate From 1 October 2005 3%	Sessional Rate From 1 October 2006 3%
Health Service Medical Practitioner (Yr 1) Non Specialist Qualified Medical Administrator (Yr 1) VRGP (Yr 1)	13	215.76	222.23	228.90	235.77
Health Service Medical Practitioner (Yr 2) Non Specialist Qualified Medical Administrator (Yr 2) VRGP (Yr 2)	14	227.43	234.25	241.28	248.52
Health Service Medical Practitioner (Yr 3) Non Specialist Qualified Medical Administrator (Yr 3) VRGP (Yr 3) Snr Medical Practitioner (Yr 1) Consultant (Yr 1)	15	239.09	246.26	253.65	261.26
Non Specialist Qualified Medical Administrator (Yr 4) VRGP (Yr 4) Snr Medical Practitioner (Yr 2) Consultant (Yr 2)	16	250.75	258.27	266.02	274.00
Non Specialist Qualified Medical Administrator (Yr 5) VRGP (Yr 5) Snr Medical Practitioner (Yr 3) Consultant (Yr 3)	17	262.41	270.28	278.39	286.74
Consultant (Yr 4)	18	268.25	276.30	284.59	293.12
Consultant (Yr 5)	19	274.08	282.30	290.77	299.49
Consultant (Yr 6)	20	279.91	288.31	296.96	305.87
Consultant (Yr 7)	21	285.74	294.31	303.14	312.24
Consultant (Yr 8)	22	291.57	300.32	309.33	318.61
Consultant	23	306.15	315.33	324.79	334.54

SCHEDULE 4 - MOTOR VEHICLE ALLOWANCES

	CENTS / KM		
	ENGINE DISPLACEMENT		
AREA	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