

# **Te Whatu Ora**

## **Health New Zealand**

**(NELSON MARLBOROUGH  
DISTRICT)**

**COLLECTIVE EMPLOYMENT AGREEMENT**

**LIVE LIFE DISABILITY**

**SUPPORT**

**and**

**THE NATIONAL UNION of PUBLIC EMPLOYEES**

**NUPE**

**15 June 2023 – 31 May 2024**

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**TE WHATU ORA (NELSON MARLBOROUGH DISTRICT)  
COLLECTIVE AGREEMENT  
LIVE LIFE DISABILITY SUPPORT**

**TE TIRITI O WAITANGI**

- (a) The employer and NUPE acknowledge the importance of Te Tiriti o Waitangi as the constitutional basis of the relationship between Māori and the Crown, and the unique status of Māori as tangata whenua of Aotearoa/New Zealand.
- (b) The employer and NUPE are committed to implementing Te Tiriti o Waitangi between Māori and the Crown and will promote and enable an understanding of the principles and their implementation in the workplace.
- (c) The employer's Te Tiriti obligations to employees include:
  - (i) enabling all employees to have a good understanding of the needs and aspirations of whānau, hapū, iwi and Māori communities, including through building awareness of the aims of He Korowai Oranga - the Māori Health Strategy and the Māori Health Action Plan.
  - (ii) enabling all employees to gain the capability (skills, knowledge and behaviour) required to engage meaningfully with Māori.
  - (iii) all employees feel supported to develop their knowledge of Te Tiriti o Waitangi and Te Ao Māori and how this applies in the context of the work we do and the communities we serve.
  - (iv) enabling all employees to gain an understanding of the employer's responsibilities and obligations as a Te Tiriti o Waitangi partner and are able to demonstrate this in our workplace.
  - (v) encouraging the development in, and the promotion of, Te Reo Māori.
- (d) The employer and NUPE members acknowledge their respective responsibilities and commitments to the clauses above

**1 STATEMENT OF INTENT**

The employer and employees agree that it is in their mutual interest that the service should be run efficiently and provide a high standard of professional support, and that employees are entitled to fair and reasonable treatment in their employment relationship with the Organisation. The parties also agree that this agreement shall be administered in accordance with the true intent of its terms and provisions and will give each other full co-operation to maintain harmonious industrial relations. The parties to this agreement share a commitment to the mission statement of Live Life Disability Support Supporting people to Live Life.

**PARTIES**

- 1.1 This agreement is made pursuant to the Employment Relations Act 2000 between the following parties:
  - 1.1.1 Te Whatu Ora – Health New Zealand (herein after referred to as "the employer") and;
  - 1.1.2 The National Union of Public Employees (NUPE) (herein after referred to as "the union").
- 1.2 Any employee covered by this agreement who, during the term of this agreement, is subsequently appointed to any position not covered in clause 4 will cease to be a party

to this agreement with effect from the date of appointment to such position.

## 2 **COVERAGE**

- 2.1 All employees who are employed as Team Leaders and Support Workers in the Disability Support Service and who are members of the National Union of Public Employees.

## 3 **DEFINITIONS**

- 3.1 **Employer** - means Te Whatu Ora – Health New Zealand.
- 3.2 **Union** – means National Union of Public Employees
- 3.3 **Employee** - means a person employed by the Nelson Marlborough District Health Board and who is a party to this agreement.
- 3.4 **Full Time Employee** - means an employee who works not less than the "ordinary" or "normal" hours as set out in Clause 5 of this agreement.
- 3.5 **Part time employee** - means an employee, other than a casual or temporary employee, who works on a regular basis for less than the "ordinary" or "normal" hours as set out in Clause 5 of this agreement. The parties agree that part time employees shall not be used to displace full time employees.
- 3.6 **Casual employee** - means a non rostered employee who is called to work on an "as and when required" basis, and who shall work for no more than five consecutive duties in one week with a minimum of two hours per day. The parties agree that casual employees shall not be used to displace permanent employees. Casual employees will be credited with, and entitled to take, leave in accordance with the provisions of the Holidays Act 2003. **NB** each period of employment of a casual employee is treated as a discrete and separate engagement, with no ongoing entitlement to employment.
- 3.7 **Team Leader** - is an employee who reports to the Group Leader or Manager. The Team Leader role combines direct support for people with a range of administrative and supervisory functions. They provide support and leadership to the team.
- 3.8 **Support Worker** - is an employee who assists the Team Leader in the support and implementation of client's lifestyle plans and, by agreement, can be available for a period of Sleepover either before or after performing the duties of a support worker.
- 3.9 **Shift** - means the time to be worked within the limit of hours on any day or night and is not overtime.
- 3.10 **Rostered** - means subject to a pre-arranged 6 week cycle that may extend over all seven days of a week.
- 3.11 **Duty** - means the period of work required to be given within each period of 24 hours.
- 3.12 **Rostered Duty** - means one or more duties in a service normally covering 24 hours, seven days a week, on an agreed roster, but excludes appointments covering only one duty.
- 3.13 **Sleepover** – In accordance with the provisions of the Sleepover wages (Settlement) Act 2011.
- 3.14 **Mutual Agreement** - means a shared and joint informal understanding of an arrangement and agreement between the employer and an employee.
- 3.15 **Emergency** - is a crisis of urgent need requiring immediate action.
- 3.16 **Qualification** – means a relevant NZ recognised qualification (as per the relevant NZ Council/Authority)
- 3.17 **District** in the context of Te Whatu Ora/Health New Zealand means the geographic area and the related worksites of the former District Health Board (clause 12, Schedule

1, Pae Ora (Healthy Futures) Act 2022 refers).

#### **4 RATES OF PAY**

##### **4.1 Team Leader**

Hourly pay rates will be as per The Care and Support Worker (Pay Equity) Settlement Act 2017.

4.1.2 Team Leaders who are responsible for a single house will receive \$5,000 in total per annum pro rata as a fortnightly allowance with effect from 1 August 2022

4.1.3 Team Leaders who are responsible for two or more houses will receive \$7,500 in total per annum pro rata as a fortnightly allowance with effect from 1 August 2022

4.1.4 Additional houses can only be added to a Team Leader's area of responsibility by agreement.

4.1.5 In terms of clauses 4.1.2 to 4.1.4 above, a house is defined as a Community Residential Home at which a minimum of two service users reside.

##### **4.2 Support Worker**

The rates of pay for the Support Workers is as per the Care and Support (Pay Equity) Settlement Act 2017.

##### **4.3 Remuneration:**

###### **Rates of Pay**

###### **(1) Hourly wage rates for workers employed before 1 July 2017**

<b>Worker's length of service with employer</b>	<b>1 July 2022 to 31 December 2023</b>
Less than 3 years	\$22.49
3 years or more but less than 8 years	\$24.06
8 years or more but less than 12 years	\$26.16
12 years or more, if subclause (2) applies	\$27.20
12 years or more, if subclause (2) does not apply	\$28.25

This subclause applies to a support worker if—

- (a) the worker commenced employment with the employer on or after 1 July 2005; and
- (b) the worker has not attained a level 4 qualification; and
- (c) the worker's employer has provided the support necessary for the worker to attain a level 4 qualification.

###### **2 Hourly wage rates for workers employed on or after 1 July 2017**

<b>Worker's level of qualification</b>	<b>1 July 2022 to 31 December 2023</b>
No relevant qualification	\$22.49
Level 2 qualification	\$24.06

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Level 3 qualification	\$26.16
Level 4 qualification	\$27.20

4.3.1 **Weekend/Evening Allowance:** With effect from 1 August 2022 all employees who are required to work:

- i) a rostered shift on a weekend from midnight Friday to midnight Sunday,
- ii) a rostered shift before 6am or after 11pm Monday to Friday

will be paid a flat rate of \$3.50 per hour. For clarity, this allowance shall be paid for ordinary and overtime shifts worked at the times specified, but shall not be paid in respect of sleepover shifts.

The Weekend/Evening Allowance replaces the previous Shift Payment of \$6 or \$12 per shift. Given the backdated nature of these arrangements, as part of implementation, employees will be paid the net amount of the new Weekend/Evening Allowance on shift hours worked since the effective date of the allowance, less the Shift Allowance payments made under the previous arrangements since the effective date of the allowance. Where this results in an overall negative amount for an individual, this amount will be zeroed.

4.3.2 **Smoothing Out Adjustment:** This is only applicable to full time (1.0 FTE) employees working a 4 on 2 off roster who would experience short and long fortnights over a 6 week period. This adjustment to hours has been in place for many years and was recorded in a separate memorandum of understanding (MOU) stating that:

Where an employee works full time (1.0 FTE) they shall be paid for 80 hours per fortnight regardless of actual hours worked. It is recognised that employees on this roster structure work 8 hours ordinary time plus an additional 35 minutes per shift that accrues to be paid in a fortnight where on 64 hours ordinary are actually worked. Shifts do not attract any overtime or penal rates.

4.4 **Progression:**

4.4.1 Progression through the Pay Bands will be as per The Care and Support Worker (Pay Equity) Settlement Act 2017.

4.5 **Sleepover**

4.5.1 Employees employed to these positions will be paid in accordance with the Sleepover Wages (Settlement) Act 2011 for each period of sleepover.

4.5.2 Where the employee is required to attend to the needs of residents for more than two hours (cumulative in any one night) the employee will be paid a Disturbance Allowance of \$6.00 per hour for such duties in excess of two hours. This payment will be in addition to the Sleepover Allowance. The employee will account for such time as required by the Team Leader.

4.5.3 Notwithstanding 4.5 above, an employee required to work before or after commencing the Sleepover period will be paid at the appropriate hourly rate specified in 4 above.

4.5.4 Employees appointed to a position which includes a Sleepover period will have their position reviewed on request. Approval to change will not be unreasonably withheld.

4.6 **Additional Allowance** –The employer reserves the discretionary right to pay any additional allowance.



- 4.7.1 **Salary on Appointment** - On appointment the employer will place an employee on the appropriate pay band, taking into account whether they hold any Qualifications as recognised under The Care and Support Worker (Pay Equity) Settlement Act 2017.
- 4.7.2 **New Appointments - Team Leader** – Unless exceptional circumstances exist, appointments to Team Leader roles will not be considered where an applicant does not possess the New Zealand Certificate in Health and Wellbeing (Advances Support) Level 4, or equivalent as recognised under The Care and Support Worker (Pay Equity) Settlement Act 2017.
- 4.7.3 **New Appointments – Support Workers** – From 1 July 2017 who are not in possession of a comparative qualification that satisfies the employer that it is recognised under The Care and Support Worker (Pay Equity) Settlement Act 2017, must register for the prescribed study and commence study within six months of their appointment and attain the qualification within the following period.
- Level 2 NZ Certificate – within 12 months of employment
  - Level 3 NZ Certificate – within 3 years of employment
  - Level 4 NZ Certificate – within 6 years of employment

If a Support Worker does not attain certification within the prescribed period from commencement of their employment, it is considered they have not met the performance standard required and their employment will be reviewed. Only in the event of unforeseen circumstances, will they be given one further opportunity to complete the certification.

#### 4.8 Supported Holidays

- 4.8.1 Employees who escort Service Users on outings or holidays which require sleepover stays will receive 15 hours pay at ordinary rates for each night that the employee agrees to be away from their home and in addition will receive a payment of 9 hours at the minimum wage rate for the sleepover.

This payment is when the employee escorts a Service User for a full day, otherwise the payments will be pro-rated if less than 24 hours.

### 5 HOURS OF WORK

- 5.1 The normal ordinary working hours for an employee working day or night shift shall be 80 hours in any one fortnight except where an agreed roster provides for changes to the above normal ordinary hours the hours specified in that roster shall then be deemed to be the normal ordinary hours of work. Such hours shall be worked up to five days of the week, Monday to Sunday inclusive in accordance with the agreed roster. Notwithstanding the above employees will not be rostered to work two Day shifts followed by two Night shifts without their written approval.
- 5.2 Except in emergency/extraordinary circumstances no employee shall exceed a total 96 hours in any one two week period over all positions held in Nelson Marlborough District Health Board.
- 5.3 Employees must declare any other current employment or intention to take up employment outside of Nelson Marlborough District Health Board while working under this agreement.
- 5.4 Notwithstanding clause 5.1 above the sleepover period will be up to any 9 hour period between 10.00 pm and 7.00 am.
- 5.5 Changes to rosters, day on and off duty, hours of duty and commencing and finishing times shall be by consultation and agreement between the employees concerned, their



representatives and the employer prior to their implementation.

- 5.6 Every employee shall have two periods of at least 24 hours off duty each week unless the agreed roster provides otherwise in which case split days off duty will be kept to a minimum.
- 5.7 Except by mutual agreement or in an emergency situation employees shall not be rostered more than six consecutive days.
- 5.8 Employees shall be rostered a minimum break of nine consecutive hours off duty between successive duties unless otherwise agreed to by the employee and employer but where employees work divided or additional shifts on the same day the minimum break will not be less than six hours. Unless the employee agrees otherwise, employees who do not have a nine hour break (except for divided/additional shifts) will be paid overtime at the appropriate overtime rate until a nine hour break is allowed unless the break is in accordance with clause 5.12 below.
- 5.9 Within reason management reserves the right to expect staff to attend training and meetings as required. Employees will be paid at their T1 rate for the period of the training/meetings with the proviso that any training or meetings will not be less than three hours in duration.
- Endeavours will be made to ensure that the requirement for staff to attend while on day's off, will be kept to a minimum.
- 5.10 Rosters, including days and hours of duty, shall be set and available to employees at least 14 days prior to when they apply. Except in an emergency, rosters once posted shall not be changed without consultation and mutual agreement between the employer and employees concerned.
- 5.11 Notwithstanding the foregoing conditions employees may be permitted to change duties one with another by mutual arrangement and with the prior approval of the employer and such change will not require the payment of any overtime payment. This approval will not be unreasonably withheld. In most circumstances the change must be with an employee of equivalent skills.
- 5.12 Except in emergencies, or agreed upon appointment to a new position, employees employed as at 1 March 2016 will not be expected to work divided shifts.
- 5.13 Where the major part of a shift falls on a particular day, the whole shift shall be regarded as being worked on that day.
- 5.14 The week shall commence at the beginning of Sunday/Monday night shift for night shift workers or the normal commencing time on Monday for day workers.
- 5.15 The employer will use its best endeavours to follow good rostering practices and ensure duties are fairly and equitably scheduled throughout the roster. All employees will rotate through the shifts as required.

#### **5.16 Roster Overlap**

- 5.16.1 Where there is currently no roster overlap, to ensure there is an adequate handover process, the employer will build in a 5-minute paid handover in negotiation with the individuals on the roster.

#### **5.17 Sleepovers**

- 5.17.1 An employee who is required by the employer after having commenced duty to interrupt that duty and return to the place of employment at a later time shall be paid an additional two hours at ordinary rates of pay (T1) in addition to the hours ordinarily rostered to be worked for that day.
- 5.17.2 Employees appointed to a Sleepover position together with a support worker position waive the right to the minimum break of nine hours off duty as set out in clause 5.8 in

relation to the sleepover duty only.

- 5.17.3 All parties will be notified in writing of any staffing issue that may relate to changes in Sleepover hours and all relevant staff shall discuss such possible changes. Changes to Sleepover hours can only occur with the written agreement of those affected.
- 5.17.4 Existing staff will not have their hours reduced as a result of this clause unless they agree to do so.

#### 5.18 **Movement**

- 5.18.1 Providing sound operational reasons/service needs exist employer requests for movement of support workers within teams and/or within the Service shall occur. If the request for movement of support workers results in a change of hours of work then Clause 24 Change Management will be worked through with the employee.

### 6 **OVERTIME**

- 6.1 Where the employer requires any employee to work in excess of 40 hours per week such time shall be paid for at the rate of time and a quarter (T1 ¼).
- 6.2 Notwithstanding clause 6.1 above, employees working alternative agreed rosters will not qualify for overtime payment at the rates specified in clause 6.1 until the agreed normal ordinary hours of work of that roster have been exceeded on weekly basis.
- 6.3 Notwithstanding the above employees who work overtime on a Public Holiday will be paid at double time (T2) for each hour so worked.
- 6.4 Notwithstanding 6.1, 6.2 and 6.3 above the employee may choose to take time off in lieu of overtime for hours worked instead of overtime payment.
- 6.5 Time off in lieu will be paid at the same rate that would have been paid if the employee had worked.
- 6.6 Time off in lieu shall be taken at a time agreed between the employee and the employer.
- 6.7 All overtime hours and time off in lieu must be properly authorised by the employer.
- 6.8 Overtime does not apply in relation to sleepover hours.

### 7 **CALL BACKS AND ON CALL**

- 7.1 This applies only where employees are called back to attend to Support Worker/Team Lead work duties.
- 7.2 An employee shall be paid for a minimum of three hours, or for actual working and travelling time, whichever is the greater, at the appropriate rate, when the employee:
- 7.2.1 is called back to work after
- completing the day's work, and
  - having left the place of employment, or
- 7.2.2 is called back before the normal time of starting work, and does not continue working until such normal starting time, except that:
- Call backs commencing and finishing within the minimum period covered by an earlier call back shall not be paid for.
  - Where a call back commences before and continues beyond the end of a minimum period for a previous call back, payment shall be made as if the employee had worked continuously from the beginning of the previous call back to the end of the later call back.
- 7.3 Except in an emergency, employees shall not be called back to work during periods of annual leave.
- 7.4 Appropriate rate means the rate of pay that applies during the call back in accordance

with either clause 4 or clause 6.

- 7.5 Where a Team Leader is asked by their Manager and agrees to be on call for the Disability Service during their off duty hours, an on call allowance of \$8.00 per hour shall apply, except on Public Holidays when the rate shall be \$10.00 per hour.

## **8 HIGHER DUTIES ALLOWANCE**

### **8.1 Team Leaders**

A higher duties allowance shall be paid to an employee who, at the direction of the Group Manager, is substantially performing the duties and carrying out the responsibilities of a position that is paid at a higher rate than their own. The employee so designated will be paid an allowance of \$20 per day worked while acting in this role. To qualify for the allowance the person must act in the position for 8 hours per day .”

### **8.2 Support Workers**

A higher duties allowance shall be paid to Support Workers who, at the direction of the Group Manager, is substantially performing the duties and carrying out the responsibilities of a Team Leader. They will be paid an allowance as per clause 4.1, while acting in this role. To qualify for the allowance the person must act in the position for 8 hours per day.

## **9 PAYMENT OF SALARIES AND WAGES**

- 9.1 Salaries and wages, including overtime, shall be paid at fortnightly intervals by direct credit to a bank account nominated by the employee. Each employee shall be supplied with written details showing clearly how their wages are made up.
- 9.2 There shall be no unnecessary delay in the payment of wages/salaries due. Where the normal pay-day is Thursday, and a special holiday falls on the Friday of pay week, wages/salaries shall be paid not later than Wednesday of that week.
- 9.3 Except as otherwise especially provided in this agreement, no deductions shall be made from weekly wages except for time lost through default of an employee.
- 9.4 At the termination of the employment all wages/salaries and other payments due under this agreement shall be paid without delay.
- 9.5 The provisions of the Wages Protection Act 1983 and its amendments shall apply.
- 9.6 The provisions of the Employment Relations Act 2000 with regard to wages and time records shall apply.

## **10 MEAL PERIODS AND REST BREAKS**

- 10.1 Except when required for urgent or emergency work and except as provided in 10.2 below, no employee shall be required to work for more than five and a half hours continuously without being allowed a meal break of not less than half an hour.
- 10.2 An employee unable to be relieved from work for a meal break shall be allowed to have a meal on duty and this period shall be regarded as working time.
- 10.3 The above conditions apply outside of any Sleepover period.
- 10.4 Rest breaks of 10 minutes each for morning tea, afternoon tea or supper, where these occur during duty, shall be allowed as time worked.
- 10.5 During the meal or rest breaks prescribed above, tea, coffee, non-caffeinated beverage, milk and sugar shall be supplied free of charge by the employer.
- 10.6 On occasions employees will, when out with clients or on other business, be unable to access tea or coffee provided by the employer. When this occurs employees will, on request, be reimbursed from petty cash the cost of tea or coffee purchased.

## **11 PROTECTIVE CLOTHING**

- 11.1 Suitable protective clothing shall be provided at the employer's expense where the duty involves a risk of soiling or damage to personal clothing or exposes the employee's person to injury or discomfort through biological, chemical or physical hazards.
- 11.2 All items of clothing supplied by the employer shall remain the property of the employer and shall be laundered or dry-cleaned at the employer's expense, as and when required. Each case is to be determined on its merits by the employer.
- 11.3 Suitable wet weather clothing and safety footwear shall be provided where the employer and the employee agree that the nature of the work require it.
- 11.4 Damage to personal clothing - an employee may, at the employer's discretion, be compensated for damage to personal clothing worn on duty, or reimbursed dry-cleaning charges for soiling to personal clothing worn on duty, provided the damage or soiling did not occur as a result of the employee's negligence or failure to wear the protective clothing available. Each case shall be determined on its merits by the employer.

## **12 ANNUAL LEAVE**

- 12.1 Annual holidays shall be allowed as provided in the Holidays Act 2003.
- 12.2 On the next leave anniversary date of the employee post 28 October 2011 employees with five or more years' service shall accrue at 5 weeks per annum. The employer shall grant leave of absence on full pay to employees in respect of each leave year as follows:
  - 12.3 With under five years' service - 4 weeks (20 working days)
  - 12.4 With five or more years' service - 5 weeks (25 working days)
- 12.5 Part time employees will receive the above annual leave on a pro-rata basis in accordance with their contracted hours of work.
- 12.6 Service with the employer (and/or its successors) will count towards the annual leave entitlement provided that the existing qualifying service of employees employed prior to 1 May 2003 is not affected by the coming into effect of this clause.
- 12.7 The employer may decide, after consultation with the employee, how the annual leave will be taken, but at least one period of three weeks or more must be allowed. Employees may request leave at times suitable to them and this may be granted by the employer.
- 12.8 The employer may permit all or part of the annual leave (including any credits for public holidays) accruing in respect of a leave year to be postponed to the following leave year, but the annual leave entitlement at any one time shall not exceed the total of annual leave accruing in respect of two leave years (including any credits for public holidays).
- 12.9 Birthday leave: For those employees employed prior to 1 December 2014 whose actual birthday falls on a day they are rostered to work may take that day as an additional day's leave. This leave may not be deferred until another time.
- 12.10 The provisions of the Parental Leave and Employment Protection Act 1987 shall apply in relation to annual leave when an employee takes a period of parental leave or returns to work from parental leave in accordance with Clause 20 of this Agreement.

## **13 SICK LEAVE**

- 13.1 In accordance with the Holidays Act 2003 (as amended) on appointment, employees shall be entitled to ten (10) working days leave for sick or domestic purposes during

the first twelve months of employment, and an additional ten (10) working days for each subsequent twelve-month period.

- 13.2 The employee shall be paid for minimum statutory sick leave entitlements as prescribed in the Holidays Act 2003. Additional contractual or discretionary sick leave that is taken or approved shall be paid at the normal rates of pay (T1 rate only).
- 13.3 A medical certificate may be required to support the employee's claim.
- 13.4 In the event an employee has no entitlement left, they may be granted an additional 10 days per annum pro-rated for part time employees. In considering the grant of leave under this clause the employer shall recognise that additional sick leave is to ensure the provision of reasonable support to staff having to be absent from work where their entitlement is exhausted. Requests must be in writing and made to the General Manager DSS, who will consider the following:
- The employees length of service
  - The employees attendance record
  - The consequences of not providing the leave
  - Any unusual and/or extenuating circumstances.
- 13.5 Reasons for a refusal shall, when requested by the employee, be given in writing and before refusing a request, the decision maker is expected to seek appropriate guidance.
- 13.6 Leave granted under this provision will be debited as an advance on the next years' entitlement up to a maximum of 5 days.
- 13.7 Need shall be demonstrated by the following:
1. Nature of the illness or injury.
  2. Recommendations by the treating Physician.
  3. Willingness to engage with Occupational Health around the relevant issues.
- These requests will be considered on a case by case basis with PSA participation at member's request.
- 13.8 Sickness at Home:**
- 13.8.1 The employer shall grant an employee leave on pay as a charge against sick leave entitlement when the employee must stay at home to attend to a member of the household who through illness becomes dependent on the employee. This person would in most cases be the employee's child or partner but may be another member of the employee's family or household.
- 13.8.2 The production of a medical certificate or other evidence of illness may be required.
- 13.9 Leave without pay in relation to sick leave**
- 13.9.1 An employee who is granted leave without pay and who remains in the service of the employer, will have such leave included in determining sick leave entitlement.
- 13.10 Sick leave in relation to annual and long service leave**
- 13.10.1 When sickness occurs during annual or long service leave the employer shall permit the period of sickness to be debited against sick leave entitlement, except where the sickness occurs during leave following relinquishment of office, provided that:
- 13.10.2 The period of sickness is more than three days
- 13.10.3 A medical certificate is produced, showing the duration of the illness.
- 13.10.4 In cases where the period of sickness extends beyond the approved period of annual or long service leave, approval shall also be given to debiting the portion which

occurred within the annual or long service leave period against sick leave entitlement if the total continuous period of sickness exceeds three days.

- 13.10.5 Annual or long service leave may not be split to allow periods of illness of three days or less to be taken as sick leave.
- 13.10.6 Employees with sick leave entitlement are to be given the option of using this at 20% rate to make up their full salary from the commencement of the second week and for subsequent weeks in the case of a work accident, and at 100% rate for the first week and thereafter at 20% rate in the case of non-work accidents.
- 13.10.7 The provisions of this clause are inclusive of the provisions of the Holidays Act 2003.

## **14 PUBLIC HOLIDAYS**

- 14.1 The following days shall be observed as public holidays:

- New Year's Day
- 2 January
- Waitangi Day
- Good Friday
- Easter Monday
- ANZAC Day
- Sovereign's Birthday
- Matariki
- Labour Day
- Christmas Day
- Boxing Day
- Anniversary Day (as observed in the locality concerned).

- 14.2 The following shall apply to the observance of Waitangi Day, Anzac Day, Christmas Day, Boxing Day, New Year's Day or 2 January, where such a public holiday falls on either a Saturday or a Sunday:

- a) Where an employee is required to work that Saturday or Sunday the public holiday shall, for that employee, be observed on that Saturday or Sunday and transfer of the observance to the following Monday or Tuesday will not occur. For the purposes of this clause an employee is deemed to have been required to work if they were rostered on duty, or on-call and were actually called in to work. They are not deemed to have been required to work if they were on-call but were not called back to work.
- b) If an employee is rostered on duty (i.e. not on-call) on that Saturday or Sunday but does not work, they will be paid relevant daily pay for the day, and transfer of the observance of the public holiday to the following Monday or Tuesday will not occur.

NOTE: When the public holiday for the employee is observed on the Saturday or Sunday, the weekday to which the observance would otherwise be transferred (being the Monday or Tuesday) is treated as a normal working day for that employee, subject only to the possible payment of weekend rates in accordance with clause 14.5 below.

- c) Where an employee is not required to work on a Saturday or Sunday on which a public holiday falls, observance of the holiday shall be transferred to the following Monday and/or Tuesday in accordance with the provisions of sections 45(1)(b) and



(d) of the Holidays Act 2003. For the purposes of this clause an employee is deemed NOT to have been required to work if they were NOT rostered on duty, or on-call, or were on-call but were not called back to work.

- 14.3 In order to maintain essential services, the employer may require an employee to work on a public holiday when the public holiday falls on a day which, but for it being a public holiday, would otherwise be a working day for the employee.
- 14.4 When an employee works on a public holiday which would otherwise be a working day for the employee, they will be paid at double their ordinary hourly rate of pay (T2) for each hour worked. These rates are instead of and not in addition to the rates specified in section 50 of the Holidays Act. In addition, the employee shall be granted an alternative holiday. Such alternative holiday shall be taken and paid as specified in the Holidays Act 2003.
- 14.5 Should Christmas Day, Boxing Day, New Year's Day or 2 January fall on a Saturday or Sunday, and an employee is required to work (which includes being on call and called out) on both the public holiday and the weekday to which the observance would otherwise be transferred, the employee will be paid in accordance with clause 14.4 for time worked on the public holiday and then at weekend rates clause 4.3.1 for the time worked on the corresponding weekday to which the observance would otherwise have been transferred. Only one alternative holiday will be granted in respect of each public holiday.
- 14.6 Should Waitangi Day or Anzac Day fall on a Saturday or Sunday, and an employee is required to work (which includes being on call and called out) on both the public holiday and the weekday to which the observance would otherwise be transferred, the employee will be paid in accordance with clause 14.4 for time worked on the public holiday and then at ordinary rates for the time worked on the corresponding weekday to which the observance would otherwise have been transferred. Only one alternative holiday will be granted in respect of each public holiday.
- 14.7 An employee who is on call on a public holiday specified in clause 14.2, but is not called in to work, shall be granted an alternative holiday, except where the public holiday falls on a Saturday or Sunday and its observance is transferred to a Monday or Tuesday which the employee is required to work, in which case an alternative holiday shall be granted in respect to the transferred day only and taken and paid as specified in the Holidays Act 2003.
- 14.8 Those employees who work a night shift which straddles a public holiday, shall be paid at public holiday rates in accordance with clause 14.4 for those hours which occur on the public holiday and the applicable rates for the remainder of the shift. One alternative holiday shall apply in respect of each public holiday or part thereof worked.
- 14.9 Off duty day upon which the employee does not work
- a) Fulltime employees –
- Where a public holiday, and the weekday to which the observance of a public holiday is transferred (where applicable), are both rostered days off for an employee, the employee will be granted one alternative holiday in respect of the public holiday.
- b) Part-time employees –

Where a part-time employee's days of work are fixed, the employee shall only be entitled to the payment for a public holiday in accordance with clause 14.4 if the day would otherwise be a working day for that employee.

Where a part-time employee's days are not fixed, the employee shall be entitled to public holiday provisions if they worked on the day of the week that the public holiday falls more than 40 % of the time over the last three months. Payment will be calculated based on the employee's relevant daily pay.

#### 14.10 Public holidays falling during leave

- a) Leave on pay  
When a public holiday falls during a period of annual leave, sick leave on pay or special leave on pay, an employee is entitled to that public holiday which is not debited against such leave.
- b) Leave without pay  
An employee shall not be entitled to payment for a public holiday falling during a period of leave without pay (including sick or military leave without pay) unless the employee has worked during the fortnight ending on the day on which the holiday is observed.
- c) Leave on reduced pay  
An employee, during a period on reduced pay, shall be paid at the relevant daily pay for public holidays falling during the period of such leave.

### 15 BEREAVEMENT/TANGIHANGA LEAVE

- 15.1 The employer shall approve special bereavement leave on ordinary pay (T1 only) for an employee to discharge any obligation and/or to pay respects to a deceased person with whom the employee has had a close association. Such obligations may exist because of blood or family ties or because of particular cultural requirements such as attendance at all or part of a Tangihanga (or its equivalent). Bereavement leave shall include miscarriage or still-birth as per S69 (2) (c and d) of the Holidays Act 2003. The length of time off shall be at the discretion of the employer.
- 15.2 If a bereavement occurs while an employee is absent on annual leave, sick leave on pay, or other special leave on pay, such leave may be interrupted and bereavement leave granted in terms of clause 15.1 above. This provision will not apply if the employee is on leave without pay.
- 15.3 In the granting of time off and deciding on the length of time allowed, the employer will administer these provisions in a culturally sensitive manner.
- 15.4 The provisions of this clause are inclusive of the provisions of the Holidays Act 2003.

### 16 LONG SERVICE LEAVE

- 16.1 This clause shall replace any previous long service leave entitlement(s) that may exist with the Employer. Where an employee's entitlement under the former DSS agreement was more beneficial than the Long Service Leave Provisions this agreement, they will be able to take their entitlement but thereafter revert to the Long Service Leave provisions as per Clause 16 in this agreement. NB: any long service leave already taken will not be included when the "future" entitlement is calculated.
- 16.2 From 1 March 2016 an employee shall be entitled to long service leave of one week upon completion of a five-year period of current continuous service. Current continuous service shall be deemed to include prior continuous service with another district. However, any service period for which a period of long service leave has

already been taken or paid out shall not count towards this entitlement.

- 16.3 Service can be broken by up to three months without affecting this entitlement.
- 16.4 In the event of the death of the employee subsequent to qualifying for long service leave a cash payment equivalent to the entitlement in clause 16.1 will be paid to the next of kin or legal representative if the long service leave has not been taken after the entitlement.
- 16.5 Where a public holiday or substituted succeeding day falls during a period of long service leave, the employee is entitled to the holiday which is not to be debited against such leave.
- 16.6 Payment for long service leave is to be on the basis of average earnings as applies with annual leave. Average earnings are to be assessed on the basis of the calculation year preceding the leave and paid out at the commencement of the leave.

## **17 JURY SERVICE LEAVE**

- 17.1 Employees called on for jury service are required to serve. Where the need is urgent, the employer may apply for postponement because of particular work needs, but this may be done only in exceptional circumstances.
- 17.2 An employee called on for jury service may elect to take annual leave, leave on pay, or leave without pay. Where annual leave or leave without pay is granted or where the service is performed during an employee's off duty hours, the employee may retain the juror's fees (and expenses paid).
- 17.3 Where leave on pay is granted, a certificate is to be given to the employee by the employer to the effect that the employee has been granted leave on pay and requesting the Court to complete details of juror's fees and expenses paid. The employee is to pay the fees received to the employer but may retain the expenses.
- 17.4 Where leave on pay is granted, it is only in respect of time spent on jury service, including reasonable travelling time. Any time during normal working hours when the employee is not required by the Court, the employee is to report back to work where this is reasonable and practicable.

## **18 LEAVE TO ATTEND MEETINGS OF THE MINISTRY OF HEALTH OR OTHER STATUTORY BODIES**

- 18.1 The employer may grant paid leave to employees attending meetings convened by the Ministry of Health and other statutory bodies provided that approval to attend has been obtained prior to the meeting, and the employee is attending as a representative of the company or his/her profession. Leave will not be unreasonably withheld.

## **19 WITNESS LEAVE**

- 19.1 Where an employee is required to be a witness arising out of his/her employment, he/she shall be granted leave on ordinary pay (T1 rate only). The employee is to pay any fee received to the employer but may retain expenses.

## **20 PARENTAL LEAVE**

- 20.1 Parental Leave will be granted in accordance with the Parental and Employment Protection Act 1987 together with subsequent amendments.
- 20.2 Paid Parental Leave – Where an employee takes parental leave under this clause, meets the eligibility criteria as per the Act, and is in receipt of the statutory paid parental leave payment in accordance with the provisions of the Parental Leave and Employment Protection Act 1987 the employer shall pay the employee the difference between the weekly statutory payment and the equivalent weekly value of the employee's base salary (pro rata if less than full-time) for a period of up to 14 weeks.

The payment shall be made at the commencement of the parental leave and shall be calculated at the base rate (pro rata if appropriate) applicable to the employee for the six weeks immediately prior to commencement of parental leave.

The payment shall be made only in respect of the period for which the employee is on parental leave and in receipt of the statutory payment if this is less than 14 weeks

Where both partners are employed by the employer, the paid parental leave top up will be made to only one employee, being the employee who has primary care of the child.

## **21 REAPPOINTMENT AFTER ABSENCE DUE TO CHILDCARE**

- 21.1 Employees who resign to care for a dependent pre-school child or children may apply to their employer for preferential appointment to a position which is substantially the same in character and at the same or lower grading as the position previously held.
- 21.2 The total period of childcare absence allowed is four years. Longer absence renders a person ineligible for preferential appointment.
- 21.3 An employee may resign more than once for childcare reasons and qualify each time for the preferential re-entry rights provided that the total time away from work does not in aggregate exceed four years.
- 21.4 If two persons caring for the same dependent child or children are employees of the employer they are jointly eligible for a total of four years childcare absence.
- 21.5 Persons seeking reappointment under childcare provisions must apply to the employer at least three months before the date on which they wish to resume duties.
- 21.6 This application for reappointment must be accompanied by:
  - 21.6.1 The birth certificate of the pre-school child or children;
  - 21.7 A statutory declaration to the effect that the absence has been due to the care of a dependent pre-school child or children, that the two year maximum has not been exceeded, and that paid employment has not been entered into for more than 15 hours per week.
- 21.8 On receiving an application for preferential appointment, the employer shall acknowledge receipt of the application and confirm the employee's eligibility for re-entry within 21 days of receipt of such notice. Applicants must be informed at this point that:
  - 21.9 If they are not appointed to a vacancy within three months after the expiry of the notice given in clause 21.5 above the benefits of these provisions lapse; and
  - 21.10 They are required to renew notice of intention to work at least one month prior to the intended date of return.
  - 21.11 The employer shall acknowledge the notice given in clause 21.7.2 at least 14 days prior to the intended date of return informing the applicant as to whether or not a suitable vacancy exists.
  - 21.12 The employer shall make every effort to find a suitable vacancy for eligible applicants as soon as their eligibility for preferential re-entry is established. Appointment to a position may be made at any time after the original notification of intention to return to work, provided the appointee agrees.
- 21.13 Where:**
  - 21.14 the applicant meets the criteria for eligibility; and
  - 21.15 there exists at the time of notification or becomes available within the period up to two weeks before the intended date of resumption of duties a position which is substantially the same in character and at the same or lower grading as the position previously held; and



- 21.16 The applicant has the necessary skills to competently fill the vacancy; then the applicant under these provisions shall be appointed in preference to any other applicant for the position.
- 21.17 There shall be no right of review against the appointment of an applicant under these provisions unless the applicant is appointed to a position at a higher grade than that held at the time of resigning. For the purposes of this clause, a "higher grade" is one whose maximum salary is higher than the current maximum salary of the grade of the previously held position.
- 21.18 Where a suitable vacancy is not available, the employer is required to notify the applicant as soon as possible and no later than 14 days prior to the intended date of resumption of duties.
- 21.19 Applicants for preferential re-entry rights do not have the right of review against their non-appointment.
- 21.20 Absence for childcare reasons will interrupt service but not break it.  
The period of absence will not count as service for the purpose of sick leave, annual leave, long service leave or any other leave entitlement or for the purpose of retiring gratuities.

## **22 PROFESSIONAL DEVELOPMENT**

- 22.1 The employer may grant employees study leave to enable them to attend courses and seminars and to undertake projects which are relevant to the company and which facilitate their professional development.

## **23 CONSULTATION AND CHANGE MANAGEMENT**

- 23.1 The parties accept that change in the Health Service is necessary in order to ensure the efficient and effective delivery of Health and Disability Support Services. Furthermore, the parties recognise that they have a mutual interest in ensuring that Health and Disability Support Services are provided efficiently and effectively and that all employees have an important contribution to make in this regard. Consequently, employees and their unions will be involved in the planning of any changes prior to implementation.
- 23.2 The employer acknowledges that regular consultation between the parties is needed on matters of mutual concern and interest. In this regard the employer will provide forums for information sharing and joint problem solving between managers, employees and their unions so that recommendations can be made to the employer. Accordingly paid time off will be allowed for delegates subject to the prior approval of the employer.

## **24 MANAGEMENT OF CHANGE**

- 24.1.1 For collective multi-district management of change processes refer Appendix 1.
- 24.1.2 When as a result of the restructuring of the whole, or any parts, of the employer's operations, the employer requires a reduction in the number of employees, or, employees can no longer be employed in their current position, at their current grade or work location, the options in clause 24.3.1 below shall be invoked and negotiated on a case by case basis between the employer, the employee and his or her union, where nominated.
- 24.2 Notification**
- 24.2.1 Where such a surplus exists, the employer will advise the affected employee and his or her union and give one month's notice of the intended termination of the position.
- 24.2.2 During this period the employer and the affected employee and his or her union, if nominated, will meet to reach agreement on the options appropriate to the

circumstances. Where an employee is to be relocated two months' notice shall also be given to employees. A lesser period of notice may be agreed between the parties.

24.2.3 The employer will provide the employee and his or her union, where nominated, all relevant information concerning the details of any proposed surplus.

### **24.3 Options**

24.3.1 The following are the options to be applied in staff surplus situations:

- \* reconfirmed in the position
- \* attrition
- \* redeployment
- \* leave without pay
- \* enhanced early retirement
- \* retraining
- \* redundancy

24.3.2 The options of "reconfirmed in the position" and "redeployment" will preclude employees from access to the other options. The aim will be to minimise the use of redundancy. When redundancy is included, the provisions in clause 24.3.9 will be applied as a package.

**24.3.3 Reconfirmed in position** - Where a position is to be transferred into a new structure in the same location and grade, where there is one clear candidate for the position, the employee is to be confirmed in it. Where there is more than one clear candidate the position will be advertised with appointment made as per normal appointment procedures.

**24.3.4 Attrition** - Attrition means that as people leave their jobs because they retire, resign, transfer, die or are promoted then they may not be replaced. In addition, or alternatively, there may be a partial or complete freeze on recruiting new employees or on promotions.

**24.3.5 Redeployment** - Employees may be redeployed to a new job at the same or lower salary in the same or new location.

24.3.5.1 Where the new job is at a lower salary, an equalisation allowance will be paid to preserve the salary of the employee at the rate paid in the old job at the time of redeployment.

24.3.5.2 The salary can be preserved in the following ways:

24.3.5.3 A lump sum to make up for the loss of basic pay for the next two years (this is not abated by any subsequent salary increases); or

24.3.5.4 An ongoing allowance for two years equivalent to the difference between the present salary and the new salary (this is abated by any subsequent salary increases).

24.3.5.5 Transfer provisions in clause 28 shall apply plus actual and reasonable accommodation expenses for up to one month where the employee has had to move residence as a result of the transfer.

24.3.5.6 Where the new job is within the same local area and extra travelling costs are involved, actual additional travelling expenses by public transport shall be reimbursed for up to 12 months.

24.3.5.7 The redeployment may involve employees undertaking some on-the-job training.

### **24.3.6 Leave without pay –**

24.3.6.1 Special leave without pay may be granted within a defined period without automatic right of re-engagement. This provision does not include parental or



sick leave.

### **24.3.7 Enhanced early retirement -**

24.3.7.1 Employees are eligible if they are within 10 years of qualifying for national superannuation and have a minimum of ten years' total aggregated service. Service is defined as service with Hospital Boards and the Department of Health (and/or their successors) provided that the existing qualifying service of employees employed prior to 1 July 1996 is not affected by the coming into effect of this clause provided that any qualifying service which has been taken into account for the purposes of calculating any entitlement to a redundancy/early retirement or similar payment from any such employer is excluded.

24.3.7.2 Membership of a superannuation scheme is not required for eligibility.

24.3.7.3 The employee shall receive a payment calculated in accordance with the formula contained in Clause 24.3.9.2.

### **24.3.8 Retraining -**

24.3.8.1 Where a skill shortage is identified, the employer may offer a surplus employee retraining to meet that skill shortage with financial assistance up to the maintenance of full salary plus appropriate training expenses.

24.3.8.2 It may not be practical to offer retraining to some employees identified as surplus. The employer will make decisions on the basis of cost, the availability of appropriate training schemes and the suitability of individuals for retraining.

24.3.8.3 If an employee is re-deployed to a position which is similar to his or her previous one, any retraining may be minimal, taking the form of "on the job" training such as induction or in-service education.

24.3.8.4 Where an employee is deployed to a new occupation or a dissimilar position the employer shall consider such forms of retraining as in-service education, block courses or night courses at a technical institute, nursing bridging programmes etc.

### **24.3.9 Redundancy-**

24.3.9.1 Payment will be made in accordance with the following formula which will be used as a maximum:

24.3.9.2 Service is defined as service with Hospital Boards and Department of Health (and/or its predecessors) except that employees who transfer to this agreement from other agreements within Nelson Marlborough District shall have their existing service recognised and provided that any qualifying service which has been taken into account for the purposes of calculating any entitlement to a redundancy/early retirement or similar payment from any such employer is excluded.

24.3.9.3 8.33 per cent of the basic salary (T1 rate only) for the preceding 12 months in lieu of notice. This payment is regardless of length of service; and

24.3.9.3 12 per cent of basic salary (T1 rate only) for the preceding 12 months, or part thereof for employees with less than 12 months' service; and

24.3.9.4 4 per cent of the basic salary (T1 rate only) for the preceding 12 months multiplied by the number of years of service minus one, up to a maximum of 19; and

24.3.9.5 where the period of total aggregated service is less than 20 years, 0.333 per cent of basic salary (T1 rate only) for the preceding 12 months multiplied by the number of completed months in addition to completed years of service.

24.3.9.6 The total amount paid to employees under the above provision shall not exceed

the basic salary (T1 rate only) the employee would have received between their cessation and the date of their compulsory retirement.

- 24.3.9.7 If the employee has ten or more years' service, the full retiring gratuity as set out in the scale contained in Clause 27 shall be paid.
- 24.3.9.8 Employees with not less than eight years' service but less than ten years' service, shall be paid two weeks' basic salary (T1 rate only).
- 24.3.9.9 Employees with not less than five years' service but less than eight years' service, shall be paid one week's basic salary (T1 rate only).
- 24.3.9.10 Outstanding annual leave and long service leave may be separately cashed up.
- 24.3.10 Job search** - the employer may assist surplus employees to find alternative employment by allowing them a reasonable amount of time off work to attend job interviews without loss of pay. This is subject to the employer being notified of the time and location of the interview before the employee is released to attend it.
- 24.3.11 Counselling** - Counselling for affected employees and family will be made available.
- 24.3.12 Where the employee's employment is being terminated by the employer by reason of the sale or transfer of the whole or part of the employer's business, nothing in this agreement shall require the employer to pay compensation for redundancy to the employee if:
- 24.3.13 The person acquiring the business or the part being sold or transferred –
- 24.3.14 has offered the employee employment in the business or the part being sold or transferred, and
- 24.3.15 has agreed to treat service with the employer as if it were service with that person and as if it were continuous, and
- 24.3.16 The conditions of employment offered to the employee by the person acquiring the business or the part of the business being sold or transferred are the same as, or are no less favourable than, the employee's conditions of employment, including:
- 24.3.17 any service related conditions; and
- 24.3.18 any conditions relating to redundancy; and
- 24.3.19 any conditions relating to superannuation.
- 24.3.20 under the employment being terminated; and
- 24.3.21 The offer of employment by the person acquiring the business or part of the business being sold or transferred is an offer to employ the employee in that business or part of the business either;
- 24.3.22 in the same capacity as that in which the employee was employed by the employer, or
- 24.3.23 in any capacity that the employee is willing to accept.

## **25 TERMINATION OF EMPLOYMENT**

### **25.1 Resignation**

- 25.1.1 Except in the case of casuals, in the absence of special written agreement between the employer and the employee two weeks' notice by all employees or the employer, except in the case of dismissal due to misconduct.
- 25.1.2 Where the required notice is not given, the party improperly terminating the service shall pay or forfeit, as the case may be, a sum equivalent to the wages for the unexpired period of notice.
- 25.1.3 All wages and holiday pay due shall be paid on the termination of employment.

## **25.2 Dismissal**

- 25.2.1 Notwithstanding the terms of this agreement the employer may terminate the employee's employment at any time immediately by notification in writing if the employee shall be guilty of serious misconduct, as defined in the employer's Disciplinary Policy, and following invoking of the employer's Disciplinary Policy and Procedures.

## **25.3 Abandonment of Employment**

- 25.3.1 Where an employee is absent from work for a continuous period exceeding three days without the consent of the employer or without justifiable cause he/she shall be deemed to have terminated his/her employment.

## **25.4 Certificate of Service**

- 25.4.1 Each employee on leaving or being discharged from their employment shall be given on request, as soon as practicable thereafter, a certificate of service in writing stating the position held and the length of service.

## **26 RETIRING GRATUITIES**

- 26.1 The employer may pay a retiring gratuity to those employees retiring from the workforce, who have had no less than ten years' service with the employer and its predecessors providing they were employed by the Nelson Marlborough District Health Board prior to 1<sup>st</sup> May 2003.
- 26.2 This clause will not apply to employees of DSS employed on or after 1 May 2003.
- 26.3 Employees who transfer to this agreement from other agreements with the employer will have their existing service that previously qualified for retiring gratuities recognised.
- 26.4 For the purposes of establishing eligibility for a gratuity, total service (as per Clause 26.1, 26.2 and 26.3) shall be aggregated, whether this be part time or full time, or a combination of both at different periods. Part time service is not to be converted to its full time equivalent for the purposes of establishing eligibility.
- 26.5 Where part time service is involved the gratuity should be calculated to reflect this. The number of hours per week employed during the years of service is calculated as a percentage of the number of hours represented by a full week and this percentage is applied to the rate of pay established for gratuity purposes.
- 26.6 Gratuities may be paid to the spouse or if no surviving spouse, the dependent child(ren) or the estate of an employee who dies before retirement or who dies after retirement but before receiving a gratuity. Spouse is defined as a person with whom a marriage agreement has been made or who is in an established de facto relationship.
- 26.7 The employer shall pay a full gratuity, as appropriate to employees, where they can produce acceptable evidence to substantiate that they are unable to continue regular employment on medical grounds or other special circumstances.
- 26.8 The calculation of a gratuity entitlement shall be in accordance with the scale detailed in clause 26.13 below, provided that the amount of any gratuity previously received in respect of service taken into account in the calculation shall be deducted.
- 26.9 For the purposes of calculating the amount of gratuity that the employer may pay the rate of pay on retirement shall be the basic rates of salary or wages. The entitlement is calculated in consecutive days' pay.
- 26.10 An employee who is granted leave without pay and who remains in the service of the employer, will, on retirement, have such leave aggregated with other service for gratuity purposes.
- 26.11 For employees appointed to a Sleepover position together with a support worker position will be entitled to the provisions set out in clause 26. The Sleepover allowance

component will **not** be included in retiring gratuity calculations, but other hours worked will be.

26.12 There is no entitlement for employees appointed to a Sleepover position only

**26.13 Scale of Maximum Gratuities**

**Total Period of Service**

**Maximum Gratuity**

Not less than 10 years and less than 11 years	31 consecutive days' pay
Not less than 11 years and less than 12 years	35 consecutive days' pay
Not less than 12 years and less than 13 years	39 consecutive days' pay
Not less than 13 years and less than 14 years	43 consecutive days' pay
Not less than 14 years and less than 15 years	47 consecutive days' pay
Not less than 15 years and less than 16 years	51 consecutive days' pay
Not less than 16 years and less than 17 years	55 consecutive days' pay
Not less than 17 years and less than 18 years	59 consecutive days' pay
Not less than 18 years and less than 19 years	63 consecutive days' pay
Not less than 19 years and less than 20 years	67 consecutive days' pay
Not less than 20 years and less than 21 years	71 consecutive days' pay
Not less than 21 years and less than 22 years	75 consecutive days' pay
Not less than 22 years and less than 23 years	79 consecutive days' pay
Not less than 23 years and less than 24 years	83 consecutive days' pay
Not less than 24 years and less than 25 years	87 consecutive days' pay
Not less than 25 years and less than 26 years	92 consecutive days' pay
Not less than 26 years and less than 27 years	98 consecutive days' pay
Not less than 27 years and less than 28 years	104 consecutive days' pay
Not less than 28 years and less than 29 years	110 consecutive days' pay
Not less than 29 years and less than 30 years	116 consecutive days' pay
Not less than 30 years and less than 31 years	123 consecutive days' pay
Not less than 31 years and less than 32 years	129 consecutive days' pay
Not less than 32 years and less than 33 years	135 consecutive days' pay
Not less than 33 years and less than 34 years	141 consecutive days' pay
Not less than 34 years and less than 35 years	147 consecutive days' pay
Not less than 35 years and less than 36 years	153 consecutive days' pay
Not less than 36 years and less than 37 years	159 consecutive days' pay
Not less than 37 years and less than 38 years	165 consecutive days' pay
Not less than 38 years and less than 39 years	171 consecutive days' pay
Not less than 39 years and less than 40 years	177 consecutive days' pay
Not less than 40 years	183 consecutive days' pay

**27 TRANSFER PROVISIONS**

27.1 When employees are transferred to meet the convenience of the employer, the actual and reasonable transfer expenses of the employees and their families shall be paid by the employer where the employee has had to move residence as a result of the transfer.

**28 SEXUAL/RACIAL HARASSMENT**

28.1 The employer has a policy of equal employment opportunity, which requires a high standard of conduct in the workplace and the parties to this agreement acknowledge that sexual/racial harassment in the workplace is totally unacceptable.

28.2 It is the responsibility of the General Manager to maintain a work environment free of unwelcome behaviour and to provide a mechanism for reporting sexual/racial harassment, ensuring a fair investigation and avoiding reprisals against the complainant.

28.3 Sexual or racial harassment is a form of discrimination which contravenes this policy and is unacceptable. It will not be condoned and where it occurs the offending party will be subject to disciplinary action.





28.4 Where a claim of sexual or racial harassment falls with the definition of the Personal Grievance clause in this agreement or the Employment Relations Act 2000 the provisions of the respective clauses may be required.

28.5 Where the matter is of a sufficiently serious nature as to constitute unlawful sexual/racial discrimination within the terms of the Human Rights Act 1993, the Human Rights Commission may have jurisdiction to investigate the matter.

## **29 RESOLUTION OF EMPLOYMENT RELATIONSHIP PROBLEM PROCESS**

29.1 If a problem arises during the employment relationship the employer and/or employees' representative should be notified immediately. If the employer's response is not considered satisfactory the Mediation Services of the Department of Labour will be involved in attempting to resolve the problem or dispute.

29.2 Personal grievances and disputes shall be addressed according to the provisions set out in Part 9 of the Employment Relations Act 2000.

29.3 The Employment Relations Authority has jurisdiction to hear and make decisions on employment relationship problems which are referred to it.

29.4 The Employment Court has jurisdiction to adjudicate on all matters which are properly brought before it, if mediation has not worked to resolve the matter or one party is unhappy with the decision of the Employment Relations Authority.

29.5 It is important to note that an employee who wishes to raise a personal grievance under the terms of the Employment Relations Act 2000 has a period of 90 days from the date on which the action giving rise to the grievance occurred, to lodge the grievance with the employer, unless the employer agrees to the grievance being raised after that period has expired. There is also additional time available for raising a personal grievance under the Act, under exceptional circumstances.

## **30 PERSONAL GRIEVANCES AND DISPUTES**

30.1 The procedures set out in Part 9 of the Employment Relations Act will apply.

## **31 PROTECTION IN THE EVENT OF CONTRACTING OUT, TRANSFERENCE OR SALE OF ALL OR PART OF THE BUSINESS OF THE EMPLOYER**

### **31.1 Change of Ownership**

Where an employee's employment is being terminated by the employer by reason of the sale or transfer of the whole or part of the employer's business, nothing in this agreement shall require the employer to pay compensation for redundancy to the employee if:

- a) The person acquiring the business or the part being sold or transferred-
  - i) has offered to treat service with the employer as if were service with that person and as if it were continuous; and
  - ii) has agreed to treat service with the employer as if it were service with that person and as if it were continuous; and
- b) The conditions of employment offered to the employee by the person acquiring the business or the part of the business being sold or transferred are the same as, or are no less favourable than, the employee's conditions of employment, including:
  - i) any service relating to redundancy; and

- ii) any conditions relating to superannuation –  
under the employment being terminated; and
- c) The offer of employment by the person acquiring the business or the part of the business being sold or transferred is an offer to employ the employee in that business or part of the business either:
  - i) in the same capacity as that in which the employee was employed by the Employer, or
  - ii) in any capacity that the employee is willing to accept.
- d) Where the person acquiring the business does not offer the employee employment on the basis of (a), (b) and (c) above, the employee will have full access to the staff surplus provisions.

### 31.2 Employment Protection Provisions

The parties acknowledge that Section 69M of the Employment Relations Act 2000 requires all collective agreements to contain provisions in relation to the protection of employees where their employer's business is restructured. It is agreed that these provisions exist within the current collective agreement (e.g. clause 23 Consultation and Change Management, clause 24 Management of Change and clause 31 Change of Ownership) or by virtue of the statutory provisions set out in Sections 19, 20 and 21 of Schedule 1B of the Employment Relations Act.

### 32 EMPLOYEE RELATIONS LEAVE

32.1 As set out in of the Employment Relations Act will apply.

### 33 TRAVELLING ON COMPANY BUSINESS

33.1 Employees required to travel in connection with their employment shall be provided with suitable accommodation and meals, or in cases where accommodation is not required, shall be provided with the necessary meals or meals shall be paid for by the employer. Receipts for expenses over \$6 must be provided before they can be reimbursed other than incidental allowances.

33.2 Employees who agree to use their private motor vehicle on company business shall be paid a motor vehicle allowance in accordance with the maximum allowable tax free rate as promulgated by the Inland Revenue Department from time to time, on production of an authorised claim.

### 34 AUTHORISED REPRESENTATIVES

34.1 Any person, group or organisation claiming to be entitled to represent any party to this agreement shall provide written authority of that representation in accordance with the Employment Relations Act 2000. Upon providing that authority the employer shall recognise the representatives as a negotiating representative and as a representative for the purpose of the Employment Relations Act 2000 or as both in accordance with the Act.

### 35 NOTIFICATION

35.1 On the written request of an employee's duly authorised union the employer shall provide a list of their members covered by this agreement, but not more often than once in three months.

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**36 ACCESS TO WORKPLACE**

36.1 An employee's duly authorised union shall, with the consent of the employer be entitled to enter at all reasonable times upon the premises or workplace and there interview any employee, but not so as to interfere unreasonably with the employer's business.

**37 UNION DELEGATES**

37.1 The employer shall give recognition to an employee who is elected by the employees as a Union Delegate in the establishment in which the employee is employed. It shall be a condition of such recognition that wherever any question, problem or dispute arises, the Union Delegate shall first approach the employer so that an attempt may be made to resolve the question, problem or dispute at that point. The employer shall grant reasonable paid time for this purpose.

**38 STOPWORK MEETINGS**

38.1 The employees' authorised union may hold paid stop-work meetings for employees for up to a total of four hours per calendar year, provided that:

38.2 At least 14 days' written notice of intention to hold each such meeting shall be given to the employer by the authorised union, and

38.3 Satisfactory arrangements for the maintenance of essential services are agreed to with the employees' authorised union, and

38.4 Meetings shall be arranged at a place, and on a day and time as agreed upon between the employer and the employee's authorised union; and

38.5 The employer shall be supplied with an attendance slip signed by the employees' authorised union as evidence of the employee's attendance at the meeting, and

38.6 Employees return to work as soon as practicable after the conclusion of such meetings.

**39 DEDUCTION OF EMPLOYEE ORGANISATION FEES**

39.1 The employer shall, upon written request from DSS employees, deduct from the employee's wages, fees for an employee's duly authorised union. Such fees shall be remitted not less frequently than monthly to the employees' union.

**40 OVERRIDING OF EXISTING CONTRACTS AND AGREEMENTS**

40.1 This agreement supersedes all previous contracts and any other employment agreement or terms and conditions of whatsoever nature, whether expressed or implied.

**41 CONTINUITY OF SERVICE**

41.1 For the purpose of this agreement current continuous service will not be deemed to be broken by reason of the sale or transfer, including merger, of the employer's business, or a part of that business, to a new employer who continues to employ such employees without an interruption in their service.

41.1 The employer shall give the employees' authorised union at least 21 days prior notice of any change or change of agreement directly affecting the employment of any employees covered by this agreement.

**42 VARIATION OF AGREEMENT**

42.1 This agreement may be varied pursuant to the Employment Relations Act 2000 where all parties agree in writing.

42.2 The parties agree that should additional funding become available from the Ministry of Health specifically earmarked for Staff Salaries the agreement will be varied to

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incorporate this funding into this Collective Employment Agreement.

#### **43 COPY OF AGREEMENT**

- 43.1 Upon request, employees shall be provided with a copy of this agreement as soon as practicable.

#### **44 HEALTH AND SAFETY**

- 44.1 The employer shall be responsible for providing a safe and healthy working environment that complies with the Health and Safety at Work Act 2015 and any subsequent amendments and shall take all practicable steps to:
- ensure employees are safe while at work;
  - identify all hazards in the workplace;
  - eliminate, isolate or minimise employees' exposure to significant identified hazards;
  - involve employees in the development of procedures;
  - train all employees to work safely;
  - take all practicable steps to ensure that while employees are at work they do not harm other people.
- 44.2 It shall be the responsibility of every employee covered by this agreement to work safely so as not to endanger themselves, other employees or property of the employer. Employees are also required to follow all safety policy and procedural instructions including the reporting of any hazards, accidents or injuries immediately to their employer.
- 44.3 As soon as practicable after commencing work an employee shall be advised of safety procedures specific to the workplace with particular attention to health hazards likely to be met in their day to day work.

#### **45 THE PRIVACY ACT 2020**

- 45.1 The parties to this agreement acknowledge the established principles of the Privacy Act 2020 relating to the collection, use and disclosure of information relating to individuals, and the access of those individuals to information relating to them.
- 45.2 The employer shall not divulge or communicate any confidential information relating to an employee other than to a person lawfully authorised to receive such information.
- 45.3 An employee shall not divulge or communicate any confidential information of the employer, or of individuals in the employer's care, except to such persons or agencies lawfully entitled to receive such information.

#### **46 INDEMNITIES AND LIABILITIES**

- 46.1 The employer indemnifies each employee and agrees to keep them indemnified from and against actions, suits, proceedings, claims and demands whatsoever and or brought against the employer or an employee by any third party in respect of or arising out of the carrying out of duties in good faith by the employee other than those arising out of wilful neglect, or serious misconduct on the employee's part.
- 46.2 The employee agrees not to do any act whereby any insurance policy may be rendered voidable or the rate of premium increased.
- 46.3 The employee agrees not to make any form of acknowledgement of liability on behalf of the employer or any other employee in respect of any claim against the employer.
- 46.4 The employee agrees to ensure that all actions or incidents likely to lead to a claim against the employer or the employee him/her self are reported to the employer as soon as possible.

**48 TERM OF AGREEMENT**

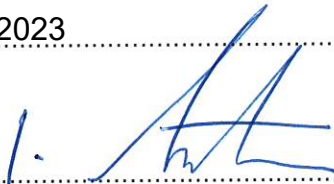
48.1 This agreement shall come into force on the 15 June 2023 and shall continue in force until the 31 May 2024.



Signed: .....

**Fepulea'i Margie Apap**  
**Chief Executive**  
**Te Whatu Ora**

Date: 25/9/2023 .....



Signed: .....

**Luke Stenton**  
**National Union of Public Employees (NUPE)**

Date: 25.9.23 .....

