

INFORMATION FOR EMPLOYEES

PROPOSED NURSES (*DEPARTMENT OF EDUCATION AND EARLY CHILDHOOD DEVELOPMENT*) AGREEMENT 2009

The Department of Education and Early Childhood Development, Australian Nursing Federation (ANF) and Community and Public Sector Union (CPSU) have reached agreement on a new enterprise agreement for school and Maternal and Child Health Information Line (MCHIL) nurses. As a result the proposed Nurses (Department of Education and Early Childhood Development) Agreement 2009 (the proposed Agreement) is being presented to staff for a vote.

1. THE PROPOSED AGREEMENT

The proposed Agreement can be found on the Department's website at: <http://www.eduweb.vic.gov.au/hrweb/employcond/res/newagree.htm>

The proposed Agreement is a comprehensive statement of employees' conditions of employment and, if approved, will replace the current *Nurses (Department of Education and Early Childhood Development) Agreement 2008*.

As an agency agreement with a nexus to the *Victorian Public Service Agreement 2004* (VPS Agreement), as extended and varied in June 2009, the proposed Agreement generally aligns with the VPS Agreement subject to some minor differences.

The proposed Agreement will cover nurses employed in schools and the Maternal and Child Health Information Line under Division 4 of Part 3 of the *Public Administration Act 2004*. It should be noted that employees within the VPS salary and classification structure or employed within the Teaching Service are not covered by the proposed Agreement.

Before the proposed Agreement can be given effect it must be approved by a valid majority of employees. The approval of employees will be sought through a postal ballot conducted by the Australian Electoral Commission.

2. PROPOSED AGREEMENT CONTENT

Remuneration Benefits

The proposed Agreement provides for the following salary increases;

- 2.00% from 1 July 2009
- 1.25% from 1 February 2009
- 3.25% from 1 October 2009

The proposed Agreement also provides for a lump sum productivity payment equal to 0.8% of an employee's (other than a casual employee) annual salary at the 4 May 2009 or at the commencement of their employment, whichever is the later.

Salary progression arrangements under the current agreement will continue to operate in the proposed Agreement.

Review of Classification Structure

The Department, ANF and CPSU have agreed to a review of the classification structure applying to school and MCHIL nurses during the life of the agreement. Such a review will include current classification descriptors and performance standards.

Period of Operation

The proposed Agreement will operate until 30 June 2011 with no further claims for a new agreement during that period.

3. CONDITIONS OF EMPLOYMENT CHANGES

Salary Related Allowances

All salary related allowances will increase by the same percentage as the salary increases, with the same dates of effect. These include the first aid allowance, language allowances, overtime meal payments, and permanent relocation allowances.

Disputes and Grievances

A revised clause has been included to more comprehensively specify how disputes and grievances are to be handled. The new clause specifically sets out principles upon which the internal review processes are to be based.

Employment Categories and Entitlements

The initial three month probationary period for new employees will be able to be extended if non attendance at work has limited the employer's ability to assess an employee. Two weeks' pay in lieu of two weeks' notice will also be available if a probationary employee is to be terminated. Limited fixed term employment will be available in future where a review of a work area is occurring.

Termination of Employment

The minimum notice period for termination of employment by the employer has increased to two weeks for less than 3 year's service or less (still 4 weeks for more than 3 years service), whilst the employee resignation period will in future be 4 weeks.

Management of Underperformance and Misconduct

A completely revised clause has been included to cover unsatisfactory work performance, misconduct including serious misconduct, representation of employees, natural justice, and employer directions.

Salary Packaging

The items that by agreement can be packaged will not be limited to the list of items in the current agreement.

Standby/Recall

The standby provisions have been varied to provide a standard allowance amount for an employee required to be on standby, including a link to the overtime provisions where work is required after a limited initial response.

Reimbursement of Expenses

A declaration that an incidental expense was incurred may now be permitted where the obtaining of a receipt is impractical.

Superannuation

The provisions have been extended to cover employees over the age of 70 years.

Shift Work

A new definition of shift work has been included and the shift work times for casuals have been clarified. The shift allowance calculation cap has been removed and there is now an option to cash out the fifth week of annual leave and substituted leave in lieu of public holidays.

Overtime

The cashing out by agreement of converted leave (previously annual leave) in lieu of overtime payment is now permitted. It has been clarified that the three hour minimum payment for overtime applies to both recall to duty to the work location and stand-alone overtime.

Annual Leave

Recreation leave has been renamed annual leave and, from 1 January 2011, can be taken once accrued or by agreement.

Purchased Leave

Purchased leave is available, by agreement, below 44/52 weeks (8 additional weeks of paid annual leave).

Dangerous Medical Conditions

The provision allowing the employer to require an employee to absent themselves from work because they are a danger to other employees has been extended to situations where they are a danger to themselves or other persons.

Public Holidays

The provisions have been amended to bring them into line with recent amendments to the *Public Holidays Act* relating to Boxing Day, New Year's Day and Melbourne Cup Day, and to provide for announced changes to that Act in relation to Anzac Day.

Sick Leave

Clarifies that sick leave is granted at the commencement of employment and on each anniversary date thereafter, that sick leave without a medical certificate or statutory declaration is still available if 38 hours' sick leave with a medical certificate or statutory declaration has already been taken, and that 38 hours' sick leave without a medical certificate or statutory declaration can be used for either sick leave or carer's leave. The employer in future will be able to direct an employee to obtain a medical certificate from a registered practitioner of mutual choice where either the employee has been on sick leave for at least six weeks or the employer has a genuine concern about an employee's capacity to undertake their duties.

Carer's Leave

The provisions have been extended to cover ongoing care and attention to a person who is not a member of the employee's immediate family or household. An additional entitlement of two days' unpaid carer's leave on a per occasion basis will be available, with all carer's leave entitlements applying to each year of employment.

Parental Leave

Has expanded the provisions to bring them more into line with the Victorian Public Sector Family Provisions Standard and the Australian Fair Pay and Conditions Standard, as follows:

- A new entitlement to Grandparent Leave of up to twelve months unpaid leave for an employee who is a grandparent and has primary responsibility for their grandchild.
- Public holidays occurring during paid parental leave will be granted as additional days off, to be taken immediately following the period of paid Maternity Leave.
- Female employees who reduce their time fraction to better cope with pregnancy will remain entitled to paid Maternity Leave at the time-fraction against which they were employed immediately prior to reducing their time-fraction for those purposes.

Leave to Attend Alcohol and Drug Rehabilitation Program

New provisions have been included to cover problemgamblers.

Long Service Leave

The long service leave entitlement will in future accrue in hours, with added flexibility to take long service leave at any agreed time fraction. The prior service provisions have been revised to allow for the recognition of service with other Australian Public Services, the Victorian public sector and Victorian local governing bodies. A new provision has been included that provides for the payout of remaining accrued entitlements on termination of employment.

Study Leave

Provisions have been amended to provide clarification that the provision of five days' paid leave is on a per annum basis.

Accident Make Up Pay

An aggregate figure of 1984 hours' accident make up pay has been included.

Facilities, Equipment and Accommodation

Includes specific reference to *WorkSafe's Workplace Amenities and Work Environment Compliance Code* and *First Aid in the Workplace Compliance Code*, while such guidelines do not form part of the Agreement they have been inserted, although such a reference does not mean those codes form part of the Agreement itself.

Redeployment

Redeployment principles have been inserted.

4. APPROVAL PROCESS

STEP 1 The Department of Education and Early Childhood Development, the Australian Nurses Federation (Victorian Branch) and the Community and Public Sector Union sign the proposed agreement.

STEP 2 The *Fair Work Act 2009* requires that the proposed agreement be provided to employees and that they are given **at least 7 days** to consider the proposed agreement before being asked to approve it. The proposed agreement, details of the approval process and other relevant information can be accessed on the Department's website at:

<http://www.eduweb.vic.gov.au/hrweb/employcond/res/newagree.htm>

STEP 3 The Australian Electoral Commission (AEC) have been engaged to conduct a postal ballot to give employees, whose employment will be covered by the proposed agreement, the opportunity to approve or not approve the proposed agreement. The AEC will forward to the home address of all affected employees a ballot paper with instructions on how to lodge their vote.

An employee can only vote by returning their ballot paper to the AEC by **10 am on 23 October 2009**.

Regional Children and Youth Services managers have been asked to notify employees on leave, where this is reasonably possible, and inform them that the proposed agreement information is available, how it may be accessed, and arrangements with the AEC for conducting the ballot. Employees who are not accessible at their normal home address should contact their regional Children and Youth Services manager regarding arrangements for participating in the ballot.

STEP 4 The AEC will advise if a valid majority have approved the proposed agreement or not shortly after the ballot closure date. A valid majority means approval by a majority of employees, whose employment will be subject to the proposed agreement and who vote.

STEP 5 If the AEC have advised that there is a valid majority approving the proposed agreement it will be lodged with Fair Work Australia within 14 days of the closing day of the employee ballot.

STEP 6 Fair Work Australia will conduct a 'no-disadvantage' test on the proposed agreement and provide advice as to whether that test has been met or not.

STEP 7 On advice from Fair Work Australia that the agreement has met the requirements of the *Fair Work Act 2009* the agreement will commence to operate from the 7th day following the date of that advice.