

Arcare Pty Ltd, NSWNMA/ANMF NSW Branch and HSU New South Wales Branch, (NSW and ACT) Enterprise Agreement 2023 (the **Agreement**)

Voting Commences Next Week

As you will be aware presentations are being conducted at each of our NSW sites, enabling all staff the opportunity to be briefed about the changes. Copies of the proposed Agreement are also available for you to access at your workplace. This memo provides you with the full list of all the changes about the key updates in the terms of the Agreement compared to the Current Agreement. It is not intended to be a comprehensive explanation of the provisions of the Agreement or the Current Agreement, it is as **summary only**, so you are encouraged to:

- attend an information session to learn more about the Agreement (*refer Voting Memo for details*),
- review the Agreement, and
- ask Scott Collins or your RM any questions you may have about the Agreement.

You should also refer to the voting memo, which was sent to you earlier this week, The voting memo opens at **9:00am on Tuesday 14 March 2023.**

Key Terms of the Agreement:

It is important that we advise you of some of the key benefits provides for under this Agreement, including:

Wage Increases (refer clause 16 and Appendix 1, Table 1) & allowance rates (refer Appendix 1 Table 2):

- **2.5%** back-paid to the first full pay period on or after (FFPPOA) 1 July 2021;
- a minimum of **3.5%** back-paid to the FFPPOA 1 July 2022;
- **3%** from the FFPPOA 1 July 2023.

This means a total wage increase of at least 9%.

*The wage offer includes **backpay** – amounting to **at least 6%***

Increased paid parental leave (refer clause 40):

Arcare has increased the paid parental (primary care giver) leave from 4 to **6 weeks paid leave**.

New paid study/ conference/ exam leave (refer clause 44):

Arcare will provide **3 days paid** study/ examination/ conference leave for full time employees (pro-rata for eligible part-time employees per clause 44.1) per annum (non-accumulative).

Family and Domestic Violence Leave (refer clause 41)

Enhanced FDVL provision – noting paid leave of up to **10 days** per annum is available without the necessity to have a paid personal leave balance of no more than 15 days.

Increased overtime penalty rates: (refer clause 29)

Refer detail at clause - with overtime penalty applied to casual loaded rate, and all overtime on Saturdays paid at 200% for Aged Care employees.

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Increased public holiday penalty rate for casual Aged Care employees: (refer clause 34.9)
Penalty rate for casual aged care employees working a public holiday increased to a total rate of 275%.

We have also set out in the below table a summary of the Key Terms of the Agreement together with the change commentary. This is to assist you in your understanding of the changes that will arise should the Agreement come into operation – thereby replacing the Current Agreement in regard to your minimum terms of employment.

| Clause | Agreement Term | Change commentary |
|---|---|--|
| 3. Commencement and Expiry | Nominal expiry date (NED) is 30 June 2024 | Arcare has proposed a shorter agreement with a NED of 30 June 2024 – in line with the wage offer |
| 4. Coverage | The Agreement covers all Employees performing work within the classifications contained in this Agreement and employed in aged care Residences in the State of New South Wales and the Australian Capital Territory. | The Agreement excludes home care but now includes the ACT. |
| 6. Scope and relationship to the NES | Any reference to policy – is as amended (or removed) from time to time and is not an incorporated term of the Agreement. | Express provision for clarity. |
| 8. Values, Relationship Model of Care, the Senses Framework and Diversity and Inclusion | Updated term to include Arcare's diversity and Inclusion Statement, confirming: <i>Arcare is a client focused, values-based organisation that embraces people's differences and the positive contribution all people bring to our culture inclusive of nationality, ethnicity, cultural background, spirituality, religion, sexuality, gender identity, disability, age, position, or political opinion whilst ensuring diversity and equality outcomes for all our community.</i> | Included per Arcare's commitment to diversity and inclusion in the workplace |
| 12.3 Part-Time Employment | PT Hours: A part-time Employee is an Employee who is engaged to work less than full-time hours of an average of 38 ordinary hours per week and has reasonably predictable hours of work (per clause 12.3(c) - with a minimum of 4 hours on any shift – excluding attendance at meetings, training and | Updated arrangements as set out, including: Min. Engagement per shift: |

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| | <p>recall).</p> <p>Aged Care (AC) Employees: Retention of part-time contracted hours arrangements – in summary, before commencing employment, the Employer and Employee will agree in writing on the span of hours that the Employee may be rostered within a fortnight. The span of hours shall include which shifts the Employee may be rostered to work; the days of the week the Employee may be rostered to work within a fortnight; and the agreed minimum number of contracted hours to be worked per fortnight.</p> <p>Updated agreement to work additional hours at the Ordinary Rate up to 10 hours to include (as underlined):</p> <p>No part time Employee shall be directed to work in excess of their rostered ordinary hours at the Ordinary Rate. <u>Where the part-time Employee is directed by the Employer to work in excess of their rostered ordinary hours (Additional Hours) the Employee will be paid in accordance with clause 31– Overtime, for such Additional Hours.</u></p> | <p>increased from 3 to 4 hours</p> <p>AC Employees – expressly provided where directed to work in addition to their rostered ordinary hours will be paid overtime for such additional hours</p> |
| 12.6. Casual Employment | <p>Inclusion of updated Casual provisions confirming:</p> <ul style="list-style-type: none"> • the definition of casual employee is set out in the National Employment Standards (NES); • the casual loading is paid in compensation for not having entitlements under the NES and this Agreement to paid annual leave, paid personal leave, paid compassionate leave, payment for public holidays not worked, payment in lieu of notice of termination and redundancy pay. • a minimum of 3 hours on any shift – excluding attendance at meetings and training | <p>Updated casual provisions consistent with amended NES.</p> <p>Min. Engagement per shift: increased from 2 to 3 hours</p> |
| 12.6(c) Offer and Right to request casual conversion | <p>The Agreement sets out the arrangements for both an offer of conversion and a right to request – consistent with the NES (and existing more beneficial terms). In summary, including:</p> <ul style="list-style-type: none"> • Arcare will make an offer to a casual Employee to convert to full time or part time | <p>The change obligates the employer to “offer” casual conversion (and a right to request such) in</p> |

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| | <p>employment if the Employee:</p> <ul style="list-style-type: none"> ○ has been employed by Arcare for a 12 month period; <u>and</u> ○ during a least the last 6 months of that period, the Employee has worked a regular pattern of hours on an ongoing basis which, without significant adjustment, the Employee could continue to work as a full-time Employee or a part-time Employee (as the case may be). <ul style="list-style-type: none"> • Arcare is not required to make an offer of full time or part time employment to a casual Employee if there are reasonable grounds not to make the offer, and the reasonable grounds are based on facts that are known, or reasonably foreseeable, at the time of deciding not to make the offer <p>The casual Employee (<i>employed for at least 6 months and who has worked on a regular a regular pattern of hours on an ongoing basis which, without significant adjustment, the Employee could continue to work as a full-time Employee or a part-time Employee - as the case may be</i>) may 'request' casual conversion where they have completed at least 6 months of casual employment with Arcare and who is seeking to convert to permanent (either part time or full time) employment, may request such conversion, which will be considered and not unreasonably refused by Arcare.</p> | <p>accordance with the NES.</p> <p>The arrangements continue to provide for a right to request casual conversion by an employee at 6 months of casual employment (per clause 12.6(c)(iv))</p> |
| 13. Termination of Employment | With-holding monies for failure to provide required notice: now capped to up to 1 week. | <i>Noted updates</i> |
| 16. Minimum Weekly Wages (and Appendix 1) | <p>The Agreement provides for the following wage increases (adjusted rates set out at Appendix 1 Table 1):</p> <ul style="list-style-type: none"> • 2.5% back-paid to the first full pay period on or after (FFPPOA) 1 July 2021; • A minimum of 3.5% back-paid to the first full pay period on or after 1 July 2022; • 3% from the FFPPOA 1 July 2023. <p>Plus additional uplifts:</p> <ul style="list-style-type: none"> • New RN Level 1 PP 6 and 7 • New Nursing Assistant Cert II/ IV PP2 | <p>Increased rates – set out at Appendix 1, Table 1. The allowance rates have also been adjusted and are set out at Table 2</p> |

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| 21. Payment of Wages | <p>Confirms payment arrangements as follows:</p> <ul style="list-style-type: none"> • Paid fortnightly, by electronic funds transfer, into an Employee's nominated bank account; • Payment on termination will be as soon as practicable on or after the termination date – but no later than 7 days after the termination date. | <p>Modernized provision – noting termination pay will be paid as soon as practicable on or after the termination date but no later than 7 days after the termination date replacing the current 3 business days.</p> |
| 22. Occupational Superannuation | <p>The Agreement provides for superannuation in accordance with Superannuation Law, including:</p> <ul style="list-style-type: none"> • Full choice of super fund; • Staped fund and Default fund arrangements (noting the default fund is HESTA and MySuper compliant); <p>The Agreement provides for employees to make voluntary pre-tax or after-tax contributions to superannuation through a written agreement in accordance with the clause.</p> | <p>Noted updates per stapled fund arrangements, and SG payments being made in accordance with SG Law.</p> |
| 24. Hours of Work | <p>The Agreement provides ordinary hours will not exceed:</p> <ul style="list-style-type: none"> • 76 hours per fortnight (or an average 38 hours – not exceeding over 4 weeks); • 10 hours in a day • Subject to broken shifts will be worked continuously on any day or shift (excluding any unpaid meal break provided for by this Agreement); and • in the case of a M-F Day Worker, will not be worked on a weekend, or before 6.00 am or after 6 pm on any day Monday to Friday. | <p>Updated arrangements – to include express provision regarding M-F Day Workers (<i>noting this was previously dealt with under a span of hours clause</i>)</p> |
| 25. Roster | <p>Enhanced roster provision confirming roster to be posted 14 days before the commencement of the roster period (deleting the previous default minimum of 7 days).</p> | <p>Enhanced roster provision – noting posted 14 days prior to commencement</p> |
| 27. Saturday and Sunday Work | <p><i>No change</i> – Saturday: 150% and Sunday: 175% (other than to include casual rates)</p> | <p>Refer clause for detail.</p> |

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| 28. Breaks | <p>Updated and enhanced paid meal break arrangements as follows:</p> <p><u>Nursing Employees</u></p> <p>(a) Where a Nursing Employee is required by the Employer to remain on premises and be available during their meal break, but is free from duty, the meal break will be paid at an amount equivalent to the Employee's Ordinary Rate for the 30 minute meal break (Meal Break Allowance). This meal period will not count as time worked and is not used in calculating ordinary hours for the purposes of overtime or penalties.</p> <p>(b) Where a Nursing Employee is required by the Employer to perform work or is recalled to duty during a meal break (Interrupting Work), the Employee will be paid overtime for all time worked until the meal break (or the balance of the meal break) is taken. Unless authorised otherwise by the Employer, the Employee must immediately commence their meal break (or the remainder of such meal break) upon the conclusion of the Interrupting Work. Whilst paid at the overtime penalty rate the time worked until the meal break is taken will be regarded and count as ordinary time.</p> <p>(c) Notwithstanding the arrangements set out at (b) and (c) above, the in-charge registered nurse, may be rostered by the Employer to remain on premises and be available for their meal break during their rostered shift and will be paid the Meal Break Allowance. Where such nurse engages in Interrupting Work during their meal break, they will be paid at the Ordinary Rate for all time worked until the meal break (or the balance of the meal break) is taken. Time worked during a meal break, whilst paid at the Ordinary Rate, is not used in calculating ordinary hours for the purposes of overtime or penalties.</p> | <ul style="list-style-type: none"> Enhanced Meal Break arrangements – dealing with interruptions and payment arrangements. |

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| | <p><u>Aged Care Employees</u></p> <p>28.3 Where an Aged Care Employee is required by the Employer:</p> <ul style="list-style-type: none"> • to remain available to attend to duty; • to perform work; or • is recalled to duty, <p>during a meal break the Employee will be paid overtime for the period so required and all time worked until the meal break (or the balance of the meal break) is taken. Whilst paid at the overtime penalty rate the time worked until the meal break is taken will be regarded and count as ordinary time.</p> <p><u>All Employees</u></p> <p>Unless authorised otherwise by the Employer, the Employee must immediately commence their meal break (or the remainder of such meal break) upon the conclusion of the work during the meal break. Any Interrupting Work or arrangements in accordance with 28.3 must be authorised by the Residence Manager (or their equivalent) or their delegate.</p> | |
| 29. Overtime | <p>OT thresholds:</p> <ul style="list-style-type: none"> • a full time Employee – in excess of their rostered ordinary hours on a day or shift; • a casual Employee - in excess of 10 hours in a day or 76 hours per fortnight; • a part-time Employee, subject to clause 12.4, in excess of ordinary hours on any day or shift as set out at clause 24.1(a) and (b). <p>OT Penalties (excluding casuals):</p> <p>The Agreement sets out OT penalty arrangement and thresholds including:</p> <ul style="list-style-type: none"> • <i>Monday to Friday</i>: 150% for the first 2 hrs and 200% thereafter • <i>Saturday (Nurses)</i>: 150% for the first 2 hrs and 200% thereafter • <i>Saturday (AC Employees)</i>: 200% • <i>Sunday</i>: 200% • <i>PH</i>: 250% | <ul style="list-style-type: none"> • Updated Thresholds • No change in permanent OT penalty rates (excepting AC employee OT on a Saturday to be paid at 200% replacing former 150% for the first 2 hours) • New compounded OT penalty rates for casuals – per the rates set out at clause 29.3 |

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| | <p>Casuals: The arrangements for payment of overtime for casual employees (compounding penalties) – refer table at clause 29.3</p> | |
| 32. Annual Leave | <ul style="list-style-type: none"> • No change in quantum of annual leave (AL); • Broader definition of shiftworker for the purposes of additional AL (<i>encompasses existing category and broader category per the respective modern Award definitions</i>) – refer detail at 32.2(b) • Updated taking of AL and direction to take AL per clause 32.3 • AL loading cap – no longer applies to AC employees (refer clause 32.6(a)). | <p>Refer clause for detail, in summary:</p> <ul style="list-style-type: none"> • Broader definition of shiftworker for additional AL definitions • Leave to be taken for an agreed period – not unreasonably refused by Arcare; • Direction to take AL – subject to the employee having “Excess Leave” accrued and process set out at 32.3. • Leave loading – cap no longer applies to AC employees |
| 34. Public Holidays | <p>New provision for casual AC employees to be paid at the rate of 275% for hours worked on a public holiday.</p> | <p>Increased public holiday penalty rate from 250% to 275% for casual AC employees.</p> |
| 37. Compassionate Leave | <p>Compassionate Leave: 2 days paid leave per occasion, unpaid for casuals (per the NES now includes stillborn child and miscarriage).</p> | <p>Broader eligibility (per NES)</p> |
| 40. Parental Leave | <p>Paid Leave: Increased the paid parental (primary care giver) leave from 4 to 6 weeks paid leave.</p> | <p>Enhanced paid leave arrangements – additional 2 weeks</p> |

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| | | paid primary carer's leave (for eligible employees) |
| 41. Family and Domestic Violence Leave | <p>Family and Domestic Violence Leave:</p> <p>The clause addresses circumstances of family and domestic violence and accessing leave. Relevantly the Agreement provides for the following leave entitlement (in summary):</p> <p>A full-time, part-time and casual Employee is entitled to 10 days' paid leave to deal with family and domestic violence, as follows:</p> <ul style="list-style-type: none"> ○ FT and PT Employees will be paid at their full rate of pay calculated on what the employee would have received if they worked the period rather than take the leave. ○ For a casual employee, the leave is paid on the hours of work which were offered and the employee accepted prior to the requirement to take Family and Domestic Violence leave. ○ the leave is available in full at the start of each 12 month period of the Employee's employment. ○ the leave does not accumulate from year to year. | Improved entitlement - up to 10 days paid leave (FDVL) |
| 43. Training and Education | <p>The Agreement set out the arrangements for mandatory and compulsory training attendance and payments, including:</p> <ul style="list-style-type: none"> • minimum payment of 1 hr (for training completed outside ordinary rostered hours) • payment at the Ordinary Rate (plus any additional penalty rate or casual loading applicable to payable for such ordinary hours); • all e-learning to be rostered/ undertaken (where practicable) during the Employee's ordinary shift • Nursing Assistants and AC Employees only: where mandatory training undertaken outside of rostered ordinary hours exceeds 10 hrs in a year – any training hours beyond the 10 will be paid at the applicable overtime penalty rate. | <p>Mandatory Training: Updated arrangements (including payment of OT in specified circumstances) replaced the previous – payment at ordinary rates. Express arrangements for undertaking e-learning.</p> |

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| 44. Education and Professional Development | New Clause providing for 3 days paid study/examination/ conference leave for full time employees (pro-rata for eligible part-time employees per clause 44.1) per annum. This leave does not accumulate from year to year. | New 3 days paid leave for FT employees (pro-rata for eligible PT employees) |

We look forward to telling you more about the Agreement during the access period and in the lead up to the vote.

Yours sincerely,

Kelly Minogue
Senior Industrial Relations Specialist