

SAN Pathology Pty Ltd All Staff Enterprise Agreement 2017-2020

HSU Log Of Claims – Updated 28 June 2021

- 5% increase to pay and allowances.
- SAN Pathology to contribute an additional 1% superannuation above the superannuation guarantee.
- Undertakings from previous agreement to be written into the current EA.
- Change the dispute resolution procedure to strengthen protections for workers and modernise the clause.
 - **Insert the following clause:** *Until the matter is resolved by agreement, conciliation or arbitration, the Status Quo shall prevail. No party is to be prejudiced as to the final settlement by the continuance of work in accordance with this procedure.*
- Default superannuation fund to be HESTA.
- Staff to receive higher duties whenever they act in a higher classification.
 - Delete clause 20.2. Clause 20.1 should stand alone and would give effect to our claim.
- Casual conversion request clause to apply after 3 months of regular and systematic employment.
- Delete clause 22.2 allowing termination due to ‘permanent absence’ as it may be in breach of the Fair Work Act.
 - We consider that clause 22.2 may be an unlawful clause and should be removed from the enterprise agreement. There is no provision in the Award allowing for termination in these circumstances.

The dismissal of an employee who is not protected by section 352 of the Act could still amount to a breach of section 351. Section 352 of the Fair Work Act provides for a protection to employees in certain circumstances, but the absence of that protection does not go so far as to confer an unfettered right upon the employer to dismiss such an employee. In *McGarva v Enghouse Australia Pty Ltd* (2014) 286 FLR 434; [2014] FCCA 1522, the Federal Circuit Court found that an employee had suffered adverse action in accordance with section 351 of the Act notwithstanding that dismissal was authorised under section 352.

- Delete clauses 25.1(a)(i), (ii) and (iii) relating to overtime. They are inconsistent with the current undertakings and remove the entitlement to overtime applicable under the Award in these circumstances.
 - **Insert the following clauses:**
 1. *Overtime is paid in the following circumstances:*
 - (a) *Where a full-time employee:*
 - (i) *works in excess of their ordinary hours;*

(ii) works in excess of 10 hours per shift;

(b) Where a part-time employee:

(i) works in excess of their ordinary hours, except where written agreement has been reached to vary the employee's hours in accordance with clauses 10.3 of the Award; and/or

(ii) works in excess of 10 hours per shift; and/or

(iii) works in excess of an average of 38 hours per week in a fortnight or 4 week period.

(c) Where a casual employee:

(i) works in excess of 10 hours per shift; and/or

(ii) works in excess of 38 hours per week or 76 hours in a fortnight.

(d) Where an employee is deprived of part of their break between shifts as required by clause 24.4 of the Award.

- Clause 23.3: change *ADO* to *ADO/RDO*.
- On 25.1 and 45.4: remove the term 'ward' as no longer applicable, replace with terms applicable to current workplace.
- Include the non-birthing parent in reference to the NES entitlements on: stillbirth, premature birth and birth-related complications, infant death, and special maternity leave entitlements.