

The proposed new SA Health Visiting Dental Specialists Enterprise Agreement 2021 (Agreement):

- was negotiated pursuant to the *Fair Work Act 1994* (SA) and is subject to approval by the South Australia Employment Tribunal (SAET);
- will cover Visiting Dental Specialists and Senior Visiting Dental Specialists engaged under the *Health Care Act 2008* (VDS Employees);
- replaces and supersedes the “*Conditions of Employment of Visiting Dental Staff in Teaching Hospitals in SA 1981*” and the Visiting Dental Staff Agreement (unregistered 1980), including any amended or varied versions of those agreements and any other industrial or enterprise agreement, whether approved, registered or unregistered, which will cease to operate;
- will result in VDS employees no longer being subject to the *South Australian Modern Public Sector Enterprise Agreement: Salaried 2017* (Salaried EA 2017) or any enterprise agreement that replaces it; and
- will take effect from the date it is approved by the SAET and will nominally expire three years from that date.

If a majority of employees to be covered by the proposed Agreement who vote during the ballot vote in favour of this proposed Agreement (i.e. vote ‘Yes’), Dr Helen McLean is proposed to sign the proposed Agreement on behalf of employees and an application will then be made to the SAET for the proposed Agreement to be approved. The proposed Agreement only has effect when it is approved by the SAET.

This Agreement Explained document:

- explains the effect of the terms of the proposed Agreement;
- identifies the procedures in the proposed Agreement for preventing and settling industrial disputes;
- indicates whether any term of the proposed Agreement will exclude any term/s of any industrial instrument/s that currently apply to employees; and
- informs employees of their rights to be represented in relation to proceedings for approval of the proposed Agreement.

#### Further Information

The Salaried EA 2017, the *Conditions of Employment of Visiting Dental Staff in Teaching Hospitals in SA 1981*”, the Visiting Dental Staff Agreement (unregistered 1980), and the proposed Agreement can be found at [Department of Treasury and Finance | Wages Parity Enterprise Agreement: South Australian Modern Public Sector Salaried Employees](#) or by contacting the Human Resources Section in your health unit.

#### Clause 1. Enterprise Agreement

It is proposed that the Agreement be titled the *SA Health Visiting Dental Specialists Enterprise Agreement 2021*; be made pursuant to the *Fair Work Act 1994* (Chapter 3, Part 2); will have effect only if approved by the South Australian Employment Tribunal (SAET); have a term of 3 years from the date of approval by SAET; and negotiations for a new Agreement may commence not earlier than 6 months prior to the nominal expiry of the Agreement.

#### Clause 2. Parties Bound

The Agreement is proposed to bind the Chief Executive, Department of Treasury and Finance (as the declared public employer under the *Fair Work Act 1994*); the Chief Executive, Department for Health and Wellbeing (CE, DHW) in relation to employees bound by the Agreement; and Senior Visiting Dental Specialists and Visiting Dental Specialists employed under the *Health Care Act 2008*, whose classification appears in Schedule 1.

#### Clause 3. Interpretation

This clause provides definitions for the following terms in the Agreement, unless the contrary intention appears: DHW; employee; Employing Authority; Head of Unit; HR Manual; SA Health; Senior Visiting Dental Specialist; Tribunal and SAET; Visiting Dental Specialist; and week.

The Agreement is proposed to apply to Senior Visiting Dental Specialists and Visiting Dental Specialists who are “carrying on the business of a private dental practice”. The concept of carrying on a business of a private dental practice is intended to encompass different business structures and include the kind of structure in which a person is employed in a legal entity (such as a company) or partnership that the same person effectively owns or controls alone or with others. The hourly rates payable

under the Agreement allow for the fact that the employee will incur continuing business related costs of their private dental practice, such as salaries and wages, insurance, and cost of dental practice premises and equipment, while taking time away from the practice to work at SA Dental.

If an employee is not carrying on the business of a private dental practice, it is not intended that his or her employment at SA Dental would be subject to the Agreement and instead would be subject to different industrial arrangements.

The clause also provides that, unless the contrary intention appears, a reference to an Act, or other legislative instrument means the instrument as varied, superseded or substituted from time to time, and a reference to writing includes by electronic means.

#### Clause 4. Objects and Commitments

It is proposed to include objects and commitments in the Agreement which enable SA Health and employees to contribute to a dynamic, productive, flexible and responsive dental health service; to meet the service delivery objectives of SA Health and SA Dental; and to support and develop a capable, flexible and mobile dental workforce.

The clause acknowledges the provision of dental health services in SA is subject to ongoing development and restructuring and the importance of reform, innovation and improvement; and the commitment by the parties to engage in ongoing improvement, clinical change and workforce reform initiatives. It also recognises ethical professional care obligations concerning patient care and the clinical practice of dentistry and specialist dentistry in conjunction with the management and delivery of specialist dental services.

## Clause 5. Appointment

It is proposed to include the following provisions in this clause regarding appointment as a Visiting Dental Specialist (VDS) or Senior Visiting Dental Specialist (SVDS):

- Appointments as a VDS or SVDS may be made by the Employing Authority for a period of up to three years;
- A VDS who has practised in their area of speciality for five (5) years will be appointed as a SVDS unless the Employing Authority determines that they have not gained sufficient experience during that time. Such reclassification will have no impact on the employee's term of appointment. If the Employing Authority determines that they have not gained sufficient experience during that time, the Employing Authority will provide the VDS with written notification confirming they have not met the criteria to be reclassified, and why they have not met the criteria;
- The Employing Authority may at their absolute discretion waive or vary the requirement that an employee to be carrying on the business of a private dental practice, but only in relation to an employee who was engaged as a SVDS at the time of approval by SAET of the Agreement;
- An employee's specified hours of work will not exceed 20 hours per week, or an average of 20 hours per week over 4 weeks, unless prior written approval has been obtained;
- An employee will be available for forty eight (48) weeks per year unless otherwise negotiated;
- The employee is to give three (3) months written notice of resignation to the Employing Authority or applicable delegate; and
- An employee must inform the Employing Authority if the employee intends to definitely cease carrying on the business of a private dental practice.

## Clause 6. Duties

In this clause it is proposed to include the following with regard to an employee's duties, obligations and confidentiality:

- An employee will perform the duties applicable or related to their appointment; comply with applicable legislation, and professional standards of behaviour and practice; and observe and conform to all SA Health policies and procedures and the Public Sector Code of Conduct; and
- An employee will not disclose or divulge any personal, medical, confidential or other information of any person engaged in SA Health; relating to any patient of SA Health; or concerning the management, commercial interests or intellectual property of SA Health, the Employing Authority or SA Dental, obtained in the course of employment other than when the employee is authorised or required by law or by the Employing Authority.

## Clause 7. Teaching and Support

This clause is proposed to acknowledge the important role of employees in providing support to junior dental staff and specialist trainees in the achievement and maintenance of a capable and competent dental workforce; and that an adequate level of training for junior dental staff is necessary to the maintenance of acceptable standards of quality and safety. An employee's rostered clinical sessions may therefore include time supporting training.

## Clause 8. Consultation

This clause proposes the following consultative principles that the parties commit to:

- Consultation involves the sharing of information and the exchange of views between the Employing Authority and employees and, as applicable their representatives, and the opportunity for them to contribute to any decision-making process;
- The Employing Authority will consult in good faith, not simply advise what will be done;
- Effective workplace relations require appropriate consultation between the parties on a regular basis;
- Workplace change which will affect a significant number of employees should not be implemented before appropriate consultation has occurred with employees and, as applicable their representatives; and
- Employee representatives will be given the opportunity to adequately consult with the people they represent in the workplace, in relation to any proposed changes that affects employee working conditions or the service that employees provide.

## Clause 9. Hours and Work Flexibility

This clause proposes that employees are to be rostered to work clinical sessions, and unless otherwise agreed in writing between the Employee Authority and employee, each clinical session will be for no more than 4 hours; and an employee will be engaged for no more than 20 hours in any week, or an average of 20 hours per week over 4 weeks.

The contract of employment is to specify the days and times of an employee's clinical sessions, which may be varied by agreement or by the Employing Authority on 6 weeks' notice.

## Clause 10. Remuneration

This clause proposes that:

- An employee is to be paid at the appropriate rate specified in Schedule 1, subject to the employee performing their specified hours of work for which they are rostered and employed;
- The rates specified in Schedule 1 are "all-in" payments which include provision for recreation, sick, and family carer's leave; The Employing Authority is not liable to make any payment for any hourly (or part hourly) rate beyond the employee's specified hours of work unless the express prior written approval of the Employing Authority or applicable delegate within SA Dental has been obtained; and
- Monies due and payable pursuant to the Agreement will be payable fortnightly in arrears.

## One-off Payment

This sub-clause provides for a "one-off payment" of \$530 for employees working 20 hours a week (or an average of 20 hours per week over a 4 week period), *pro rata* for employees working less than 20 hours per week (or an average of 20 hours per week over a 4 week period).

An employee must as at the date of approval by the SAET be both bound by the Agreement and employed. It does not apply to an employee who is employed or becomes bound by the Agreement after the date of approval.

The payment does not count for any other purpose whatsoever and will be paid as soon as reasonably practicable after approval of the Agreement by the SAET.

The detail about methodology and eligibility applicable to this 'one-off payment' are in the 'Fact Sheet: One-off Payment' (cf. DTF-IRAP website) which is to be read and applied in giving effect to this clause.

#### **Clause 11. Salary Sacrifice**

This clause is proposed to apply for the period an employee enters into a Salary Sacrifice Arrangement (SSA). The salary payable to an employee who enters into an SSA, pursuant to the Agreement, will be the salary payable under the SSA, notwithstanding any other provision in, or Schedule in, the Agreement, and salary will include all earnings under the Agreement.

Where, on cessation of employment, the Employing Authority or Health Unit makes a payment in lieu of notice, or a payment in respect of any accrued long service leave (instead of transferring leave credits to another health unit in the event the employee immediately becomes employed by that health unit), the payment is to be based on the salary that would have been payable had the employee not entered into a SSA.

#### **Clause 12. Paid Maternity/Adoption/Surrogacy Leave**

This clause is proposed to reflect the relevant paid maternity and paid adoption leave provisions that appear in the Salaried EA 2017, i.e. subclauses 13.2 to 13.3.8, excepting that:

- References to allowances in clause 13.3.2 in the ordinary the rate of pay and sick leave with pay during periods of paid or unpaid maternity leave in sub-clause 13.3.6 are not included, as the rates of pay for a VDS and SVDS are "all-in" rates, that include provision for recreation, sick and family/carers leave; and
- The provision for the sharing of the period of paid maternity or paid adoption leave has been varied to allow for the sharing of the leave when both parents are employed within the South Australian public sector, subject to all other provisions within the clause.

#### **Clause 13. Leave of Absence**

This proposed clause provides that the Employing Authority, or applicable delegate, will not unreasonably refuse to grant an application for leave of absence without pay, including but not limited to applications to enable employees to provide or undertake compulsory professional development.

#### **Clause 14. Long Service Leave**

This proposed clause provides that an employee is entitled to long service leave in accordance with the provisions of the SA Health (Health Care Act) Human Resources Manual, provided that the rate of accrual will be as specified in clause 7 of Part 6 of Schedule 1 of the *Public Sector Act 2009*.

The proposed clause does not affect an entitlement to long service leave or payment in lieu of long service leave that accrued before 1 July 2011, nor the operation of the *Statutes Amendment (Budget 2010) (Long Service Leave) Proclamation 2011* (Gov. Gaz. 16/6/2011 at page 2609).

#### **Clause 15. Work Health and Safety**

This proposed clause details the commitment, acknowledgement, and mutual responsibility of the Employing Authority and employees for maintaining a safe and health work environment; duty of care responsibilities; and endeavouring to achieve best practice in preventing

and minimising workplace injuries and illnesses, in accordance with applicable legislation.

#### **Clause 16. Dispute Resolution**

This proposed clause aims to avoid industrial disputes, or where a dispute occurs, to provide a means of settlement based on consultation, cooperation, discussion and the avoidance of interruption to work performance. Any grievance is proposed to be handled as follows:

Stage 1 Discussions between the employee/s and supervisor/manager.

Stage 2 Discussions involving the employee/s and nominated delegates with a management representative.

Stage 3 Discussions involving nominated delegates with a representative of Workforce Services of the Department for Health and Wellbeing.

Stage 4 Referral to South Australian Employment Tribunal.

Sensible time limits are to be allowed for the completion of the various stages of the discussion and discussions outlined in stages (1) and (2) will, if possible, take place within 24 hours after the request of the employee/s or the employee/s' representative.

A dispute is not to be referred to the next stage until a genuine attempt to resolve the matter has been made at the appropriate level.

There is to be a commitment by the parties to achieve adherence to this procedure including the earliest possible advice by one party to the other of any issue or problem that may give rise to a grievance or dispute. Throughout all stages of the procedure all relevant facts are to be clearly identified and recorded, and the parties are to ensure that all practices applied during the operation of the procedure are in accordance with safe working practices.

#### **Clause 17. No Extra Claims**

This proposed clause provides:

- The Agreement will be taken to have satisfied and discharged all claims of any description (whether as to monies or conditions);
- Rates of pay provided for in the Agreement are inclusive of all previously awarded safety net adjustments and all future increases during the term of the Agreement, arising out of the General Review of Award Wages and Minimum Standard for Remuneration (or its equivalent), including safety net adjustments, living wage adjustments or general increases, howsoever described; and
- For the term of the Agreement, the Employing Authority and employees (jointly and severally) will not pursue any further or other claims within the parameters of the Agreement.

#### **Clause 18. Signatories**

The signatories to the Agreement are the Chief Executive, Department of Treasury and Finance as the declared employer under the *Fair Work Act 1994*; the Chief Executive, Department of Health and Wellbeing and Dr Helen McLean is proposed to sign the proposed Agreement on behalf of employees.

#### **Appendix 1: Hourly Rates**

This Appendix includes the 'all-in rates' that applied from the first full pay period (ffpp) that commenced on or after 1 October 2017 and the new "all-in rates" with increases of 1.5% per annum to apply from the ffpp to commence on or after 1 August 2021, 1 August 2022, 1 August 2023, and 1 August 2024.

The “all-in rates include provision for recreation, sick and family carers leave, and shall be payable per hour (and pro-rata to the nearest ¼ hour for any period less than an hour). The “all in” rates do not include compulsory superannuation contributions.

No payment shall be made in respect of any period in excess of twenty (20) hours per week except as provided for in the Agreement.

### **Employee Rights to Representation**

A “Notice of Intention to Negotiate an Agreement under the *Fair Work Act 1994*” was issued on 29 July 2021 and distributed to employees. That Notice advised you about:

- When the first meeting to negotiate the proposed Agreement would be, and where;
- Which employees are to be covered by the Agreement;
- Your rights to be represented in relation to the negotiation of, and approval for, the proposed Agreement; and
- How and where you were able to access a copy of your relevant industrial instruments.

### **Intention to Apply for Approval of the Proposed Agreement**

If the proposed SA Health Visiting Dental Specialists Enterprise Agreement 2021 is supported by a majority of employees who vote in the ballot, an application will be made to the SAET to have the new Agreement approved pursuant to the *Fair Work Act 1994*.

### **Operative Dates**

Except where otherwise indicated, the operative dates of new provisions contained in the proposed Agreement will be the date of approval by the SAET.

**Interpretation:** A reference to a payment to be made will be taken to being subject to the payment being effected within a reasonably practicable time after the Agreement is approved by SAET or a payment is due.

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