



AUSTRALIAN NURSING FEDERATION

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INQUIRY INTO SMALL BUSINESS EMPLOYMENT

Background

The Australian Nursing Federation (ANF) was established in 1924. The ANF is the national union for nurses, with branches in each State and Territory of Australia. The ANF is also the largest professional nursing organisation in Australia. The ANF's core business is the industrial and professional representation of nurses and nursing. The ANF's 120,000 members are employed in a wide range of enterprises in urban, rural and remote locations in both the public and private sectors, including hospitals, health and community services, schools, universities, the armed forces, statutory authorities, local government, offshore territories and industry.

While the public sector remains the primary employer of registered and enrolled nurses, a significant number of nurses work in small businesses or are small business people themselves.

The aged care sector remains a significant employer of nursing staff (32% of nursing staff¹). Many aged care providers are classified as small businesses. Additionally, a significant number of nurses are employed in private medical rooms (5372 registered nurses and 1,443 enrolled nurses²). Remote area nurses, community and domiciliary nurses, agency nurses and nurses in independent practice, either self employed or providing private consultancy services, are other examples of nurses working in and/or owning small businesses.

Residential aged care facilities are operated by a diverse range of providers, with beds fairly equally divided between private for-profit and private not-for-profit providers. Among this group, there are a mixture of larger organisations and many small independently run facilities. Approximately half of the facilities are 40 beds or less³. This diversity highlights the difficulties which may arise in separating out "small business" from other operations particularly when individual business units may operate under a broader organisational structure.

¹ AIHW, 2001, Nursing labour force 1999, AIHW Canberra

² AIHW, 2001, Nursing labour force 1999, AIHW, Canberra

³ Productivity Commission 1999, Nursing Home subsidies, Inquiry Report, AusInfo, Canberra.

TERMS OF REFERENCE 1

The effect of government regulation on employment in small business, specifically including the areas of workplace relations, taxation, superannuation, occupational health and safety, local government, planning and tenancy laws

General Comments –

It is the view of the ANF that employers in small business should comply with legislated employment practices, irrespective of the number of employees or the size of the business. Employers in small businesses are currently subject to the majority of workplace relations and related regulations and it is the position of the ANF that this should continue. Small business employers who employ nurses, for example, are predominantly characterised as harmonious workplaces because of the relationships and the loyalties (from both employers and employees) that can be established and maintained in smaller workplaces.

Government regulation, particularly in the area of workplace relations, assists in establishing harmonious and fair workplaces, because they help define the rights and responsibilities of the employer and the employee, which in turn fosters commendable employment practices.

Employers using exemplary employment practices will generally be rewarded with reduced turnover of experienced staff, improved recruitment of appropriate staff, high quality productivity and output, reduced sick leave and lower rates of occupational injury. It is the ANF's position that the use of exemplary employment practices will result in higher staff and customer satisfaction rates. We also suggest that these results will lead to an improvement in the productivity and financial status of the small business.

Deregulation of Residential Aged Care –

There has been significant deregulation in the aged care industry which is funded by Commonwealth money. Aged care providers are no longer required to spend a proportion of their funding on the provision of care activities, particularly nursing care. The ANF is very concerned that nursing employees in some aged care facilities, for example, are struggling personally and professionally to provide the care that is required by residents. It is our recommendation that the Commonwealth, in consultation with other key stakeholders, develop guidelines for staffing and skills mix in aged care facilities. These guidelines should be used when making decisions about the disbursement of Commonwealth funds for the provision of residential aged care services.

The Government's "hands off" approach to the provision of residential aged care services and the regulation of wages and conditions has resulted in an increasing disparity between nurses' wages in this sector and wages in the public sector.

The current disparity for all states except NSW ranges from between 11 percent to 25 percent and will increase as the enterprise bargaining agreements are progressively implemented in the public sector.

This has had a major impact on the ability of aged care facilities to attract and retain nursing staff and must be addressed if quality care in this sector is to be maintained.

Occupational Health and Safety

Employers must be responsible for providing a safe work place. It is the view of the ANF that there are many resources available to small business operators to assist them with risk assessment and risk management. It is our position that there should be some method for ensuring that occupational health and safety practices are being implemented effectively eg accreditation processes for aged care facilities and general medical practices. Employers are advised to measure the cost of providing a safe workplace against the cost associated with a major worker' compensation claim.

Workplace injuries in the nursing home sector in general remain unacceptably high. While national statistics are limited, in Victoria, for example, approximately one third of all claims from the health industry were from employees of nursing homes costing some 18 million dollars⁴. The potential for savings for many nursing home employers is enormous if a best practice approach to injury prevention and management is put into place.

Nationally, nursing homes experience higher claims incidence rates than hospitals and psychiatric hospitals. Further, the rate for nursing homes is 72 percent higher than the all industries average. Compared to hospitals and all industry averages, the cost and duration of claims is significantly higher. In aged care, the average cost per claim is \$8330, with a duration of 54 days as compared to \$7250 and 45 days for hospitals and all industry averages⁵.

Portability of Leave Entitlements

The inability of nurses employed in residential aged care facilities to transfer their accrued entitlements between employers has been detrimental to the promotion of nursing in the aged care sector and is at odds with a long standing industrial benefit available in the public health sector and most major private hospital groups.

The accrual and transfer of entitlements is a feature of employment in a number of industries including:

- the contract cleaning industry in Victoria;
- the national building industry;
- ambulance employees; and
- hospitality workers employed by major employer groups.

The failure of the industry to offer this benefit not only detracts from a career in aged care but also acts against employer's ability to recruit in a competitive labour market.

The introduction of this benefit, properly managed on a national basis, would not be a significant cost burden on the industry. It is the view of the Australian Nursing Federation that the majority of employers in the industry would support the introduction of a system allowing for the transfer of all accrued long service leave entitlements.

⁴ Victorian Workcover Authority, Workplace Injuries in the Health Industry, 1998.

⁵ Aged and Community Care Services Development and Evaluation Reports Number 39, Evaluation of the National OH&S Strategy for Residential Aged Care, December 1998.

The ANF recommends that the Federal Government, in conjunction with State and Territory Governments, develop mechanisms so that nurses working in aged care and other private sector small businesses are able to transfer their accrued long service leave entitlements between employers in the aged care sector and the public and private health care sectors.

TERMS OF REFERENCE 2

The special need and circumstances of small business, and the key factors that have an effect on the capacity of small business to employ more people.

It is the view of the ANF that small business along with other business organisations now have access to a wide range of resources through government departments at both State and Federal levels, employer and professional organisations to assist in the development and implementation of policies and procedures and other matters related to the management of employment related issues (see attachment for an example). The costs of not having a properly managed workplace, for example the costs of recruiting and replacing staff; the levels of illness and injury; staff morale and dissatisfaction, all impact on productivity and the performance of the business in general and therefore the capacity to employ more people.

A recent survey asking business what are the barriers to taking on new employees showed that 38 percent cited lack of work as by far the main reason⁶. Another survey of issues concerning small business found that taxation reform was by far the most pressing issue nominated by 42 percent of respondents, with only 4 percent identifying industrial relations as an issue⁷.

Similarly, there is no evidence establishing a link between small business employment and unfair dismissal legislation. Senator Murray's minority report to the inquiry into the Workplace Relations amendment (Unfair Dismissal) Bill 1998, which proposed an exemption for employers with fewer than 15 employees contains a series of arguments to support this conclusion.

TERMS OF REFERENCE 3 AND 4

No comment

CONCLUSION

Nurses both work in and are small businesses. Regulation for small businesses provides a known standard and protection for both employers and employees. The ANF contends that regulation generally in the area of workplace relations provides positive benefits for small businesses and their employees and contributes to harmony and productivity in the workplace.

⁶ Yellow Pages Business Index – Sweeny Research – November 2001.

⁷ Yellow Pages, Small Business Index, August 1998.

Positive workplace practices improve productivity and profit by increasing job satisfaction; reducing the turnover of staff and associated recruitment costs; reducing sick leave with its associated disruption to the continuity of the workplace and replacement costs; and resulting in lower rates of occupational injury and hence lower workers' compensation costs.

A significant improvement in small business practice would be the capacity for the portability of leave entitlements. This would make the sector more attractive to potential employees and enhance mobility within the sector.

From recent research it is the view of the ANF that reforms to taxation are of greater importance to small businesses than reforms to industrial relations. This research is confirmed from our discussions with our members who work in or are small businesses.

The ANF would be happy to expand on this brief submission with the oral evidence of witnesses if required.



Nursing in General Practice: Employment Contracts Guide

Prepared by the Australian Nursing Federation (ANF)

All practice nurses should have an employment contract that sets out the terms on which they will be employed or provide nursing services to the General Practice. Those matters which should be specified in employment contracts are outlined below as a guide to the development of the contracts at the local level. These are minimum terms and conditions. Employers may specify terms and conditions which are above those outlined below. In many States and Territories, awards and agreements already exist which cover the employment of nurses in General Practice. Information on existing awards and agreements can be obtained from the Australian Nursing Federation (see contact details on the last page). Contracts must be consistent with existing legislation and regulation (State/ Territory and Federal).

1. Position Title

The position title will depend on the qualification and role of the nurse in the General Practice. These may include:

- Practice Nurse (Enrolled Nurse)
- Practice Nurse (Registered Nurse)
- Practice Nurse (Clinical Nurse Specialist)
- Practice Nurse (Clinical Nurse Consultant)
- Practice Nurse Manager

2. Term of the Employment Period

If a set period of employment is not specified in the contract (eg twelve months), practice nurses are employed on a week-to-week basis. Generally, either party can sever an employment contract, providing they give the relevant period of notice. The period of notice is normally one week for periods of service less than one year and up to four weeks for periods of service five years and over.

The basis of the employment, whether it is full-time, part-time or casual, should be specified. Full-time employment for nurses is usually a minimum of 38 hours per week or 76 hours per fortnight or 152 hours a month etc. Part-time employment for nurses can be for varying periods normally up to 20 hours per week. Casual employees* are those who are employed for short

intermittent periods and normally for not less than two hours for each period. Practice nurses can also be employed on fixed term arrangements which are periods of employment agreed between the employer and the employee (eg to allow for the replacement of a staff member who is on extended leave such as maternity leave or long service leave, or to allow for a particular project to be undertaken).

- * Casual employees receive an additional loading (of between 10-15%) to compensate for the casual nature of their employment.

3. Remuneration

Remuneration includes the salary, allowances, loadings and other like items specified in the employment contract. The \$ value of the salary is normally outlined in Federal and State nursing awards or agreements. The minimum salary varies between States and Territories and is periodically reviewed and adjusted. Employers should contact the Australian Nursing Federation Branches in their State or Territory or the relevant State department of labour and industry for current nursing pay rates.

4. Superannuation

Employee superannuation is payable pursuant to the Commonwealth Superannuation Guarantee Charge. Currently employers are required to pay a minimum of 8% of the nurse's ordinary time earnings into a superannuation fund. Ordinary time earnings are the wages, allowances and loadings that a nurse would normally receive on a week-to-week basis. Superannuation is paid into funds that are approved under the legislation. HESTA is the preferred fund for the majority of nurses.

5. Hours of work

The contract of employment should detail the hours of work arrangements including:

- The days on which the practice nurse is to attend work;
- The hours to be worked eg start and finishing times and meal breaks;
- Whether the nurse is to work a nineteen day month and receive an accrued day off;
- The rostering arrangements for the nurse(s) eg how the roster is determined, displayed and changed etc.

- * It is important to note that penalty payments may apply for work undertaken outside the hours specified in the employment contract. Employers should seek separate industrial advice in this regard. This advice may be obtained from the Australian Nursing Federation Federal Office or State and Territory Branches.

6. Annual Leave

Nurses receive a minimum of four weeks annual leave for each completed twelve months of employment. If the nurse is required to work as a shift worker, or work on weekends, they receive five weeks leave for each completed twelve months of employment. When proceeding on annual leave nurses receive their ordinary pay plus a loading of 17.5%.

7. Sick Leave

All nurses who are absent from work on account of personal illness are entitled to sick leave. Entitlement to sick leave varies between States and Territories and normally falls between 15 to 20 days per year. Sick leave not taken in any one year accrues and may be used in future years. Normally, where the employee is absent on sick leave for more than three consecutive days they are required to provide a medical certificate and advise the employer of the estimated or expected duration of the absence.

8. Long Service Leave

Long service leave is an entitlement to paid leave at the completion of a period of employment. Long Service leave for nurses varies from thirteen weeks after ten years service in Queensland to seventeen weeks after ten years service in Victoria. Nurses proceeding on long service leave receive their ordinary time earnings.

9. Dispute Resolution Procedure

In the event of a grievance or dispute arising in the workplace the parties should in the first instance, try and resolve the matter through discussions and negotiations at the workplace level. If the matter remains unresolved then further discussions should take place involving employer and employee representatives. If there is still no resolution the matter should be referred to the Australian Industrial Relations Commission for conciliation or arbitration.

10. Workers Compensation

The requirements concerning workers' compensation are determined by State and Territory legislation. In conjunction with entitlements arising from the specific legislation, employees are also entitled to payments under the Accident Pay provisions of the various nursing awards or agreements. The Accident Pay Clause requires an employer to pay the difference between the amount of compensation payable under the legislation and an employee's actual weekly wage (excluding shift penalties, overtime payments or other similar payments). This payment continues for a specific period or aggregate of periods in relation to any one injury (eg 39 weeks), however it will be necessary for employers to refer to the relevant award or agreement for more specific details, or contact the Australian Nursing Federation for advice.

11. Occupational Health and Safety

Under State and Territory legislation, employers are required to provide a workplace that is safe and without risk to health. In addition to the legislative requirements established under the relevant Act and Regulations, enterprise bargaining agreements can address occupational health and safety and rehabilitation issues in more detail, establishing specific communication and consultative arrangements and implementing particular programs designed to complement legislative requirements.

12. Confidentiality

Under nursing standards and codes of professional conduct and ethics, nurses are required to ensure the confidentiality of an individual's health information. In addition to professional obligations there are also Commonwealth, State and Territory confidentiality and privacy laws, which apply to health service providers, including nurses. The employer should provide details of the relevant legislation in this area and how it is implemented within their organisation.

13. Redundancy and major changes

Redundancy occurs where an employer has made the decision that they no longer wish the job the employee is doing to be done by anyone. Nursing awards and agreements contain specific requirements relating to consultative procedures, alternative employment, time off during notice period, severance pay and other matters. Employers considering redundancy should contact the Australian Nursing Federation for more specific advice.

Where an employer decides to introduce major changes that are likely to have a significant effect on employees, under most awards and agreements the employer is required to discuss the introduction of such changes with the employees affected. For the purpose of such discussions, the employer should provide in writing the relevant information about the proposed changes, including the expected effects of the change and any other matters likely to effect employees.

14. Termination of Employment

Termination of Employment provisions set out the period of notice an employer must give to the employee. The length of notice is based on the employee's period of continuous service and are generally as follows:

Period of Continuous Service	Period of Notice
1 year or less	1 week
1 year and up to 3 years	2 weeks
3 years and up to 5 years	3 weeks
5 years and over	4 weeks

An additional week's notice is applicable to employees over 45 years with not less than 2 years continuous service. The clause should also set out requirements relating to payment in lieu of notice; notice of termination by the employee; time off during notice period and statement of employment.

15. Public Holidays

In general, nurses are entitled to between 10 and 13 public holidays per year depending on the particular State or Territory. The entitlement relates to a day off without loss of pay. If a nurse is required to work on a public holiday, penalty rates apply ranging from 100 to 150 percent on the hourly rate.

16. Study Leave

The provision of study leave recognises that a nurse is required to undertake professional development activities in order to keep up to date with advances in nursing practice. A wide range of provisions are available across various awards and agreements ranging from 3-5 days per annum to a specific number of hours per week.

17. Trade Union Training Leave

Nursing staff are entitled to take up to 5 days paid leave per year, non-cumulative, to attend courses conducted by an accredited training provider for trade union training or similar approved courses or seminars.

18. Compassionate Leave

Nursing staff are entitled to between 2 and 4 days leave without loss of pay in relation to the death or serious illness of a member of the employee's immediate family or household.

19. Parental Leave

The parental leave provisions set out entitlements to maternity, paternity, and adoption leave and part-time work in connection with the birth or adoption of a child. The basic entitlement is for 52 weeks unpaid leave however it is normal for agreements to contain a paid leave component of between two and twelve weeks for maternity leave and between one to two weeks for paternity leave.

For assistance in identifying the correct award or agreement or with developing contracts of employment, please contact the Australian Nursing Federation on the numbers listed below:

Federal Office	03-9639 5211
New South Wales	02-9550 3244
Victoria	03-9275 9333
Queensland	07-3840 1444
South Australia	08-8363 1948
Australian Capital Territory	02-6282 9455
Tasmania	03-6223 6777
Western Australia	08-9218 9444
Northern Territory	08-8981 2711