



**BEFORE THE INDUSTRIAL RELATIONS COMMISSION  
OF NEW SOUTH WALES**

Matter No IRC 00009840 of 2022

**AUSTRALIAN MEDICAL OFFICERS FEDERATION (NSW)**

Notifier

**SECRETARY, MINISTRY OF HEALTH (IN RELATION TO SYDNEY CHILDREN'S  
HOSPITAL NETWORK)**

Respondent

**AMENDED PROPOSED ORDERS AND RECOMMENDATIONS**

The Commission makes the following determinations and recommendation:

1. Pursuant to s 175 of the *Industrial Relations Act 1996* (NSW), the Commission determine that for the purposes of clause 4 of the *Staff Specialist (State) Award 2021*, staff specialists in the Anaesthetic and Paediatric Intensive Care Unit (PICU) of the Sydney Children's Hospital Network are being required to perform work outside the span of hours for non-shiftwork in clause 4 Part A(c)(i) of the Award which does not constitute "on call and recall duties" for the purposes of clause 4 Part A(e).
2. Pursuant to s 175 of the *Industrial Relations Act 1996* (NSW), the Commission determine that the staff specialists in the Anaesthetic and PICU Departments of the Sydney Children's Hospital Network are performing work which involves them being required to perform shiftwork for the purposes of clause 4 Part A(d) of the Award in circumstances in which:

- (a) the specialities are not included in Part C Schedule 3 and may not be required to undertake shift work by reason of clause 4 Part A(d)(i); and
  - (b) without the staff specialists being paid the penalty payments under clause 4 Part A(d)(iii) payable to staff specialists undertaking shift work.
3. In the alternative, the Commission determine that, if the work performed by staff specialists outside the span of hours for non-shiftwork in clause 4 Part A(c)(i) of the *Staff Specialist (State) Award 2021* constitutes “on call and recall duties”, the hours of work and the nature of the work performed by the Anaesthetic and PICU Departments are beyond what is reasonable and contemplated by clause 4 Part A(e) of the Award and without payment of shift penalties.
4. The Commission make a recommendations or directions, pursuant to s 136(1)(a) of the *Industrial Relations Act 1996* (NSW), that:
- (a) the Sydney Children’s Hospital Network cease ~~rostering~~ requiring the staff specialists in the Anaesthetic and Paediatric Intensive Care Unit (PICU) to perform Normal Duties outside of the span of hours in clause 4 Part A(c)(i) of the *Staff Specialist (State) Award 2021*; ~~and/or~~
  - (b) the Sydney Children’s Hospital Network cease requiring staff specialists in the Anaesthetic and Paediatric Intensive Care Unit (PICU) to perform unreasonable on call and recall duties; and/or
  - (c) the Sydney Children’s Hospital Network calculate and pay staff specialists the appropriate penalty payments under clause 4 Part A(d)(iii) of the *Staff Specialist (State) Award 2021* payable with respect to shift work performed by the staff specialists which has not been paid.

Dated: 1 May 2022