


# ***CR 2005/26 - Income tax: 100% payment private practice arrangements of full-time medical practitioners of a Victorian Health Service***

 This cover sheet is provided for information only. It does not form part of *CR 2005/26 - Income tax: 100% payment private practice arrangements of full-time medical practitioners of a Victorian Health Service*



## Class Ruling

### Income tax: 100% payment private practice arrangements of full-time medical practitioners of a Victorian Health Service

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#### **Preamble**

*The number, subject heading, **What this Class Ruling is about** (including **Tax law(s)**, **Class of persons** and **Qualifications** sections), **Date of effect**, **Withdrawal**, **Arrangement** and **Ruling** parts of this document are a 'public ruling' in terms of Part IVAAA of the **Taxation Administration Act 1953**. CR 2001/1 explains Class Rulings and Taxation Rulings TR 92/1 and TR 97/16 together explain when a Ruling is a 'public ruling' and how it is binding on the Commissioner.*

## What this Class Ruling is about

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1. This Ruling sets out the Commissioner's opinion on the way in which the 'tax law(s)' identified below apply to the defined class of persons, who take part in the arrangement to which this Ruling relates.
2. This class ruling does not address the tax consequences of work related payments and benefits provided from the Special Purpose Fund.

#### **Tax law(s)**

3. The tax laws dealt with in this Ruling are:
  - section 6-5 of the *Income Tax Assessment Act 1997* (ITAA 1997);
  - section 8-1 of the ITAA 1997; and
  - Division 35 of the ITAA 1997.

#### **Class of persons**

4. The class of persons to which this Ruling applies is the full time medical practitioners ('Specialists') of a Victorian Health Service ('The Health Service') who elect to participate in a 100% payment private practice arrangement offered in the Letter of Appointment for Medical Specialist.

## Qualifications

5. The Commissioner makes this Ruling based on the precise arrangement identified in the Ruling.
6. The class of persons defined in this Ruling may rely on its contents provided the arrangement actually carried out is carried out in accordance with the arrangement described in paragraphs 10 to 15.
7. If the arrangement actually carried out is materially different from the arrangement that is described in this Ruling, then:
  - this Ruling has no binding effect on the Commissioner because the arrangement entered into is not the arrangement on which the Commissioner has ruled; and
  - this Ruling may be withdrawn or modified.
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## Date of effect

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9. This Ruling applies for the income year ended 30 June 2005 and subsequent income years. However, the Ruling only applies to the extent that:
  - there is no material change in the arrangement or in the class of persons involved in the arrangement;
  - it is not later withdrawn by notice in the *Gazette*;
  - it is not taken to be withdrawn by an inconsistent later public ruling; or
  - the relevant tax laws are not amended.

## Arrangement

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10. The arrangement that is the subject of this Ruling is described below. This description is based on the following documents. These documents, or relevant parts of them, as the case may be, form part of the arrangement and are to be read with this description. The relevant documents or parts of documents incorporated into this description of the arrangement are:

- application for Class Ruling dated 7 July 2004 lodged by the Department of Human Services;
- sample Letter of Appointment for Medical Specialist attached to Class Ruling application;
- sample Private Practice Agreement attached to Class Ruling application; and
- sample Special Purpose Fund Agreement attached to Class Ruling application.

Copies of the following documents are attached to this ruling:

- the sample Letter of Appointment (Attachment A);
- the sample Private Practice Agreement (Attachment B); and
- the sample Special Purpose Fund Agreement (Attachment C).

11. The Specialists are employees of The Health Service. Their employment conditions are contained in the Letter of Appointment for Medical Specialist and The Health Service's Certified Agreement, which contains clauses relating to rights of private practice and rates of pay. Each Specialist has the right under the Letter of Appointment for Medical Specialist to elect to participate in a private practice arrangement.

12. On accepting appointment the Specialist may participate in the private practice arrangement. If they do so they are required to sign a copy of the Private Practice Agreement and the craft group Special Purpose Fund Agreement to formalise their participation in the arrangement.

13. As part of their remuneration package the Specialist receives a private practice component.

14. Under Clause 7 of the Private Practice Agreement, the medical practitioner appoints The Health Service as agent to render accounts and collect payments. All fees in respect of a private practice conducted under the Private Practice Agreement are required to be paid over to The Health Service under the terms of the Letter of Appointment for Medical Specialist.

15. Under the terms of the Private Practice Agreement the Specialist uses The Health Service's infrastructure and resources but is not required to pay an infrastructure charge.

## Ruling

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### **Remuneration and private practice component**

16. The remuneration including the private practice component paid to the Specialist under the contract of employment is assessable income to the Specialist under section 6-5 of the ITAA 1997. The private practice component paid to the Specialist by The Health Service under the terms of the Specialist's appointment is remuneration related to the Specialist's employment.

### **Private practice income**

17. The gross fees of the Specialist, billed under the 100% payment private practice arrangement, are derived as ordinary income and are assessable income of the Specialist under section 6-5 of the ITAA 1997.

### **Deductibility of amounts paid over to The Health Service**

18. A deduction is allowable under section 8-1 of the ITAA 1997 to the Specialist for an amount equal to the gross fees paid over to The Health Service as part of the terms of appointment.

## Explanation

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### **Remuneration and private practice component**

19. The remuneration including the private practice component paid to the Specialist under the contract of employment is assessable income of the Specialist under section 6-5 of the ITAA 1997.

20. The private practice component is paid to the Specialist under the terms of the Specialist's employment as set out in the Letter of Appointment. It is unrelated to the amount (if any) of fees generated by the Specialist from the 100% payment private practice arrangement. It is considered that the private practice component represents a payment related to the Specialist's employment as it is a condition of their employment.

### **Private practice income**

21. Under the private practice arrangement, the Specialist attends to private patients in the hospital utilising the hospital's infrastructure and resources. However, the Specialist is providing a direct medical service to their private patients in the Specialist's private practice and not in their capacity as an employee of The Health Service. The gross fees of the Specialist are derived as ordinary income and are assessable income of the Specialist under section 6-5 of the ITAA 1997. The Health Service acts as the Specialist's agent in billing and collecting the amounts due by the patient (Clause 7 of the Private Practice Agreement).

22. The decision in a Board of Review case reported as Case T44 86 ATC 366 supports the assessability of the fees. In that case it was held that funds received by a hospital as a result of accounts issued by it to the private patients of a doctor employed by a hospital, were assessable to the individual as ordinary income.

### **Deductibility of amounts paid over to The Health Service**

23. Under subsection 8-1(1) of the ITAA 1997, a Specialist in a 100% payment private practice arrangement is entitled to claim a deduction for an amount equal to the gross fees paid over to The Health Service.

24. The Specialist is required, as a condition of employment, to pay over all fees charged or to be charged from the private practice under the 100% payment arrangement. In these circumstances, the payment over to The Health Service of the fees derived from private practice is an expense that the Specialist incurs in gaining assessable income. This view is supported by the decision in the Full Federal Court case of *Service v. FC of T* (2000) 97 FCR 265; 2000 ATC 4176; (2000) 44 ATR 71.

25. The fees are paid over as a condition of employment and this creates the connection with the activities which more directly gain or produce the assessable income. Therefore, the deduction for the amount paid over is a 'work related expense'.

**Non-commercial loss provisions**

26. Depending on the particular circumstances of a Specialist conducting a private practice under the 100% payment arrangement, Division 35 of the ITAA 1997 – Deferral of losses from non-commercial business activities – may have application. If the Specialist makes a 'loss' from this business activity and does not meet one of the tests set out in sections 35-30, 35-35, 35-40, or 35-45 of the ITAA 1997, or the Commissioner has not exercised the discretion set out in section 35-55 of the ITAA 1997, then the loss deferral rule in subsection 35-10(2) of the ITAA 1997 will apply.

**Detailed contents list**

27. Below is a detailed contents list for this Class Ruling:

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*Previous draft:*

Not previously issued as a draft

*Related Rulings/Determinations:*

CR 2001/1; TR 92/1; TR 97/16;  
CR 2003/34

*Subject references:*

- business income
- health professionals
- medical practitioners
- work related expenses

*Legislative references:*

- ITAA 1997 6-5
- ITAA 1997 8-1
- ITAA 1997 8-1(1)

- ITAA 1997 Div 35
- ITAA 1997 35-10(2)
- ITAA 1997 35-30
- ITAA 1997 35-35
- ITAA 1997 35-40
- ITAA 1997 35-45
- ITAA 1997 35-55
- Copyright Act 1968
- TAA 1953 Pt IVA

*Case references:*

- Board of Review Case T44 86  
ATC 366
- Service v. FC of T (2000) 97  
FCR 265; 2000 ATC 4176;  
(2000) 44 ATR 71

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ATO references

NO:

ISSN: 1445-2014

## ATTACHMENT A

### Sample Letter of Appointment for Medical Specialist

Date:.....

Dear Dr. ,

Following your interview with the Medical Appointments Committee on [date], I am pleased to offer you an appointment as a Full-time Specialist in . Your appointment will be for a period of .. years, commencing on or about the [date], with the first year being a probationary year. At the conclusion of your probationary year your performance will be assessed by the Director .... The satisfactory completion of the review will result in your contract continuing for a further .. years.

The terms and condition of your employment are covered by the [Certified Agreement], a copy of which is attached.

#### 1. Remuneration

##### 1.1 Remuneration Package

The remuneration package for normal in hours work includes base salary, on-call and continuous duty allowances, private practice, leave loading and superannuation guarantee component.

**Total remuneration package per annum \$.....**

##### 1.2 Classification and Base Salary

Your appointment will be at the level of [classification] with a base salary equivalent of \$ per annum.

You will then progress in classification levels according to the Full-Time Specialists' Agreement (attached) subject to continuing and satisfactory performance.

##### 1.3 On Call/Recall

You will be required to participate in the ..... Department after hours roster. The on call and continuous duty allowance included in your remuneration package includes up to ... on call days per calendar month. You may be required to support the on-call roster in excess of the ... on-call days per month. These sessions will be paid in excess of your base salary at the rate of \$ .

After hours recalls are regarded as occurring between the hours of [time] and [time] hours Monday to Friday and on weekend days and public holidays. Recalls during these periods would be paid at the relative value unit of \$ per unit which is in excess of your base salary.

A long range pager and a mobile telephone will be provided to undertake on-call obligations.

#### 1.4 Superannuation Guarantee Contribution

The SGC contribution is calculated on the base salary (which includes private practice), on-call and continuous duty allowances.

Any future increase in the SGC would be passed on as an additional payment according to statutory guidelines (refer Section 8) until such time that the total remuneration package is reviewed.

#### 1.5 Relocation Expenses

Upon production of a valid tax invoice to the Health Service, you are entitled to claim reimbursement from the Health Service of the following expenses in relation to relocation:

- The use of a relocation agency (.....) to assist you in your move to a maximum of \$..... (including GST).
- The payment of removalists costs to a maximum of \$.... (including insurance and GST) based on the best of 3 quotes obtained by reputable companies.

## 2. **Hours of Duty**

Your hours of duty will be .. hours per week spread over ..... days, between [time] and [time] hours Monday to Friday, or if by mutual agreement between yourself and the Director of ..... may be spread over a .. day,.. week period provided you shall work at other reasonable times as and when necessary.

Participation in the after hours ..... roster will be required.

## 3. **Private Practice**

Your appointment includes an entitlement to limited rights of private practice and to participate in the Private Practice Agreement applicable to your craft group. You will be required to sign a copy of the Private Practice Agreement and the craft group Special Purpose Fund Agreement to formalise your participation upon your commencement.

Accounts for all private practice performed by you will be raised and collected on your behalf by (**The Health Service**) and be accounted for in accord with the Private Practice Agreement applicable to your craft group.

You will, after deriving the fees, pay over to **The Health Service** all fees arising from the private practice performed by you.

You will have access to entitlements and support for professional development as set out in the terms and conditions of the Private Practice Agreement and the associated craft group Special Purpose Fund Agreement.

**4. Other Employment**

You shall not, without the written consent of the General Manager, be employed in any way, accept, continue to hold, discharge the duties of or be employed in any paid office, undertake any business whether as principal or agent or engage in or continue in private practice other than in connection with your duties and responsibilities of employment within **The Health Service**.

Provided such outside interests are not prejudicial to the commercial interests of **The Health Service** and will not affect your capacity to discharge your employment responsibilities, this consent shall not be unreasonably withheld.

**5. Performance Review**

Throughout your employment with '**The Health Service**', your performance will be assessed on your commitment to and achievement of continuous improvement in patient care, resource utilisation, work practice, productivity, teaching and research.

The setting of regular key result areas and performance indicators will be undertaken with the Director of and reviewed at least annually.

**6. Salary Packaging**

You may participate in the '**Health Service**' Salary Packaging program.

A copy of the '**Health Service**' Salary Packaging Guidelines has been attached.

**7. Annual Leave**

Five (5) weeks annual leave on completion of each year of service. Pro-rata annual leave may be taken with the approval of the Director of .

**8. Long Service Leave**

Six (6) months long service leave after the completion of fifteen (15) years continuous service and two (2) months leave after the completion of each additional five (5) years of service. Pro-rata entitlement after ten (10) years continuous service.

**9. Compassionate Leave**

Two (2) days compassionate leave will be granted in relation to:

- Death or serious illness within Australia of a wife, husband, father, mother, brother, sister, child, step-child, mother-in-law, father-in-law, grandparent, grandchild or next of kin, or
- Death outside Australia of a wife, husband, mother, father, sister, brother, child or next of kin.

**10. Parental Leave**

Parental leave as per award.

**11. Public Holidays**

Public holidays as per the award.

**12. Sick Leave**

Sick Leave for a period not exceeding, in aggregate twenty-eight (28) working days for each year of service. Untaken sick leave is cumulative from year to year.

**13. Sabbatical Leave**

Six (6) months sabbatical leave after the completion of six (6) years continuous service with any subsequent qualifying period commencing on the date of your return to duty following sabbatical leave.

Such leave is to be taken at a time mutually agreed.

Remuneration will be based on the remuneration specified in 1.1.

**14. Discipline**

Where disciplinary action is necessary, the Director of \_\_\_\_\_ shall notify you of the reason. The first warning shall be verbal and recorded. Should the problem continue the matter will be discussed with you by the Director of \_\_\_\_\_ and a second warning given in writing. On each occasion relevant documentation shall be maintained by the Executive Medical Director.

If a third warning is required, it shall be given in writing and the matter referred to the Medical Review Committee.

**15. Dispute Resolution Procedure**

Any dispute or grievance in relation to your employment should initially be referred to the Director of \_\_\_\_\_.

If the dispute or grievance is not resolved, the matter should be referred to the Executive Medical Director. If the dispute or grievance is not resolved, the matter should be referred to the Chief Executive.

If the matter is still not resolved, the matter may be referred by either 'The Health Service' or yourself to the Australian Industrial Relations Commission for its assistance in resolving the matter.

**16. Suspension/Stand Down**

'**The Health Service**' may suspend you from your position whilst your conduct is fully investigated provided that your full remuneration shall continue to be paid.

'**The Health Service**' may stand you down, if you cannot be usefully employed because of any strike, breakdown of machinery or any stoppage of work for any reason for which the '**Health Service**' cannot reasonably be held responsible. However, such stand down under this provision would not break your continuity of employment for the purpose of any entitlement under this agreement.



**To:** Mr. \_\_\_\_\_,  
General Manager, \_\_\_\_\_ Services,

**'The Health Service'**

**Acceptance**

I accept the offer of appointment and the terms and conditions set out in the General Manager \_\_\_\_\_ Services' letter dated the [date].

I confirm that I agree to abide by the 'Health Service' By-Laws and the Policies including the Professional Code of Conduct for Medical Staff and Guidelines for Medical Staff appointed to **'The Health Service'**, as amended from time to time.

**Name:** DR.

**Signature** .....

**Date** .....

**ATTACHMENT B**

**Date**

***Sample Version of document***

*'Group' is to be replaced with name, eg. Cancer Services, Intensive Care Services, etc.*

*'Health Service' is to be replaced with the name of the Health Service.*

**'GROUP'**  
**SAMPLE PRIVATE PRACTICE AGREEMENT**

between

**THE MEDICAL PRACTITIONER  
NAMED in the SCHEDULE**

and

**'Health Service'**

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**1. PURPOSE OF THIS AGREEMENT**

This Agreement records the private practice arrangements between the Medical Practitioner named in **Item 1 of Schedule 1** of this Agreement and 'Health Service'.

**2. MEANING OF PRIVATE PRACTICE**

In this agreement private practice includes the provision of any medical service:

- which is provided within 'Health Service' facilities; and
- which is listed in the Commonwealth Medical Benefits Schedule (CMBS) or the Veteran Affairs Fee Schedule; or
- for which a patient may be charged (including services for which a Medicare benefit may not be payable as for ineligible and compensable patients).

**3. TERM OF PRIVATE PRACTICE AGREEMENT**

This agreement commences on the date specified in **Item 2 of Schedule 1** and concludes on the earlier of:

- the date upon which the Medical Practitioner ceases to be a full-time employee of 'Health Service';
- the date upon which the Medical Practitioner's permission to engage in private practice is withdrawn for whatever reason; or
- the date upon which this agreement is terminated in accordance with **clause 16**.

**4. EXERCISE OF PRIVATE PRACTICE RIGHTS**

Pursuant to the Letter of Appointment, the Medical Practitioner may engage in private practice during the life of this agreement, and agrees to be bound by the terms of this agreement to the extent that the Medical Practitioner does engage in private practice.

Fees derived from undertaking private practice are acknowledged to be income derived in the hands of the medical practitioner.

Pursuant to the Letter of Appointment, the Medical Practitioner will, after deriving the fees, pay over to the Health Service all fees arising from the private practice. When paid over, these amounts are the property of the Health Service.

**5. ACCESS TO FACILITIES**

'Health Service' agrees to allow the Medical Practitioner access to 'Health Service' Facilities to enable him/her to undertake private practice, however 'Health Service' is under no binding obligation to provide such facilities to the Medical Practitioner.

**6. PRIORITY OF PATIENTS**

The Medical Practitioner agrees to conduct private practice in a manner which will not interfere with the Medical Practitioner's duties and responsibilities as a full-time employee of 'Health Service' which, with due allowance for clinical priorities, is overriding.

**7. APPOINTMENT OF 'HEALTH SERVICE' AS AGENT**

The Medical Practitioner appoints 'Health Service' as the Medical Practitioner's agent to do the following things:

- render accounts in respect of the Medical Practitioner's private practice in the Medical Practitioner's name; and
- require persons to whom accounts are rendered to make payment and collect the same.

The Medical Practitioner must not render accounts in respect of the Medical Practitioner's private practice undertaken under this agreement except through 'Health Service' as the Medical Practitioner's agent.

**8. FEES SET BY MEDICAL PRACTITIONER**

The Medical Practitioner may determine the fees payable for the service provided. Fees must not exceed the Commonwealth Medical Benefits Schedule fee, or additional gap cover, without the prior agreement of 'Health Service'.

**9. PROVISION OF INFORMATION TO 'HEALTH SERVICE'**

Within 30 days of the provision of a medical service the Medical Practitioner must provide 'Health Service' with sufficient information to facilitate rendering accounts and collection of the private practice fees referred to in the clause above.

**10. GOOD ACCOUNTING PRACTICE**

'Health Service' must:

- ensure that the Medical Practitioner is provided with regular reports at the major account level which can be supplemented with information at transaction level if required;
- ensure that the process of billing and records of incoming and outgoing funds are complete, transparent and available upon request to the Medical Practitioner;
- appoint competent personnel and establish good practices to ensure accounts are rendered within 30 days of receiving the necessary detail from the Medical Practitioner; and
- take prompt action to recover outstanding accounts monies owed in respect of those accounts, consistent with 'Health Service's' Debt Collection Policy.

**11. CRAFT GROUPS**

11.1 The Medical Practitioner must nominate a craft group for the purposes of private practice under this agreement. The nominated craft group is specified in Item 3 of Schedule 1 of this agreement. Upon nominating a craft group, the Medical Practitioner shall sign the craft group Special Purpose Fund Agreement to formalise participation in Private Practice.

11.2 The Medical Practitioner must ensure that their nominated craft group:

- keeps accurate records of all discussions and meetings; and
- nominates a member to be the representative of the craft group in any discussion or liaison with 'Health Service'.

## 12. VARIATION

This Agreement can only be varied by written agreement between 'Health Service' and the Medical Practitioner.

## 13. AMOUNTS ALLOCATED TO THE CRAFT SPECIAL PURPOSE FUND

13.1 'Health Service' acknowledges that it will abide by the Principles set out in Schedule 2 of this Agreement to guide its use of amounts paid over by the medical practitioner.

In addition, the 'Health Service' will recognise the arrangements for administration of the amounts allocated to the Craft Special Purpose Fund, as set out in the relevant Craft Group Special Purpose Fund Agreement.

## 14. AUTHORISED PERSON

The Chief Executive Officer of 'Health Service' or his nominee is the person authorised to give consents or approvals for 'Health Service' under this agreement.

## 15. DISPUTE RESOLUTION

If a dispute arises in relation to this agreement, the parties may give a notice requiring that an attempt be made to resolve the dispute with the help of a mediator to be appointed jointly by the parties. If the parties do not agree on a mediator within 7 days after notice is given, the mediator is to be appointed by the State President (Victoria) of the Australian College of Health Services Executives. Each of the parties must co-operate fully with the mediator. Each of the parties must pay an equal share of the fees and expenses the mediator is entitled to.

## 16. REVIEW OF AGREEMENT

This Agreement is subject to review between the Medical Practitioner and 'Health Service' at the expiry of 12 months from the date specified in **Item 2 of Schedule 1**. If, at the time of review, the parties are dissatisfied with the operation of this Agreement, that party may terminate the Agreement by service on the other party of 2 month's notice.

If the Agreement is terminated in accordance with this clause, the parties must meet in good faith to make alternative arrangements in the event that the Medical Practitioner wishes to continue to undertake private practice.

## 17. EXECUTION OF SEPARATE DOCUMENTS

This document is properly executed if each party executes either this document or an identical document. In the latter case this document takes effect when the last of the identical documents is executed.

**18. ACCEPTANCE OF AGREEMENT**

**SIGNED** on behalf of **'HEALTH SERVICE'**:

.....  
**'Name of CEO'** Date  
Chief Executive

.....  
Medical Practitioner – Date

**SCHEDULE 1**

<b>Item 1</b> Medical Practitioner to whom this Agreement applies		
<b>Item 2</b> Commencement date of this Agreement		
<b>Item 3</b> Medical Practitioner's nominated craft group	'Group'	
<b>Item 4</b> Proportion of private practice amounts paid over that are allocated by the Health Service to Craft Special Purpose Fund.		%

**SCHEDULE 2****Principles for the Application of Amounts Paid Over  
By the Medical Practitioner**

1. It is acknowledged that as a condition of their employment, the practitioner set out in **Item 1 of Schedule 1** of this Agreement is required to pay over to 'Health Service' all fees from their private practice conducted at 'Health Service' facilities.
2. The amounts paid over will be allocated by the Health Service to the Craft Special Purpose Fund in the proportion specified in **Item 4 of Schedule 1**. The Craft Special Purpose Fund will be applied for the exclusive benefit of 'Health Service' in accordance with the Craft Special Purpose Fund Agreement entered into between the practitioner and 'Health Service', any relevant 'Health Service' policies and the following principles. The Craft Special Purpose Fund will be used:
  - (a) for the payment of work-related expenses of full-time medical and related staff employed by 'Health Service' in accordance with the Craft Special Purpose Fund Agreement entered between the practitioner and 'Health Service';
  - (b) for the payment of expenses relating to training and education of full-time medical staff in accordance with the Craft Special Purpose Fund Agreement entered between the practitioner and 'Health Service';
  - (c) for the payment of expenses relating to training and education undertaken by medical and nursing students, post graduate medical and nursing staff and paramedical staff which are not generally provided for by 'Health Service';
  - (d) for the payment of salaries of staff of 'Health Service' who are wholly engaged in medical research relevant to the participating practitioners within the Group; and
  - (e) for the payment of expenses relating to the purchase of equipment by or on behalf of 'Health Service', or a contribution towards the purchase in whole or part of equipment and ancillary technology, items or materials to be used in medical treatment, diagnosis or research.
3. In administering the Craft Special Purpose Fund, the [authorised person] and the Chief Executive Officer must take into account the advice of the participating practitioners within the [Group].
4. In order to establish efficient communication and consultation mechanisms, 'Health Service' will cooperate with the participating practitioners in the establishment of craft-based consultative committees comprising representatives of the participating practitioners.
5. These Principles may be amended by 'Health Service' after consultation with the participating practitioners. Specific examples where consultation may be required include:
  - (a) if 'Health Service' wishes to amend these Principles in order to deal with or address a tax liability which 'Health Service' may or would otherwise be subject to on advice from its accountants or solicitors or by notification from the Australian Taxation Office;
  - (b) if the amendment is necessary or desirable as a result of a direction or guidelines issued by the Department of Human Services of Victoria.

**ATTACHMENT C**

**Date**

*Sample Version of document*

*'Group' is to be replaced with name, eg. Cancer Services, Intensive Care Services, etc.*

*'Health Service' is to be replaced with the name of the Health Service*

**'GROUP'**  
**SAMPLE SPECIAL PURPOSE FUND**  
**AGREEMENT**

between

**THE MEDICAL PRACTITIONER**  
**NAMED in the SCHEDULE**

**and**

**'Health Service'**

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5	Payment of Non-Salary Benefits	1
5.1	Listing of Allowable Benefits	1
5.2	Approval Processes	2
6	Documentation of Expenses	3
7	Carry Forward of Accumulated Funds	3
8	Audit of Payments from the Fund	3
9	Meetings of Practitioners	3
10	Financial Reports	3
11	Authorised Persons	3
12	Dispute Resolution	3
13	Execution of Separate Documents	4
14	Review of Agreement	4
15	Acceptance of Agreement	5

## 1. PURPOSE OF THIS AGREEMENT

This Agreement sets out arrangements for administration by 'Health Service' of the 'Group' Special Purpose Fund, the basis on which the funds will be applied from the 'Group' Special Purpose Fund, and confirms that 'Health Service' will support at all times the professional services provided by the Medical Practitioner, including private practice conducted by the Medical Practitioner.

## 2. TERM OF AGREEMENT

This Agreement commences on the date specified in Item 2 of Schedule 1 and concludes on the earlier of:

- the date upon which the Medical Practitioner ceases to be a full-time employee of 'Health Service'; or
- the date upon which the Medical Practitioner's permission to engage in private practice is withdrawn. This would only occur in exceptional circumstances and would be preceded by consultation between the Head of Department and 'Health Service'.

## 3. VARIATION

This Agreement can only be varied by written agreement between 'Health Service' and the Medical Practitioner.

## 4. ADMINISTRATION OF 'GROUP' SPECIAL PURPOSE FUND

4.1 'Health Service' may in its absolute discretion accumulate funds credited to the 'Group' Special Purpose Fund, or apply funds allocated to the 'Group' Special Purpose Fund for the purposes set out in clause 5.1 of this Agreement; or after consultation with the Head of Department, apply funds for the advancement of 'Group' services generally.

4.2 The total payments made by 'Health Service' from the 'Group' Special Purpose Fund must not at any time exceed the balance of the 'Group' Special Purpose Fund.

## 5. APPLICATION OF FUNDS

### 5.1 Use of Funds

Pursuant to clause 2 of Schedule 2 of the Private Practice Agreement executed between Health Service and the Medical Practitioner, the funds from the Craft Special Purpose Fund may be used for the following:

- 5.1.1 Subscriptions and professional registrations
- 5.1.2 Limited medical defence insurance (if required)
- 5.1.3 Conferences within Australia and New Zealand
- 5.1.4 International conferences
- 5.1.5 Professional development support for other department staff
- 5.1.6 Departmental library
- 5.1.7 Departmental equipment
- 5.1.8 Research activities

**5.2 Approval Processes for Items Listed Under 5.1**

To be determined by Health Service

**6. DOCUMENTATION OF EXPENSES**

The Head of Department will ensure that support documentation is attached to all expense reimbursement claims prior to giving approval.

**7. CARRY FORWARD OF ACCUMULATED FUNDS**

The Fund will carry forward surplus funds into subsequent financial years.

**8. AUDIT OF PAYMENTS FROM THE FUND**

'Health Service' will arrange to have the Fund audited on an annual basis by its audit contractor. The audit report will be forwarded to the Head of Department and to 'Health Service'. The fund will meet the costs associated with the audit.

**9. MEETINGS OF PRACTITIONERS**

The Head of Department will schedule a meeting of the Fund to be held at least once per quarter. Minutes of meetings will be recorded and forwarded to the General Manager.

**10. FINANCIAL REPORTS**

The Chief Financial Officer of 'Health Service' will forward to the Head of Department a monthly financial report detailing revenues and expenses, together with a Balance Sheet of the Fund.

**11. AUTHORISED PERSON**

The Chief Executive Officer of 'Health Service', or his nominee, is the person authorised to give consents or approvals to variations of this Agreement on behalf of 'Health Service'.

**12. DISPUTE RESOLUTION**

If a dispute arises in relation to this agreement, the parties may give a notice requiring that an attempt be made to resolve the dispute with the help of a mediator to be appointed jointly by the parties. If the parties do not agree on a mediator within 7 days after notice is given, the mediator is to be appointed by the State President (Victoria) of the Australian college of Health Services Executives. Each of the parties must co-operate fully with the mediator. Each of the parties must pay an equal share of the fees and expenses the mediator is entitled to.

**13. EXECUTION OF SEPARATE DOCUMENTS**

This document is properly executed if each party executes either this document or an identical document. In the latter case this document takes effect when the last of the identical documents is executed.

**14. REVIEW OF AGREEMENT**

This Agreement is subject to review between the Medical Practitioners and 'Health Service' at the expiry of 12 months from the date specified in Item 2 of Schedule 1. Subsequent reviews will be held after each 12 month period. If, at the time of review, either party is dissatisfied with the operation of this Agreement, that party may terminate the Agreement by service on the other party of 2 month's notice.

If the Agreement is terminated in accordance with this clause, the parties must meet in good faith to make alternative arrangements in the event that the Medical Practitioners wish to continue to undertake private practice.

**15. ACCEPTANCE OF AGREEMENT**

**SIGNED** on behalf of 'Health Service':

.....

Chief Executive

.....

Date

.....

Medical Practitioner –

.....

Date

**SCHEDULE 1**

<b>Item 1 Medical Practitioner to whom this agreement applies</b>	
<b>Item 2 Commencement date of this agreement</b>	

**SCHEDULE 2**

<b>Item 1</b> Per diem reimbursement rates for domestic travel (including New Zealand)	Accommodation and living expenses	Aus \$ Sydney \$ (excludes GST)
<b>Item 2</b> Per diem reimbursement rates for international travel	Accommodation Transport, incidental and meal expenses	Aus \$ Commonwealth Government Senior Executive Service Rates

**NOTES**

1. The above rates will be adjusted from 1 July each year by reference to the CPI movement as reflected in the 12 months up to the March quarter index.
2. The Commonwealth Government SES rates will be updated on an annual basis.