

NOTICE ISSUED TO GROUP MEMBERS BY GORDON LEGAL
NOTICE OF PROPOSED SETTLEMENT
FEDERAL COURT OF AUSTRALIA
‘Doctors in Training’ (Unrostered Unpaid Overtime) Class Actions

THIS NOTICE IS IMPORTANT
PLEASE READ IT CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS

1. WHAT IS THIS NOTICE?

- 1.1. The parties to the ‘Doctors in Training’ (Unrostered Unpaid Overtime) Class Actions (**the Class Actions**) have agreed to resolve the case without a trial. This is called a ‘settlement’. The settlement will only take effect if it is approved by the Court.
- 1.2. The Federal Court has ordered that this notice be sent to all Group Members, and you have been identified as a potential Group Member. The purpose of this notice is to explain the proposed settlement, how the proposed settlement terms apply to Group Members generally, and what options you can take in relation to the proposed settlement.
- 1.3. It is important that you read the notice carefully because it contains information about:
 - (a) what you need to do if you wish to **register** to participate in the proposed settlement of the Class Actions;
 - (b) what you need to do if you wish to remove yourself from the Class Actions and the proposed settlement (this is called ‘**Opt Out**’);
 - (c) what you need to do if you previously Opted Out of the Class Actions and wish to be reinstated as a Group Member; and
 - (d) what you need to do if you wish to **object** to the proposed settlement.
- 1.4. If there is anything in this notice which you do not understand, you should contact Gordon Legal whose contact details are (03) 9603 3000 or doctors@gordonlegal.com.au, or alternatively seek your own legal advice. **Please do not contact the Court with inquiries regarding this notice.**

2. WHY HAVE YOU RECEIVED THIS NOTICE?

- 2.1. You are receiving this notice because you have been identified as a potential Group Member in the Class Actions.
- 2.2. You are a Group Member if:

- (a) you were employed by a Victorian Health Service during a prescribed "Relevant Period" as a "Doctor in Training" pursuant to the 2013, 2018 and 2022 Agreements (as defined at paragraph 3.4 below); and
 - (b) you worked unrostered unpaid overtime that was authorised by that Health Service.
- 2.3. The list of Eligible Victorian Health Services and the Relevant Periods are set out in Annexure A of this Notice.
- 2.4. If you meet the criteria above, you may be eligible to receive money if the proposed settlement is approved by the Court.
- 2.5. If you are unsure whether you are a group member, you should contact Gordon Legal on (03) 9603 3000 or email doctors@gordonlegal.com.au or seek your own legal advice.

3. WHAT ARE THE CLASS ACTIONS ABOUT?

- 3.1. The Class Actions have been commenced by the Australian Salaried Medical Officers Federation of Victoria (**ASMOF**) and other Representative Applicants (**the Applicants**) on their own behalf and on behalf of all persons who are "Group Members" as defined in the proceedings (see section 2 and Annexure A of this Notice). There are a number of Health Services in Victoria which employ Doctors in Training, which means there are a number of separate Proceedings which have been commenced in which each Health Service is named as the "Respondent". Annexure A of this Notice sets out the list of Eligible Victorian Health Services who are Respondents in the Class Actions.
- 3.2. In total, the Class Actions cover all Victorian Health Services which employ Doctors in Training and all Doctors in Training employed at those Health Services across the periods of time set out in each of those Proceedings, but which broadly cover the last several years up to 17 January 2025. The list of Eligible Victorian Health Services and the Relevant Periods are set out in Annexure A of this Notice. The Applicants' are legally represented by Gordon Legal and Hayden Stephens and Associates.
- 3.3. In each of the Proceedings, the Applicants allege that group members have, in the course of their employment with the Respondents, worked hours in excess of their ordinary hours or rostered hours that were authorised by their employing Health Service (in some cases through implication) and were not paid for those unrostered overtime hours.
- 3.4. The Applicants allege that the Respondents' failure to pay Group Members for their unrostered overtime hours is a breach of their obligations under the applicable enterprise agreements which include the *Victorian Public Health Sector (AMA Victoria) – Doctors in Training (Single Interest Employers) Enterprise Agreement 2013* (**2013 Agreement**) applicable up to 6 August 2018, and from 7 August 2018 the *AMA Victoria – Victorian Public Health Sector – Doctors in Training Enterprise Agreement 2018–2021* (**2018 Agreement**) and from 2 November 2022 the *Doctors in Training (Victorian Public Health Sector) (AMA*

Victoria/ASMOF) (Single Interest Employers) Enterprise Agreement 2022-2026 (2022 Agreement).

- 3.5. As a result of this alleged breach, the Applicants allege that the Respondents have breached section 50 of the *Fair Work Act 2009* (Cth) (**FW Act**).
- 3.6. The Respondents have denied each of the breaches and contraventions alleged by the Applicants.

4. THE PROPOSED SETTLEMENT

- 4.1. On 17 January 2025, the parties to the Class Actions agreed to settle the Class Actions and have asked the Federal Court to approve the terms of the settlement so that it can take effect.
- 4.2. The parties have agreed to settle the Class Actions under the following terms:
 - (a) a sum of \$135,000,000.00 (**Settlement Sum**) to be paid to Eligible Claimants;
 - (b) a sum of \$22,500,000.00 in full and final satisfaction of the legal costs and disbursements (both inclusive of all GST) incurred in the course of the Proceedings; (**Legal Costs Sum**); and
 - (c) a sum of \$17,500,000.00 in respect of the costs of administration of the Settlement Scheme (**Administration Costs Sum**).
- 4.3. The parties have also agreed that an amount (not exceeding \$1,185,000.00 in total and subject to the approval of the Court) will be deducted from the Settlement Sum to reimburse the Applicants for their time and out-of-pocket expenses in performing their role as representative of Group Members in the conduct of the Proceedings.
- 4.4. The settlement has been agreed between the parties and approval will be sought on the basis that it is without any admission by the Respondents as to the occurrence of the alleged breaches and contraventions or that they are in any way liable or under an obligation to do so but, instead, for the purpose of avoiding ongoing and costly litigation that would otherwise unnecessarily divert public resources from the provision of healthcare and other services in the State of Victoria.
- 4.5. The proposed settlement involves a Settlement Payment process that will be used to assess Group Member's eligibility. Unless a Group Member applies to have their claim reviewed by an independent Review Panel, the Health Services will not be made aware of the Group Member's Registration in the Claims Assessment Process.
- 4.6. If the proposed settlement is approved, Gordon Legal and Hayden Stephens and Associates will be appointed the Scheme Administrator.

5. SETTLEMENT DISTRIBUTION PROCESS

- 5.1 Under the settlement the Scheme Administrator will assess and, where a claim is successfully established, pay the claims of Eligible Claimants in accordance with the Claims Assessment Principles.
- 5.2 In order to assess a Group Member's claim, the Scheme Administrator will put in place a Claims Assessment and Settlement Scheme Distribution process that has been specifically designed to efficiently manage Eligible Claimants' claims. The process involves the Scheme Administrator assessing the claim of each Eligible Claimant in accordance with the Claims Assessment Principles. The Claims Assessment Principles will be applied by reference to:
- (a) the Eligible Claimant's period of employment with one or more of the Health Services and their classification of employment under the Agreements;
 - (b) the number and type of rotations, or periods of work in a department or unit performed by the Eligible Claimant;
 - (c) whether any unpaid unrostered overtime performed by the Eligible Claimant was an Eligible Duty of the kind set out in the Settlement Scheme;
 - (d) the number of hours of unpaid unrostered overtime the Eligible Claimant performed per week, per rotation.
 - (e) The probative value of any evidence that corroborates or rebuts that unrostered overtime was required or requested by the Respondents to be performed by the Eligible Claimant;
 - (f) The probative value of any evidence that corroborates or rebuts the frequency or duration of the unrostered overtime the Eligible Claimant has claimed to have performed;
 - (g) The probative value of any evidence that corroborates or rebuts that the duties performed by the Eligible Claimant were of a type consistent with the system and/or practice of the department or unit that the Eligible Claimant worked in.
- 5.3 The Scheme Administrator will issue a Preliminary Notice of Assessment to each Eligible Claimant whose claim it has assessed.
- 5.4 Eligible Claimants who receive a Preliminary Notice of Assessment and are unsatisfied by the decision made by the Scheme Administrator may request for their claim re-assessed by the Scheme Administrator. If the Eligible Claimant remains unsatisfied with the re-assessment of their claim, they may elect to have their claim reviewed by a Review Panel comprised of a barrister or barristers selected by the Applicants and Department of Health (**DOH**). The decision made by the Review Panel is final and binding.
- 5.5 For Group Members who participate in the proposed settlement, the features of the proposed settlement described above will replace the rights that are ordinarily available for persons

making a claim for underpayment of unrostered overtime. This means that participating Group Members will not be able to commence legal proceedings in relation to their underpayment claim. The parties consider that this is a fair compromise for participating Group Members because, in exchange for giving up this right, Group Members have the opportunity to have their claim assessed through the Settlement Payment process, where they can either accept the decision of the Scheme Administrator, ask the Scheme Administrator to reconsider its decision or seek a review of the Scheme Administrator's reconsideration of its decision by a Review Panel which will finally determine the Group Members claim.

6. TAXATION OF SETTLEMENT PAYMENTS

- 6.1. Any amount paid to Eligible Claimants may be subject to taxation under applicable tax laws.
- 6.2. Group Members who submit a claim for a Settlement Payment should be mindful of their individual taxation obligations and ought to seek professional taxation advice regarding their individual tax obligations in relation to any Settlement Payment received.
- 6.3. The payment of any tax liability is a matter for each Eligible Claimant.

7. LEGAL COSTS

- 7.1. If the proposed settlement is approved, the DOH will pay Gordon Legal a sum of \$22,500,000.00 in respect of the legal costs incurred for and on behalf of the Applicants and Group Members in respect of the commencement and conduct of the Proceedings.

8. THE PROCESS FOR APPROVAL OF THE SETTLEMENT

- 8.1. The settlement is subject to the approval of the Federal Court. The Court will only approve the proposed settlement if it decides that it is fair and reasonable and in the interests of the Group Members as a whole.
- 8.2. In considering the application to approve the settlement the Court will receive and consider submissions from the Applicants and the other parties. The Court will also consider any objections filed by Group Members. Information about how to object to the proposed settlement is at section 8 of this notice.
- 8.3. The Court will hold a hearing for it to determine the application for approval of the proposed settlement on 9 September 2025 at the Federal Court of Australia in Melbourne, located at 305 William Street, Melbourne VIC 3000.

9. WHAT OPTIONS ARE AVAILABLE FOR GROUP MEMBERS?

- 9.1. There are five options that Group Members may choose to take in relation to the proposed settlement. The option that you take will affect if and how you can receive a financial benefit in relation to your claim. The five options, and the consequences of each option, are set out below.

Option 1: register to participate in the proposed settlement

- Group Members who wish to participate in the proposed settlement must register their interest with Gordon Legal by going to vicjuniordoctors.com.au. **All claims must be registered by the Group Member with Gordon Legal by 4.00pm on 1 August 2025.**
- If you are assessed as an Eligible Claimant, you will be issued a Notice of Claim, which you must complete within 45 business days.
- Eligible Claimants who provide a Notice of Claim to the Scheme Administrator will have their claim finally determined through the settlement and will not be able to commence legal proceedings in relation to their claim.

Option 2: Opt Out of the Class Actions

- Group Members who wish to Opt Out of the Class Actions must file an Opt Out Notice with the Federal Court by providing the Opt Out Notice to the Federal Court Registry by 4.00pm on 1 August 2025. The Opt Out Notice is available from vicjuniordoctors.com.au.
- The Opt Out Notice may be filed with the Federal Court Registry by either of the following options:

By email: vicreg@fedcourt.gov.au

By post: The Registrar
Federal Court of Australia
Victoria District Registry
305 William Street
MELBOURNE VIC 3000

- Group Members who Opt Out of the Class Actions will not be bound by the outcome of the Class Actions, and will not be entitled to receive any Settlement Payment that might result from the proposed settlement.
- Group Members who Opt Out of the Class Actions may still pursue their claim for unpaid, unrostered overtime individually in the Fair Work Commission or the Federal Court.

Option 3: object to the proposed settlement

- Group Members have the right to make submissions to the Court as to whether or not the proposed settlement should be approved and take effect. If you do not wish for the proposed settlement to go ahead, you can object to the settlement by filling in the Notice of Objection, which is available from vicjuniordoctors.com.au.
- Any Notice of Objection must be filed with the Court by no later than 4.00pm on 1 August 2025 and any written submissions or evidence in support of any Notice of Objection must be provided to the Court by 4.00pm on 1 August 2025.

- A Notice of Objection may be filed with the Federal Court Registry by either of the following options:

By email: vicreg@fedcourt.gov.au

By post: The Registrar
Federal Court of Australia
Victoria District Registry
305 William Street
MELBOURNE VIC 3000

- The Court will consider any objections filed by Group Members when it considers whether to approve the proposed settlement at the hearing on 9 September 2025 at the Federal Court in Melbourne.
- Group Members may object to the settlement even if they have registered pursuant to Option 1 above, but not if they have opted out pursuant to Option 2 above.
- Any Group Member who objects may be required to appear before the Court at the approval hearing.

Option 4: do nothing

- Group Members who neither register to participate in the proposed settlement nor opt out will remain as Group Members in the Class Actions, but will not, unless the Court determines otherwise, be entitled to participate in the proposed settlement. This means that a Group Member who does not register a claim will not be able to have their claim assessed through the Settlement Payment process.
- Group Members who do nothing will also be bound by the proposed settlement. This means that a Group Member who does not register or Opt Out will not be able to have their claim for unrostered, unpaid overtime assessed, either as part of the proposed settlement or otherwise.

Option 5: seek to be reinstated as a Group Member

- Group Members who have previously filed an Opt Out Notice with the Court and removed themselves from the Class Actions but wish to participate in the Settlement Scheme can make submissions to the Court to be reinstated as a Group Member.
- Any submissions must be filed with the Court by no later than 4.00pm on 1 August 2025. The submissions can be provided to the Court either by email or post to the following addresses:

By email: vicreg@fedcourt.gov.au

By post: The Registrar
Federal Court of Australia
Victoria District Registry

305 William Street
MELBOURNE VIC 3000

- The Court will consider any submissions filed by persons seeking to be reinstated as Group Members when it considers whether to approve the proposed settlement at the hearing on 9 September 2025 at the Federal Court in Melbourne.

10. COPIES OF THE RELEVANT DOCUMENTS

- 10.1. Copies of relevant documents filed with the Court in each of the Proceedings may be obtained by:
- (a) downloading them from Gordon Legal's website (www.gordonlegal.com.au);
 - (b) inspecting them between 9:00 a.m. and 5:00 p.m. at the office of Gordon Legal, contact details for which are available from (www.gordonlegal.com.au) or by calling (03) 9603 3000; or
 - (c) by contacting a District Registry of the Federal Court (contact details are available at (www.fedcourt.gov.au) and paying the appropriate inspection fee.

11. FURTHER INFORMATION

- 11.1. If there is anything of which you are unsure, you should check Gordon Legal's website for more information. You can also call Gordon Legal on (03) 9603 3000 or email doctors@gordonlegal.com.au or seek your own legal advice.

ANNEXURE A

ELIGIBLE HEALTH SERVICES

No.	Health Services	Relevant Period
1.	Albury Wodonga Health (Wodonga Hospital only)	17 January 2019 to 17 January 2025
2.	Alfred Health	27 November 2015 to 17 January 2025
3.	Austin Health	30 October 2018 to 17 January 2025
4.	Bairnsdale Regional Health Service	18 November 2016 to 17 January 2025
5.	Barwon Health	21 October 2017 to 17 January 2025
6.	Bass Coast Health (formerly known as Bass Coast Regional Health)	17 January 2019 to 17 January 2025
7.	Bendigo Health (formerly known as Bendigo Health Care Group)	24 December 2015 to 17 January 2025
8.	Calvary Health Care Bethlehem Limited	17 January 2019 to 17 January 2025
9.	Central Gippsland Health Service	17 January 2019 to 17 January 2025
10.	East Grampians Health Service	17 January 2019 to 17 January 2025
11.	Eastern Health	23 October 2015 to 17 January 2025
12.	Echuca Regional Health	17 January 2019 to 17 January 2025
13.	Gippsland Southern Health Service	17 January 2019 to 17 January 2025
14.	Goulburn Valley Health	21 October 2017 to 17 January 2025
15.	Grampians Health (as of 2021 includes Wimmera Health Care and Ballarat Health Services)	17 January 2019 to 17 January 2025
16.	Latrobe Regional Health (formerly known as Latrobe Regional Hospital)	27 April 2015 to 17 January 2025
17.	Melbourne Health	7 December 2016 to 17 January 2025
18.	Mercy Hospitals Victoria Limited	17 January 2019 to 17 January 2025

No.	Health Services	Relevant Period
19.	Mildura Base Public Hospital	17 January 2019 to 17 January 2025
20.	Monash Health	27 April 2015 to 17 January 2025
21.	NCN Health (as of 2021 includes Numurkah Health Service)	17 January 2019 to 17 January 2025
22.	Northeast Health Wangaratta	7 December 2016 to 17 January 2025
23.	Northern Health	21 December 2015 to 17 January 2025
24.	Peninsula Health	12 March 2015 to 17 January 2025
25.	Peter MacCallum Cancer Institute	17 January 2019 to 17 January 2025
26.	Portland District Health	17 January 2019 to 17 January 2025
27.	South West Healthcare	17 January 2019 to 17 January 2025
28.	St Vincent's Hospital (Melbourne) Limited	27 November 2015 to 17 January 2025
29.	Swan Hill District Health	17 January 2019 to 17 January 2025
30.	The Royal Children's Hospital	14 December 2018 to 17 January 2025
31.	The Royal Victorian Eye and Ear Hospital	17 January 2019 to 17 January 2025
32.	The Royal Women's Hospital	23 October 2015 to 17 January 2025
33.	The Victorian Institute of Forensic Mental Health (trading as Forensicare)	17 January 2019 to 17 January 2025
34.	West Gippsland Healthcare Group	17 January 2019 to 17 January 2025
35.	Western District Health Service	17 January 2019 to 17 January 2025
36.	Western Health (as of 2021 includes Djerriwarrh Health Services)	30 July 2015 to 17 January 2025