



# DECISION

*Fair Work Act 2009*  
s.185—Enterprise agreement

**Australian Capital Territory**  
(AG2015/7194)

## **ACT PUBLIC SECTOR MEDICAL PRACTITIONERS ENTERPRISE AGREEMENT 2013-2017**

Australian Capital Territory

COMMISSIONER LEE

MELBOURNE, 20 JANUARY 2016

*Application for approval of the ACT Public Sector Medical Practitioners Enterprise Agreement 2013-2017.*

[1] An application has been made for approval of an enterprise agreement known as the *ACT Public Sector Medical Practitioners Enterprise Agreement 2013-2017* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by the Australian Capital Territory. The Agreement is a single enterprise agreement.

[2] I am satisfied that each of the requirements of ss.186, 187 and 188 as are relevant to this application for approval have been met.

[3] The Australian Salaried Medical Officers Federation being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) I note that the Agreement covers the organisation.

[4] The Agreement was approved on 20 January 2016 and, in accordance with s.54, will operate from 27 January 2016. The nominal expiry date of the Agreement is 30 June 2017.



COMMISSIONER

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**ACT Public Sector  
Medical Practitioners  
Enterprise Agreement  
2013-2017**

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## **PART 1: OPERATION OF THE AGREEMENT**

### **Section A – Technical Matters**

#### **1. TITLE**

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- 1.1 This Agreement, made under Section 172 of the *Fair Work Act 2009*, will be known as the ACT Public Sector Medical Practitioners Enterprise Agreement 2013-2017.

#### **2. MAIN PURPOSE**

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- 2.1 The main purpose of this Agreement is to provide for common terms and conditions that apply across the ACT Public Service (ACTPS) and terms and conditions that reflect the operational and business requirements of particular business units and of medical practitioners.

#### Retaining our people

- 2.2 In order to promote permanent employment and job security for employees in the ACTPS, the ACTPS will endeavour to minimise the use of temporary and casual employment. The ACTPS agrees to the use of temporary employees only where there is no officer available with the expertise, skills or qualifications required for the duties to be performed or the assistance of a temporary nature is required for the performance of urgent or specialised work within a particular business unit of the ACTPS and it is not practical in the circumstances to use the services of an existing officer.
- 2.3 In respect of casual employment, where regular and systematic patterns of work exist and where persons have a reasonable expectation that such arrangements will continue, consideration should be given to engaging the person on a different basis, including on a permanent or temporary basis.
- 2.4 The ACTPS will continue to consult with unions and employees on the development of strategies and initiatives that may assist in the successful recruitment and retention of mature age employees. Such strategies and initiatives will be the subject of discussion and agreement between the employee and the relevant manager/supervisor.
- 2.5 These strategies and initiatives may include:
- (a) developing flexible working arrangements, such as variable employment, part-year employment, job sharing and purchased leave;
  - (b) planning phased retirement arrangements for individual mature age employees who are considering retirement within four to five years, including through reducing the employee's management or higher level responsibilities during a phased retirement period;
  - (c) examining the implications of current superannuation legislation for using such flexible employment and working arrangements and informing affected employees how such implications may be addressed;
  - (d) arranging training to assist the employee in any changing roles the employee may have as part of the employee's phased retirement;

- (e) developing arrangements to facilitate the return of former mature age employees, including by engaging such persons for a short period in a mentoring capacity;
- (f) at the discretion of the head of service, contributing to the cost to an employee of financial advice received as part of planning for a phased retirement period.

#### Attracting future employees

- 2.6 The ACTPS will consult with union(s) through the Directorate Consultative Committee (DCC) to develop strategies to assist in attracting and retaining suitable employees. This will involve development of appropriate strategies and processes, including the conduct of surveys of staff, to assist this objective.
- 2.7 The ACTPS may run various entry programs in the light of operational needs and available resources. Entry to these programs will be by merit selection. All employment arrangements should be fair and attractive.

#### Developing our people

- 2.8 The ACTPS will consult and agree with union(s) on the development and finalisation of Learning and Development Plans and on the annual key learning and development priorities. The ACTPS and the union(s) will also agree on the equitable use of resources to address these priorities and strategies appropriate for the different categories of employees. For the purposes of this clause, "resources" includes but is not limited to employees, time, funding (where required) and equipment.
- 2.9 This Agreement supports a performance culture within the ACTPS that promotes ethical workplace conduct and rewards employees for their contribution towards the achievement of ACTPS's objectives.
- 2.10 It is acknowledged that performance management is important to employee development and to ensuring the relationship between corporate, team and individual responsibilities are aligned to individual, team and organisational objectives.
- 2.11 Any performance management schemes in the ACTPS will not include performance pay and will not be used for disciplinary purposes.

#### Recognising our people

- 2.12 The ACTPS is committed to achieving an environment where employees feel valued for the contribution they make to achieving organisational goals. The most effective form of recognition is timely and appropriate feedback. The ACTPS will consult with the union(s) on other effective ways of recognising and rewarding the achievement of individuals and work groups.
- 2.13 Any outcomes of this consultation will only be implemented by agreement of the ACTPS and the union(s).

#### Ensuring fairness

- 2.14 The ACTPS recognises and encourages the contribution that people with diverse backgrounds, experiences and skills can make to the workplace. The ACTPS aims to ensure

that this diversity is able to contribute to effective decision making and delivery of client service.

- 2.15 The ACTPS will work with employees to prevent and eliminate discrimination on the basis of sex, sexuality, gender identity, relationship status, status as a parent or carer, pregnancy, breastfeeding, race, religious or political conviction, disability, industrial activity, age, profession, trade, occupation or calling, association, or a spent conviction, in accordance with the *Discrimination Act 1991*.

#### Achieving a better work and life balance

- 2.16 The ACTPS is committed to providing employees with a work/life balance that recognises the family and other personal commitments of employees.

#### Promoting a healthy and safe working environment

- 2.17 The ACTPS is committed to promoting, achieving and maintaining the highest levels of health and safety for all employees.
- 2.18 The ACTPS will take all reasonable steps and precautions to provide a healthy, safe and secure workplace for the employee. The ACTPS and all employees will act in a manner that is consistent with the *Work Health and Safety Act (WHS Act)*.
- 2.19 Bullying and harassment and discrimination of any kind will not be tolerated in ACTPS workplaces. It is recognised that bullying and harassment in the workplace has both emotional and financial costs and that both systemic and individual instances of bullying and harassment are not acceptable. Accordingly:
- (a) if the head of service is made aware of instances, or reported instances, of bullying and harassment or discrimination, the head of service will investigate the concerns as soon as possible in accordance with the Workplace Values and Behaviours provisions in Section N of this Agreement; or
  - (b) if the head of service independently considers that inappropriate behaviour may be occurring, then the head of service will respond, as soon as possible, in a manner commensurate with the seriousness of this issue.
- 2.20 Further, given the clear evidence of the benefits and cost effectiveness of workplace health initiatives for both employers and employees, the ACTPS will develop health and wellbeing policies and programs that promote healthy lifestyles and help maintain a high standard of physical and mental health, along with supporting individual workplace safety and general wellbeing. Such policies and programs may include:
- (a) organisational/environmental policies and programs;
  - (b) awareness and education programs that promote healthy lifestyles and reduce risk factors; and
  - (c) traditional and non-traditional physical activity programs.

### 3. APPLICATION OF THE AGREEMENT AND COVERAGE

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- 3.1 This Agreement applies to and covers:
- (a) The head of service on behalf of the Australian Capital Territory;
  - (b) The Chief Executive of Calvary Health Care ACT Ltd. on behalf of the Australian Capital Territory;
  - (c) persons engaged under the *Public Sector Management Act 1994* at any time when the Agreement is in operation in one of the classifications in Annex A, except a person engaged as head of service under sections 23C and 23 J of the *Public Sector Management Act 1994*, persons engaged as directors-general under sections 28 or 30 of the *Public Sector Management Act 1994*, or persons engaged as executives under sections 72 or 76 of the *Public Sector Management Act*; and
  - (d) ACT Territory Authorities and Instrumentalities that engage persons under the PSM Act in classifications listed in Annex A of this Agreement.
  - (e) The Australian Salaried Medical Officers Federation (ASMOF) subject to the Fair Work Commission (FWC) noting in its decision to approve this Agreement that it covers ASMOF.

### 4. COMMENCEMENT AND DURATION

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- 4.1 This Agreement will commence operation seven days after its approval by the FWC.
- 4.2 The nominal expiry date of this Agreement will be 30th June 2017.
- 4.3 Bargaining for a replacement agreement will commence no later than eight months prior to the nominal expiry date of this Agreement.

### 5. OPERATION OF THE AGREEMENT

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- 5.1 This Agreement is comprehensive and provides the terms and conditions of employment of employees covered by this Agreement, other than terms and conditions applying under applicable legislation.
- 5.2 This includes:
- (a) *The Fair Work Act 2009 (Cth)* (FW Act);
  - (b) *Public Sector Management Act 1994 (ACT)* (PSM Act);
  - (c) *Public Sector Management Standards (PSM Standards)*;
  - (d) *Work Health and Safety Act 2011 (ACT)* (WHS Act);
  - (e) *Holidays Act 1958 (ACT)* (Holidays Act);
  - (f) *Territory Records Act 2002 (ACT)* (TR Act);
  - (g) *Safety Rehabilitation and Compensation Act 1988 (Cth)* (SRC Act);



(h) *Health Practitioner Regulation National Law (ACT) Act 2010*; and

(i) *Health Act 1993*.

- 5.3 This Agreement constitutes a closed agreement in settlement of all claims for its duration. Therefore, during the life of this Agreement, there will be no further claims that affect the provisions of this Agreement, except where these claims are consistent with the terms of this Agreement.
- 5.4 This Agreement shall stand alone and apply to the exclusion of any other federal award/s and/or agreements that otherwise would have applied to the employment of any employees subject to this Agreement.
- 5.5 This Agreement prevails over ACT legislation, including the PSM Act and the PSM Standards and relevant policy statements and guidelines to the extent of any inconsistency.

## **6. AGREEMENT AVAILABILITY**

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- 6.1 Copies of this Agreement will be made available, in paper or electronic form, to all employees covered by this Agreement.

## **7. AUTHORITY OF THE HEAD OF SERVICE**

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- 7.1 The head of service may, in writing, delegate any power or function that the head of service has under this Agreement to another person or position within the ACT Public Service (ACTPS), subject to directions, except for this power of delegation.
- 7.2 This does not limit the power of the head of service to authorise a person to act for and on the head of service's behalf.
- 7.3 Only directors-general may, in writing, sub-delegate a power or function delegated to them by the head of service.
- 7.4 To avoid doubt, in this Agreement reference to the head of service may be taken to mean 'Delegate' where the head of service has delegated the particular power or function under subclause 7.1.

## **8. VARIATION TO AGREEMENT**

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- 8.1 This Agreement may be varied in accordance with the provisions of the FW Act.

## **9. TERMINATION OF AGREEMENT**

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- 9.1 The ACTPS and the union(s) covered by this Agreement agree that the maintenance of, and adherence to, agreed terms and conditions of employment is a key component of good workplace relations and a dispute free workplace. They therefore agree that they will not exercise their right to terminate this Agreement under the FW Act.

## PART 2: WORKING IN THE HEALTH DIRECTORATE

### Section B – Employment

#### 10. TYPES OF EMPLOYMENT

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- 10.1 A person will be engaged under the PSM Act in one of the following categories:
- (a) **Permanent** employment on a full-time or permanent part-time basis, including appointment with or without probation; or
  - (b) **Short-Term Temporary** employment for a period not exceeding twelve months on a full-time or part-time basis or for a specified period of time or for a specified task;
  - (c) **Long Term Temporary** employment for a period greater than twelve months but not exceeding five years on a full-time or part-time basis or for a specified period of time or for a specified task;
  - (d) **Temporary Casual** employment.
- 10.2 Persons engaged on a part-time basis will receive, on a proportionate basis, equivalent pay and conditions to those of full-time employees.
- 10.3 Persons engaged in medical classifications are required to provide evidence of current registration to practice, with the ACT Medical Board, under the *Health Practitioner Regulation National Law (ACT) Act 2010* before appointment/engagement is confirmed and thereafter annually.

#### 11. REVIEW OF EMPLOYMENT STATUS

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- 11.1 In order to promote permanent employment and job security for employees in the ACTPS, eligible casual employees who have been engaged on a regular and systematic basis for at least twelve months and who have a reasonable expectation that such arrangements will continue may, by application in writing to their manager/supervisor, request an examination of their employment status.
- 11.2 Having considered the request the manager/supervisor will respond in writing, giving reasons, within a six week timeframe.
- 11.3 To avoid doubt, decisions stemming from such reviews will be subject to the application of selection and appointment processes applying in the ACTPS. These processes include the application of the merit principle and the application of a probation period on appointment. These processes are also subject to there being no excess officers who would be eligible for redeployment to the office.
- 11.4 A selection process initiated under this clause will be conducted with the use of a joint selection committee in accordance with clause 17 of this Agreement.

## **12. APPROVAL OF OUTSIDE EMPLOYMENT**

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- 12.1 In all situations, medical staff must obtain prior approval before commencing a second job, and disclose and avoid real or apparent conflict of interest.
- 12.2 Approval shall not be unreasonably withheld if the secondary employment will not interfere with the normal duties nor constitute a conflict of interest of the employee to the Directorate. If the application is not approved, the reasons must be provided in writing.
- 12.3 When assessing applications, the head of service should consider the following criteria:
- (a) Employees should not have a second job if that employment places them in a conflict with their official duties;
  - (b) A second job should not affect the work performance of employees in their official positions; and
  - (c) The second job should be performed totally in the employees's private time.
- 12.4 Approval for a second job will be made with consideration to safe working hours principles.
- 12.5 Additional arrangements detailed in subclauses 24.12 to 24.18 will apply to Specialists and Senior Specialists seeking to undertake outside employment..

## **13. CLINICAL ACADEMIC**

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- 13.1 For the purpose of this clause, a Clinical Academic is defined as a Senior Medical Practitioner appointed to an academic position at Australian National University Medical School who is also granted clinical privileges at Directorate facilities.
- 13.2 Where the Directorate chooses to engage a Clinical Academic, he or she will be employed either temporarily or permanently as a specialist or senior specialist on a part-time basis of 0.4 FTE.

## Section C – Probation

### 14. PROBATION

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- 14.1 Where a person is appointment on probation under the PSM Act, the period of probation will be for six months.
- 14.2 At the time of an offer of employment on probation, the head of service will inform the person in writing of the period of probation.
- 14.3 At the time a person is appointed on probation, the head of service will inform the person in writing of the criteria and objectives to be met for the appointment to be confirmed.
- 14.4 Probation will provide a supportive process for the officer during which mutual evaluation and decisions about permanent appointment can be made.
- 14.5 There must be at least two formal assessments of an officer, at the two and four month dates, during the probationary period. The head of service must provide the officer with a copy of the assessment report. The officer must be provided with an opportunity to respond within seven working days. If the assessment is sufficiently negative for the supervisor/manager to consider recommending that the head of service terminate the employment, that opinion will be included in the assessment report.
- 14.6 A decision of the head of service to accept the recommendation to terminate the appointment of an officer on probation, as per subclause 14.5, is excluded from the Internal Review Procedures (Section P) and Appeal Mechanism (Section Q) of this Agreement.
- 14.7 To avoid doubt, an officer on probation is able to seek a review of the officer's probation under the Internal Review Procedures, Section P, except in relation to a decision to terminate the officer's employment.

## Section D – Selection and Advancement

### 15. PROMOTION TO SENIOR SPECIALIST

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- 15.1 A specialist who meets the requirements for promotion to Senior Specialist, as defined in the dictionary to this agreement, may apply for promotion under this clause.
- 15.2 Assessment of suitability for promotion will be made by a Review Panel in accordance with the “Process for promotion from Specialist to Senior Specialist” Guidelines.
- 15.3 Based on its findings, the Review Panel will recommend to the head of service on the suitability of the applicant for promotion.

### 16. JUNIOR MEDICAL OFFICER CLASSIFICATION AND ADVANCEMENT

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- 16.1 This section details the process for advancement for JMOs.

<b>PG Year</b>	<b>Classification</b>
1	Intern
2	RMO 1
3	SRMO 1/ Junior Registrar
4	SRMO 2 / Registrar 1
5	SRMO 3 / Registrar 2
6	Registrar 3
7	Registrar 4
<b>7+</b>	<b>Senior Registrar</b>

Note: The bold line indicates progression beyond this point is a promotion, and subject to the merit principles of the PSM Act and a competitive selection process .

- 16.2 Progression will be based on years of service and consistent with the provisions of subclause 31.3, subject to:
- Selection for an advertised vacancy;
  - Satisfactory performance;
  - Completion of the requirements of any relevant training program, including those of Specialty Colleges; and
  - Meeting the requirements for the classification as set out in the Dictionary of this agreement.

- 16.3 Staff in any of the classifications listed in the table above will not be eligible for accelerated advancement (subclause 31.6)
- 16.4 Progression beyond PGY 5 will require the JMO to be enrolled in a training program of a Specialty College. Only time spent at PGY 6 will count for progression to PGY 7.

**17. JOINT SELECTION COMMITTEES**

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- 17.1 A Joint Selection Committee will normally comprise of, but not be limited to:
- (a) A chairperson who has appropriate skills and experience, nominated by the head of service;
  - (b) A person who as appropriate skills and experience, nominated by the union(s); and
  - (c) A person who has appropriate skills and experience, nominated by the head of service from a list of employees, and agreed by the head of service and the union(s).

Note: Provisions relating to the use of joint selection committees are located in the PSM Standards.

## Section E – Hours of Work

### 18. HOURS OF WORK – MEDICAL OFFICERS

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18.1 In this clause employee refers to a Medical Officer.

#### Ordinary Hours of Work for Full-time employees

18.2 The ordinary weekly hours are 38.00 hours performed on the following basis:

- (a) 76.00 hours within a period not exceeding fourteen consecutive days; or
- (b) Any other period of twelve months or less that is agreed in writing between the manager/supervisor and the employee to provide for an average working week of 38 hours per week over the agreed period. Such arrangement must meet the requirements of the Directorates' fatigue management policy(s).

18.3 The ordinary hours of work for a full-time employee will be performed according to a roster, in shifts as required with hours in excess of an average 38.00 hours per week and not remunerated or otherwise compensated being credited towards an Accrued Day Off (ADO) with pay.

18.4 An employee is defined as a shift worker if the employee is rostered to perform ordinary daily hours in accordance with a published roster and/or on Saturdays and Sundays and/or on public holidays on a regular or ongoing basis.

#### Hours of Work for Part-Time employees

18.5 A part-time employee will work less than the ordinary weekly hours of work for a full-time employee in accordance with a regular part-time work agreement under Clause 67 of this Agreement.

18.6 The minimum length of shift of a regular part-time employee is 3 hours.

18.7 A part-time Medical Officer shall not be required to hold himself/herself in readiness to perform duty under restriction situations unless the Medical Officer has consented in writing to the imposition of restriction situations.

#### Attendance Outside of Work Hours

18.8 Where a Medical Officer attends of his/her own volition outside of hours rostered on duty, or where a Medical Officer remains in attendance when formally released from the obligation to perform professional duties, the employer shall not be liable to make any payment for such attendance.

### 19. MEAL BREAK

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19.1 Unless there are exceptional and unforeseen circumstances, an employee will not be required to work for more than five hours without a break for a meal. The standard meal break will be of 30 minutes duration.

19.2 Meal breaks will not count as time worked unless specific provisions are made for this in this Agreement.

- 19.3 The term 'meal break' does not require the employee to partake of a meal during the break period.
- 19.4 Notwithstanding subclause 19.1 it is recognised that there may be occasions when a meal break cannot be taken within five hours of commencing work, and that the meal break should be taken at some other time during the shift or the employee may be permitted to finish early on that shift.
- 19.5 Where a Medical Officer is required to continue working through the employee's meal break, and an alternative is unable to be programmed under subclause 19.3, the Medical Officer will be paid for the time worked at a single rate of pay.
- 19.6 Managers, unit heads and supervisors are to establish simple and effective procedures in consultation with Medical Officers to record when staff are required to work through their meal breaks to ensure that a pattern of not being able to take a break does not develop and to ensure that payment is made.
- 19.7 An employee who works up to six hours in a day may, with the agreement of the supervisor/manager, work up to six hours without a meal break to accommodate the employee's personal circumstances and work/life balance.

## **20. ROSTERING PRACTICE FOR MEDICAL OFFICERS**

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### Notice of Rosters

- 20.1 A Medical Officer will be given at least 14 days notice of rosters to be worked in relation to ordinary hours of work and also where practicable, in relation to additional (overtime) rostered hours of work.
- 20.2 Notwithstanding subclause 20.1 amendments to rosters may be required without notice to meet emergent situations (where unpredictable change in service demands make meeting the requirements of subclause 20.1 impracticable).

### Breaks between shifts

- 20.3 A minimum 9 hour break between shifts including travel time (fatigue leave) or 10 hours where practicable shall be rostered.
- 20.4 If the minimum break between shifts, outlined in subclause 20.3, overlaps ordinary hours, there shall be no loss of pay for ordinary hours for taking this break.
- 20.5 If recalled to duty with less than an 9 hour break between shifts, including travel time, overtime rates shall be paid at the commencement of recall until a nine hour break can be taken.
- 20.6 The parties agree to undertake further investigation (with a view to creation of additional positions) if Medical Officers are regularly expected to work without a break.

### Maximum Shift Length

- 20.7 The maximum shift length is 14 hours.



### Pattern of Work Hours

- 20.8 At the initiation of the employee or the Directorate, the work patterns of an employee may be varied from time to time to provide for shifts of no less than 8 hours in length on a week day, or no less than 4 hours in length on a Saturday, Sunday or a Public Holiday.
- 20.9 All time worked in excess of 10 hours in any one shift will be paid at overtime rates.
- 20.10 No broken or split shifts will be worked.

### Maximum Rostered Hours of Work

- 20.11 The maximum number of rostered hours per fortnight (excluding oncall) is 112 hours.

### Rostering of days free from duty

- 20.12 Where practicable, days free from duty shall be consecutive and where possible additional accrued days off in accordance with Clause 21 shall be combined with days free from duty.
- 20.13 Employees will be given the opportunity to indicate preferences for the rostering of ADOs, and these will be met unless there are operational reasons for not doing so.
- 20.14 A Medical Officer may not be rostered on for more than seven consecutive days on ordinary duty without a minimum 1 day duty-free break.
- 20.15 A Medical Officer shall be free from ordinary hours of duty for not less than 2 days in each week or where this is not practicable 4 days in each fortnight.
- 20.16 A Medical Officer will have at least two consecutive days free from any duty in each 28 day cycle.
- 20.17 Where practicable, a Medical Officer will have every second weekend free from all duty.
- 20.18 A Medical Officer will have 2 days free from any duty following the end of night shift duties to ensure adequate rest time and to minimise sleep deprivation which occurs on night shift. Where operationally possible the number of days free from ordinary duty should equal the number of consecutive night shifts worked.
- 20.19 For the purposes of this clause a day is defined as each of the periods, reckoned from one midnight to the next, into which a week, month or year is divided, and corresponding to a rotation of the earth on its axis.

## **21. ACCRUED DAY OFF (ADO) FOR MEDICAL OFFICERS**

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- 21.1 A full-time Medical Officer who works a 40 hour week, accrues 2 hours every week to go towards an ADO. That is for every 8 hour shift 0.4 hours will accumulate towards an ADO.
- 21.2 ADOs shall be granted in multiples of one day for periods ranging from one day up to 2 weeks subject to agreement between the employee and the supervisor/manager. Where an employee cannot agree with the Directorate for the taking of an ADO the employee may be directed to take an ADO provided at least 2 weeks' notice is given by the Directorate.

- 21.3 For each day or shift a Medical Officer is absent on annual leave, paid personal leave or compassionate leave, those leave credits will be reduced by the number of ordinary hours that the Medical Officer would have worked on that day or shift (including time accrued for the ADO). Each day or shift of paid leave taken during the cycle of shifts will therefore be regarded as a day worked for accrual purposes.
- 21.4 Accrual toward an ADO does not occur when an employee is on any other form of leave. ADOs will only be taken once the equivalent time has been accrued. ADOs will not be taken in advance.
- 21.5 An employee may bank a maximum of 13 ADOs.
- 21.6 An employee who is required to work on the employee's scheduled ADO will be given another day off instead at a time agreed between the employee and the employee's supervisor/manager.
- 21.7 Upon termination of employment, on promotion or appointment to a higher classification, or on changing from full-time to part-time hours, a Medical Officer shall be paid the monetary value of any untaken accrued days off, calculated at the person's ordinary time rate of pay as prescribed in Annex A – Classifications and Rates of Pay.
- 21.8 Refer to Clause 34 for provisions for employees to exchanging shifts.

## **22. MAKE-UP TIME – MEDICAL OFFICERS**

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- 22.1 The employer may authorise an employee to be absent from duty for a part of a rostered shift, and allow the time not worked on that occasion to be worked at a later time agreed between the employee and the employer. The employee will be required to work this make-up time as soon as practicable after the approved absence from duty.
- 22.2 A Medical Officer on shift work may perform the make-up time on any shift. Make-up time will not be counted as overtime. The penalty rate applicable to make-up time will be the penalty that would have been paid to the employee if the employee had worked his or her rostered shift as posted.
- 22.3 A Medical Officer not participating in shift work may perform the make-up time between 8.00am and 6.00pm, Monday to Friday. Make-up time will not be counted as over-time.
- 22.4 A make-up time arrangement should not be authorised if it would result in a reduction in services.
- 22.5 Each approved absence from duty under this clause will be recorded in the employee's attendance record, and will not count as time worked. Each related instance of make-up time will similarly be recorded in the employee's attendance record, and will be counted as ordinary time worked.
- 22.6 Make-up time arrangements may be withdrawn if the head of service forms the view that the arrangements have been used inappropriately.

## 23. CASUAL EMPLOYMENT ARRANGEMENTS

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### Minimum attendance

- 23.1 The minimum payment on each occasion when a casual employee is called for and attends for duty will be three hours, whether or not the casual employee is required to work for those three hours.
- 23.2 Notwithstanding subclause 22.1, where it is initiated by the casual Medical Officer and it is mutually agreed between a casual Medical Officer and the officer's supervisor to cease duty prior to the scheduled completion of a rostered shift, the casual Medical Officer shall not be entitled to payment for that portion of the shift not worked.

### Rate of Pay

- 23.3 A person engaged as a casual employee will be paid at the same hourly rate of remuneration as would be applicable to an employee performing the duties and hours of that role. In addition the casual employee will receive a loading instead of paid leave entitlements, other than long service leave, and instead of payment for public holidays on which the employee did not work.
- 23.4 The loading provided by subclause 23.3 will be calculated as percentage of the ordinary hourly rate of pay set out in Annex A to this Agreement for the employee's classification as follows:
- (a) 22.5% from the commencement of this agreement until 30 June 2015; and then
  - (b) 25% from 1 July 2015.

### Payment for Shift Work

- 23.5 A casual employee is eligible to receive payment of shift penalties in accordance with Clause 33 or Clause 35, as applicable.
- 23.6 The loading paid under subclause 23.4 is not taken into account in the calculation of shift work penalty payments.

### Overtime

- 23.7 An eligible casual employee may receive payment for overtime in accordance with Clause 36: Overtime for Medical Officers.
- 23.8 A casual employee is eligible for payment of overtime in respect of all hours worked in excess of eight hours, on any day or shift, except where the employee has been notified that he or she will be working on a longer shift, in which case hours in excess of the actual shift length will be paid for at overtime rates.
- 23.9 The loading paid under subclause 23.4 is not taken into account in the calculation of overtime payments.

### Overtime Meal Allowance

- 23.10 A casual employee is eligible to receive payment of overtime meal allowances in accordance with Clause 39: Overtime Meal Allowance.
- 23.11 The term 'meal break' does not require the employee to partake of a meal during the break period.

### Payment for Public holidays

- 23.12 A casual employee is not eligible for payment in respect of public holidays, unless the employee works on a public holiday.
- 23.13 Where an eligible casual employee does work on a public holiday, the casual employee is entitled to the appropriate shift penalties or overtime payments described in Clauses 33, 35 and 36.

### Leave

- 23.14 A casual employee is not eligible for paid leave other than long service leave.

## **24. HOURS OF WORK – SENIOR MEDICAL PRACTITIONERS**

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### Ordinary Hours of Work

- 24.1 Consistent with Part 2-2 Division 3 of the *Fair Work Act 2009*, Senior Medical Practitioners will work an average of 40 hours per week, made up of;
- (a) 38 hours per week; and
  - (b) Not less than two (2) reasonable additional hours per week.
- 24.2 A Senior Medical Practitioner will not be rostered on ordinary hours for more than an average of 40 hours per week, as determined in advance in accordance with this clause. It is acknowledged that in emergency and unforeseen circumstances Senior Medical Practitioners may be required to work extended hours.
- 24.3 Each Specialist and Senior Specialist will contribute agreed percentages of their work duty to teaching, clinical roles and administration responsibilities. Unless otherwise agreed in writing, 80% of a specialist or senior specialist's time will be spent on clinical work, and 20% on non-clinical work. In determining the specific percentage to apply to an individual or work area, consideration will be given to operational requirements, workload, teaching requirements and other relevant factors.
- 24.4 Percentages should be agreed on a local level.
- 24.5 Before it can be applied, any percentage must be agreed by all relevant parties (i.e. managers, affected Senior Medical Practitioners), and must recognise the need for flexibility to accommodate operational requirements.
- 24.6 Unless otherwise agreed, all work shall be undertaken at the employee's normal place of duty.

### Part-time Hours of Work

- 24.7 A part-time employee will work less than the ordinary weekly hours of work for a full-time employee.
- 24.8 Senior Medical Practitioners covered by this Agreement may with the approval of the head of service, in portions of 10% (or other percentage as agreed), engage in part-time employment by entering into a written part-time agreement. A 10% portion of a part-time agreement, for the purpose of this clause, will be one session per week. The part-time agreement must be agreed in writing between the Senior Medical Practitioner and the head of service.
- 24.9 Senior Medical Practitioners employed pursuant to a part-time agreement must be available to participate on the On-call roster to a reasonable degree.

### Span of Hours

- 24.10 The normal duties of a Senior Medical Practitioner means the clinical or other duties and responsibilities undertaken by the Senior Medical Practitioner and can be broken up in the following manner:
- (a) That fall between the hours of 8.00am and 6.00pm Monday to Friday; or
  - (b) For ten sessions per week; or
  - (c) For sessions as otherwise agreed; or
  - (d) Performed according to a regular part-time work agreement under Clause 68 of this Agreement.
- 24.11 If not otherwise agreed in writing, the default arrangement will be 2 sessions per day, 10 sessions per week, Monday to Friday.

### Flexible Working Arrangements

- 24.12 In order to provide more flexible working arrangements for Specialists and Senior Specialists, permission may be granted by the head of service for the Specialist or Senior Specialist to complete their normal duties over a period of no less than 4 days a week.
- 24.13 This permission will be subject to the operational requirements of the Directorate, at such times as are agreeable to the employer in accordance with agreed work ratios as agreed under subclause 24.3 of this Agreement. In accordance with Clause 12, permission must be obtained in advance for any form of outside employment undertaken as a result of such a reorganisation of work, including offsite private practice.
- 24.14 There will be no reduction in the normal duties of an employee whose working arrangements are amended under this provision. Absences during normal working hours will be made up by the employee at such times as are agreeable to the employer.
- 24.15 Any adjustments to the standard span of hours arrangements outlined at subclause 24.10 above will be agreed at the beginning of each year. Adjustments may be made to these arrangements with the agreement of the Directorate and the Specialist or Senior Specialist.

- 24.16 The Specialist or Senior Specialist will be required to record and account for his/her whereabouts for the periods identified as being present at work. To monitor this, the Directorate may utilise random diary checks and/or physical presence checks. Patient confidentiality of diary information will be taken into account in the use of diary checks.
- 24.17 Where a suspected breach of the agreement is identified, the head of service shall consult with the employee representative in the investigation of the suspected breach. Where a breach is confirmed, the head of service may cancel the arrangement and initiate disciplinary action against the employee concerned.
- 24.18 The head of service can, in extenuating circumstances and by advice in writing, suspend any arrangements approved under these provisions.

#### Meal Break

- 24.19 An employee will not be required to work for more than five hours without a break for a meal. The standard meal break will be of 30 minutes duration, except where locally agreed arrangements for a longer period are made.
- 24.20 The term 'meal break' does not require the employee to partake of a meal during the break period.
- 24.21 An employee who works up to six hours in a day may, with the agreement of the supervisor/manager, work up to six hours without a meal break to accommodate the employee's personal circumstances and work/life balance.

#### **25. RECORD KEEPING**

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- 25.1 The ACTPS will keep records relating to the employees' work, including records about attendance and pay, in accordance with the requirements of the *Fair Work Act* and the *Fair Work Regulations*.
- 25.2 Every Medical Officer will maintain an appropriate record (as specified by the employer) of duty performed including recording the time of commencing and ceasing duty for each day and the reason for any absence from duty. These records will be provided to the supervisor/manager where the supervisor/manager so requests.
- 25.3 Every Senior Medical Practitioner shall record the times of their attendance at work (whether ordinary duty or extra duty), and reasons for absence from duty during normal working times, in a form acceptable to the head of service. These records will be provided to the supervisor/manager where the supervisor/manager so requests.

#### **26. NOTICE OF TERMINATION**

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- 26.1 Where an employee's employment is to be terminated at the initiative of the employee, the employee will provide written notice of their resignation from the ACTPS to the head of service at least two weeks prior to the proposed date of resignation.
- 26.2 The period of notice in subclause 26.1 may be reduced by agreement in writing between the employee and the head of service.

## **PART 3: PAY AND CLASSIFICATIONS**

### **Section F – Rates of Pay and Allowances**

#### **27. PART-TIME EMPLOYMENT**

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27.1 Persons engaged on a part-time basis will receive, on a proportionate basis, equivalent pay and conditions to those of full time employees.

#### **28. PAY INCREASES**

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28.1 Employees will be paid in accordance with the employee's classification and rates of pay set out in Annex A to this Agreement.

28.2 Pay increases for all classifications set out in Annex A of this Agreement will apply as follows:

- (a) An increase in base pay of \$2090 or 2%, whichever is the greater, with effect from the first pay period on or after 1 July 2013. This increase will be paid no later than the second pay day following the commencement of this agreement, and any back pay will be paid as soon as reasonably possible; and
- (b) a 1.5% increase effective from the first pay period on or after 1 July 2014; and
- (c) a 1.5% increase effective from the first pay period on or after 1 April 2015; and
- (d) a 1.5% increase effective from the first pay period on or after 1 October 2015; and
- (e) a 1.5% increase effective from the first pay period on or after 1 April 2016; and
- (f) a 1.5% increase effective from the first pay period on or after 1 October 2016; and
- (g) a 1.5% increase effective from the first pay period on or after 1 April 2017.

28.3 A person who was an employee of the Directorate on 1 July 2013 and who separated from the ACTPS before the commencement of this Agreement, will be paid any difference between the relevant rate of pay under Annex A of this Agreement and the rate which the former employee was paid in the same classification on separation. Any monies paid to the employee by the Directorate on separation will be adjusted in the same manner as the rate of pay

28.4 A person who was an employee of the Directorate on 9 December 2014 and who separated from the ACTPS before the commencement of this Agreement and who was not otherwise eligible for backpay under subclause 28.3 will be eligible for payment consistent with the provisions of subclause 28.3.

#### **29. METHOD OF PAYMENT**

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29.1 Employees will be paid fortnightly in arrears and by electronic funds transfer into a financial institution of their choice.

- 29.2 The ACTPS commits to paying employees their ordinary fortnightly pay on the appropriate pay day. The ACTPS also commits to paying any shift penalties, overtime payments and higher duties allowance as soon as reasonably possible but not later than within two pay periods of the appropriate authorisation having been received by the relevant corporate area.
- 29.3 Claims for payment under the provisions of this agreement, including penalty, on-call and overtime payments will be submitted for approval within 3 weeks. Priority in processing claims will be given to those lodged in a timely fashion.
- 29.4 The ordinary fortnightly pay will be based on the following formula:
- $$\text{Fortnightly pay} = \text{annual rate of pay} \times \frac{12}{313}$$
- 29.5 A part-time employee will be paid pro-rata based on the employee's agreed ordinary hours.
- 29.6 An employee will, with the approval of the head of service, be advanced the pay due for any period of approved paid annual or long service leave. Advancement of pay will be subject to payroll processing timeframes. The approval of the head of service will not be unreasonably withheld.

### 30. **PAYROLL DEDUCTIONS FOR UNION FEES**

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- 30.1 Upon request by the union, the ACTPS will facilitate arrangements for payroll deductions for union fees. The ACTPS agrees that it will not impose any limitations or impediments to an employee utilising payroll deductions for union fees that do not apply to other regular payroll deductions, such as health insurance.

### 31. **PAY POINTS AND INCREMENTS**

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- 31.1 A person who is engaged by the ACTPS, or an employee who is promoted or is approved to perform the duties of a higher office, is entitled to be paid at the first pay point for the classification level.
- 31.2 Despite subclause 31.1, the head of the service may approve a person who is engaged by the ACTPS, or an employee who is promoted or approved to receive higher duties allowance, to be paid at a higher pay point within that classification level.
- 31.3 Increments apply to both an employee's permanent and higher duties classification. When an employee has completed twelve months higher duties within a 24-month period an increment will be paid and all further instances of higher duties will be paid at this level.
- 31.4 Previous service at a higher duties pay must be considered when determining a pay point should the employee be promoted to that classification, and will be used to determine the date at which increments fall due.
- 31.5 An employee is entitled, subject to there being no underperformance or discipline action undertaken in accordance with Section N: Workplace Values and Behaviours, to be paid an annual increment on and from the relevant anniversary of the date of commencement in the position for the employee concerned



- 31.6 Accelerated incremental advancement may occur as follows:
- (a) A person who is engaged by the ACTPS, or an employee who is promoted or approved to perform higher duties, may be paid at a higher pay point within that classification level.
  - (b) The head of service may approve the payment of additional accelerated increments to the employee:
    - (i) At the time annual incremental advancement is due i.e., at the time an employee is eligible for annual incremental advancement (either in the substantive or higher duties position),  
  
or
    - (ii) At any other time between periods of annual incremental advancement;  
  
subject to a maximum of two additional increments within the classification range being awarded to the employee in a 12-month period (excluding any additional increments awarded to the employee on commencement in the position in accordance with subclause 31.2).
  - (c) Where an employee is awarded additional accelerated increments over the 12-month period between the payments of annual increments in accordance with paragraph 31.6(b), the employee is still eligible for the payment of an annual increment, and the date of effect of the annual increment will remain unchanged.
- 31.7 In considering whether to approve payment at a higher pay point (as per subclause 31.1), or accelerated advancement (as per subclause 31.6), the head of service will take into account such factors as:

- (a) The employee's:
  - (i) Qualifications; and
  - (ii) Relevant work and personal experience; and
  - (iii) Current pay; and
  - (iv) Ability to make an immediate contribution; and
- (b) Difficulties in attracting and retaining suitable employees.

31.8 JMOs are not eligible for incremental advancement as described in sub clauses 31.6 and 31.7.

#### Increments for Part-time Employees

31.9 Subject to a satisfactory performance assessment, a part-time employee will be granted incremental advancement as follows:

- (a) Where the average hours of employment of the part-time employee are equivalent to 20 hours or more per week, incremental advancement shall occur on the same annual basis as for a full-time employee.
- (b) Where the average hours of employment of the part-time employee are less than 20 hours per week, incremental advancement shall not occur on an annual basis but on the basis of each 24 months of service.

#### Increments for Part-time Senior Medical Practitioners

31.10 Notwithstanding subclause 31.9, a Senior Medical Practitioner who works pursuant to a part-time agreement will progress to the next incremental step every 12 months from the date of the Senior Medical Practitioner's commencement of employment, provided the work performed by the Senior Medical Practitioner extraneous to the part-time agreement is commensurate with the experience of a full-time Senior Medical Practitioner and is acceptable to the head of service. This clause does not preclude accelerated progression.

### **32. HIGHER DUTIES ALLOWANCE**

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- 32.1 Higher Duties Allowance (HDA) is payable to an officer who is directed to temporarily perform the duties of a position with a higher classification.
- 32.2 An officer acting in a position with a maximum pay of an SRMO 1, for a period of one day or more, will be paid HDA for that period.
- 32.3 An officer acting in a position with a pay or maximum pay greater than the maximum pay of an SRMO 1 will be paid HDA for a period of five consecutive days or more. This payment will occur from day one, provided the total period of higher duties is five days or more.
- 32.4 Where the officer on temporary transfer is to perform the full duties of the higher position, HDA is calculated as the difference between the staff member's current pay and a point in the pay range of the higher position determined by the head of service in accordance with Clause 31.
- 32.5 Where the officer is performing only part of the duties of the higher position and the higher position is at least two levels above the officer's current substantive level, payment of partial HDA may be agreed between the supervisor/manager and the officer, prior to the commencement of the temporary transfer.
- 32.6 The rate of payment for partial HDA will be a point in the pay range(s) of the intervening level(s). The head of service's decision on the rate of payment of partial HDA will take into account the specified part of the duties of the higher position that the officer is to perform.
- 32.7 An officer receiving HDA is entitled to normal incremental progression for the officer's substantive position and any increment gained while performing HDA is maintained upon the officer ceasing the higher duties.
- 32.8 Previous higher duties service will be considered in determining the appropriate pay point for future periods of higher duties.

- 32.9 If a position is expected to be available for a period of six months or longer the position must be advertised in the Gazette.
- 32.10 If a position is expected to be available for a period of less than six months advertisement in the gazette is not required.
- 32.11 Periods of higher duties should not normally extend beyond twelve months. If after twelve months the position is nominally vacant it will be advertised unless there are exceptional circumstances.
- 32.12 Nothing in this clause will restrict casual or temporary employees performing duties of a higher office in accordance with the PSM Act and the PSM Standards.

### **33. PAYMENT FOR SHIFT WORKERS – MEDICAL OFFICERS**

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#### Payment of Shift Penalties

- 33.1 Any ordinary hours worked by a Medical Officer, as defined, between the following hours shall be paid at an ordinary time plus the appropriate penalty rate:
- (a) Hours worked between 6.00pm and midnight – Monday to Friday; 12.5%.
  - (b) Midnight and 8.00am; midnight Sunday to Midnight Friday; 25%.
  - (c) Midnight Friday and midnight Saturday; 50%.
  - (d) Midnight Saturday and midnight Sunday; 75%.
  - (e) Public holidays; 150%.
- 33.2 The additional payment prescribed by this clause will not be taken into account in the computation of overtime or in the determination of any allowance based upon pay. The additional payment will not be paid for any shift for which any other form of penalty payment is made under this Agreement, or under the provisions of the PSM Act or the PSM Standards under which the employee is employed.

#### Payment Whilst on Annual Leave

- 33.3 Additional payment for shift duty, as provided by this clause, is to be made in respect of any such duty that an employee would have performed had the employee not been on approved annual leave.

### **34. SHIFT EXCHANGE PROTOCOL – MEDICAL OFFICERS**

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- 34.1 The employer may authorise two employees to exchange shifts.
- 34.2 An exchange of shifts will not be authorised if it would result in the ACTPS incurring additional labour costs, or a reduction in services.
- 34.3 An exchange of shifts will be recorded in both employee's attendance records.

- 34.4 An employee will be paid the penalty rates applicable to the work he or she actually performs.
- 34.5 So far as practicable (and notwithstanding the voluntary nature of these arrangements), an exchange of shift should not result in an employee working an unreasonable pattern of working hours.
- 34.6 The foregoing arrangements will apply similarly in respect of an employee's participation in an on-call roster.
- 34.7 The shift exchange protocol may be withdrawn if the head of service forms the view that the arrangements have been used inappropriately.

### **35. PAYMENT FOR SHIFT WORKERS – SENIOR MEDICAL PRACTITIONERS**

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- 35.1 Shift penalty payments will apply to Specialists and Senior Specialists directed to work rosters.
- 35.2 Where practicable, the maximum shift length shall be 16 hours.
- 35.3 Shift penalties will be calculated using the appropriate base pay as per Annex A, including, for eligible employees, the 17.4% special allowance paid under subclause 43.3.
- 35.4 Penalty rates for Specialists and Senior Specialists are as follows:
- (a) 20% penalty will be paid for hours worked Monday to Friday 6pm to midnight;
  - (b) 50% penalty will be paid for hours worked on Saturdays;
  - (c) 100% penalty will be paid for hours worked on Sundays;
  - (d) 150% penalty will be paid for hours worked on public holidays.
- 35.5 Penalty payments will only be made upon submission to Payroll Services of completed timesheets signed and authorised by a manager nominated by the employer.
- 35.6 Rostering of shift work and the payment of penalties will only be approved when the shift work:
- (a) Is required by the Directorate; and
  - (b) relates to direct patient care.

### **36. OVERTIME FOR MEDICAL OFFICERS**

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- 36.1 An employee may be required or requested to work reasonable additional hours for duty at any time that the employee is required, subject to the payment for overtime in accordance with the conditions set out in this Clause, and the reasonable additional hours provisions of Section 62 of the FW Act.
- 36.2 All time worked by a Medical Officer, as defined, in excess of their ordinary hours specified in or agreed in accordance with Clause 18, and which does not accrue towards an ADO in accordance with Clause 21, will be paid as overtime.

36.3 Where a Medical Officer has been required to work during their meal break and they are not able to finish duty early on the same shift then they will be entitled to receive payment for overtime once the total ordinary work time for that shift has elapsed.

36.4 Overtime will be paid at the rate of time and one half for the first 2 hours, and double time for the remaining hours worked, provided that all overtime performed on a Sunday shall be at double time, unless time off in lieu is agreed in accordance with Clause 37.

### **37. TIME OFF IN LIEU OF PAYMENT FOR OVERTIME – MEDICAL OFFICERS**

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37.1 Where agreed between the manager/supervisor and the employee, the employee will be granted time off instead of overtime.

37.2 TOIL is to be taken at a time agreed between the manager/supervisor and the employee.

37.3 In order to prevent the accumulation of excessive time and to facilitate the effective delivery of services, TOIL should be granted as soon as practicable after the overtime has been worked.

37.4 TOIL may be accrued to allow an employee to be absent for a whole day or shift. TOIL may be taken in association with other rostered days off.

37.5 Each instance of TOIL will be recorded in the employee's attendance records. A claim for overtime will not be submitted in any case where TOIL is authorised.

37.6 TOIL is granted on an hour-for-hour basis.

### **38. PAYMENT FOR AN EMPLOYEE ROSTERED OFF ON A PUBLIC HOLIDAY – MEDICAL OFFICERS**

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38.1 Where an employee is:

- (a) Normally to perform regular rostered work on a particular day of the week; and
- (b) Is scheduled to be on a rostered day off on this particular day; and
- (c) The particular day is a public holiday,

the employee will be granted a day's leave in lieu of a public holiday which occurs on a day on which that employee is rostered off duty.

38.2 The day in lieu provided for in subclause 38.1 must be granted within one month after the holiday, if practicable.

38.3 Where it is not practicable to grant a day's leave in lieu in accordance with subclause 38.1, the employee will be paid one day's pay at the ordinary hourly rate.

### **39. OVERTIME MEAL ALLOWANCE**

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39.1 A Medical Officer who works authorised overtime and was not notified on or prior to his/her previous shift of the requirement to work such overtime shall be either supplied with a meal by the employer or paid in addition to payment for such overtime the relevant rate of allowance as outlined at Item 10 of Annex D:

- (a) The rate specified for breakfast when commencing such overtime work at or before 6.00am;
- (b) The rate for an evening meal when such overtime is worked for at least one hour immediately following the employee's normal ceasing time, exclusive of any meal break and extends beyond or is worked wholly after 7.00pm;
- (c) The rate for luncheon when such overtime extends beyond 2.00pm on Saturdays, Sundays or holidays.

### Meal Tickets

39.2 In lieu of the allowances paid under subclause 39.1, meal tickets, redeemable at the Staff Cafeteria against any purchase to the value of the meal tickets, are available for Medical Officers undertaking work in accordance with subclause 39.1.

## **40. REST RELIEF AFTER OVERTIME**

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40.1 In this Clause employee refers to employees other than casual employees.

40.2 Unless the head of service directs an employee to report for duty earlier, the employee must have a continuous period of nine hours off duty between ceasing overtime duty following normal duty one day, and commencing normal daily hours of work the following day.

40.3 An employee is entitled to be absent from duty, without loss of pay, until the employee has been off duty for a continuous period of nine hours, including travel time.

40.4 If an employee is required by the head of service to return to duty without having had nine consecutive hours off duty, including travelling time, the employee must:

- (a) Be paid at double the ordinary hourly rate of pay rate until the employee is released from duty for that period; and
- (b) The employee will then be entitled to be absent until the employee has had nine consecutive hours off duty including travelling time, without loss of pay for any ordinary working time occurring during that absence.

## **41. PAYMENT FOR PUBLIC HOLIDAY DUTY**

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41.1 An employee who is not a shift worker and who works on a public holiday for a period that is:

- (a) Not in excess of the employee's ordinary weekly hours; and
- (b) Not outside of the employee's limit of daily hours; and
- (c) Not in excess of the employee's ordinary daily hours,

will be entitled to an additional payment of 150% of the employee's ordinary hourly rate of pay.

## **42. ON-CALL AND RECALL ARRANGEMENTS – MEDICAL OFFICERS**

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- 42.1 An on-call period is a period during which a Medical Officer is required by the Directorate to be on-call.
- 42.2 No Medical Officer will be required to remain on-call while on leave.
- 42.3 For the purposes of calculation of payment of on-call allowances and for recall, an on-call period shall not exceed 24 hours.
- 42.4 A Medical Officer shall be paid for each on-call period which coincides with a day rostered on duty an allowance equal to the rate of the first hour of overtime. The on-call rate shall, upon recall, be subsumed into the payment made for the initial recall period. The on-call allowance will only be paid once during a 24 hour period.
- 42.5 A Medical Officer who is recalled for duty shall be paid for all time worked at the appropriate overtime rate, with a minimum of four hours pay at such rates. If a Medical Officer is recalled on more than one occasion during the recall period for which he or she is paid, the Medical Officer will not be entitled to further payment until the expiration of the four hour payment period.
- 42.6 The amounts specified in subclause 42.4 will be taken to include expenses incurred in being available for on-call and recall duty including taking telephone calls. The total recall overtime claim cannot total more than the on-call period.

## **43. ON-CALL AND RECALL ARRANGEMENTS – SENIOR MEDICAL PRACTITIONERS**

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- 43.1 It is acknowledged and recognised that Senior Medical Practitioners are required to be available for reasonable on-call and recall outside of their normal duties.
- 43.2 Subject to operational requirements or agreement between the parties, a part-time employee will only be required to participate in an on-call roster on a pro-rata basis. An employee working part-time following a period of leave in accordance with clause 70 will only be required to work on-call in the same ratio as their part-time hours.
- 43.3 A Senior Medical Practitioner who is regularly required by the employer to be on-call and/or available for recall outside his or her ordinary hours of duty will be entitled to be paid an annual allowance at the rate of 17.4% of their annual pay specified at Annex A of this Agreement.
- 43.4 Where an employee does not contribute to the on-call roster on a full-time basis (regardless of whether they are a full-time or part-time employee), the allowance paid under subclause 43.3 will be calculated on a pro-rata basis, reflecting the extent of their contribution to the roster in their work area. The maximum pro-rata for this purpose is 100% of a full-time commitment.
- 43.5 Where there is a dispute between the employer and a Senior Medical Practitioner over the incidence of the requirement to be on-call and/or available for recall outside the normal hours of work and whether that requirement is deemed by subclauses 43.3 and 43.4 of this Agreement to be regular, the matter will be referred to the parties for discussion. If no agreement is then reached between the parties, the matter may be referred in accordance with the disputes avoidance/settlement procedure set out in Clause 125 of this Agreement.

## Review of Provisions

- 43.6 The structure of this allowance, and the associated provisions in Clause 44, will be reviewed during the life of the agreement to consider options to more directly link the level of obligation with the level of allowance.

## 44. **ONEROUS HOURS AND RECALL ARRANGEMENTS – SENIOR MEDICAL PRACTITIONERS**

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- 44.1 The parties agree that some Senior Medical Practitioners may be required to work in excess of normal duties, and reasonable on-call and/or recall.

- 44.2 Where a Senior Medical Practitioner is required to work in excess of normal duties and reasonable on-call and/or recall to provide patient care, the relevant head of service, in conjunction with the affected Senior Medical Practitioner, will review the work pattern of the Senior Medical Practitioner to reduce the number of hours.

- 44.3 The review will attempt to reduce the number of hours worked by the Senior Medical Practitioner to conform with subclause 24 and the reduction may be achieved by means of time in lieu consistent with the provisions of clause 45, or other variations in normal duties as agreed between the Senior Medical Practitioner and the head of service.

- 44.4 In the first instance every effort should be made to reduce the number of hours. However, in those exceptional circumstances where the hours worked by the Senior Medical Practitioner cannot be reduced in accordance with subclause 44.2 and this work:

- (a) Is required by the Directorate, and
- (b) Relates to patient care, and
- (c) Occurs in accordance with subclause 44.5,

the hours may be determined to be onerous and an additional payment may be authorised by the head of service.

- 44.5 Subclause 44.4 above only applies when a Senior Medical Practitioner is regularly required by the head of service to work onerous hours over a six month period. In these circumstances, an allowance of up to 5% of the Senior Medical Practitioner's annual pay specified at Annex A of this Agreement may be authorised. Any such payment will be subject to review every six months. The review should again attempt to reduce the number of hours worked by the Senior Medical Practitioner to conform with subclause 44.1.

Provided that, it will not be necessary for six months to pass before payment of this allowance commences, where the employee's supervisor certifies that:

- (a) Onerous hours are being worked;
- (b) Efforts to reduce the employee's hours are not currently practicable; and
- (c) It may be reasonably foreseen that onerous hours will continue to be worked for a period of no less than six months.



- 44.6 Where the six monthly review identifies an exceptionally high level of onerous hours that cannot be reduced, the head of service may approve payment of an allowance of up to 10% of the Senior Medical Practitioner's annual pay specified at Annex A of this Agreement.
- 44.7 Payment of an allowance greater than 5% will require a detailed examination and report on all relevant matters, in accordance with Annex B to this Agreement.
- 44.8 Payments under subclauses 44.5 and 44.6 will be limited to six months from the date of first authorisation. Where a review demonstrates that the conditions for the original authorisation of the allowance persist, the allowance may be authorised for a further six months.
- 44.9 The payments provided under subclauses 44.5 and 44.6 shall not be paid to more than 10% of the Senior Medical Practitioners employed by the Directorate. It is understood that the 10% figure may be inappropriate for a work unit where a work unit employs only a small number of Senior Medical Practitioners.
- 44.10 The payments provided under subclauses 44.5 and 44.6 above shall not count as pay for the purposes of calculating any employee entitlement, including superannuation.

**45. TIME OFF IN LIEU – SENIOR MEDICAL PRACTITIONERS**

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- 45.1 Time off in lieu (TOIL) provided for under subclause 44.3 is to be taken at a time agreed between the Clinical Unit Head and the affected Senior Medical Practitioner.
- 45.2 In order to prevent the accumulation of excessive time in lieu and to facilitate the effective delivery of services, TOIL should be taken as soon as practicable after it is accrued.
- 45.3 TOIL may be accrued to allow an employee to be absent for a whole day or shift. TOIL may be taken in association with other rostered days off.
- 45.4 Each instance of TOIL will be recorded in the employee's attendance records.

**46. MATURE AGE PAYMENT**

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- 46.1 Where the head of service considers that an employee has the knowledge, skills and experience that are essential for the ACTPS to retain, the head of service may approve additional remuneration benefits instead of employer superannuation contributions being made for any of the following:
- (a) an employee who is seventy years or older and Commonwealth legislation precludes the payment of employer superannuation contributions for that employee; or
  - (b) an employee who is seventy years or older and whose preferred choice of fund rules precludes the payment of employer superannuation contributions; or
  - (c) an employee is aged between sixty five and seventy years and the employee does not meet the work test (as defined by relevant superannuation legislation and rules).
- 46.2 Where Commonwealth legislation or choice of fund rules change to allow employer superannuation contributions to be made, the mature age payment will cease and

superannuation contributions will re-commence. It is the responsibility of the employee to promptly request their manager/supervisor to seek to cease the mature age payment and to arrange to resume employer superannuation contributions for funds of choice.

46.3 The date of effect for resumption of employer superannuation contributions under subclause 46.2 will be from the next available pay day after the mature age payment ceases.

#### **47. RIGHTS OF PRIVATE PRACTICE ARRANGEMENTS FOR SPECIALIST AND SENIOR SPECIALISTS**

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47.1 The Directorate, all Specialists and Senior Specialists will ensure that every effort is made to bill private patients. The employer will provide appropriate support to maximise billing.

47.2 New Specialists and Senior Specialists must elect to commence on one of either Scheme A, B or C as outlined at subclause 47.4 below. Specialists and Senior Specialists should only remain on Scheme A where the nature of their discipline or agreed work arrangements make it difficult to bill private patients.

47.3 Specialists and Senior Specialists may move between schemes only with the agreement of the head of service, and subject to an assessment of the billing undertaken by the employee. Where this decision comes into dispute, an independent committee comprising one union nominee, one management nominee and an agreed third person, will be established to review the decision. This will be the only avenue of dispute resolution in these circumstances.

47.4 The available schemes are:

(a) Scheme A – staff specialist receives 100% of base pay (prorated for part-time) plus 20% allowance in lieu calculated on base pay plus applicable allowances. Earnings up to equivalent of 10% of pay incur 100% facility fee. Earnings greater than 10% and up to 30% of pay to be split into 50% facility fee and 50% bonus. Earnings greater than 30% incur 100% facility fee;

(b) Scheme B – staff specialist receives 100% of base pay (prorated for part-time) plus up to 50% of pay as a bonus on earnings from private practice billings. A facility fee calculated in accordance with Annex F is deducted before bonus payments are made to the staff specialist;

(c) Scheme C – staff specialist receives 75% of base pay (prorated for part-time), plus up to 133.33% of pay as a bonus on earnings from private practice billings. A facility fee calculated in accordance with Annex F is deducted before bonus payments are made to the staff specialist.

(d) Retention of Pathology Scheme;

(e) Retention of Radiology Scheme.

#### **Review of Facility Fees**

47.5 A review of facility fees currently charged in relation to rights of private practice will be undertaken during the life of the agreement, in accordance with Terms of Reference to be agreed.

- 47.6 The facility fees set down in Schedule F may be amended during the life of the agreement to reflect the agreed findings of that review.
- 47.7 All interested parties will be invited to participate in the review, and the agreement of the unions under subclause 47.6 will be required for the review's findings to be implemented.

48. **DAYLIGHT SAVINGS ARRANGEMENTS**

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- 48.1 During the changes from Australian Eastern Standard Time to Australian Eastern Daylight Time, employees will be paid according to the clock, with the exception of casual employment arrangements under Clause 23 and overtime arrangements under Section 36 which will be paid according to the hours actually worked. This means that at the beginning of daylight saving employees working an overnight shift will work one hour less but will be paid for the full shift, and when daylight saving ends employees will work for an extra hour but will be paid according to the clock.

## Section G – Pay Related Matters

### 49. SALARY SACRIFICE ARRANGEMENTS

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- 49.1 Voluntary access to salary sacrifice arrangements will be made available to employees in accordance with policies and guidelines issued by the Commissioner for Public Administration from time to time.
- 49.2 The employee will meet all costs incurred as a result of the salary sacrifice arrangements under these provisions.
- 49.3 The employee's pay for superannuation purposes and severance and termination payments will be the gross pay that the employee would receive if the employee were not taking part in salary sacrifice arrangements.
- 49.4 Changes to salary sacrifice arrangements, including taxation changes, will not be a cause for further claims against the ACTPS.
- 49.5 The head of service will continue to provide appropriate information to employees concerning salary sacrifice arrangements.

### 50. ATTRACTION AND RETENTION INCENTIVES

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- 50.1 In some special circumstances it may be necessary for the head of service to determine that an employee or group of employees who are covered by this Agreement and who occupy certain positions should be provided with attraction and retention incentives that may differ from some of the terms and conditions under this Agreement.
- 50.2 The framework under which attraction and retention incentives may apply during the life of this Agreement is set out in **Annex C** to this Agreement.

### 51. CLASSIFICATION/WORK VALUE REVIEW

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- 51.1 An employee, or a group of employees, or the union(s) or other employee representatives, may present a case to request the head of the service to undertake a classification/work value review of a position or group of positions.
- 51.2 Where the head of service agrees to such a request the head of service will undertake the review in consultation with the employee(s) and the union(s) or other employee representatives.
- 51.3 Where agreement cannot be reached on the need to conduct the review then the disagreement may be resolved in accordance with the dispute resolution procedure.
- 51.4 Any classification/work value review will take into account market and other relevant comparators, including comparators that are considered pertinent to the skills, competencies and general responsibilities required of the position(s).
- 51.5 These provisions do not affect the right of the head of service to undertake a classification/work value review at the initiative of the head of service.

## **52. SUPPORTED WAGE SYSTEM**

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- 52.1 Employees who are assessed as eligible to receive a supported wage under subclause 52.2 are to be paid the percentage of pay that corresponds to the employee's assessed productive capacity and the class of work which the person is performing, provided that the minimum amount payable is not to be less than 10% of the second adult paypoint of the ASO 1 pay range, as set out in the ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013-2017, per week.
- 52.2 The ACTPS will arrange for an assessment of the productive capacity of an employee in accordance with the processes contained in the National Minimum Wage Order issued annually by FWC, except that the minimum rate payable will be as set out in clause 52.1.

## **53. OVERPAYMENTS**

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- 53.1 An overpayment is any payment in respect of pay, allowance or leave, whether the overpayment is by accident or otherwise, to which the employee is not entitled.
- 53.2 In the event that an employee has received an overpayment, the ACTPS will recover the overpayment in accordance with this clause.
- 53.3 Where an overpayment has occurred, the head of service will advise the employee in writing, as soon as practicable, of the:
- (a) Pay period(s) in which the overpayment occurred; and
  - (b) Nature of the overpayment; and
  - (c) Gross and net components of the overpayment; and
  - (d) Process for recovery of the overpayment; and
  - (e) Proposed recovery date.
- 53.4 The head of service and the employee will agree on a reasonable recovery rate having regard for all of the circumstances prior to any recovery being made. Where agreement cannot be reached subclause 53.7 will apply.
- 53.5 Any such agreement may include recovery of the overpayment by the ACTPS:
- (a) As a lump sum; or
  - (b) By payroll reduction from pay.
- 53.6 In respect to recovery action it may be agreed with the employee to adjust their leave credits instead of, or in combination with, a cash recovery.
- 53.7 Where the head of service and the employee cannot agree a reasonable recovery rate, the overpayment will be recovered at the rate of up to 10% of the employee's gross fortnightly pay, or such other rate determined by the relevant head of service having regard for all of the circumstances.

- 53.8 Despite subclauses 53.4 and 53.7, the recovery period will not usually exceed twenty six pay periods.
- 53.9 Despite subclauses 53.4 and 53.7, where an employee has applied for leave without pay or leave at reduced pay with insufficient notice to allow pay adjustments to occur during the period of leave, the salary adjustment will be made to the next available pay, unless there are extenuating circumstances, and the employee will be notified of such an adjustment.
- 53.10 Any outstanding money owing to the ACTPS when an employee ceases employment is to be recovered by deduction from any final entitlements payable to the employee.
- 53.11 If a debt still exists further debt recovery action is to be taken unless the head of service :
- (a) Directs the recovery be waived, in part or in full, based on evidence provided by the employee of exceptional circumstance or that such recovery would cause undue hardship; or
  - (b) Determines that an overpayment is not recoverable.
- 53.12 Where the head of service determines that an overpayment is not recoverable, the provisions of the relevant Directorate's Financial Instructions, relating to the waiver and write off of monies, will apply.

#### **54. UNDERPAYMENTS**

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- 54.1 Where the head of service agrees that an employee has been underpaid on the employee's base rate of pay, and the employee requests, an offline payment for the amount owing will be made to the employee within three working days of the head of service receiving the request.
- 54.2 Where a shift penalty, overtime payment or higher duties allowance is not made within two pay periods of the appropriate authorisation having been received by the relevant corporate area, and the employee requests, an offline payment for the amount owing will be made to the employee within three working days of the head of service receiving the request.

## **Section H – Allowances**

### **55. ADJUSTMENT OF ALLOWANCES**

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- 55.1 Allowances provided for in this Agreement are set out in this section and Annex D.
- 55.2 Except as provided in the relevant clause, the rates for all allowances provided for in this Agreement will be adjusted by the rate of increases in pay in accordance with subclause 28.2, except in Year 1 when the increase will be 2% payable on the first pay period on or after 1 July 2013.
- 55.3 Part-time and casual employees who satisfy the requirements for payment of an expense-related allowance will receive the full amount of allowance or payment prescribed in this section or Annex D.
- 55.4 Part-time and casual employees who satisfy the requirements for payment of a non-expense related allowance under this Agreement will receive the allowance on a proportional basis.
- 55.5 Allowances payable to casual employees under this Agreement are not subject to the loading prescribed in Clause 23.

### **56. HIGHER MEDICAL QUALIFICATION ALLOWANCE – MEDICAL OFFICER**

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- 56.1 A Registrar (not including junior registrar) who holds a higher medical qualification shall be paid the allowance specified in Item 1 of Annex D.
- 56.2 A Career Medical Officer Grade 1 who holds a higher medical qualification shall be paid the allowance specified in Item 2 of Annex D.
- 56.3 Where a Registrar or Career Medical Officer Grade 1 is undertaking the fifth or subsequent year of training towards a higher medical qualification, and the employee is expected to meet the formal requirements of the higher medical qualification in that calendar year, the employee will be paid half the allowance specified in Item 1 of Annex D.

### **57. AFTER-HOURS RESPONSIBILITY ALLOWANCE – MEDICAL OFFICERS**

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- 57.1 From the date of commencement of this Agreement, a Career Medical Officer who is directed to take charge of an after-hours medical service will be paid the allowance specified in Item 3 of Annex D.
- 57.2 A Medical Officer (other than a Career Medical Officer) who is directed to take charge of an after-hours medical service will be paid the allowance specified in Item 4 of Annex D.

### **58. MANAGEMENT ALLOWANCE – SENIOR MEDICAL PRACTITIONERS**

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- 58.1 It is an expectation that a certain level of management responsibility is an essential part of the duties of a Senior Medical Practitioner.
- 58.2 In addition to the rates of pay set out in Annex A of this Agreement, a Senior Medical Practitioner required by the head of service to undertake additional responsibilities specifically associated with the management of a clinical unit, department or service (as set out from time

to time in the “Statement of Duties – Clinical Unit heads”) shall be paid an additional allowance as provided for in this clause.

58.3 In assessing eligibility for the allowance, a Senior Medical Practitioner’s additional responsibilities will be assessed against the following criteria:

Criterion A. Direct responsibility for a clinical unit, department or service and involvement in a number, but not necessarily all, of the following:

- Cost centre management including:
  - budget preparation
  - management of allocated budget.
- Participation in planning and policy development.
- Responsibility for the co-ordination of:
  - research
  - training and/or
  - teaching programs.
- Membership and participation in senior executive management teams.
- Ensuring that quality improvement and clinical governance activities are implemented.

Criterion B. As a minimum, perform Human Resource Management responsibilities which include but are not restricted to:

- Direct supervision of staff (including other staff specialists, Career Medical Officers and Junior Medical Officers)
- Allocation of duties
- Approval of staff rosters
- Implementation of performance agreements in respect of supervised staff
- Monitoring of hours worked

Criterion C. In the assessment of the head of service, significant additional managerial responsibilities involving multiple units, services or departments e.g. the position of Chief Psychiatrist.

Criterion D. A level of managerial responsibility deemed by the head of service to require an allowance e.g. the position of Chief Health Officer.

The level of allowance is detailed at Annex D. Eligibility is determined in accordance with the following table:

<b>Level of Allowance</b>	<b>Criteria to be Met</b>
Level 1 (item 5 in Annex D)	B
Level 2 (Item 6 in Annex D)	B and C
Level 3 (item 7 in Annex D)	C and D and may involve B



- 58.4 Managerial allowances:
- (a) are not cumulative;
  - (b) are only payable for the period in which the Senior Medical Practitioner has been allocated the additional managerial responsibilities;
  - (c) are payable during paid leave and count as pay for superannuation; and
  - (d) shall be taken to be an allowance in the nature of pay.
- 58.5 The employer may direct a Senior Medical Practitioner, as a condition of receiving the allowance, to attend training intended to support & improve management skills and competencies.
- 58.6 Managerial allowances in place at the commencement of the Agreement will be subject to review to ensure consistency with this Clause. Where the review determines that managerial allowance should be reduced or removed, such a change will not take effect until 3 months after the review, unless the employee moves from the position for which the allowance was originally determined.

**59. CAPITAL REGION RETRIEVAL SERVICE ALLOWANCE – SPECIALISTS AND SENIOR SPECIALISTS**

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- 59.1 Remuneration arrangements for Specialists or Senior Specialists directed by the head of service to undertake clinical direction and supervision on the Capital Region Retrieval Service (CRRS) will be developed and introduced during the life of the agreement to take account of operational and legislative changes. In the interim, existing arrangements provided under SEA/ARIn(s) will remain in force.
- 59.2 Any new arrangements will initially be implemented administratively, and incorporated in the next enterprise agreement.

**60. MOBILE PHONE EXPENSE ALLOWANCE**

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- 60.1 The head of service may approve payment to a Medical Officer or Senior Medical Practitioner of an allowance towards meeting the costs of a private mobile phone to be used for work purposes.
- 60.2 Only those employees who are eligible for and receiving payment of an on-call allowance are eligible for this allowance.
- 60.3 The allowance is not available to employees who are provided with a mobile phone by the Directorate.
- 60.4 Eligible employees will be paid an allowance of \$36.80 per fortnight.
- 60.5 The rate of allowance will be reviewed on an annual basis.
- 60.6 This allowance is an expense-related allowance.

## 61. **MOTOR VEHICLE ALLOWANCE**

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- 61.1 The head of service may authorise an employee to use a motor vehicle they own or hire:
- For official purposes, where the head of service is satisfied this use would:
    - (i) result in greater efficiency; or
    - (ii) involve the ACT Government in less expense than if public transport or a vehicle owned by the ACT Government were used.
  - For specified journeys, where the head of service is satisfied that:
    - (i) the use will not result in the employee taking more time on the journey than they would otherwise take; or
    - (ii) it would not be contrary to the interest of the ACT Government.
  - Travel between normal headquarters and a temporary work station, or between the employee's home and a temporary work station, where the head of service is satisfied that:
    - (i) there is no public transport available for travel to the temporary station; or
    - (ii) although public transport is available, the work program makes its use impossible.
- 61.2 If an employee uses a motor vehicle in accordance with this clause they are entitled to be paid an allowance as set out in Item 11 of Annex D for each kilometre travelled.
- 61.3 If an employee satisfies the relevant head of service that the allowance is insufficient to meet the amount of the expenses reasonably incurred and paid by the employee in using a motor vehicle for official purposes, the head of service may grant an additional allowance equal to the amount by which those expenses exceed the amount of the allowance or allowances.
- 61.4 If, as a consequence of using a motor vehicle an employee is required to pay a higher insurance premium than would otherwise be the case, they are entitled to be reimbursed the additional cost.
- 61.5 Employees who use a private motor vehicle under the motor vehicle allowance conditions may be reimbursed parking fees, bridge and car-ferry tolls incurred whilst on duty, but not fines.

### Additional Rates of Motor Vehicle Allowance

- 61.6 Where an employee who is being paid a motor vehicle allowance, uses the motor vehicle to suit the convenience of the Directorate to:
- (a) transport a person or persons the cost of which would otherwise be borne by the ACT Government; or
  - (b) transport equipment, tools or materials weighing more than 100 kilograms belonging to or hired by the ACT Government; or
  - (c) haul a caravan or trailer belonging to or hired by the ACT Government;

the employee is entitled to be paid an allowance, in addition to the allowance payable above, as set out in Item 12 of Annex D for each kilometre travelled.

61.7 This allowance is not payable during any type of paid or unpaid leave.

## Section I – Relocation Support

### 62. RELOCATION SUBSIDY REIMBURSEMENT

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- 62.1 The purpose of this reimbursement is to provide financial assistance to employees recruited from interstate or overseas with the reasonable costs of relocation.
- 62.2 The head of service will inform prospective employees of the relevant ceiling limit prior to the prospective employee's relocation
- 62.3 Valid receipts must be provided in support of any claim for reimbursement.
- 62.4 For the purpose of this clause, dependant does not require actual financial dependency and includes members of the prospective employee's immediate household including a domestic partner, parent, parent of a domestic partner, brother, sister, guardian, foster parent, step-parent, step-brother, step-sister, half-brother, half-sister, child, foster child or step-child residing with the employee at the time the offer is made.
- 62.5 The head of service may approve payment in excess of the approved amount or ceiling in exceptional circumstances.

#### Specialists and Senior Specialists

- 62.6 If a person relocates because of an appointment as a Specialist or Senior Specialist, relocation allowance is available in accordance with Determinations issued from time to time by the ACT Remuneration tribunal in relation to Executives in the ACT Public Service.
- 62.7 The allowance is not available for short-term temporary engagements, or to existing ACTPS staff who are promoted to this level.
- 62.8 In the event that a Specialist or Senior Specialist terminates the employee's employment with the Directorate within twenty-four months of the date of appointment and does not commence employment with another ACTPS Directorate within one month, they may be required by the head of service to repay:
- (a) in the case the Specialist or Senior Specialist terminates employment within twelve months from the date of appointment – 100% of the relocation payment; or
  - (b) in the case the Specialist or Senior Specialist terminates employment more than twelve months and less than twenty-four months from the date of appointment – 50% of the relocation payment.

#### Career Medical Officers

- 62.9 The section applies to employees recruited from interstate or overseas who are engaged on a permanent basis in positions classified as Career Medical Officers. It has no application to staff employed in any other classification.

62.10 The head of service may approve a reimbursement payment to a prospective employee as the head of service considers is reasonable in the prospective employee's circumstances. The relevant pre-determined ceiling is set out in the following table:

Single with no dependants	\$12,000
Additional payment per dependant (first six dependants)	\$ 2,000
Additional payment per dependant (seventh and further dependants).	\$ 1,750

62.11 In order for a prospective employee to be reimbursed costs, valid receipts must be provided.

62.12 In the event that the employee terminates their employment with the Directorate within eighteen months of the date of appointment and does not commence employment with another ACTPS Directorate within one month, the employee may be required by the head of service to repay:

- (a) in the case the employee terminates employment within twelve months from the date of appointment – 100% of the relocation reimbursement; or
- (b) in the case the employee terminates employment more than twelve months and less than twenty-four months from the date of appointment – 50% of the relocation reimbursement.

62.13 Junior Medical Officers and Post Graduate Fellows, Interns, Resident Medical Officers, Junior Registrars, Senior Resident Medical Officers, Registrars, Senior Registrars and Postgraduate Fellows who have had to relocate to work in the ACT are eligible to apply for reimbursement in accordance with the Relocation Subsidy Reimbursement for Junior Medical Officers Policy. All applications will be reviewed on an individual basis.

62.14 Staff on secondment from other jurisdictions are not eligible for payment under this clause.

62.15 If the employee terminates their employment with the Health Directorate prior to the end of their initial contract, the employee may be required by the head of service to repay:

- (a) In the case the employee terminates employment within six months from the date of appointment – 100% of the relocation payment; or
- (b) In the case the employee terminates employment more than six months but less than 12 months from the date of appointment – 50% of the relocation payment.

**63. SHORT TERM SECONDMENT**

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- 63.1 JMOs who are required to relocate in order to undertake a short term secondment/rotation to a medical facility outside of the ACT will be eligible for the following assistance, which will be provided by the secondment facility:
- (a) Provision of accommodation at the secondment location;
  - (b) Reimbursement of the reasonable cost of travel from the ACT to the location of the medical facility at the commencement of the secondment/rotation
  - (c) Reimbursement of the reasonable cost of return travel to the ACT at the conclusion of the secondment/rotation
  - (d) Reimbursement of the reasonable cost of a single return journey to the ACT during the course of the secondment/rotation.
- 63.2 For the duration of the secondment/rotation, the JMO shall be eligible to be paid an allowance of 10% of their base pay (pro-rata for part-time employees) for the duration of the secondment/rotation. This allowance will be treated as salary for all purposes.
- 63.3 The Directorate will only allow secondments to occur where these provisions are provided.
- 63.4 For the purposes of this Clause the Directorate includes Calvary Health Care ACT Ltd.

## **PART 4: WORK AND LIFE BALANCE**

### **Section J – Flexible Working Arrangements and Employee Support**

#### **64. WORK-LIFE BALANCE**

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- 64.1 The ACTPS is committed to the concept of work and life balance and recognises the importance of employees balancing work and personal life.
- 64.2 All employees have commitments outside the workplace. These commitments may relate to family, to the community and to general health and wellbeing. Given the diverse nature of the workforce in the ACT Public Service, it is recognised that employees have different needs at different times.
- 64.3 The ACTPS recognises the need to provide sufficient support and flexibility at the workplace to assist employees in achieving work and life balance. While family friendly initiatives are important aspects of work and life balance, it is also important that all employees, at all stages in the employees' working lives, are supported through this Agreement.

#### **65. REQUEST FOR FLEXIBLE WORKING ARRANGEMENTS**

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- 65.1 In addition to the circumstances provided at clauses 65.2 and 66, an employee may apply as per subclause 65.3 to their manager/supervisor for flexible working arrangements to support their work and life balance. The manager/supervisor will respond to the employee's request as per subclauses 65.4 – 65.6.
- 65.2 Notwithstanding the entitlement under 65.1, an employee may request flexible working arrangements, in accordance with the FW Act, in the following circumstances. The employee:
- (a) has a parental or other caring responsibility for a child of school age or younger; or
  - (b) has a caring responsibility for an individual with a disability, a terminal or chronic medical condition, mental illness or is frail and aged; or
  - (c) has a disability; or
  - (d) is over the age of 55; or
  - (e) is experiencing domestic violence; or
  - (f) is providing personal care, support and assistance to a member of their immediate family or household because they are experiencing domestic violence.
- 65.3 The request by the employee must set out, in writing, the details of the change sought and the reasons for that change.
- 65.4 The manager/supervisor must respond to the request in writing within twenty-one days, providing the reasons for their decision.

- 65.5 The manager/supervisor will only deny an employee's request for variation to workplace arrangements provided under this Agreement where there are operational reasons for doing so.
- 65.6 Where a request is not approved the manager/supervisor will consult with the employee to determine mutually convenient alternative arrangements.

**66. EMPLOYEES WITH CARING RESPONSIBILITIES**

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- 66.1 Carers are employees who provide, in addition to the employees' normal family responsibilities, care and support on a regular basis to other family members or other persons who are sick or ageing, have an injury, have a physical or mental illness, or a disability.
- 66.2 Family members may include children, brothers or sisters, domestic partner, parents, grandparents and close relatives. In some cases, employees may be responsible for providing care to a neighbour or a friend who has no-one to assist with day-to-day care.
- 66.3 The ACTPS recognises that carer responsibilities vary considerably, depending on the level of care and assistance required and may be suddenly imposed, or may increase gradually. The ACTPS also recognises that, generally, employees are able to provide care and assistance outside normal working hours. However, there are times that employees are required to provide more support or assistance because of illness, injury or disability.
- 66.4 To assist employees in balancing work and carer responsibilities, and to clarify the entitlement at subclause 65.2(b), flexible working and leave arrangements are provided in this Agreement. Examples of these flexible working and leave arrangements include, but are not limited to:
- (a) Flexible starting and finishing times;
  - (b) Ability to take a few hours off work, and make it up later;
  - (c) Access to breast feeding facilities;
  - (d) Access to personal leave for caring purposes for members of immediate family or household;
  - (e) Home based work on a short or long term basis;
  - (f) Part-time work;
  - (g) Job sharing;
  - (h) Purchased leave;
  - (i) Annual leave;
  - (j) Long service leave;
  - (k) Leave without pay; and
  - (l) Leave not provided for elsewhere.



66.5 Access to the leave entitlements listed in subclause 66.4 are as provided for in this Agreement.

## **67. MANAGEMENT OF EXCESSIVE HOURS**

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67.1 The ACTPS recognises the importance of employees balancing work and personal life. The appropriate balance is a critical element in developing and maintaining healthy and productive workplaces. While it is acknowledged that peak workload periods may necessitate some extra hours being worked by some employees, this should be regarded as the exception rather than the rule.

67.2 Managers, supervisors and employees have a responsibility to minimise the extent to which excessive hours are worked. In the circumstances where work pressures result in the employee being required to work, or is likely to work, excessive hours over a significant period, the manager, supervisor and employee together must review workloads and priorities and determine appropriate strategies to address the situation. In doing so, the manager or supervisor will consider and implement one or more of the following strategies to reduce the amount of excessive hours being accumulated:

- (a) Review of workloads and priorities;
- (b) Re-allocation of resources;
- (c) Consideration of appropriate arrangements for time off in lieu or other recompense;
- (d) Review staffing levels and/or classifications within the work group.

67.3 The head of service will consult with the Directorate Consultative Committee about the development and implementation of appropriate strategies to deal with issues associated with both paid and unpaid overtime.

## **68. REGULAR PART-TIME EMPLOYMENT**

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68.1 A person may be employed in any classification as a part-time officer for an agreed number of regular hours that is less than the ordinary weekly hours specified in this Agreement for that relevant classification over a four-week period.

68.2 Proposals to reduce hours below full-time employment may be initiated by the head of service for operational reasons or by an officer for personal reasons.

68.3 Where an officer initiates a proposal the head of service will have regard to the personal reasons put by the officer in support of the proposal and to their business unit's operational requirements.

68.4 The head of service will obtain the written agreement of a full-time officer before the officer converts to part-time.

68.5 No pressure will be exerted on full-time officers to convert to part-time employment or to transfer to another position to make way for part-time employment.

68.6 The agreed period, pattern of hours and days and commencement and cessation times for part-time work will be agreed between the officer and the officer's manager/supervisor and recorded in writing.

#### Variation to Part-time Hours

68.7 Proposals to vary a part-time employment arrangement may be initiated by the head of service for operational reasons or by an officer for personal reasons.

68.8 Where an officer initiates a proposal the head of service will, have regard to the personal reasons put by the officer in support of the proposal and to the Directorate's operational requirements.

68.9 The head of service will obtain the written agreement to the officer before the officer's hours are varied.

68.10 No pressure will be exerted on a full-time officer to vary the officer's part-time employment or to transfer to another position to make way for part-time employment.

68.11 The agreed period, pattern of hours and days and commencement and cessation times for part-time work will be agreed between the officer and the officer's manager/supervisor and recorded in writing.

#### **69. JOB SHARING**

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69.1 In this clause employee refers to employees other than casual employees.

69.2 Job sharing arrangements may be introduced by agreement between the head of service and the employee involved, subject to operational requirements. Employees working under job sharing arrangements share one full-time job and will be considered to be part-time with each working part-time on a regular, continuing basis.

69.3 A full-time employee must request in writing permission to work in a job sharing arrangement. The head of service will agree to reasonable requests for regular job sharing arrangements, subject to operational requirements.

69.4 The pattern of hours for the job sharing arrangement will be agreed between the employee and the head of service. However, any single attendance at the office-based worksite will be for not less than three consecutive hours.

69.5 The employee who is in a job sharing arrangement and who was previously working full-time may revert to full-time employment before the expiry of the agreed period of job sharing if all parties to the arrangement agree.

69.6 In the event that either employee ceases to participate in the job sharing arrangement, the arrangement will terminate.

**70. PART-TIME EMPLOYMENT FOLLOWING MATERNITY LEAVE, PRIMARY CAREGIVER LEAVE, ADOPTION OR PERMANENT CARE LEAVE OR PARENTAL LEAVE**

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- 70.1 Subject to this Clause, the head of service will approve an application by an officer employed on a full-time basis who returns to work after accessing maternity leave, primary caregiver leave, adoption or permanent care leave or parental leave, to work on a part-time basis for a period of up to three years from the birth, adoption of the child, or granting of parental responsibility for a foster child.
- 70.2 An application by an officer to access part-time work under this clause will only be approved where the officer agrees, where necessary, to become unattached.
- 70.3 The maximum aggregate period of part-time employment that may be approved for an officer under subclause 70.1 is seven years.
- 70.4 Either the officer who accesses Primary Care Giver Leave under Clause 91, or adoption and permanent care leave under clause 95, or the mother who is entitled to and accesses maternity leave under Clause 89 will be entitled to access part-time employment as provided in subclause 70.1.
- 70.5 The agreed period, pattern of hours and days and commencement and cessation times for part-time work will be agreed between the officer and the officer's manager/supervisor and recorded in writing.

**71. HOME BASED WORK**

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- 71.1 The diverse nature of work conducted in the ACTPS lends itself to a range of working environments. From time to time workplaces will include work undertaken in the field and in the home.
- 71.2 Home-based work, on a regular basis, is a voluntary arrangement that requires the agreement of both the head of service and the employee. The head of service will consider requests by employees for home-based work, having regard to operational requirements and the suitability of the work.
- 71.3 In determining appropriate home-based work arrangements, the head of service and employees will consider a range of matters, including:
- (a) Appropriate and effective communication with office based employees;
  - (b) The need to ensure adequate interaction with colleagues;
  - (c) The nature of the job and operational requirements;
  - (d) Privacy and security considerations;
  - (e) Health and safety considerations;
  - (f) The effect on clients; and
  - (g) Adequate performance monitoring and arrangements.

- 71.4 Home-based work arrangements may be terminated by the head of service on the basis of operational requirements, inefficiency of the arrangements, or failure of the employee to comply with the arrangements.
- 71.5 An employee may terminate home-based work arrangements at any time by giving reasonable notice to the head of service.
- 71.6 There may also be occasions where it is appropriate for an employee to work from home on an ad hoc basis. In these circumstances, arrangements to work from home are to be negotiated on a case-by-case basis between the employee and the supervisor/manager.
- 71.7 The ACTPS will provide home computing facilities where an employee and the employee's supervisor/manager agree there is a need for such facilities. Provision of equipment by the ACTPS will be subject to workplace health and safety requirements and to an assessment of technical needs by the supervisor/manager.

## **Section K – Employee Support**

### **72. EMPLOYEE ASSISTANCE PROGRAM**

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72.1 As a benefit to employees, the ACTPS will provide employees and employees' immediate families with access to an independent, confidential and professional counselling service at no cost to the employee.

### **73. SCHEDULING OF MEETINGS**

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73.1 To assist employees to meet the employees' personal responsibilities, where possible, all meetings in the Directorate are to be scheduled at times that take into account those responsibilities.

### **74. VACATION CHILDCARE PROGRAM**

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74.1 This Clause applies to an employee (other than a casual employee or a temporary employee who has been engaged by the ACTPS for a period of less than twelve months) with school aged children who makes a timely application, with regard to work and/or rostering arrangements applying in their particular business unit, based on their accrued annual leave, purchased leave or long service leave during school holidays that is rejected. In these circumstances the head of service will make payment to the employee for each calendar year based on:

- (a) Fifty-two dollars per day towards the cost of each school child enrolled in an accredited school holiday program;
- (b) Up to a maximum of \$260 per child per five days;
- (c) Up to a maximum of ten days per child per year;
- (d) Up to a maximum of three children;
- (e) Reimbursement on production of a receipt.

74.2 An accredited school holiday program is a program approved and/or subsidised by a State, Territory, or Local Government.

74.3 The payment will apply only on the days when the employee is at work.

74.4 The payment will be made regardless of the length of time the child is in the program each day, but it cannot exceed the actual cost incurred.

74.5 An employee whose domestic partner receives a similar benefit from the partner's employer is not eligible for the payment.

### **75. FAMILY CARE COSTS**

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75.1 Where an employee is directed to work outside the employee's regular pattern of work, the head of service will authorise reimbursement to the employee by receipt for some or all of the costs of additional family care arrangements.

## **76. NURSING MOTHERS**

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- 76.1 Employees who are breastfeeding will be provided with the facilities and support necessary to enable such employees to combine a continuation of such breastfeeding with the employee's employment.
- 76.2 Where practicable the Directorate will establish and maintain a room for nursing mothers. Where there is no room available another appropriate space may be used.
- 76.3 Up to one hour, per day/shift, paid lactation breaks that are non-cumulative will be available for nursing mothers.

## **77. TRANSFER OF MEDICALLY UNFIT STAFF**

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- 77.1 This clause does not apply to casual employees.
- 77.2 A medically unfit employee is an employee who is considered by the head of service, in accordance with paragraph (a), sub-Section 143(1) of the PSM Act, to be an employee who is unable to perform duties appropriate to the employee's classification because of physical or mental incapacity.
- 77.3 Despite the provisions of sub-Section 56(3) and 65(1) of the PSM Act, a medically unfit employee may, by agreement with the employee, be transferred to any position within the employee's current skill level and experience, the classification of which has a maximum pay which does not vary from the top increment of the employee's classification by more or less than 10%.
- 77.4 An employee will not be redeployed in accordance with subclause 77.3 unless there is no suitable vacant position at the employee's substantive classification within the Directorate.
- 77.5 In considering any proposed transfer under this clause, the employee may be represented by the union or other employee representative.

## **78. TRANSFER TO A SAFE JOB DURING PREGNANCY**

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### Purpose

- 78.1 This clause provides arrangements to enable a pregnant employee to be transferred to an appropriate safe job during their pregnancy or enable them to be absent from their workplace if an appropriate safe job is not available.

### Eligibility

- 78.2 In accordance with the National Employment Standards of the FW Act (NES), this clause applies to pregnant employees when they:
- (a) have given at least ten weeks notice, or where that is not practical have as soon as practical given notice, that they will be applying for maternity leave; and
  - (b) provide evidence from a registered health professional or registered medical professional to the head of service that they are fit for work but that it is inadvisable for

her to continue in her present position during a stated period because of illness or risks arising out of her pregnancy or hazards connected with that position.

- 78.3 In these circumstances, the employee is entitled to be transferred to an appropriate safe job for the stated period with no detriment to her current terms and conditions of employment.

Paid Absence for 'No Safe Job' Purposes

- 78.4 If an appropriate safe job is not available, and when the employee has completed twelve months of continuous service, the employee is entitled to take paid absence for 'no safe job' purposes for the stated period at a rate of payment that is the same rate as would be paid if the employee was granted personal leave. This period of paid absence will count as service for all purposes.
- 78.5 If an appropriate safe job is not available, and the employee has not completed twelve months of continuous service, the employee is entitled to take unpaid absence for 'no safe job' purposes. This period of absence will not count as service for any purposes but will not break continuity of service.
- 78.6 The employee's entitlements under this clause cease when the employee's pregnancy ends before the end of the stated period.

## Section L – Leave

### 79. PART TIME EMPLOYEES

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79.1 Part time employees are credited and debited leave on a pro-rata basis.

### 80. NON-APPROVAL OF LEAVE

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80.1 Where a request is not approved the head of service will, if so requested in writing by the employee, provide the reasons for that decision to the employee in writing. Where a request is not approved the head of service will consult with the employee to determine mutually convenient alternative arrangements.

### 81. UNATTACHMENT OF MEDICAL STAFF ON LEAVE WITHOUT PAY FOR OVER TWELVE MONTHS

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81.1 Permanent medical staff who are granted leave without pay for longer than 12 calendar months for any purpose, (excepting maternity leave under subclause 102.14), shall become unattached officers.

### 82. PERSONAL LEAVE

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#### Purpose

82.1 Personal leave is available to employees to enable them to be absent from duty:

- (a) because the employee is unfit for work because of a personal illness, or personal injury;
- (b) to provide care or support to a member of the employee's immediate family, or a member of the employee's household, who is ill or injured;
- (c) in extraordinary and unforeseen circumstances.

82.2 Personal leave supports the Territory's commitment to a healthy workplace and workforce.

#### Eligibility

82.3 Personal leave is available to employees other than casual employees.

#### Entitlement

82.4 An employee may be granted personal leave up to their available credit from the first day of service.

82.5 Personal leave is cumulative and there is no cap on the personal leave balance an employee may accrue.

82.6 On engagement under the PSM Act, employees who have prior service recognised for personal leave purposes will be credited any personal leave balance accrued with the previous employer. On the employee's normal accrual date, the employee will then receive personal leave in accordance with subclause 82.14 or, following the implementation of daily accrual, the employee will receive personal leave in accordance with subclause 82.11.



- 82.7 If a person is retired from the Service on grounds of invalidity, and is re-appointed as a result of action taken under the *Superannuation Act 1976* or the *Superannuation Act 1990*, they are entitled to be re-credited with unused personal leave credit held prior to the invalidity retirement.
- 82.8 Except for a short term temporary employee and an employee to whom subclause 82.6 applies, an employee's personal leave balance will be credited with an equivalent of 3.6 weeks of personal leave on the day they commence with the Territory.

#### Daily Accrual implementation

- 82.9 The ACTPS will move to daily accrual of personal leave as soon as the HR system can be reconfigured. The head of service will consult with ACTPS staff, unions and other employee representatives to facilitate the transition to daily accrual. This consultation will occur prior to the reconfiguration of the new HR system.
- 82.10 To avoid doubt, following the implementation of daily accrual of personal leave in accordance with subclause 82.9, subclauses 82.14, 82.15, 82.28 and 82.37 will cease to operate and subclause 82.6 will operate only as it relates to the daily accrual of personal leave and the recognition of prior service.
- 82.11 Despite subclause 82.8, from the day of commencement, an employee's personal leave accrues on a daily basis according to the formula set out below:
- $(A \times B \times D) / C = \text{total hours of leave accrued per day where:}$
- A = number of ordinary hours per week worked; and  
 B = one where the day counts as service or zero where the day does not count as service;  
 C = number of calendar days in the year; and  
 D = number of weeks of personal leave an employee is entitled to a year (i.e. 3.6 weeks).
- 82.12 The accrual calculated in subclause 82.11 will be credited to the employee progressively on a fortnightly basis.

#### Until Daily Accrual is Implemented

- 82.13 Until daily accrual is implemented the provisions contained in subclauses 82.14, 82.15, 82.28 and 82.37 will apply.
- 82.14 An additional credit of 3.6 weeks personal leave will be made on the anniversary of the employee's commencement during each year of service.
- 82.15 The accrual date for personal leave will be deferred by one day for every calendar day of unauthorised absence or leave without pay that does not count for service.
- 82.16 A part-time officer or part-time temporary employee will accrue personal leave calculated on a pro-rata basis.

### Short-term Temporary Employees

- 82.17 Until daily accrual of personal leave is implemented, the provision contained in subclauses 82.18 to 82.20 will apply to short term temporary employees. To avoid doubt, subclauses 82.18 to 82.20 will cease to operate from the date of implementation of daily accrual of personal leave in accordance with subclause 82.9.
- 82.18 A short term temporary employee will be credited with one week of personal leave after four weeks continuous service and 0.2 weeks of personal leave for each subsequent four weeks of continuous service up to a maximum of two weeks in the employee's first twelve months of service.
- 82.19 After twelve months continuous service short-term temporary employees will receive 5.2 weeks of personal leave with pay. For every subsequent twelve months of service, short-term temporary employees will receive personal leave in accordance with subclause 82.14.
- 82.20 A short-term temporary employee subsequently appointed under the PSM Act prior to completing twelve months service will have their personal leave balance brought up to the equivalent of 3.6 weeks, less any personal leave with pay granted under subclause 82.4. For subsequent accruals that short-term temporary employee will receive personal leave on the same basis as an officer on the anniversary of the commencement of their employment.
- 82.21 The provisions contained in subclauses 82.22 to 82.26 will apply to the accrual of personal leave by short term temporary employees from the date of implementation of daily accrual.
- 82.22 All short-term temporary employees will accrue personal leave in accordance with the formula set out in subclause 82.11 from the date of implementation of daily accrual.
- 82.23 All short-term temporary employees who commence employment with the Territory on or after the date of implementation of daily accrual of personal leave will be credited with the equivalent of one week of personal leave on their date of commencement.
- 82.24 All short-term temporary employees who have been employed by the Territory for a period of less than four weeks continuous service as at the date of implementation of daily accrual of personal leave will be credited with the equivalent of one week of personal leave on the date of implementation of daily accrual.
- 82.25 Upon completion of twelve months continuous employment with the Territory short term temporary employees will have their personal leave balance brought up to the equivalent of 3.6 weeks, less any personal leave with pay granted under subclause 82.4 during the twelve months. The 3.6 weeks is in addition to any personal leave accrued under subclause 82.22.
- 82.26 A short term temporary employee who is appointed under the PSM Act prior to completing twelve months continuous employment with the Territory will have their personal leave balance brought up to the equivalent of 3.6 weeks, less any personal leave with pay granted under subclause 82.4. The 3.6 weeks is in addition to any personal leave accrued under subclause 82.22.

### When Personal Leave Credits Have Been Exhausted

82.27 Where personal leave credits have been exhausted, the head of service may grant an employee a period of unpaid personal leave for personal illness or injury or for the care of a member of the employee's immediate family or household who is sick.

NOTE: In such circumstances, alternative arrangements are provided for at subclause 82.57.

82.28 Despite subclause 82.27, the head of service may allow an officer, in the first ten years of service, when the officer provides documentary evidence that the officer has a personal illness or injury, to anticipate up to a maximum of 3.6 weeks paid personal leave accrual where all full pay personal leave credits are exhausted.

82.29 Temporary employees may be granted up to an aggregate of twenty days without pay in the first twelve months.

82.30 The head of service may, when a personal illness or injury poses a serious threat to the employee's life, grant an officer an additional period of paid personal leave for personal illness or injury. This leave may be at either full or half pay. Such leave will not be granted if the absence is due to a condition for which the officer is receiving compensation under the *Safety, Rehabilitation and Compensation Act 1988*.

### Other Provisions

82.31 An employee in receipt of workers compensation for more than forty five weeks will accrue personal leave on the basis of hours actually worked.

82.32 Unused personal leave credit will not be paid out on cessation of employment.

### Evidence and Conditions

82.33 An employee must give notice of the intention to take personal leave. This notice must be provided to their manager/supervisor, as soon as practicable, (which in the case of personal illness or injury may be a time immediately after the leave has commenced) and must advised the duration, or expected duration, of the leave.

82.34 The head of service may grant personal leave if they are satisfied there is sufficient cause, having considered any requested or required documentary evidence.

82.35 An employee must provide requested or required documentary evidence in a timely manner. To unduly withhold the provision of documentary evidence may result in the personal leave application not being approved for payment.

82.36 The head of service will accept the following documentary evidence as proof of personal illness or injury or the need to care for a member of the employee's immediate family or household who is sick:

- (a) a certificate from a registered medical practitioner or registered health professional who is operating within their scope of practice; or

- (b) a statutory declaration made by the employee if it is not reasonably practicable for the employee to give the head of service a certificate.

- 82.37 Applications for personal leave requiring an employee to care for a member of the employee's immediate family or household who is sick will need any required documentary evidence to clearly state the caring requirement.
- 82.38 If documentary evidence is not produced when an employee applies for leave, the head of service may grant personal leave up to three consecutive working days with pay, to a maximum of seven working days in any accrual year. Absences for personal leave without documentary evidence in excess of three consecutive days, or seven days in any accrual year will be without pay.
- 82.39 Following the implementation of daily accrual of personal leave, the head of service may grant up to three consecutive working days personal leave with pay without documentary evidence, to a maximum of seven working days in a calendar year. Absences for personal leave without documentary evidence in excess of three consecutive days, or seven days in a calendar year will be without pay.
- 82.40 The head of service may, with reasonable cause, request the employee to provide a medical certificate from a registered medical practitioner or a statutory declaration for any absence from duty on personal leave at the time of notification of the absence.
- 82.41 Paid personal leave may be granted up to an employee's available personal leave credit.
- 82.42 Subject to the production of documentary evidence, the head of service may grant an employee further absence for personal illness or injury provided the additional period of personal leave is granted without pay. However, any such leave without pay that goes beyond a maximum continuous period of combined paid and unpaid personal leave of 78 weeks will not count as service for any purpose.
- 82.43 The head of service must not grant personal leave for an absence caused by the misconduct of the employee. The head of service may determine that an absence caused by the misconduct does not count as service for any purpose.
- 82.44 The head of service must approve an application for up to five days of personal leave applied for in conjunction with a period of bonding leave.
- 82.45 The head of service may refer an employee for a medical examination by a nominated registered medical practitioner or registered health professional, or nominated panel of registered medical practitioners or registered health professionals at any time for reasons including where:
- (a) the head of service is concerned about the wellbeing of an employee and considers that the health of the employee is affecting, or has a reasonable expectation that it may affect, the employee's ability to adequately perform their duties;
  - (b) the head of service considers that documentary evidence supplied in support of an absence due to personal illness or injury is inadequate; or

- (c) the employee has been absent on account of illness for a total of thirteen weeks in any twenty six week period.

82.46 The head of service may require the employee to take personal leave after considering the results of a medical examination requested by the head of service.

#### Rate of Payment

82.47 Personal leave will be granted with pay except where it is granted without pay under subclauses:

- (a) 82.27; or
- (b) 82.29; or
- (c) 82.42

82.48 Subject to the approval of the head of service, an employee may request to use personal leave at half pay for absences of at least one week. Such absences will be deducted from the employee's accrued credits at a rate of 50% of the period of absence.

82.49 Any personal leave taken must be deducted from the employee's credit.

#### Effect on Other Entitlements

82.50 Personal leave with pay will count as service for all purposes.

82.51 Personal leave without pay, other than provided for at subclause 82.42 will count as service for all purposes.

82.52 Where an employee is absent on paid personal leave and a public holiday for which the employee is entitled to be paid falls within that period of absence:

- (a) the employee will be paid as a normal public holiday for that day; and
- (b) the public holiday will not be deducted from the employee's personal leave credits.

82.53 While personal leave will not be deducted over the Christmas shutdown period, the Christmas shutdown does not break continuity of the period of absence in relation to the maximum period/s of leave under subclause 82.42.

#### Access to Other Leave Entitlements

82.54 An employee who suffers personal illness or injury, or cares for a member of the employee's immediate family or household who is sick, for one day or longer while on:

- (a) annual leave; or
- (b) purchased leave; or
- (c) long service leave; or
- (d) unpaid maternity leave; or

- (e) unpaid parental leave; or
- (f) grandparental leave; or
- (g) accrued day off; and

who produces a certificate from a registered health professional operating within their scope of practice, may apply for personal leave.

82.55 Where an employee is on a form of leave specified in subclauses 82.54 and:

- (a) the employee is subsequently granted personal leave in accordance with subclause 82.54; and
- (b) the personal leave falls within a part or all of the period of the other form of leave;

then that other leave will be re-credited for that period of the personal leave that falls within the period of the other leave.

82.56 An employee cannot access paid personal leave while on paid maternity leave, or primary care giver's leave, or adoption or permanent care leave.

82.57 If the employee has exhausted all paid personal leave, personal leave without pay cannot be substituted for unpaid maternity leave.

82.58 If an ill or injured employee exhausts the employee's paid personal leave entitlement and produces documentary evidence, as per subclause 82.36, as evidence of continuing personal illness or injury, the employee may apply to the head of service for approval to take annual leave or long service leave. If approved, this leave will not break the continuity of the 78 weeks under subclause 82.42.

### **83. PERSONAL LEAVE IN EXTRAORDINARY AND UNFORESEEN CIRCUMSTANCES**

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83.1 Employees, other than casual employees, are eligible to personal leave in extraordinary and unforeseen circumstances.

83.2 Personal leave in extraordinary and unforeseen circumstances, is non-cumulative and if granted is deducted from the employees personal leave balance.

83.3 The head of service may grant a maximum of four days of personal leave, other than for personal illness or the care of the employee's immediate household who is sick, in an accrual year, in extraordinary, unforeseen or unexpected circumstances and where it is essential that the employee have leave from the workplace. These four days are in addition to the seven days personal leave without documentary evidence.

83.4 While personal leave in extraordinary and unforeseen circumstances does not normally require documentary evidence, the head of service may request reasonable evidence before granting the leave.

83.5 Personal leave in extraordinary and unforeseen circumstances will be granted with pay.

#### 84. **INFECTIOUS DISEASE CIRCUMSTANCES**

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- 84.1 Where an employee is prevented from attending for duty under the *Public Health Act 1997*, the head of service may grant that employee personal leave during that period.
- 84.2 The employee may also apply for the absence or a part of it to be deducted from their annual leave credit.

#### 85. **ANNUAL LEAVE**

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##### Purpose

- 85.1 Annual leave is available to employees to enable them to be absent from duty for the purposes of rest and recreation.

##### Eligibility

- 85.2 Annual leave is available to employees other than casual employees.

##### Entitlement

- 85.3 An employee may be granted annual leave up to their available credit from the first day of service.

- 85.4 Annual leave is cumulative.

- 85.5 An employee's annual leave credit accrues on a daily basis according to the formula set out below:

$(A \times B \times D) / C =$  total hours of leave accrued per day where:

A = number of ordinary hours per week worked; and

B = one where the day counts as service or zero where the day does not count as service or is an unauthorised absence;

C = number of calendar days in the year; and

D = number of weeks of annual leave an employee is entitled to a year.

- 85.6 For the purpose of subclause 85.5 the basic leave entitlement is:

(a) in the case of 38 hour workers, 152 hours annual leave for each full year worked; or

(b) in the case of 40 hour workers, 160 hours annual leave for each full year worked.

- 85.7 A Medical Officer who is regularly rostered to work on Sunday and work at least ten Sundays in a year will be entitled to an additional five days of paid annual leave per year.

- 85.8 A Medical Officer rostered to work on less than ten Sundays during which annual leave will accrue will be entitled to additional annual leave at the rate of one tenth of a working week for each Sunday so rostered, up to a maximum of 5 days per calendar year.

- 85.9 A Senior Medical Practitioner shall be granted an additional week of paid annual leave in respect of each 12 months completed service in a hospital.

- 85.10 If an employee moves from one ACTPS Directorate to another, annual leave accrued with the first Directorate will transfer to the second Directorate.
- 85.11 An annual leave credit does not accrue to an employee if the employee is absent from duty on leave for specified defence service, or full-time defence service. If the employee resumes duty after a period of specified defence service, annual leave will accrue from the date the employee resumes duty.
- 85.12 Employees will receive payment on separation from the ACTPS of any unused annual leave entitlement.

#### Evidence and Conditions

- 85.13 Employees are encouraged to use their annual leave in the year that it accrues, and to this end should discuss their leave intentions with their manager/supervisor as soon as practicable.
- 85.14 An employee must make an application to the head of service to access their annual leave entitlement.
- 85.15 Having considered the requirements of this clause the head of service may approve an employee's application to access annual leave.
- 85.16 The head of service should approve an employee's application to take annual leave, subject to operational requirements.
- 85.17 If the head of service does not approve an employee's application for annual leave because of operational requirements, the head of service will consult with the employee to determine a mutually convenient alternative time (or times) for the employee to take the leave.
- 85.18 The head of service must, unless there are exceptional operational circumstances, approve an application for annual leave if it would enable an employee to reduce their annual leave credit below two and a half years worth of annual leave credit. However, in the case of exceptional operational circumstances, the head of service will consult with the employee to determine the time (or times) for the annual leave to be taken that is mutually convenient to both the administrative unit and the employee.
- 85.19 If an employee's annual leave is cancelled without reasonable notice, or an employee is recalled to duty from leave, the employee will be entitled to be reimbursed reasonable travel costs and incidental expenses not otherwise recoverable under any insurance or from any other source.
- 85.20 If the operations of the ACTPS, or part of the ACTPS, are suspended at Christmas or another holiday period, the head of service may direct an employee to take annual leave at a time that is convenient to the working of the ACTPS, whether or not an application for leave has been made. However, this does not affect any other entitlements to leave under this Agreement.
- 85.21 If an employee has the equivalent of two years' accrued annual leave credit and unless exceptional operational circumstances exist, the employee and relevant manager/supervisor must agree, and implement an annual leave usage plan to ensure the employee's accrued leave credit will not exceed two and a half years worth of annual leave credit.



- 85.22 If an employee does not agree to a reasonable annual leave usage plan the head of service may direct an employee who has accrued two and a half years worth of annual leave credit to take annual leave to the extent that the employee's annual leave credit exceeds two and a half years worth of credit, subject to giving the employee one calendar month notice. This clause does not apply to an employee who is on graduated return to work following compensation leave.
- 85.23 An employee who has an annual leave credit in excess of two and a half years' of entitlement:
- (a) at the commencement of the Agreement; or
  - (b) on joining, or returning to, the ACTPS; or
  - (c) on returning to duty from compensation leave;
- will have twelve months to reduce the employee's annual leave balance to two and a half years' accrued entitlement or below.
- 85.24 An employee may not be directed under subclause 85.22 to take annual leave where the employee has made an application for a period of annual leave equal to or greater than the period specified in subclause 85.22 in the past six months and the application was not approved. The manager/supervisor and the employee may agree to vary an annual leave usage plan.

#### Rate of Payment

- 85.25 Annual leave will be granted with pay.
- 85.26 Payment for the annual leave will be based on the employee's ordinary hourly rate of pay, including allowances that count for all purposes for the time the leave is taken. If an employee is being paid HDA before going on paid leave and would have continued to receive HDA had they not taken leave then the employee is entitled to payment of HDA during the leave.
- 85.27 Annual leave may be granted at half pay with credits to be deducted on the same basis.

#### Effect on Other Entitlements

- 85.28 Annual leave will count as service for all purposes.
- 85.29 Public holidays for which the employee is entitled to payment that fall during periods of absence on annual leave will be paid as a normal public holiday and will not be deducted from the employee's annual leave balance.

#### Access to other Leave Entitlements

- 85.30 If personal leave is granted to the employee annual leave will be re-credited for the period of paid personal leave granted.
- 85.31 Subject to the approval of the head of service, an employee who is on unpaid leave may be granted annual leave during that period, unless otherwise stated in this Agreement.

85.32 If an employee is prevented from attending for duty under the *Public Health Act 1997*, the head of service may grant annual leave during that period.

#### Payment in Lieu of Annual Leave

- 85.33 An employee may request payment in lieu of their annual leave credit subject to the following:
- (a) the employee providing the head of service with a written election to do so; and
  - (b) the head of service authorising the election; and
  - (c) the employee taking at least one week of annual leave in conjunction with this entitlement or the employee has taken at least one week of annual leave in the past six months; and
  - (d) The payment in lieu will not result in a reduction in the balance of an employee's remaining annual leave credit below one year's accrued entitlement.
- 85.34 Payment in lieu of annual leave will be based on the employee's ordinary hourly rate of pay, including allowances that count for all purposes at the date of application. The payment in lieu will be based on the pay that the employee would have received for a notional period of leave equal to the credit being paid in lieu on the day the application is made.

## **86. ANNUAL LEAVE LOADING**

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### Purpose

86.1 Annual leave loading is available to employees to provide monetary assistance while they are on annual leave.

### Eligibility

86.2 Employees who accrue annual leave under Clause 85 are entitled to an annual leave loading. Part time employees will be paid the annual leave loading on a pro rata basis.

### Entitlement

86.3 Where an employee's entitlement is based on paragraph 86.7(a), the leave loading payable is subject to a maximum payment. This maximum payment is the equivalent of the Australian Bureau of Statistics' male average weekly total earnings for the May quarter of the year before the year in which the date of accrual occurs. Where the leave accrual is less than for a full year, this maximum is applied on a pro rata basis.

86.4 An employee whose employment ceases and who is entitled to payment of accumulated annual leave or pro rata annual leave will be paid any accrued annual leave loading not yet paid and leave loading on pro rata annual leave entitlement due on separation.

### Evidence and Conditions

86.5 Annual leave loading accrued will be paid at such a time as the employee nominates, by making a written request to the head of service.

86.6 Any unpaid annual leave loading accrued by employees will be paid on the first payday in December following its accrual.

#### Rate of Payment

86.7 The amount of an employee's entitlement under subclause 86.2 will be based on whichever is the greater of the following:

- (a) subject to subclause 86.3, 17.5 per cent of the employee's ordinary hourly rate of pay on 1 January multiplied by the number of hours of annual leave accrued during the preceding calendar year (excluding shift penalties); or
- (b) any shift penalties that the employee would have received had the employee not been on approved annual leave.

### **87. PURCHASED LEAVE**

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#### Purpose

87.1 Purchased leave is available to employees to enable them to be absent from duty to support their work/life balance.

#### Eligibility

87.2 Employees, other than casual employees, are eligible to apply to purchase leave.

#### Entitlement

87.3 Employees may purchase leave in addition to the employee's usual annual leave entitlement, up to a maximum of twelve weeks in any twelve month period, subject to head of service approval.

87.4 An employee may apply, at any time, to the head of service for approval to participate in the purchased leave scheme.

87.5 The application must specify the amount of leave to be purchased in whole weeks up to a maximum of twelve weeks in any twelve month period, and the period over which the additional leave is to be acquitted.

87.6 Approval by the head of service for an employee to purchase and use purchased leave, is subject to both the operational requirements of the workplace and the personal responsibilities of the employee.

87.7 Approval to purchase additional leave will not be given where an employee has an annual leave balance of two and a half years worth of annual leave credit or more, except where the employee intends to use all excess annual leave credit before taking purchased leave.

87.8 Once an employee commences participation in the scheme, the employee may only opt out of the scheme before the expiration of the agreed acquittal period, where:

- (a) the employee can demonstrate, in writing, that exceptional circumstances exist, such as unforeseen financial hardship, and the head of service agrees; or

- (b) the employee's employment with the ACTPS ceases before the expiration of the agreed acquittal period; or
- (c) the employee proceeds on paid maternity or primary care giver leave.

87.9 If an employee transfers from one ACTPS Directorate to another ACTPS Directorate during the agreed acquittal period, the employee's continuation in the purchased leave scheme will be subject to the separate approval of the head of service of the gaining Directorate. Where such approval is not given, any money owing to the employee in respect of purchased leave not taken will be refunded to the employee as soon as practicable. Any shortfall in payments will be deducted from monies owing to the employee.

#### Evidence and Conditions

- 87.10 An employee should discuss with their manager/supervisor, as soon practicable, their intention to be absent on purchased leave.
- 87.11 An employee must make an application to the head of service to access their purchased leave entitlement.
- 87.12 Having considered the requirements of this clause the head of service may approve an employee's application to access purchased leave. A decision not to approve the leave must be made in accordance with subclause 80.1.
- 87.13 Approval by the head of service to grant purchased leave will be subject to the operational requirements of the workplace, the personal responsibilities of the employee and appropriate periods of notice.
- 87.14 A minimum of one week of purchased leave must be taken at any one time unless the remaining balance is less than one week or the head of service is satisfied, on evidence presented, there are exceptional circumstances which warrant purchased leave being taken in shorter periods.
- 87.15 Purchased leave must be used within the agreed acquittal period, not exceeding twelve months from the date of commencement in the scheme. Purchased leave not taken within the agreed acquittal period will be forfeited and the value of the leave refunded to the employee at the end of the acquittal period.

#### Rate of Payment

- 87.16 While an employee is on a period of purchased leave the employee will be paid at the rate of pay used to calculate the employee's deduction.
- 87.17 Purchased leave will be paid for by a fortnightly deduction from the employee's pay over an agreed acquittal period not exceeding twelve months from the date the employee commences participation in the scheme.
- 87.18 Fortnightly deductions, from the employee's pay, will commence as soon as practicable following approval of the employee's application to participate in the purchased leave scheme. The deductions will be calculated on the employee's pay at the date of commencement of

participation in the scheme, the amount of leave to be purchased and the agreed acquittal period.

- 87.19 Despite 87.18, if the employee's pay changes during the acquittal period the employee may seek approval for the deduction to be recalculated.
- 87.20 Fortnightly tax deductions will be calculated on the employee's gross pay after the deduction has been made for purchased leave.
- 87.21 Subject to subclause 87.22, allowances in the nature of pay may be included in the calculation of purchased leave payments where:
- (a) the head of service and the employee agree any or all of these allowances are appropriate; and
  - (b) there is the likelihood the allowance will continue to be received over the duration of the acquittal period.
- 87.22 Disability allowances, which are paid according to the hours worked, cannot be included for the purposes of calculating purchased leave payments.

#### Effect on Other Entitlements

- 87.23 Leave taken as purchased leave will count as service for all purposes.
- 87.24 Public Holidays for which the employee is entitled to payment that fall during periods of absence on purchased leave will be paid as a normal public holiday and will not be deducted from the employee's purchased leave balance.
- 87.25 Purchased leave will not affect the payment and timing of pay increments or the accrual of other forms of leave.
- 87.26 The purchase of additional leave under this clause will not affect the superannuation obligations of the ACTPS and/or the employee involved.

#### Access to other Leave Entitlements

- 87.27 Where an employee provides a certificate from a registered health professional operating within their scope of practice for a personal illness occurring during a period of absence on purchased leave, the employee will have the purchased leave re-credited for that period covered by the certificate, and substituted by personal leave.
- 87.28 An employee participating in the scheme who proceeds on paid maternity or primary care giver's leave will elect to, either:
- (a) exit the purchased leave scheme and have any money owing refunded; or
  - (b) subject to subclause 87.29, remain in the scheme and have pay deductions continue during the period of paid maternity or primary care giver's leave.

- 86.29 Purchased leave taken during an employee's absence on maternity or primary care giver's leave will not extend the employee's total period of maternity leave or primary care giver's leave.
- 86.30 An employee participating in the scheme who is in receipt of paid workers' compensation will have pay deductions for purchased leave continue. Normal conditions for purchased leave will apply for employees on graduated return to work programs; however entry into the scheme should be discussed with the rehabilitation case manager.

## **88. LONG SERVICE LEAVE**

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- 88.1 The eligibility requirements and entitlements for long service leave under the PSM Standards apply subject to the provisions of this clause.
- 88.2 The head of service may grant long service leave to an employee to the extent of that employee's pro-rata long service leave credits after seven years eligible service.
- 88.3 Where an employee whose period of employment is less than seven years but not less than one year:
- (a) Ceases to be an employee, otherwise than because of the employee's death, on, or after, the employee attaining the minimum retiring age; or
  - (b) Ceases to be an employee because of the employee's redundancy; or
  - (c) Ceases to be an employee and satisfies the head of service that the employee so ceasing is due to ill health of such a nature as to justify the employee so ceasing;
- the head of service will authorise payment to the employee under this sub-section in accordance with Part 4.3 of the PSM Standards.
- 88.4 Employees will receive payment on separation of any pro-rata entitlements after seven years eligible service.
- 88.5 If an employee whose period of employment is not less than one year dies, the head of service may authorise payment to a dependant of the employee of an amount equal to, or payments to two or more dependants of the employee of amounts aggregating, the amount that would have been payable to the employee under Part 4.3 of the PSM Standards if the employee had, on the day the employee died, ceased to be an employee otherwise than because of death, on or after, the employee attaining the minimum retiring age.
- 88.6 To encourage flexible use of long service leave:
- (a) Employees may be granted leave in blocks of not less than seven days/shifts if the employees so request; and
  - (b) Long service leave may be taken on double, full or half pay when approved by the head of service and subject to operational requirements, with credits to be deducted on the same basis.

- (c) having considered his or her work-life balance, an employee may, in writing, request the approval of the head of service to the partial or full payment in lieu of their accrued leave credit. The payment in lieu will be based on the rate of pay the employee would have received had the employee taken the leave at the time the application was made. If the employee is on higher duties, payment at the higher duties rate will only be approved if the higher duties would have continued for an equivalent period of leave

## 89. MATERNITY LEAVE

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### Purpose

- 89.1 Maternity leave is available to pregnant employees to enable them to be absent from duty to:
- (a) support her own wellbeing and to care for and bond with a new born child; and
  - (b) support the protection of the family and children under the *Human Rights Act 2004*; and
  - (c) support the employee's right to continuity of service.

### Eligibility

- 89.2 An employee who is pregnant is eligible to be absent on maternity leave.
- 89.3 An employee is eligible for maternity leave where termination of the pregnancy occurs within twenty weeks of the expected date of birth of the child. Where an employee's pregnancy terminates more than twenty weeks before the expected date of birth of the child any maternity leave which has been prospectively approved will be cancelled.

### Eligibility – Paid Maternity Leave

- 89.4 An employee who is eligible for maternity leave and who has completed twelve months of continuous service, including recognised prior service, is eligible for paid maternity leave.
- 89.5 An employee who is eligible for maternity leave and who completes twelve months of continuous service within the first eighteen weeks of maternity leave is eligible for paid maternity leave for the period between completing twelve months of service and the end of the first eighteen weeks of maternity leave.
- 89.6 An employee who is eligible for maternity leave and who is on approved leave without pay is eligible for paid maternity leave for the period between completing the approved period of leave without pay and the end of the first eighteen weeks of maternity leave.

### Entitlement

- 89.7 An eligible employee is entitled to be absent for up to fifty two weeks maternity leave for each pregnancy. To avoid doubt, the entitlement under this clause does not increase in cases of multiple births.
- 89.8 Subject to subclause 89.4, an employee who is eligible for paid maternity leave is entitled to be paid for the first eighteen weeks of maternity leave and this entitlement is in addition to the Federal paid parental leave scheme.

- 89.9 Maternity leave is non-cumulative.
- 89.10 Subject to subclauses 89.12 and 89.13, an employee who is eligible for maternity leave must absent herself from duty for a period commencing six weeks prior to the expected date of birth of the child and ending six weeks after the actual date of birth of the child.
- 89.11 An eligible employee's period of maternity leave will commence:
- (a) subject to subclause 89.12, six weeks prior to the expected date of birth of the child; or
  - (b) on the birth of the child (including where this occurs earlier than six weeks prior to the expected date of birth of the child); or
  - (c) on the date the pregnancy ends if that occurs within twenty weeks either side of the expected date of birth of the child; or
  - (d) for all other eligible employees, on the first day of maternity leave.
- 89.12 An employee who produces medical evidence from a registered medical practitioner that she is fit for duty until a date less than six weeks prior to the expected date of birth of the child may continue to work up until a date recommended by the medical practitioner, subject to the approval of the head of service.
- 89.13 An employee who has given birth to a child and produces medical evidence from a registered medical practitioner that she is fit for duty from a date less than six weeks after the date of birth of the child may resume duty on a date recommended by the medical practitioner, subject to the approval of the head of service.
- 89.14 An employee who has given birth to a child may resume duty following the end of the six week period after the birth of the child and earlier than the end of the approved period of maternity leave subject to the approval of the head of service.
- 89.15 An employee is entitled to return to work in accordance with the provisions in the National Employment Standards of the FW Act.
- 89.16 The provisions applying to temporary JMOs on training programs will be set out in a Standard Operating Procedure. This will include detail on access to maternity leave, primary care giver leave and adoption or permanent care leave.

#### Evidence and Conditions

- 89.17 An employee must give notice to their manager/supervisor as soon as practicable of their intention to be absent on maternity leave.
- 89.18 Maternity leave is deemed to be approved; however an employee must submit an application to the head of service for any period of maternity leave. Having considered the requirements of this clause the head of service will approve an employee's application to access maternity leave.



- 89.19 Prior to commencing maternity leave an employee will provide the head of service with evidence of her pregnancy and the expected date of birth from a registered health professional who is operating within their scope of practice.
- 89.20 As soon as possible after the birth of the child an employee will provide the head of service with evidence of the birth and the date of the birth. Such evidence may include a copy of the birth certificate or documents provided by a registered health professional who is operating within their scope of practice.

#### Rate of Payment

- 89.21 The rate of payment to be paid to the employee during a paid period of maternity leave is the same rate as would be paid if the employee was granted paid personal leave.
- 89.22 Despite clause 89.21, where an employee varies their ordinary hours of work, either from part time to full time, from part time to different part time, or from full time to part time, during the twelve month period directly preceding maternity leave, the rate of payment for the paid component of their maternity leave, which will be capped at full time rates, will be calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the twelve-month period immediately before the period of maternity leave commences.
- 89.23 To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of subclause 89.22.
- 89.24 Paid maternity leave may be taken in any combination of full or half pay, with credits to be deducted on the same basis. The maximum paid period is up to thirty six weeks at half pay.
- 89.25 The head of service may approve, subject to a medical certificate from a registered medical practitioner, an employee taking paid maternity leave in a non-continuous manner, provided any other form of paid leave will not be approved until the employee has used all of the employee's paid maternity leave entitlement.
- 89.26 A period of paid maternity leave does not extend the maximum fifty two week period of maternity leave available to an eligible employee.
- 89.27 An employee's period of absence on maternity leave between the paid period of maternity leave and the maximum fifty two week period of maternity leave will be without pay, unless other paid leave entitlements are accessed.

#### Effect on Other Entitlements

- 89.28 Maternity leave with pay will count as service for all purposes.
- 89.29 Any period of unpaid maternity leave taken by an employee during the period commencing six weeks prior to the expected date of birth of the child and ending six weeks after the actual date of birth of the child will count as service for all purposes.
- 89.30 Subject to subclause 89.29 any period of unpaid maternity leave taken by an employee will not count as service for any purpose but does not break continuity of service.

- 89.31 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on maternity leave will not be paid as a normal public holiday.

#### Access to Other Leave Entitlements

- 89.32 An application by an employee for long service leave or annual leave during a period that would otherwise be an unpaid period of maternity leave will be granted to the extent of available entitlements.
- 89.33 Subject to subclause 82.53, an application by an employee for personal leave during a period that would otherwise be an unpaid period of maternity leave will be granted subject to the employee providing a certificate from a registered health professional operating within their scope of practice to the extent of available entitlements.

#### Keep in Touch Arrangements

- 89.34 At any time after six weeks from the child's date of birth, an employee may agree to attend the workplace on up to ten separate occasions of up to one day each so as to keep in touch with developments in the workplace (for meetings and training etc.).
- 89.35 The employee will be paid at their ordinary hourly rate of pay for this time during unpaid maternity leave. Keep in touch attendance will count as service for all purposes, but does not extend the period of leave and does not end or reduce the entitlement to maternity leave.
- 89.36 For the purpose of subclause 89.34, a medical certificate is not required.

#### Portability of service for paid maternity leave

- 89.37 When determining an employee's eligibility for paid maternity leave, continuous service in the health industry with a public hospital or health facility, will be recognised, provided that:
- (a) Service was on a full-time or regular part-time basis (not as a casual employee);
  - (b) Cessation of service with the former employer was not by reason of dismissal on any ground, except retrenchment or reduction of work;
  - (c) The employee commences duty with the Directorate on the next working day after ceasing employment with the former employer. (There may be a break in service of up to two months before commencing duty with the new employer provided that the new position was secured before ceasing duty with the former employer. However, such a break in service will not be counted as service for the purposes of calculating any prior service prerequisite for paid maternity leave).

## **90. SPECIAL MATERNITY LEAVE**

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### Purpose

- 90.1 Special maternity leave is available to employees where:
- (a) the employee is not fit for work due to a pregnancy related illness, or

- (b) the pregnancy of the employee ends within twenty eight weeks of the expected date of birth, other than by the birth of a living child.

Note: If a pregnancy ends within twenty weeks of the expected date of birth of the child the employee may be entitled to paid or unpaid maternity leave as per subclause 89.3 and 89.4.

#### Eligibility

- 90.2 Special maternity leave is available to all employees and eligible casual employees.

#### Entitlement

- 90.3 An employee is entitled to a period of unpaid special maternity leave for the duration certified by a registered medical practitioner as necessary.

#### Evidence and Conditions

- 90.4 The employee must provide the head of service with notice that they are taking special maternity leave. The notice must be given as soon as practicable (which may be after the leave has started); and should include the period, or expected period, of the leave.
- 90.5 An employee must submit an application to the head of service for any period of special maternity leave. Having considered the requirements of this clause the head of service will approve an employee's application to access special maternity leave.
- 90.6 An employee who has given notice that special maternity leave will be (or is being) taken must provide reasonable evidence of the purpose for taking leave. This evidence may include a medical certificate from a registered medical practitioner.

#### Rate of Payment

- 90.7 Special maternity leave is granted without pay.

#### Effect on Other Entitlements

- 90.8 Special Maternity leave does not count as service for any purpose.
- 90.9 Special maternity leave does not break continuity of service.
- 90.10 Special maternity leave accessed due to pregnancy related illness is not deducted from the entitlement for unpaid maternity leave accessed after the birth of the child.

#### Access to Other Leave Entitlements

- 90.11 Special maternity leave is in addition to any accrued personal leave entitlement.
- 90.12 Special maternity leave is in addition to compassionate leave.

### **91. PRIMARY CARE GIVER LEAVE**

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#### Purpose

- 91.1 Primary care giver leave is available to employees to enable them to be absent from duty to:

- (a) care for and bond with a newborn child; and
- (b) support the protection of the family and children under the *Human Rights Act 2004*.

### Eligibility

- 91.2 Primary care giver leave is available to employees other than casual employees who are the primary care giver of a newborn child.
- 91.3 An employee who has completed at least twelve months continuous service, including recognised prior service, is eligible for primary care giver leave.
- 91.4 An employee who is eligible for paid maternity leave, foster and short term care leave, or adoption or permanent care leave is not eligible for primary care giver leave.
- 91.5 An employee who completes twelve months of continuous service within eighteen weeks of becoming the primary care giver for a child is eligible for primary care giver leave for the period between completing twelve months of qualifying service and the end of the first eighteen weeks of becoming the primary care giver of the child.

### Entitlement

- 91.6 An eligible employee is entitled to eighteen weeks of paid leave in relation to each birth, and this entitlement is in addition to the Federal paid parental leave scheme. To avoid doubt, the entitlement under this clause does not increase in cases of multiple births, adoptions or care and protection orders that apply to more than one child.
- 91.7 Primary care giver leave is non-cumulative.
- 91.8 An employee is entitled to return to work in accordance with the provisions in the National Employment Standards.

### Evidence and Conditions

- 91.9 An employee should discuss with their manager/supervisor, as soon practicable, their intention to be absent on primary care giver leave.
- 91.10 An employee must make an application to the head of service to access their primary care giver leave.
- 91.11 The employee must provide the head of service with appropriate evidence concerning the reasons for and circumstances under which the primary care giver leave application is made, which may include:
  - (a) a certificate from a registered health professional operating within their scope of practice relating to the expected date of birth of a child; or
  - (b) a birth certificate; or
- 91.12 In all cases details of leave being taken by the employee's domestic partner must be provided.

91.13 Before granting primary care giver leave, the head of service must be satisfied that the employee demonstrates that they are the primary care giver.

Example 1: The primary care giver may be the father of the newborn child.

Example 2: The primary care giver may be the domestic partner of the newborn child's mother.

91.14 For the purposes of this clause a newborn is considered to be a baby of up to fourteen weeks old. In extenuating circumstances, the head of service may approve primary care giver leave when a newborn is more than fourteen weeks old.

91.15 Having considered the requirements of this clause the head of service will approve an employee's application to access primary care giver leave.

91.16 The total combined entitlement under this clause and the maternity leave clause, and equivalent clauses in any other ACTPS enterprise agreement, is eighteen weeks of paid leave in relation to the birth.

91.17 Primary care giver leave may be taken in any combination with maternity leave provided that the mother and the other employee entitled to primary care giver leave do not take these forms of paid leave concurrently.

#### Rate of Payment

91.18 Primary care giver leave will be granted with pay.

91.19 The rate of payment to be paid to the employee during a paid period of primary care giver leave is the same rate as would be paid if the employee was granted personal leave.

91.20 Despite subclause 91.19 where an employee varies their ordinary hours of work, either from part time to full time, from part time to different part time, or from full time to part time, during the twelve month period directly preceding primary care giver leave, the rate of payment for the paid component of their primary care giver leave, which will be capped at full time rates, will be calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the twelve-month period immediately before the period of primary care giver leave commences.

91.21 To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of subclause 91.20.

91.22 Primary care giver leave may be granted in any combination of full or half pay, with credits to be deducted on the same basis. The maximum paid period is up to thirty six weeks at half pay.

#### Effect on Other Entitlements

91.23 Primary care giver leave will count as service for all purposes.

91.24 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on primary caregiver leave will not be paid as a normal public holiday.

### Access to Other Leave Entitlements

- 91.25 Primary care giver leave does not extend the maximum period of unpaid parental leave available to an employee.

### Keep in Touch Arrangements

- 91.26 An employee on primary care giver leave may agree to attend the workplace on up to ten separate occasions of up to one day each so as to keep in touch with developments in the workplace (for meetings and training etc.).
- 91.27 The employee will be paid at their ordinary hourly rate of pay for this time during unpaid primary care giver leave. Keep in touch attendance will count as service for all purposes, but does not extend the period of leave and does not end or reduce the entitlement to primary care giver leave.

## **92. BONDING LEAVE**

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### Purpose

- 92.1 Bonding leave is available to employees to enable them to be absent from duty to:
- (a) bond with a newborn child, adopted child, or a child for whom the employee's domestic partner has commenced a primary care giving role under a permanent caring arrangement;
  - (b) support the protection of the family and children under the *Human Rights Act 2004*.

### Eligibility

- 92.2 Bonding leave is available to employees other than casual employees at the time of the child's birth, adoption, or the commencement of a permanent caring arrangement when the employee is not the primary care giver to the child.
- 92.3 An employee who is eligible for paid maternity leave, adoption or permanent care leave or primary care giver leave is not entitled to bonding leave. If, however, bonding leave has been taken by the employee, and the employee later becomes entitled to primary care giver's leave due to unforeseen circumstances, the Head of Service may agree to convert the bonding leave and personal leave taken in accordance with this clause to primary care giver's leave.

### Entitlement

- 92.4 Under this clause, an employee is entitled to be absent for a maximum of two weeks (ten working days) at, or near, the time of the birth, adoption or commencement of the permanent caring arrangement. The maximum absence may be increased by a further five days of personal leave for bonding purposes as per subclause 82.44.
- 92.5 In accordance with the National Employment Standards, an eligible employee is entitled to be absent up to a maximum of eight weeks of concurrent unpaid bonding leave in the first twelve months following the birth or adoption or commencement of a permanent caring arrangement for a child, subject to a minimum period of two weeks at a time unless a shorter period is agreed by the head of service.

- 92.6 The entitlement under subclause 92.5 will be reduced by the extent of the entitlement accessed by an employee under subclause 92.4.
- 92.7 To avoid doubt, the entitlement under this clause does not increase in cases of multiple births, adoptions or permanent caring arrangements that apply to more than one child at the one time.
- 92.8 Bonding leave is non-cumulative.
- 92.9 Paid Bonding leave must be taken as a single ten day block. The five days of personal leave accessed as per subclause 82.44 may be taken at any time up to fourteen weeks from the date of the birth, adoption or commencement of the permanent caring arrangement.
- 92.10 Where an employee's domestic partner is also an ACTPS employee this leave may be taken concurrently with the domestic partner receiving maternity leave, adoption or permanent care leave or or primary caregiver leave.

#### Evidence and Conditions

- 92.11 An employee should discuss with their manager/supervisor, as soon as practicable, their intention to be absent on bonding leave.
- 92.12 Bonding leave will be approved subject only to the head of service being satisfied that the eligibility requirements have been met; however an employee must submit an application to the head of service for any period of bonding leave.
- 92.13 The employee must provide the head of service with appropriate evidence concerning the circumstances under which the bonding leave application is made, which may include:
- (a) a medical certificate relating to the expected date of birth of a child; or
  - (b) a birth certificate; or
  - (c) documents from an adoption authority concerning the proposed adoption of a child; or
  - (d) documents relating to responsibility permanent caring arrangement until the child reaches the age of eighteen.
- 92.14 Unless the head of service determines that exceptional circumstances apply bonding leave will not be approved to care for:
- (a) a baby over the age of fourteen weeks (not applicable in cases of adoption or permanent caring arrangements); or
  - (b) an adopted or fostered child who is the subject of a permanent caring arrangement over the age of eighteen on the day of placement.

#### Rate of Payment

- 92.15 Bonding leave will be granted with or without pay.

- 92.16 The rate of payment to be paid to the employee during a period of paid bonding leave is the same rate as would be paid if the employee was granted personal leave.

#### Effect on Other Entitlements

- 92.17 Paid bonding leave will count as service for all purposes and unpaid bonding leave will not count as service for any purposes but will not break continuity of service..
- 92.18 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid bonding leave will be paid as a normal public holiday and will not extend the maximum period of bonding leave.

### **93. PARENTAL LEAVE**

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#### Purpose

- 93.1 Parental leave without pay is in addition to the provisions available in maternity leave, primary care giver leave and adoption or permanent care leave and is available to employees to enable them to be absent from duty following the birth or adoption of a child or the commencement of permanent caring arrangement for a child.

#### Eligibility

- 93.2 Parental leave is available to an employee or an eligible casual employee who is the primary care giver of a child following the birth or adoption of a child or the commencement of a permanent caring arrangement for a child.

#### Entitlement

- 93.3 An employee is entitled to up to two years of parental leave following the child's birth, adoption or commencement of a permanent caring arrangement, less any period of maternity leave or primary care giver leave which the employee has taken in relation to the same child.
- 93.4 To avoid doubt, the entitlement under this clause does not increase in cases of multiple births, adoptions or permanent caring arrangements that apply to more than one child at any one time.
- 93.5 At the end of this time the employee is entitled to return to work in accordance with the provisions in the National Employment Standards.
- 93.6 An employee is entitled to apply and will be granted an additional year of parental leave for up to two occasions of birth, adoption or or commencement of a permanent caring arrangement, provided that the employee agrees, where necessary, to become unattached.

#### Evidence and Conditions

- 93.7 An employee should discuss with their manager/supervisor, as soon as practicable, their intention to be absent on parental leave.
- 93.8 An employee must make an application to the head of service to access their unpaid parental leave entitlement.



- 93.9 Having considered the requirements of this clause the head of service will approve an employee's application to access parental leave.
- 93.10 The employee must provide the head of service with appropriate evidence concerning the reasons for and circumstances under which the unpaid parental leave application is made, which may include:
- (a) a birth certificate; or
  - (b) documents from an adoption authority concerning the adoption of a child; or
  - (c) documents relating to a permanent caring arrangement .
- 93.11 The head of service will not grant parental leave if the employee's domestic partner is on parental leave and is an employee of the ACTPS.

#### Rate of Payment

- 93.12 Parental leave will be granted without pay.

#### Effect on Other Entitlements

- 93.13 Parental leave does not count as service for any purpose.
- 93.14 Parental leave does not break continuity of service.
- 93.15 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on parental leave will not be paid as a normal public holiday.

#### Access to Other Leave Entitlements

- 93.16 An employee on parental leave may access annual and long service leave on full or half pay to the extent of available entitlements.
- 93.17 An application by an employee for personal leave during a period that would otherwise be a period of parental leave will be granted subject to the employee providing a certificate from a registered health professional operating within their scope of practice.

#### Keep in Touch Arrangements

- 93.18 An employee may agree to attend the workplace on up to ten separate occasions of up to one day each so as to keep in touch with developments in the workplace (for meetings and training etc.), less any Keep In Touch time approved during maternity or primary caregiver leave as per subclauses 89.34 or 91.26.
- 93.19 The employee will be paid at their ordinary hourly rate of pay for this time. Keep in touch attendance will count as service for all purposes, but does not extend the period of leave and does not end or reduce the entitlement to parental leave.

## 94. GRANDPARENTAL LEAVE

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### Purpose

94.1 Grandparental leave is available to employees to enable them to be absent from duty to undertake a primary care giving role to their grandchild during normal business hours.

### Eligibility

94.2 Grandparental leave is available to employees other than casual employees and employees on probation.

94.3 To be eligible for grandparental leave, the baby or child which the employee is providing care for must be:

- (a) their grandchild; or
- (b) their step-grandchild; or
- (c) their adopted grandchild; or
- (d) a child for whom the employee's child has parental or caring responsibility authorised under a law of a State or Territory.

### Entitlement

94.4 An eligible employee may be granted up to fifty two weeks of grandparental leave, in relation to each grandchild under care. This leave may be taken over a period not exceeding five years.

94.5 Grandparental leave is available up until the fifth birthday of the grandchild for whom the employee is the primary care giver.

94.6 Grandparental leave is non-cumulative.

94.7 The length of a period of absence on grandparental leave must be agreed between the eligible employee and the head of service.

Example 1: A day or part-day on an occasional basis.

Example 2: A regular period of leave each week, fortnight or month.

Example 3: A larger block of leave such as six or twelve months.

94.8 If an employee is absent on grandparental leave and becomes a grandparent to another grandchild, for whom they are the primary care giver, a new application must be made as per subclause 94.4.

### Evidence and Conditions

94.9 An employee should discuss with their manager/supervisor, as soon as practicable, their intention to be absent on grandparental leave.

- 94.10 An employee must make an application to the head of service to access their grandparental leave entitlement, and must include details of the period, or expected period, of the absence.
- 94.11 Having considered the requirements of this clause the head of service may approve an employee's application to access grandparental leave. A decision not to approve the leave will be taken in accordance with subclause 80.1
- 94.12 The head of service should not approve an application for grandparental leave where an employee has an annual leave balance in excess of eight weeks.
- 94.13 An application for grandparental leave must include evidence in the form of:
- (a) a statutory declaration or a medical certificate confirming the birth or the expected date of the birth of the grandchild; or
  - (b) the grandchild's adoption certificate or a statutory declaration confirming the adoption of the grandchild; or
  - (c) a letter or a statutory declaration confirming that there is an authorised care situation.
- 94.14 If both grandparents are employees of the ACTPS either grandparent may be granted leave but the leave may not be taken concurrently.

#### Rate of Payment

- 94.15 Grandparental leave will be granted without pay.

#### Effect on Other Entitlements

- 94.16 Employees cannot engage in outside employment during a period of grandparental leave without the prior approval of the head of service.
- 94.17 Grandparental leave will count as service for all purposes except the accrual of annual leave and personal leave.
- 94.18 Grandparental leave will not break continuity of service.
- 94.19 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on grandparental leave will not be paid as a normal public holiday.

#### Access to Other Leave Entitlements

- 94.20 An employee on grandparental leave may access annual leave, purchased leave or long service leave.
- 94.21 An application by an employee for personal leave during a period that would otherwise be grandparental leave will be granted subject to the employee providing a certificate from a registered health professional who is operating within their scope of practice.

#### Unattachment

- 94.22 During an employee's absence on grandparental leave, the head of service may, with the employee's written consent, declare the employee unattached.

## 95. ADOPTION OR PERMANENT CARE LEAVE

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### Purpose

- 95.1 Adoption or Permanent Care leave is available to employees to enable them to be absent from duty to:
- (a) care for and bond with an adopted child or a child for whom the employee has a permanent caring responsibility, including kinship arrangements, until the child turns eighteen; and
  - (b) support the protection of the family and children under the *Human Rights Act 2004* and the *Children and Young People Act 2008*.

### Eligibility

- 95.2 Paid adoption or permanent care leave is available to employees other than casual employees who are the primary care giver of an adopted child or a child for whom the employee has a permanent caring responsibility until the child turns eighteen.
- 95.3 An employee who has completed at least twelve months continuous service, including recognised prior service, is eligible for adoption or permanent care leave.
- 95.4 An employee who is eligible for paid primary care giver leave is not eligible for adoption or permanent care leave.
- 95.5 An employee who completes twelve months of continuous service within eighteen weeks of becoming the primary care giver for an adopted child or a child for whom the employee has a permanent caring responsibility is eligible for adoption or permanent care leave for the period between completing twelve months of qualifying service and the end of the first eighteen weeks of becoming the primary care giver of the child.

### Entitlement

- 95.6 An eligible employee is entitled to eighteen weeks of paid leave in relation to each occasion of adoption or commencement of a permanent caring responsibility.
- 95.7 A casual employee is entitled to unpaid pre-adoption leave in accordance with the provisions of the National Employment Standards.
- 95.8 To avoid doubt, the entitlement under subclause 95.6 does not increase when the adoption or permanent caring responsibility involves more than one child at the time of application.
- 95.9 Adoption and permanent care leave is non-cumulative.
- 95.10 An employee is entitled to return to work in accordance with the provisions in the National Employment Standards.

## Evidence and Conditions

- 95.11 An employee should discuss with their manager/supervisor, as soon practicable, their intention to be absent on adoption or permanent carer leave.
- 95.12 An employee must make an application to the head of service to access their adoption or permanent care leave.
- 95.13 The employee must provide the head of service with appropriate evidence concerning the reasons for and circumstances under which the adoption or permanent care leave application is made, which may include:
- (a) documents from an adoption authority concerning the adoption; or
  - (b) an authorisation as a kinship carer made under the *Children and Young Peoples Act 2008*.
- 95.14 In all cases details of leave being taken by the employee's domestic partner must be provided.
- 95.15 Leave under this clause will not be approved for employees in circumstances where the child has lived continuously with the employee for a period of six months or more at the date of placement or in cases where the child is a child of the employee or employee's spouse or de facto partner.
- 95.16 Before granting leave the head of service must be satisfied that the employee demonstrates that they are the primary care giver.
- Example 1: The primary care giver may be the adoptive mother or father of the child.
- Example 2: The primary care giver may be authorised as a permanent kinship carer in the initial six months of the child's placement with them.
- 95.17 Adoption or permanent care leave may commence up to one week prior to the date the employee assumes permanent caring responsibility for the child but not later than the formal commencement of the adoption or permanent caring responsibility, unless exceptional circumstances apply.
- 95.18 In all cases, the child(ren) must be under the age of eighteen at the date the employee assumes permanent responsibility for the child for leave to be approved.

## Rate of Payment

- 95.19 Adoption or permanent care leave will be granted with pay, except for unpaid pre-adoption leave for casual employees.
- 95.20 The rate of payment to be paid to the employee during a paid period of adoption or permanent care leave is the same rate as would be paid if the employee was granted personal leave.
- 95.21 Despite sub-clause 95.20, where an employee varies their ordinary hours of work, either from part time to full time, from part time to different part time, or from full time to part time, during

the twelve month period directly preceding adoption or permanent caring leave, the rate of payment for the paid component of their adoption or permanent care leave, which will be capped at full time rates, will be calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the twelve month period immediately before the period of adoption or permanent care leave commences.

- 95.22 To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of sub-clause 95.21.
- 95.23 Leave may be granted in any combination of full or half pay, with credits to be deducted on the same basis. The maximum paid period is up to thirty six weeks at half pay.

#### Effect on Other Entitlements

- 95.24 Paid adoption or permanent care leave will count as service for all purposes.
- 95.25 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on adoption or permanent care leave will not be paid as a normal public holiday.

#### Access to Other Leave Entitlements

- 95.26 Adoption or permanent care leave does not extend the maximum period of unpaid parental leave available to an employee.

### **96. FOSTER AND SHORT TERM CARE LEAVE**

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#### Purpose

- 96.1 Foster and Short Term Care leave is available to employees to enable them to be absent from duty to:
- (a) care for a child in an emergency or other short term out of home care placement, including kinship arrangements, that has not been determined to be permanent; and
  - (b) support the protection of the family and children under the *Human Rights Act 2004* and the *Children and Young People Act 2008*.

#### Eligibility

- 96.2 Foster and Short Term Care leave is available to employees other than casual employees who are the primary care giver of a child in an emergency or other out of home care placement that has not been determined as permanent.
- 96.3 An employee who has completed at least twelve months continuous service, including recognised prior service, is eligible for Foster and Short Term Care leave.

## Entitlement

96.4 An eligible employee will be entitled to a period of paid leave proportionate to the duration of the caring arrangement per application and up to a maximum of ten working days/shifts per calendar year.

Example 1: An emergency care placement of 48 hours will entitle an employee to up to two days/shifts of leave.

Example 2: A short term care placement of up to two years' duration will entitle an employee to up to ten working days/shifts of leave.

96.5 Where the duration of the existing arrangement is subsequently altered, for example, a change from an emergency placement to a short term placement, the employee may, subject to further application and approval, have their leave extended up to a maximum period of ten working days/shifts.

96.6 An eligible employee will be entitled to paid leave as per subclause 96.4 to undertake accreditation towards an enduring parental authority to care for the child (ren) to whom the current short term caring arrangement applies.

96.7 The entitlement under sub-clause 96.4 does not increase when the short term caring arrangement involves more than one child at the time of application.

96.8 Foster and Short Term Care leave is non-cumulative.

96.9 Where an employee exhausts their paid leave entitlement under this clause the employee may seek approval for further unpaid leave.

## Evidence and Conditions

96.10 An employee should discuss with their manager/supervisor, as soon practicable, their intention to be absent on Foster and Short Term Care leave.

96.11 An employee must make an application, as soon as practicable, to the head of service to access their Foster and Short Term Care leave.

96.12 The employee must provide the head of service with appropriate evidence concerning the reasons for and circumstances under which each Foster and Short Term Care leave application is made, which may include:

(a) documents relating to current and previous court orders granting responsibility for a foster child; or

(b) documents from a registered health professional or registered medical professional.

## Rate of Payment

96.13 Foster and Short Term Care leave will be granted with pay or without pay.

96.14 The rate of payment during absence on a period of paid Foster and Short Term Care leave is the same rate as would be paid if the employee was granted personal leave.

96.15 The approved leave period may be taken at full pay in a single block or as single or part days.

#### Effect on Other Entitlements

96.16 Paid Foster and Short Term Care leave will count as service for all purposes and unpaid Foster and Short Term Care leave will not count as service for any purposes but will not break continuity of service.

96.17 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid Foster and Short Term Care leave will be paid as a normal public holiday and will not be considered to be Foster and Short Term Care leave.

#### Access to Other Leave Entitlements

96.18 An eligible employee will be required to have exhausted their entitlement under this leave clause before accessing their personal leave credit to care for a child, for whom they are responsible under a short term caring arrangement, who is ill or injured.

### **97. LEAVE FOR DOMESTIC VIOLENCE PURPOSES**

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#### Purpose

97.1 Leave for domestic violence purposes is available to employees who are experiencing domestic violence to allow them to be absent from the workplace to attend counselling appointments, legal proceedings and other activities related to, and as a consequence of, domestic violence.

97.2 Domestic violence is defined in the Dictionary.

#### Eligibility

97.3 Leave for domestic violence purposes is available to all employees with the exception of casual employees.

97.4 Casual employees are entitled to access leave without pay for domestic violence purposes.

#### Entitlement

97.5 An employee experiencing domestic violence will have access up to a maximum of 20 days/shifts per calendar year paid leave, subject to the provision of appropriate evidence. Leave for domestic violence purposes is non-accumulative.

97.6 Leave for domestic violence purposes is in addition to other leave entitlements and is not to be used as a substitute for personal leave. However, where supporting evidence is not immediately available the head or service will, grant paid leave under clause 83 of this Agreement (Personal Leave in Extraordinary and Unforeseen Circumstances), subject to available credit. If the employee subsequently produces supporting evidence, the personal



leave will be re-credited and the leave taken will be converted to leave for domestic violence purposes.

97.7 Leave for domestic violence purposes is to be used to:

- attend appropriate medical appointments for referral to other appropriate counselling or support services;
- obtain legal advice;
- attend counselling appointments;
- seek assistance from other relevant support services;
- attend court proceedings;
- attend prosecution appointments;
- attend police appointments;

or to access:

- alternative accommodation;
- alternative childcare or schooling for children;

the need for which is as a consequence of domestic violence occurring.

97.8 Leave for domestic violence purposes may be taken as consecutive or single days, or as part days.

97.9 For confidentiality and privacy reasons leave for domestic violence purposes will be attributed as coming under “where leave cannot be granted under any other provision” which is included and identified within “Other Leave Types” in Annex E of this Agreement.

#### Evidence and Conditions

97.10 Employees wishing to access leave for domestic violence purposes should discuss making an application with their manager/supervisor or an appropriate HR Manager as soon as reasonably practical.

97.11 As a general rule, a leave application should be submitted by an employee for approval by the head of service before the commencement of the leave. However, retrospective applications may be approved provided that appropriate evidence is provided as soon as reasonably practicable upon the employee’s return to the workplace.

97.12 Evidence of the occurrence of domestic violence will be required to access leave for domestic violence purposes.

97.13 Evidence may include:

- a document issued by the Police;
- a written referral, issued by a registered medical practitioner or registered nurse, to a counsellor trained in providing support in domestic violence situations;

- a document issued by a Court, or a counsellor trained in providing support to people experiencing the effects of domestic violence;
- written confirmation from an Employee Assistance Program provider or from a domestic violence support service that the employee is experiencing domestic violence issues.

97.14 Managers are to keep all information concerning the leave application strictly confidential. This includes, after sighting any supporting documentation, returning that documentation to the employee.

#### Rate of Payment

97.15 Leave for domestic violence purposes is granted with pay. Casual employees are entitled to access leave without pay for domestic violence purposes.

97.16 Leave for domestic violence purposes will not be granted at half pay, unless there are extenuating circumstances.

#### Effect on Other Entitlements

97.17 Leave with pay for domestic violence purposes will count as service for all purposes. Leave without pay for domestic violence purposes will not count as service for any purpose, but will not break an employee's continuity of service.

#### Access to Other Leave Entitlements

97.18 Where leave for domestic violence purposes credits have been exhausted the head of service may grant an employee leave without pay or other forms of paid leave, such as annual leave or long service leave.

97.19 Employees should utilise personal leave for an illness or injury, or to seek treatment for an illness or injury, caused by domestic violence.

97.20 Leave entitlements under clause 83 of this Agreement (Personal Leave in Extraordinary and Unforeseen Circumstances) may be used by an employee who is seeking leave to support a person who is experiencing domestic violence.

#### Further Consideration

97.21 The head of service and unions covered by this Agreement, agree to examine options to deal with the work-related consequences for employees who are victims of sexual assault in instances that occur outside the confines of a domestic relationship. Consultation with subject matter experts and interested stakeholders will be undertaken with a view to developing an ACTPS-wide Policy that may provide for additional entitlements for ACTPS employees in such circumstances. The Chief Minister and Treasury Directorate will commence this work in consultation with ACTPS workplace unions not later than six months from the commencement of this Agreement.

## 98. COMPASSIONATE LEAVE

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### Purpose

- 98.1 Compassionate leave is available to employees to enable them be absent from duty when a member of an employee's immediate family or household:
- (a) has a personal illness or injury that poses a serious threat to the person's life; or
  - (b) dies.

### Eligibility

- 98.2 Compassionate leave is available to all employees.

### Entitlement

- 98.3 An employee may be granted compassionate leave from the first day of service.
- 98.4 Compassionate leave is non-cumulative.
- 98.5 Employees are entitled to up to five days of compassionate leave on each occasion of the death of a member of the employee's immediate family or household. The head of service may grant an additional paid or unpaid period of compassionate leave for this purpose.
- 98.6 Employees are entitled to up to two days of compassionate leave on each occasion of personal illness or injury of a member of the employee's immediate family or household that poses a serious threat to the person's life. The head of service may grant an additional paid or unpaid period of compassionate leave for this purpose.

### Evidence and Conditions

- 98.7 The employee should discuss with their manager/supervisor, as soon as practicable, their absence or intention to be absent on compassionate leave.
- 98.8 An employee must make an application to the head of service to access compassionate leave.
- 98.9 The head of service may request evidence that would satisfy a reasonable person that an application for compassionate leave is for a purpose specified in subclause 98.1.
- 98.10 Having met the requirements of this clause, the head of service will approve an employee's application to access compassionate leave.
- 98.11 If the employee has not provided the evidence requested under subclause 98.9, a decision not to approve the leave may be taken in accordance with subclause 80.1.

### Rate of Payment

- 98.12 Compassionate leave will be granted with pay, except for casual employees and except where it is granted without pay under subclauses 98.5 or 98. 6.

### Effect on Other Entitlements

- 98.13 Compassionate leave with pay will count as service for all purposes.
- 98.14 Public Holidays for which the employee is entitled to payment that fall during periods of absence on paid compassionate leave will be paid as a normal public holiday and will not be considered an absence on compassionate leave.
- 98.15 Compassionate leave that is granted under subclause 98.5 is not deducted from an employee's personal leave balance.
- 98.16 Compassionate leave that is granted under subclause 98.6 is deducted from an employee's personal leave balance.

### Access to Other Leave Entitlements

- 98.17 If compassionate leave of at least one day is granted while an employee is absent on another type of leave, the other type of leave will be re-credited for the period of the absence on compassionate leave.

## **99. COMMUNITY SERVICE LEAVE**

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### Purpose

- 99.1 Community service leave is available to employees to allow them to be absent from the workplace to engage in the following community service activities:
- (a) jury service (including attendance for jury selection) that is required by or under a law of the Commonwealth, a State or a Territory; or
  - (b) a voluntary emergency management activity; or
  - (c) other recognised voluntary community service activity.

### **Jury Service**

#### Eligibility

- 99.2 Community service leave for jury service is available to all employees.

#### Entitlement

- 99.3 Community service leave for jury service is non-cumulative.

#### Evidence and Conditions

- 99.4 Although the granting of community service leave for jury service is deemed to be approved, an employee must:
- (a) Submit a leave application for the period of the absence; and
  - (b) Provide sufficient documentary evidence of the reason for the absence.

99.5 The employee should discuss with their manager/supervisor their intention to be absent on community service leave for jury service.

#### Rate of Payment

99.6 Community service leave for jury service will be granted with pay to employees other than casual employees.

99.7 If the employee is paid jury fees, this amount must be deducted from the employee's pay less reasonable out-of-pocket expenses.

#### Effect on Other Entitlements

99.8 Community service leave for jury service will count as service for all purposes.

99.9 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid community service leave for jury service will be paid as a normal public holiday and will not be considered to be community service leave for jury service.

### **100. VOLUNTARY EMERGENCY MANAGEMENT**

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#### Eligibility

100.1 An employee who is a member of a relevant emergency service, including:

- (a) a State or Territory Emergency Service;
- (b) a fire-fighting service;
- (c) a search and rescue unit; or
- (d) other volunteer service performing similar functions,

is eligible for community service leave for voluntary emergency management.

100.2 A casual employee who is a member of a relevant emergency service is eligible to unpaid community service leave for voluntary emergency management service.

#### Entitlement

100.3 Eligible employees are entitled to be absent on unpaid leave to engage in a voluntary emergency management activities, subject to operational requirements in the workplace.

100.4 Eligible employees, other than casual employees, are eligible for up to four days paid community service leave for voluntary emergency management per emergency.

100.5 Community service leave for voluntary emergency management is non-cumulative.

#### Evidence and Conditions

100.6 An employee should discuss their intention to be absent on paid or unpaid community service for voluntary emergency management with their manager/supervisor as soon as practicable,

which may be at a time after the absence has started. The employee must advise the manager/supervisor of the period, or expected period, of the absence.

- 100.7 An employee must make an application to the head of service to access their paid community service leave for voluntary emergency management entitlement.
- 100.8 The employee must, if requested by the head of service, provide sufficient documentary evidence of the reason for the absence.
- 100.9 The head of service may grant paid community service leave for voluntary emergency management to enable the employee to fulfil an obligation in the event of a civil emergency.
- 100.10 Having considered the requirements of this clause the head of service may approve an employee's application to access paid community service leave for voluntary emergency management. A decision not to approve the leave will be taken in accordance with subclause 80.1.

#### Rate of Payment

- 100.11 Where paid leave is granted for community service leave for voluntary emergency management, it is paid at the employee's ordinary hourly rate of pay.

#### Effect on Other Entitlements

- 100.12 A period of approved community service leave for voluntary emergency management will count as service for all purposes.
- 100.13 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid community service leave for voluntary emergency management will be paid as a normal public holiday and will not be considered to be community service leave for voluntary emergency management.

#### Additional Leave

- 100.14 Additional paid leave may be approved by the head of service for any voluntary emergency management duties required to be performed by an employee who is a member of a State or Territory Emergency Service.

### **101. VOLUNTARY COMMUNITY SERVICE**

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#### Eligibility

- 101.1 Community service leave for voluntary community service is available to all employees.

#### Entitlement

- 101.2 Employees, other than casual employees, are entitled to up to three days of paid leave for community service leave to engage in a recognised voluntary community service activity within a twelve month period.
- 101.3 Community service leave for voluntary community service is non-cumulative.

101.4 An employee may be granted unpaid community service leave to engage in a recognised voluntary community service activity, subject to operational requirements in the workplace.

#### Evidence and Conditions

101.5 An employee should discuss their intention to be absent on community service leave for voluntary community service, as soon as practicable, with their manager/supervisor.

101.6 An employee must make an application to the head of service to access their community service leave for voluntary community service entitlement.

101.7 The head of service may request sufficient documentary evidence of the reason for the absence.

101.8 In considering an application from an employee for paid leave to engage in a voluntary community service activity, the head of service must consider whether:

- (a) the activity is a recognised voluntary activity; and
- (b) the community organisation or project is an acceptable organisation or project as defined in the Directorate's guidelines; and
- (c) there is a risk the activity would place the employee in a real or perceived conflict of interest.

101.9 Leave for a voluntary community service activity must not be approved for activities which:

- (a) involve any payment in cash or kind for the duties performed by the employee; or
- (b) replace work ordinarily undertaken by a paid worker; or
- (c) are undertaken solely for direct personal benefit of the employee; or
- (d) place the employee in a conflict of interest situation; or
- (e) are primarily focussed on promoting particular religious or political views; or
- (f) involves work which does not have a community focus.

101.10 Having considered the requirements of this clause the head of service may approve an employee's application to access paid or unpaid community service leave for voluntary community service.

101.11 A decision not to approve the leave must be made in accordance with subclause 80.1.

#### Rate of Payment

101.12 Community service leave for voluntary community service is granted with pay for the first three days leave in a twelve month period to all employees except casual employees.

### Effect on Other Entitlements

- 101.13 Community service leave for voluntary community service will count as service for all purposes up to a maximum of twenty three days in any twelve month period.
- 101.14 Where the head of service has approved a request for unpaid community service leave for voluntary community service exceeding twenty days in a twelve month period, this leave in excess of twenty days will not count as service.
- 101.15 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid community service leave for voluntary community service will be paid as a normal public holiday and will not be considered to be community service leave for voluntary community service.

### Access to Other Leave Entitlements

- 101.16 Leave granted under this provision may be taken in combination with approved annual or long service leave.

## **102. OTHER LEAVE**

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### Purpose

- 102.1 Other leave is available to employees to enable them to be absent from duty for a variety of purposes as set out in Annex E
- 102.2 Other leave may be granted in the interests of:
- (a) the Directorate, a State, a Territory or the Commonwealth; or
  - (b) the community in general; or
  - (c) the employee.

Note: Separate provisions apply for community service leave which includes jury service, voluntary emergency management and voluntary community service.

### Eligibility

- 102.3 An employee who meets the eligibility requirements specified in Annex E is eligible to apply for that form of other leave.

### Entitlement

- 102.4 An employee may be granted other leave to the maximum period set out in Annex E.

### Evidence and Conditions

- 102.5 An employee should discuss with their manager/supervisor, as soon as practicable, their intention to be absent on a form of other leave, including the reasons for the absence and the period, or expected period, of the absence.
- 102.6 An employee must make an application to the head of service to access a form of other leave.



- 102.7 Having considered the requirements of this clause the head of service may approve an employee's application to access a form of other leave. A decision not to approve the leave must be made in accordance with subclause 80.1.
- 102.8 The employee must, if requested by the head of service, provide sufficient documentary evidence supporting the reason for the absence.
- 102.9 When considering requests for other leave, the head of service will take into account:
- (a) the employee's circumstances;
  - (b) community norms and obligations;
  - (c) the operational requirements of the workplace;
  - (d) other available leave options;
  - (e) any conditions on the entitlement as defined in Annex E.

#### Rate of Payment

- 102.10 Other leave may be granted with or without pay in accordance with Annex E.

#### Effect on Other Entitlements

- 102.11 A period of other leave will, or will not, count as service in accordance with Annex E.
- 102.12 Public holidays for which the employee is entitled to payment that fall during periods of absence on other paid leave will be paid as a normal public holiday and will not reduce an entitlement of the employee to other leave under Annex E.

#### Access to Other Leave Entitlements

- 102.13 Leave will not be granted under this provision if another form of leave is more appropriate.

#### Unattachment

- 102.14 Where the leave is without pay for a period of more than twelve months the head of service may, with the employee's written consent, declare the employee unattached.

### **103. PUBLIC HOLIDAYS**

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#### Eligibility

- 103.1 Public holidays are available to employees other than casual employees.

#### Entitlement

- 103.2 Employees are entitled to be absent from duty, on the following days:
- (a) 1 January (New Year's day), or, if that day falls on a Saturday or Sunday, the following Monday;

- (b) 26 January (Australia Day), or, if that day falls on a Saturday or Sunday, the following Monday;
- (c) the 2nd Monday in March (Canberra Day);
- (d) Good Friday;
- (e) the Saturday following Good Friday;
- (f) the Monday following Good Friday;
- (g) 25 April (Anzac Day), or, if that day falls on a Saturday or Sunday, the following Monday;
- (h) the 2nd Monday in June (the day for the observance of the anniversary of the birthday of the Sovereign);
- (i) Family and Community Day;
- (j) the 1st Monday in October (Labour Day);
- (k) Christmas Day, or, if that day falls on a Saturday or Sunday, the following Monday;
- (l) 26 December (Boxing Day), or—if that day falls on a Saturday—the following Monday; or if that day falls on a Sunday or Monday—the following Tuesday;
- (m) any other day, or a part of any other day, declared to be a public holiday in the ACT in accordance with the *Holidays Act 1958*; and, in addition,
- (n) the next working day after Boxing Day;
- (o) any other day, or part of any day, declared to be a holiday by the Commissioner for Public Administration.

#### Rate of Payment

- 103.3 A public holiday is granted with pay.
- 103.4 A part time employee whose regular part time hours do not fall on a public holiday will not be paid for that public holiday.
- 103.5 An employee will not be paid for a public holiday which occurs during a period of leave without pay.
- 103.6 If a public holiday occurs on the day immediately before or immediately after an employee is on a period of leave without pay the employee is entitled to be paid for the public holiday.

#### Effect on Other Entitlements

- 103.7 Subject to subclause 103.8, public holidays count as service for all purposes.
- 103.8 A public holiday will not count as service if it occurs while the employee is on a period of leave not to count as service.

## PART 5: PERFORMANCE CULTURE

### Section M – Learning and Development

#### 104. TRAINING, EDUCATION AND STUDY LEAVE (TESL) – SPECIALISTS AND SENIOR SPECIALISTS

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##### Purpose of TESL

- 104.1 TESL is leave for the purpose of undertaking training and educational activities. It encompasses leave to attend short courses and seminars (previously catered for by the Conference Leave), and Sabbatical Leave (for which purpose Study Leave was formerly available).

##### Leave Entitlement

- 104.2 A full time Specialist or Senior Specialist is entitled to 160 hours of Training, Education and Study Leave (TESL) each year.
- 104.3 An employee may be granted TESL up to their available credit from the first day of service.
- 104.4 An employee's TESL credit accrues on a daily basis according to the formula set out below:
- (A x B x D) / C = total hours of leave accrued per day where:  
A = number of ordinary hours per week worked (40 for a full-time employee); and  
B = one where the day counts as service or zero where the day does not count as service or is an unauthorised absence;  
C = number of calendar days in the year; and  
D = number of weeks of TESL a full time employee is entitled to in a year (4)
- 104.5 The entitlement to TESL under this clause replaces the entitlements to study leave and conference leave under the PSM Standards.
- 104.6 TESL entitlements can accrue for a maximum of eight years (i.e. 1280 hours for full time Specialists and Senior Specialists).
- 104.7 Accrued credits held at the time of moving to the new accrual system (hours as opposed to working days) will be translated by multiplying existing credits by 8.
- 104.8 Short-term temporary employees are not eligible for TESL.

##### Fractional appointments (regular part-time employment)

- 104.9 The head of service may require a Specialist or Senior Specialist who is working pursuant to a regular part-time employment agreement to take TESL at the full-time equivalent daily rate. Alternatively, by agreement with the head of service, a Specialist or Senior Specialist who is working pursuant to a regular part-time employment agreement may take TESL at the same part-time daily rate of pay, provided that his/her leave entitlement is not exceeded. Agreement will not be unreasonably withheld.

##### Applying for and Granting of Leave

- 104.10 Applications for leave will be in writing. Each application will specify:

- (a) The first and last day the employee proposes to be absent from duty (the leave application must specify the first day on which the employee seeks to be absent from duty, not the last day of duty.);
- (b) The first and last day of the training or educational activities which the employee will undertake;
- (c) The program and content of the training or educational activity proposed to be undertaken;
- (d) The relevance of the training or educational activity to the employee's professional development as a Specialist; and
- (e) The relevance of the training or educational activity to the employer's field of operations.

104.11 The employee will submit the application to the relevant unit head or functionally equivalent supervisor for consideration and recommendation to the head of service.

104.12 Where an employee seeks to take more than six weeks leave at any time (whether as TESL, or a mix of TESL and other leave), the employee must give the employer six months notice of the intention to take leave. The employer has the discretion to waive this requirement, but it would only do so if there would be no impact on services.

104.13 The head of service may grant leave to an employee to undertake training and educational activities. The criteria for the grant of leave are:

- (a) The application is supported by the employee's clinical unit head and supervisor;
- (b) Operational requirements permit the absence of the employee;
- (c) The training or educational activities to be undertaken are relevant to the employer's field of operations; the employer's business plans; the employee's professional development as a Specialist; the achievement of objectives as set out in the employee's performance agreement;
- (d) TESL can be taken for the purposes relevant to both the Specialist or Senior Specialist and the Directorate, at the discretion of the Specialist or Senior Specialist, within or outside Australia, subject to approval by the head of service; and
- (e) The test of relevance to an employee's professional development under their performance agreement and the Directorate's operational requirements will be applied strictly.

104.14 Applications involving overseas travel must be submitted for approval to the head of service.

**No payment on termination of employment**

104.15 A Specialist or Senior Specialist will not be entitled to any entitlement pursuant to this clause upon retirement, resignation, redundancy or dismissal.

**105. MEDICAL EDUCATION EXPENSES (MEE)**

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- 105.1 Each full-time Specialist and Senior Specialist who is eligible for TESL will be eligible for a reimbursement of up to \$16,889 per annum for Medical Education Expenses (MEE) in conjunction with TESL, or in conjunction with approved continuing professional development activities.
- 105.2 MEE will be adjusted in line with ACT Treasury annual CPI projections with the first such adjustment applying from 1 July 2015.
- 105.3 MEE will be available for conferences and training in accordance with the provisions of Clause 104.
- 105.4 Where a part-time employee would, but for their part-time working arrangements, be eligible for TESL, they may access MEE in accordance with the provisions of this clause
- 105.5 The amount outlined in subclause 105.1 will be pro-rata for part-time Specialists and Senior Specialists.
- 105.6 Unused MEE may be accrued for a maximum of five years (i.e. if all or part of an employee's MEE entitlement remains unused after 5 years, that entitlement lapses).
- 105.7 A Specialist or Senior Specialist will not be eligible for MEE pursuant to this clause upon retirement, resignation, redundancy or dismissal.
- 105.8 In the event that an employee who has accessed this entitlement does not complete one years' service as a Specialist or Senior Specialist, any MEE paid will be subject to recovery on a pro-rata basis (e.g. if only 6 months worked prior to departure, 50% of the MEE received will be liable to recovery.)
- 105.9 The MEE will reside in and be administered through the Private Practice Fund.

**106. STUDY LEAVE – RESIDENT MEDICAL OFFICERS, SENIOR RESIDENT MEDICAL OFFICERS, REGISTRARS AND SENIOR REGISTRARS**

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- 106.1 Subject to the terms of this clause study leave without loss of pay may be granted to Resident Medical Officers, Registrars and Senior Registrars as follows:
- 106.2 Face-to-face courses: Half hour study time for every hour of compulsory lecture and/or tutorial attendance, up to a maximum of four hours study time per week.
- 106.3 Where no face-to-face course is provided: A maximum of four hours study time per week for a maximum of 27 weeks per year.
- 106.4 Study leave shall only be granted in respect of a course:
- (a) Leading to higher medical qualifications as defined in the Dictionary of this Agreement; and
  - (b) In respect of a qualification that when obtained would be relevant to the needs of the hospital.

- 106.5 The employee shall submit to the head of service a timetable of the proposed course of study and evidence of the employee's enrolment in the course.
- 106.6 Where leave is sought in conjunction with an examination, applications must be lodged at least 8 weeks before the date of commencement of the proposed leave. A decision on the application is to be notified to the employee no later than 4 weeks before the requested commencement date.
- 106.7 The grant of study leave is subject to the convenience of the hospital and should not interfere with the maintenance of essential services or with patient care. However once granted, approval will not be revoked except in emergencies.
- 106.8 Periods of study leave granted shall not be taken into account for the purposes of calculating overtime payments.
- 106.9 Study leave granted subject to the terms of this clause, may be accrued to a maximum of seven working days for the purpose of enabling the employee to study prior to a written, oral or clinical examination. An option to accumulate study leave in terms of this clause shall be exercised at the commencement of each academic year and the employee shall notify the head of service accordingly.
- 106.10 Employees who have given continuous service of more than one year shall be allowed to accrue study leave granted subject to the terms of this clause but not taken, up to a maximum of 14 working days.
- 106.11 Study leave accruals are not paid out on termination of employment.
- 106.12 An employee who has been granted study leave under the relevant NSW industrial instrument by a NSW employer will not be granted any more leave than the employee would be entitled to take, if the employee had continued in employment with the former employer. The same principle will be applied to employees recruited from other jurisdictions.

107. **CONFERENCE LEAVE – SENIOR CAREER MEDICAL OFFICERS, CAREER MEDICAL OFFICERS AND POSTGRADUATE FELLOWS**

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- 107.1 A Career Medical Officer, Senior Career Medical Officer or Postgraduate Fellow may be granted leave with pay by the head of service for the purpose of attending a medical or related conference(s).
- 107.2 On commencement as a Senior Career Medical Officer, Career Medical Officer or Postgraduate Fellow and on completion of each subsequent year of service, a credit shall be added to the conference leave balance.
- 107.3 That credit will be 40 hours for Career Medical Officers and Postgraduate Fellows, and 80 hours for Senior Career Medical Officers.
- 107.4 The maximum conference leave credit that may accrue is 120 hours for CMOs and Fellows, 240 hours for Senior CMOs. The period of leave granted must not exceed the conference leave credit of the employee.

- 107.5 The approval of the head of service is required for such leave which must not interfere with the maintenance of essential services and patient care. Approval shall not be unreasonably withheld.
- 107.6 The professional development activities undertaken during such paid leave must be relevant to the position occupied by the employee.
- 107.7 Appropriate expenses associated with such leave, up to a maximum of \$6,124 per annum, are to be reimbursed (upon presentation of appropriate documentation) by the employer, provided that no expenses or allowances shall be payable in respect of travel or accommodation outside Australia, except where that travel is approved in advance.
- 107.8 The amount specified in subclause 107.7 will be adjusted in line with ACT Treasury annual CPI projections, with the first such adjustment applying from 1 July 2014.
- 107.9 The amount specified in subclause 107.7 will be pro-rata for part-time employees.
- 107.10 Conference leave accruals are not paid out on termination of employment.

**108. CONFERENCE LEAVE – JUNIOR MEDICAL OFFICERS**

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- 108.1 A Junior Medical Officer may be granted leave with pay by the head of service for the purpose of attending medical conference(s), workshops relating to their field of study or approved training program(s).
- 108.2 Appropriate expenses associated with subclause 108.1 or other education expenses (which are related to a Junior Medical Officers' duties), up to a maximum of \$3,062 per annum for Resident Medical Officers, Registrars, Junior Registrars and Senior Registrars and \$2,041 per annum for Interns, are to be reimbursed (upon presentation of appropriate documentation) by the employer, provided that no expenses or allowances shall be payable in respect of travel or accommodation outside Australia, except where that travel is approved in advance.
- 108.3 The amount specified in subclause 108.2 will be adjusted in line with ACT Treasury annual CPI projections, with the first such adjustment applying from 1 July 2014.

**109. PROTECTED TEACHING TIME FOR INTERNS AND RESIDENT MEDICAL OFFICERS**

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- 109.1 Interns and Resident Medical Officers at the Postgraduate Year 1 and Postgraduate Year 2 levels must attend teaching sessions for two hours once per week.
- 109.2 To facilitate their attendance at the teaching sessions, they will be free from clinical responsibilities during this time and not required to answer pagers or take calls.
- 109.3 If an Intern or Resident Medical Officer is regularly not attending teaching sessions, their supervisor will be expected to provide an explanation as to why this is not occurring and facilitate their further attendance.

## **Section N – Workplace Values and Behaviours**

### **110. INTRODUCTION**

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- 110.1 Except where otherwise noted, this Section applies to officers, temporary employees engaged for over six months and “eligible casual employees” as defined within the dictionary. The Section does not apply to “casual employees” as defined within the dictionary, or employees on probation unless expressly stated.
- 110.2 Managers/supervisors and employees have a common interest in ensuring that workplace behaviours are consistent with, and apply the values and general principles set out in Section 9 of the PSM Act 1994 and the ACT Public Service Code of Conduct and Signature Behaviours. This involves the development of an ethical and safe workplace in which managers/supervisors and employees act responsibly and are accountable for their actions and decisions
- 110.3 The following provisions of Section N contain procedures for managing workplace behaviours that do not meet expected standards, including the management of cases of unsatisfactory work performance and misconduct.
- 110.4 These procedures for managing workplace behaviours and values must be applied in accordance with the principles of natural justice and procedural fairness, and in a manner that promotes the values and general principles of the ACTPS as set out in section 9 of the PSM Act 1994.
- 110.5 Any misconduct, underperformance, internal review or appeal process under the previous enterprise agreement that is not completed as at the date of commencement of this enterprise agreement will be completed under the previous enterprise agreement. Any right of appeal from that process will also be set out in the previous enterprise agreement.

### **111. PRELIMINARY ASSESMENT**

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- 111.1 In cases where an allegation of misconduct or underperformance is made, the manager/supervisor will initiate a preliminary assesement process to determine whether further action is required. The manager/supervisor may inform and/or seek the assistance of an appropriate Human Resources Manager.
- 111.2 Following this process if the manager/supervisor determines that the allegations:
- (a) require no further action, then no action needs to be taken;
  - (b) can be resolved through counselling, other remedial action, or assistance to the employee then the manager/supervisor will implement such action;
  - (c) are better resolved through Internal Review procedures set out in this Agreement or appropriate external mechanisms the manager/supervisor will refer the matter accordingly;
  - (d) relate to underperformance processeses the manager/supervisor will commence an underperformance process where this is warranted;



- (e) require investigation the manager/supervisor will recommend to the head of service that the matter be investigated;
- (f) may be vexatious or knowingly false, the manager/supervisor will consider whether further action needs to be taken in relation to the person who made the allegations.

111.3 The manager/supervisor will inform the employee where a preliminary assessment process is commenced under subclause 111.1 if it is appropriate to do so.

111.4 In performing the preliminary assessment the head of service may authorise access to ACTPS information and communication technology (ICT) records including email, computer, work phone records, or building access logs if, in the opinion of the head of service, access is necessary to determine whether further action is necessary.

## **112. COUNSELLING**

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112.1 Counselling may happen outside of the misconduct and underperformance processes. All parties have an obligation to participate in counselling in good faith.

112.2 In cases where counselling is considered to be appropriate, the employee will be invited to have a support person, who may be the employee's union or other employee representative, present at the counselling and will allow reasonable opportunity for this to be arranged.

112.3 The manager/supervisor or the head of service will create a formal record of the counselling which will include details about the ways in which the employee's conduct needs to change or improve and the time frames within which these changes or improvements must occur.

112.4 The record of the counselling will be provided to the employee and the employee given an opportunity to correct any inaccuracies and provide comments before signing the record. The employee's signature is taken as representing their full agreement that the record accurately reflects the discussion. If the employee elects not to sign the record, then details of the offer and any reasons given for refusal will be clearly noted.

112.5 Where the manager/supervisor or the head of service considers that the employee's conduct has not improved following counselling, an underperformance or misconduct process may be undertaken.

## **113. UNDERPERFORMANCE**

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113.1 Under this clause, procedures are established for managing underperformance by an employee.

113.2 This clause applies to all employees, except casual employees. In applying these procedures to officers on probation, temporary employees engaged for over six months or eligible casual employees, the head of service may determine that procedures and practices throughout Clause 113 may be applied on an appropriate and proportionate basis according to the circumstances of the case, and in accordance with the principles of procedural fairness and natural justice.

113.3 The objectives of these procedures are to:

- (a) provide advice and support to an employee whose performance is below the standard required; and
- (b) to provide a fair, prompt and transparent framework for action to be taken where an employee continues to perform below expected standard.

113.4 Consistent with good management practice, concerns about under performance should be raised by the manager/supervisor with the employee at the time that the concerns arise. The manager/supervisor should offer advice and support to the employee to overcome these concerns. The manager/supervisor should inform the employee that the following procedures might be invoked if the underperformance continues.

113.5 In order to ensure that these procedures operate in a fair and transparent manner, the manager/supervisor will be responsible for documenting all relevant discussions. The employee must be given the opportunity to comment on any records before signing them.

113.6 All parties have an obligation to participate in underperformance processes in good faith.

#### Step One: Action Plan

113.7 Where a manager/supervisor assesses that an employee's work performance continues to be below expected standards after having previously discussed concerns with the employee in line with subclause 113.4, the manager/supervisor will inform the employee in writing of this assessment and the reasons for it. The employee will be invited by the manager/supervisor to provide written comments on this assessment, including any reasons that in the employee's view may have contributed to their recent work performance.

113.8 After taking into account the comments from the employee, the manager/supervisor must prepare an action plan in consultation with the employee.

113.9 The manager/supervisor will invite the employee to have a support person, who may be the employee's union or other employee representative, present at discussions on developing the action plan and allow reasonable opportunity for this to be arranged.

113.10 The action plan will:

- (a) identify the expected standard of work required of the employee on an on-going basis;
- (b) identify and/or develop any learning and development strategies that the employee should undertake;
- (c) outline the potential underperformance actions that may be taken if the employee does not meet the expected standard;
- (d) specify the action plan period, which should not normally be less than one month and should not exceed six months to allow the employee sufficient opportunity to achieve the required standard; and
- (e) specify the assessment criteria to be measured within the action plan period.

113.11 Any current performance agreement will be suspended during the action plan. Any incremental advancement action for the employee will be suspended during the action plan period.

#### Step Two: Regular Assessment

113.12 During the action plan period, the manager/supervisor will make regular written assessments (desirably every fortnight) of the employee's work performance under the action plan. The employee will be given an opportunity to provide written comments on these assessments.

113.13 If the manager/supervisor considers that further assessment time is needed the manager/supervisor may extend the action plan period. However, the extended assessment time must not result in the action plan exceeding six months duration. The manager/supervisor will inform the employee in writing of the decision to extend the assessment time and the duration of the action plan.

#### Step Three: Final Assessment / Report

113.14 If at the end of the action plan period, the manager/supervisor assesses the work performance of the employee as satisfactory, no further action will be taken under these procedures at that time. The manager/supervisor will inform the employee in writing of this decision.

113.15 If at the end of the action plan period, the manager/supervisor assesses the work performance of the employee as not satisfactory, the manager/supervisor will provide a report including the assessment and reasons for the assessment to the head of service.

#### Step Four: Underperformance Action

113.16 The head of service will advise the employee in writing:

- (a) of the assessment and reasons for the manager's/supervisors assessment;
- (b) of the underperformance action/s (subclause 113.17) proposed to be taken and the reasons for proposing this action;
- (c) of the employee's right to respond in writing to the proposed action within a period of not more than seven calendar days.

113.17 At any time after seven calendar days from the date the head of service advised the employee under subclause 113.16 and after considering any response from the employee, the head of service may decide to take one or more of the following underperformance actions:

- (a) transfer the employee to other duties (at or below current pay);
- (b) defer the employee's increment;
- (c) reduce the employee's incremental point;
- (d) temporarily or permanently reduce the employee's classification and pay;
- (e) remove any monetary benefit derived through an existing Attraction and Retention Incentive (or existing SEA);

(f) terminate the employee's employment

113.18 The head of service will inform the employee in writing of the decision made under subclause 113.17, the reasons for the decision and the appeal mechanisms available under this Agreement.

113.19 At any time in these procedures, the employee may elect to be retired on the grounds of inefficiency.

#### **114. APPEAL RIGHTS**

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114.1 The employee has the right under Section Q to appeal any underperformance action taken under subclause 113.17, except action to terminate the employee's employment.

114.2 The employee may have an entitlement to bring an action under the FW Act in respect of any termination of employment under this Agreement. This will be the sole right of review of such an action.

#### **115. MISCONDUCT & DISCIPLINE**

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##### Objectives and Application

115.1 This clause establishes procedures for managing misconduct or alleged misconduct by an employee.

115.2 In applying these procedures to officers on probation, an eligible casual employee or a temporary employee who has been engaged for over six months, the head of service may determine that procedures and practices throughout Clauses 115 to 119 apply on an appropriate and proportionate basis according to the circumstances of the case.

115.3 The objective of these procedures is to encourage the practical and expeditious resolution of misconduct issues in the workplace.

115.4 All parties have an obligation to participate in misconduct processes in good faith.

##### What is Misconduct

115.5 For purposes of this Section, misconduct includes any of the following:

- (a) the employee fails to meet the obligations set out in section 9 of the PSM Act 1994 (this includes bullying and harassment or discrimination);
- (b) the employee engages in conduct that has brought, or is likely to bring, the Directorate or ACTPS into disrepute;
- (c) a period of unauthorised absence and the employee does not offer a satisfactory reason on return to work;
- (d) the employee is convicted of a criminal offence or where a court finds that an employee has committed an offence but a conviction is not recorded, taking into account the

circumstances and seriousness of the offence, the duties of the employee and the interests of the ACTPS and/or of the Directorate;

- (e) the employee fails to notify the head of service of criminal charges in accordance with Clause 120.
- (f) The employee makes a vexatious or knowingly false allegation against another employee.

#### What is serious Misconduct

115.6 Serious misconduct means conduct that is so serious that it may be inconsistent with the continuation of the employee's employment with the Territory. Serious misconduct includes but is not limited to the kinds of serious misconduct defined within the Fair Work Regulations.

#### **116. DEALING WITH ALLEGATIONS OF MISCONDUCT**

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- 116.1 If, after receiving a recommendation from the manager/supervisor under 111.2(e), the head of service is of the opinion that the alleged misconduct cannot be resolved without recourse to investigation the head of service will:
- (a) inform the appropriate Human Resources Manager that an investigation is to take place;
  - (b) with the assistance of the appropriate Human Resource Manager make arrangements for an appropriately trained or experienced person (the investigating officer) to investigate the alleged misconduct in accordance with clause 118; and
  - (c) inform the employee in writing of the alleged misconduct and that the matter is to be investigated.
- 116.2 Depending on the nature of the alleged misconduct the head of service may immediately transfer the employee to other duties, re-allocate duties away from the employee or suspend the employee with pay in accordance with clause 117. Where serious misconduct is alleged the head of service may suspend an employee without pay
- 116.3 Notwithstanding the provisions of this section, the employment of an employee may be summarily terminated without notice for serious and wilful misconduct.
- 116.4 No investigation may be necessary where the employee fully admits to the alleged misconduct and the employee agrees that there is no need for an investigation. In such cases, the head of service may determine the appropriate disciplinary action/sanction in accordance with clause 119. The head of service must ensure that they have sufficient information concerning the nature and full circumstances of the misconduct, any mitigating factors, and details of the employee's prior service record and performance to enable a fair and reasonable determination under clause 118 to be made.

## 117. SUSPENSION REASSIGNMENT OR TRANSFER

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- 117.1 This clause applies to all employees including eligible casual employees and employees on probation.
- 117.2 Subject to these procedures, the head of service may suspend an employee with pay or without pay, reassign or transfer an employee where the head of service is satisfied that it is in the public interest, the interests of the ACTPS or the interests of the Directorate to do so while the alleged misconduct is being investigated.
- 117.3 The procedures applying under subclauses 117.4, 117.5 and 117.10 will also apply in circumstances where an employee has been reassigned or transferred with pay to other duties following an allegation of misconduct.
- 117.4 The head of service will not normally suspend, reassign or transfer an employee without first informing the employee of the reasons for the proposed suspension, reassignment or transfer and giving the employee the opportunity to be heard. However the head of service may suspend an employee first and then give the employee the reasons for the suspension and an opportunity to be heard, where, in the head of service's opinion, this is appropriate in the circumstances.
- 117.5 Whilst suspended with pay an employee will be paid:
- (a) the employee's ordinary hourly rate of pay and any higher duties allowances that would have been paid to the employee for the period they would otherwise have been on duty; and
  - (b) overtime (but not overtime meal allowance) and shift penalty payments where there is a regular and consistent pattern of extra duty or shift work being performed over the previous six months which would have been expected to continue but for the suspension from duty; and
  - (c) any other allowance or payment (including under a Attraction and Retention Incentive entered into in accordance with Annex C to this Agreement) of a regular or on-going nature that is not conditional on performance of duties.
- 117.6 Where a decision is made to suspend an employee with pay no appeal or review of that decision is available.
- 117.7 An employee who is suspended must be available to attend work and participate in the disciplinary process as directed within 48 hours of the direction being given unless they are on authorised leave.
- 117.8 Suspension without pay is usually only appropriate where serious misconduct is alleged or where the employee is charged with a criminal offence that would in the opinion of the head of service be incompatible with the continuation of the employee's employment.

- 117.9 Whilst suspended without pay:
- (a) the suspension will not be for more than thirty calendar days, unless exceptional circumstances apply;
  - (b) the employee may apply to the head of service for permission to seek alternate employment outside the ACTPS for the period of the suspension or until the permission is revoked;
  - (c) in cases of demonstrated hardship, the employee may access accrued long service leave and/or annual leave;
  - (d) the employee may apply to the head of service for the suspension to be with pay on the grounds of demonstrated hardship.
- 117.10 The suspension without pay should be reviewed every thirty calendar days unless, the head of service considers that, in the circumstances, a longer period is appropriate.
- 117.11 An employee suspended without pay and who is later acquitted of the criminal offence, or found not to have been guilty of the misconduct:
- (a) is entitled to be repaid the amount by which the employee's pay was reduced; and
  - (b) is entitled to be credited with any period of long service or annual leave that was taken.
- 117.12 Where an employee is suspended and later found guilty of a criminal offence (whether or not a conviction is recorded), or is found guilty of misconduct and is dismissed because of the offence or misconduct, a period of suspension under this clause does not count as service for any purpose, unless the head of service determines otherwise.

## **118. INVESTIGATIONS**

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- 118.1 The role of the investigating officer is to establish the facts of the allegations and to provide a report of those facts to the head of service.
- 118.2 The investigating officer will:
- (a) inform the employee in writing of the particulars of the alleged misconduct, and details concerning the instigative process; and
  - (b) give the employee a reasonable opportunity to respond to allegations, in writing and/or at a scheduled interview, before making a finding of fact; and
  - (c) provide the employee with at least twenty four hours written notice prior to conducting an interview, and advise the employee if the interview is to be recorded electronically; and
  - (d) advise the employee that the employee may have a second person present during the interview, who may be the employee's union representative or other individual acting as a support person and will allow reasonable opportunity for this to be arranged; and

- (e) as soon as practicable take any further steps considered necessary to establish the facts of the allegations; and
- (f) provide a record of the interview to the employee to correct any inaccuracies in the record and to provide any further response in relation to the allegations before signing the record. If the employee elects not to sign the record, then details of the offer will be noted; and
- (g) provide a written report to the head of service setting out the investigating officer's findings of fact.

118.3 The investigating officer's findings of fact will be made of the balance of probabilities.

118.4 The head of service may authorise access to ACTPS information and communication technology (ICT) records including email, computer, work phone records, or building access logs if, in the opinion of the head of service, the investigating officer requires access in order to establish the facts of the allegations.

118.5 After considering the report from the investigating officer, the head of service will make a determination on the balance of probabilities as to whether misconduct has occurred.

118.6 If the head of service determines that the misconduct has not occurred, the head of service will notify the employee of this finding and advise that no sanctions will be imposed.

## 119. **DISCIPLINARY ACTION AND SANCTIONS**

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119.1 In circumstances where the head of service, following an investigation or full admission by the employee, determines misconduct has occurred, and the head of service considers disciplinary action is appropriate, one or more of the following sanctions may be taken in relation to the employee:

- (a) a written warning and admonishment;
- (b) a financial penalty which can:
  - (i) reduce the employee's incremental level;
  - (ii) defer the employee's incremental advancement;
  - (iii) impose a fine on the employee;
  - (iv) fully or partially reimburse the employer for damage wilfully incurred to property or equipment.
- (c) transfer the employee temporarily or permanently to another position at level or to a lower classification level;
- (d) remove any monetary benefit derived through an existing Attraction and Retention Incentive (or existing SEA); or
- (e) termination of employment.



- 119.2 In relation to paragraph 119.1(c) if an employee's classification is reduced as a result of disciplinary action, service before the demotion is not counted towards an increment for any higher duties the employee performs after demotion.
- 119.3 Sanctions imposed under these procedures must be proportionate to the degree of misconduct concerned. In determining the appropriate sanction, the following factors must be considered
- (a) the nature and seriousness of the misconduct;
  - (b) the degree of relevance to the employee's duties or to the reputation of the Directorate or the ACTPS;
  - (c) the circumstances of the misconduct;
  - (d) any mitigating factors, including any full admission of guilt; and
  - (e) the previous employment history and the general conduct of the employee.
- 119.4 Before taking discipline action, the head of service will advise the employee in writing of:
- (a) the decision that misconduct has been found to have occurred; and
  - (b) the reasons for arriving at this decision; and
  - (c) the sanction proposed; and
  - (d) the period during which the employee has to respond to the proposed discipline action (which must be a minimum of fourteen calendar days).
- 119.5 After considering the employee's response to the proposed action, or if the employee has not responded at any time after the period outlined in paragraph 119.4(d) has lapsed, the head of service may take disciplinary action. The head of service will inform the employee in writing of:
- (a) the final decision regarding discipline action to be taken; and
  - (b) the date of effect and/or, if relevant, the cessation of the action; and
  - (c) the appeal mechanisms that are available under this Agreement.

## **120. CRIMINAL CHARGES**

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- 120.1 An employee must advise the head of service in writing of any criminal charges laid against the employee in circumstances where a reasonable person would believe that the interests of the Directorate or of the ACTPS may be adversely affected, taking into account:
- (a) the circumstances and seriousness of the alleged criminal offence; and
  - (b) the employee's obligations under section 9 of the PSM Act 1994; and

- (c) the effective management of the employee's work area; and
- (d) the integrity and good reputation of the ACTPS and the Directorate; and
- (e) the relevance of the offence to the employee's duties.

120.2 Where criminal charges are laid against an employee and the interests of the Directorate or of the ACTPS may be adversely affected, the head of service may suspend the employee in accordance with the suspension arrangements under Clause 117.

120.3 If an employee is convicted of a criminal offence, the employee will provide a written statement regarding the circumstances of the offence to the head of service within seven calendar days of the conviction or the finding.

120.4 Where an employee is convicted of a criminal offence, or and the conviction or finding has adversely affected the interests of the Directorate or the ACTPS, the head of service may take discipline action against the employee in accordance with Clause 119.

## 121. **RIGHT OF APPEAL**

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121.1 An employee has the right under Section Q to appeal against any discipline action or to apply a sanction under subclause 119.1, or against any decision taken under Clause 117 to suspend the employee without pay, or to transfer the employee at a reduced pay, except action to terminate the employee's employment.

121.2 An employee may have an entitlement to bring an action under the FW Act in respect of any decision under this Section to terminate the employee's employment. This will be the sole right of review of such a decision.

121.3 The appeal procedures under Section N apply to the exclusion of the rights of appeal and review under the PSM Act 1994 and the internal review procedures contained in Section P of this Agreement.

## 122. **COMPETENCY REVIEW PROCEDURES**

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122.1 This clause deals with matters relating to an employee's competence to practice medicine, or a matter related to the scope of practice of a Senior Medical Practitioner.

122.2 Such matters will be managed in accordance with the policy and Standard Operating Procedure (SOP) for reviewing the clinical competence of a doctor, providing that:

- (a) The principles of natural justice will apply to all aspects of the process;
- (b) Nothing in the policy or the SOP will preclude the Directorate from meeting any obligation under relevant legislation, including the *Health Practitioner Regulation National Law (ACT) Act 2010* or the *Health Act 1993*.

122.3 Actions pursuant to this Clause are not considered disciplinary or underperformance actions for the purposes of Section Q of this Agreement.

122.4 Matters relating to underperformance, discipline or misconduct should be dealt with under the relevant provisions of Section N.

**123. SCOPE OF CLINICAL PRACTICE PROCESSES**

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123.1 The Directorate is responsible for ensuring that employees are appropriately qualified. A part of this process is the determination of scope of clinical practice as provided for under the *Health Act 1993*.

123.2 Senior Medical Practitioners covered by this Agreement are required to comply with and co-operate with the scope of clinical practices processes as established by the Health Directorate in accordance with the *Health Act 1993*.

## **PART 6: WORKING RELATIONSHIPS**

### **Section O – Communication and Consultation**

#### **124. CONSULTATION**

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- 124.1 There should be effective consultation and employee participation in decisions that affect an employee's employment. This is essential to the successful management of change.
- 124.2 Where there are proposals by the ACTPS to introduce changes in the organisation or to existing work practices, the head of service will consult with affected employees and union(s).
- 124.3 The head of service will provide relevant information to assist the employees and the union(s) to understand the reasons for the proposed changes and the likely impact of these changes so that the employees and the unions are able to contribute to the decision making process.
- 124.4 For the purpose of providing effective consultation:
- (a) Adequate time will be provided to employees and union(s) to consult with the Directorate;
  - (b) Directorate Consultative Committees (DCCs) will be established, with membership to be agreed by the head of service and the union(s) following commencement of this Agreement; and
  - (c) 3 Workplace Consultative Committees (WCC) will be established to represent the Senior Medical Officers, Career Medical Officers and Junior Medical Officers.
  - (d) Additional levels of consultation, such as additional Workplace Consultative Committees (WCC), may be established with the agreement of the DCC to operate at the local level. Where established these levels of consultation will deal with workplace specific issues before such issues may be raised with the DCC and have membership agreed by the DCC.
- 124.5 The Directorate Consultative Committee will:
- (a) monitor the operation and implementation of this Agreement;
  - (b) consider any proposed new or proposed significant changes to Directorate policy statements and guidelines that relate to the provisions of this Agreement; and
  - (c) exchange information about workplace issues affecting employees; and
  - (d) consult on any existing performance management schemes, and on the development of any new performance management schemes, in the Directorate;
  - (e) meet at least quarterly, unless otherwise agreed; and
  - (f) have terms of reference agreed by the members of the DCC.

124.6 The Chief Minister, Treasury and Economic Development Directorate will consult with the union(s) and employees prior to the finalisation of any significant changes or any new provisions in the PSM Act and the PSM Standards and any new service wide policy statements or guidelines that relate to the provisions of this Agreement.

### **Consultation on Changes to Regular Rosters or Ordinary Hours of Work**

124.7 Where the ACTPS proposes to introduce a change to the regular roster or ordinary hours of work of employees, the following will apply:

- (a) the head of service must notify the relevant employees of the proposed change;
- (b) the head of service must recognise the affected employee(s) union or other representative;
- (c) as soon as practicable after proposing to introduce the change, the head of service must:
  - (i) discuss with the relevant employees the introduction of the change; and
  - (ii) for the purposes of the discussion, -provide to the relevant employees:
    - all relevant information about the change, including the nature of the change; and
    - information about what the head of service reasonably believes will be the effects of the change on the employees; and
    - information about any other matters that the head of service reasonably believes are likely to affect the employees; and
  - (iii) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

124.8 However, the head of service is not required to disclose confidential or commercially sensitive information to the relevant employees.

124.9 The head of service must give prompt and genuine consideration to matters raised about the change by the relevant employees. These provisions are to be read in conjunction with other consultative obligations detailed in the Agreement.

Note: In this term "**relevant employees**" means the employees who may be affected by a change referred to in subclause 124.7.

124.10 In addition, the employer undertakes that, for the purposes of subclause 124.2, the head of service will recognise and consult with the affected employee(s), their union or other representative.

## 125. DISPUTE AVOIDANCE/SETTLEMENT PROCEDURES

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- 125.1 The objective of these procedures is the prevention and resolution of disputes about:
- (a) matters arising in the workplace, including disputes about the interpretation or implementation of the Agreement; and
  - (b) the application of the National Employment Standards.
- 125.2 For the purposes of this clause, except where the contrary intention appears, the term 'parties' refers to 'parties to the dispute'.
- 125.3 All persons covered by this Agreement agree to take reasonable internal steps to prevent, and explore all avenues to seek resolution of, disputes.
- 125.4 An employee who is a party to the dispute may appoint a representative, which may be a relevant union, for the purposes of the procedures of this clause.
- 125.5 In the event there is a dispute, the following processes will apply.
- 125.6 Where appropriate, the relevant employee or the employee's representative will discuss the matter with the employee's supervisor. Should the dispute not be resolved, it will proceed to the appropriate management level for resolution.
- 125.7 In instances where the dispute remains unresolved, the next appropriate level of management, the employee, the union or other employee representative will be notified and a meeting will be arranged at which a course of action for resolution of the dispute will be discussed.
- 125.8 If the dispute remains unresolved after this procedure, a party to the dispute may refer the matter to FWC.
- 125.9 The FWC may deal with the dispute in two stages:
- (a) FWC will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
  - (b) if FWC is unable to resolve the dispute at this first stage, FWC may then:
    - (i) arbitrate the dispute; and
    - (ii) make a determination that is binding on the parties.
- 125.10 The FWC may exercise any powers it has under the FW Act as are necessary for the just resolution or determination of the dispute.
- 125.11 A person may be assisted and represented at any stage in the dispute process in the FWC on the same basis as applies to representation before FWC under section 596 of the FW Act.
- 125.12 All persons involved in the proceedings under subclause 125.9 will participate in good faith.

- 125.13 Unless the parties agree to the contrary, FWC will, in responding to the matter, have regard to whether a party has applied the procedures under this term and acted in good faith.
- 125.14 The parties agree to be bound by a decision made by FWC in accordance with this clause.
- 125.15 However, any party may appeal a decision made by FWC in accordance with the FW Act.
- 125.16 Despite the above, the parties may agree to submit the dispute to a body or person other than FWC. Where the parties agree to submit the dispute to another body or person:
- (a) all of the above provisions apply, unless the parties agree otherwise; and
  - (b) references to FWC in the above provisions will be read as a reference to the agreed body or person;
  - (c) all obligations and requirements on the parties and other relevant persons under the above provisions will be complied with; and
  - (d) the agreed body or person must deal with the dispute in a manner that is consistent with section 740 of the FW Act.
- 125.17 While the parties are trying to resolve the dispute using procedures in this clause:
- (a) an employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
  - (b) an employee must comply with a direction given by the head of service to perform other available work at the same workplace, or at another workplace, unless:
    - (i) the work is not safe; or
    - (ii) applicable workplace health and safety legislation would not permit the work to be performed; or
    - (iii) the work is not appropriate for the employee to perform; or
    - (iv) there are other reasonable grounds for the employee to refuse to comply with the direction.

## 126. **FLEXIBILITY TERM**

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- 126.1 The head of service and an individual employee may agree to vary the application of certain provisions of this Agreement to meet the genuine needs of a business unit in the ACTPS and of the individual employee (an individual flexibility arrangement).
- 126.2 The provisions of this Agreement that the head of service and an individual employee may agree to vary through an individual flexibility arrangement are:
- (a) vacation childcare subsidy (subclause 74.1) and

(b) and family care costs (subclause 75.1).

126.3 The head of service must ensure that the terms of the individual flexibility arrangement:

- (a) are about matters that would be permitted if the arrangement were an enterprise agreement;
- (b) does not include a term that would be an unlawful term if the arrangement were an enterprise agreement; and
- (c) will result in the employee being better off overall than the employee would have been if no individual flexibility arrangement were agreed to.

126.4 The head of service must ensure that the individual flexibility arrangement:

- (a) identifies the clause in 126.2 of this Agreement that the head of service and the employee have agreed to vary;
- (b) sets out details of how the arrangement will vary the effect of the clause;
- (c) includes details of how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
- (d) states the day the arrangement commences.

126.5 An individual flexibility arrangement made under this clause must be genuinely agreed to by the head of service and the individual employee.

126.6 Except as provided in subclause 126.7(b), an individual flexibility arrangement made under this clause must not include a provision that requires the individual flexibility arrangement to be approved, or consented to, by another person.

126.7 The head of service must ensure that an individual flexibility arrangement made under this clause must be in writing and signed:

- (a) in all cases - by the employee and the head of service; and
- (b) if the employee is under eighteen – by a parent or guardian of the employee.

126.8 The head of service must give the employee a copy of an individual flexibility arrangement made under this clause within fourteen days after it is agreed to.

126.9 The head of service or the employee may terminate the individual flexibility arrangement:

- (a) by giving written notice of no more than twenty eight days to the other party to the arrangement; or
- (b) if the head of service and the employee agree in writing – at any time.



126.10 The right to make an individual flexibility arrangement under this clause is in addition to, and is not intended to otherwise affect, the right of the head of service and an individual employee to make an agreement under any other provision of this Agreement.

## **127. FREEDOM OF ASSOCIATION**

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127.1 The ACTPS recognises that employees are free to choose whether or not to join a union. Irrespective of that choice, employees will not be disadvantaged or discriminated against in respect of the employees' employment under this Agreement. The ACTPS recognises that employees who choose to be members of a union have the right to choose to have their industrial interests represented by the union.

127.2 Employees in negotiations of any kind are entitled to negotiate collectively where they so choose.

127.3 Employees engaging in negotiations of any kind are entitled to be represented by a representative of their choice. The ACT Government will deal with any such representative in good faith.

## **128. RIGHT OF EXISTING AND NEW EMPLOYEES TO REPRESENTATION IN THE WORKPLACE**

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128.1 The ACTPS acknowledges the rights of its employees to be represented and to meet with their representatives in the workplace. The ACTPS recognises the legitimate right of the union(s) to represent its employees who are members, or eligible to become members of the union(s).

128.2 The FW Act prescribes the purpose and manner under which the union(s) may exercise right of entry in the workplace. The Directorate will grant the union(s) access in accordance with the FW Act.

128.3 In addition, the ACTPS will:

- (a) allow union officials and employees, who are permit holders, to enter ACTPS workplaces for normal union business or to represent employees, to meet with management or members and to distribute or post material, provided that work is not disrupted;
- (b) allow the union(s) to meet with new ACTPS employees who are members, or who are eligible to become members, of the union(s), at a time during normal working hours which the union(s) and the head of service agree upon, and of which the head of service will advise the employees;
- (c) provide all new ACTPS employees with some form of induction program, including an induction package containing information about the union(s) which the union(s) has given the ACTPS; and
- (d) invite the union(s) to attend any face to face induction of new ACTPS employees, the details of which the head of service will advise to the union(s) contact officer or other nominated person with reasonable notice. Such attendance will be included as an integral part of the induction process and be for the purpose of delivering an information presentation including recruitment information to new ACTPS employees.

128.4 For the avoidance of doubt, nothing in subclause 128.3 should be taken as conferring a right of entry that is contrary to, or for which there is otherwise, a right of entry under the FW Act.

## **129. CO-OPERATION AND FACILITIES FOR UNIONS AND OTHER EMPLOYEE REPRESENTATIVES**

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129.1 For the purpose of ensuring that union(s) and other employee representatives who are employees of the ACTPS can effectively fulfil their employee representative role under this Agreement, the following provisions will apply.

129.2 Reasonable access to ACTPS facilities, including the internal courier service, access to the ACT Government communication systems, telephone, facsimile, photocopying, access to meeting rooms and storage space, will be provided to employee representatives to assist them to fulfil employee representative obligations, duties and responsibilities having regard to the ACTPS's statutory, operational requirements and resources.

129.3 In addition to the ACTPS facilities outlined in subclause 129.2, where available, a union or employee representative who is an employee of the ACTPS will be able to establish designated Outlook public folders which will provide a collaborative electronic workspace to improve the flow of information. The use of ACTPS facilities will be in accordance with published whole-of-government policies and for matters other than for industrial action.

129.4 A union or other employee representative who is an employee of the ACTPS will be provided with adequate paid time, as required by the responsibilities of the position, to undertake duties to represent employees during normal working hours. While these duties would normally be expected to be performed within the workplace, on occasions the union(s) or employee representative may be required to conduct these duties external to the workplace.

## **130. ATTENDANCE AT INDUSTRIAL RELATIONS COURSES AND SEMINARS**

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130.1 For the purpose of assisting employees in gaining a better understanding of industrial relations issues relating to this Agreement, leave will be granted to employees to attend recognised short training courses or seminars on the following conditions:

- (a) that operating requirements permit the granting of leave;
- (b) that the scope, content and level of the short courses contribute to the better understanding of industrial relations issues;
- (c) leave granted under this clause will be with full pay, not including shift and penalty payments or overtime; and
- (d) each employee will not be granted more than fifteen days/shifts leave in any calendar year.

130.2 If the employee has applied for leave under subclause 130.1 and the application was rejected because of operational requirements, approval of any subsequent application for leave by the employee under subclause 130.1 will not be withheld unreasonably, provided that the employee gives the manager/supervisor at least fourteen days/shifts notice in writing.

130.3 The ACTPS will accept any short course conducted or accredited by a relevant employee organisation (for example, union(s), the Australian Council of Trade Unions or the ACT Trades and Labour Council) as a course to which subclause 130.1 applies.

130.4 Leave granted for this purpose will count as service for all purposes.

### **131. WORK ORGANISATION**

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131.1 An employee agrees to carry out all lawful and reasonable directions of the head of service according to the requirements of the work and the employee's skill, experience and competence, in accordance with this Agreement and without deskilling the employee.

131.2 An employee will not, unless this is done in the course of the employee's duties or as required by law or by the ACTPS, use or disclose to any person any confidential information about the ACTPS's business that becomes known to the employee during the employee's employment.

131.3 The ACTPS will not reveal to any person any medical, financial or personal details of the employee that the ACTPS may have obtained, except with the permission of the employee or where the ACTPS is under a legal obligation to do so.

### **132. PRIVATISATION**

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132.1 In order to promote job security of employees, the parties agree that privatisation of a Government entity may only occur where:

- (a) The entity does not perform a role central to the functions of Government; and
- (b) disadvantaged groups would not be negatively affected by the privatisation; and
- (c) a social impact statement has been completed which indicates that there is a demonstrated public benefit from the sale.

132.2 In the event that privatisation of an ACTPS Directorate or a service or services currently supplied by an ACTPS Directorate is under consideration, the parties will consult on the implications for employees and the Directorate from these proposals.

132.3 Where such privatisation is under consideration, the ACTPS will provide the necessary reasonable resources to develop an in-house bid and this bid will be prepared either offsite or onsite as determined by the head of service and subject to consideration on equal terms to any other bid. An independent probity auditor will be appointed by the head of service to oversee the assessment of the in-house bid.

### **133. SUPERANNUATION**

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133.1 The Government will, through the Chief Minister, Treasury and Economic Development Directorate, consult with unions and employees on changes to superannuation legislation that may be proposed by the Commonwealth.

## Section P – Internal Review Procedures

### 134. OBJECTIVES AND APPLICATION

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- 134.1 Under this section, procedures are established for employees to seek a review of management actions that affect their employment with the ACTPS.
- 134.2 These procedures must be applied in accordance with the principles of natural justice and procedural fairness and in a manner that promotes the values and general principles of the ACTPS.
- 134.3 These procedures apply to all employees covered by this Agreement.
- 134.4 For the purposes of this section, an action includes a decision and a refusal or failure to make a decision.

### 135. DECISIONS AND ACTIONS EXCLUDED

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- 135.1 The following decisions and actions are excluded from the rights of an employee to seek a review under procedures set out in this section (note this does not preclude the right to seek review under other processes):
- (a) actions regarding the policy, strategy, nature, scope, resourcing or direction of the ACTPS and agencies (see Clause 124 of this Agreement for consultation on these actions);
  - (b) actions arising under Commonwealth or ACT legislation that concern domestic or international security matters;
  - (c) actions regarding superannuation (see relevant superannuation legislation for complaints and appeals, in particular the *Superannuation Industry Superannuation Supervision Act 1993* and the *Superannuation (Resolution of Complaints) Act 1993*);
  - (d) actions regarding workers' compensation (see the *Safety, Rehabilitation and Compensation Act 1988* for reviews and appeals on these actions);
  - (e) decisions to terminate the appointment of an officer on probation;
  - (f) decisions on classification of an office (see Clause 51 of this Agreement for reviews on classifications);
  - (g) actions arising from the misconduct procedures of this Agreement (see subclause 139.2 of this agreement regarding appeals on these decisions) ;
  - (h) actions arising from the under-performance procedures of this Agreement (see subclause 139.2 of this Agreement for appeals on these actions);
  - (i) actions regarding the setting of rates of pay or conditions of employment under an award or agreement made under the FW Act, or under the PSM Act or the PSM Standards (this includes a Attraction and Retention Incentive (ARINs), Special Employment Arrangements (SEAs) or a pre FW Act Australian Workplace Agreement (AWA));

- (j) decisions that another officer perform the duties of a higher office or role for periods up to and including six months;
- (k) decisions that another officer perform the duties of a higher classification (with a pay less than that of a Resident Medical Officer 4 or Registrar 2 or equivalent classification) for periods greater than six months if the vacancy was advertised (see subclause 139.2 of this Agreement for appeals on these decisions);
- (l) decisions to promote an officer (see subclauses 139.2 of this Agreement for appeals about promotion decisions);
- (m) decisions to appoint an employee or to engage an employee on a temporary contract;
- (n) decisions to transfer another employee or promote another employee to an advertised vacancy where the officer or employee seeking the review was not an applicant;
- (o) decisions to transfer an employee;
- (p) actions arising from the internal review procedures or appeal panel procedures of this agreement.

135.2 Employees may seek a review under this section of the processes leading to decisions under sub clause 135.1 (k), (l), (m) and (o), and in relation to the process leading to a decision under the PSM Standards to promote an officer after acting for a period of 12 months or more in a position above Senior Resident Medical Officer 1 or equivalent classification.

## **136. INITIATING A REVIEW**

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- 136.1 An employee should first discuss their concerns about an action or decision with the relevant decision maker with a view to resolving the matter within the workplace before initiating a review under these procedures.
- 136.2 An employee, or the employee's union or other employee representative on the employee's behalf, has the right to apply for a review of any action or decision that effects the employee's employment, unless the action or decision is specifically excluded under this Section.
- 136.3 An employee, or the employee's union or other employee representative, may initiate a review under this Section by making an application to the head of service that:
- (a) Is in writing; and
  - (b) Identifies the action and/or decision which the employee seeks a review of, and
  - (c) identifies the reasons the review is sought including, in the employee's view, the effect/s that the action or decision has or is having on the employees employment; and
  - (d) describes the outcome sought.

## 137. REVIEW PROCESS

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- 137.1 Where appropriate, and agreed by the employee who made the application under clause 136, or the employee's union or other employee representative on the employee's behalf, the head of service must consider mediation as an option before arranging for a review under subclause 137.3. The mediator will be agreed between the employee and the head of service.
- 137.2 In the event that mediation does take place and that it resolves the issues raised in the application, then no further action is required under these procedures. In that event a formal written statement that the issue has been resolved must be signed by the employee and the head of service.
- 137.3 Subject to subclauses 137.1 and 137.2, the head of service must arrange for an application made under clause 136 to be reviewed by an independent person (the reviewer) who may be:
- (a) a suitably skilled employee or executive who was not involved in the original action; or
  - (b) a person taken from a list of panel providers approved by the Commissioner for Public Administration.
- 137.4 The head of service may determine the process under which an application is reviewed, subject to the principles set out in subclause 137.5.
- 137.5 The reviewer must have due regard to the principles of natural justice and procedural fairness and act as quickly as practicable consistent with a fair and proper consideration of the issues. This includes but is not limited to:
- (a) fully informing the employee of all relevant issues and providing access to all relevant documents; and
  - (b) providing reasonable opportunity for the employee to respond; and
  - (c) advising the employee of the employee's rights to representation.
- 137.6 The reviewer may recommend to the head of service that an application should not be considered on any of the following grounds:
- (a) the application concerns a decision or action that is excluded under subclause 135.1; or
  - (b) a period of twenty-eight calendar days has elapsed since the employee was advised of the decision or action except where extenuating circumstances exist; or
  - (c) the employee has made an application regarding the decision or action to a court or tribunal, or where the reviewer believes it is more appropriate that such an application be made; or
  - (d) the reviewer believes on reasonable grounds that the application:
    - (i) is frivolous or vexatious; or
    - (ii) is misconceived or lacks substance; or

(iii) should not be heard for some other compelling reason.

- 137.7 The head of service must either confirm a recommendation made by the reviewer under subclause 137.6 that an application should not be considered or arrange for another reviewer to consider the application.
- 137.8 The head of service will inform the employee in writing, within fourteen calendar days of the date of any decision under subclause 137.7, including, the reasons for any decision not to consider the application.
- 137.9 If the reviewer does not make a recommendation under subclause 137.6, then the reviewer will conduct a procedural review on the papers to determine:
- (a) whether it was open to the head of service to take the action that he or she did;
  - (b) whether the principles of procedural fairness and natural justice were complied with in taking the original action; and
  - (c) whether the final decision of the head of service was fair and equitable in all of the circumstances.
- 137.10 The reviewer must be provided with all relevant information and evidence that was available to the delegate in the making of the original decision or in taking the original action. To ensure efficiency and timeliness, the reviewer should not undertake to collect the same information or new evidence which was not available at the time the original action or decision was made.
- 137.11 After reviewing any action or decision the reviewer will, subject to subclause 137.16, make a written report to the head of service containing recommendations on whether the action that led to the application should be confirmed or varied or that other action is taken. A copy of this report will be provided to the employee.
- 137.12 In keeping with subclause 137.11, if the reviewer is of the view that there is doubt over the veracity and/or validity of the information or evidence or processes used in making the initial decision or action, the reviewer will inform the head of service of that doubt and the reasons for it in the written report.
- 137.13 The employee may respond to any aspects of the report. Such a response must be in writing and be provided to the head of service within fourteen calendar days of the employee receiving the report.
- 137.14 The head of service, after considering the report from the reviewer and any response from the employee to the report of the reviewer, may:
- (a) confirm the original action; or
  - (b) vary the original action; or
  - (c) take any other action the head of service believes is reasonable.

- 137.15 The head of service will inform the employee in writing, within fourteen calendar days of the date of any decision under subclause 137.14 including the reasons for the action.
- 137.16 Where the subject of the application is an action or decision of the head of service, the written report of the reviewer will be made to the Commissioner for Public Administration. A copy of this report will be provided to the employee.
- 137.17 The Commissioner for Public Administration may, after considering the report from the reviewer, recommend to the head of service that:
- (a) the original action be confirmed; or
  - (b) the original action be varied; or
  - (c) other action be taken that the Commissioner for Public Administration believes is reasonable.
- 137.18 The head of service, after considering the report from the Commissioner for Public Administration, may:
- (a) accept any or all of the report's recommendation(s) and take such action as necessary to implement the recommendation(s); or
  - (b) not accept the report's recommendation(s) and confirm the original action.
- 137.19 If the head of service does not accept any one of the recommendation(s) of the Commissioner for Public Administration under subclause 137.17, the head of service will:
- (a) provide written reasons to the Commissioner for Public Administration for not accepting the recommendation(s); and
  - (b) provide the employee, within fourteen calendar days, with written reasons for not accepting the recommendation(s).
- 137.20 If the head of service does not accept any one of the recommendation(s) of the Commissioner for Public Administration under subclause 137.17, the Commissioner may report on this outcome in the Commissioner's Annual Report.



138. **RIGHT OF EXTERNAL REVIEW**

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- 138.1 The employee, or the employee's union or other employee representative on the employee's behalf, may seek a review of a decision or action of the head of service under subclause 137.14 or subclause 137.18 by an external tribunal or body, including the FWC.
- 138.2 The FWC will be empowered to resolve the matter in accordance with the powers and functions set out in Clause 125 of this Agreement. The decision of the FWC will be binding, subject to any rights of appeal against the decision to a Full Bench in accordance with subclause 125.15.

## Section Q – Appeal Mechanism

### 139. OBJECTIVE AND APPLICATION

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- 139.1 This section sets out an appeal mechanism for an employee (referred to in this section as “the appellant”) is not satisfied with the outcome of decisions described in the following clause.
- 139.2 This appeal mechanism will apply to:
- (a) decisions about promotion or temporary transfer to a higher or role (for periods in excess of six months) affecting the officer where the officer was an applicant for the position, except decisions made on the unanimous recommendation of a joint selection committee (see PSM Act and PSM Standards);
  - (b) decisions to promote an officer after acting for a period of twelve months or more in a position at or below Resident Medical Officer 2 or equivalent classification..
  - (c) decisions to suspend the employee without pay under section 117 of this agreement;
  - (d) decisions to take disciplinary action under sub clause 119.1 of this Agreement, except a decision to terminate the person’s employment;
  - (e) decisions to take underperformance action under sub clause 113.17 of this Agreement, except a decision to terminate the person’s employment; and
  - (f) decisions taken in relation to an employee’s eligibility for benefits under Clauses 151 and 152 and the amount of such benefits, the amount payable by way of income maintenance under Clause 155, and the giving of an involuntary notice of redundancy or notice of reduction in classification under Clauses 153 and 154.
  - (g) any other decision that is subject to appeal under the PSM Act.
- 139.3 For purposes of paragraph 139.2.(a), and 139.2 (b) an appeal may only be made in relation to promotions or temporary transfer to a higher office or role where the pay applicable is any classification with a maximum pay that is less than the minimum pay of a classification equivalent to a Registrar 2. For positions above this level or equivalent classification, an application may be made for an internal review of the process (see subclause 135.2)
- 139.4 For the purposes of paragraph 139.2(b), any suitably qualified officer may appeal the decision.
- 139.5 An employee may have an entitlement to bring an action under the FW Act in respect of any termination of employment under this Agreement. This will be the sole right of review of such an action.

#### **140. INITIATING AN APPEAL**

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- 140.1 An employee, or the employee's union or other representative, on the employee's behalf, may initiate an appeal under these procedures by making an application to the convenor of Appeal Panels that:
- (a) Is in writing; and
  - (b) Describes the decision or action taken or to be taken, the reasons for the application and the outcome sought; and
  - (c) Is received by the convenor of the Appeal Panels within fourteen calendar days of being notified of the decision to take the action.
- 140.2 For the purposes of paragraph 140.1(b), a decision must be an appealable decision as set out in subclause 139.2.

#### **141. COMPOSITION OF THE APPEAL PANEL**

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- 141.1 The head of service will nominate a person, or position, to be the Convenor of the Appeals Panel.
- 141.2 Where an application is received by the Convenor of the Appeals Panel in accordance with the requirements set out in Clause 140.1 and 140.2 the Convenor of Appeal Panels will set up an Appeal Panel.
- 141.3 The Appeal Panel will comprise a nominee of the relevant Directorate, a nominee of the employee and a chairperson, where:
- (a) The chairperson is chosen from a panel of providers approved by the Commissioner for Public Administration (in consultation with the Joint Council), or, in the case of an appeal relating to a promotion decision, an agreed person; and
  - (b) A chairperson from the panel of providers is so chosen on a rotational basis, unless there is an identified conflict of interest, in which case the next person on the panel of providers would be chosen.
- 141.4 The Convenor may only be a member of an Appeal Panel with the agreement of the appellant.
- 141.5 A person is not eligible to be a member of an Appeal Panel if that person was involved in the decision or the process that is the subject of the application.

#### **142. POWERS AND ROLE OF THE APPEAL PANEL**

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- 142.1 In considering an application, the Appeal Panel must have due regard to the principles of natural justice and procedural fairness. Proceedings of the Appeal Panel are to be conducted as quickly as practicable consistent with a fair and proper consideration of the issues.
- 142.2 The Convenor of the Appeal Panel will invite the appellant to have a support person, who may be the employee's union or other employee representative, present at any meetings with the Appeal Panel, and will allow reasonable opportunity for this to be arranged.

- 142.3 The Appeal Panel will have the discretion to decide not to conduct a review of the appeal application, or, if it has commenced reviewing the applicant, to decide not to proceed further if, in the opinion of the Panel:
- (a) The application is frivolous or vexatious, or not made in good faith; or
  - (b) The employee making the appeal may apply to another person or authority about the application who may more appropriately deal with the action; or
  - (c) further review of the application is not warranted.

#### **143. APPEALS ABOUT PROMOTION AND TEMPORARY TRANSFER TO A HIGHER OFFICE OF ROLE**

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- 143.1 For appeals concerning promotion or transfer to a higher office or role under paragraph 139.2(a), the only ground on which the Appeal Panel can review the decision is the officer making the appeal would be more efficient in performing the duties of the position than the person promoted or selected for temporary transfer.
- 143.2 After reviewing an application about promotion or temporary transfer to a higher office or role affecting the appellant, the Appeals Panel will either confirm the decision or make recommendations to the head of service to substitute another decision. The head of service will inform the applicant of this decision and the reasons for the decision.

#### **144. OTHER MATTERS**

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- 144.1 Where the Appeal Panel determines that an application for appeal requires further consideration, the Appeal Panel will conduct a procedural review on the papers to determine whether:
- (a) it was open to the head of service to take the action that he or she did;
  - (b) the principles of procedural fairness and natural justice were complied with in taking the original action or decision; and
  - (c) the final decision of the head of service was appropriate in all of the circumstances.
- 144.2 The Appeal Panel must be provided with all relevant information and evidence that was available to the decision-maker in the making of the original decision or in taking the original action. To ensure efficiency and timeliness, the Appeal Panel should not undertake to collect the same information or new evidence.
- 144.3 Where the Appeal Panel is satisfied that a fundamental piece of evidence was not considered in the original process, the Appeal Panel may recommend to the head of service that the matter be referred back to the original decision-maker for further investigation.
- 144.4 The decision-maker, after considering the referral from the Appeal Panel under subclause 144.3, will:
- (a) as soon as possible, arrange for a further investigation to be conducted, in line with the referral of the Appeal Panel, and will provide any further information, evidence or

outcomes of the further investigation to the Appeal Panel in order that they may complete their review; or

- (b) provide written reasons to the Appeal Panel, within fourteen calendar days, for not accepting their referral for further investigation.

144.5 After reviewing any application under this section, other than an appeal about promotion or temporary transfer to a higher office or role, the Appeal Panel will, subject to subclause 144.3, make a written report containing recommendations to the head of service. A copy of this report will be provided to the appellant.

144.6 In making recommendations to the head of service under subclause 144.5 or to the Commissioner for Public Administration under subclause 144.8, the Appeal Panel must provide the reasons for its recommendations.

144.7 The head of service, after considering the report from an Appeal Panel under subclause 144.5, will make a decision on any recommendation in the report and inform the appellant in writing of the reasons for that decision, within fourteen calendar days of receiving the report.

144.8 Where the subject of an application under this clause is a decision of the head of service then the Appeal Panel, after reviewing the application will, subject to subclause 144.3, make a written report containing recommendations to the Commissioner for Public Administration. A copy of this report will be provided to the appellant.

144.9 The Commissioner for Public Administration, after considering the report from an Appeal Panel under subclause 144.8, will recommend to the head of service that the decision that is the subject of the application:

- (a) be confirmed; or
- (b) be varied; or
- (c) other action taken.

144.10 The head of service, after considering the report from the Commissioner for Public Administration, may:

- (a) Accept any or all of the report's recommendation(s) and take such action as necessary to implement the recommendation(s); or
- (b) Not accept the report's recommendation(s) and confirm the original action.

144.11 If the head of service does not accept the recommendations of the Commissioner for Public Administration under subclause 144.9, the head of service will:

- (a) Provide written reasons to the Commissioner for Public Administration for not accepting the recommendations; and
- (b) Provide the appellant, within fourteen calendar days, with written reasons for not accepting the recommendations.

144.12 If the head of service does not accept the recommendations of the Commissioner for Public Administration under subclause 144.9, the Commissioner for Public Administration may report on this outcome in the Commissioner's Annual Report.

**145. COSTS**

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145.1 The Territory will not be liable for any costs associated with representing an applicant in these procedures.

**146. RIGHT OF EXTERNAL REVIEW**

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146.1 The employee, or the employee's union or other employee representative on the employee's behalf may seek a review by the FWC of a decision of the head of service under subclause 144.7 or subclause 144.10.

146.2 The FWC will be empowered to resolve the matter in accordance with the powers and functions set out in Clause 125 of this Agreement. The decisions of FWC will be binding, subject to any rights of appeal against the decision to a Full Bench in accordance with subclause 125.15.

## Section R – Redeployment and Redundancy

### 147. APPLICATION

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- 147.1 The ACTPS recognises the need to make the most effective use of the skills, abilities and qualifications of its officers in a changing environment. When positions become excess, the Directorate will seek to redeploy permanent officers within the Directorate or the ACTPS in order to avoid or minimise an excess officer situation. Should redeployment not be possible, voluntary redundancy, reduction in classification and involuntary redundancy will be considered in that order. Throughout these procedures, the Directorate will, where practicable, take into consideration the personal and career aspirations and family responsibilities of affected officers.
- 147.2 These provisions do not apply to temporary and casual employees or officers on probation.

### 148. DEFINITIONS

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- 148.1 “Excess officer” means an officer who has been notified in writing by the head of service that he or she is excess to the ACTPS Directorate’s requirements because:
- (a) The officer is included in a class of officers employed in the ACTPS Directorate, which class comprises a greater number of officers than is necessary for the efficient and economical working of the Directorate; or
  - (b) The services of the officer cannot be effectively used because of technological or other changes in the work methods of the Directorate or changes in the nature, extent or organisation of the functions of the Directorate.
- 148.2 “Potentially excess officer” means an officer who is likely to become actually excess in a foreseeable space of time.

### 149. CONSULTATION

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- 149.1 Where it appears to the head of service that a position is likely to be either potentially or actually excess to an ACTPS Directorate’s requirements, and prior to any individual employee(s) being identified, the head of service will, at the earliest practicable time, advise and discuss with the parties to this Agreement, the following issues (as appropriate in each case):
- (a) The number and classification of officers in the part of the Directorate affected;
  - (b) The reasons an officer is or officers are likely to be excess to requirements;
  - (c) The method of identifying officers as excess, having regard to the efficient and economical working of the Directorate and the relative efficiency of officers;
  - (d) The number, classification, location and details of the officers likely to be excess;
  - (e) The number and classification of officers expected to be required for the performance of any continuing functions in the part of the Directorate affected;

- (f) Measures that could be taken to remove or reduce the incidence of officers becoming excess;
  - (g) Redeployment prospects for the officers concerned;
  - (h) The appropriateness of using voluntary retirement; and
  - (i) Whether it is appropriate for involuntary retirement to be used if necessary.
- 149.2 No information that would identify any individual officers will be provided by the head of service under this section.
- 149.3 The discussions under subclause 149.1 will take place over such time as is reasonable, taking into account the complexity of the restructuring and need for potential excess officer situations to be resolved quickly. Any use of involuntary retirement will be agreed between the unions at this stage and will not be used without the written agreement of the head of service and the union(s).
- 149.4 Except where a lesser period is agreed between the head of service and the officers, an officer will not, within one month after the union(s) have been advised under subclause 149.1, be invited to volunteer for retirement nor be advised in writing that he or she is excess to the Directorate's requirements.
- 149.5 The head of service will comply with the notification and consultation requirements for union(s) and Centrelink about terminations set out in the FW Act.

## **150. INFORMATION PROVIDED TO THE OFFICER**

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### Informal Advice

- 150.1 At the point where individual employees can be identified, the head of service will advise the officer(s) that a position(s) is likely to become excess and that the employee may be affected. In that advice the officer(s) will also be advised that the officer may be represented by a union or other employee representative at subsequent discussions. The head of service will discuss with the officer(s) and, where chosen, the employee representative(s) the issues dealt with in paragraphs 149.1 (a) through (i) (as appropriate in each case).
- 150.2 The head of service will, at the first available opportunity, inform all officers likely to be affected by an excess staffing situation of the terms and operation of this section.

### Formal Notification

- 150.3 The notification of an officer's potentially excess status will only be given when the consultation required under subclause 149.1 and the consultation required under subclause 150.1 has taken place. Following such consultation, where the head of service is aware that an officer is potentially excess, the head of service will advise the officer in writing.
- 150.4 To allow an excess officer to make an informed decision on whether to submit an election to be voluntarily retired, the head of service must provide the officer with advice on:



- (a) The sums of money the officer would receive by way of severance pay, pay instead of notice, and paid up leave credits; and
- (b) The career transition/development opportunities within the ACTPS.

150.5 The officer should seek independent advice on:

- (a) amount of accumulated superannuation contributions;
- (b) the options open to the officer concerning superannuation; and
- (c) the taxation rules applicable to the various payments.

150.6 The relevant directorate will supplement the costs of independent, accredited financial counselling incurred by each officer who has been offered voluntary redundancy up to a maximum of \$1000. The head of service will authorise the accredited financial counsellors to invoice the relevant directorate directly.

## **151. VOLUNTARY REDUNDANCY**

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151.1 At the completion of the discussions in accordance with Clause 149, the head of service may invite officers to elect to be made voluntarily redundant under this clause.

151.2 Where the head of service invites an excess officer to elect to be made voluntarily redundant, the officer will have a maximum of one calendar month from the date of the offer in which to advise the head of service of the officer's election, and the head of service will not give notice of redundancy before the end of the one month period.

151.3 Subject to subclause 151.4, where the head of service approves an election to be made redundant and gives the notice of retirement in accordance with the PSM Act, the period of notice will be one month, or five weeks if the officer is over forty-five years old and has completed at least two years continuous service.

151.4 Where the head of service so directs, or the officer so requests, the officer will be retired at any time within the period of notice under subclause 151.3, and the officer will be paid in lieu of pay for the unexpired portion of the notice period.

## **152. SEVERANCE BENEFIT**

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152.1 An officer who elects to be made redundant in accordance with this Clause will be entitled to be paid either of the following, whichever is the greater:

- (a) A sum equal to two weeks of the officer's pay for each completed year of continuous service, plus a pro-rata payment for completed months of continuous service since the last year of continuous service. The maximum sum payable under this paragraph will be 48 weeks' pay; or
- (b) Twenty-six weeks pay.

- 152.2 For the purpose of calculating any payment instead of notice or part payment, the pay an officer would have received had he or she been on annual leave during the notice period, or the unexpired portion of the notice period as appropriate, will be used.
- 152.3 For the purpose of calculating payment under subclause 152.1:
- (a) Where an officer has been acting in a higher position for a continuous period of at least twelve months immediately preceding the date on which he or she receives notice of retirement, the pay level will be the officer's pay in such higher position at that date;
  - (b) Where an officer has, during 50% or more of pay periods in the twelve months immediately preceding the date on which he or she receives notice of retirement, been paid a loading for shiftwork or are paid a composite pay, the weekly average amount of shift loading received during that twelve month period will be counted as part of "weeks pay";
  - (c) The inclusion of other allowances, being allowances in the nature of pay, will be with the approval of the head of service.
- 152.4 Where a redundancy situation affects a number of officers engaged in the same work at the same level, elections to be made redundant may be invited.
- 152.5 Nothing in this Agreement will prevent the head of service inviting officers who are not in a redundancy situation to express interest in voluntary redundancy, where such redundancies would permit the redeployment of potentially excess and excess officers who do not wish to accept voluntary redundancy.

### 153. REDEPLOYMENT

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- 153.1 Redeployment of potentially excess and excess officers will be in accordance with the officer's experience, ability and, as far as possible, the officer's career aspirations and wishes.
- 153.2 The head of service will consider potentially excess and excess officers from other ACTPS agencies in isolation for vacancies at the officer's substantive level.
- 153.3 Excess officers (potential or actual) have absolute preference for transfer to positions at the officers' substantive level and must be considered in isolation from other applicants for any vacancy within the ACTPS. An excess officer need only be found suitable, or suitable within a reasonable time (generally three to six months) to be transferred to the position. For the purposes of this clause substantive level means the same classification or a classification where the maximum pay does not exceed the top increment of the officer's current classification by more than 10%.
- 153.4 The head of service will make every effort to facilitate the placement of an excess officer within the service.
- 153.5 The head or service will arrange reasonable training that would assist the excess officer's prospects for redeployment.
- 153.6 The head of service will provide appropriate internal assistance and career counselling and assist as necessary with the preparation of job applications.

- 153.7 An excess officer who does not accept voluntary redundancy is entitled to a seven month retention period.
- 153.8 The retention period will commence:
- (a) On the day the officer is advised in writing by the head of service that he or she is an actually excess officer; or
  - (b) In the case of an officer who is invited by the head of service to submit an election to be retired – one month after the day on which the election is invited;
- whichever is the earlier.
- 153.9 The head of service may reduce the officer in classification and place the officer in a specific position within their Directorate, where the officer:
- (a)
    - i. Was found unsuitable in a merit selection process for three separate positions; or
    - ii. has not applied for at least three separation positions, for which the officer could reasonably be expected to be qualified to perform, either immediately or in a reasonable time; and
  - (b) cannot be placed in gainful employment at the officer's substantive level at the end of retention period, and
  - (c) the officer agrees.
- 153.10 The agreement of an officer to be reduced in classification as required in paragraph 153.9(d) will not be unreasonably withheld.
- 153.11 Despite the above, if, at the end of the retention period, the head of service is of the opinion that there is insufficient productive work available for the excess officer, the head of service may, subject to the agreement of the officer, such agreement not to be unreasonably withheld, reduce the officer in classification in order to place the officer in a specific position in the ACTPS.
- 153.12 An excess officer will not be reduced in classification if he or she has been invited to elect to be voluntarily retired with benefits, or has made such an election and the head of service refuses to approve it.
- 153.13 Where the head of service proposes to reduce an excess officer's classification, the officer will be given no less than four weeks' notice of the action proposed; or five weeks if the officer is over forty-five years old and has completed at least two years of continuous service. This notice period will, as far as practicable, be concurrent with the seven month retention period.

## **154. INVOLUNTARY RETIREMENT**

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- 154.1 An excess office may be made involuntarily redundant, subject to the agreement of the union(s). This clause applies to excess officers who are not:

- (a) Retired with consent;
- (b) Redeployed to another position; or
- (c) Reduced in classification.

154.2 An officer may be involuntarily retired subject to the agreement of the union(s), such agreement not to be withheld if, during or after six months from the date the officer was declared excess, the officer:

- (a) Does not accept a transfer in accordance with the PSM Act; or
- (b) Has refused to apply for, or be considered for, a position for which the officer could reasonably be expected to be qualified to perform, either immediately or in a reasonable time.

154.3 Where the head of service believes that there is insufficient productive work available for an excess officer during the retention period, the head of service may make the officer involuntarily redundant before the end of the retention period.

154.4 An excess officer will not be involuntarily retired if he or she has not been invited to elect to be voluntarily retired with benefits, or has made such an election and the head of service refuses to approve it.

154.5 Where the head of service involuntarily retires an excess officer, the officer will be given no less than four weeks' notice of the action proposed; or five weeks if the officer is over forty-five years old and has completed at least two years of continuous service. This notice period will, as far as practicable, be concurrent with the seven month retention period.

## 155. **INCOME MAINTENANCE PAYMENT**

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155.1 An officer who has been receiving a higher rate of pay for a continuous period of at least twelve months and who would have continued to receive that pay rate except for the excess officer declaration, will be considered to have the higher pay rate.

155.2 This pay will be known as the income maintenance pay. The income maintenance pay, where applicable, will be used for the calculation of all conditions and entitlements under this clause.

155.3 The income maintenance pay exists for the retention period or the balance of the retention period.

155.4 If an officer is involuntarily retired, the entitlements, including paying out the balance of the retention periods, where applicable, will be calculated on the income maintenance pay rate. If an officer is involuntarily retired during the retention periods the officer's date of retirement is the date that the officer would have retired after the retention period ceased, not the date of the involuntary retirement. All final entitlements will be calculated from the latter date.

155.5 If an officer is involuntarily reduced in classification during the retention period, the officer will be entitled to be paid at the income maintenance pay rate for the balance of the retention period.

155.6 All allowances in the nature of pay will be included in determining the income maintenance pay rate.

#### **156. LEAVE AND EXPENSES TO SEEK EMPLOYMENT**

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156.1 At any time after the officer has been advised under subclause 150.3 of being potentially excess, the officer is entitled to paid leave to seek alternative employment. Leave granted under this clause will be for periods of time to examine the job and to attend interviews. Reasonable travelling time will also be granted.

156.2 The officer will be entitled to any reasonable fares and other incidental expenses if these are not met by the prospective employer.

#### **157. USE OF PERSONAL LEAVE**

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157.1 The use of personal leave will not extend the retention periods of an officer unless these periods are supported by a medical certificate and/or are of such a nature as to make the seeking of employment during certificated personal leave inappropriate.

157.2 An officer who is receiving income maintenance will have those payments continued during certified personal leave periods of up to a total of six months.

#### **158. APPEALS**

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158.1 Without affecting the officer's rights under the FW Act, an excess officer has the right under Section Q to appeal any decision taken in relation to the officer's eligibility for benefits under Clauses 151, 152 and 153, the amount of such benefits, or the amount payable by way of income maintenance under Clause 155.

158.2 An excess officer has the right under Section Q to appeal against the giving, in accordance with Clauses 153 and 154, of a notice of involuntary redundancy or notice of reduction in classification.

#### **159. AGREEMENT NOT TO PREVENT OTHER ACTION**

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159.1 Nothing in this Agreement will prevent the reduction in classification of an officer or the retirement of an officer as a result of action relating to discipline, invalidity, inefficiency or less of essential qualifications.

#### **160. RE-ENGAGEMENT OF PREVIOUSLY RETRENCHED OFFICERS**

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160.1 Despite the PSM Act, officers who are involuntarily retired from the ACTPS can be engaged at any time by the head of service without the written consent of the Commissioner for Public Administration.

160.2 Officers who elect to be made voluntarily redundant under Clause 151 cannot be re-engaged by the ACTPS within two years of the date of the officer's separation from the ACTPS, except with the written consent of the Commissioner for Public Administration.

## Section S – Management or Government Initiated Transfers

### 161. GAINING EMPLOYEES

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- 161.1 Despite anything to the contrary in the PSM Act, this section applies where the Directorate:
- (a) Gains the holder of an office (a new employee) who has been transferred under Section 15(5) of the PSM Act; or
  - (b) Gains an employee (a new employee) under Section 16(2) of the PSM Act; or
  - (c) Gains an unattached officer (a new employee) under Section 119 of the PSM Act; or
  - (d) Gains an employee (a new employee) as a result of a management initiated transfer or transfer arising from changes to the Administrative Arrangement Orders.
- 161.2 Subject to subclauses 161.3 and 161.4, the terms and conditions of this Agreement will apply to the new employee.
- 161.3 In applying the terms and conditions of this Agreement to a new employee, the head of service will determine, following transfer of the employee to this Directorate, the pay and classification of the new employee according to the following principles:
- (a) The head of service will determine the new employee's classification (called the "new classification") for the purposes of this Agreement and the conditions of employment (excluding pay) will be solely in accordance with the conditions applicable to that classification under this Agreement with accrued entitlements being preserved in accordance with Clause 162;
  - (b) If the new employee's current pay (after any necessary adjustments required by Clause 162) is within the range of pays for the new classification, the new employee will continue to receive that pay;
  - (c) If the lowest pay in the range of pays applicable to the new classification is higher than the new employee's current pay, the employee's pay will be increased to the lowest pay applicable to the new classification or the appropriate relativity in the new incremental range;
  - (d) If the highest pay in the range of salaries applicable to the new classification is less than what the employee is currently being paid then:
    - i. The employee's pay will be frozen at its current level; and
    - ii. Despite anything to the contrary in this Agreement, the employee will not receive any increase in pay unless and until the highest pay applicable to the employee's classification under this Agreement equals or exceeds the employee's current pay, at which time the employee will receive the highest pay applicable to the employee's classification under this Agreement together with any future increases under this Agreement.

161.4 A new employee who, at the time the employee was transferred to the Directorate, was working under approved flextime arrangements, will be entitled to continue the flextime arrangements in the Directorate. This provision will apply unless otherwise agreed by the head of service and the employee, or until a new enterprise agreement for the Directorate commences operation under the FW Act.

161.5 The provisions of the PSM Act dealing with promotions or transfers do not apply to anything done in connection with the implementation of this section. In particular, any increase in a new employee's pay or classification is deemed not appealable as a promotion and does not require the new employee's position to be advertised.

## **162. PRESERVATION OF ACCRUED ENTITLEMENTS**

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162.1 New employees will not lose the benefit of accrued entitlements upon joining the Directorate. Accordingly, the new employee's overall level of accrued entitlements will be preserved according to the following principles:

- (a) Where the accrued entitlements are consistent with this Agreement, these entitlements will be preserved but may only be accessed in a manner consistent with the provisions of this Agreement;
- (b) Where the accrued entitlements are not consistent with the Agreement and/or cannot be accessed in a manner consistent with this Agreement, then these entitlements will be converted into entitlements or benefits consistent with this Agreement at the discretion of the head of service in consultation with the employee.

162.2 This clause must be implemented in such a way that an employee is no worse off in terms of the overall level of accrued entitlements.

## **163. ESTABLISHMENT OF A NEW ACTPS DIRECTORATE**

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163.1 If a new ACT Government Directorate is established the terms and conditions of this Agreement will apply for twelve months from the establishment of the new Directorate or for seven days after an enterprise agreement for the new Directorate is approved by FWC, whichever occurs first, to the following:

- (a) an officer who occupies an office in this Directorate that is transferred to the new Directorate under machinery of government, management or government initiated changes; or
- (b) an employee or unattached officer in this Directorate who is transferred to the new Directorate under machinery of government, management or government initiated changes; or
- (c) an officer or employee in this Directorate who is appointed to or engaged in an office that was transferred to the new Directorate under machinery of government changes; or
- (d) an officer or employee in this Directorate who is engaged in a new office created by the new Directorate, where the officer or employee is engaged in one of the classifications in Annex A of this Agreement.

- 163.2 If an office is established in a new Directorate, the terms and conditions of this Agreement will apply:
- (a) to an occupant of that office if it was established to support functions and/or matters that had been performed by this Directorate before the establishment of the new Directorate;
  - (b) for twelve months from the establishment of the new Directorate or seven days after an enterprise agreement for the new Directorate is approved by FWC, whichever first occurs.

164. **APPEAL RIGHTS**

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- 164.1 A new employee may seek a review under Section P about decisions made under this section affecting the employee's terms and conditions of employment in the new Directorate.



## Annex A – Classifications and Rates of Pay

Classification	Pay Rates as at 1/7/12	1/07/2013 2% or \$2,090	3/07/2014 1.50%	9/04/2015 1.50%	8/10/2015 1.50%	7/04/2016 1.50%	6/10/2016 1.50%	6/04/2017 1.50%
Intern	\$60,185	\$62,275	\$63,209	\$64,157	\$65,120	\$66,096	\$67,088	\$68,094
Resident Medical Officer 1	\$70,783	\$72,873	\$73,966	\$75,076	\$76,202	\$77,345	\$78,505	\$79,682
SRMO 1 / Junior Registrar	\$77,850	\$79,940	\$81,139	\$82,356	\$83,592	\$84,845	\$86,118	\$87,410
SRMO 2	\$88,179	\$90,269	\$91,623	\$92,997	\$94,392	\$95,808	\$97,245	\$98,704
SRMO 3	\$95,727	\$97,817	\$99,284	\$100,774	\$102,285	\$103,819	\$105,377	\$106,957
Registrar 1	\$88,179	\$90,269	\$91,623	\$92,997	\$94,392	\$95,808	\$97,245	\$98,704
Registrar 2	\$95,727	\$97,817	\$99,284	\$100,774	\$102,285	\$103,819	\$105,377	\$106,957
Registrar 3	\$103,308	\$105,398	\$106,979	\$108,584	\$110,212	\$111,866	\$113,544	\$115,247
Registrar 4	\$110,576	\$112,788	\$114,479	\$116,197	\$117,939	\$119,709	\$121,504	\$123,327
Senior Registrar	\$124,330	\$126,817	\$128,719	\$130,650	\$132,609	\$134,599	\$136,617	\$138,667
Career Medical Officer 1	\$110,205	\$112,409	\$114,095	\$115,807	\$117,544	\$119,307	\$121,097	\$122,913
	\$118,713	\$121,087	\$122,904	\$124,747	\$126,618	\$128,518	\$130,445	\$132,402
	\$123,912	\$126,390	\$128,286	\$130,210	\$132,164	\$134,146	\$136,158	\$138,201
	\$128,094	\$130,656	\$132,616	\$134,605	\$136,624	\$138,673	\$140,753	\$142,865
	\$133,153	\$135,816	\$137,853	\$139,921	\$142,020	\$144,150	\$146,312	\$148,507

Classification	Pay Rates as at 1/7/12	1/07/2013	3/07/2014	9/04/2015	8/10/2015	7/04/2016	6/10/2016	6/04/2017
Career Medical Officer 2	\$138,276	\$141,042	\$143,157	\$145,304	\$147,484	\$149,696	\$151,942	\$154,221
	\$142,574	\$145,425	\$147,607	\$149,821	\$152,068	\$154,349	\$156,665	\$159,015
	\$150,931	\$153,950	\$156,259	\$158,603	\$160,982	\$163,397	\$165,847	\$168,335
	\$164,210	\$167,494	\$170,007	\$172,557	\$175,145	\$177,772	\$180,439	\$183,145

Senior Career Medical Officer	\$176,812	\$180,348	\$183,053	\$185,799	\$188,586	\$191,415	\$194,286	\$197,201
	\$189,761	\$193,556	\$196,460	\$199,406	\$202,398	\$205,434	\$208,515	\$211,643

Transitional CMO Grade 1	\$150,931	\$153,950	\$156,259	\$158,603	\$160,982	\$163,397	\$165,847	\$168,335
Transitional CMO Grade 2	\$164,210	\$167,494	\$170,007	\$172,557	\$175,145	\$177,772	\$180,439	\$183,145
Transitional CMO Grade 3	\$176,812	\$180,348	\$183,053	\$185,799	\$188,586	\$191,415	\$194,286	\$197,201

Specialist Band 1	\$147,465	\$150,414	\$152,671	\$154,961	\$157,285	\$159,644	\$162,039	\$164,470
Specialist Band 2	\$156,089	\$159,211	\$161,599	\$164,023	\$166,483	\$168,981	\$171,515	\$174,088
Specialist Band 3	\$164,705	\$167,999	\$170,519	\$173,077	\$175,673	\$178,308	\$180,983	\$183,697
Specialist Band 4	\$173,349	\$176,816	\$179,468	\$182,160	\$184,893	\$187,666	\$190,481	\$193,338
Specialist Band 5	\$181,976	\$185,616	\$188,400	\$191,226	\$194,094	\$197,006	\$199,961	\$202,960

<b>Classification</b>	<b>Pay Rates as at 1/7/12</b>	<b>1/07/2013</b>	<b>3/07/2014</b>	<b>9/04/2015</b>	<b>8/10/2015</b>	<b>7/04/2016</b>	<b>6/10/2016</b>	<b>6/04/2017</b>
Senior Specialist	\$199,231	\$203,216	\$206,264	\$209,358	\$212,498	\$215,686	\$218,921	\$222,205
Post Graduate Fellow	\$171,295	\$174,721	\$177,342	\$180,002	\$182,702	\$185,442	\$188,224	\$191,047

## **Annex B – Requests for approval to pay Onerous Hours and Recall Allowance**

### 1. Guidelines and Information Required

- 1.1 Clause 44 of this Agreement provides that head of service may approve payment of an allowance of up to 10% of pay to Specialists and Senior Specialists who are working exceptionally onerous hours.
- 1.2 Approval to pay such an allowance will generally only be considered in the following circumstances (the head of service may in exceptional circumstances choose to waive one or more of these criteria):
- (a) There has been a demonstrable attempt to reduce the number of hours;
  - (b) The hours in addition to normal duties are required by the employer;
  - (c) The number of staff Specialists employed by the Territory health service who receive any onerous hours payment does not exceed 10% of the total number employed;
  - (d) The average number of hours worked per week (including recall) is in excess of 60 (allowance may be made for times at which these hours are worked);
  - (e) The onerous hours are regularly required over a six month period;
  - (f) There has been an attempt to recruit additional medical staff to the relevant unit;
  - (g) The allowance can be demonstrated to be cost neutral, i.e. the cost is no greater than the cost of additional staff if recruitment had been successful;
  - (h) The external provision of services has been investigated and assessed as unviable.

### 2. Information required

- 2.1 To allow the application to be assessed in accordance with the above guidelines, the following information is required for the relevant six month period:
- (a) Agreed normal duties.
  - (b) Average hours per week on duty.
  - (c) On call commitment.
  - (d) Average recall hours per week on call.
  - (e) Description of attempts to reduce hours and reasons for lack of success.
  - (f) Evidence of attempts to recruit additional medical staff and reasons for lack of success.
  - (g) Evidence that payment of allowance is cost neutral (as defined in the above guidelines).

- (h) Proposed allowance (greater than 5% and up to 10%).
- (i) A plan for ensure the requirements of the Fatigue Management Policy are met.

## **Annex C – Agreed Framework for Attraction and Retention Incentives (ARIns)**

### 1. Introduction

- 1.1 This section sets out the Framework that applies to both individual Attraction and Retention Incentives (ARIns) and to ARIns for groups of employees.
- 1.2 This Framework may be accessible to all employees (other than casual employees) in all classifications covered by this Agreement, in accordance with the terms of this Framework.
- 1.3 A Director-General may, subject to paragraph 1.4, enter into a ARIn with an employee for a specified period of time or for a specific project and the ARIn may be varied by agreement between the Director General and the employee.
- 1.4 A Director-General may only enter into, or vary, an ARIn following the provision of a written submission to the Head of Service, addressing the criteria in paragraph 5.1.
- 1.5 In this Framework, a reference to position, employee, occupant or union includes positions, employees, occupants or unions.

### 2. Approval

- 2.1 An ARIn may only be agreed and approved in accordance with this Framework.
- 2.2 The Director-General may only approve an ARIn if the Director-General is satisfied that the position and the employee occupying the position meet the ARIn eligibility criteria set out in paragraph 5.1 of this Framework.
- 2.3 Prior to any ARIn being agreed, the Director-General must discuss the proposed terms of the ARIn with the employee who is currently occupying the position or who is to occupy the position. In these discussions, the employee may invite a union or other employee representative to assist the employee.
- 2.4 An ARIn must not be agreed where it would result, when assessed as a whole, in a reduction in the overall terms and conditions of employment provided for the employee under this Agreement or provide terms and conditions that are, in a particular respect, less favourable than the National Employment Standards or the rates of pay set in this Agreement for the same work at the same classification level.
- 2.5 Where it is proposed that an ARIn will replace or reduce a condition of employment contained in this agreement the Director-General will consult with the relevant union(s) about the proposed change. In consulting with the union(s), the Director-General will:
  - (a) provide the union(s) with relevant information about the position and the proposed change;
  - (b) give the union(s) a reasonable opportunity to consider this information and, if the union(s) wishes, provide written views to the Director-General within seven days; and

- (c) take into account any views of the union(s) and provide a written response before deciding to enter into or vary the ARIn.

Information that the Director-General provides to the union(s) under paragraph 2.5 (a) will not include information that might directly or indirectly disclose the identity of a particular employee.

- 2.6 At any time following the conclusion of the consultation required under paragraph 2.5, the Director-General and the employee may agree on the terms of an ARIn to apply to the position that the employee occupies.
- 2.7 The terms and conditions of employment of this Agreement will continue to form the principal basis for employees covered by this Agreement. Accordingly, where an ARIn applies to an employee, the terms and conditions of the employee is a combination of:
  - (a) the terms and conditions contained in this Agreement; and
  - (b) the terms and conditions contained in the ARIn.
- 2.8 The terms and conditions of employment contained in an ARIn prevail over the terms and conditions of employment contained in this Agreement to the extent of any inconsistency.

### 3. Application

- 3.1 The ARIn will commence from the date specified in the ARIn.
- 3.2 The ARIn will cease to operate when this agreement is replaced by a further enterprise agreement unless:
  - (a) the ARIn ceases to operate at an earlier time in accordance with the provisions of this framework; or
  - (b) the ARIn continues to operate under the provisions in the replacement enterprise agreement.
- 3.3 Subject to this Framework, the ARIn will operate while the employee continues to be the occupant of the position identified in the ARIn.
- 3.4 Subject to this Framework, the ARIn will cease to apply to the employee where:
  - (a) the Director-General determines, following a review provided for under paragraph 7 of this Framework, the ARIn should no longer apply to the position; or
  - (b) the employee vacates the position identified in the ARIn including when the employee agrees to go unattached or is temporarily transferred to another position.
- 3.5 Notwithstanding paragraphs 3.3 and 3.4, the ARIn will automatically cease to apply to the employee after fifteen months unless the ARIn is reviewed and either extended or renewed.

- 3.6 Where an employee party to a ARIn temporarily vacates the position and another employee is selected to act in the position, the Director-General may, upon the provision of a submission to the head of service, determine the ARIn applies to the employee who is acting in the position.
- 3.7 Subject to paragraph 3.8 an ARIn will continue to operate under the enterprise agreement of the gaining Directorate where there is a transfer of a position arising from:
- (a) machinery of Government changes; or
  - (b) management initiated changes; or
  - (c) changes to the Administrative Arrangement Orders.
- 3.8 An ARIn will continue to operate in accordance with paragraph 3.7 only where the position and the occupant continue to meet the ARIn eligibility criteria
- 3.9 If following the Machinery of Government or management initiated changes, the position and the occupant do not meet the eligibility criteria, the ARIn will cease to operate.
- 3.10 The Director-General must provide the employee with a minimum of 90 days (or less if agreed by the employee) written notice before the ARIn ceases to operate under paragraphs 3.4(a).

#### 4. Deeming

- 4.1 Subject to paragraph 4.2, a Special Employment Arrangement (SEA) that applied to an employee covered by this agreement on the date this Agreement commenced operation will be deemed to continue to operate under this agreement, either:
- (a) in its current terms; or
  - (b) subject to such variations that are agreed between the Director-General and the employee concerned and the provision of a submission to the head of service.
- provided:
- (c) the SEA had either commenced or been reviewed within 12 months preceding the date this Agreement commenced operation; or
  - (d) a review of the SEA has begun (within 12 months preceding the date this Agreement commenced operation) but was not completed when this Agreement replaced the previous enterprise agreement.
- 4.2 For paragraphs 4.1 (a) or (b) above, the terms and conditions of this agreement will apply as if the SEA had been made under this agreement. This includes the pay increases on 1 July 2013, 3 July 2014, 9 April 2015 and 8 October 2015, where an SEA provides for increases linked to pay increases, but, excludes all other pay increases under subclause 28.2 of this Agreement.



- 4.3 Despite paragraph 4.1, the Director-General and the employee to whom an SEA applied under the previous enterprise agreement may, subject to the provision of a submission to the head of service, agree to enter into a new ARIn in accordance with this Framework.

## 5. Eligibility Criteria

- 5.1 In determining whether an ARIn should apply to a position, the Director-General will take into account the following criteria:
- (a) the position is critical to the operation of the Directorate or to a business unit in the Directorate;
  - (b) an employee who occupies the position requires specialist qualifications or specialist or high level skills;
  - (c) the skills required by the employee who occupies the position are in high demand in the marketplace;
  - (d) the position would incur significant costs to replace.
- 5.2 In considering paragraph 5.1(c), the Director-General and the head of service must take into account relevant market data.
- 5.3 Where an Australian Workplace Agreement is terminated, the position that the employee who was a party to the Australian Workplace Agreement occupies will be deemed to have met the eligibility criteria at paragraph 5.1.

## 6. Scope of an Attraction and Retention Incentive.

- 6.1 An ARIn may contain:
- (a) enhanced pay rates;
  - (b) provision for privately plated vehicles where the Director-General and the head of service considers there is a clear, unambiguous and exceptional need;
  - (c) other terms and conditions of employment where the Director-General and the head of service considers there is a clear, unambiguous and exceptional need;
  - (d) in the case where an Australian Workplace Agreement is terminated, the terms and conditions of employment that were contained in the Australian Workplace Agreement.
- 6.2 Should the Director-General consider that there is a compelling reason for the Directorate to pay enhanced rates of pay in excess of 50% of the base rate of pay for the position's classification, the Director-General will apply to the head of services for approval to do so. This requirement does not apply to Senior Medical Practitioners.

- 6.3 An application to the head of service under paragraph 6.2 must include relevant and appropriate market data as well as an explanation of why the Director-General considers that there is a need to pay above 50%.
- 6.4 In assessing whether an ARIn should be paid to any employee, the Director-General and head of service will give particular consideration to the consequences the granting of the ARIn may have on the Territory's ability to recruit and/or retain executive positions.
- 6.5 The rates of pay component of an ARIn counts as pay for all purposes including superannuation and for the purposes of calculating the rate of pay for annual leave, long service leave, paid personal leave, paid maternity leave, redundancy payments and other paid leave granted under this Agreement. If leave is on reduced pay or without pay, the pay component of the ARIn must be reduced on a pro-rata basis.
- 6.6 Normal incremental advancement will continue to apply in relation to the existing pay of the employee.
- 6.7 The pay component of a ARIn is payable by fortnightly instalment.
- 6.8 Notwithstanding paragraph 6.7 the pay component of an ARIn, or part thereof, may be paid as a lump sum subject to the condition that this is agreed in advance and is not directly linked to performance.
- 6.9 The terms of the SEA must contain provisions:
- (a) setting out the level of the employee's base rate of pay;
  - (b) setting out the pay component, any other terms and conditions of employment that are to apply under the ARIn, and the total dollar value of the ARIn;
  - (c) stating that the terms and conditions of the employee will revert to the applicable rates of pay and terms and conditions of employment under this Agreement in the event the ARIn ceases to operate or is terminated and;
  - (d) containing the terms of this Framework.

## 7. Review of Attraction and Retention Incentives

- 7.1 The Director-General must review an ARIn at least annually from the date of signing the ARIn to determine whether it should continue to operate.
- 7.2 In addition, the Director-General must also review an ARIn where:
- (a) The position is no longer critical to the operation of the Directorate or business unit in the Directorate; or
  - (b) The employee no longer holds the required specialist qualifications.

- 7.3 In reviewing the ARIn, the Director-General must consider whether the position and the employee who occupies the position continue to meet the ARIn eligibility criteria. The Director-General must take into account relevant market data when reviewing a ARIn.
- 7.4 The Director-General will consult with the employee party to the ARIn when undertaking a review. In these consultations, the employee may invite a union or other employee representative to assist the employee.
- 7.5 Subject to paragraph 7.6, if, following the conclusion of the consultation required under paragraphs 7.1 and 7.2 and the consultation required under 7.4 the Director-General:
- (a) concludes from the review that the position and employee who occupies the position continue to meet the ARIn eligibility criteria, the ARIn will continue to apply to the employee; or
  - (b) considers that the terms of the ARIn should be varied to reflect relevant changes, the ARIn will be varied accordingly.
- 7.6 An action under paragraph 7.5 is subject to the Director-General providing a written submission to the Head of Service that the ARIn continue, or be varied
- 7.7 If, following the conclusion of the consultation required under paragraph 7.4 the Director-General concludes from the review that the position or the employee who occupies the position do not meet the ARIn eligibility criteria, the ARIn will, subject to paragraph 7.9, cease to operate.
- 7.8 To avoid doubt, in the case of ARIns for a group of employees, paragraph 7.7 will not affect the ARIns of those employees in the group that continue to meet the ARIn eligibility criteria.
- 7.9 The Director-General must provide the employee with a minimum of 90 days written notice, or less if agreed by the employee, before the ARIn ceases to operate under paragraph 7.7 or is varied under paragraph 7.5(b).

## 8. Salary Sacrifice Arrangements

- 8.1 Remuneration and conditions provided under an ARIn may be used for the purposes of salary sacrifice arrangements in accordance with the Salary Sacrifice Arrangement provisions of this Agreement. Where an employee salary sacrifices any part of the terms of a ARIn and in accordance with this Framework the ARIn ceases to apply, the employee must notify the salary sacrifice arrangement provider that the terms of the ARIn can no longer be packaged.

## 9. Notification

- 9.1 The Director-General will provide information to the Chief Minister and Treasury Directorate about ARIns approved by the Director-General for employees in the Directorate during the reporting year, for inclusion in the State of the Service Report.
- 9.2 The Chief Minister, Treasury and Economic Development Directorate will provide regular reports to the union(s) on ARIns, including details of the number, terms and classifications of all ARIns approved by the directorates.

## 10. Interpretation

10.1 In this Framework, unless the contrary intention appears:

**‘base rate of pay’** in relation to an employee is the rate of pay payable under Annex A of this Agreement for the employee’s classification on the date the ARIn commences, or for a review, on the date that the ARIn is approved or varied following a review.

**‘Director-General’** means the person occupying the position of Director-General of the relevant Directorate, or their nominated delegate.

**‘Head of Service’** means the person occupying the position of Director-General of the Chief Minister, Treasury and Economic Development Directorate and exercising the powers of the Head of Service.

**‘occupant’** means an employee who occupies a position to which an ARIn applies.

**‘relevant market data’** includes but is not limited to job sizing assessments, recruitment experience, market surveys and job advertisements. Where a job sizing assessment or market survey is used as relevant market data, the assessment or survey must be undertaken by a remuneration consultant or internal remuneration employee.

## Annex D – Allowances

### Non Expense Related Allowances

Item	Allowance and clause reference	rate as at 1/7/12	1/07/2013 2%	3/07/2014 1.50%	9/04/2015 1.50%	8/10/2015 1.50%	7/04/2016 1.50%	6/10/2016 1.50%	6/04/2017 1.50%
1	Higher Medical Qualifications allowance (per annum) Registrar Subclause 56.1	\$2,701	\$2,755	\$2,810	\$2,866	\$2,924	\$2,982	\$3,042	\$3,103
2	Higher Medical Qualifications allowance (per annum) Career Medical Officer Grade 1 Subclause 56.2	\$2,933	\$2,992	\$3,051	\$3,113	\$3,175	\$3,238	\$3,303	\$3,369
3	After hours responsibility allowance (for each 12 hour period or part thereof) Career Medical officers  Subclause 57.1	\$27.72	\$27.76	\$28.32	\$28.89	\$29.46	\$30.05	\$30.65	\$31.27
4	After hours responsibility allowance (for each 12 hour period or part thereof) Other than Career Medical officers Subclause 57.2	\$20.52	\$20.93	\$21.35	\$21.78	\$22.21	\$22.66	\$23.11	\$23.57

Item	Allowance and clause reference	rate as at 1/7/12	1/07/2013 2%	3/07/2014 1.50%	9/04/2015 1.50%	8/10/2015 1.50%	7/04/2016 1.50%	6/10/2016 1.50%	6/04/2017 1.50%
5	Management Allowance Level 1 (per annum) Clause 58	\$19,858	\$20,255	\$20,559	\$20,867	\$21,180	\$21,498	\$21,821	\$22,148
6	Management Allowance Level 2 (per annum) Clause 58	\$34,752	\$35,447	\$35,979	\$36,518	\$37,066	\$37,622	\$38,187	\$38,759
7	Management Allowance Level 3 (per annum) Clause 58	\$49,644	\$50,637	\$51,396	\$52,167	\$52,950	\$53,744	\$54,550	\$55,369

### Expense Related Allowances

Item	Allowance and clause reference	Rate at 1/7/12	1/07/2013 2%	3/07/2014 1.50%	9/04/2015 1.50%	8/10/2015 1.50%	7/04/2016 1.50%	6/10/2016 1.50%	6/04/2017 1.50%
10	Overtime Meal Allowance (per occasion) Clause 39								
	Breakfast	\$10.00	\$10.20	\$10.40	\$10.61	\$10.82	\$11.04	\$11.26	\$11.49
	Luncheon	\$12.85	\$13.11	\$13.37	\$13.64	\$13.91	\$14.19	\$14.47	\$14.76
	Evening Meal	\$19.15	\$19.53	\$19.92	\$20.32	\$20.73	\$21.14	\$21.57	\$22.00

Item	Allowance and clause reference	Rate at 1/7/12	1/07/2013 2%	3/07/2014 1.50%	9/04/2015 1.50%	8/10/2015 1.50%	7/04/2016 1.50%	6/10/2016 1.50%	6/04/2017 1.50%
11	Motor Vehicle Allowance (per kilometer) Clause 61								
	Small car 1600cc non-rotary, 800cc rotary	\$0.70	\$0.71	\$0.72	\$0.74	\$0.75	\$0.76	\$0.77	\$0.78
	Medium Car 1601-2600cc non-rotary, 801-1300cc rotary	\$0.81	\$0.83	\$0.84	\$0.85	\$0.86	\$0.88	\$0.89	\$0.90
	Large car over 2600cc non-rotary, over 1300cc rotary	\$0.82	\$0.84	\$0.85	\$0.86	\$0.87	\$0.89	\$0.90	\$0.91
12	Additional motor vehicle allowance Clause 61 – Per kilometre	\$0.0070	\$0.0071	\$0.0072	\$0.0074	\$0.0075	\$0.0076	\$0.0077	\$0.0078

## Annex E – Other Leave

<b>Leave to:</b>	<b>Accompany a domestic partner on a posting</b>
Purpose	To enable an employee to accompany the employee's domestic partner for the period, or part of the period, of a posting
Eligibility	An employee
Entitlement	The maximum period is the period during which the domestic partner of the employee is required to perform duties overseas, or interstate.
Conditions	
Rate of payment	Without pay.
Effect on other entitlements	Will not count for any purpose.

<b>Leave to:</b>	<b>Attend Aboriginal or Torres Strait Islander Ceremonies</b>
Purpose	To attend a ceremony associated with the death of an immediate or extended family member or for other ceremonial obligations under Aboriginal and Torres Strait Islander law.
Eligibility	An employee who is of Aboriginal or Torres Strait Islander descent.
Entitlement	A maximum period of ten days in any two year period, in addition to bereavement leave.
Conditions	
Rate of payment	Without pay.
Effect on other entitlements	Will not count for any purpose.

<b>Leave to:</b>	<b>Attend sporting events as an accredited competitor or official</b>
Purpose	To enable an employee to attend sporting events as an accredited competitor or official.
Eligibility	An employee who is selected by an official sporting body to participate as an accredited official or competitor with national or international sporting status.
Entitlement	To attend training for, or to attend, a major national or international sporting or other recognised event in the capacity of an accredited official or competitor.
Conditions	Leave will be with pay unless otherwise agreed by the employee.
Rate of payment	With pay or without pay.
Effect on other entitlements	With pay will count as service for all purposes. Without pay will not count as service for any purpose.

<b>Leave to:</b>	<b>Attend Aboriginal and Torres Strait Islander meetings</b>
Purpose	For attending representative meetings in the capacity of an elected representative of the Aboriginal and Torres Strait Islander peak body.
Eligibility	An employee who is an elected representative of the ACT Aboriginal and Torres Strait Islander peak body.
Entitlement	Paid time to attend recognised meetings.
Conditions	If an employee accepts any fee for attendance at the meeting, leave will be granted without pay. An employee may accept reimbursement for out-of-pocket expenses.
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.



<b>Leave to:</b>	<b>Attend as a witness</b>
Purpose	To enable an employee to give evidence before a body or person before whom evidence may be taken on oath.
Eligibility	An employee
Entitlement	Refer to rate of payment
Conditions	If an employee is required to travel to give evidence, they may be reimbursed for reasonable travel expenses as if the employee had travelled in the course of the employee's duties, less any amount received as witnesses' expenses.
Rate of payment	With pay where the employee is to give evidence: (a) on behalf of a Territory, a State or the Commonwealth; or (b) on behalf of an authority established by or under a law of a Territory, State or the Commonwealth; or (c) in a judicial review or administrative review proceeding where the matter being reviewed relates to the work of the employee; or (d) before a Royal Commission appointed under a law of the Commonwealth; or (e) before a person conducting an inquiry under a law of a Territory, a State or the Commonwealth; or (f) before a person or authority exercising arbitral functions under a law of a Territory, a State or the Commonwealth. Without pay where the leave to give evidence is for any other purpose.
Effect on other entitlements	Will count as service for all purposes.

<b>Leave to:</b>	<b>Attend NAIDOC week activities</b>
Purpose	To enable an employee to attend and participate in NAIDOC Week activities.
Eligibility	An employee who is of Aboriginal or Torres Strait Islander descent.
Entitlement	This leave may be granted for one complete day or for varying periods over the week's activities, totalling the equivalent of one complete day.
Conditions	
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.

<b>Leave to:</b>	<b>Attend proceedings at Fair Work Commission</b>
Purpose	To enable the employee to give evidence on behalf of a staff organisation in proceedings at the Fair Work Commission
Eligibility	An employee who is a representative of a staff organisation.
Entitlement	The time necessary to present a case or to give evidence or to attend inspections conducted by the Fair Work Commission, plus reasonable travel time.
Conditions	Leave with pay cannot be granted to more than two representatives for the same period
Rate of payment	With pay Without pay
Effect on other entitlements	With pay will count as service for all purposes Without pay will not count as service for any purpose, but does not break continuity of service for long service leave purposes.

<b>Leave to:</b>	<b>Campaign for election</b>
Purpose	To enable the employee to campaign for election
Eligibility	An employee who is standing for election to the ACT Legislative Assembly, Commonwealth or State House of Parliament, or other legislative or advisory body approved by the Commissioner.
Entitlement	A maximum period of three months.
Conditions	
Rate of payment	Without pay.
Effect on other entitlements	Will not count for any purpose.

<b>Leave to:</b>	<b>Cope with a disaster</b>
Purpose	Where an employee is affected by a disaster which has destroyed or significantly damaged the employee's usual place of residence or its contents.
Eligibility	An employee whose home is wholly or partly uninhabitable for health or safety reasons.
Entitlement	A maximum period of three days in each consecutive period 12 months.
Conditions	
Rate of payment	Full pay.
Effect on other entitlements	Counts as service for all purposes.

<b>Leave for:</b>	<b>Defence Reserve</b>
Purpose	To enable an employee to undertake specified defence service and, also, enlistment, training and/or deployment with the Australian Defence Force Reserve (ADFR).
Eligibility	Available to employees other than casual employees.
Entitlement	<p>The entitlement to leave for Reserve Service is prescribed under the <i>Defence Reserve Service (Protection) Act 2001</i>.</p> <p>An employee may be granted leave (with or without pay) to enable the employee to fulfil Australian Defence Force (ADF) Reserve and Continuous Full Time Service (CFTS) or Cadet Force obligations.</p> <p>An employee is entitled to ADF Reserve Leave with pay, for up to four weeks during each financial year for the purpose of fulfilling service in the ADF Reserve. These purposes include training and operational duty as required.</p> <p>During an employee's first year of ADF Reserve service, a further two weeks paid leave may be granted by the head of service to facilitate participation in additional ADF Reserve training, including induction requirements.</p> <p>With the exception of the additional two weeks in the first year of service, leave can be accumulated and taken over a period of two years, to enable the employee to undertake training as a member of the ADF Reserves.</p> <p>Employees are not required to pay their tax-free ADF Reserve salary to the ACTPS in any circumstances.</p> <p>An employee who is an officer or instructor of cadets in a Cadet Force may be granted paid leave of up to three weeks each financial year to perform duties as an officer or instructor of Cadets. For these purposes 'Cadet Force' means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.</p> <p>Defence Reserve Leave counts as service for all purposes, except for unpaid leave to undertake CFTS. Unpaid leave for the purpose of CFTS counts for all purposes except Annual Leave.</p>

	<b>Defence Reserve Leave</b> (con't)
	An eligible employee may also apply for Annual Leave, Long Service Leave, leave without pay, or they may use ADOs or flextime (where available) to make up time for the purpose of fulfilling ADF Reserve, CFTS or Cadet Force obligations.
Conditions	An eligible employee must give notice to the head of service as soon as practicable of the absence or intention to be absent for Defence Reserve Leave, including documentary evidence
Rate of payment	With pay or without pay
Effect on other entitlements	As per entitlement.

<b>Leave to:</b>	<b>Donate an organ</b>
Purpose	To enable an employee to donate an organ.
Eligibility	An employee who volunteers as an organ donor.
Entitlement	A maximum period of three months in any 12 month period.
Conditions	
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.
<b>Leave to:</b>	<b>Donate blood</b>
Purpose	To enable an employee to donate blood.
Eligibility	An employee, who volunteers as a blood donor.
Entitlement	The time necessary to attend to give blood, including travel and reasonable recovery time.
Conditions	
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.

<b>Leave to:</b>	<b>Engage in employment associated with compensation</b>
Purpose	To enable an employee to engage in employment outside the ACTPS as part of a rehabilitation process under the <i>Safety, Rehabilitation and Compensation Act 1988</i> .
Eligibility	An employee who is, or was, entitled to compensation leave under the <i>Safety, Rehabilitation and Compensation Act 1988</i> and the employment is part of a rehabilitation process under that Act.
Entitlement	A maximum period of three years.
Conditions	
Rate of payment	Without pay.
Effect on other entitlements	Will count as service for all purposes.

<b>Leave to:</b>	<b>Engage in employment in the interests of defence or public safety</b>
Purpose	To enable the employee to engage in work or employment that the head of service considers is in the interests of the defence or public safety of the Commonwealth or the Territories.
Eligibility	An employee.
Entitlement	A maximum period of two years.
Conditions	
Rate of payment	Without pay.

Effect on other entitlements	The first twelve months will count as service for all purposes. Subsequent leave will count as service for all purposes except annual leave. If an employee does not return to duty with the ACTPS the leave will not count as service for any purpose.
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<b>Leave to:</b>	<b>Engage in employment in the interests of the ACTPS</b>
Purpose	To enable an employee to engage in work or employment outside the ACTPS where the head of service is satisfied that the employment is in the interests of the ACTPS.
Eligibility	An employee, other than an employee: (a) who is a probationary employee; or (b) who has six months or less continuous employment.
Entitlement	A maximum period of five years.
Conditions	
Rate of payment	Without pay.
Effect on other entitlements	Will counts as service for all purposes except for annual leave. If an employee does not return to duty with the ACTPS the leave will not count as service for any purpose.

<b>Leave to:</b>	<b>Hold a full-time office in a staff organisation</b>
Purpose	To enable an employee to hold a full-time office in a staff organisation; council of staff organisations, or credit union, co-operative society, building co-operative or similar body.
Eligibility	An employee
Entitlement	The maximum period of leave that may be granted is the period for which the employee is elected to office, or in the case of a non-elected office, three years.
Conditions	To be eligible for leave to hold a non-elected office the employee must have been employed in the ACTPS or in the Australian Public Service for at least four years, at the date at which the leave is proposed to begin. Leave may only be granted for this purpose where the relevant body is incorporated and is conducted by, or on behalf of, a staff organisation for the benefit of the members of the staff organisation or all persons employed in the ACTPS.
Rate of payment	Without pay.
Effect on other entitlements	Will count as service for accruing personal leave and calculating the period of service for long service, except where the leave is to enable the employee to take up an honorary office. Where leave is granted to enable the employee to take up an honorary office, the first two months leave in each calendar year will count as service for all purposes. Leave in excess of two months in a calendar year will not count as service for any purpose other than ongoing eligibility to access maternity leave as provided by the <i>PSM Act</i> , Part 8 clause 172(1).

<b>Leave for:</b>	<b>Local government purposes</b>
Purpose	To enable the employee to attend formal meetings, in the capacity of an elected office holder, of a local government council.
Eligibility	An employee who is a duly elected office holder of a local government council.
Entitlement	A maximum period of: (a) in the case of an employee who is mayor or president of the council, five days in any 12 month period; or (b) in any other case three days in any 12 month period.
Conditions	
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.

<b>Leave for:</b>	<b>Operational Service Personal Leave</b>
Purpose	To enable officers and employees who have rendered operational service to be absent from duty when they are unfit for work because of war-caused injuries or diseases.
Eligibility	An officer or employee, other than a casual employee, who has rendered operational service.
Entitlement	Operational service personal leave is cumulative and is additional to personal leave entitlements contained in Clause 82. <b>(a) Officers</b> On appointment, an eligible officer is entitled to nine weeks operational service personal leave.  An eligible officer is entitled to receive an additional credit of three weeks operational service personal leave: (1) 12 months after the date of appointment; and (2) 24 months after the date of appointment; and (3) 36 months after the date of appointment.  The maximum operational service personal leave balance that an eligible officer may have is eighteen weeks  <b>(b) Employees other than Officers</b> On engagement, an eligible employee is entitled to nine days operational service personal leave  An eligible employee is entitled to receive an additional credit of three days operational service personal leave: (1) 12 months after the date of engagement; and (2) 24 months after the date of engagement; and (3) 36 months after the date of engagement.  The maximum operational service personal leave balance that an eligible employee may have is eighteen days.  Where operational service personal leave credits have been exhausted, the head of service may grant an employee personal leave or a period of unpaid operational service personal leave.
Evidence and Conditions	An eligible officer or employee should discuss with their manager/supervisor, as soon as practicable, of their absence or intention to be absent on operational service personal leave. An eligible officer or employee must make an application to the head of service to access their operational service personal leave entitlement. Having considered the requirements of this clause the head of service may approve an

	<b>Operational Service Personal Leave</b> (con't)
	eligible officer or employee's application to access operational service personal leave. A decision not to approve the leave will be taken in accordance with subclause 80.1. Operational service personal leave may be granted by the head of service: (a) to cover absences resulting from war-caused injury or diseases; and (b) following a written request from an eligible officer or employee, which must include documentary evidence that the absence is due to the war-caused injury or disease, including evidence that the injury or disease is a the war-caused injury or disease in accordance with the requirements of the <i>Veterans' Entitlement Act 1986 (Commonwealth)</i> .
Rate of payment	With pay. The rate of payment to be paid to the employee during a period of operational service personal leave is the same rate as would be paid if the employee was granted personal leave, except where it is granted without pay.
Effect on other entitlements	Operational service personal leave with pay will count as service for all purposes. Operational service personal leave without pay will not count as service.
Interpretation	<b>operational service</b> has the same meaning as in the <i>Veterans' Entitlement Act 1986 (Commonwealth)</i> . <b>war-caused injuries or diseases</b> has the same meaning as in the <i>Veterans' Entitlement Act 1986 (Commonwealth)</i> .

<b>Leave for:</b>	<b>Religious purposes</b>
Purpose	To enable an employee to attend a ceremony integral to the practice of the employee's religious faith.
Eligibility	An employee who is an adherent to the particular religious faith and who is a practising member of that religious faith.
Entitlement	A maximum period of ten days in any two year period.
Conditions	Religious leave is only available for ceremonies that are of significant importance to the particular faith that are generally observed by the entire faith. Leave is not available for ceremonies that are only of significance to the individual member of the particular religious faith.
Rate of payment	Without pay.
Effect on other entitlements	Will not count for any purpose.

<b>Leave for:</b>	<b>Returned soldiers for medical purposes</b>
Purpose	To enable an employee to attend an appointment for treatment or review as a returned soldier under the <i>Veterans' Entitlement Act 1986 (Commonwealth)</i> .
Eligibility	An employee who is a returned soldier.
Entitlement	A maximum period of two weeks in any twelve month period.
Conditions	
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.

<b>Leave to:</b>	<b>Take leave where leave cannot be granted under any other provision</b>
Purpose	To enable an employee to be absent from duty where the leave cannot be provided for elsewhere
Eligibility	An employee
Entitlement	A maximum period of twelve months.
Conditions	
Rate of payment	Without pay, except where the head of service determines there are special circumstances, having regard to: (a) the purpose for which the leave is being taken; and (b) the length of service of the employee; and (c) the length of the period for which the leave is being taken.  In special circumstances the head of service determines whether leave is at full pay or half pay.
Effect on other entitlements	Leave without pay will not count as service for any purpose. However, where the head of service determines there are special circumstances and that the period of leave granted is to be with pay then the paid leave will count as service for all purposes.

## Annex F – Private Practice Payments

### 1. Definitions

2.1 In this Annex:

“**Fees**” means, for each Specialist, the total private practice fees received by the Directorate for each financial year;

“**Relevant Threshold**” means the amount calculated in accordance with the formula listed in this schedule.

### 2. Scheme B Private Practice Payments

2.1 For Specialists participating in Scheme B, the Directorate must pay the Specialist a bonus equivalent to the Fees exceeding the Relevant Threshold but not exceeding 50% of the Specialist’s pay.

2.2 If the Fees do not exceed 20% of the Specialist’s Pay, the Directorate must pay the Specialist a bonus equivalent to the Fees.

### 3. Scheme C Private Practice Payments

3.1 For Specialists participating in Scheme C, the Directorate must pay the Specialist a bonus equivalent to the Fees exceeding the Relevant Threshold but not exceeding 133.33% of the Specialist’s pay.

### 4. Calculation of Relevant Threshold

4.1 For the purposes of calculating the Private Practice Payment payable to Specialists participating in Scheme B or C, the Relevant Threshold = P x F where:

P = the percentage specified in Column Two of Table 1 opposite the reference in Column One of that Item to the treatment provided by the Specialist; and

F = Fees.



**TABLE 1 – PERCENTAGES APPLICABLE TO FEES**

<b>Column 1 – Specialty</b>		<b>Column Two</b>
<b>Cardiology</b>		
<i>Medicare Benefits</i>		
<i>Schedule Item No.</i>		
110	Consultation	20%
116	Consultation – subsequent visit	20%
119	Consultation – minor subsequent visit	20%
132	Consultation – multiple morbidities	20%
133	Consultation – multiple morbidities – subsequent visit	20%
11712	Continuous ECG Monitoring	40%
11700	12-Lead Electrocardiography – ECG	50%
All Others		40%

<b>Thoracic Medicine – Respiratory Medicine</b>		<b>Column Two</b>
<i>Medicare Benefits</i>		
<i>Schedule Item No.</i>		
110	Consultation	20%
116	Consultation – subsequent visit	20%
119	Consultation – minor subsequent visit	20%
132	Consultation – multiple morbidities	20%
133	Consultation – multiple morbidities – subsequent visit	20%
11503	Measurement of the Mechanical or gas Exchange	40%
	Function of the Respiratory System	
11506	Measurement of the Respiratory Function	40%
11509	Measurement of the Respiratory Function	40%
11512	Continuous Measurement of the Relationship	40%
	between flow and volume during expiration or inspiration	
12000-21	Allergy Testing	40%
All Others		50%
<b>Medical Imaging</b>		100%
<b>Pathology</b>		100%
<b>All Other Specialists</b>		20%

<b>Radiation Oncology</b>		<b>Column Two</b>
<i>Medicare Benefits</i>		
<i>Schedule Item No.</i>		
104	Consultation	20%
105	Consultation – subsequent attendance	20%
All Others		20%

The fees outlined in Table 1 are subject to review per subclauses 47.5 - 47.6. Subject to the agreed outcome of that review, the rates in table 1 will be amended prospectively.

## Dictionary

**Accrued Day Off (ADO)** means a day/shift off duty for an employee using bankable leave accrued as a result of increasing the employee's average weekly hours of work from 38 hours to 40 hours.

**ACTPS** means the Service established by the PSM Act. To avoid doubt, this includes the Public Division of Calvary Health Care ACT Ltd.

**Agreement** means *ACT Public Sector Medical Practitioners Enterprise Agreement 2013-2017* and includes all Annexes and Schedules.

**Appeal Panel** means the panel established under the provisions at **Section Q**.

**Appointed** means an appointment in accordance with Part 5 division 5.3 of the PSM Act.

**Calvary** means the Public Division of Calvary Health Care ACT Ltd.

**Career Medical Officer (CMO)** means a person who is a registered medical practitioner; and has had at least 3 years' post graduate experience in public hospital service or any lesser period acceptable to the employer; and is engaged as a Career Medical Officer by the employer. For the purpose of application of conditions under this agreement, a reference to a CMO also includes an employee engaged as a Senior Career Medical Officer or a Transitional Grade unless specified otherwise.

**Carer** means an employee who provides, in addition to the employee's normal family responsibilities, care and support on a regular basis to other family members or other persons who are sick or ageing, have an injury, have a physical or mental illness or a disability – other than in relation to their employment with the ACTPS.

**Casual employee** means a person engaged by the Directorate under the PSM Act to perform work for a short period on an irregular or non-systematic basis.

**College** means a professional organisation approved by the Australian Medical Council for education, training, and granting of postgraduate qualifications in a clinical discipline or speciality.

**Commissioner for Public Administration** means the person appointed under Section 18(1) of the PSM Act.

**Consultation** means providing relevant information to employees and their employee representatives. It means more than a mere exchange of information. For consultation to be effective the participants must be contributing to the decision-making process not only in appearance but in fact.

**Counts as service for all purposes** means also the provision of employer superannuation contributions to the extent of an employee's superannuation fund rules.

**DCC** means the Directorate Consultative Committee established under Clause 124 of this Agreement.

**Delegate** means the head of service or the person authorised by the head of service to perform specific functions under this agreement.

**Directorate or Directorates** means the administrative unit known as the Health Directorate and/or the Public Division of Calvary Health Care Ltd as the case requires.

**Director General** means a person engaged under sections 28 or 30 of the PSM Act as the Director General of the Directorate, and includes the Chief Executive Officer of Calvary Health Care ACT Ltd.

**Domestic Partnership** means a relationship between two people, whether of a different or the same sex, living together as a couple on a genuine domestic basis.

**Domestic Violence** is as defined under the *Domestic Violence and Protection Orders Act 2008 (ACT)*.

**Eligible Casual Employee** means:

- a) an employee who has been employed as a casual employee; and
- b) the employee has been employed by the ACTPS on a regular and systemic basis for a sequence of periods of employment during a period of at least twelve months; and
- c) who has a reasonable expectation of continuing employment by the ACTPS on a regular and systematic basis.

**Employee** means (unless there is a clear intention in this Agreement to restrict the meaning) an officer or a casual employee or a temporary employee who is employed or engaged under the PSM Act in a classification set out in Annex A, excluding a person engaged as head of service under Sections 23C or 23J of the PSM Act, persons engaged as directors-general under sections 28 or 30 of the PSM Act, or persons engaged as Executives under Sections 72 or 76 of the PSM Act.

**Employee Representative** means any person chosen by an employee, or a group of employees, to represent the employee(s).

**Facilities Fee** means a fee charged by the Directorate in respect to the management of the rights of private practice arrangements set out in Clause 155 of this Agreement.

**FW Act** means the *Fair Work Act 2009*.

**FWC** means Fair Work Commission.

**FW Regulations** means the Fair Work Regulations 2009.

**Head of Service** means a person engaged under sections 23C or 23J of the PSM Act as the head of service, and includes the Chief Executive Officer of Calvary Health Care ACT Ltd.

**Higher Medical Qualifications** means medical qualifications obtained by a Medical Officer subsequent to graduation which are either (a) recognised by the Medical Board of the ACT as being specialist qualifications and are required for appointment to the position, or (b) other postgraduate medical qualifications, as approved by the head of service on advice of the Chief Medical Administrator or equivalent, as being essential for the performance of the specified duties.

**Household Member** means a person (other than the employee's immediate family) residing in the employee's normal place of residence at the time of their illness, injury, emergency or death.

**Immediate family** means a person who is:

- (a) a domestic partner (including a former domestic partner); or
- (b) a child or an adult child, parent, grandparent, grandchild or sibling of the employee or domestic partner of the employee; or
- (c) a person related to the employee by Aboriginal and/or Torres Strait Islander kinship structures; or
- (d) a child who is the subject of a permanent caring arrangement; or
- (e) an adopted child.

**'Immediate family'** includes adopted, step, fostered or ex-nuptial immediate family where these circumstances exist.

Additionally, the head of service may consider that the definition of 'immediate family' be extended for a particular decision involving an employee where exceptional circumstances exist. This might include other close family members or an employee who lives alone and has no-one to nominate as 'immediate family', may nominate one person, in similar circumstances, for the purpose of caring responsibilities

**Intern** means a provisionally registered Medical Officer (including overseas trained Medical Officers) serving in a health facility prior to obtaining general registration as a medical practitioner, and who is employed in a position classified as intern.

**Junior Medical Officer** means Intern, Resident Medical Officer, Junior Registrar, Registrar, Senior Registrar and Senior Resident Medical Officer.

**Junior Registrar** means a Medical Officer who:

- Has satisfactorily completed their internship; and
- Has obtained general registration; and
- Who is employed in a position classified as a Junior Registrar; and
- Who is enrolled in a vocational training program at the PGY 3 level.

**Long-term temporary** means a person engaged under the PSM Act for a period of 12 months or more.

**Manager** means a person who has responsibility for planning, organising and leading a work unit or group activity.

**Medical Officer** means an Intern, Resident Medical Officer, Registrar, Senior Registrar, Career Medical Officer, Transitional Grade or Senior Career Medical Officer.

**Officer** means a person who is appointed as an officer under Division 5.3 or 5.8 of the PSM Act.  
*Note: Permanent staff are officers.*

**Permanent Caring Responsibility** means an out of home care placement for child(ren) until the child(ren) turns eighteen as defined by the *Children and Young People Act 2008*.

**Post Graduate Fellow** to be eligible for employment as a Post Graduate Fellow, a medical practitioner must:

- Be a registered medical practitioner; and
- Must be at least PGY7+ or equivalent ; and
- Be employed in a position classified as Post Graduate Fellow..

Post Graduate Fellow positions are normally only filled for a maximum period of 12 months.

**Primary Care Giver** is a person who is the primary carer of a child in the person's reference period if the child is in the person's care in that period and the person meets the child's physical needs more than anyone else in that period.

**Private Practice** means the provision of medical services undertaken by a senior Medical Officer outside of their responsibilities with the directorate, in accordance with the provisions of sub clauses 24.13 to 24.19.

**PSM Act** means the *Public Sector Management Act 1994* as varied or replaced.

**PSM Standards** means the Public Sector Management Standards made under the PSM Act as varied.

**Registered health professional** means a health professional registered, or licensed, as a health professional (or as a health professional of a particular type) under a law of a State or Territory that provides for the registration or licensing of health professionals (or health professionals of that type).

**Resident Medical Officer** means a Medical Officer who:

- has satisfactorily completed their internship; and
- has obtained general registration and;
- who is employed in a position classified as Resident Medical Officer.

**Registered Medical Practitioner** means a person registered, or licensed, as a medical practitioner, under a law of a state or territory that provides for the registration or licensing of medical practitioners.

**Registrar** means a Medical Officer who:

- is enrolled in a vocational training program; and
- Has completed the equivalent of at least 3 years of relevant full time clinical experience, and
- Has obtained general registration as a medical practitioner, and
- Is employed in a position classified as Registrar.

**Rostered Day Off (RDO)** means any one or more days rostered off duty without pay.

**Senior Career Medical Officer** means a Medical Officer who:

- has at least 7 years (full time equivalent) clinical post graduate experience; and
- is required to perform clinical duties and responsibilities at a senior level with minimum clinical supervision; and
- is employed in a position classified as a Senior Career Medical Officer.

**Senior Medical Practitioner (SMP)** means a Specialist, Senior Specialist or Post Graduate Fellow (except where specifically excluded).

**Senior Registrar** means a Medical Officer who, in addition to meeting the requirements for a Registrar:

- has completed at least 48 months of (full time equivalent) experience in recognised Registrar training position and substantially completed fellowship training; and
- holds higher medical qualifications and is employed in a position classified as Senior Registrar.

**Senior Resident Medical Officer** means a Medical Officer who:

- has satisfactorily completed their internship; and
- has obtained general registration; and
- who is employed in a position classified as a Senior Resident Medical Officer; and
- who has successfully completed at least 2 years employment as a JMO.

**Senior Specialist** means a person who is a registered medical practitioner and;

- (a) Has been employed by a hospital on the maximum pay for a Specialist for a period of at least three years and has gained such experience and attained such ability in his or her speciality as is deemed by the employer to justify appointment to the classification.

**Service** means the ACT Public Service established by the PSM Act.

**Session** means a period of work not less than 4 hours in duration.

**Short Term Care** means an out of home care placement for a child (ren) of up to two years duration as defined by the Children and Young People Act 2008.

**Short-term temporary employee** means an employee engaged under the PSM Act for a period of less than twelve months.

**Staff Specialist or Specialist** means a person who is:

- (a) Is a registered medical practitioner; and
- (b) After full registration has spent not less than five years in the practice of medicine; and
- (c) Has spent not less than three years in supervised specialist training and/or experience; and
- (d) Has obtained an appropriate higher medical qualification in his or her speciality acceptable to the employer.

**Strategic Board** means the senior management team, comprising the head of the service and the eight directors general, responsible for providing whole-of-government leadership and strategic direction to the ACT Public Service.

**Supervisor** means a person who has direct supervisory responsibility for one or more employees in a work unit or group activity.


**Temporary employee** means a person engaged by the Directorate under the PSM Act for a specific period of time or for a specified task under Division 5.7 of the PSM Act, excluding a person engaged under sections 23C or 23J of the PSM Act as head of service, persons engaged as directors-general under Sections 28 or 30 of the PSM Act or persons engaged as executives under sections 72 or 76 of the PSM Act.

**Union(s)** means a union or unions which are covered by this Agreement.




SIGNATORY PAGE TO  
 ACT PUBLIC SECTOR MEDICAL PRACTITIONERS  
 ENTERPRISE AGREEMENT 2013-2017


This is a signed copy of the enterprise agreement defined above  
 signed in accordance with the requirements of the *Fair Work Act 2009*.

EMPLOYER	
SIGNATURE	
NAME	KATHY LEIGH
ADDRESS	1 Constitution Avenue, Canberra City ACT, 2601
AUTHORITY TO SIGN THE AGREEMENT	Signatory holds the office of the ACT Head of the ACT Public Service.

SIGNATORY PAGE TO  
 ACT PUBLIC SECTOR MEDICAL PRACTITIONERS  
 ENTERPRISE AGREEMENT 2013-2017

This is a signed copy of the enterprise agreement defined above  
 signed in accordance with the requirements of the *Fair Work Act 2009*.

REPRESENTATIVE OF EMPLOYEES	
SIGNATURE	
NAME	LAVINIA ANN HALLATT
ADDRESS	PO Box 596 CURTIN ACT 2605
AUTHORITY TO SIGN THE AGREEMENT	President ASMOF (ACT)

REPRESENTATIVE OF EMPLOYEES	
SIGNATURE	
NAME	PETER SOMERVILLE
ADDRESS	LEVEL 1 42 MACQUARIE ST BARTON ACT
AUTHORITY TO SIGN THE AGREEMENT	CEO + COMPANY SECRETARY AMA (ACT) LTD