What’s different about the ACT Public Sector Medical Practitioners Enterprise Agreement 2017-2021

**PURPOSE**

The purpose of this document is to explain the proposed main amendments to the ACT Public Sector Medical Practitioners Enterprise Agreement 2017-2021 (“the Agreement”), to ensure that employees have a good understanding of the outcomes negotiated with unions and other representatives.

**GENERAL**

A number of changes to the proposed Agreement have sought to clarify minor technical and operational requirements relating to existing entitlements and processes. Among these are important changes that ensure consistency with legislation, and changes which are aimed at consistency within the Agreement itself.

**MAJOR AMENDMENTS**

**Duration (4)**

The nominal expiry date is proposed to be 31 October 2021.

**Remuneration (27)**

*PAY OFFER*

The Government’s pay offer covers a period of four years duration with percentage increases being provided at regular intervals. The first pay increase is to be back-paid to the first full pay period on or after 1 October 2017, with the second – fifth pay increase back-paid as per the table below.

The full offer is:

* 2.25% from the first full pay period on or after 1 October 2017;
* 0.5% from the first full pay period on or after 1 June 2018;
* 1.35% from the first full pay period on or after 1 December 2018;
* 1.35% from the first full pay period on or after 1 June 2019;
* 1.35% from the first full pay period on or after 1 December 2019;
* 1.35% from the first full pay period on or after 1 June 2020;
* 1.35% from the first full pay period on or after 1 December 2020; and
* 1.35% from the first full pay period on or after 1 June 2021.

**Allowances**

All allowances in Annex C, unless specifically excluded, will be increased by the same percentage amounts as the pay increases outlined above.

**Superannuation (54)**

For the first time, superannuation entitlements will be included in the Agreement in full.

Members of preserved schemes like the CSS and PSS will continue to receive the contributions they do currently.

Members of Superannuation Guarantee Funds are currently receiving 10.5% (9.5% Super guarantee + the current additional employer contribution of 1%). This will increase to:

* 10.75% on 1 July 2018;
* 11% on 1 July 2019; and
* 11.5 % on 1 July 2020.

The Government will continue to offer 1% additional employer contribution for members of Superannuation Guarantee Funds who choose to contribute at least 3% of their salary to their superannuation.

*SUPERANNUATION ON PARENTAL LEAVE*

The Government offer will extend superannuation contributions to the unpaid portion of the first 12 months of parental leave. This includes birth leave (aka maternity leave) and unpaid parental and grandparental leave.

**Advancement to Senior Specialist (14)**

The previous mechanism for promotion from specialist to senior specialist has been replaced by a single broad-banded specialist/senior specialist classification, with competency-based advancement to the Senior Specialist grade. Under the new scheme, it will not be necessary for a position to be advertised for an application for advancement to be considered.

CHS and ASMOF will consult on competency requirements to support the broadband arrangement in the new Agreement, with a new policy to be introduced to support the advancement process.

Before the agreement commences, promotion to Senior Specialist will be consistent with the current policy.

**Hours of Work – Senior Medical Practitioners (23.1)**

The words “not less than” have been deleted from 23.1.2 to provide a clearer definition of the working hours of senior medical practitioners.

**Span of Hours (23.10)**

The span of hours for Monday to Friday has been changed to 7am to 7pm. This is both consistent with core ACTPS provisions and provides greater flexibility for structuring ordinary time working hours.

**On-call / Recall (42.3)**

Subclause 43.3 has been changed to provide that where recall (which includes incidents that require advice, but not attendance at the workplace) becomes a regular pattern for an employee not on the on-call roster, there will be a review of the rosters, including the roster patterns and which employees are included on the roster.

Onerous Hours (43)

Eligibility for onerous Hours payments will be assessed fortnightly instead of the current six-month period, subject to a qualifying fortnight. Onerous Hours in excess of 90 per fortnight attract a 5% penalty, increasing to 10% when the hours are in excess of 120 hours per fortnight.

The obligation to review working arrangements which result in onerous hours being worked will remain.

**Additional Hours (44.1)**

New provisions have been included to provide additional remuneration for senior doctors who work additional hours to meet periods of identified additional high demand. In addition to the normal hourly rate, a penalty of 100% will apply to such payments.

**SMPs in Radiology (44.2)**

ARIns currently provide for Consultants working in Radiology to be paid a daily rate when required to attend for duty on a day that the Consultant would not otherwise be in attendance; for example, private practice days and non-rostered weekends. This longstanding provision is being incorporated in the EA. This payment replaces any provisions in existing ARIns for the same purpose and will be indexed going forward.

**Extra Surgery Scheme (44.10)**

There are currently a range of additional work provisions for anaesthetists provided for under ARIns. These are being consolidated and included in the EA as a single set of arrangements under which an anaesthetist will receive a payment where the anaesthetist agrees to a request from the head of service to undertake additional work in conjunction with an approved Extra Surgery Scheme. This payment replaces any provisions in existing ARIns for the same purpose.

**Rights of Private Practice (46)**

The Rights of Private Practice arrangements have been expanded to include the details of the Pathology Scheme and the Radiology Scheme, which were previously only referenced. The Radiation Oncology Scheme has also been included, ensuring a greater degree of clarity and consistency of entitlement for all staff.

The facility fees applying to the various schemes will be reviewed during the life of the Agreement (46.13).

**Management Allowance (58)**

The Level of Allowance criteria now includes Criterion A. The review procedure has been changed to provide that, following a review, any change will occur at the determination date and if a person leaves the position, the allowance ceases immediately.

**Donate Life (62)**

A new clause covering the additional provisions applying to senior medical practitioners working on the Donate Life Program has been included. The clause does not specify payments made to SMPs working in the program, which will be set out in individual ARIns, but does clarify the context in which those payments would be available.

**Training Education and Study Leave (TESL) (103)**

The criteria for accessing TESL has been updated to reinforce the need for an employee’s mandatory training to be up to date.

**Medical Education Expenses (MEE) (104)**

The clause now includes a provision for the review of the administration of MEE and the Memorandum of Understanding with ASMOF governing the Private Practice Fund.

**Education Allowance – JMOs (108)**

An improved fortnightly allowance will be paid to JMOs upon the commencement of the Agreement, replacing the current reimbursement scheme.

Transitional provisions have been included for the current reimbursement system to remain in place until the new agreement commences, however, all claims for reimbursement must be in relation to activities occurring before the agreement comes into force and must be submitted within one month of the Agreement commencing.

**Dictionary**

Definitions for AHRPA, Business Day and Scheme Pay have been included.

The definition of Staff Specialist / Specialist has been updated to better reflect the focus on AHPRA registration.

**OTHER CHANGES: CORE**

**Employment (9)**

The Government remains committed to providing job security for employees as far as possible. Several amendments in the proposed Agreement are aimed at strengthening this commitment.

*REVIEW OF EMPLOYMENT STATUS (10)*

The right in the current Agreement for casuals to request a review of their employment status is being extended to temporary employees as well.

**Salary Related matters**

*CLASSIFICATION/WORK VALUE REVIEW (50)*

The clause dealing with an employee’s or group of employees’ right to request a review of their classification and the work value of their position(s), is being strengthened to ensure that genuine reviews will be undertaken where warranted.

The ACT Government is committed to employees being classified appropriately, and is also intending to undertake a larger scale classification review, outside of the Agreement process, to identify categories of classifications that may need to be adjusted based on work value changes.

**Workplace Flexibility**

The proposed Agreement significantly simplifies and strengthens the ability for employees to access a range of entitlements in the Agreement to ensure they can balance their work and personal commitments. The proposed clauses provide flexibility well above the minimum requirements of the Fair Work Act, while incorporating the concept of ‘Reasonable Business Grounds’ into the Agreement to allow any disputes to be raised through the Dispute Avoidance/Settlement Procedures of the Agreement, an avenue currently more restricted in the existing Agreement.

In summary – any employee, may for any reasons request a Flexible Working Arrangement. This may be a part-time or job-sharing arrangement, or varied start and finish times, flexible access to leave and any number of other arrangements.

Any such request can only be refused on reasonable business grounds, and those business grounds are listed in the Agreement, and are more restrictive than those under the Fair Work Act.

These arrangements will be recorded in writing and can be for a period of up to three years, at which they will be reviewed. If the employee so requests, a new arrangement can then be entered into unless there are reasonable business grounds for refusing the request.

**Leave**

*NAIDOC LEAVE (Annex D)*

Leave for the purpose of attending NAIDOC week activities is currently only available to employees of Aboriginal and Torres Strait Islander decent. The leave entitlement is being extended to everyone, other than casual employees.

That means that any employee who wishes to attend NAIDOC week activities will be able to access up to one day’s paid leave, subject to operational requirements.

*BONDING LEAVE (92)*

The new Agreement provides more flexibility for the taking of Bonding Leave.

Currently, an employee may access two weeks (10 working days) of Bonding leave, followed by one week of Personal Leave for bonding purposes.

The initial two weeks, need to be accessed as a single block and the additional Personal Leave must be taken within the first 14 weeks from the birth of the child.

The new Agreement will allow the employee to access the leave at any stage within the 14 weeks, as one block or broken in to smaller blocks. There is also an added provision which allows for the 14 week limit to be extended in exceptional circumstances.

*CONCURRENCY CARE (97)*

The proposed Agreement introduces a new concept of Concurrency Care, to ensure that Adoption and Permanent Care Leave, as well as Foster and Short Term Care Leave, can be accessed in cases where an employee is providing concurrency care through a registered Community Organisation.

*PUBLIC HOLIDAY PAY IN LIEU FOR SHIFTWORKERS ROSTERED OFF ON A PUBLIC HOLIDAY (37)*

Currently, if a shift worker is rostered off on a Public Holiday, they are entitled to an additional day off. If they cannot access the additional day off, they can instead receive a day’s pay. That day is currently calculated based on a standard day, rather than the length of the shift. The Government has agreed to extend this to the length of the shift for non-standard shifts in circumstances where the difference between the shift length and the standard day is not otherwise compensated by, for example, additional Annual Leave, Composite Pay Rate or Accrued Days Off.

*FAMILY VIOLENCE LEAVE (93)*

The Family Violence Leave provisions have been clarified to ensure better access for employees. This includes expanding the list of examples of the purpose for which leave can be taken and including clarification that leave may also be needed for travel and recovery after appointments etc.

**Communication, Consultation and Union Representation (124)**

Both in and out of the Agreement the Government is putting effort into improving consultation processes to ensure that employees and their representatives have a genuine opportunity to influence decisions prior to them being made. The proposed Agreement includes improved processes around Consultation and Consultative Committees and includes better articulated rights for union delegates.

**Workplace Values and Behaviours (Section N)**

The sections of the Agreement that deal with Misconduct and Underperformance have been significantly rewritten. The purpose is to ensure that Procedural Fairness and Natural Justice Principles are enshrined throughout these sections.

Transparency and fairness are integral to any misconduct and underperformance process.

Key changes include:

* A re-focussed preliminary assessment process, which seeks to move away from an automatic assumption that there is an adversarial relationship between a victim and offender, ensuring assessments are conducted swiftly and at a local level as far as possible.
* The introduction into the Agreement of the Public Sector Standards Commissioner (PSSC), an independent office established in the Public Sector Management Act changes in 2016. The PSSC now oversees investigations through the Professional Standards Unit and is responsible for making findings of misconduct.
* Greater clarity around what happens to misconduct processes if an employee leaves the ACTPS while the process in on foot.
* New rights for employees to have input into a decision of finding of misconduct, prior to a final finding and prior to a decision about sanction, to which an employee has a separate right to reply.
* The right for an employee to appeal a finding as well as a sanction. Currently the appeal right is restricted to the sanction itself.

**Internal Reviews and Appeals (Section P)**

Amendments to these processes are largely aimed at clarifying current processes and to improve transparency, including providing greater independence for appeals.

Key changes include:

* A new section dealing with Reviews and Appeals of certain recruitment processes. These are currently co-located with other Reviews and Appeals, which was considered confusing as the processes are not consistent with those that apply to misconduct, underperformance and other decisions.
* Appeals have been made determinative. Currently, the Appeal Panel makes a recommendation to the Head of Service (or delegate), who then decides whether or not to accept the recommendations. In the new Agreement, the decision of the Appeal Panel stands, but may still be disputed in the Fair Work Commission using the Dispute Avoidance/Settlement Procedures.

**Redeployment and Redundancy (Section S)**

The Government remains committed to maintaining the size of the ACTPS and stands by its policy that there will be no involuntary redundancies.

However, there are still circumstances where positions become redundant as a result of restructures, changes to technology and the like. In such situations it is important that affected employees have the support necessary to ensure that they can be redeployed, or that there are other solutions where that is not possible, including voluntary redundancy.

Several changes have been made to the current provisions to ensure that redeployment is the genuine aim in all circumstances, where redundancies are unavoidable and where employees want to remain in the ACTPS.

Key changes include:

* Clearer processes that require consultation and that require that an employee has been declared potentially excess before being able to be declared excess.
* The ability to transfer an employee to a lower classification without their agreement has been removed.
* All potentially excess employees, who haven’t been offered a voluntary redundancy, or who have refused a voluntary redundancy, will be placed on a redeployment register and will be considered in isolation for positions.
* Employees may only be declared excess if they have been offered, but have refused voluntary redundancy.
* If an excess employee reaches the end of the retention period, and cannot be transferred to another position at level, the employee can choose to leave the ACTPS with a payment, which equals what they would have received as a voluntary redundancy, less the amount paid in salary during the retention period. This means no-one will be worse off by choosing to seek redeployment by entering a retention period rather than accepting a voluntary redundancy up front.
* The exclusion period, during which an employee who has taken a voluntary redundancy is prevented from re-entering the ACTPS has been reduced from two years, to the time that is equivalent to the redundancy payment they received.