



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Australian Broadcasting Corporation T/A ABC
(AG2019/4841)

ABC ENTERPRISE AGREEMENT –2019-2022

Broadcasting and recorded entertainment industry

DEPUTY PRESIDENT MASSON

MELBOURNE, 22 JANUARY 2020

Application for approval of the ABC Enterprise Agreement –2019-2022.

[1] An application has been made for approval of an enterprise agreement known as the *ABC Enterprise Agreement –2019-2022* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Australian Broadcasting Corporation T/A ABC. The Agreement is a single enterprise agreement.

[2] The Employer has provided written undertakings. A copy of the undertakings is attached in Annexure A. I am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement and that the undertakings will not result in substantial changes to the Agreement. The undertakings are taken to be a term of the agreement.

[3] Subject to the undertakings referred to above, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 as are relevant to this application for approval have been met.

[4] Pursuant to s.202(4) of the Act, the model flexibility term prescribed by the *Fair Work Regulations 2009* is taken to be a term of the Agreement.

[5] The Media, Entertainment and Arts Alliance and the Community and Public Sector Union being bargaining representatives for the Agreement, have given notice under s.183 of the Act that they want the Agreement to cover them. In accordance with s.201(2) I note that the Agreement covers the organisations.

[6] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 29 January 2020. The nominal expiry date of the Agreement is 1 October 2022.



DEPUTY PRESIDENT

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Annexure A



17/01/2020

Associate to Deputy President Masson
Fair Work Commission
11 Exhibition Street
Melbourne VIC 3000

By email: chambers.masson.DP@fwc.gov.au

Dear Associate,

AG2019/4841 - Application for approval of the *ABC Enterprise Agreement 2019 - 2022* (Agreement)

Pursuant to s.190 of the *Fair Work Act 2009*, the Australian Broadcasting Corporation undertakes, while the *ABC Enterprise Agreement 2019 - 2022* is in operation, that, notwithstanding the provisions in Schedule F, the minimum weekly amount payable to an employee to whom Schedule F (Employees Eligible for a Supported Wage) applies will be no less than the minimum amount (currently \$87 per week) that the ABC is required by law to pay to that employee.

Yours faithfully,

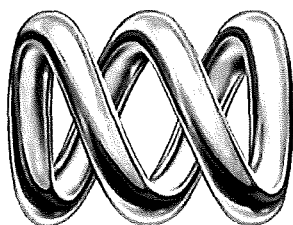
A handwritten signature in black ink, appearing to read 'Rebekah Donaldson'.

Rebekah Donaldson
Chief people Officer
Australian Broadcasting Corporation

Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of the agreement.

Note - the model flexibility term is taken to be a term of this agreement and can be found at the end of the agreement.

ABC Enterprise Agreement 2019-2022



ABC
Australian
Broadcasting
Corporation

Part A Agreement Formalities

1. Title

This Agreement will be known as the ABC Enterprise Agreement –2019-2022.

2. Arrangement

This Agreement is arranged as follows:

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3. Definitions

- 3.1.1 "ABC" means the Australian Broadcasting Corporation.
- 3.1.2 "Act" means the *Fair Work Act 2009* (Cth).
- 3.1.3 "MEAA" means the Media Entertainment and Arts Alliance.
- 3.1.4 "CPSU" means the Community and Public Sector Union.
- 3.1.5 "Delegate" means the person authorised by the ABC as its delegate from time to time in relation to a particular matter.
- 3.1.6 "Identified Position" means a position for which one of the selection criteria is membership of one of the groups identified in the positive discrimination or special measures provisions of federal anti-discrimination law (including but not limited to the *Age Discrimination Act 2004* (Cth), *Disability Discrimination Act 1992* (Cth), *Sex Discrimination Act 1984* (Cth) or *Racial Discrimination Act 1975* (Cth), or the ABC's Diversity and Inclusion Plan.
- 3.1.7 "Long term assignment" means an overseas assignment of more than six months.
- 3.1.8 "Minimum rate of pay" means an employee's applicable Salary Rate under Schedule A or Schedule B, unless, in respect of Band 9 only, a greater amount is specified in their contract of employment.
- 3.1.9 "NES" means the National Employment Standards under the Act.
- 3.1.10 "Prescribed nominal daily hours" for a full-time employee means:
 - a. 7 hours 36 minutes for employees working a two-weekly cycle; or
 - b. 8 hours for employees working a four-weekly cycle.

4. Coverage and Parties Bound

- 4.1.1 Subject to clause 4.1.2, this Agreement covers:
 - a. the ABC;
 - b. the Community and Public Sector Union (subject to the CPSU meeting the requirements to be a party under the Act); and
 - a. the Media Entertainment and Arts Alliance (subject to MEAA meeting the requirements to be a party under the Act); and
 - b. all employees of the ABC (other than those described in clause 4.1.2 below),in respect of work done by employees of the ABC (other than those described in clause 4.1.2 below).
- 4.1.2 This Agreement does not cover:

- a. employees covered by the relevant ABC Retail Agreement;
- b. employees covered by the Actors Stream of the *Australian Broadcasting Corporation Enterprise Award 2016* or relevant ABC Actors Agreement; and
- c. employees classified as Executives and Directors.

5. Date and Period of Operation

- 5.1.1 This Agreement will commence operation seven days after the date of approval of the Agreement by the Fair Work Commission (Commencement Date).
- 5.1.2 The nominal expiry date of the Agreement is 1 October 2022.
- 5.1.3 If requested by the CPSU, MEAA or the ABC, the parties will meet in the three months prior to the nominal expiry date of this Agreement to commence negotiations for an agreement to replace this Agreement.
- 5.1.4 Despite clause 5.1.1, while the effective date of any change to salaries or allowances in this Agreement will be the Commencement Date or the date specified for that particular change, if applicable, the actual date for payment of any increase in salaries or allowances (including any back pay) will be the payment date of the first full pay period following the Commencement Date. For the avoidance of doubt, this provision is not designed to impact the effective date of any change, but rather is designed to provide the ABC with sufficient time to make the necessary administrative arrangements to implement those changes.

6. Application of Enterprise Agreement

- 6.1.1 This Agreement rescinds and replaces all other collective agreements covering the employees covered by this Agreement, whether registered or certified or not, including the *ABC Enterprise Agreement 2016-2019* and will operate in the place of and to the exclusion of any other collective industrial instrument that might otherwise apply to the employment of employees including the *Australian Broadcasting Corporation Enterprise Award 2016* as amended, replaced or superseded from time to time, or any modern award in place from time to time, including the *Broadcasting and Recorded Entertainment and Cinemas Award 2010*, as amended, replaced or superseded from time to time.
- 6.1.2 This Agreement prevails over any inconsistent provision contained in the *Australian Broadcasting Corporation Act 1983* (Cth) and the regulations, instructions, staff rules, service rules, or general orders made under that Act.
- 6.1.3 This Agreement is supported by ABC policies, procedures and guidelines as advised and amended from time to time, and including those referred to in this

Agreement. These policies, procedures and guidelines do not form part of this Agreement. In the event of inconsistency, the Agreement will prevail.

7. No Extra Claims

- 7.1.1 The wage increases and other improvements in conditions of employment provided for by this Agreement are in full settlement of all existing claims made by the CPSU, MEAA and the employees or on behalf of the employees.
- 7.1.2 It is a term of this Agreement that the ABC, the CPSU, MEAA and the employees will not pursue any extra claims for improvement in wages or other terms and conditions of employment for the duration of this Agreement. It is not the intent of this provision to inhibit, limit or restrict the ability of the ABC to manage the organisation nor to introduce change at the workplace, including in accordance with Part L of this Agreement.

8. Leave Reserved

- 8.1.1 The CPSU, MEAA and the ABC may exercise their rights in respect of Work Level Standards as set out in the document Terms of Reference for the Review of the Work Level Standards (incorporating Role Templates and Reward for Multi skilling), as amended by the parties in August 2013.

Part B Purpose, Principles and Objectives

9. Purpose

- 9.1.1 The purpose of this Agreement is to provide terms and conditions of employment that are responsive to the ABC's needs, the needs and aspirations of its employees, and environment in which the ABC operates.

10. Principles

- 10.1.1 The ABC recognises the role unions play in the workplace and the right of union delegates to represent union members in the workplace. The unions and union delegates recognise the ABC's statutory obligations and operational requirements and in exercising their rights agree to consider the likely effect on these factors.
- 10.1.2 The ABC recognises the value of work performed by all employees through the application of the ABC's classification system.
- 10.1.3 The terms and conditions of this Agreement help give effect to the commitment of the parties covered by this Agreement by:
- a. supporting a mobile, multi-skilled workforce through broad banded (including cross-media) classification structures that preclude unnecessary demarcations;
 - b. enabling jobs to be designed at the local level to encourage an appropriate blend of multi-skilled and specialist employees, and to provide for the smooth introduction of new technology; and
 - c. supporting the adoption of the ABC Values, as amended from time to time.
- 10.1.4 In particular, the parties are committed to:
- a. encouragement of a whole of life balance between work and private responsibilities;
 - b. promoting reasonable workloads for employees. The ABC is committed to the safety and well-being of employees. Managers and employees will work together when employees raise concerns about their workloads and associated issues;
 - c. promoting an open working environment based on direct feedback between managers and employees; and
 - d. promoting job security, employability and career development. This Agreement provides opportunities for employees to work in different

areas of the organisation.

11. Objectives

11.1 Workforce Planning Objectives

- 11.1.1 The ABC is committed to strategies that increase the flexibility of its workforce and enhance and broaden the skills of its employees. Such strategies include, but are not limited to:
- a. training and developing the current workforce; and
 - b. encouraging employee mobility.

11.2 Learning and Development Objectives

- 11.2.1 Consistent with its workforce planning objectives, the ABC will ensure that its learning, training and development strategies:
- a. recognise the importance of investing in the skills, training and career development of employees in order to increase their value to the ABC, and to continue to provide a flexible and rewarding workplace;
 - b. address current skills shortages and areas of emerging need;
 - c. increase skill development and promote career opportunities for all employees;
 - d. develop skills that maximise employability both internally and externally;
 - e. support identified training needs; and
 - f. facilitate redeployment opportunities for potentially excess employees.
 - g. employees will not unreasonably refuse to undertake training and development activities designed to broaden their skills and/or enhance their career opportunities. Employees will take an active responsibility for the development of their own careers.
 - h. training and development will incorporate the ABC's Diversity and Inclusion objectives, and there will be equity of access for all employees (including those in remote locations) to training and development opportunities.

11.3 Mobility and Career Development Objectives

- 11.3.1 Subject to the application of the merit principle, and having regard to operational requirements, the ABC will:
- a. encourage mobility of employees within the ABC;

- b. support employees actively seeking opportunities to work in different areas of the ABC;
- c. ensure all reasonable steps are taken to assign ABC employees on ABC commissioned programs, including co-productions;
- d. ensure that requests for transfer/reassignment are managed impartially having regard to program needs and employees' development goals and career aspirations;
- e. promote the engagement of ongoing employees in preference to non-ongoing employees; and
- f. promote the engagement of internal employees in preference to external candidates.

11.4 Diversity and Inclusion Objectives

11.4.1 The ABC is committed to diversity and inclusion in its workforce.

11.4.2 Nothing in this document precludes the ABC from having regard to its Diversity and Inclusion Plan as amended from time to time, as applicable.

Part C Flexibility

12. Individual Flexibility Arrangements

- 12.1.1 The Employer and an Employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of the Agreement if:
- a. the individual flexibility arrangement varies the effect of one or more of the terms of the Agreement dealing with the following matters:
 - i. arrangements about when work is performed (including rosters and the arrangement of free days, provided that the minimum number of free days is not less than four per fortnight);
 - ii. overtime rates;
 - iii. penalty rates;
 - iv. allowances;
 - v. leave loading; and
 - b. the arrangement is genuinely agreed to by the ABC and the employee.
- 12.1.2 Prior to entering into an arrangement, the employee may request that the ABC provide, to the extent practicable, an estimate of the payments they would have been entitled to for the prospective year based, as far as possible, on the pattern of hours they will be expected to work.
- 12.1.3 The employee will be advised of their right to representation in negotiating the arrangement.
- 12.1.4 The salary rate determined under an individual flexibility arrangement will be regarded as salary for superannuation purposes in accordance with the relevant legislation.
- 12.1.5 The Employer must ensure that the individual flexibility arrangement:
- a. is about permitted matters under section 172 of the Act;
 - b. has no unlawful terms under section 194 of the Act; and
 - c. results in the employee being better off overall, compared to this Agreement, than the Employee would be if no arrangement was made.
- 12.1.6 The ABC must ensure that the individual flexibility arrangement:
- a. is in writing;

- b. includes the name of the ABC and the employee;
- c. is signed by the ABC and the employee and, if the employee is under 18 years of age, is also signed by a parent or guardian of the employee; and
- d. includes details of:
 - i. the terms of the Agreement that will be varied by the arrangement;
 - ii. how the arrangement will vary the effect of the terms;
 - iii. how the employee will be better off overall compared to this Agreement in relation to the terms and conditions of his or her employment as a result of the arrangement; and
 - iv. states the day on which the arrangement commences.

12.1.7 The ABC must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

12.1.8 The right to make an arrangement pursuant to this clause is in addition to, and is not intended to otherwise effect, any provision for an agreement between an employer and an individual employee contained in any other term of this Agreement.

12.1.9 The ABC or employee may terminate the individual flexibility arrangement:

- a. by giving no more than 28 days' written notice to the other party to the arrangement; or
- b. if the ABC and employee agree in writing – at any time.

Part D Recruitment

13. Advertising and Selection

13.1 Guidelines

- 13.1.1 The ABC's Recruitment and Selection Guidelines do not form part of this Agreement. In the event of inconsistency, the Agreement will prevail.

13.2 Advertising

- 13.2.1 All vacancies will be advertised, except where:

- a. the vacancy is expected to be for 6 months or less duration;
- b. the vacancy relates to a key program or project requiring the skills and attributes of a particular person, which may involve canvassing potential candidates on a discreet basis;
- c. the vacancy is to be filled by transfer or redeployment;
- d. the vacancy is to be filled by the appointment of an employee on return from a temporary assignment or period of approved absence where there is a statutory obligation on the ABC to place them in a similar position to the one previously held;
- e. a suitable candidate for the vacancy has already been identified through a selection process conducted within the last 12 months (from the close of advertising) for a similar or generic role;
- f. the vacancy is a Run of Show engagement and is to be filled by an employee on an existing Run of Show engagement, or an employee who has received an offer of further Run of Show employment in accordance with clause 14.3.9; and
- g. the vacancy is to be filled by the appointment of the current temporary incumbent, provided they have been employed in the position for a period of 6 months or more and have previously undergone a documented selection process for that position.

- 13.2.2 In the event that the ABC has determined it will not advertise a short-term or long-term vacancy for an Identified Position, and the ABC is not relying on clause 13.2.1b, 13.2.1c, 13.2.1e and 13.2.1g, the ABC will, during the recruitment process, notify employees in writing that the vacancy is an Identified Position and the reason for the advertising exemption, to ensure that any staff who meet the new criteria are able to express an interest and/or apply for the vacancy.

13.3 Selection for Short Term Vacancies

- 13.3.1 Where a vacancy is expected to be greater than 6 months but not more than 12 months' duration, the manager will document the selection, which will be based on merit, as well as having regard to operational requirements. For the avoidance of doubt, selection based on merit does not preclude the manager having regard to the ABC's Diversity and Inclusion Plan, as amended from time to time.

13.4 Selection for Long Term Vacancies

- 13.4.1 A Selection Panel will be formed for all advertised vacancies greater than 12 months, except where:
- a. the vacancy relates to a key program or project requiring the skills and attributes of a particular person, which may involve canvassing potential candidates on a discreet basis;
 - b. the vacancy is to be filled by transfer or redeployment;
 - c. the vacancy is to be filled by the appointment of an employee on return from a temporary transfer or period of approved absence where there is a statutory obligation on the ABC to place them in a similar position to the one previously held;
 - d. a suitable candidate for the vacancy has already been identified through a selection process conducted within the last 12 months (from the close of advertising) for a similar or generic role;
 - e. the vacancy is to be filled by the appointment of the current temporary incumbent provided they have been employed in the position for 6 months or more and have previously undergone a documented selection process for that position;
 - f. there is only one applicant for the vacancy; or
 - g. the vacancy is a Run of Show engagement and is to be filled by an employee on an existing Run of Show engagement or whose Run of Show engagement has expired within four weeks of the vacancy being approved to fill.
- 13.4.2 The Selection Panel will consist of more than one person and will make recommendations regarding appointment but does not have authority to appoint an applicant to the vacant position.
- 13.4.3 The ABC's nominated delegate will make the decision regarding appointment to the vacant position (**Selection Decision**).

13.5 Internal candidates

- 13.5.1 Where a Selection Panel has been formed in accordance with clause 13.4.1;
- a. all internal applicants for the vacancy who meet all of the selection criteria will be interviewed, subject to 13.3.1b;
 - b. in circumstances where there are more than three internal applicants who are assessed as meeting all of the selection criteria:
 - i. there may be further short listing processes to identify the best candidates, which may include asking candidates to undertake a further task; and
 - ii. After this process has been undertaken, a minimum of the three best internal applicants will be interviewed.

Part E Employment Arrangements

14. Forms of Employment

14.1.1 Employees covered by this Agreement will be employed under one of the following forms of employment:

- a. Ongoing employment;
- b. Specified task employment;
- c. Fixed term employment;
- d. Phased retirement employment; or
- e. Casual employment.

14.2 Ongoing Employment

14.2.1 Ongoing employment continues until terminated on notice by either party, except in cases where summary dismissal is lawful in which case no notice will be given.

14.3 Specified Task Employment

14.3.1 Specified task employment, including Run of Show employment, will only be used where the specific job performed by the employee and/or the specific capabilities exercised by the employee are not required on an ongoing basis.

14.3.2 Specified task employment is employment for a specified task where the employment will cease on completion of the task, except:

- a. in cases where summary dismissal is lawful in which case no notice will be given;
- b. where the specified task is for twelve months or more and is for the purpose of backfilling leave or a temporary transfer, in which case the employment may be terminated during Probation in accordance with clause 14.8, or in accordance with 14.2.1a above;
- c. where the specified task is for an anticipated duration of eighteen months or more and the ABC has elected to treat the Employee in accordance with clauses 14.3.16 and 14.3.17 below, in which case the employment may be terminated during Probation in accordance with clause 14.8 or on notice in accordance with clause 57.2, or in accordance with 14.2.1a above.

Right for specified task employee (other than a Run of Show employee) to request conversion to ongoing employment

- 14.3.3 An employee, other than a Run of Show employee, who has been employed on two or more consecutive specified task engagements, may request in writing that the ABC consider whether their employment should be converted to ongoing employment. Where it is demonstrated that the specified task employment is not consistent with relevant case law considering the nature of specified task employment, the ABC will offer to convert the employee to ongoing employment.
- 14.3.4 Where the ABC refuses a specified task employee's request to convert, the ABC must provide the employee with the ABC's reasons for refusal in writing within 21 days of the request being made.
- 14.3.5 A specified task employee must not be engaged and re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under this clause.
- 14.3.6 The ABC will notify specified task employees of their right to request conversion under this clause in writing at the following times:
- a. for a specified task employee whose first specified task engagement is after the commencement of this Agreement, in their contract for the specified task employment; and
 - b. for a specified task employee who is already engaged on a specified task contract at the commencement of the Agreement, no later than three (3) months after the commencement of this Agreement.

Run of Show employment

- 14.3.7 Run of Show employment is employment for the specified task of fulfilling a particular role on a commissioned production for all or the balance of a production year, particular season or series of a commissioned program.
- 14.3.8 Subject to subclause 14.3.9 and 14.3.15 below, if:
- a. by the expiry of a Run of Show contract, the Run of Show employee advises the ABC in writing that the employee wishes to be offered further Run of Show employment by the ABC in the same or an equivalent role, whether on the same production, or another production, and is available for such further employment;
 - b. the employee does not commence employment on a further Run of Show engagement within two months after the expiry of that previous engagement; and
 - c. the employee has more than two years' service,

the ABC will pay the employee a termination payment on the following basis:

Service	Termination Payment
More than 2 years and up to 3 years	4 weeks
More than 3 years	6 weeks

- 14.3.9 Despite clause 14.3.8 above, an employee who is offered the same or an equivalent role, whether on the same production or another production, and refuses such an offer, will not be entitled to any termination payment.
- 14.3.10 An offer of a further Run of Show engagement should generally be made within four weeks after the expiry of the previous engagement.
- 14.3.11 The termination payment is in satisfaction of all entitlements arising on termination, whether under a contract, award or legislation, except any entitlement to leave.
- 14.3.12 Subject to clause 14.3.15, if a Run of Show employee has a total of four years' continuous service, the Run of Show employee may elect in writing to be converted to ongoing employment on the same hourly basis, classification and band as their current Run of Show engagement.
- 14.3.13 For the purpose of clauses 14.3.8 and 14.3.12 only, service for a Run of Show employee is calculated on the following basis:
- a. total service with the ABC under one or more Run of Show contracts – provided there is no break of more than two months between the expiry of any such engagement and the commencement of the next engagement;
 - b. commences from the first Run of Show engagement on or after 5 November 2010;
 - c. excludes casual employment; and
 - d. the cessation date of employment is not altered in any way by the payment of leave accrued during the period of employment.
- 14.3.14 The ABC will notify Run of Show employees of their right to convert to ongoing employment and a potential severance payment under this clause in writing at the following times:
- a. for a Run of Show employee whose first engagement is after the commencement of this Agreement - in their contract for the Run of Show employment;
 - b. for a Run of Show employee who is already engaged on a Run of Show contract at the commencement of this Agreement – within three (3) months of the commencement date of this Agreement; and

- c. for all Run of Show employees – within six (6) months of the commencement of their fourth consecutive year of service.

14.3.15 Run of Show employees whose main function is to present on-air programs are excluded from the operation of subclause 14.3.8 and 14.3.12, where the Run of Show employee's annual rate of earnings exceeds the unfair dismissal high income threshold as recognised by the Act and related regulations.

Long term specified task employment

14.3.16 If an employee, other than an employee described in clause 14.3.7 above, is employed for a specified task engagement with an anticipated duration of eighteen months or more, the ABC may elect to treat the employee in accordance with clause 14.3.17 below (**Nominated Long Term Specified Task Employment**).

14.3.17 If an employee is advised by the ABC that they are employed on Nominated Long Term Specified Task Employment:

- a. the specified task employment will continue until the completion of the specified task unless:
 - i. terminated on notice by either party (or in the case of the ABC, payment in lieu of notice or part payment, part notice) in accordance with clause 57; or
 - ii. summary dismissal is lawful, in which case the ABC may terminate the employment before the end of the specified task, and
- b. **Part G – Performance Management** applies to employees employed on Nominated Long Term Specified Task Employment.

14.3.18 For the avoidance of doubt, if an employee, other than an employee described in clause 14.3.7 above, is employed for a specified task engagement with an anticipated duration of eighteen months or more and is not advised at the time of offer of employment that they are employed on Nominated Long Term Specified Task Employment, the employee's employment may only be terminated prior to completion of the specified task by summary dismissal.

14.4 Fixed Term

14.4.1 Fixed term employment is employment for a fixed period, subject to termination at the stated finish date, except:

- a. in cases where summary dismissal is lawful, in which case no notice will be given;
- b. where the fixed period is eighteen months or more and the ABC has elected to treat the Employee in accordance with clauses 14.4.8 and 14.4.9 below, in which case the employment may be terminated during

Probation in accordance with clause 14.8 or on notice in accordance with clause 57, or in accordance with 3.1.1a 14.2.1 above.

- 14.4.2 Subject to clause 14.4.3, fixed term employment will only be used where the specific job performed by the employee and/or the specific capabilities exercised by the employee are not required on an ongoing basis.
- 14.4.3 Despite clause 14.4.2, content makers whose main function is to present an on-air program may be employed on a fixed term basis if:
- a. the employee is assigned to a local metropolitan station and is classified Band 8 or above; or
 - b. the employee is a trainee engaged in accordance with clause 16.1.5.

The employment of these content makers will be subject to Probation in accordance with clause 14.8. There will be no Probation in any second and subsequent fixed term engagements if an employee commences employment on a further fixed term within two months after the expiry of the previous engagement.

Right for fixed term employee to request conversion to ongoing employment

- 14.4.4 An employee who has been employed on two or more consecutive fixed term engagements may request in writing that the ABC consider whether their employment should be converted to ongoing employment. Where it is demonstrated that the fixed term employment is not consistent with relevant case law considering the nature of fixed term employment, the ABC will offer to convert the employee to ongoing employment.
- 14.4.5 Where the ABC refuses a fixed term employee's request to convert, the ABC must provide the employee with the ABC's reasons for refusal in writing within 21 days of the request being made.
- 14.4.6 A fixed term employee must not be engaged and re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under this clause.
- 14.4.7 The ABC will notify fixed term employees of their right to request conversion under this clause in writing at the following times:
- a. for a fixed term employee whose first fixed term engagement is after the commencement of this Agreement – in their contract for the fixed term employment; and
 - b. for a fixed term employee who is already engaged on a fixed term contract at the commencement of the Agreement, no later than three (3) months after the commencement of this Agreement.

Long fixed term employment

14.4.8 If an employee is employed on a fixed term employment period of eighteen months or more, the ABC may elect to treat the employee in accordance with clause 14.4.9 below (**Nominated Long Fixed Term Employment**).

14.4.9 If an employee is advised by the ABC that they are employed on Nominated Long Fixed Term Employment:

- a. the fixed term employment will continue until the completion of the fixed period unless:
 - i. terminated on notice by either party in accordance with clause 57 (or in the case of the ABC, payment in lieu of notice or part payment, part notice); or
 - ii. summary dismissal is lawful in which case the ABC may terminate the employment before the end of the fixed period; and
- b. **Part G – Performance Management** applies to all employees employed on Nominated Long Fixed Term Employment.

14.4.10 For the avoidance of doubt, if an employee is employed on fixed term employment of eighteen months or more and is not advised at the time of offer of employment that they are employed on Nominated Long Fixed Term Employment, the employee's employment may only be terminated prior to the end of the fixed period by summary dismissal.

14.5 Phased retirement

14.5.1 An employee and the ABC may agree to enter into an arrangement regarding phased retirement. In such circumstances:

- a. the employee will give up their right to ongoing employment even though their substantive position is ongoing;
- b. the employee will be employed on phased retirement employment with an agreed end date;
- c. the employee's employment will continue until the agreed end date unless:
 - i. terminated on notice by either party in accordance with clause 57 (or in the case of the ABC, payment in lieu of notice or part payment, part notice); or
 - ii. summary dismissal is lawful, in which case the ABC may terminate the employment before the agreed end date; and
- d. **Part G – Performance Management** applies to employees employed on

phased retirement employment.

14.6 Casual employment

- 14.6.1 A casual employee is engaged by the hour in return for payment for the hours worked.
- 14.6.2 The minimum casual payment will be for four hours per call.
- 14.6.3 Clause 14.6.2 does not apply where the casual employee and ABC agree to a shorter minimum call, and the casual employee's functions are to 'present an on air program' provided that the minimum call and minimum payment will be two hours.
- 14.6.4 A casual employee is an employee engaged to perform work on an intermittent basis or on a series of separate but unbroken periods for reasons that are unpredictable. Principles that may indicate casual employment include:
 - a. the ABC can elect to offer employment on a particular day or days and when offered, the employee can elect to work;
 - b. there is no certainty about the period over which employment of this type will be offered; and
 - c. the engagement is characterised by informality, uncertainty, and irregularity.
- 14.6.5 A casual employee will receive a 25% loading in lieu of leave benefits provided under the Agreement.

14.7 Right to request casual conversion

- 14.7.1 A "regular casual employee" is a casual employee who has in the preceding period of 12 months worked a pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to perform as a full-time employee or part-time employee under the provisions of this Agreement.
- 14.7.2 A regular casual employee who has worked equivalent full-time hours over the preceding period of 12 months' casual employment may request to have their employment converted to full-time employment.
- 14.7.3 A regular casual employee who has worked less than equivalent full-time hours over the preceding period of 12 months' casual employment may request to have their employment converted to part-time employment consistent with the pattern of hours previously worked.
- 14.7.4 Any request under this subclause must be made in writing to the ABC.
- 14.7.5 The ABC may agree to or refuse the request, but the request may only be refused on reasonable grounds and after there has been a discussion with the employee.

- 14.7.6 Reasonable grounds for refusal include but are not limited to that:
- a. it would require a significant adjustment to the casual employee's hours of work in order for the employee to be engaged as a full-time or part-time employee in accordance with the provisions of this Agreement;
 - b. it is known or reasonably foreseeable that the regular casual employee's position will cease to exist within the next 12 months;
 - c. it is known or reasonably foreseeable that the hours of work which the regular casual employee is required to perform will be significantly reduced in the next 12 months; or
 - d. it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the employee's hours of work are required to be performed in the next 12 months which cannot be accommodated within the days and/or hours during which the employee is available to work.
- 14.7.7 For any ground of refusal to be reasonable, it must be based on facts which are known or reasonably foreseeable.
- 14.7.8 Where the ABC refuses a regular casual employee's request to convert, the ABC must provide the casual employee with the ABC's reasons for refusal in writing within 21 days of the request being made.
- 14.7.9 Where it is agreed that a casual employee will have their employment converted to full-time or part-time employment as provided for in this clause, the ABC must provide to the employee the following in writing:
- a. confirmation of the form of employment to which the employee will convert – that is, full-time or part-time employment; and
 - b. for part-time employment, the matters referred to in clause 15.3.1.
- 14.7.10 The conversion will take effect from the start of the next pay cycle after the employee has accepted in writing the offer of ongoing employment made by the ABC unless another date is agreed.
- 14.7.11 Once a casual employee has converted to full-time or part-time employment, the employee may only revert to casual employment with the written agreement of the ABC.
- 14.7.12 A casual employee must not be engaged and re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under this clause.
- 14.7.13 Nothing in this clause:
- a. obliges a regular casual employee to convert to full-time or part-time

employment;

- b. permits the ABC to require a regular casual employee to so convert; or.
- c. requires the ABC to increase the hours of a regular casual employee seeking conversion to full-time or part-time employment.

14.7.14 The ABC will notify casual employees of their right to request conversion under this clause in writing at the following times:

- a. for a casual employee whose first engagement is after the commencement of this Agreement, no later than two weeks after the commencement of their first engagement; and
- b. for a person who has worked and was paid as a casual employee at any time within the 12 months prior to the commencement of this Agreement (and is not a permanent employee at the commencement of this Agreement), no later than six (6) months after the commencement of this Agreement.

14.8 Probation

14.8.1 All new:

- a. Ongoing employees;
- b. Specified task employees as limited by clause 14.3.2;
- c. Fixed term employees as limited by 14.4.1; and
- d. content makers whose main function is to present an on-air program as limited by clause 14.4.3,

will have their initial work performance assessed during a period of probation (**Probation**).

14.8.2 The purpose of Probation is to ascertain whether the employee has the skills and capacity to carry out the job satisfactorily.

14.8.3 Subject to 14.8.4, the period of Probation will be six months.

14.8.4 The period of Probation for a trainee or cadet, including a trainee engaged under clause 16.1.5, will be a maximum of 12 months and will be advised to the trainee or cadet in writing prior to the commencement of employment.

15. Part-Time Employment

15.1 Definition

15.1.1 A part-time employee is an Ongoing, Fixed Term, Specified Task or Phased Retirement employee employed for less than the ordinary hours of work of an equivalent full-time employee.

15.2 Initiation of Part-Time Employment

- 15.2.1 Proposals for part-time employment may be initiated by the ABC for operational reasons or by an employee for personal reasons.
- 15.2.2 Where the ABC seeks to initiate the conversion of existing full-time employment to part-time employment, the ABC will consult with the employee and their representative (if requested by the employee). The ABC will advise the employee of their right to have a representative. No pressure will be exerted on full-time employees to convert to part-time employment or to transfer to another position to make way for part time employment.
- 15.2.3 Where a proposal to move from full-time to part-time employment is initiated by an employee, the ABC will have regard to the personal reasons put by the employee in support of the proposal and the ABC's operational requirements in determining the response.
- 15.2.4 Subject to operational requirements, the ABC will not unreasonably refuse a part-time proposal from an employee returning from parental leave in order to assist them with their caring responsibilities, provided that:
- a. the employee should initiate the proposal at least two months prior to resuming work;
 - b. the proposal, if approved, will be for a period of up to and including 12 months; and
 - c. the part time position provided to the employee may not necessarily be the same position the employee held immediately prior to taking parental leave.

15.3 Hours of Work for Part-Time Employees

- 15.3.1 Before any period of part-time employment commences, an agreement in writing will be required between the ABC and the employee which specifies:
- a. the prescribed weekly or cycle hours;
 - b. for non-rostered employees: the pattern of hours (including starting and finishing times) to be worked. Any agreement reached will be in accordance with the relevant clauses of this Agreement applying to Schedule A (Non-Rostered) employees;
 - c. for rostered employees: the pattern of hours (including starting and finishing times) to be worked. Any agreement reached will be in accordance with the relevant clauses of this Agreement applying to Schedule A (Rostered) or Schedule B employees. Provided that where this information is not specified, part-time rostered employees may be rostered for work on any day of the week or cycle and for any number of

days and daily hours which can be worked by an equivalent full time employee; and

- d. that the employee may be required to work overtime in accordance with subclause 25.3.1 of this Agreement.

15.3.2 The matters agreed under 15.3.1 will not be varied, amended or revoked without the consent of the employee. Any agreed variation will be in writing.

15.3.3 The minimum hours of work for a part-time employee will be not less than four hours on any day.

15.3.4 Where a full time employee is permitted to work part-time for an agreed fixed period for personal reasons, the date of reversion to full-time employment shall be specified in writing and the employee will revert to full-time employment unless a further period of part-time employment is approved.

15.3.5 The ABC will not request or require a part-time employee to work overtime under clause 15.3.1 where the overtime would be unreasonable, having regard to the factors set out in section 62(3) of the Act in relation to determining whether additional hours are reasonable.

15.4 Additional Part-Time Hours and Overtime

15.4.1 Where a part-time employee works more than the ordinary hours of work set out in their agreement, those hours which do not exceed the maximum daily or prescribed cyclic ordinary hours of work for an equivalent full-time employee will be regarded as additional hours and will be paid at the employee's ordinary hourly rate plus a 20% loading in lieu of accrual of annual and personal/carer's leave. The loading will be in addition to any shift or special rates penalty for which the additional hours may qualify.

15.4.2 Where an employee works more than the ordinary hours of work set out in their agreement, those hours which exceed the daily, weekly or cyclic ordinary hours of work for an equivalent full-time employee will be treated as overtime and paid for at the appropriate overtime rate in accordance with the relevant provisions in **Part H - Hours of Work, Penalties and Overtime**.

15.5 Other Part-Time Provisions

15.5.1 Notwithstanding clause 15.4.1, the ABC will accrue annual leave and personal/carer's leave for part time employees on the basis of their ordinary hours of work, and in accordance with the National Employment Standards (NES) and sections 87(2) and 96(2) of the Act which deal with the accrual of annual leave and accrual of personal/carer's leave respectively.

15.5.2 Subject to 15.5.3, other provisions of this Agreement that can apply to part-time employees will apply on a pro-rata basis, provided they are not inconsistent with the provisions of this clause.

- 15.5.3 Part-time employees will be entitled to expense related allowances, as specified in the relevant clause of this Agreement.

16. Trainees and Cadets

- 16.1.1 Trainee and cadet programs will be developed to meet the present and future needs of the ABC. The ABC will use a combination of in-house and/or recognised institutional courses to supplement on-the-job training to ensure the all-round development of competencies.
- 16.1.2 Trainee and cadet positions will be specifically identified. Periods of training will be determined by the stream and type of traineeship or cadetship, provided that:
- a. the training period will not exceed three years, subject to performance requirements being met;
 - b. for cadet journalists who commence as graduates of an approved and appropriate tertiary course, the training period will not exceed one year, subject to performance requirements being met; and
 - c. cadet journalists who graduate from an approved and appropriate tertiary course while employed will be advanced to the final year.
- 16.1.3 Trainees and cadets will receive instruction and guidance from responsible people throughout the term of the training program. Where they are required to attend courses or lectures in their chosen field at an appropriate tertiary institution, such time will be paid by the ABC.
- 16.1.4 The salary of trainees and cadets will be determined in accordance with the relevant Work Level Standards and the performance management system.
- 16.1.5 Content makers assigned to triple j whose main function is to present on-air programs may be engaged as trainees on fixed term employment, provided that the fixed term must be a minimum of 12 months.

Part F Salaries, Classifications and Related Matters

17. Salaries

17.1 Salary Increases under this Agreement

17.1.1 The minimum rate of pay of employees covered by this Agreement will be increased as follows:

- a. 2 % payable from the first full pay period on or after 1 October 2019 ;
- b. 2 % payable from the first full pay period on or after 1 October 2020; and
- c. 2 % payable from the first full pay period on or after 1 October 2021..

To avoid doubt, the increase prescribed in 17.1.1 above is calculated on the July 2018 Salary Rates prescribed in the previous agreement.

17.2 Rates of Pay - Schedules A and B

17.2.1 Employees covered by this Agreement shall be paid a base salary in accordance with Schedule A or Schedule B with effect from the first full pay period on or after 1 October 2019 (which represents an increase of 2% on the previously applicable rates).

17.2.2 Differences in employment conditions attaching to Schedule A and Schedule B salary rates are specified in:

- **Part H - Hours, Penalties and Overtime; and**
- **Part J - Leave and Public Holidays.**

17.2.3 Employment under Schedule A or Schedule B will be determined by agreement between the ABC and an employee.

17.2.4 An employee working under a Schedule other than the standard Schedule for that work area may revert to the standard Schedule with two weeks' notice prior to the commencement of the next roster cycle.

17.2.5 The standard Schedule applying in a work area will be the Schedule that applies to the majority of employees in that work area.

17.2.6 The standard Schedule in a work area may be varied with the agreement of the ABC and the majority of employees in that defined area.

17.3 Method of Payment

17.3.1 Unless otherwise agreed between the ABC and the majority of employees, employees will be paid fortnightly.

17.3.2 The fortnightly rate of pay will be calculated by applying the following formula:

$$\bullet \text{ Fortnightly Pay} = \frac{\text{Annual salary} \times 12}{313}$$

17.4 Salary Sacrifice

17.4.1 Subject to the provisions of this clause, an employee may choose to sacrifice part of their base cash salary for non-cash benefits under an approved scheme consistent with ABC requirements in relation to salary sacrifice and subject to compliance with relevant Government directives and taxation legislation.

17.4.2 Participation in the scheme will not affect an employee's salary for superannuation or any other purpose.

17.4.3 Any money owed to the ABC as a result of an employee participating in the scheme must be repaid before the employee leaves the ABC.

17.4.4 Participation in the scheme will be entirely voluntary and employees will be responsible for obtaining their own financial advice regarding salary sacrifice. As not all options have necessarily beneficial financial outcomes, employees are strongly recommended to seek independent financial advice.

18. Classifications

18.1 Definitions

18.1.1 Employees will be classified according to the following definitions:

Classification	Definition
Content Maker	Reflects the integrated and specialist nature of ABC content making and includes all functions inherent in the commissioning, gathering, production, presentation, delivery and management of content and content-related services.
Technologist	Reflects the integrated and specialist nature of work involved in the design, development, installation and maintenance of ABC broadcasting and information technology systems.
Administrative & Professional	Reflects the integrated and specialist nature of work involved in the provision of business, marketing and related professional and administrative services throughout the ABC.

18.2 Work Level Standards

18.2.1 Employees will be graded in one of nine salary bands in accordance with the Work Level Standards applying to each classification.

18.3 Performance of Work

18.3.1 An employee may be required to perform a broader range of functions and/or move between functions and work areas within the limits of their competence, training and classification. The requirement to perform work in accordance with

this clause will be consistent with the ABC's obligation to provide a healthy and safe working environment and will not be designed to promote deskilling.

- 18.3.2 Subject to statutory requirements, the absence of formal qualifications will not of itself be a barrier to the consideration of task broadening/mobility options. Rather, attention will be paid to the employee's knowledge, skills and experience in being able to meet operational requirements, and to the employee's development needs and career aspirations identified in the performance management and development system.

19. Salary Progression

19.1 Progression to a Higher Band

- 19.1.1 Progression from one salary band to a higher band will constitute promotion and may occur at any point in the year as a result of:
- a. an employee being appointed to a vacant position; or
 - b. the ABC redesigning an employee's position at a higher band.

19.2 Progression Within a Band

- 19.2.1 Progression within a salary band may occur in accordance with **Part G Performance Management**.

20. Higher Duties Allowance

- 20.1.1 An employee who is temporarily required to perform duties commensurate with a higher salary band for a continuous period of five days or more will be paid an allowance commensurate with the higher band.
- 20.1.2 Authorised leave (excluding long service leave) occurring during a period of approved higher duties will be paid at the higher rate.

21. Exemption from Certain Provisions of this Agreement

21.1 Salary Package

- 21.1.1 The ABC and an employee (or the employee's representative) may negotiate a salary package to meet circumstances for a defined period where this Agreement does not provide sufficient flexibility to satisfy a particular activity.
- 21.1.2 'Salary package' may include one or more of the following elements: base salary, hours of work (including arrangement of hours and free days), rosters and changes to rosters, special rates, shift penalties, overtime, additional annual leave, public holidays, allowances and/or non-cash benefits.
- 21.1.3 Salary determined for salary packaging purposes shall be regarded as salary for superannuation purposes in accordance with the relevant legislation.

21.1.4 The salary package, to the extent of any inconsistencies, will override the terms and conditions of this Agreement in all matters except average weekly ordinary hours and annual leave, provided that the terms and conditions of the salary package will, on balance, result in the employee being better off overall than the employee would otherwise be under the terms and conditions of this Agreement.

21.1.5 The employee will be advised of their right to representation in negotiating the package. Any agreement will be in writing.

21.2 Annual Buyout of Penalties, Allowances and/or Overtime

21.2.1 By agreement with the ABC, an employee in Band 4 and above may be paid a loading (buyout) in lieu of one or more of the following elements: hours of work (including arrangement of hours and free days), rosters and changes to rosters, special rates, shift penalties, overtime and/or allowances, provided that:

- a. minimum free days per fortnight will be not less than four;
- b. the loading will, on balance, result in the employee being better off overall than the employee would otherwise be under the terms and conditions of this Agreement; and
- c. the loading will be regarded as salary for superannuation purposes in accordance with the relevant legislation.

21.2.2 Such agreement will be in writing and will state which payments are displaced by the loading and by what amount. The employee will be advised of their right to representation in negotiating the agreement.

21.2.3 Prior to entering into such an agreement, the employee will be advised of an estimate of the payments they would have been entitled to for the prospective year based, as far as possible, on the pattern of hours they will be expected to work.

21.2.4 If the employee's pattern of ordinary hours of work changes during the period of the agreement or the loading is found to be wrongly calculated or extraordinary events have intervened, the level of loading may be reviewed and the rate changed by agreement to reflect the new circumstances. Failing this, the buyout agreement may be terminated by either the employee or the ABC two weeks prior to the commencement of the next roster cycle.

21.2.5 The buyout agreement will last for a period of 12 months at which time the level of loading will be reviewed or either party may terminate and revert to the conditions contained in this Agreement.

21.2.6 The loading will be payable during all periods of paid leave (other than long service leave), provided that payment of the loading during personal/carer's leave will be capped at one month per annum.

21.3 Buyouts on Short Term Distant Assignments and Special Events

- 21.3.1 For short term distant assignments, or on the coverage of special events, an employee involved in these activities may, for a specified period of time, be paid a buyout, which may include one or more of the following elements: hours of work (including arrangement of hours and free days), rosters and changes to rosters, special rates, shift penalties, overtime, public holidays and/or allowances.
- 21.3.2 The buyout will be calculated on the basis of an assessment of anticipated hours and work patterns over the specified period, and will be mutually agreed in writing between the ABC and the employee (or the employee's representative).
- 21.3.3 Periods of leave taken in conjunction with the assignment will not attract the buyout.
- 21.3.4 The buyout agreement may be terminated by either the employee or the ABC two weeks prior to the commencement of the next roster cycle.

21.4 Conditions on Arrangements

- 21.4.1 For the purposes of clauses 21.1, 21.2 and 21.3, any salary packaging, annual buyouts of penalties, allowances and overtime and buyouts on short term distant assignments and special events (Arrangements) made must:
- a. set out the terms of the Agreement the effect of which are varied;
 - b. be about matters that would be permitted matters if the Arrangements were an enterprise agreement;
 - c. not include a term that would be an unlawful term if the Arrangements were an enterprise agreement;
 - d. be genuinely agreed to by the employer and employee;
 - e. result in the employee being better off overall than the employee would have been if no Arrangements were agreed to;
 - f. be in writing and be signed:
 - i. in all cases by the employee and the ABC; and
 - ii. if the employee is under 18 – by a parent or guardian of the employee.

For the avoidance of doubt, this does not affect the operation of any salary packaging or buy out entered into prior to the operation of the *ABC Enterprise Agreement 2019 - 2022*, or under any previous enterprise agreement, which continues to operate under this Agreement.

21.5 Excluded Employees

- 21.5.1 Band 9 employees who are in receipt of an annual salary equal to or greater than Rate 'a' as specified in Schedule A or Schedule B shall be exempt from the application of:

- a. the provisions of **Part H – Hours of Work, Penalties and Overtime** of this Agreement; and
- b. any other provisions of this Agreement with the agreement of the employee.

21.6 Averaging of Shift Penalties

- 21.6.1 The parties to this Agreement may consider proposals to average shift penalties for a work area over a predefined period.
- 21.6.2 Where the parties agree, composite pay reflecting such proposals may apply on the basis that costs will be comparable to the costs of such payments made under **Part H - Hours of Work, Penalties and Overtime**.

22. Supported Wages for employees with disabilities

- 22.1. The ABC may employ eligible employees under the supported wage system in accordance with the provisions of **Schedule F**.

Part G Performance Management

23. Performance Management

23.1 Application

23.1.1 Ongoing employees, employees engaged on Nominated Long Term Specified Task Employment, employees engaged on Nominated Long Fixed Term Employment and employees on Phased Retirement Employment will participate in the performance management system.

23.2 Performance Cycle

23.2.1 The performance cycle is generally the 12 month period during which the employee's job is planned, regular feedback is given and received, and the employee's performance is formally appraised.

23.2.2 The common deadline for completing appraisal meetings in respect of the completed performance cycle (Appraisal Due Date) will be 1 March each year, unless the ABC has determined that an alternative date should apply.

23.3 Tracking and Feedback

23.3.1 The manager and employee will monitor progress and provide ongoing feedback throughout the performance cycle on what has been achieved against the employee's Job Plan.

23.3.2 The manager and employee will participate in developing the Job Plan which will provide a clear description of the employee's performance requirements, in accordance with the Work Level Standards and Individual Learning and Development Plan for the forthcoming performance cycle.

23.4 Appraisal Meeting

23.4.1 On or prior to the Appraisal Due Date, the manager and employee will meet to formally review the employee's performance and development over the previous performance cycle (Appraisal Meeting), the employee's Job Plan and the employee's upcoming Job Plan. Provided that where an employee is unavailable because of leave (including because the employee is on parental leave or is absent due to long term illness or injury), the Appraisal Meeting will be held as soon as possible on their return from leave.

23.5 Appraisal Outcome

23.5.1 The provisions of this subclause do not apply where:

- a. the employee has been working to their Job Plan for less than six months during the performance cycle;
- b. the employee has been absent on leave in excess of six months during the performance cycle, subject to subclause 23.5.4; or

- c. the employee has been promoted or transferred with a salary increase within six months prior to the end of the performance cycle.

23.5.2 Following the appraisal meeting, the manager will evaluate the employee's performance against the requirements of the Job Plan and the Work Level Standards. Performance will be rated in accordance with the following definitions:

Rating		Description
U	Unsatisfactory	Performance fails to meet minimum requirements within the current band. Before an employee is given a 'U' rating, a manager will commence the process under clause 23.7 and clause 23.7.1a will apply.
GNM	Goals Not Met	Performance does not meet some requirements within the current band and clauses 23.7.1b and 23.5.8 will apply.
M	Meets	Performance meets all requirements within the current band and clause 23.7.1c.i will apply.
E	Exceeds	Performance exceeds all or most requirements within the current band and 23.7.1c, 23.7.1d or 23.7.1e will apply.

23.5.3 The rating will be used to govern salary advancement where appropriate, either within the current salary band or to the next higher band in accordance with the Job Plan. The following principles will apply:

- a. No salary increase will be payable to employees who are rated 'U'.
- b. No salary increase will be payable to employees who are rated 'GNM' subject to 23.5.8 below.
- c. Employees in Bands 1-6 will be advanced:
 - i. one salary point within their current band with a rating of 'M'; or
 - ii. two or more salary points within their current band with a rating of 'E'.
- d. Employees in Bands 7 to 8 will be advanced within their current band with a rating of 'E'.
- e. Employees in Bands 1 to 8 who are already at the top of their band at the time of the Appraisal Due Date and receive an 'E' rating will receive a bonus which is equivalent to 2% of their base rate.

- 23.5.4 Where the employee is not eligible for an appraisal outcome under this clause 23.5 because the employee has been absent on parental leave or leave due to long-term illness or injury, they will receive an 'M' rating.
- 23.5.5 Employees returning to work from parental leave or long-term illness or injury will meet with their manager to formally review their performance and development over their previous performance cycle and the employee's Job Plan no later than six months after returning to work.
- 23.5.6 Salary increases for employees in Band 9 will be at the discretion of management.
- 23.5.7 Any salary increases resulting from an Appraisal will be paid with effect from the first pay period on or after the Appraisal Due Date that year. Any bonus resulting from an Appraisal will be paid in the first pay period on or after the Appraisal Due Date, unless the ABC determines that an alternative date should apply.
- 23.5.8 Despite 23.5.3b. above, if an employee in Band 1 to 6 who is eligible to be advanced under the current salary band has been rated GNM under clause 23.5.2 in respect of a Performance Cycle;
- a. The employee's manager will conduct a review on or around three months after the Appraisal Due Date (**GNM Review**);
 - b. If at the time of the GNM Review, the employee meets all the requirements of the Job Plan and the Work Level Standards, the employee will be advanced one salary point within their current band; and
 - c. Any salary increase under this clause will be paid with effect from the first full pay period backdated to three months after the Appraisal Due Date.

23.6 **Reconsideration, Appeal and Dispute Resolution**

23.6.1 Disputes regarding:

- a. a salary outcome or rating of an Appraisal; or
- b. an employee who believes that they have regularly been performing, and were required to perform, tasks beyond the level specified in their Job Plan;

will be dealt with in accordance with subclause **60.4 Reconsideration and Appeal against an Appraisal Decision**.

23.7 **Managing Underperformance**

- 23.7.1 Discussions about work performance may be held at any time as part of the ongoing tracking and feedback process. Where a problem with an employee's

performance is identified and the manager determines that formal processes need to be applied, the manager will:

- a. advise the employee in writing that an underperformance issue/s needs to be addressed;
- b. inform the employee in writing of the performance standards they are expected to achieve and the area/s of performance they need to improve. These standards will be set fairly and be consistent with the Work Level Standards;
- c. provide an opportunity for the employee to respond so that all relevant matters can be considered, including any possible changes to the performance standards expected and any requests by the employee for training, coaching, re-arrangement of duties or changes to the work environment;
- d. set a reasonable period over which the employee's performance will be monitored and a date for review having regard to (c) above; and
- e. advise the employee of the likely consequences if the employee does not meet the required standard, including that the ABC may take action under clause 23.9.3.

23.8 Assessment at Review Date

23.8.1 If, at the review date, the ABC:

- a. determines that the employee's performance has improved to a satisfactory standard, then appropriate recognition will be provided and the process will be closed; or
- b. considers that adequate progress has not been made, the ABC:
 - i. may decide to transfer the employee to another function or work area with the employee's agreement;
 - ii. will follow the steps outlined in clause 23.9; or
 - iii. Prior to commencing underperformance in accordance with clause 23.9 below, where the employee's role has significantly altered at the initiative of the ABC as a result of technological change, or changes to work practices, the manager in conjunction with a representative of ABC People will consider whether all reasonable effort has been made by the employee to adapt to the altered role. Where, despite all reasonable effort, the employee is unable to perform the altered role to the required standard of performance, the

employee will be considered redundant and managed in accordance with **Part M – Redundancy**.

23.9 Failure to Remedy Performance

- 23.9.1 If it is determined that the employee's performance remains unsatisfactory, the employee will be formally notified that they have failed to remedy their performance and will be asked to give reasons as to why the ABC should not take action in accordance with subclause 23.9.3. The notification will identify all concerns relating to the employee's performance and will provide an opportunity for the employee to respond at a meeting or in writing in relation to the performance concerns and the proposed action to be taken under subclause 23.9.3.
- 23.9.2 If a satisfactory response is provided by the employee, the ABC may provide the employee with a further opportunity to address the performance concerns and advise the employee of a new review date. Clause 23.8 will then apply at that new review date.
- 23.9.3 If a satisfactory response is not provided, the delegate may:
- a. redesign the employee's position to an equal or lower salary band;
 - b. transfer the employee to another position at an equal or lower salary band; or
 - c. dismiss the employee with due notice, or payment in lieu, in accordance with the relevant provisions of **clause 57 Termination of Employment**.
- 23.9.4 At any stage during the above process the employee may choose to be accompanied or represented.

Part H Hours of Work, Penalties and Overtime

24. General Conditions Relating to Hours, Penalties and Overtime

24.1 Application

24.1.1 All employees shall, to the extent applicable, be covered by the provisions of this clause.

24.1.2 This clause should be read in conjunction with the specific conditions on hours of work, penalties and overtime contained in the following clauses:

- Clause 25 Schedule A (Non-Rostered) Employees
- Clause 26 Schedule A (Rostered) Employees
- Clause 27 Schedule B Employees

24.2 Calculation of Hours Worked

24.2.1 Except on a distant assignment, an employee's hours of ordinary duty will be continuous on any day. For the purposes of this clause:

- a. an unpaid meal break will not break continuity;
- b. any reasonable additional time involved in travelling directly to and from a location that is not the employee's usual workplace shall be counted as hours worked.

24.3 General Overtime Conditions

24.3.1 Directions

- a. The ABC may require an employee to work overtime and the employee shall work such overtime as may reasonably be required from time to time.
- b. Overtime will be worked with the prior direction of the manager or, if the circumstances do not permit prior direction, the subsequent approval in writing by the manager.
- c. The ABC will not request or require an employee to work overtime under this clause where the overtime would be unreasonable having regard to the factors for determining whether additional weekly hours are reasonable as set out in section 62(3) of the Act.

24.3.2 Maximum overtime rate

- a. Overtime payments are calculated on the basis of the employee's ordinary rate of pay, provided that:

- i. if the rate is in excess of ABC salary point 31, payments will be based on ABC salary point 31; and
- ii. for the purpose of calculating a salary package, an individual flexibility arrangement or a buyout arrangement, the additional payments prescribed in this subclause will be calculated on the employee's minimum rate of pay under this Agreement and market allowance, if any.

24.3.3 Calculation

- a. An employee's salary for the purpose of computation of overtime shall include any allowance which is specified to count as salary.
- b. The hourly rate for payment of overtime shall be obtained by applying the following formulae:

Time and a half rate	$\frac{\text{Annual salary}}{313}$	x	$\frac{6}{38}$	x	$\frac{3}{2}$
Double time rate	$\frac{\text{Annual salary}}{313}$	x	$\frac{6}{38}$	x	$\frac{2}{1}$
Double time and a half rate	$\frac{\text{Annual salary}}{313}$	x	$\frac{6}{38}$	x	$\frac{5}{2}$

- c. No overtime shall be payable unless the excess duty totals 15 minutes or more.

24.3.4 Minimum payment

- a. Where an employee is required to perform overtime duty which is not continuous with ordinary duty, the minimum payment for each separate overtime attendance shall be for 4 hours at the prescribed overtime rate.
- b. For the purpose of determining whether an overtime attendance is or is not continuous with ordinary duty, or is not separate from other duty, meal periods shall be disregarded.
- c. Where an overtime attendance not continuous with ordinary duty involves duty both before and after midnight, and a higher overtime rate applies on one of the days, the minimum payment shall be calculated at the higher rate.
- d. The provisions of this paragraph do not apply to emergency duty.

24.4 **Out of Hours Contact (On Call)**

- 24.4.1 The ABC recognises that a marked variation in 'out of hours' contact and return to work situations may occur across the ABC.

24.4.2 Where warranted, the ABC will establish, by agreement with affected employees, a compensation mechanism based upon the nature of the contact circumstances and the incidence of call-back requirements.

24.5 Limitations on Additional Payments

24.5.1 No payments made under the provisions of this Agreement shall exceed in total the rate of double time, except in the case of payments made in respect of duty performed on a public holiday, in which case payments shall not exceed in total two and a half times the salary rate.

25. Schedule A (Non-Rostered) Employees

25.1 Application

25.1.1 This clause applies to Schedule A (Non-Rostered) employees and should be read in conjunction with the provisions of **clause 24 General Conditions Relating to Hours, Penalties and Overtime.**

25.1.2 Schedule A employees will be regarded as Non-Rostered employees if they are not required to perform ordinary duty outside the period 8.00 am to 6.00 pm Monday-Friday and/or on Saturday or Sunday for an on-going or fixed period.

25.2 Hours of Work

25.2.1 Arrangement of hours

The ordinary hours of work for a full-time employee will be 76 hours per two week cycle to be worked Monday to Friday.

25.2.2 Standard Day

- a. The standard day for a full-time employee will be 7 hours 36 minutes, with starting and finishing times to be determined by the ABC within the limits of 8.00 am to 6.00 pm.
- b. An unpaid meal break of 60 minutes shall be given each day between the hours of midday and 2.00 pm.

25.2.3 Flexitime

An employee may vary their starting and finishing times and the period they work each day in accordance with the following flexitime provisions:

- a. Working arrangements will be subject to operational requirements and the approval of the manager;
- b. Start and finish times will be within the bandwidth 7.00 am to 7.00 pm;
- c. Core time will be between the hours of 10.00 am and midday and 2.00 pm and 4.00 pm, provided that an unpaid meal break of at

least 30 minutes shall be taken each day between the hours of midday and 2.00 pm (NB. Core time means the period during the day when an employee will perform ordinary duty, unless absent on approved leave or approved core time absence);

- i. attendance will be monitored over a 2 week cycle;
- ii. an employee may accumulate up to a maximum of 10 hours in a cycle and carry this over to the next cycle;
- iii. where the accumulated flexi debit (current shortfall plus carry over from the previous cycle) exceeds 10 hours at the end of the cycle, the excess hours will be without pay; and
- iv. credit flexidays, or parts thereof, may be taken by the employee with the approval of the manager, provided that total core time absence in any cycle must not exceed the core time for a single day.

25.2.4 Approved core time absence (refer to 25.2.3c for definition of core time):

- a. An employee must not be absent during core time unless on approved leave or with a manager's approval. A core time absence must not exceed the core time for a single day in any two week cycle. Core time absences may be used for a full day absence or part day absences.
- b. Core time absence should be permitted only where an employee has sufficient flexi credit to cover the core time absence. This would not prevent an employee going into flexi debit as a result of a full day absence. This subparagraph will not prevail where the ABC, having regard to operational requirements, determines otherwise.

25.2.5 Cessation of flexitime

The ABC may direct an employee or group of employees to revert to the hours of a standard day, where this is necessary because of essential work requirements or because an employee or group of employees have failed to comply with the provisions of flexitime.

25.3 **Flexible Working Hours Agreements**

25.3.1 Local agreements on the operation of flexitime may be made by agreement between a defined group of employees or an individual employee and the ABC.

25.3.2 Such agreements will be in writing and may be terminated by the employee or the ABC with two weeks' notice.

25.4 Public Holidays

- 25.4.1 An employee shall be paid an additional 150% of their ordinary rate of pay for ordinary duty worked on a public holiday with a minimum payment of four hours (subject to clause 39.5.2 in the case of a half day public holiday).
- 25.4.2 The additional payments prescribed in this subclause are calculated on the basis of the employee's ordinary rate of pay, provided that:
 - a. if the rate is in excess of ABC salary point 31, payments will be based on ABC salary point 31; and
 - b. for the purpose of calculating a salary package, an individual flexibility arrangement or a buyout arrangement, the additional payments prescribed in this subclause will be calculated on the employee's minimum rate of pay under this Agreement.

25.5 Overtime

- 25.5.1 Overtime is defined as follows:
 - a. For an employee working a standard day;
 - i. all work performed in excess of 7 hours 36 minutes, Monday to Friday (including Public Holidays); and
 - ii. all work performed on a Saturday or Sunday.
 - b. For an employee working flexitime;
 - i. all work performed outside the flexitime bandwidth, Monday to Friday (including Public Holidays); or
 - ii. all work performed outside the pre-arranged pattern of daily hours of ordinary duty during the flexitime bandwidth, Monday to Friday (including Public Holidays); and
 - iii. all work performed on a Saturday or Sunday.
- 25.5.2 Payment in respect of any period of overtime, as defined, will not be made more than once.
- 25.5.3 The following overtime rates apply:

Monday to Friday	time and a half for the first three hours and double time thereafter
Saturday and Sunday	double time
Public Holidays	double time and a half

25.6 Emergency Duty

25.6.1 Where an employee is required to attend work and deal with an emergency at a time when they would not normally be at work, and no notice was given to them prior to ceasing work, they shall be paid for such emergency duty at the rate of double time. Payment will include time spent necessarily travelling to and from work.

25.6.2 The minimum emergency duty payment shall be for two hours.

26. Schedule A (Rostered) Employees

26.1 Application

26.1.1 This clause applies to Schedule A (Rostered) employees and should be read in conjunction with the provisions of **clause 24 General Conditions Relating to Hours, Penalties and Overtime.**

26.1.2 Schedule A employees will be regarded as Rostered employees if they are required to perform ordinary duty outside the period 8.00 am to 6.00 pm Monday- Friday and/or on Saturday or Sunday for an ongoing or fixed period.

26.2 Hours of Work

26.2.1 Arrangement of hours

- a. Full-time employees will work an average of 38 ordinary duty hours per week on the following basis:
 - i. on no more than 10 days over a two week cycle; or
 - ii. on no more than 19 days over a four week cycle.
- b. The arrangement of hours (i.e. two or four weeks) will be determined by the ABC having regard to:
 - i. operational requirements;
 - ii. the need for employees to balance their work and private responsibilities; and
 - iii. the ABC's 'duty of care' and other obligations flowing from relevant WHS and EEO legislation.

26.2.2 Daily hours

- a. Daily ordinary hours will be no less than 7 and no more than 10 (excluding meal breaks), provided that daily ordinary hours may be as little as four for:
 - i. staff working on radio presentation/production shifts:
 - A. on weekends and public holidays;

- B. for outside broadcasts; or
- C. for the recording and/or live broadcast of live music performances; and
- ii. any employee who agrees to a shorter shift under an individual flexibility agreement under clause 12.

- b. Daily ordinary hours may be worked on any day Monday to Sunday inclusive.

26.2.3 Consecutive days worked

The number of consecutive days worked should, where practicable, be limited to seven, and in any case (except on a distant assignment) will not exceed 12.

26.2.4 Break between shifts

An employee will be entitled to a minimum break of 11 hours between finishing duty on one day and the resumption of ordinary duty.

26.2.5 Meal and Crib Breaks

- a. Unpaid meal breaks shall not be less than 30 minutes and not more than 60 minutes' duration. Crib breaks counting as time on duty shall be less than 30 minutes but not less than 15 minutes' duration.
- b. As far as practicable meal breaks should be allowed during the following recognised meal periods:
 - 7.00 am to 9.00 am
 - Noon to 2.00 pm
 - 5.00 pm to 7.00 pm
 - Midnight to 1.00 am
- c. As far as practicable, periods of duty should not exceed 5 hours without either a meal or crib break, but in any case will not exceed 6 hours.

26.3 Rostered Free Days (RFDs)

26.3.1 Entitlement

- a. Where a two weekly cycle is worked, an employee will receive a minimum of four Rostered Free Days (RFDs), with at least two days consecutive.
- b. Subject to 27.3.1c, where a four weekly cycle is worked, an

employee will receive a minimum of nine RFDs arranged so that:

- i. at least two sets of consecutive days are granted, one of three RFDs and one of two RFDs; or
 - ii. at least three sets of two consecutive days are granted.
- c. The ABC may allow an employee on a four weekly cycle to accumulate or anticipate one RFD in each cycle up to a maximum of five. In such cases the employee will receive a minimum of eight RFDs with at least two sets of two days consecutive.

26.3.2 Definition of RFD

- a. In this clause, Rostered Free Day (RFD) means a day (24 hours) during which an employee is not required to attend for duty or hold themselves available for duty.
- b. Where a single RFD is given, an additional break of 11 hours shall be provided between the time at which the employee finishes work (irrespective of whether that work is ordinary duty or overtime) and the commencement of the 24 hours of the RFD. Where two or more consecutive RFDs are given, this additional break will be reduced to eight hours.

26.4 Flexible Working Hours

26.4.1 Local agreements providing for alternative arrangements of hours and free days may be made in the workplace by agreement between a defined group of employees or an individual employee and the ABC, provided that, over an agreed period:

- a. average fortnightly hours will not exceed 76; and
- b. minimum free days per fortnight will be not less than four.

26.4.2 Employees will be advised of their right to be accompanied by a representative in negotiating the agreement.

26.4.3 Any agreement will be in writing and may be terminated by the employee or the ABC with two weeks' notice.

26.5 Rosters and Changes to Rosters

26.5.1 Rosters will be made available to employees at least seven days in advance of the fortnight to which they refer.

26.5.2 Rosters will be designed to meet:

- a. operational requirements;
- b. the need for employees to balance their work and private responsibilities;

and

- c. the ABC's 'duty of care' and other obligations flowing from relevant WHS and EEO legislation.

26.5.3 Rosters will incorporate start and finish times and RFDs.

26.5.4 Except where mutually agreed, an employee will be given at least 72 hours' notice of a change of shift, including the replacement of an RFD with a shift, unless the change is due to the unexpected sickness or absence of another employee, in which case notice shall be given no later than the time of finishing work on the previous day or, if off duty, not less than 24 hours prior to the ceasing time of rostered duty on the day of the requirement.

26.5.5 Except where mutually agreed, an employee will be given at least 72 hours' notice where an RFD is to be rostered in lieu of a rostered shift.

26.5.6 Any changes to rosters with less than 72 hours' notice will be confirmed with employees.

26.5.7 This subclause does not apply to employees on a distant assignment.

26.6 **Changes to regular rosters or ordinary hours of work**

26.6.1 The ABC will consult with employees about a change to their regular roster or ordinary hours of work.

26.6.2 For the purposes of this subclause 26.6, the ABC will:

- a. provide information to the affected employees about the change; and
- b. invite affected employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities); and
- c. consider any views that are given by employees.

26.6.3 Employees may be represented for the purpose of consultation under this subclause 26.6.

26.7 **Exchange of shifts**

26.7.1 Employees will be permitted to exchange shifts with the approval of the ABC but such exchange shall not result in the ABC paying any additional penalties as a direct result of such change.

26.8 **Special Rates**

26.8.1 General

- a. Payments prescribed in this subclause are limited to hours of ordinary duty.

- b. The additional payments prescribed in this subclause are calculated on the basis of the employee's ordinary rate of pay, provided that:
 - i. if the rate is in excess of ABC salary point 31, payments will be based on ABC salary point 31; and
 - ii. for the purpose of calculating a salary package, an individual flexibility arrangement or a buyout arrangement, the additional payments prescribed in this subclause will be calculated on the employee's minimum rate of pay under this Agreement and market allowance, if any.

26.8.2 Insufficient notice of roster change

Where an employee is not notified of a roster change in accordance with subclause 26.5, they will be paid at the rate of 50% additional to the ordinary rate of pay for that part of the new shift which occurs outside the limits of the original shift, subject to the difference between the starting or finishing times of the two shifts being greater than 90 minutes. Provided that any hours worked in excess of the original number of hours as a result of the roster change will be treated as overtime in accordance with subclause 26.10.

26.8.3 Work over six hours without a break

If an employee is required to continue on ordinary duty without a meal or crib break for more than six hours, payment will be made at the rate of 50% additional until a meal or crib break is given.

26.8.4 Insufficient break between shifts

Subject to the ABC's Fit for Work Policy if an employee is required, other than by mutual agreement, to perform work on a shift of ordinary duty without a break of 11 hours after finishing work (irrespective of whether that work is ordinary duty or overtime), payment will be made at the rate of 100% additional for all ordinary duty hours worked before the expiration of 11 hours.

26.8.5 Insufficient break over RFDs

If the additional break between the time at which an employee finishes work and the commencement of the 24 hours of a RFD is less than the break specified in subparagraph 26.3.2, the gap between the actual break granted and the specified break will be paid for at the rate of 50% additional to the employee's ordinary rate of pay.

26.9 **Shift Penalties**

26.9.1 General

- a. Payments prescribed in this sub-clause shall not be taken into account in the calculation of overtime or in the determination of any allowance based on salary, nor shall they be paid with respect to any shift more than once.
- b. Payments prescribed in 26.9.2 and 26.9.3 shall not be payable for periods of duty for which the provisions of subclause 26.8 Special Rates apply.
- c. Payments prescribed in 26.9.7 (Midnight to Dawn) shall not be payable for periods of duty for which the provisions of 26.8.4 (Insufficient break between shifts) and 26.8.5 (Insufficient break over RFDs) apply.
- d. The additional payments prescribed in this subclause are calculated on the basis of the employee's ordinary rate of pay, provided that:
 - i. if the rate is in excess of ABC salary point 31, payments will be based on ABC salary point 31; and
 - ii. for the purpose of measuring a salary package, arrangement under an individual flexibility agreement or a buyout arrangement, the additional payments prescribed in this subclause will be calculated on the employee's minimum rate of pay under this Agreement and market allowance, if any.

26.9.2 Monday to Friday Shifts

An employee who is rostered to perform and actually performs ordinary duty on a shift any part of which falls between the hours of 6.00 pm and 6.30 am Monday- Friday shall be paid an additional 15% of their ordinary rate of pay for that shift.

26.9.3 Continuous late shifts

An employee who is rostered to perform and actually performs ordinary duty for at least four consecutive weeks on a shift falling wholly within the hours of 6.00 pm and 8.00 am, shall be paid an additional 30% of their ordinary rate of pay for each Monday to Friday shift during that period.

26.9.4 Saturday

Payment shall be made at the rate of 50% additional for all ordinary duty performed on a Saturday.

26.9.5 Sunday

Payment shall be made at the rate of 100% additional for all ordinary

duty performed on a Sunday.

26.9.6 Public Holiday

Payment shall be made at the rate of 150% additional for all ordinary duty performed on a public holiday with a minimum payment of four hours (subject to paragraph 39.5.2 in the case of a half day public holiday).

26.9.7 Midnight to Dawn

Payment shall be made at the rate of 50% additional for all ordinary duty performed between midnight and 6.00 am on any day other than Saturdays, Sundays and public holidays.

26.10 Overtime

26.10.1 Overtime is defined as all work performed:

- a. in excess of daily rostered hours;
- b. in excess of 10 hours on any day;
- c. in excess of an average of 38 hours per week over a two or four week cycle;
- d. on a cancelled rostered free day (CRFD) for which no substitute is provided (subject to 24.3.4);
- e. on each day that falls outside a limit of 12 consecutive days worked (except on a distant assignment);
- f. on a shift that is not continuous with ordinary duty on any day (subject to 24.3.4) except on a distant assignment.

26.10.2 Payment in respect of any period of overtime, as defined, will not be made more than once.

26.10.3 Overtime rates

Monday to Friday	time and a half for the first three hours and double time thereafter. Provided that duty performed in excess of a spread of 12 hours (including meal breaks) will be paid at double time.
Saturday and Sunday	double time
Public Holidays	double time and a half

26.10.4 Time off in lieu of overtime

- a. By mutual agreement, time off in lieu of overtime may be accumulated and taken on an hour for hour basis (i.e. one hour's overtime = one hour's time off).
- b. Where time off in lieu has been agreed but not taken within four weeks (or

some other period to be agreed in writing), payment of the original entitlement will be made.

26.11 Emergency Duty

- 26.11.1 Where an employee is required to attend work and deal with an emergency at a time when they would not normally be at work, and no notice was given to them prior to ceasing work, they shall be paid for such emergency duty at the rate of double time. Payment will include time spent necessarily travelling to and from work.
- 26.11.2 The minimum emergency duty payment shall be for two hours.
- 26.11.3 This subclause will not apply to an employee whose duty for the day is varied by alteration to the commencement time of the scheduled shift to meet an emergency.

27. Schedule B (Rostered) Employees

27.1 Application

- 27.1.1 This clause applies to Schedule B employees and should be read in conjunction with the provisions of **clause 24. General Conditions Relating to Hours, Penalties and Overtime.**

27.2 Hours of Work

27.2.1 Arrangement of hours

- a. Full time employees will work an average of 38 ordinary duty hours per week on the following basis:
 - i. on no more than 10 days over a two week cycle; or
 - ii. on no more than 19 days over a four week cycle.
- b. The arrangement of hours (i.e. two or four weeks) will be determined by the ABC, having regard to:
 - i. operational requirements;
 - ii. the need for employees to balance their work and private responsibilities; and
 - iii. the ABC's 'duty of care' and other obligations flowing from relevant WHS and EEO legislation.

27.2.2 Daily hours

Daily ordinary hours will be no less than four (excluding meal breaks) and no more than 11 (including meal breaks) and may be worked on any day, Monday to Sunday inclusive.

27.2.3 Consecutive days worked

The number of consecutive days worked should, where practicable, be limited to seven, and in any case (except on a distant assignment) will not exceed 12.

27.2.4 Consecutive overnight shifts

The number of consecutive overnight night shifts worked will not exceed five. An overnight shift is defined as a shift commencing on or after 8.00 pm.

27.2.5 Break between shifts

An employee will be entitled to a minimum break of 11 hours between finishing work on one day and the resumption of ordinary duty.

27.2.6 Meal and Crib Breaks

- a. Unpaid meal breaks shall be not less than 30 minutes and not more than 60 minutes' duration. Crib breaks counting as time on duty shall be less than 30 minutes but not less than 15 minutes' duration.
- b. As far as practicable, periods of duty should not exceed 5 hours without either a meal or crib break, but in any case will not exceed 6 hours.

27.3 Rostered Free Days

27.3.1 Minimum entitlement

- a. Where a two weekly cycle is worked, an employee will receive a minimum of four Rostered Free Days (RFDs), with at least two days consecutive.
- b. Subject to 27.3.1c where a four weekly cycle is worked, an employee will receive a minimum of nine RFDs arranged so that:
 - i. at least two sets of consecutive days are granted, one of three RFDs and one of two RFDs; or
 - ii. at least three sets of two consecutive days are granted.
- c. The ABC may allow an employee on a four weekly cycle to accumulate or anticipate one RFD in each cycle up to a maximum of five. In such cases the employee will receive a minimum of eight RFDs with at least two sets of two days consecutive.
- d. In the cycles (two weekly or four weekly) in which Christmas Day and Good Friday occur, the number of RFDs will be increased by one and, where practicable, will be given consecutively with

another free day or days during the cycle or, by agreement with the employee, in another cycle.

- e. Where a federal, state or territory government gazettes a public holiday as a once only event to mark a special occasion and where it is not in substitution for any existing public holiday, the number of RFDs in the cycles (two weekly or four weekly) in which the special public holiday occurs will be increased by one (or, in the case of a half day public holiday, by half a day) and, where practicable, will be given consecutively with another free day or days during the cycle.
- f. Where an employee is required to work on a day which was indicated as a RFD, the ABC will give a substitute RFD within the same or next succeeding shift cycle. Further, the substitute RFD will, wherever practicable, be granted so that it is consecutive with another free day, or at a time convenient to the employee.
- g. An employee who is not given any of the RFDs to which they are entitled under this subclause will be paid overtime for work performed on such days (CRFDs) in accordance with subclause 27.10.

27.3.2 Definition of RFD

- a. In this clause, Rostered Free Day (RFD) means a day (24 hours) during which an employee is not required to attend for duty or hold themselves available for duty.
- b. Where a single RFD is given, an additional break of 11 hours should be provided between the time at which the employee finishes work and the commencement of the 24 hours of the RFD. Where two or more consecutive RFDs are given, this additional break will be reduced to eight hours.
- c. Where the additional break is less than the break specified in subparagraph (b), the gap between the actual break granted and the specified break will be paid in accordance with subclause 27.9.3.

27.4 Flexible Working Hours Agreements

- 27.4.1 Local agreements providing for alternative arrangements of hours and free days may be made in the workplace by agreement between a defined group of employees or an individual employee and the ABC provided that over an agreed period:
 - a. average fortnightly hours will not exceed 76; and

b. minimum free days per fortnight will be not less than four.

27.4.2 Employees will be advised of their right to be accompanied by a representative in negotiating the agreement.

27.4.3 Any agreement will be in writing and may be terminated by the employee or the ABC with two weeks' notice.

27.5 Rosters and Changes to Rosters

27.5.1 Rosters will be made available to employees at least seven days in advance of the fortnight to which they refer.

27.5.2 Where a change to a roster is not mutually agreed or is not caused by an emergency or shortage of employees through sickness or some other unforeseen circumstance, the ABC will endeavour to give as much notice as possible of the change and in any event shall give notice prior to the ceasing of duty on the previous shift or, where the employee is off duty, not less than 12 hours before the shift is due to begin.

27.5.3 Any changes to rosters with less than 72 hours' notice will be confirmed with employees.

27.5.4 This subclause does not apply to employees on a distant assignment.

27.6 Changes to regular rosters or ordinary hours of work

27.6.1 The ABC will consult with employees about a change to their regular roster or ordinary hours of work.

27.6.2 For the purposes of this subclause 27.6, the ABC will:

- a. provide information to the affected employees about the change;
and
- b. invite affected employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities); and
- c. consider any views that are given by employees.

27.6.3 Employees may be represented for the purpose of consultation under this subclause 27.6.

27.7 Exchange of shifts

27.7.1 Employees will be permitted to exchange shifts with the approval of the ABC but such exchange shall not result in the ABC paying any additional penalties as a direct result of such change.

27.8 Shift Penalties

27.8.1 General

- a. Payments prescribed in this subclause shall not be taken into account in the calculation of overtime or in the determination of any allowance based on salary, nor shall they be paid with respect to any shift more than once or for which any other form of penalty payment is made under this Agreement.
- b. The additional payments prescribed in this subclause are calculated on the basis of the employee's ordinary rate of pay, provided that:
 - i. if the rate is in excess of ABC salary point 23, payments will be based on ABC salary point 23; and
 - ii. for the purpose of measuring a salary package, arrangement under an individual flexibility agreement or a buyout arrangement, the additional payments prescribed in this subclause will be calculated on the employee's minimum rate of pay under this Agreement and market allowance, if any.

27.8.2 Monday to Friday shifts

- a. An employee who is rostered to perform and actually performs ordinary duty on a shift any part of which falls between the hours 7.30 pm and 7.30 am Monday to Friday, shall be paid an additional 15% of their ordinary rate of pay for that shift.
- b. Provided that for rural employees the hours shall be 6.00 pm to 6.30 am, Monday to Friday.

27.8.3 Continuous late shifts

- a. An employee who is rostered to perform and actually performs ordinary duty for at least four consecutive weeks on a shift falling wholly within the hours of 7.30 pm and 7.30 am shall be paid an additional 30% of their ordinary rate of pay for each Monday to Friday shift during that period.
- b. Provided that for rural employees the hours shall be 6.00 pm to 6.30 am, Monday to Friday.

27.8.4 Consecutive overnight shifts

An employee who performs ordinary duty on more than five consecutive overnight shifts will be paid an additional 50% of their ordinary rate of pay for that shift.

27.8.5 Saturday

Payment shall be made at the rate of 50% additional for all ordinary duty performed on a Saturday.

27.8.6 Sunday

Payment shall be made at the rate of 100% additional for all ordinary duty performed on a Sunday.

27.9 **Special Rates**

27.9.1 General

- a. Payments prescribed in this subclause are limited to hours of ordinary duty.
- b. The additional payments prescribed in this subclause are calculated on the basis of the employee's ordinary rate of pay, provided that:
 - i. if the rate is in excess of ABC salary point 31, payments will be based on ABC salary point 31; and
 - ii. for the purpose of measuring a salary package arrangement under an individual flexibility agreement or a buyout arrangement, the additional payments prescribed in this subclause will be calculated on the employee's minimum rate of pay under this Agreement and market allowance, if any.

27.9.2 Insufficient break between shifts

If an employee is required, other than by mutual agreement, to perform work on a shift of ordinary duty without a break of 11 hours after finishing work (irrespective of whether that work is ordinary duty or overtime), payment will be made at the rate of 100% additional for all ordinary duty hours worked before the expiration of 11 hours.

27.9.3 Insufficient break over RFDs

If the additional break between the time at which an employee finishes work and the commencement of the 24 hours of a RFD is less than the break specified in subparagraph 27.3.2b, the gap between the actual break granted and the specified break will be paid for at the rate of 50% additional to the employee's ordinary rate of pay.

27.10 **Overtime**

27.10.1 Overtime is defined as all work performed:

- a. in excess of daily rostered hours;
- b. after 11 hours from commencement of ordinary duty on any day;

- c. in excess of an average of 38 hours per week over a two or four week cycle;
- d. on a cancelled rostered free day (CRFD) for which no substitute has been provided (subject to 24.3.4);
- e. on each day that falls outside a limit of 12 consecutive days worked (except on a distant assignment);
- f. on a shift that is not continuous with ordinary duty on any day (subject to 24.3.4) except on a distant assignment.

27.10.2 Payment in respect of any period of overtime, as defined, will not be made more than once.

27.10.3 Overtime rates

- a. Except where otherwise provided for in this paragraph, overtime will be paid at the following rates:

Monday to Saturday	time and a half for the first three hours and double time thereafter
Sunday	double time

- b. All work performed on a CRFD will be paid at double time.

27.10.4 Time off in lieu of overtime

- a. By mutual agreement, time off in lieu of overtime may be accumulated and taken on an hour for hour basis (i.e. one hour's overtime = one hour's time off).
- b. Where time off in lieu has been agreed but not taken within four weeks (or some other period to be agreed in writing), payment of the original entitlement will be made.

Part I Allowances and Miscellaneous Payments

28. Meal Allowance

- 28.1.1 Employees will be eligible to receive a meal allowance in the following circumstances:
- a. Where they commence work at or before 6.00 am and the period of work extends to or beyond 2.00 pm;
 - b. Where they commence work at or before 11.00 am and the period of work extends to or beyond 7.00 pm;
 - c. Where they commence work at or before 6.00 pm and the period of work extends to or beyond 1.00 am;
 - d. Where they commence work at or before 12 midnight and the period of work extends to or beyond 9.00 am.
- 28.1.2 No meal allowance will be paid where the employee is receiving travelling allowance or an adequate meal has been provided by the ABC.
- 28.1.3 The prescribed rate of the meal allowance is contained in Schedule C, which will be reviewed periodically by the ABC.
- 28.1.4 The Meal Allowance Transition and Compensation Provisions in Schedule D apply and override this clause to the extent of any inconsistency.

29. Private Vehicle Allowance

- 29.1.1 The ABC may authorise an employee to use a private vehicle owned or hired by the employee for official purposes, where such authorisation is warranted in terms of greater efficiency or involves the ABC in less expense.
- 29.1.2 The ABC may grant permission for an employee to use a private vehicle:
- a. for a specific journey or purpose; or
 - b. to travel to or from work on emergency duty; or
 - c. to return to the employee's permanent station to take annual leave where the employee has been temporarily transferred from one place to another.
- 29.1.3 The prescribed rate per kilometre of the private vehicle allowance is contained in Schedule C, which will be reviewed periodically by the ABC.

- 29.1.4 An employee will be eligible for an additional payment where the employee can demonstrate that the allowance payable is insufficient to meet expenses reasonably incurred on official business.

30. Television Clothing Allowance

- 30.1.1 A Television Clothing Allowance will be payable to employees who appear before the camera on a regular working basis.
- 30.1.2 The allowance will be determined on an individual basis in accordance with the rates contained in Schedule C, which will be reviewed periodically by the ABC.

31. First Aid Allowance

- 31.1.1 A first aid allowance will be paid to employees who possess a current approved First Aid Certificate and are designated to undertake first aid responsibilities within the ABC.
- 31.1.2 The prescribed rate of first aid allowance is contained in Schedule C, which will be reviewed periodically by the ABC.
- 31.1.3 This allowance will count as salary for all purposes including superannuation.

32. Relocation and Reunion Assistance

- 32.1.1 The ABC will determine on a case by case basis the extent of payment of reasonable costs associated with relocation from one locality to another of an employee upon promotion, transfer (including temporary transfer), or engagement. Further information can be found in the ABC 'Relocation and Reunion Assistance Guidelines' in place from time to time. Payment of reasonable costs will include, but not be limited to, conveyance of employee and family, removal, and other relevant expenses.
- 32.1.2 Where, in respect of their duties with the ABC, an employee has been temporarily relocated to a new locality for a period of at least three months, they may be reimbursed the costs of travel for an appropriate number of return journeys for the purposes of visiting family. The frequency of reimbursement of return travel costs will be determined by the relevant delegate on a case by case basis. Further information can be found in the ABC's "Relocation and Reunion Assistance Guidelines" in place from time to time. Any proposed variation to the "Relocation and Reunion Assistance Guidelines" in place at the commencement of this Agreement will be the subject of consultation between the parties. Any dispute will be dealt with in accordance with **clause 60. Prevention and Resolution of Disputes.**

33. Isolated Locality Assistance

33.1 District Allowance

- 33.1.1 District allowance is payable to employees in recognition of additional living costs incurred in certain isolated localities.
- 33.1.2 Employees working in a prescribed isolated locality are eligible for the payment of District Allowance for each complete month of service in the locality in accordance with the rates set out in Schedule C.
- 33.1.3 Employees eligible for District Allowance who incur high electricity costs may be reimbursed part of these costs.
- 33.1.4 The ABC will review periodically the localities listed and the rates of allowance payable.

33.2 Isolated Locality Fares

- 33.2.1 An employee working permanently at a locality listed below will be eligible for fares assistance for return travel to the nearest state capital for leave of absence in respect of themselves and any eligible partner and dependants, subject to the following:
 - a. for the localities of Alice Springs, Broome, Karratha, Kununurra, Longreach and Mt Isa, the fares assistance will be available once in respect of every completed 12 months' service.
 - b. for the localities of Cairns and Townsville, the fares assistance will be available once in respect of every completed 24 months' service.
- 33.2.2 The ABC will authorise additional fares assistance to an employee and any eligible partner and dependants, on a case-by-case basis, where circumstances so warrant including emergency and compassionate reasons.
- 33.2.3 Where an employee, who has not utilised all or part of two previously accrued entitlements to fares assistance, becomes eligible for a third entitlement, the first entitlement (or any remaining part thereof) will lapse.

33.3 Darwin Airfares Assistance

- 33.3.1 Schedule A employees who were employed by the ABC in Darwin as at 30 June 1998 and Schedule B employees who were employed by the ABC in Darwin as at 3 July 2000 will be entitled to airfares assistance in accordance with Schedule E of this Agreement, provided that they have not accepted and been paid the buyout specified in the Schedule. Such entitlement shall continue while they are employed in Darwin.

34. Reimbursement of Miscellaneous Expenses

- 34.1.1 The ABC will approve the reimbursement of miscellaneous expenses reasonably incurred in the course of an employee's work, in the following cases:
- a. the loss or damage to clothing or personal effects;
 - b. where special clothing requirements are necessary for an employee to work on a particular assignment or at a particular locality;
 - c. where excess fares are incurred by an employee in travelling to a new workplace following a temporary change in work location. Excess fares are not payable where an employee has been transferred to a new location on an ongoing or long term basis (i.e. greater than three months);
 - d. where an employee reasonably incurs a work-related expense relating to the use of equipment, provided that:
 - i. the employee is able to supply the necessary supporting documentation;
 - ii. any expense in excess of \$200 must be pre-approved by the employee's manager; and
 - iii. the expense and claim are otherwise consistent with ABC's policies.
 - e. other circumstances considered warranted by the delegate.

35. Assistance with Travel to or from Work

- 35.1.1 The parties acknowledge that in the usual course of events travel between home and work is the responsibility of the employee. As a general rule, therefore, the ABC will not reimburse taxi fares or issue taxi vouchers for travel by employees between home and work.
- 35.1.2 As a clear exception to this general rule, the ABC will provide reasonable assistance with the cost of travel to or from work in situations where:
- a. the employee is required to commence work between 9.30 pm and 6.00 am; or
 - b. the employee is returning home after finishing work between 9.30 pm and 6.00 am.

35.1.3 Definition of 'reasonable assistance'

For the purpose of this clause:

- a. 'reasonable assistance' means the provision of a suitable conveyance or taxi voucher or reimbursement of a taxi fare to enable the employee to reach the nearest of the following: the means of regular public transport, or parking station, or their place of work or home up to a maximum distance of 30 kms;
- b. eligibility for assistance under 35.1.2 is limited to those employees who would otherwise normally be able to use public transport to travel to and from work.

35.1.4 Otherwise, the provision of transport assistance for the employee will be at the discretion of managers, with approval limited to exceptional circumstances. Examples of exceptional circumstances could include where:

- a. an employee becomes sick at work;
- b. a member of an employee's family has an accident or becomes sick or is otherwise in need of urgent assistance;
- c. an employee who is not on call is called in for an emergency; or
- d. an employee finishes work late, there are legitimate safety concerns, and there is no reasonable alternative to a taxi.

35.1.5 Where approval is given under the circumstances at 36.1.1d it should usually be limited to the provision of reasonable assistance as defined in this clause, although individual circumstances may necessitate a different approach.

36. Special Circumstances Work Allowance

- 36.1.1 Where in relation to the unique aspects of a particular production or working environment, an ABC employee is required to perform work in extraordinary circumstances, an assessment will be made of the need for payment of an additional allowance on a case-by-case basis.

Part J Leave and Public Holidays

37. Annual Leave

37.1 Schedule A Employees

37.1.1 Schedule A employees will receive four weeks' annual leave to be accrued at the rate of 152 hours per year of service for full-time employees (or pro rata thereof for part-time employees).

37.1.2 Annual leave credits will be calculated according to the following formula:

$$\frac{A \times B \times C}{D} = \text{Accrued Annual leave in hours } D$$

- where:
- A = the number of hours per week for the entitlement period.
 - B = the number of calendar days to count as service in the period.
 - C = 4
 - D = the number of calendar days in the year of service.

37.1.3 Additional Leave for Sundays Worked

- a. Schedule A employees rostered to work regular shiftwork on Sundays will be entitled to additional paid annual leave at the rate of one-tenth of a working week for each Sunday worked up to a maximum of one week's leave (equivalent to their ordinary weekly hours) entitlement per 12 months.
- b. Rostered Sunday overtime shifts, including those that commence or cease on a Sunday and are of three hours or greater duration, will count for the purposes of this clause.
- c. Additional leave under this clause will be subject to the same terms and conditions as normal annual leave.
- d. Note: This provision determines the entitlement to additional annual leave associated with working shifts. Section 87(1)(b) of the Act, which deals with annual leave entitlements for shift workers, does not also apply.

37.2 Schedule B Employees

37.2.1 Schedule B employees will receive six weeks' annual leave to be accrued at the rate of 228 hours per year of service for full-time employees (or pro rata thereof for part-time employees).

37.2.2 Annual leave credit will be calculated according to the following formula:

$$\frac{A \times B \times C}{D} = \text{Accrued Annual leave in hours}$$

- where:
- A = the number of hours per week for the entitlement period.
 - B = the number of calendar days to count as service in the period.
 - C = 6
 - D = the number of calendar days in the year of service.

37.2.3 Schedule B employees who were employed prior to 3 July 2000 and who continue to be employed as seven day continuous shift workers in Radio Australia (i.e. shift workers who are rostered to work regularly on Sundays) will be entitled to an additional week's annual leave.

37.2.4 Note: This provision determines the entitlements to additional annual leave associated with working shifts. Section 87(1)(b) of the Act, which deals with annual leave entitlements for shift workers, does not also apply.

37.3 General Conditions in Relation to Annual Leave

37.3.1 Entitlement

- a. Annual leave is accrued in hours and credited on a fortnightly basis.
- b. Granting of annual leave is subject to the approval of the relevant manager. Leave will be granted in accordance with actual rostered hours for rostered employees, or if granted in advance of the roster, in accordance with the prescribed nominal daily hours for the employee.
- c. Annual leave counts as service for all purposes.
- d. Casual employees will be paid a loading in lieu of annual leave in accordance with subclause 14.6 Casual Employment.
- e. Where warranted, the Managing Director or delegate may approve the granting of additional annual leave in cases where an employee has worked an excessive amount of unpaid overtime.

37.3.2 Annual Close Down

- a. In order to meet the operational needs of the business during periods of low activity and or downtime in production or operations, the ABC may direct an employee to take a period of annual leave or paid time off in lieu at any time between 15 December and 15 January (**Annual Close Down**).
- b. The ABC will notify an employee of the requirement to take annual leave or paid time off in lieu no later than one month in advance of the commencement of the Annual Close Down.
- c. If an employee does not have sufficient accrued annual leave or paid time off in lieu to cover the period of the Annual Close Down, the employee may elect to take one of the following types of leave for the

balance of the Annual Close Down period:

- i. annual leave in advance;
 - ii. long service leave;
 - iii. leave without pay.
- d. The ABC will not require employees to take leave annual leave in advance, long service leave or leave without pay under this subclause.
 - e. If an employee has sufficient accrued annual leave or paid time off in lieu to cover the Annual Close Down, but there are exceptional circumstances which mean that being required to take the annual leave or paid time off would significantly adversely impact the employee, the employee may request that they be able to make other arrangements with the ABC. The ABC will not unreasonably refuse that request.
 - f. The amount of leave that the ABC can require an employee to take during the Annual Close Down is a minimum of 3 days and a maximum of 10 days.

37.3.3 Management of Excess Leave

- a. This subclause 37.3.3 applies to any amount of annual leave credits in excess of one-and-a-half years accrual (**Excess Leave**).
- b. If an employee has Excess Leave, the ABC may provide written notification to the employee that he or she is required to liquidate some or all of their Excess Leave (**Liquidation Amount**).
- c. Subject to paragraph 38.3.1e below, where an employee receives a written notification under subclause 38.3.1b above, the employee must, within one month of notification, submit an application to liquidate the Liquidation Amount of leave either by:
 - i. applying to take annual leave within the period commencing six months after the notification;
 - ii. offering to agree to cash out annual leave in accordance with subclause 37.3.4; or
 - iii. a combination of both,
 - iv. provided that the total amount of annual leave liquidated is the Liquidation Amount required by the notification.
- d. If an employee does not make an application as required by paragraph 38.3.1c, the ABC may direct the employee to take some or all of their accrued but untaken annual leave by giving one month's notice in writing.
- e. An employee is only entitled to cash out more than half of the Liquidation

Amount if the employee has taken at least three weeks' annual leave in the previous 12 months and that the cashing out is in accordance with clause 37.3.4.

- f. The ABC is only entitled to provide a notification under this subclause once in each 12 month period.
- g. Despite 38.3.1c above, the ABC may agree in writing to an application to reduce Excess Leave over a longer period.

37.3.4 Cashing Out

- a. The ABC may, by agreement with an employee, cash out an amount of accrued annual leave provided that:
 - i. subject to clause 38.3.1a.iii), the cashing out may not result in the employee's remaining accrued entitlement to paid annual leave being less than six weeks;
 - ii. each cashing out of a particular amount of annual leave must be by a separate agreement between the ABC and the employee;
 - iii. the employee must be paid the full amount that would have been payable to the employee had the employee taken the leave that the employee has foregone at the time the leave is being cashed out; and
 - iv. the employee's accrued annual leave entitlement will be reduced by the amount of the annual leave cashed out.

37.3.5 Effect of Public Holidays

Where a public holiday to which a Schedule A employee is entitled falls during a period of approved annual leave, the period of the public holiday/s is not deducted from annual leave credits.

37.3.6 Cancellation of leave

- a. Where the approved annual leave of an employee is cancelled or where an employee is recalled to work from annual leave, the employee will be re-credited their annual leave to the extent of the affected period.
- b. Where the approved annual leave of an employee is cancelled without reasonable notice, an employee will be eligible to be reimbursed any reasonable expenses incurred as a result of cancellation of travel fares and/or accommodation expenses not otherwise recoverable via insurance or other sources.

37.3.7 Pre 1966 employees

Where an employee was made 'permanent' prior to 26 October 1966, the employee's entitlement to pro rata annual leave payment on separation is to be adjusted to take into account any credits or payments for annual leave for the pre- 1966 period of employment.

37.3.8 Additional Annual Leave (Isolated Localities)

Employees working in a prescribed special locality are eligible for a credit of additional annual leave for each complete month of service in the special locality in accordance with the following table.

Locality	Maximum additional annual leave in days per 12 months
Kununurra	7
Darwin, Katherine, Alice Springs, Broome, Kalgoorlie, Esperance, Karratha	5
Longreach, Mt Isa	3
Broken Hill, Cairns, Townsville	2

38. Annual Leave Loading

- 38.1.1 Eligible employees will be entitled to an Annual Leave Loading in accordance with the provisions of this clause except where, during the period of leave taken, they are in receipt of a 'salary package' or 'annual buyout' that includes an amount in lieu of shift penalties.
- 38.1.2 Annual leave loading will be calculated and paid for each full day of annual leave taken. The amount will be the greater of either:
- the daily equivalent of 17.5% of base salary up to the prescribed maximum set by the Australian Statistician; or
 - the daily equivalent of average shift penalties earned in the previous (rolling) 52 week period less any periods during which the employee was on leave.
- 38.1.3 On separation from the ABC, employees will be paid annual leave loading in relation to any unused annual leave for which they will receive payment in lieu.

39. Public Holidays (Schedule A Employees)

39.1 Entitlement

39.1.1 In respect of Schedule A employees, the following paid designated public holidays will apply each calendar year:

- 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. Good Friday and the following Saturday and Monday;
- d. 25 April (Anzac Day) (or substitute);
- e. the relevant Queen's Birthday observance day;
- f. the 'Labour Day' or equivalent in the respective location;
- g. 25 December (Christmas Day) or, if that day falls on a Saturday or Sunday, 27 December;
- h. 26 December (Boxing Day) or, if that day falls on a Saturday or Sunday, 28 December; and
- i. the additional Commonwealth nominated post Christmas holiday.

39.1.2 Additionally, up to two further local paid public holidays (or summation of part days), where recognised by the ABC, may also apply at the respective locality.

39.1.3 The total number of all public holidays applied in any locality in any calendar year cannot exceed 13, unless a greater number is provided for under the NES.

39.2 Special Additional Public Holidays

39.2.1 Where a federal, state or territory government gazettes a public holiday as a once only event to mark a special occasion and where it is not in substitution for any existing public holiday, the public holiday will be observed in addition to those specified in clause 39.1.

39.3 Substituted days

39.3.1 Where a designated public holiday falls on a Saturday or Sunday and is substituted by a different day, the subject Saturday or Sunday will no longer be regarded as a public holiday for remuneration purposes.

39.3.2 Where an employee works on both Christmas Day and a substitute holiday, one day will attract payment at the public holiday rate and the other day will be paid at the non-holiday Saturday or Sunday rate as appropriate.

39.3.3 Where the ABC and an employee agree, another day may be substituted for any of the public holidays prescribed above. In this circumstance the original public holiday will no longer be regarded as a holiday for the employee.

39.4 Day off in lieu

- 39.4.1 A rostered full-time employee who is rostered off on a public holiday will be granted a day's leave in lieu of the public holiday, within one month if practicable, together with a credit of 7 hours 36 minutes. Where it is not practicable to grant the day's leave, the employee will be paid for the hours credited.
- 39.4.2 A part-time employee who does not ordinarily work on a day on which a public holiday falls will be credited with 1/10 of their agreed fortnightly hours as leave in lieu of the public holiday. By mutual agreement, hours credited in this way may be accumulated and taken later as extra leave, including if necessary in conjunction with annual leave. Where it is not practicable to grant the extra leave, the employee will be paid for the hours credited.
- 39.4.3 In the case of an employee whose ordinary hours are confined to Monday to Friday, this clause does not apply when a public holiday falls on a Saturday or Sunday.

39.5 Half Day Public Holiday

- 39.5.1 A half day public holiday will cover a period of 12 hours and will either cease at midday or commence at midday, depending on the event being celebrated.
- 39.5.2 The minimum additional payment for ordinary duty performed on a public holiday pursuant to clause 26.9.6 will, in the case of a half day public holiday, be reduced by any periods of ordinary duty worked prior to the commencement or after the finish of the half day public holiday.
- 39.5.3 Where in a regular cycle of rostered work an employee is rostered off on a day on which a half day public holiday occurs, the ABC will grant a nominal half day's leave in lieu of the holiday, together with a credit of the hours for a half day. Provided that where this is not practicable, the employee will be paid a half day's pay at the ordinary rate.

39.6 Other conditions- public holidays

- 39.6.1 In relation to employees covered by clause 39 the ABC:
- a. Will not request an employee to work on a relevant public holiday unless that requirement is reasonable, having regard to the factors for determining whether a request to work on a public holiday or a refusal of a request are reasonable, as set out in section 114 (4) of the Act;
 - b. In accordance with section 116 of the Act, which deals with payment for absence on a public holiday, the ABC will pay an employee at the base rate of pay if the employee is absent from work on the relevant public holiday in accordance with Division 10

of the Chapter 2 of the Act.

40. Personal/Carer's Leave

40.1 General and Interaction with the National Employment Standards (NES)

40.1.1 An employee will be entitled to personal carer's leave in accordance with this clause 40. To the extent that the NES provides a more favourable outcome for an employee in relation to personal/ carer's leave in particular circumstances, the employee will receive the benefit of that entitlement.

40.2 Entitlement

40.2.1 Employees will have up to 18 days' paid personal/carers leave annually (pro rata for part-time employees) and any unused personal/carers leave credits will accumulate from year to year.

40.2.2 Personal/carers leave is divided into two sub categories:

- a. NES Personal/ Carer's Leave – being personal carer's leave accrued under the NES (10 days per annum for full time employees or pro rata for part time employees);
- b. Additional Personal leave – being personal leave over and above the NES (8 days per annum for full time employees or pro rata for part time employees).

40.2.3 Subject to the remainder of this clause, employees may use accumulated personal/carers leave, with the approval of their manager:

- a. in the case of NES Personal/ Carer's Leave and Additional Personal Leave, if they are absent due to their own personal illness or injury (**Personal Illness**); or
- b. in the case of NES Personal/ Carer's Leave, if they need to provide care or support to a member of their immediate family or household because of that individual's personal illness or injury or an unexpected emergency affecting a member of their immediate family or household (**Caring**).

If an employee is absent due to Personal Illness, their Additional Personal Leave balance will be debited first.

40.2.4 Approval will be subject to the employee:

- a. having the available personal leave credits;
- b. advising the ABC as soon as reasonably practicable of any absence; and
- c. providing suitable supporting documentation when requested by the ABC.

40.2.5 There is no limit to the maximum continuous amount of personal leave that may be used for absences, subject to available credits, medical certification and, if required, the opinion of a medical practitioner nominated by the ABC.

40.2.6 The ABC may approve personal leave without pay when personal leave credits are exhausted.

40.3 **Definition of 'family'**

40.3.1 The term 'family' for the purpose of this clause includes any person dependent on the employee for care and support such as a relation by blood (child, sibling, parent, grandparent), marriage (including de facto relationships), adoption, fostering or traditional kinship without discrimination in interpretation as to race or sexual orientation.

40.4 **Credits and Debits**

40.4.1 Full-time employees will receive their annual personal/carer's leave credit on their date of commencement and on each subsequent anniversary. Part-time employees will accrue a proportional credit according to their part-time hours.

40.4.2 Personal/carer's leave will be cumulative but will not be paid out on separation.

40.4.3 Personal/carer's leave credits and debits will be recorded in hours and minutes.

40.4.4 Personal/carer's leave absences will be deducted in accordance with actual rostered hours for rostered employees, and in accordance with the prescribed hours for non-rostered employees.

40.5 **Supporting Documentation**

40.5.1 In any personal/carer's leave credit year up to a total of five working days (maximum three consecutive) can be granted with pay for personal/carer's leave without production of suitable supporting documentation, otherwise personal/carer's leave will be without pay.

40.5.2 Where the absence is due to illness or injury, suitable supporting documentation includes documentation from a medical practitioner, dentist, registered health practitioner, osteopath or similar health practitioner recognised by a health fund.

40.5.3 Where the absence is due to an unexpected emergency, or where it is not reasonably practicable for the employee to obtain one of the documents above, a statutory declaration stating that the employee is unfit for work due to personal illness or injury, or that the employee is required to provide care or support to an immediate family or household will be considered suitable supporting documentation.

40.6 **Special Circumstances**

40.6.1 Advancement of credits

If special circumstances exist an employee can apply to the delegate for consideration of advancement of personal/carer's leave credits.

40.6.2 Conversion to half pay

At the employee's request, the ABC may approve the conversion of some or all of the employee's full pay personal/carer's leave to half pay.

40.6.3 Fitness for work

In circumstances where an employee has been on extended or regular periods of leave due to illness or injury, or where the condition of the employee may be of concern to the ABC, the employee may be directed to attend an independent medical assessment concerning their fitness for duty.

40.6.4 Interaction with Annual or Long Service Leave

An employee absent on annual or long service leave who provides suitable supporting documentation for a period of leave that would otherwise be considered personal/carer's leave can be re-credited for the period of the documented absence, where they have appropriate personal/carer's leave credits.

40.6.5 Interaction with Parental Leave

An employee will not be entitled to take personal/carer's leave whilst they are entitled to paid maternity leave under the *Maternity Leave (Commonwealth Employees) Act 1973 (Cth)* or paid parental leave under this agreement. An employee absent on unpaid maternity leave can be granted personal/carer's leave for any period supported by suitable supporting documentation.

40.6.6 Interaction with Worker's Compensation

- a. An original medical certificate from a registered medical practitioner (i.e. doctor) will be required where an absence is related to a claim for worker's compensation.
- b. An employee in receipt of worker's compensation in excess of 45 weeks will only accrue personal/carer's leave on hours actually worked.

40.6.7 Maximum period of leave to count as service

The maximum continuous period of personal/carer's leave without pay to

count as service is 78 weeks.

40.6.8 Special War Service provisions

- a. Where an employee produces evidence that a period of sickness is for a condition accepted by the Department of Veterans' Affairs as a result of war service, the employee will be eligible for war service sick leave at full pay subject to a maximum credit balance of 90 days.
- b. War Service sick leave is accrued as follows:
 - i. 45 days on commencement (less any previous grants); and
 - ii. 15 days per year where required.

40.6.9 Recognition of previous service

- a. Previous service with government organisations will be recognised as service for personal/carer's leave crediting purposes so long as the break between periods of such service is no greater than two months - ('government organisations' are those recognised under the provisions of the *Long Service Leave (Commonwealth Employees) Act 1976 (Cth)*). The personal/carer's leave credit is to be calculated according to the total period of recognised service less any previous, periods of absence (not to count as service) or leave granted or paid in lieu.
- b. An employee who was previously retired on grounds of invalidity and is recommencing as a result of action taken under Section 75 of the *Superannuation Act 1976 (Cth)* is entitled to be credited with personal/carer's leave equivalent to the balance at the time of retirement.

41. Miscellaneous Paid Leave

41.1.1 Compassionate Leave

Employees are entitled to up to 3 days' paid compassionate leave per occasion where a member of the employee's immediate family or household either:

- a. contracts or develops a personal illness that poses a serious threat to their life; or
- b. sustains a personal injury that poses a serious threat to their life; or
- c. dies.

41.1.2 Other Special Leave

Employees are entitled to paid leave in relation to the following other unforeseen emergency situations or special circumstances:

- a. jury service;
- b. attendance as a witness at proceedings on behalf of the Commonwealth or State/Territory Government;
- c. household emergencies, moving house; or
- d. attendance for special religious, ceremonial or cultural obligations.

41.1.3 Discretionary Leave

Subject to the individual circumstances of each case and the operations of the ABC, paid leave may also be granted for:

- a. Australian Defence Force and Australian Defence Force Cadets requirements (leave at full pay for all reasonable operational requests);
- b. participation in Government emergency service activities;
- c. participation in authorised international sporting events;
- d. participation in ABC approved training, consultative committees or appeal boards;
- e. other special circumstances considered appropriate.

41.1.4 Study Leave

Study leave is authorised in accordance with the ABC Study Assistance Policy. Subject to delegate approval, an employee may be granted:

- a. up to five hours per week paid leave (plus necessary travelling time) to attend lectures; and
- b. paid absence for all required examinations.

41.1.5 NAIDOC Leave

- a. Aboriginal and Torres Strait Islander employees may be granted one day of paid leave per year to attend and participate in NAIDOC Week activities (**NAIDOC Leave**), subject to operational requirements.
- b. If the ABC decides that an Aboriginal and Torres Strait Islander employee cannot take NAIDOC Leave due to operational requirements, the ABC may permit the employee to one day's paid leave in the following 6 months to attend a different Indigenous public cultural event instead.

41.1.6 Family Violence Leave

- a. The ABC recognises that employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work, and is therefore committed to providing support to employees that experience family violence.
- b. "Family violence" is abusive and/or violent behaviour used by one person to control and dominate another person or persons within a domestic relationship and may include physical, sexual, financial, verbal or emotional abuse by a family or household member.
- c. An employee (other than a casual employees) experiencing family violence will have access to paid leave for:
 - i. attending legal proceedings, counselling, appointments with a medical or legal practitioner;
 - ii. relocation or making other safety arrangements;
 - iii. other activities associated with the experience of family violence.
- d. The paid leave provided in clause a.c is in addition to existing entitlements and may be taken as consecutive or single days, or as a portion of a day.
- e. The paid leave in this clause is to be capped at seven days per annum and does not accrue.
- f. Casual employees are entitled to time off work without pay for the purposes set out in clauses a.a, a.b and a.c above.
- g. If required by the ABC, the employee must provide evidence that would satisfy a reasonable person that the leave is for the purpose set out in clause 41.1.6 and such evidence may include a document issued by the Police Service, a Court, a Doctor, District Nurse, family violence support service or lawyer.

41.1.7 Gender Transition Leave

- a. An employee (other than a casual employee) that identifies as transgender and who is undertaking a Gender Transition, will have access to:
 - i. up to 10 days' paid Gender Transition Leave, which counts as service for all purposes; and
 - ii. up to 12 months' unpaid Gender Transition Leave. Unpaid Gender Transition Leave does not count as service.
- b. The paid leave provided in clause 41.6.1a.i is in addition to existing entitlements and may be taken as consecutive or single days, or as a portion of a day.

- c. 'Gender Transition' means that you identify as transgender (in that your gender identity does not match your birth sex) and you wish to adopt a gender identity that is different to your birth sex.
- 41.1.8 An employee may be requested to provide suitable supporting documentation for any miscellaneous paid leave granted under this clause.
- 41.1.9 Miscellaneous paid leave will count as service for all purposes.

42. Long Service Leave

- 42.1.1 Employees are entitled to three months long service leave on full pay after 10 years of qualifying service, in accordance with the provisions of the *Long Service Leave (Commonwealth Employees) Act 1976* (Cth).

43. Parental Leave

43.1 Unpaid Parental Leave

- 43.1.1 Unpaid parental leave is provided for in the NES. For the avoidance of doubt, an employee shall be able to access unpaid parental leave in accordance with the NES:
- a. if the leave is associated with the birth of a child of the employee or the employee's spouse or de facto partner through surrogacy; or
 - b. if the leave is associated with the placement of a child with the employee as a foster carer, provided the proposed foster care placement is for at least 12 months (in which case the provisions of the NES shall apply as though the foster care arrangement were an adoption).
- 43.1.2 Female employees who do not have 12 months prior service may be entitled to take 12 months unpaid maternity leave under the *Maternity Leave (Commonwealth Employees) Act 1973* (Cth) (**MLCE Act**).

43.2 Paid Maternity Leave

- 43.2.1 Female employees of the ABC with 12 months prior service at the time the child is born are entitled to take up to 52 weeks Maternity Leave of which:
- a. up to 12 weeks will be paid in accordance with the provisions of the MLCE Act; and
 - b. an additional four weeks will be paid, also on conditions as set out in the MLCE Act.

43.2.2 An employee taking Maternity Leave may elect to take the paid portion of that leave at half pay over a period of 32 weeks. However, Maternity Leave taken at half pay will not count as service beyond 16 weeks.

43.3 Superannuation on periods of Unpaid Parental Leave

43.3.1 When an employee takes unpaid parental leave and meets the criteria in 43.3.2 below, the ABC will contribute to the employee's nominated superannuation fund an amount calculated at the same rate as the employee's contributions were calculated when they were on the paid maternity leave, or adoption, foster care or surrogacy leave, period for that period of paid leave.

43.3.2 The criteria are:

- a. the employee is entitled to paid maternity leave under the *Maternity Leave (Commonwealth Employees) Act 1973 (MLCE Act)* or paid adoption, foster care or surrogacy leave under this clause 43;
- b. the employee's nominated superannuation fund rules allow the ABC to make these contributions during a period of unpaid parental leave;
- c. the period of unpaid parental leave is less than or equal to the period allowed under the National Employment Standards; and
- d. the employee is not otherwise entitled to receive superannuation contributions in respect of the period of unpaid parental leave under their superannuation fund arrangements.

43.4 Adoption, Foster Care or Surrogacy Leave

43.4.1 This clause applies to leave associated with:

- a. the birth of a child of the employee or the employee's spouse or de facto partner through surrogacy; or
- b. the adoption of a child; or
- c. the placement of a child with the employee as a foster carer, provided the proposed foster care placement is for at least 12 months (in which case the provisions of the NES shall apply as though the foster care arrangement were an adoption).

43.4.2 Employees may take up to:

- a. 2 days' unpaid leave to attend any interviews or examinations required to obtain approval for the adoption or foster care arrangements; and
- b. sixteen (16) weeks' paid leave from the date they assume

responsibility as the primary carer of the child (provided, in the case of foster care, that the proposed foster care arrangement is for more than 12 months).

43.4.3 The period of Adoption, Foster Care or Surrogacy Leave that an employee is entitled to receive will be reduced by the length of:

- a. any period of Supporting Partner Leave that the employee has already taken in relation to the child; and
- b. any Adoption, Foster Care or Surrogacy Leave that any other employee has already received in relation to the child.

43.5 Supporting Partner Leave

43.5.1 An employee may take up to four (4) weeks' paid leave for the purpose of caring for the child, subject to operational requirements, if:

- a. the employee's spouse or partner gives birth to the child;
- b. the employee's spouse or partner is the primary carer of the child of the employee or the employee's spouse or partner born through surrogacy; or
- c. the employee's spouse or partner is the primary carer of the child that the employee or the employee's spouse or partner has adopted or in relation to whom the employee or the employee's spouse or partner has a foster care arrangement (provided that the proposed foster care arrangement is for more than 12 months).

43.5.2 The period of Supporting Partner Leave that the employee is entitled to take shall be reduced by the length of:

- a. any Paid Parental Leave or Paid Adoption, Foster Care or Surrogacy Leave that the employee has already taken; and
- b. any Supporting Partner Leave that any other employee has already received in relation to the child.

- 43.5.3 Paid Supporting Partner leave must be taken within 12 months of the birth or placement of the child and, unless the ABC otherwise agrees, must be taken in minimum periods of one week.
- 43.5.4 The employee is not required to be the primary care giver of the child to use paid Supporting Partner leave, but the child must be in their care.
- 43.5.5 Paid Supporting Partner leave cannot be taken during a period in which the employee receives Dad and Partner Pay under the Paid Parental Leave Act 2010 (Cth) and is in addition to unpaid concurrent parental leave under the NES.
- 43.5.6 An employee who is eligible for Supporting Partner Leave under this clause may also use up to 10 days of their personal/carer's leave for caring purposes.

43.6 Eligibility, evidence, counting of service and payment

- 43.6.1 In relation to paid leave under this clause 43 and subject to the other provisions of this clause 43:
 - a. to be eligible to receive any paid leave, an employee must have (at the commencement of the period of paid leave) at least 12 months' continuous service, not counting any periods during which they were employed on a casual basis;
 - b. casual employees are not eligible for any paid leave;
 - c. for the avoidance of doubt, two ABC employees cannot both receive the same type of paid leave under this clause 43 in relation to a child at the same time;
 - d. an employee seeking to take any paid leave must provide any notice and evidence reasonably required by the ABC from time to time in relation to any matter relevant to this clause (including whether the employee is the primary carer of the child);
 - e. a period during which an employee receives any paid leave counts as service; and
 - f. paid leave must be taken in a single continuous period and payment will be made at the employee's salary at the rate that applied immediately prior to the commencement of the period of paid leave.

44. Purchased Leave

44.1 Purchased Leave Agreement

- 44.1.1 By agreement with the ABC, an ongoing employee may purchase up to 4 weeks additional leave per year, to be funded by fortnightly salary deductions spread evenly over the 12 month period in which the leave will be taken, provided that:
- a. applications to purchase leave will only be considered where the employee's annual leave credit does not exceed 6 weeks at the time of application;
 - b. the amount of purchased leave applied for must be in full weeks; and
 - c. approval will be subject to operational requirements and will involve no additional cost to the ABC (i.e. compared with the employee's current arrangements).
- 44.1.2 The purchased leave agreement will be in writing, in advance, and will specify:
- a. the amount of leave to be purchased;
 - b. the amount of salary to be deducted each fortnight; and
 - c. the anticipated dates when the purchased leave will be taken.
- 44.1.3 Modifications can be made to the purchased leave agreement where mutually agreed.
- 44.1.4 Either the employee or the ABC can terminate the agreement with two weeks' notice.

44.2 Related Conditions

- 44.2.1 The fortnightly salary deductions for purchased leave will be calculated on the basis of the employee's ongoing salary (including annual buyout, district, first aid and clothing allowance where applicable) at the time of purchase. Higher duties allowance will not be included in the purchase cost and will not be paid to the employee during periods of purchased leave.
- 44.2.2 Unless otherwise agreed, purchased leave not taken in accordance with the purchased leave agreement will be reimbursed to the employee at the rate at which it was purchased.
- 44.2.3 Where, during the 12 month period in which the salary deductions for purchased leave are scheduled:
- a. an employee ceases employment with the ABC; or
 - b. the purchased leave agreement ceases to operate; and
 - c. payments for purchased leave taken remain outstanding

the amount outstanding must be repaid in full and may be deducted from any termination payment or amount owing to the employee.

44.2.4 Purchased leave will count as service for all purposes.

44.2.5 Purchased leave is not annual leave and does not attract an annual leave loading.

45. Leave Without Pay

45.1.1 The ABC may approve leave without pay (LWOP) for periods up to 12 months having regard to operational requirements. Leave may be granted for a range of reasons including:

- a. study purposes;
- b. to accompany a partner on a temporary posting;
- c. compassionate or caring reasons;
- d. secondments and exchanges;
- e. additional recreational purposes;
- f. other special circumstances considered appropriate to the interests of the ABC and the individual.

45.1.2 The ABC may also approve periods of LWOP or extensions of LWOP in excess of 12 months. Grants of LWOP in these cases may be for special circumstances, including but not limited to:

- a. study reasons in the interests of the ABC;
- b. for an employee to take up full time service for an extended period with the Australian Defence Force or ally, or the United Nations;
- c. to accompany a spouse or partner, employed by a Commonwealth organisation, on an overseas or interstate posting.

45.1.3 Unless otherwise approved or required by the Long Service Leave (Commonwealth Employees) Act 1976 LWOP will not count as service for any purpose.

45.1.4 Periods of LWOP (not to count as service) will have the following effect on credits:

- a. personal/carer's leave and long service leave - credit deferred by the entire period of the absence greater than five days in any personal leave credit year;
- b. annual leave - credit reduced by absences totalling more than five days per calendar year.

45.1.5 LWOP will not normally be approved until available annual leave credits are used.

Part K Travel and Overseas Postings

46. Distant Assignments

46.1 Definition

- a. For the purpose of this Agreement, a 'distant assignment' means an assignment requiring an employee to spend one night or more away from the city or town in which they normally work.
- b. A distant assignment shall begin on the employee's departure from the city or town in which they normally work and shall cease on their return.
- c. An employee on temporary transfer or relieving duties, attending schools, courses, conferences or seminars shall not be considered to be on a distant assignment.
- d. Hours of Work

46.1.1 During a distant assignment, the total of actual work time and travel time shall count as hours worked, provided that travel time shall not include travel beyond eight hours on any day for:

- a. business class air travel;
- b. travel by ship on which accommodation and meals are provided; or
- c. travel by train where a sleeping berth is provided.

46.1.2 During a distant assignment, the daily ordinary hours will be the prescribed nominal hours as set out in clause 3.1.10.

47. General Travel Conditions

47.1.1 Travel conditions will be applied in accordance with the Domestic Travel Guidelines and the International Travel Guidelines, as applicable. These guidelines do not form part of this Agreement.

48. Domestic Travelling Allowance

48.1 Eligibility

48.1.1 Subject to paragraph 48.6, an employee who undertakes travel on official ABC business and is required to be absent overnight will be paid an allowance in respect of the costs of accommodation, meals and incidental expenses. Where an employee has been transferred permanently to a new

locality, travelling allowance will not apply in respect of the transfer. This clause does not apply to an employee on a Long Term Assignment.

48.2 Rate of Payment

48.2.1 The allowance is to be calculated in accordance with the travelling allowance rates notified from time to time by the Australian Taxation Office.

48.3 Adjustment to Allowance

48.3.1 In circumstances where an employee has incurred reasonable costs in excess of those paid under this clause, or the actual travel undertaken is less than that calculated, the Delegate may authorise an adjustment to the employee's payment.

48.4 Absence not less than ten hours

48.4.1 Except where an employee is rostered to commence and finish work for the day at his/her usual workplace, an employee who is absent from their usual workplace on official ABC business for a period of not less than ten hours, but not absent overnight, will be paid the prescribed rate of allowance.

48.5 Reviewed Travelling Allowance

48.5.1 Where an employee has worked at a temporary locality for more than 21 days, the employee will be eligible for an allowance equal to the amount expended on accommodation, meals and incidental expenses, or an amount which is authorised by the ABC to be reasonable in the circumstances.

48.6 Expenses paid by ABC

48.6.1 Where an employee is provided with accommodation and/or meals at ABC expense, the employee will not be paid an allowance in respect of the subject components.

49. Overseas Travelling Allowance

49.1 Eligibility

49.1.1 An employee who undertakes **overseas** travel on official ABC business will be paid:

- a. an allowance in respect of meals and incidental expenses to be calculated in accordance with the International Travel Guidelines as determined by the ABC from time to time; and
- b. transport and accommodation expenses in accordance with the International Travel Guidelines as determined by the ABC from time to time.

49.2 Adjustment

- 49.2.1 Where an employee has incurred reasonable costs in excess of those paid by the ABC or the actual travel undertaken is less than that calculated, the delegate may authorise an adjustment to the employee's payment.

50. Travel By Air

50.1 Domestic

- 50.1.1 Employees will normally travel Economy Class when travelling on ABC business within Australia unless otherwise agreed.

50.2 International

- 50.2.1 An employee who is directed to travel overseas for ABC business will fly Business Class unless:

- a. the scheduled flight duration is less than four hours; or
- b. the employee is not required to commence duty within 11 hours after arriving at their destination; or
- c. the ABC and employee otherwise agree,

in which case the employee will fly standard Economy Class.

50.2.2 Special Insurance

- 50.2.3 An employee who as part of their employment is required to travel in an aircraft in circumstances which in the opinion of the Managing Director (or a person authorised by the Managing Director) may involve risks greater than involved in normal air charter operations shall be insured by the ABC for:

- a. an amount of up to \$500,000 in the event of death; or
- b. amounts considered appropriate by the Managing Director (having regard to usual insurance practices) in the event of partial or total incapacity or injury.

- 50.2.4 The insurance referred to above is to be in addition to section 14(1) of the Air Accidents (Commonwealth Government Liability) Act 1963 (Cth).

- 50.2.5 No special insurance or cover shall however apply in the case of an employee:

- a. who is involved in travel by aircraft used by the Commonwealth for VIP flights; or
- b. who is involved in travel on a flight by a charter aircraft and the type of aircraft chartered is one which may customarily be used on scheduled flights and where no physical work is required of the

employee on the flight.

50.2.6 The above clause will operate to the extent allowable by law.

51. Insurance General

51.1.1 If an employee is required to perform work that would invalidate his/her personal insurance policy/ies, the employee will, prior to performing such work, notify the ABC of the details of such policy/ies. The ABC will either give the employee indemnity against this invalidation or give the employee notice that the indemnity will not be given, in which case the employee may decline to perform the work.

52. Overseas Posting Conditions

52.1.1 In respect of employees posted overseas on Long Term Assignment, and employees posted overseas on a Media Development Project regardless of duration, the ABC will apply the provisions set out in its ABC overseas Guidelines for International Assignments in place from time to time.

Part L Managing Change

53. Consultation

53.1 General

- 53.1.1 This subclause applies if:
- a. the ABC has made a formal proposal to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise; and
 - b. the change is likely to have a significant effect on employees of the enterprise.
- 53.1.2 The ABC must notify the relevant employees and any union covered by this Agreement of the formal proposal.
- 53.1.3 The relevant employees may appoint a representative for the purposes of the procedures in this term.
- 53.1.4 The ABC must recognise the representative in accordance with clause 53.1.3, if:
- a. a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - b. the employee or employees advise the ABC of the identity of the representative.
- 53.1.5 As soon as practicable after the ABC has developed the formal proposal, the ABC must:
- a. discuss with the relevant employees:
 - i. the introduction of the change;
 - ii. the effect the change is likely to have on the employees;
 - iii. measures the ABC is taking to avert or mitigate the adverse effect of the change on the employees; and
 - b. for the purposes of the discussion – provide, in writing, to the relevant employees:
 - i. all relevant information about the change including the nature of the change proposed;
 - ii. information about the expected effects of the change on the employees; and
 - iii. any other matters likely to affect the employees.

53.1.6 When the ABC is consulting under this clause 53 in relation to a major change that will or is likely to result in the termination of the employment of employees by reason of redundancy, the ABC will at the earliest opportunity hold discussions with affected employees and their representatives concerning:

- a. the reasons for the redundancies and the measures taken to avoid or minimise those redundancies; and
- b. alternatives to redundancy, including natural attrition, transfer and any opportunities for redeployment and/or retraining, as well as voluntary redundancy where there are more than 10 employees in a Likely Affected Class as defined in 54.5.2

provided that these discussions may also be regarded as satisfying the requirements of clause 54 and may be conducted concurrently with the requirements in clause 54.

53.1.7 However, the ABC is not required to disclose confidential or commercially sensitive information to the relevant employees.

53.1.8 The ABC must give prompt and genuine consideration to matters raised about major workplace change.

53.1.9 In this clause, a major change is *likely to have a significant effect on employees* if it results in:

- a. the termination of the employment of employees; or
- b. major change to the composition, operation or size of the ABC's workforce or to the skills required of employees; or
- c. the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
- d. the alteration of hours of work; or
- e. the need to retrain employees; or
- f. the need to relocate employees to another workplace; or
- g. the restructuring of jobs.

53.1.10 In this clause, "relevant employees" means the employees who may be affected by the major change.

Part M Redundancy

54. Redundancy

54.1 General

- 54.1.1 Wherever possible, the ABC will adopt positive alternatives to redundancy, and will seek to minimise the need for redundancies through workforce planning, employee development and performance management strategies, backed up by an active redeployment and retraining policy.

54.2 Reasons for Redundancy

- 54.2.1 An employee is redundant where:
- a. they are no longer required for the efficient and economical operation of the ABC; or
 - b. they cannot be effectively employed because of technological change or other changes in work practices; or
 - c. their function is transferred to another location that is not within reasonable commuting distance of their current location, they are not willing to relocate and there is no suitable alternative position available within reasonable commuting distance; or
 - d. their skills, talents or perceived audience appeal are no longer relevant to the ABC's overall program requirements.

54.3 Exclusions

- 54.3.1 This clause does not apply to:
- a. Fixed term or specified task employees;
 - b. Employees employed on phased retirement employment if the employment is terminating at the agreed end date;
 - c. Employees on probation; or
 - d. Casual employees.

54.4 Voluntary Redundancy, Substitution and Redeployment

- 54.4.1 At any time after likely redundancies have been identified, the ABC may at its discretion call for expressions of interest in voluntary redundancies. This includes calling for expressions of interest in voluntary redundancy from

unaffected employees in substitution for affected employees and/or opportunities for redeployment for affected employees.

54.4.2 In assessing the viability of substitution, the ABC will have regard to the relative competency, experience and efficiency of the employees in question and the relative costs of redundancy between the affected employee/s and the proposed substitute employee/s. The final decision in relation to substitution and/or redeployment will rest with the ABC.

54.4.3 Where the ABC agrees to a substitution:

- a. the substitute employee will, as soon as practicable, be formally notified that they are to be retrenched in accordance with 54.5.3c; and
- b. the original employee will be redeployed into the substitute employee's position.

54.5 Redundancy (Pool) Selection Process

54.5.1 This clause 54.5 applies in circumstances where more than 10 employees are to be made redundant from a change proposal, and sets out what is required to comply with clause 53.1.6.

54.5.2 The ABC will make a preliminary determination of the classes of employees from which redundancies will occur (Likely Affected Class) and the number of employees to be made redundant.

54.5.3 Having complied with clause 54.5.2 the ABC will then;

- a. call for expressions of interest from suitable employees for voluntary redundancy from those in the Division in which the Likely Affected Class is contained. The ABC will also advise a closing date and time, which would ordinarily be within 10 days of the call for expressions of interest;
- b. consider all expressions of interest, however, the ABC will make the final decision as to whether it accepts any expression of interest for voluntary redundancy, rejects the application or defers its consideration to the time for the consideration under clause 54.5.7 (**Deferred Expression of Interest**);
- c. communicate its decisions to employees who express interest in voluntary redundancy and its decision (including under clause 54.5.7) will be final and cannot be challenged (including under Part O).

54.5.4 In the event that the process under clause 54.5.3 does not result in sufficient redundancies to meet the number identified under clause 54.5.2, the ABC will commence consultation about the change proposal under clause 53.1. For that purpose the ABC will notify the Likely Affected Class and their representatives

of, and consult with them about, the number of employees to be made redundant, the Likely Affected Class, the selection criteria and the employees within the Likely Affected Class most at risk of redundancy (At Risk Employees).

- 54.5.5 Following notification and consultation, which will ordinarily be concluded within 14 days from the date of notification in clause 54.5.4, the ABC will make a final determination and publish the class of employees from which redundancies will occur (the Affected Class), the number of employees within the Affected Class to be made redundant and the selection criteria (Final Selection Criteria). "Publish" means, provide in writing to the Affected Class and their representatives.
- 54.5.6 The ABC will then select the employees from the Affected Class to be made redundant by applying the Final Selection Criteria and will provide them with written notification under clause 54.6.1 (**Selected Employee**).
- 54.5.7 The ABC will, at this stage, consider any Deferred Expression of Interest or any other expression of interest in substitution made within 14 days of the notice to the Selected Employee under clause 54.5.6 and whether the employee concerned might be substituted for any Selected Employee to whom clause 56.3.1b applies. Clause 54.4.1 and 54.4.2 will apply to this process. The ABC decision in relation to substitution will be final and cannot be challenged (including under Part O).
- 54.5.8 For the avoidance of doubt, clauses 54.5.4 to 54.5.6 do not apply if the ABC decides compulsory redundancies are unnecessary in view of the number of expressions of interest for voluntary redundancy accepted by the ABC.
- 54.5.9 The operation of Clause 54.5 can be varied by agreement with the representatives of the Likely Affected Class, however, this does not require consultation over a proposal for a different process than set out in this clause 54.5.

54.6 Notification of Redundancy

- 54.6.1 Where, following initial discussions and completion of a redundancy selection process if applicable, the ABC has determined that an employee is redundant for a reason or reasons specified in 54.2.1 (other than a substitute employee who is to be made redundant under clause 54.4.1 or 54.5.7), or an employee whose expression of interest in voluntary redundancy is accepted), the ABC will ensure that the employee receives written notification inviting them to consider and choose from the following options:
- a. to accept immediate retrenchment under 54.9.1a; or
 - b. to explore redeployment and retraining opportunities in accordance with 54.7.

54.6.2 In the event the employee fails to advise the ABC of their choice within seven days of being informed under 54.6.1, the employee will be deemed to have chosen option 55.6.1a above.

54.6.3 An employee who is absent on approved annual leave, long service leave or leave without pay at the date of notification under 54.6.1 will be entitled to complete that leave and will not be required to make the choice under 54.6.1 until the conclusion of that leave, unless they agree otherwise. If the employee decides to complete their leave, that decision will not of itself delay progression of the reason/s giving rise to the redundancy.

54.7 Redeployment and Retraining Period

54.7.1 If an affected employee chooses to explore redeployment and retraining opportunities as allowed by clause 55.6.1b the ABC will:

- a. make an assessment of their competencies;
- b. provide advice on employment options;
- c. canvass work areas for possible suitable vacancies;
- d. assess reasonable retraining options;
- e. assist with interview and job search skills;
- f. take other appropriate action.

54.7.2 At the employee's discretion, the ABC will continue to explore redeployment and retraining possibilities for up to six weeks from the date the employee was first notified under 54.6.1 that they are redundant.

54.7.3 An employee who takes personal/carer's leave during the redeployment and retraining period may apply, on production of a medical certificate, for an extension of the redeployment period for a period equal to the personal/carer's leave taken. An extension of the redeployment period will be at the discretion of the ABC, depending on the employee's prospects of redeployment and any other factor it considers relevant. If the period of personal/carer's leave is more than two weeks and the ABC declines an application for an extension, the employee will, in addition to the retrenchment payments set out in 54.10.1 receive a payment equal to the period of personal/carer's leave taken up to a maximum of four weeks.

54.8 Decision to Redeploy

54.8.1 The ABC may redeploy an employee to a vacant position above, at or below the employee's substantive salary, provided that:

- a. the employee is assessed by the ABC as possessing the competencies required for the position, or may be able to attain

those competencies with reasonable training; and

b. the employee agrees to the redeployment.

54.8.2 Where an employee is to be redeployed to a position at a lower substantive salary band, they will be entitled to income maintenance from the date of redeployment. The duration of income maintenance will be calculated incrementally at the rate of four weeks for each year (or part year thereof to a completed month) of continuous service. The minimum period of income maintenance will be 12 weeks and the maximum period 44 weeks.

54.8.3 Salary for income maintenance purposes will be fixed in dollar terms other than for increases applying under clause 17.1.1. Salary for income maintenance purposes will include any regular shift penalties received (on average) over the 12 months preceding the date of redeployment.

54.8.4 The amount of income maintenance will be reduced by the amount of any increase payable through the performance management and development system.

54.9 Notification of Retrenchment

54.9.1 The ABC will formally notify an employee in writing that they are to be retrenched if:

- a. following initial discussions they do not wish to examine redeployment and retraining options; or
- b. after choosing to examine redeployment and retraining options no suitable alternative employment has been found; or
- c. the employee has agreed to be substituted under 54.4.1 or 54.5.7; or
- d. the employee has expressed interest in voluntary redundancy and this has been accepted.

54.10 Payments

54.10.1 An employee who is retrenched will receive:

- a. notice or payment in lieu of notice:

Period of Continuous Service and Age	Period of Notice
Under five years	Four weeks
Five years and over and under 50 years of age	Five weeks
Five years and over and 50 years of age or older	Six weeks

Provided that payment in lieu of notice will require employee agreement in the case of an employee who is notified that they are to be retrenched under 55.6.1b.

- b. a severance payment equal to four weeks' salary for every completed year of service for the first five years and three weeks' salary for every completed year of service thereafter to a maximum of 24 years' service. Pro rata calculation to the nearest completed month of service applies after the first year.
- c. any unpaid long service leave and pro rata long service leave.
- d. any unpaid annual leave and annual leave loading.
- e. payment in lieu for the un-worked portion of the redeployment and retraining period specified in 54.7.2, where the employee (other than a substitute employee under 54.4.1 or 54.5.7 or an employee whose expression of interest in voluntary redundancy is accepted) leaves before the expiration of the six week period.

54.10.2 Unless otherwise agreed, 'service' means continuous service with the ABC (provided that any break between periods of employment is not greater than two months) and/or:

- a. previous Commonwealth service where the employee transferred to the ABC under Public Service Act Mobility provisions or former recognised arrangements such as the *Public Service - Officers' Rights Declaration Act*; and/or
- b. the Australian Defence Force (ADF);

and the service did not cease by retrenchment, retirement on grounds of medical incapacity, inefficiency or loss of qualifications, abandonment of employment, dismissal, termination of probation, or voluntary retirement at or above the minimum retiring age applicable to the employee or with the payment of an employer-financed retirement benefit.

54.10.3 For the purpose of calculating any payment under 54.10.1, 'salary' will include:

- a. the employee's base salary;
- b. higher duties allowance where the employee has been acting for a continuous period of at least 12 months immediately prior to the date of formal notification of retrenchment under 54.9;
- c. regular shift penalties paid (on average) over the 12 months immediately preceding the date of formal notification, provided the employee has been paid penalties for at least half the pay periods over that period; and
- d. other allowances in the nature of salary which are paid during periods of annual leave, excluding allowances which are reimbursement for expenses incurred, or payment for disabilities associated with the

performance of duty.

54.10.4 Retrenched employees who exercise their right under the mobility provisions of the *Public Employment (Consequent and Transitional) Act 1999 (Cth)* to seek reappointment to the Australian Public Service will not be eligible for the payments under this clause.

54.11 Re-engagement

54.11.1 An employee who is paid a retrenchment benefit will not be re-engaged by the ABC within twelve months of their retrenchment, without the approval of the Managing Director.



Part N Misconduct, Incapacity and Separation

55. Misconduct

55.1 Definition

- 55.1.1 **Misconduct** (including serious misconduct) includes but is not limited to one or more circumstances where an employee:
- a. wilfully disobeys or disregards a reasonable and lawful direction;
 - b. is inefficient or incompetent for reasons within their own control;
 - c. is negligent or careless in the discharge of their duties;
 - d. engages in improper conduct as an employee of the ABC;
 - e. engages in improper conduct which brings, or is likely to bring, the ABC into disrepute;
 - f. fails to comply with, or contravenes, a term or condition of this Agreement;
 - g. deliberately provides at any time incorrect or misleading information which is relevant to their employment;
 - h. exercises unlawful discrimination, patronage or favouritism in relation to employment matters within the ABC.

55.2 Process

- 55.2.1 Where an allegation of misconduct is **made**, the employee will be:
- b. advised in writing of the nature of the alleged misconduct;
 - c. advised that at any stage during these or subsequent proceedings they may choose to be accompanied or represented by a person of their choice;
 - d. advised in writing of the process to be undertaken by the ABC to determine whether the alleged misconduct is substantiated;
 - e. in the event that an investigation is required, the employee will be advised in writing that an independent investigator will be appointed by the ABC who will report their findings back to the relevant delegate;
 - f. provided with a right of access to any material that is reasonably

necessary for the employee to respond to the allegation, provided that:

- i. the ABC, where appropriate, may de-identify or otherwise anonymise that material where the ABC has a reasonable concern about the potential victimisation of a witness or complainant, provided that the employee (and his or her representative) has access to sufficient material to understand and respond to the allegation; and
 - ii. the ABC may require the employee to keep confidential the material provided, other than to seek advice from their representative; and/or
- g. given an opportunity to respond and/or explain their actions or inactions and any mitigating factors they seek to have taken into consideration, provided that explanation is provided in a timely manner.

55.2.2 Where the ABC forms the view that the alleged misconduct is likely to constitute serious misconduct, the ABC will advise the employee of that view at the earliest opportunity.

55.3 Suspension

55.3.1 Where the nature or seriousness of the alleged misconduct is such that it is reasonable to suspend the employee from duty, the ABC may suspend the employee with or without pay while an investigation is conducted.

55.3.2 The ABC will only suspend the employee without pay under clause 55.3 if the employee agrees.

55.3.3 An employee on suspension either with or without pay will not attend his/her place of work unless authorised by the ABC.

55.3.4 The ABC may grant an employee access to accrued annual and/or long service leave during a period of unpaid suspension.

55.3.5 Where an investigation concludes that misconduct is not substantiated, or the nature of the misconduct does not warrant the withholding of pay during the period of suspension, the employee will be reimbursed for ordinary pay withheld during the suspension and any paid leave taken by the employee during the suspension will be restored.

55.4 Disciplinary Action

55.4.1 Where an allegation of misconduct is substantiated, the ABC may impose one or more of any of the following forms of disciplinary action, as appropriate to the nature and seriousness of the misconduct:

- a. reprimand the employee;
- b. issue a written warning to the employee;
and in the case of serious misconduct;
- c. transfer the employee to another position at an equal or lower salary;
- d. withhold the employee's salary for part or all of the period of suspension;
- e. reduce the employee's salary within the band;
- f. dismiss the employee with notice or payment in lieu in accordance with the relevant provisions of **clause 57. Termination of Employment**; or
- g. dismiss the employee without notice in accordance with clause 14.2.1 .

55.4.2 The ABC may, in its discretion, determine that although the misconduct is substantiated, no disciplinary action should be taken, but the employee will be counselled and the counselling recorded on the employee's file.

55.4.3 The ABC will not act under clause 55.4.1d absent the employee's agreement – that is, to withhold the employee's pay for part or all of the period of suspension in the case of serious misconduct.

55.5 Written Warnings

55.5.1 Where a written warning is issued, a copy will be placed on the employee's personal file and a copy given to the employee.

55.5.2 The warning will identify any corrective action to be taken, and that failure to comply with the corrective action may lead to further disciplinary action, including dismissal.

55.6 Summary Dismissal

55.6.1 Nothing in this Agreement limits or affects in any way the ABC's right to dismiss an employee summarily if the employee has committed serious misconduct.

56. Medical Incapacity & Rehabilitation

56.1 Case Management

56.1.1 Where an employee is, or is likely to be, incapable of performing their job for an extended period of time due to medical reasons the ABC will manage the

case in accordance with medical advice to assist with the employee's rehabilitation.

56.1.2 For the purposes of this clause, the ABC may direct an employee to attend a medical assessment by an independent medical practitioner.

56.1.3 The ABC acknowledges that the *Safety, Rehabilitation and Compensation Act 1988* (Cth) (**SRC Act**) applies in relation to compensable work related injuries and prevails over clause 56 to the extent of any inconsistency with the SRC Act.

56.2 Rehabilitation

56.2.1 Where a medical assessment indicates that an employee will not be able to return to their full work capacity within a reasonable time frame, the ABC may review the continued employment of the employee and take such action as is appropriate.

56.2.2 Appropriate action will depend on the circumstances of the individual case but may include:

- a. implementing a rehabilitation plan;
- b. considering whether the employee could perform the inherent requirements of their pre-injury role with reasonable adjustment or accommodation of the employee's medical condition, taking into account the ABC's operational requirements;
- c. where medical advice indicates that the employee is unlikely to be able to perform the inherent requirements of their pre-injury role with reasonable adjustment or accommodation of the employee's medical condition, taking into account the ABC's operational requirements, the ABC may declare the employee's substantive position vacant and:
 - i. seek to redeploy the employee to suitable duties;
 - ii. transfer the employee to another suitable role, including one at a lower salary band where medical advice indicates the proposed duties are suitable;
 - iii. providing training and development for a reasonable period of time to assist with a career change; or
 - iv. terminate the employment, provided the ABC complies with clause 56.3.3.

56.2.3 An employee will adhere to a rehabilitation plan implemented by the ABC in accordance with medical advice.

56.2.4 Where an employee refuses to adhere to a rehabilitation plan, an independent medical opinion will be sought to assess the suitability of the plan.

56.3 Salary Reduction & Termination

56.3.1 Should the rehabilitation of an employee with a non-worker's compensation injury fail to result in either a return to their pre-injury role or redeployment to a suitable permanent role within 12 months of their date of injury the ABC may direct the employee to perform duties the employee has been assessed as being fit to perform and the ABC may reduce the employee's salary to correspond with the level of those duties, provided that:

- a. where necessary, independent medical advice will be sought to assess the level at which the employee is fit to work; and
- b. where 12 months after the date of injury the employee continues to have a personal/carer's leave entitlement, they may utilise this entitlement to maintain their salary at the level of their pre-injury normal weekly earnings until such time as their personal/carer's leave is exhausted.

56.3.2 Failure to adhere to a rehabilitation plan that has been assessed as being suitable constitutes misconduct under subclauses 55.10.1a and 55.10.1f and the ABC may implement appropriate disciplinary action, including giving notice of termination of employment.

56.3.3 The ABC will not proceed with termination on medical grounds within a period of 52 weeks from the date of injury without the employee's agreement or unless the termination is in accordance with 56.3.2 and the provisions of the relevant superannuation legislation.

57. Termination of Employment

57.1 Basis for Termination

57.1.1 Subject to 57.2.2, the ABC may terminate an employee's employment on the following basis:

- a. Summarily, if the employee is guilty of serious misconduct.
- b. On notice (or the provision of payment in lieu of notice), on the following grounds:
 - i. Redundancy (in accordance with clause 54)
 - ii. Medical incapacity (in accordance with clause 56)

- iii. Unsatisfactory performance (in accordance with clause 23)
 - iv. Misconduct (in accordance with clause 55)
 - v. Abandonment of employment.
- c. On notice (or the provision of payment in lieu of notice) during probation.

57.2 Notice on Termination

57.2.1 If the ABC terminates an employee's employment on notice (or the provision of payment in lieu of notice), then the required notice or payment in lieu, other than for redundancy, must be calculated in accordance with the following:

Period of Continuous Service	Period of Notice
For probationary employees up to and including six months	One week
For trainees or cadets more than 6 months	Two weeks
Up to and including 12 months	Two weeks
Over 12 months and under five years	Four weeks
Five years and over	Six weeks

57.2.2 Paragraphs 57.1.1 and 57.2.1 will not apply in the case of

- a. a fixed term or specified task employee, other than employees engaged on Nominated Long Term Specified Task Employment, employees engaged on Nominated Long Fixed Term Employment and employees on Phased Retirement Employment. The ABC may summarily dismiss a fixed term or specified task employee in appropriate circumstances.
- b. a casual employee whose employment ceases when the period for which they were employed has ended.

58. Resignation or Retirement

58.1.1 Unless otherwise agreed between the ABC and the employee, an employee must give the ABC notice of resignation or retirement as follows:

Period of Continuous Service	Period of Notice
Less than three years	Two weeks
Three years, but less than five years	Three weeks
Five years and over	Four weeks

58.1.2 If an employee fails to give the required notice of resignation or retirement in full or in part without the ABC's consent, the employee may specifically

authorise the ABC to deduct from monies due an amount equal to the gross ordinary rate of pay for the notice not worked or not given. Any outstanding balance becomes a debt due to the ABC. Deductions pursuant to this clause are from the employee's gross salary before tax (that is, a week's notice not worked, or not given, will be fully satisfied by the deduction of an amount equal to one week's salary being withheld by the ABC before tax is applied. Where an employee declines to authorise such a deduction, either in full or in part, the remaining amount outstanding equal to the gross ordinary rate of pay for the notice not worked or not given becomes a debt due to the ABC.

Part O Settlement of Grievances and Disputes

59. Personal Grievance Resolution

- 59.1.1 Personal grievances between employees, or between an employee and their manager, will be dealt with in a manner that:
- a. promotes timely resolution in the workplace;
 - b. is fair and equitable, having regard to natural justice, good conscience and the merits of the case.
- 59.1.2 Consistent with these principles, personal grievances will be dealt with in accordance with the ABC Grievance Resolution Guidelines, as amended from time to time.

60. Prevention and Resolution of Disputes

60.1 General

- 60.1.1 Subject to the exceptions in subclause 60.2, if a dispute relates to:
- a. a matter arising under this Agreement; or
 - b. the National Employment Standards; or
 - c. the application of the Recruitment and Selection Guidelines as in place from time to time;
 - d. the application of the Performance Management Guidelines as in place from time to time,
- this term sets out procedures to settle the dispute.
- 60.1.2 An employee who is a party to the dispute may appoint a representative for the purpose of the procedures in this term.
- 60.1.3 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.
- 60.1.4 If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the Fair Work Commission.
- 60.1.5 The Fair Work Commission may deal with the dispute in two stages:
- a. the Fair Work Commission 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 the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
 - i. arbitrate the dispute; and
 - ii. make a determination that is binding on the parties.

60.1.6 While the parties are trying to resolve the dispute using the procedures in this term, 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 and safety. In which case, the employee must comply with a direction given by the ABC to perform other available work at the same workplace, or at another workplace, unless:

- a. the work is not safe; or
- b. applicable work health safety legislation would not permit the work to be performed; or
- c. the work is not appropriate for the employee to perform; or
- d. there are other reasonable grounds for the employee to refuse to comply with the direction.

60.1.7 The parties to the dispute agree to be bound by a decision of the Fair Work Commission in accordance with this term, provided that a party to the dispute may appeal the decision to a Full Bench of the Fair Work Commission in accordance with section 604 of the Act.

60.2 Exceptions to subclause 60.1

60.2.1 The disputes procedure in subclause 60.1 does not apply to a dispute about subsection 65(5) or 76(4) of the Act.

60.2.2 The disputes procedure in subclause 60.1 does not apply to disputes regarding:

- a. a salary outcome or rating of an Appraisal, or
- b. an employee who believes that they have regularly been performing, and were required to perform, tasks beyond the level specified in their Job Plan.

These disputes will be dealt with in accordance with subclause **60.4 Reconsideration and Appeal Against an Appraisal Decision.**

60.2.3 The disputes procedure in subclause 60.1 does not apply to a dispute regarding a Selection Decision under clause 13. These disputes will be dealt with in accordance with subclause **60.3 – Right of Appeal Against a Selection Decision.** However, a party to the dispute may still refer the matter to

the Fair Work Commission for conciliation only, independently of subclause 60.3.

60.3 Right of Appeal Against a Selection Decision

60.3.1 Subclauses 60.1.1 to 60.1.3 apply to a dispute regarding a Selection Decision. Once those steps have been followed, the provisions below will apply.

60.3.2 An ABC employee, who is an applicant for a vacancy which has been the subject of a Selection Panel assessment, may apply to the Fair Work Commission for it to deal with a dispute which is an appeal against Selection Decision where that decision is based on any alleged:

- a. non-observance of due process;
- b. unlawful discrimination;
- c. patronage or favouritism by a Selection Panel.

60.3.3 An application by an ABC employee must be in the form prescribed by the Act.

60.3.4 The application must be lodged within 7 days after the date of notification to an employee that he/she has been unsuccessful in his/her application for the position in question.

60.3.5 There is no right of appeal against:

- a. a Selection Decision based on merit;
- b. a Selection Decision to a position involving a joint venture;
- c. a Selection Decision involving an external appointment; or
- d. a Selection Decision in respect of a vacancy where the vacancy duration is 12 months or less.

60.3.6 On receipt of an application for a dispute resolution process under this clause, the Fair Work Commission will establish a Selection Committee Assessment Panel. The Panel will be comprised of three people:

- a. an independent chairperson nominated by the Fair Work Commission;
- b. a person nominated by the ABC; and
- c. the appellant's nominee who must be from outside the appellant's work area.

If the appellant does not appoint to the Selection Committee Assessment Panel a nominee from outside their work area within 14 days, then the ABC may appoint a person from outside the appellant's work area.

60.3.7 The Panel can only consider the due process of the selection in accordance with clause 13 and this subclause 60.3 and not the question of merit. The

Panel will determine the matter within 21 days of receiving the appeal and will provide reasons for their decision in writing. The burden of proof will rest with the appellant.

60.3.8 Where the Panel determines that due process was not observed and that the non-observance had an adverse or detrimental impact on the selection process, the appeal will be upheld and the Selection Decision declared void. If the vacancy is to be filled, the ABC will convene a new selection committee and observe due process. The ABC will retain the right to appoint the employee of its choice in an acting capacity, pending the determination of the appeal.

60.3.9 Where the appeal has been disallowed, the selection is automatically confirmed.

60.3.10 The provisions of subclause 60.1.6 will apply during the process under this subclause 60.3.

60.4 **Reconsideration and Appeal Against an Appraisal Decision**

60.4.1 Notwithstanding employees' right of appeal under the provisions of this subclause, it is expected that an employee will raise any matter of concern regarding their Job Plan or performance feedback as soon as it arises during the cycle.

60.4.2 If an employee disagrees with their appraisal rating, or an employee in Bands 1 - 8 disagrees with the salary outcome of their appraisal or believes both that they have been regularly performing and were required to perform tasks beyond the level specified in their Job Plan, (**Appraisal Concerns**), in the first instance the employee should raise this with their Manager/Supervisor for discussion in an effort to resolve their concerns.

60.4.3 If the employee's discussions with their Manager/Supervisor do not resolve the Appraisal Concerns, the employee may, within 14 days of the Appraisal Outcome write to ABC People to seek a Reconsideration. The employee will state the reasons they consider the rating or Job Plan was unfair or failed to take into account relevant factors. The employee may provide material in support of the request for reconsideration, including information from two referees.

60.4.4 ABC People will consider all relevant information, including, without limitation, material provided by the employee in support of the request for reconsideration and information based on ABC People's own enquiries, and make a

recommendation to the Director of the relevant ABC Division, or their delegate, as to whether the original decision should be upheld or changed.

60.4.5 The Director, or their delegate, will advise the employee of the ABC People recommendation within 30 days of their receipt of the recommendation from ABC People.

60.4.6 The Director, or their delegate, will either reject or accept the ABC People recommendation (**Directors Decision**) within 30 days and advise the employee of their decision. If ABC People recommend that the original decision should be changed, and the Director or delegate rejects the recommendation from ABC People, they will provide the employee with a written statement which clearly outlines the reasons for rejecting the ABC People recommendation within 30 days of their receipt of the recommendation from ABC People.

60.4.7 If the employee is dissatisfied with the Director's or delegate's decision, the employee can, within 30 days of being advised of the outcome, refer the decision of a Director or delegate made under 60.4.6 to Fair Work Commission for binding recommendation if the employee can establish that the Director or delegate in making the decision:

- a. overlooked or breached a provision of this Agreement, or
- b. allowed extraneous or irrelevant matters to guide his or her decision;
- c. mistook the facts; or
- d. failed to take into account a material consideration,

provided that the employee must do so within 120 calendar days after the date the Director or delegate advises the employee of their decision under 60.4.6.

60.4.8 In considering whether a Director or delegate has made an error in his or her decision in accordance with clauses 60.4.6, the Fair Work Commission may:

- a. only have regard to the material that was before the Director or delegate at the time of making the decision or recommendation;
- b. make such determination as necessary to correct any established error; and
- c. not substitute its own decision for that of the Director or delegate.

60.4.9 The provisions of subclause 60.1.6 will apply during the process under this subclause 60.4.

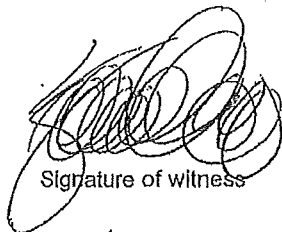
EXECUTED As an Agreement

SIGNED for and on behalf of the
AUSTRALIAN BROADCASTING CORPORATION
by an authorised officer in the presence of:

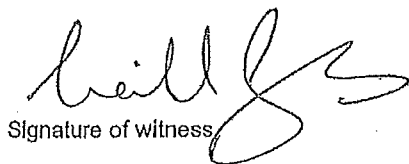

Signature of witness

Rebekah Donaldson
Name of witness

SIGNED for and on behalf of the
EMPLOYEES
by an authorised representative in the presence of:


Signature of witness

Loch van der Zee
Name of witness


Signature of witness

Neill Jones
Name of witness

Signature of authorised officer



Name of authorised officer (print)

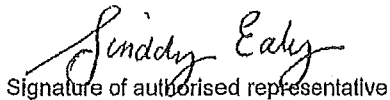
David Anderson

Address of authorised officer

700 Harris Street, Ultimo, NSW 2007

Office held

Managing Director, ABC


Signature of authorised representative

Sindy Ealy
Name of authorised representative
(print)

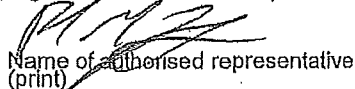
191-199 Thomas Street
Haymarket, NSW 2000

Address of authorised representative

ABC Section Secretary

Office held

Signature of authorised representative


Name of authorised representative
(print)

Paul Murphy

Address of authorised representative

245 Chalmers St Redfern 2016, NSW

Office held

Chief Executive

Media Entertainment & Arts Alliance

Schedule A Salary Rates

Schedule A 2019		First full pay period to commence in		
		Oct-19 2.0%	Oct-20 2.0%	Oct-21 2.0%
Band 9	Min. Rate	\$119,011	\$121,391	\$123,819
Band 8	Pt. 40	\$114,909	\$117,207	\$119,551
	Pt. 39	\$111,267	\$113,492	\$115,762
	Pt. 38	\$108,842	\$111,019	\$113,239
	Pt. 37	\$106,426	\$108,554	\$110,725
	Pt. 36	\$104,006	\$106,086	\$108,208
Band 7	Pt. 35	\$101,588	\$103,620	\$105,692
	Pt. 34	\$99,171	\$101,154	\$103,177
	Pt. 33	\$96,748	\$98,683	\$100,657
	Pt. 32	\$94,319	\$96,216	\$98,150
	Pt. 31	\$91,879	\$93,737	\$95,631
Band 6	Pt. 30	\$89,446	\$91,965	\$94,480
	Pt. 29	\$87,011	\$89,522	\$92,037
	Pt. 28	\$84,575	\$87,079	\$89,593
	Pt. 27	\$82,136	\$84,636	\$87,149
	Pt. 26	\$79,697	\$82,192	\$84,705
Band 5	Pt. 25	\$77,258	\$79,815	\$82,371
	Pt. 24	\$74,819	\$77,376	\$79,932
	Pt. 23	\$72,380	\$74,937	\$77,493
	Pt. 22	\$69,941	\$72,498	\$75,054
Band 4	Pt. 21	\$67,502	\$70,059	\$72,616
	Pt. 20	\$65,063	\$67,620	\$70,177
	Pt. 19	\$62,624	\$65,181	\$67,738
	Pt. 18	\$60,185	\$62,742	\$65,299
	Pt. 17	\$57,746	\$60,303	\$62,860
Band 3	Pt. 16	\$55,307	\$57,864	\$60,421
	Pt. 15	\$52,868	\$55,425	\$57,982
	Pt. 14	\$50,429	\$52,986	\$55,543
	Pt. 13	\$47,990	\$50,547	\$53,104
Band 2	Pt. 12	\$45,551	\$48,108	\$50,665
	Pt. 11	\$43,112	\$45,669	\$48,226
	Pt. 10	\$40,673	\$43,230	\$45,787
	Pt. 9	\$38,234	\$40,791	\$43,348
	Pt. 8	\$35,795	\$38,352	\$40,909
Band 1	Pt. 7	\$33,356	\$35,913	\$38,470
	Pt. 6	\$30,917	\$33,474	\$36,031
	Pt. 5	\$28,478	\$31,035	\$33,592
	Pt. 4	\$26,039	\$28,596	\$31,153
	Pt. 3	\$23,600	\$26,157	\$28,714
	Pt. 2	\$21,161	\$23,718	\$26,275
	Pt. 1	\$18,722	\$21,279	\$23,836

Salary rate defined for the purposes of subclause 21.4 of the Agreement.

Rate "a"	\$182,389	\$186,037	\$189,758
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Schedule B Salary Rates

Schedule B 2019		First full pay period to commence in		
		Oct-19 2.0%	Oct-20 2.0%	Oct-21 2.0%
Band 9	Min. Rate	\$123,652	\$126,125	\$128,647
Band 8	Pt. 40	\$119,552	\$121,943	\$124,382
	Pt. 39	\$115,906	\$118,224	\$120,588
	Pt. 38	\$113,486	\$115,756	\$118,071
	Pt. 37	\$111,070	\$113,291	\$115,557
	Pt. 36	\$108,651	\$110,824	\$113,041
Band 7	Pt. 35	\$106,233	\$108,358	\$110,525
	Pt. 34	\$103,816	\$105,892	\$108,010
	Pt. 33	\$101,395	\$103,423	\$105,492
	Pt. 32	\$99,462	\$101,451	\$103,481
	Pt. 31	\$97,525	\$99,476	\$101,465
Band 6	Pt. 30	\$95,209	\$97,113	\$99,055
	Pt. 29	\$93,272	\$95,137	\$97,040
	Pt. 28	\$91,341	\$93,168	\$95,031
	Pt. 27	\$89,529	\$91,320	\$93,146
	Pt. 26	\$87,345	\$89,092	\$90,873
Band 5	Pt. 25	\$85,537	\$87,248	\$88,993
	Pt. 24	\$83,715	\$85,390	\$87,098
	Pt. 23	\$81,903	\$83,541	\$85,212
	Pt. 22	\$79,998	\$81,598	\$83,229
Band 4	Pt. 21	\$78,097	\$79,659	\$81,252
	Pt. 20	\$76,186	\$77,710	\$79,264
	Pt. 19	\$74,156	\$75,639	\$77,152
	Pt. 18	\$72,126	\$73,569	\$75,040
	Pt. 17	\$70,089	\$71,491	\$72,921
Band 3	Pt. 16	\$68,066	\$69,427	\$70,815
	Pt. 15	\$66,038	\$67,359	\$68,706
	Pt. 14	\$64,191	\$65,474	\$66,784
	Pt. 13	\$62,402	\$63,650	\$64,923
Band 2	Pt. 12	\$60,603	\$61,815	\$63,052
	Pt. 11	\$58,813	\$59,989	\$61,189
	Pt. 10	\$57,373	\$58,520	\$59,691
	Pt. 9	\$55,938	\$57,057	\$58,198
	Pt. 8	\$54,499	\$55,589	\$56,700
Band 1	Pt. 7	\$53,063	\$54,125	\$55,207
	Pt. 6	\$51,311	\$52,337	\$53,384
	Pt. 5	\$49,797	\$50,793	\$51,809
	Pt. 4	\$48,607	\$49,579	\$50,571
	Pt. 3	\$47,405	\$48,353	\$49,320
	Pt. 2	\$46,213	\$47,137	\$48,080
	Pt. 1	\$45,011	\$45,911	\$46,829

Salary rate defined for the purposes of subclause 21.4 of the Agreement.

Rate "a"	\$182,389	\$186,037	\$189,758
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Schedule C Allowances

This schedule sets out rates of allowance effective as at the date of this Agreement.
Rates will be reviewed on an annual basis.

1. Meal Allowance

- (a) When an employee is entitled to a meal allowance under clause 28, this allowance will be \$20.

2. Private Vehicle Allowance

<i>Engine Capacity (Non-Rotary)</i>	<i>Engine Capacity (Rotary Engine)</i>	<i>Rate Per Kilometre Travelled</i>
Above 2,600cc	Above 1,300cc	70 cents
1,601 to 2,600cc	801 to 1,300cc	69 cents
1,600 and under	800cc and under	58 cents

An additional 0.76 cents per kilometre is payable where an employee is authorised to transport passengers or transport/haul goods or materials – 100 kilograms or greater, the cost of which would otherwise be met by the ABC.

3. District Allowance

<i>Locality</i>	<i>With Eligible Dependents Rate per year *</i>	<i>Without Dependents Rate per year</i>
Broken Hill, Kalgoorlie, Esperance, Cairns, Townsville	\$1,510	\$760
Darwin, Katherine, Alice Springs, Longreach, Mt Isa	\$3,650	\$1,990
Karratha, Broome	\$4,940	\$2,800
Kununurra	\$7,260	\$4,940

* To qualify, the partner must have earnings below the National Minimum Wage.

4. Television Clothing Allowance

- (a) An employee who is identified by News and Current Affairs as working regularly before the camera will receive an annual allowance of \$1,075.
- (b) An employee not covered by (a) who appears before the camera on three or more days per week will receive a weekly allowance of \$13.20.

(c) An employee not covered by (a) who appears before the camera once or twice per week will receive a weekly allowance of \$8.80.

5. **First Aid Allowance:** \$18.50 per fortnight.

Schedule D Meal Allowance Transition and Compensation Provisions

1. Definitions

For the purpose of this Schedule:

Relevant Date means 5 November 2013, the commencement date of the ABC Enterprise Agreement 2013 – 2016 (2013 EA).

Eligible Employee means an employee who satisfies both of the following conditions:

- (a) they were employed by the ABC, and covered by the 2013 EA, as at the Relevant Date; and
- (b) they were paid a meal allowance in the 12 months prior to the Commencement Date.

Meal Allowance Changes means:

the changes to meal allowance arrangements implemented the 2013 EA, being:

- (a) the change in clause 29.1.1(b) from 12 noon to 11 am;
- (b) the reduction of the meal allowance from \$27.10 to \$20.

Potential Lost Meal Allowance means the gross amount by which an employee's gross meal allowance payments would have been reduced in Year 1 if the Meal Allowance Changes had been made in Year 1.

Year 1 means the 12 month period starting on the first full pay period on or after 1 July 2013 and **Year 2** means the 12 month period starting on the first full pay period on or after 1 July 2014.

2. Special Allowance

- (a) At the end of Year 1, the ABC calculated the Potential Lost Meal Allowance for each Eligible Employee.
- (b) If the Potential Lost Meal Allowance for the Eligible Employee exceeded \$150 for Year 1, the employee became and remains entitled to be paid an ongoing special allowance from the commencement of Year 2 unless and until the employee changed roles or ceased working the shifts which would have otherwise entitled them to the Meal Allowance under the 2013 EA.
- (c) The ongoing special allowance is the Potential Lost Meal Allowance less \$150 and will be pro-rated and paid in each fortnightly pay period, while

the employee remains entitled to receive it. *Example: If an employee's Potential Lost Meal Allowance is \$1000 for Year 1, the employee will receive an ongoing special allowance of \$32.59 each fortnight from the start of Year 2 while they remain eligible for the allowance (ie. $(1000-150) \times 12 / 313$).*

- (d) The ongoing special allowance is not payable when an employee is absent on;
 - i. unpaid leave;
 - ii. long service leave; or
 - iii. a period of personal/carer's leave which exceeds one month per annum.

3. Buyouts (during and beyond the nominal term of the Agreement)

For those employees who have a buyout as at the Relevant Date but would otherwise have been an Eligible Employee, the following applies:

- (a) the ABC will not reduce that employee's buyout arrangement on account of the Meal Allowance Changes; and
- (b) if that employee's buyout is terminated for any reason, then clause 2 will apply to them from the date the buyout is terminated (with the Potential Lost Meal Allowance still being calculated by reference to Year 1).

Schedule E Darwin Airfares

1. Schedule A employees who commence employment with the ABC in Darwin on or after 1 July 1998 and Schedule B employees who commence employment with the ABC in Darwin on or after 4 July 2000 are not eligible for Isolated Locality Airfares under the ABC Isolated Locality Assistance Policy.
2. Employees employed by the ABC as at 30 June 1998 (Schedule A) or 3 July 2000 (Schedule B) shall continue to be eligible for Isolated Locality Airfares in the terms set out in 3 below while they remain employed by the ABC in Darwin. This entitlement will cease on the termination of their employment or their transfer to a permanent position in another State. Provided that where an employee accepted the buyout of their entitlement offered to them on 18 June 1998 their entitlement ceased from the date of acceptance.
3. Eligible employees may take their entitlement to Isolated Locality Airfares as either:
 - (a) An airfare for themselves and each of their dependents up to the value of a full economy return airfare to Adelaide. This airfare is to be booked through the ABC's account with its travel provider and will be paid directly by the ABC. There is no cash component to this.
 - (b) A taxable lump sum payment equal to the cash value of a full economy return airfare to Adelaide for them and their dependants plus a 35% loading. This lump sum is fully taxable and will be paid through the ABC payroll system.
 - (c) A Private Vehicle Allowance as per the rate in Schedule C where the employee chooses to travel by their motor vehicle on leave. Provided that the maximum paid shall be no more than the cost of a full economy return airfare to Adelaide for them and their dependants. Employees who take this option must provide full documentation on their return to prove that they undertook the journey. Such proof would be receipts for accommodation and petrol between Darwin and their destination and return.
4. **Alice Springs**

Employees in Alice Springs will continue to receive Isolated Locality Airfares in accordance with clause 33.2.1 of the Agreement. However employees in Alice Springs may choose, should they wish, to take this entitlement as a taxable lump sum payment equal to the cash value of a full economy return airfare from Alice Springs to Adelaide for them and their dependents plus a 35% loading paid through the ABC payroll system.

Schedule F Employees Eligible for a Supported Wage

This schedule details the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this agreement.

Definitions:

Supported Wage System means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System: Guidelines and Assessment Process, as varied or replaced from time to time.

Accredited Assessor means a person accredited by the managing unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.

Disability Support Pension means the Commonwealth pension scheme to provide income security for persons with a disability as provided for under the Social Security Act 1991, as amended from time to time, or any successor to that scheme.

Assessment instrument means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

Eligibility Criteria

This schedule applies to those employees who meet the impairment criteria test for a Disability Support Pension and are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this agreement because of the effects of a disability on their productive capacity.

The clause does not apply to any existing employee who has a claim against the employer which is subject to the provision of workers' compensation legislation or any provision of this agreement relating to the rehabilitation of employees who are injured in the course of their employment.

Supported Wage Rates

Employees to whom this schedule applies shall be paid the applicable percentage of the minimum rate of pay prescribed by this agreement for the class of work which the person is performing according to the following schedule:

Assessed Capacity	% of Prescribed Agreement Rate
10%	10%*
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

Provided that the minimum amount payable shall be not less than \$50 per week.

* Where a person's assessed capacity is 10%, they shall receive a high degree of assistance and support.

Assessment of Capacity

For the purpose of establishing the percentage of the rate to be paid to an employee under this agreement, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument, by an accredited assessor.

Review of Assessment

The assessment of the applicable percentage should be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.

Other Terms and Conditions of Employment

Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the provisions of the clause will be entitled to the same terms and conditions of employment as all other workers covered by this agreement paid on a pro rata basis.

Trial Period

In order for an adequate assessment of the employee's capacity to be made the ABC may employ a person under the provisions of this clause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.

During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined.

The minimum amount payable to the employee during the trial period shall be no less than \$50 per week.

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Schedule 2.2—Model flexibility term

(regulation 2.08)

Model flexibility term

- (1) An employer and employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
 - (a) the agreement deals with 1 or more of the following matters:
 - (i) arrangements about when work is performed;
 - (ii) overtime rates;
 - (iii) penalty rates;
 - (iv) allowances;
 - (v) leave loading; and
 - (b) the arrangement meets the genuine needs of the employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
 - (c) the arrangement is genuinely agreed to by the employer and employee.
- (2) The employer must ensure that the terms of the individual flexibility arrangement:
 - (a) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
 - (b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
 - (c) result in the employee being better off overall than the employee would be if no arrangement was made.
- (3) The employer must ensure that the individual flexibility arrangement:
 - (a) is in writing; and
 - (b) includes the name of the employer and employee; and
 - (c) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
 - (d) includes details of:

- (i) the terms of the enterprise agreement that will be varied by the arrangement; and
 - (ii) how the arrangement will vary the effect of the terms; and
 - (iii) 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
 - (e) states the day on which the arrangement commences.
- (4) The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- (5) The employer or employee may terminate the individual flexibility arrangement:
- (a) by giving no more than 28 days written notice to the other party to the arrangement; or
 - (b) if the employer and employee agree in writing—at any time.