



# DECISION

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

**Australian Skills Quality Authority**  
(AG2017/3547)

## **AUSTRALIAN SKILLS QUALITY AUTHORITY ENTERPRISE AGREEMENT 2017-2020**

Commonwealth employment

DEPUTY PRESIDENT KOVACIC

CANBERRA, 3 NOVEMBER 2017

*Application for approval of the Australian Skills Quality Authority Enterprise Agreement 2017-2020.*

[1] An application has been made for approval of an enterprise agreement known as the *Australian Skills Quality Authority Enterprise Agreement 2017-2020* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Australian Skills Quality Authority. The Agreement is a single enterprise agreement.

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

[3] As noted, pursuant to s.190(3), I have accepted undertakings from Australian Skills Quality Authority. In accordance with s.191(1) of the Act the undertakings are taken to be a term of the Agreement. A copy of the undertakings are attached to this decision.

[4] The CPSU, the Community and Public Sector Union being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) I note that the Agreement covers the organisation.

**[5]** The Agreement is approved and, in accordance with s.54 of the Act, will operate from 10 November 2017. The nominal expiry date of the Agreement is 10 November 2020.



DEPUTY PRESIDENT

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Annexure A

Australian Skills Quality Authority Enterprise Agreement 2017 - 2020  
Undertaking

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The Australian Skills Quality Authority makes the following undertaking in relation to the *Australian Skills Quality Authority Enterprise Agreement 2017 - 2020*.

The pattern of hours for a part-time employee will provide for no less than three hours per day (or an alternative period agreed by the Chief Commissioner and Chief Executive Officer and the employee) and will be continuous on any one day.



Mark Paterson AO  
**Chief Commissioner and  
Chief Executive Officer  
Australian Skills Quality Authority**

2 November 2017

**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.**

# **AUSTRALIAN SKILLS QUALITY AUTHORITY**

## **ENTERPRISE AGREEMENT**

**2017 – 2020**

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## **PART A. TECHNICAL MATTERS**

### **1 Title of this Agreement**

- 1.1 This Agreement shall be known as the Australian Skills Quality Authority Enterprise Agreement 2017 - 2020.

### **2 Coverage**

- 2.1 This Agreement is made under Section 172 of the Fair Work Act. In accordance with Section 53 of that Act, the Agreement covers:
- (a) the Chief Executive Officer of ASQA on behalf of the Commonwealth as the employer;
  - (b) all employees of ASQA engaged under the Public Service Act excluding the Chief Executive Officer, Commissioners and any Senior Executive Service employees; and
  - (c) the CPSU if the FWC notes in its decision that this Agreement covers that union.

### **3 Commencement and duration**

- 3.1 This Agreement commences seven days after it has been approved by the Fair Work Commission. This date will be the Commencement Date.
- 3.2 The nominal expiry date is three years after the Commencement Date.

### **4 Delegations**

- 4.1 All powers, functions and authorities of ASQA in this Agreement are held by the Chief Executive Officer.
- 4.2 The Chief Executive Officer may, by instrument in writing, delegate or authorise to a person, any of the Chief Executive Officer's powers, functions or authorities under this Agreement, excluding his power to delegate or authorise. The Chief Executive Officer may issue instructions relating to the exercise of a delegated authority or function.



## PART B. FLEXIBILITY

### 5 Flexibility Arrangements

- 5.1 The Chief Executive Officer and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of this Agreement if:
- (a) the arrangement deals with one or more of the following matters:
    - (i) arrangements about when work is performed;
    - (ii) overtime rates;
    - (iii) penalty rates;
    - (iv) allowances;
    - (v) remuneration; and/or
    - (vi) leave; and
  - (b) the arrangement meets the genuine needs of ASQA and the employee in relation to one or more of the matters mentioned in paragraph (a); and
  - (c) the arrangement is genuinely agreed to by the Chief Executive Officer and the employee.
- 5.2 The Chief Executive Officer must ensure that the terms of an individual flexibility arrangement:
- (a) are about permitted matters under section 172 of the Fair Work Act; and
  - (b) are not unlawful terms under section 194 of the Fair Work Act; and
  - (c) result in the employee being better off overall than the employee would be if no arrangement was made.
- 5.3 The Chief Executive Officer must ensure that the individual flexibility arrangement:
- (a) is in writing; and
  - (b) includes the name of ASQA and the employee; and
  - (c) is signed by the Chief Executive Officer or his or her delegate and the 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 this 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 and, where applicable, when the arrangement ceases.
- 5.4 The Chief Executive Officer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 5.5 The Chief Executive Officer or employee may terminate the individual flexibility arrangement:
- (a) by giving 28 days written notice to the other party to the arrangement; or

- (b) if the Chief Executive Officer and employee agree in writing – at any time.

## 6 Requests for Flexible Working Arrangements

- 6.1 An employee who is a parent, or has responsibility for the care, of a child under school age or a child under 18 who has a disability, may request flexible working arrangements, including part-time hours. The employee is not eligible to make this request unless he or she has completed at least 12 months of continuous qualifying service (the Chief Executive Officer may waive this requirement in exceptional circumstances).
- 6.2 The parties note that employees may request flexible working arrangements in a wider range of circumstances under Section 65 of the Fair Work Act, including where the employee is the parent, or has responsibility for the care, of a child who is of school age or younger.
- 6.3 A casual employee may only request flexible work arrangements if the employee:
  - (a) is a long term casual employee immediately before making the request; and
  - (b) has a reasonable expectation of continuing employment on a regular and systematic basis.

*Note: 'long term casual employee' is defined at s.12 of the Fair Work Act*

- 6.4 A request made in accordance with clause 6.1 must be in writing and set out the details of the change sought and the reasons for the change. The Chief Executive Officer will respond in writing to the request within 21 days and will only refuse on reasonable business grounds. Where the request is refused, the response will include reasons for the refusal.
- 6.5 For the purposes of this Section:
  - (a) 'qualifying service' means service that is recognised for redundancy purposes; and
  - (b) 'casual' means an employee engaged on an irregular or intermittent basis.

## 7 Home Based Work

- 7.1 Employees may seek approval to work from home for short or long term periods.
- 7.2 The Chief Executive Officer may issue policies and guidelines relating to home based work to set out the circumstances in which home based work may be considered and expectations and obligations on the employee and ASQA where home based work is approved.

## 8 Outside Employment

- 8.1 All employees must seek approval from the Chief Executive Officer to run a business or be engaged in any paid or unpaid work outside ASQA. Such approval may be withheld in circumstances where there is a real or perceived conflict of interest or the outside employment is likely to have, or is having a detrimental effect on the employee's work at ASQA.
- 8.2 Employees must declare to the Chief Executive Officer any shares, business transactions or relationship they may have with a Registered Training Organisation or consulting auditor. The Chief Executive Officer may require an employee to take reasonable actions required to avoid any perceived conflict of interest.
- 8.3 Any approval of outside employment by ASQA before the Commencement Date will continue under this Agreement unless revoked by the Chief Executive Officer.

## **PART C. REMUNERATION**

### **9 Pay rates**

- 9.1 The pay rates for ASQA employees are included in Appendix 1 of this Agreement.
- 9.2 Where the provisions of this Part are inconsistent with the pay rates specified in Appendix 1, the provisions of this Part prevail.

### **10 Junior rates of pay**

- 10.1 Junior rates of pay may apply to employees under 21 years of age holding the APS Level 1 classification as follows:
- (a) under 18 years - 60% of the minimum pay point
  - (b) at 18 years - 70% of the minimum pay point
  - (c) at 19 years - 81% of the minimum pay point
  - (d) at 20 years - 91% of the minimum pay point

### **11 Method of payment**

- 11.1 Employees will be paid fortnightly in arrears and the fortnightly rate of pay will be calculated using the following formula:

$$\text{Fortnightly pay} = \text{Annual Salary} \times 12/313$$

### **12 Salary increases**

- 12.1 The pay rates that will apply from the Commencement Date are specified in Appendix 1.
- 12.2 All employees covered by this Agreement will receive:
- (a) a 3 per cent pay increase from the Commencement Date;
  - (b) a 2 per cent pay increase 12 months after the Commencement Date;
  - (c) a 1 per cent pay increase 18 months after the Commencement Date.
- 12.3 Where an employee's pay rate is higher than the maximum pay point for the employee's classification and this is a consequence of the employee moving to ASQA under Section 72 of the Public Service Act during the period 1 July 2011 to 30 June 2013, the employee will receive the pay increases specified in clause 12.2.

### **13 Non-ongoing employees loading in lieu of leave**

- 13.1 Non-ongoing employees who are engaged on an irregular or intermittent basis shall receive a 20 per cent loading on their salary in lieu of access to all forms of paid leave (other than Long Service Leave) and payment for public holidays on which the employee is not required to work.

### **14 Salary on commencement, transfer or promotion**

- 14.1 Where an employee is promoted or engaged, salary will be payable at the minimum pay point of the salary range applicable to the classification of the position. The Chief Executive Officer may authorise payment of salary above that pay point having regard to the experience, qualifications or skills of the employee.

- 14.2 Where a person transfers to ASQA at the same or equivalent classification level and his or her substantive salary at the employee's former agency is higher than the highest ASQA pay point, the Chief Executive Officer may elect to continue to pay the employee at the employee's salary at his or her former agency on commencement with ASQA. Where the Chief Executive Officer so elects:
- (a) the employee will not receive any pay increases otherwise provided for under this Agreement until the highest ASQA pay point is equal to or higher than the employee's salary that was continued under this clause; and
  - (b) once the highest ASQA pay point is equal to or higher than the employee's salary that was continued under this clause, the employee will move to that pay point and will then be entitled to pay increases applicable to that pay point.
- 14.3 Where a person transfers to ASQA at the same or equivalent classification level and his or her substantive salary is between the lowest and highest ASQA pay point but is not equal to any of the ASQA pay points, the employee's salary will be increased to the next highest ASQA pay point.
- 14.4 The Chief Executive Officer may determine the correct pay point to apply to a person's salary on commencement or correct any anomaly or misunderstanding that may have occurred.

## **15 Salary on reduction**

- 15.1 Where an employee is transferred to a lower classification level, either on a permanent or temporary basis, the employee will be paid at the lower classification level. The pay point of the employee will be determined by the Chief Executive Officer based on the employee's experience and skills.

## **16 Salary packaging**

- 16.1 Employees may package salary and allowances payable as salary except that any compulsory superannuation contribution will still be required to be paid by the employee.
- 16.2 The Chief Executive Officer will determine the circumstances in which salary and allowances may be salary packaged.
- 16.3 Where employees take up the option of salary packaging, the employee's salary for purposes of superannuation, severance and termination payments, and for any other purposes, will be determined as if the salary packaging arrangements had not occurred.
- 16.4 Any fringe benefits tax payable as a result of a salary packaging arrangement will be met by the individual employee.
- 16.5 Employees are responsible for the payment of any administration fees charged by the salary packaging administrator.

## **17 Superannuation**

- 17.1 For employees who are members of CSS, PSS or PSSap, ASQA will make compulsory employer contributions as required by the applicable legislation and fund requirements. Superannuation contributions will be based on the fortnightly superannuation contribution salary.
- 17.2 Where an employee has chosen an accumulation superannuation fund other than the PSSap, ASQA will pay the same employer contributions to that fund as if the employee was a member of PSSap (that is, the same prescribed percentage of what would be the employee's 'fortnightly contribution salary' if the employee came under the PSSap Trust Deed). This will

not be reduced by any other contributions made through salary sacrifice arrangements. This clause does not apply where a superannuation fund cannot accept employer superannuation contributions (e.g. unable to accept contributions for people aged over 75).

- 17.3 At the time of commencement of this Agreement the rate of PSSap employer contribution is 15.4 per cent.
- 17.4 Employer superannuation contributions will not be paid on behalf of employees during periods of unpaid leave that does not count as service, unless otherwise required under legislation.

## **18 Supported Salary for Employees with Disability**

- 18.1 Employees who have disability to the extent that they meet the impairment criteria for the Disability Support Pension (DSP) may be employed under this Agreement and be paid a supported salary, appropriate to the classification in which they are employed, determined in accordance with the procedures and provisions included in Appendix 2.

## **PART D. CLASSIFICATION STRUCTURE AND ADVANCEMENT**

### **19 Classification Structure**

19.1 The ASQA classification structure is outlined in Appendix 1. The Appendix gives effect to the removal of pay point 1 in each classification that occurred under the previous Agreement.

### **20 Salary advancement**

20.1 An employee will advance by one pay point from 1 July where the employee has been:

- (a) at his or her pay point for a total of at least six months at 30 June in that year (excluding any unpaid leave that does not count as service or any unauthorised absence);
- (b) assessed as either consistently achieves or mostly achieves expectations during the previous 12 months; and
- (c) the employee is not already at or above the highest pay point for his or her classification.

20.2 Where an employee has been on higher duties for at least six months during the previous 12 months and satisfies all of the criteria for advancement set out in clause 20.1, he or she will advance to a higher pay point for higher duties purposes. In this instance, the employee's pay point at his or her substantive level may also increase subject to the employee satisfying the criteria set out in clause 20.1 at the substantive level.

### **21 Trainees**

21.1 ASQA may engage a person as a Trainee APS (Administrative).

21.2 When the Chief Executive Officer is satisfied that the course of training has been successfully completed, a Trainee APS (Administrative) will be allocated a classification in accordance with the APS Classification Rules and the Chief Executive Officer will determine a salary within the applicable range.

21.3 For avoidance of doubt, Trainees are not covered by the provisions of Part C other than Sections 11 and 17.

21.4 A Trainee APS (Administrative) will be paid the same as the pay rates specified in Schedule D (National Training Wage) of the *Australian Public Service Enterprise Award 2015*.

### **22 Temporary assignment of higher duties**

22.1 Where an employee is required by the Chief Executive Officer to undertake a job at a higher classification level for a temporary period of at least one week, he or she will be paid at the higher level for the entire period.

22.2 Payment during a period of Long Service Leave will be made in accordance with the Long Service Leave Act. Payment at the higher level shall continue during any other period of paid leave, or in respect of public holidays, where the employee continues to work at the higher level following completion of the leave or following the public holiday.

22.3 Payment at the higher level shall be at the first pay point unless the employee has been advanced to a higher pay point under the pay point advancement provisions of this Part or as otherwise agreed by the Chief Executive Officer.

## **PART E. PERFORMANCE DEVELOPMENT FRAMEWORK**

### **23 General**

- 23.1 All ASQA employees must participate in the Performance Development Framework (PDF) as developed by ASQA and as varied from time to time.
- 23.2 The link between assessment outcomes under the PDF and pay point advancement is set out in Section 20.
- 23.3 The PDF cycle begins on 1 July of each year and finishes on 30 June of the following year.

### **24 Purpose of the Performance Development Framework**

- 24.1 The purpose of the PDF is to:
  - (a) ensure that all employees are aware of the expectations placed on them relevant to their role and classification, including how these align with ASQA's outcomes;
  - (b) provide a framework for ongoing two-way performance feedback that is regular, honest and constructive;
  - (c) establish a culture whereby the outcomes that are achieved are valued as much as how these outcomes are achieved;
  - (d) provide a framework for career development, recognising that it is a responsibility of both the employee and his or her supervisor; and
  - (e) provide a fair, equitable and objective mechanism for performance assessment.
- 24.2 There are three main phases to the PDF cycle:
  - (a) Performance Agreements are developed for every ASQA employee as an integrated activity in the business planning cycle each year. Performance Agreements will be developed using information from ASQA's Strategic and Operational Plans, the employees work area business plan, the employee's position description and any relevant project plans.
  - (b) The Performance Agreements are required to be in place by mid-August each year.
  - (c) A mid-cycle review must be undertaken between the beginning of January and the end of February of each year to review and discuss the employee's performance and behaviours up to that point against their Performance Agreement.
- 24.3 An end of cycle review is to take place by the end of July each year to review the employee's performance over the full performance and skill development cycle. The employee will be assessed as one of:
  - (a) consistently achieves expectations;
  - (b) mostly achieves expectations; or
  - (c) unsatisfactory.
- 24.4 Where an employee commences in a new position during the performance development cycle a Performance Agreement is required to be developed within four weeks of commencement in the position.
- 24.5 Where an employee undertakes higher duties for a period which is expected to be greater than three months a Performance Agreement is required to be developed within four weeks of commencement of higher duties.

## 25 Managing underperformance

- 25.1 The provisions of this Section do not apply to:
- (a) non-ongoing employees employed for less than 12 months; or
  - (b) ongoing employees during their first six months of employment in the APS.
- 25.2 Where an employee is assessed as *unsatisfactory* under the Performance Development Program or has otherwise been identified as not meeting required standards of work, the Chief Executive Officer may initiate an underperformance management process.
- 25.3 Before the commencement of an under performance process under this Section an informal process, including consideration of suitable development and learning options, will have been undertaken aimed at assisting the employee to achieve the required level of performance.
- 25.4 The underperformance process will be aimed at the recovery of the employee's performance such that he or she is able to continue in employment with ASQA at the same classification level.
- 25.5 Consistent with the aim of the process as specified in clause 25.3, the under performance process will include consideration of suitable development and learning options to assist the employee to meet required standards.
- 25.6 Throughout an underperformance process, the employee will be entitled to provide comments on any relevant documentation, in addition to providing documentation from peers and other parties in support of his or her performance for consideration by the supervisor and/or Chief Executive Officer.
- 25.7 The employee will be entitled to be accompanied by another person of his or her choice, at any meetings at which the employee's performance is being discussed. Where the employee elects to be so accompanied, the person accompanying the employee will be present for support and assistance.
- 25.8 The underperformance process will include an assessment of the employee's work by his or her supervisor over a period that is agreed between the employee and the supervisor. Where the employee and his or her supervisor do not reach agreement on the length of the assessment period, it will be determined by the employee's supervisor based on the length of time that the employee would reasonably require to demonstrate whether the required improvement has been achieved and subject to a minimum of 6 weeks.
- 25.9 Following the completion of an underperformance process, the Chief Executive Officer may:
- (a) take no further action as the employee has met the required standards;
  - (b) extend the assessment period;
  - (c) reduce the employee's classification level;
  - (d) redeploy the employee at the same level; or
  - (e) terminate the employee's employment.



## **PART F. TRAVEL**

### **26 Class of Travel**

26.1 All travel within Australia will be by economy class.

### **27 Travel Allowance**

27.1 Where an employee is required and approved by the Chief Executive Officer to travel on official business and be absent from his or her normal location overnight, the employee will either be paid or reimbursed the reasonable cost of accommodation, meals and incidentals or will be paid an allowance for all or part of those costs.

27.2 The rates for Travel Allowance will be the same as the reasonable rates for travel allowance set by the Australian Taxation Office.

27.3 Travel Allowance will be paid in advance wherever possible by electronic funds transfer to the employee's bank or financial institution account.

### **28 Part Day Travel Allowance**

28.1 Where an employee is required by ASQA to travel away from his or her work locality without a requirement to stay overnight and the employee is away from his or her home for more than ten hours as a direct result of the work requirement, the employee will be paid a part day travel allowance of \$52.15.

### **29 Review Travel Allowance**

29.1 Where an employee is required to temporarily reside in a locality away from home a Review Travel Allowance will be payable after the first 21 calendar days. The Review Travel Allowance will be calculated based on the actual accommodation costs being incurred by the employee and other costs that are considered by the Chief Executive Officer to be reasonable in the circumstances.

29.2 During the first 21 days of temporary residence, the provisions of Section 27 will apply.

29.3 For the purposes of determining when the first 21 calendar days have elapsed under clause 29.1, short returns home or trips to other locations will not break the continuity of the elapsed period.

### **30 Overseas conditions**

30.1 ASQA will reimburse reasonable costs for accommodation, meals and incidentals while on approved travel outside of Australia.

30.2 Wherever possible, employees will be paid an advance for accommodation, meals and incidentals costs associated with overseas travel, subject to any required acquittal of the employee's entitlement on completion of the travel.

## **PART G. ALLOWANCES**

### **31 Motor Vehicle Allowance**

- 31.1 A Motor Vehicle Allowance is payable where an employee is required by the Chief Executive Officer to use his or her private vehicle for work related purposes.
- 31.2 The rates for motor vehicle allowance will be the rates specified by the Australian Taxation Office using the “cents per kilometre” method.

### **32 Additional Responsibilities Allowance**

- 32.1 An employee will be paid an Additional Responsibilities Allowance of \$27.43 per fortnight where the employee:
- (a) holds an appropriate First Aid qualification and the Chief Executive Officer assigns incidental first aid responsibilities to the employee;
  - (b) is appointed as the Chief Fire Warden for his or her workplace or Deputy Fire Warden (where appointed) in workplaces with more than 20 employees; or
  - (c) is the Health and Safety Representative for his or her workplace.
- 32.2 An employee who has more than one of the additional responsibilities described in clause 32.1 will only receive one Additional Responsibilities Allowance.
- 32.3 A part-time employee who meets the eligibility criteria in clause 32.1 will be paid the allowance at a pro rata rate.
- 32.4 The rate for the Additional Responsibilities Allowance will increase by the same percentage as the pay increases provided for under this Agreement as set out in clause 12.2 (b) and (c).

## PART H. HOURS OF WORK

### 33 Ordinary Hours of Work

- 33.1 The ordinary hours of work for a full time employee are 36 hours 45 minutes per week worked within the bandwidth hours except where this is otherwise specified.
- 33.2 The ordinary hours of work for a part time employee are as specified in his or her Part Time Work Agreement.
- 33.3 Employees engaged on an irregular or intermittent basis do not have set ordinary hours of work.

### 34 Recording attendance

- 34.1 All employees at levels below EL1 are required to record their actual time of arrival and departure and any meal breaks or other breaks taken during their working day.
- 34.2 The method of recording attendance will be as determined and advised by the Chief Executive Officer.

### 35 Flextime

- 35.1 Flextime is a system that enables employees to vary their working hours subject to the provisions of this Agreement. Under the flextime system, employees average their ordinary hours of work over an extended period.
- 35.2 Flextime is available to all employees in the APS1 to APS6 levels other than irregular or intermittent employees, unless the Chief Executive Officer removes an employee from the flextime system for a period of time for disciplinary reasons.
- 35.3 The following are standard terms and concepts used in the flextime system:
  - (a) *Bandwidth* is the span of hours within which ordinary hours can be worked. The bandwidth hours are 7.00 a.m. to 7.00 p.m., Monday to Friday.
  - (b) *Flex credit* is a tally of hours an employee has worked under the flextime system that are in excess of his or her ordinary hours of work.
  - (c) *Flex debit* is a tally of hours an employee has worked under the flextime system that are less than his or her ordinary hours of work.
  - (d) *Flex leave* is an approved absence for one or more days other than a form of leave provided for in Part I of this Agreement.
  - (e) *Settlement period* is a four week period that provides the basis for reconciling an employee's actual working hours with his or her ordinary hours of work.
  - (f) *Standard day* is the basis for calculating leave credits and debits and is the working day for employees who have been removed from the flextime system:
    - (i) for full time employees, the standard day is 8.30 a.m. to 4.51 p.m., Monday to Friday, with a one hour lunch break as determined by an employee's supervisor between the hours of 12.00 midday and 2.00 p.m., but normally between 12.30 p.m. and 1.30 p.m.; and
    - (ii) for part-time employees, the standard day is as specified in their part-time work agreement.

- 35.4 Employees working under the flextime system may commence and finish work at any time within the bandwidth hours, subject to the following:
- (a) an employee must attend work unless he or she is on an approved form of leave, including flex leave;
  - (b) for operational reasons, an employee's supervisor may require an employee to:
    - (i) start work no later than a specific time within the standard day;
    - (ii) work up until at least the end of the standard day; or
    - (iii) have a lunch break at a specific time within the period 12.00 midday to 2.00 p.m.;
  - (c) an employee's supervisor may require the employee to not work hours that are outside the standard day where the supervisor does not consider there is sufficient priority work available;
  - (d) an employee must not work more than ten ordinary hours of work in a day – this limit does not include any travel time;
  - (e) an employee should not work for more than five hours without taking a meal break of at least 30 minutes;
  - (f) an employee notifies his or her supervisor where he or she intends to start or finish at a time that is significantly different from the employee's normal practice, including where the employee intends to work substantially less than the standard day; and
  - (g) an employee should not work hours that would result in him or her exceeding the maximum flex debit.
- 35.5 Employees may take flex leave subject to the following:
- (a) reasonable notice being provided to the employee's supervisor, particularly where there are operational implications; and
  - (b) prior approval from the employee's supervisor is obtained.
- 35.6 The maximum flex leave that can be taken in a settlement period is five days which may be taken consecutively.
- 35.7 The maximum flex credit is 36.45 hours for full time employees and a pro rata amount for part time employees.
- 35.8 Employees and their supervisors have a joint responsibility to take positive steps to reduce flex credits and flex debits.
- 35.9 Where an employee is at or above the maximum flex credit at the end of a settlement period, he or she must reduce the flex credit to the maximum flex credit or less by the end of the next settlement period. Where flex leave is not approved due to operational requirements, the Chief Executive Officer may determine that the period in which the employee has to take the flex leave be extended.
- 35.10 Where an employee is above the maximum flex credit at the end of two consecutive settlement periods, his or her flex credits will be reduced to the maximum flex credit at the beginning of the following settlement period unless the Chief Executive Officer has extended the period in which the employee has to reduce the flex credit.
- 35.11 The maximum flex debit is ten hours for both full time and part time employees. Any debit in excess of the maximum debit at the end of the settlement period will be cancelled using leave without pay.

35.12 Where an employee is found to have breached his or her obligations under the flexitime system, the Chief Executive Officer may require the employee to work the standard day for a nominated period.

## **36 Information Line Rostering**

36.1 Rosters will apply for four week periods and may be determined up to 12 weeks in advance.

36.2 An employee may request changes to their roster at any stage.

36.3 Employees are encouraged to manage their own ad hoc changes to their roster by swapping with other employees. Agreement by the manager will not be unreasonably refused.

36.4 Where ASQA needs to change regular rosters or develop new rosters due to operational requirements the consultation provisions set out in clauses 72.11 to 72.15 will be applied.

## **37 Working hours for EL1 and EL2 employees**

37.1 Full time EL1 and EL2 employees are paid on the basis of 73.5 hours per fortnight.

37.2 Employees in the EL classification are not eligible to access flexitime arrangements. In lieu of flexitime the Chief Executive Officer may allow EL employees to vary their daily attendance times and take short term absences, including full day absences without deduction from leave credits. Additional hours worked will not be recompensed on an hour for hour basis as occurs under flexitime.

37.3 There is no requirement for Executive Level employees to keep timesheets.

37.4 The parties to this Agreement recognise that the hours of duty worked by Executive Level employees are not regular and that their focus on high level achievement often results in additional work performed beyond ordinary hours. It is important that these efforts and contributions are recognised by ASQA.

37.5 ASQA does not support Executive Level employees working unreasonable additional hours.

37.6 Executive Level employees and their managers will work together to manage workloads and working hours, including making arrangements as to when any Executive level time off will be taken.

37.7 Additional hours include extra time worked in the office, at home and travel time outside ordinary hours when undertaking approved business travel.

37.8 ASQA managers will recognise the extra contribution by Executive Level employees who make a significant additional productive effort by facilitating time off work for them without deduction from leave credits. TOIL should be taken as soon as possible after the additional hours have been worked, taking into account the needs and preferences of the employee.

37.9 Taking into account the principles mentioned above, reasonable requests for time off under these arrangements will not be refused, except for operational reasons.

37.10 None of the provisions of this Section should be taken to limit the flexibility available between an Executive Level employee and his or her manager in relation to the employee's actual hours of work and the taking of reasonable time off in lieu of additional hours worked.

## **38 Travel time**

38.1 ASQA will ensure that employees will not be required to travel outside the bandwidth hours or on weekends or public holidays unless there are important operational requirements that can only reasonably be met by travel during those times.

- 38.2 Where an employee at APS1 to APS6 level is required to travel within the bandwidth hours:
- (a) any time spent travelling within the standard day will be regarded as work for all purposes; and
  - (b) any time spent travelling outside the standard day and within the bandwidth hours may be recorded as hours worked in the flextime system, less the time the employee normally spends travelling to or from work.
- 38.3 Where an employee at APS1 to APS6 level is required to travel outside the bandwidth hours, Monday to Friday:
- (a) any time spent travelling outside the standard day and within the bandwidth hours may be recorded as hours worked in the flextime system, less the time the employee normally spends travelling to or from work; and
  - (b) the time spent travelling outside the bandwidth hours accumulates time off in lieu on an hour for hour basis, less any time normally spent travelling to or from work that has not already been deducted from the travel time.
- 38.4 Where an employee at APS1 to APS6 level is required to travel on a non-working day, the employee accumulates time off in lieu on an hour for hour basis from the time the employee leaves his or her home to the time the employee arrives at his or her accommodation, subject to the employee travelling direct to the employee's accommodation.
- 38.5 Time off in lieu accumulated under this Section will be taken within eight weeks of accrual at a mutually agreeable time wherever reasonably possible. Where an employee and his or her supervisor are unable to agree on a time to take the time off in lieu, the supervisor may determine the timing of the time off in lieu.
- 38.6 Where ASQA is unable to release an employee to take time off in lieu under this Section within eight weeks of its accrual, the employee will be paid for the time off in lieu at the rate of time and a half unless the employee and his or her supervisor have agreed on a time to take the time off in lieu at a later time.
- 38.7 Where an employee chooses to travel outside the standard day or on weekend or public holidays, the employee is not entitled to the accumulation of any time off in lieu.

## 39 Part time work

- 39.1 Part time work agreements in existence immediately before the Commencement Date will continue under this Agreement in accordance with any agreement in relation to that part time work.
- 39.2 A part time employee is one whose ordinary hours of work are less than 36 hours and 45 minutes per week.
- 39.3 Unless otherwise specified in this Agreement, remuneration and other conditions for part time employees, including leave other than Long Service Leave, will be calculated on a pro rata basis. The arrangements for Long Service Leave and part-time employment are provided for in the Long Service Leave Act.
- 39.4 Expense related allowances and reimbursements will be paid at the same rate for part time and full time employees.
- 39.5 All part time employees will have a part time work agreement prepared which will specify:
- (a) the ordinary hours of work;
  - (b) the standard day that will apply to the employee;

- (c) the days of the week on which the employee will work his or her ordinary hours;
- (d) the duration of the part time work; and
- (e) any specific arrangements that are needed to facilitate the part time work.

#### **Employee initiated part time work**

- 39.6 The Chief Executive Officer will consider employee requests for part time work taking into account:
- (a) the reasons for the employee's request to convert to part time work;
  - (b) the operational implications of the employee's conversion to part time work; and
  - (c) whether there are available options that can reduce the operational implications of the employee's conversion to part time work.
- 39.7 The part time work agreement may be reviewed on the initiation of either the employee or his or her supervisor, given four weeks' notice.

## **40 Overtime**

- 40.1 Overtime is available to employees at classification levels below EL1.
- 40.2 This Section does not apply to Emergency Duty as specified in Section 42 or Travel Time as specified in Section 38.
- 40.3 The Chief Executive Officer may require an employee to work overtime. Employees have the right to refuse a request to work unreasonable additional hours under the National Employment Standards.
- 40.4 Subject to clause 40.1, overtime is payable where prior approval has been given by the Chief Executive Officer, and;
- (a) an employee is required to work outside the bandwidth; or
  - (b) the employee is at the maximum flex credit.
- 40.5 Where the criteria for payment of overtime set out in clause 40.4 are satisfied, overtime is payable for the overtime hours that are worked outside the bandwidth hours or, where the employee is at the maximum flex credit, any time in excess of the standard day.
- 40.6 Overtime will be paid in arrears at the following rates:
- (a) Monday to Saturday - time and a half for the first three hours and double time thereafter;
  - (b) Sunday – double time; and
  - (c) public holidays – double time and a half.

#### **Minimum overtime payment**

- 40.7 The minimum overtime payment for work that is not continuous with normal work is four hours on any day with the exception of Emergency Duty as specified in Section 42.
- 40.8 For the purposes of clause 40.7, overtime that extends past midnight will be treated as overtime worked on one day. Where the overtime rate is higher before or after midnight, the higher rate will apply in respect of minimum overtime payments.

## **Time in lieu**

- 40.9 An employee may elect to take time off in lieu of overtime. Where the employee so elects, the time in lieu is calculated at the overtime rate.
- 40.10 Where the time off in lieu of overtime is not taken within four weeks of the overtime being worked, or such other timeframe as may be agreed between the employee and his or her supervisor, the employee will be paid for the overtime.

## **Rest relief after overtime**

- 40.11 Subject to clause 40.12, an employee is entitled to at least eight hours break plus reasonable travel time between finishing overtime duty and next commencing duty.
- 40.12 Where for operational reasons, the Chief Executive Officer requires an employee to commence work without at least an eight hour break plus reasonable travel time, the employee will be paid for all work hours at double time until the required break has been taken.

## **41 Meal Allowance**

- 41.1 An employee is entitled to payment of a meal allowance where he or she:
- (a) works overtime outside the bandwidth hours, Monday to Friday; or
  - (b) works on a Saturday, Sunday or public holiday such that he or she is working overtime for the duration of a meal allowance period.
- 41.2 The meal allowance periods are:
- (a) 7.00 a.m. to 9.00 a.m.;
  - (b) 12 noon to 2.00 p.m.;
  - (c) 6.00 p.m. to 7.00 p.m.; and
  - (d) midnight to 1.00 a.m.
- 41.3 Meal allowance is not payable if the employee is receiving travel allowance for an overnight stay.
- 41.4 The meal allowance rate will be the same as the rate set by the Australian Taxation Office as a reasonable amount for overtime meal allowance expenses. This rate is \$30.05 for the 2017-18 financial year.

## **42 Emergency Duty**

- 42.1 This Section does not apply to employees at the EL1 and EL2 level.
- 42.2 Employees who are called to duty to meet an emergency at a time when they would ordinarily not have been on duty and no notice of the requirement was given before ceasing duty will be paid for the emergency duty at the rate of double time. Emergency Duty includes time travelling to and from work.
- 42.3 The minimum payment for Emergency Duty will be two hours.
- 42.4 Rest relief provisions apply to emergency duty of three hours or more.



## PART I. LEAVE

### 43 General provisions

- 43.1 Current ASQA Employees will retain all leave credits that were held before the Commencement Date.
- 43.2 All deductions of leave credits will be based on the employee's ordinary hours of work and the standard day to apply to that employee.
- 43.3 The Chief Executive Officer will re-credit a relevant period of Annual Leave or Long Service Leave, and approve reimbursement of reasonable incidental, travel and accommodation expenses incurred by an employee, where otherwise not refundable where:
- (a) an employee is recalled to duty from a period of approved of Annual Leave or Long Service Leave; or
  - (b) an employee's previously approved of Annual Leave or Long Service Leave is cancelled without reasonable notice.

### 44 Portability of leave

- 44.1 Where an employee moves (including on promotion or for an agreed period) from another agency where he or she was an ongoing APS employee, the employee's unused accrued Annual Leave and Personal Leave (however described) will be transferred, provided there is no break in continuity of service.
- 44.2 Where an employee is engaged as either an ongoing or non-ongoing APS employee immediately following a period of ongoing employment in the Parliamentary Service or the ACT Government Service, the employee's unused accrued Annual Leave and Personal Leave (however described) will be transferred or recognised.
- 44.3 For the purposes of this clause:
- (a) 'APS employee' has the same meaning as the same term in the Public Service Act;
  - (b) 'Parliamentary Service' refers to employment under the *Parliamentary Service Act 1999*.

### 45 Annual Leave

- 45.1 The provisions of this Section do not apply to non-ongoing employees who are engaged on an irregular or intermittent basis who are in receipt of a casual loading.
- 45.2 The Chief Executive Officer may approve a period of Annual Leave where an employee has available credits, subject to operational requirements.
- 45.3 The Chief Executive Officer may agree to an employee request to take Annual Leave at half pay. This is an administrative arrangement that transfers remuneration from the period of full pay Annual Leave to a period of unpaid leave. Where an employee takes up this option, only half of the period of Annual Leave will count as service and accrued Annual Leave will be reduced by half the period of leave taken. Half pay Annual Leave will not be approved in the same calendar year that an employee is using Purchased Leave.
- 45.4 Full time employees are entitled to a total of 20 days Annual Leave credits for each year of service accrued progressively.
- 45.5 Annual leave does not accrue during any period of unauthorised absence or leave which does not count as service.

45.6 If, during a period of Annual Leave, an employee becomes eligible for prevailing leave that is required by legislation or this Agreement to be granted, other than unpaid parental leave, the employee will be taken not to be on Annual Leave for the affected period. This is subject to the employee producing satisfactory evidence. Annual Leave will be re-credited to the extent of other leave granted. An example of such leave includes, but may not be limited to, personal leave, compassionate leave, maternity leave and community service leave.

#### **Maximum Annual Leave Credits**

45.7 Where an employee has more than eight weeks Annual Leave credits the Chief Executive Officer may require the employee to take a period of Annual Leave at a mutually agreeable time. The amount of Annual Leave the employee may be required to take will be the amount necessary to reduce the employee's Annual Leave credits to eight weeks or less. Where the employee and the Chief Executive Officer are unable to agree on the timing of the Annual Leave under this clause, the Chief Executive Officer may specify the timing of the leave as long as the employee has at least four weeks of notice. A direction to take leave under this clause must be reasonable in the circumstances.

#### **Payment for Annual Leave Credits on Termination of Employment**

45.8 Employees are paid for any unused Annual Leave credits on termination of employment from the Australian Public Service.

### **46 Cashing out of Annual Leave credits**

46.1 The Chief Executive Officer may agree to an employee's request to 'cash out' Annual Leave in accordance with the following:

- (a) the employee retains at least four weeks of Annual Leave credits immediately following the cashing out;
- (b) each cashing out of a particular amount of Annual Leave must be by a separate agreement in writing between the employee and the Chief Executive Officer;
- (c) the employee must be paid at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone;
- (d) a maximum of ten days may be cashed out in any year at the employee's rate of pay at the time the leave is cashed out; and
- (e) the employee must have already taken at least ten days of Annual Leave in the previous 12 months or be taking at least two weeks leave at the time the Annual Leave is cashed out.

### **47 Purchased Leave**

47.1 Ongoing employees may apply to the Chief Executive Officer to purchase from one to four weeks of Purchased Leave each calendar year. Purchased Leave will not be approved in the same year that an employee has accessed Annual Leave at half pay.

47.2 Without limiting the flexibility of the Purchased Leave option, the following arrangements will apply:

- (a) Purchased Leave is subject to approval by the Chief Executive Officer;
- (b) Purchased Leave arrangements can be cancelled by the Chief Executive Officer;
- (c) in agreeing to Purchased Leave, the Chief Executive Officer may also come to an agreement with the employee on the proposed timing of the leave and the amount to be taken each time;

- (d) Purchased Leave must be taken in whole days;
- (e) Purchased Leave will count as service for all purposes;
- (f) Purchased Leave will not be cumulative and unused Purchased Leave will be cashed out if not used within one year of being purchased or on separation from ASQA;
- (g) Purchased Leave cannot be taken at half pay.

47.3 Where the Chief Executive Officer approves the application for Purchased Leave, the employee will have an amount deducted from his or her fortnightly salary over a period of up to 52 weeks (as determined by the employee) according to the following formula:

$$\frac{\text{Gross weekly salary} \times \text{number of weeks of Purchased Leave}}{\text{number of weeks of salary deduction}}$$

- 47.4 Approval of Purchased Leave does not affect the employee's salary for superannuation purposes.
- 47.5 An employee may cancel the purchased leave arrangements where exceptional circumstances occur. In this case, the employee will be refunded the salary deductions made less any Purchased Leave already taken.
- 47.6 Where an employee leaves ASQA employment after accessing the Purchased Leave and before all salary deductions have been made, the employee will be required to pay to ASQA the outstanding amount.

## 48 Personal Leave

### General

48.1 Non-ongoing employees who are paid the 20 per cent loading in lieu of leave under Section 13 are not covered by the provisions of this Section.

### Personal Leave credits

- 48.2 Full time employees are entitled to 18 days of Personal Leave credits for each 12 months of service.
- 48.3 Ongoing employees engaged by ASQA who do not already have Personal Leave credits under the provisions of Section 44 will be allocated 18 days of full pay Personal Leave credits on commencement and a further 18 days of full pay Personal Leave credits at the beginning of each subsequent 12 months of employment.
- 48.4 Where an employee already has Personal Leave credits on commencement with ASQA under the provisions of Section 44, the date on which the employee will first receive 18 days of Personal Leave credits in ASQA will be based on the arrangements in place at his or her former agency with the aim of ensuring that an employee does not accrue Personal Leave credits twice for the same period. To give effect to this aim:
  - (a) where the employee accrued a full year's Personal Leave in advance at the former agency, he or she will first accrue Personal Leave at ASQA 12 months after last accruing Personal Leave at the former agency;
  - (b) where the employee accrued Personal Leave on a progressive basis at the former agency, the employee will first accrue Personal Leave in ASQA on his or her first day of employment with ASQA.

- 48.5 Notwithstanding anything else in this Section, the date of accrual of each year's Personal Leave credits will be deferred by any periods of unpaid leave not to count as service where the total unpaid leave during the year covers more than 30 calendar days or any period of unauthorised absence.
- 48.6 Non-ongoing employees are entitled to 18 days of full pay Personal Leave credits for each 12 months of service, accrued progressively. Personal Leave will not accrue during any period of unpaid leave not to count as service where the total unpaid leave during the year covers more than 30 calendar days or any period of unauthorised absence.
- 48.7 Unused Personal Leave credits will accumulate from year to year without limit.

#### **Approval of Personal Leave**

- 48.8 Subject to the availability of Personal Leave credits, employees are entitled to paid Personal Leave for the following purposes:
- (a) where the employee is unfit for work due to a personal illness or injury; or
  - (b) to provide care or support to a member of his or her immediate family or household who requires care or support due to an illness or injury or due to an unexpected emergency affecting the immediate family or household member.
- 48.9 Employees are entitled to unpaid Personal Leave where the employee is unfit for work due to a personal illness or injury and the employee does not have any available paid Personal Leave credits and subject to the employee providing a medical certificate verifying that the employee was unfit for work.
- 48.10 Medical certificates must be provided by employees for absences due to personal injury or illness or to care for ill members of the employee's immediate family or household where:
- (a) the employee has had a total of seven days of absence (53 hours 12 minutes) on Personal Leave in the previous 12 months without a medical certificate for full-time employees and a pro rata amount for part-time employees;
  - (b) the absence is for more than three consecutive days;
  - (c) where the employee is taking unpaid Personal Leave in accordance with clause 48.9, or
  - (d) for any absence on Personal Leave where the employee's manager considers it is necessary to verify the reason for the employee's absence and the employee is provided with notice of this requirement with sufficient time to reasonably be able to obtain a medical certificate.
- 48.11 Where an employee is required to provide a medical certificate under clause 48.9 or 48.10 but it was not reasonably possible to obtain a medical certificate, a statutory declaration will be an acceptable alternative.
- 48.12 For the purposes of this Section, a medical certificate is a certificate issued by a registered health practitioner in respect of the area of practice in which the practitioner is registered or licensed under a law of a State or Territory that provides for the registration or licensing of health practitioners.
- 48.13 An employee may not take Personal Leave while on paid Maternity Leave or paid Adoption and Fostering Leave.
- 48.14 An employee who is retired from the APS on the grounds of invalidity, and is subsequently re-appointed as a result of action taken under section 75 of the *Superannuation Act 1976*, or the *Superannuation Act 1990*, is entitled to be credited with Personal Leave equal to the balance of Personal Leave or equivalent leave types, that were in credit at the time of retirement.

### Personal Leave - notification

48.15 An employee must notify his or her supervisor of his or her absence and intention to apply for Personal Leave as soon as reasonably practicable.

### Personal Leave – failure to comply with obligations

48.16 Where an employee fails to comply with his or her obligations as specified in this Section, other than for reasons beyond the reasonable control of the employee, the absence may be regarded as unauthorised and without pay, in which case the provisions of clause 62.1 will apply.

## 49 Unpaid Carer's Leave

49.1 Employees are entitled to Unpaid Carer's Leave of up to two days for each occasion where a member of the employee's immediate family or household requires care or support because of:

- (a) a personal illness or injury; or
- (b) an unexpected emergency affecting the immediate family or household member.

49.2 This provision applies to all employees, including non-ongoing employees who engaged on an irregular or intermittent basis who are in receipt of a casual loading.

49.3 Unpaid Carer's Leave is not available where the employee has access to paid Personal Leave.

49.4 The Chief Executive Officer may require a medical certificate or other evidence considered acceptable by the Chief Executive Officer to verify the reason for the employee's absence.

## 50 Compassionate Leave

50.1 An employee is entitled to a period of three days of Compassionate Leave for each occasion when a member of the employee's immediate family or household:

- (a) contracts or develops a personal illness or sustains a personal injury that poses a serious threat to his or her life; or
- (b) dies.

50.2 Compassionate Leave is unpaid for employees engaged on an irregular or intermittent basis who are in receipt of a casual loading and is paid for all other employees.

50.3 Compassionate Leave may be taken as a single continuous period, as separate days, or in separate periods as agreed by the employee and ASQA.

## 51 War Service Sick Leave

51.1 Employees may be eligible for War Service Sick Leave while unfit for duty because of a war caused condition.

51.2 A war caused condition means an injury or disease of an employee that has been accepted by the Department of Veterans Affairs within the meaning of the *Veteran's Entitlements Act 1986* or the *Military Rehabilitation and Compensation Act 2004* to be war caused or defence caused.

51.3 An eligible employee will receive nine weeks special War Service Sick Leave credits on engagement in the APS or on acceptance of the condition by the Department of Veterans Affairs. A further three weeks war service sick leave credits will be provided on commencement of employment with ASQA and after each subsequent 12 months of service.

- 51.4 An employee who has previously been employed in the APS and had War Service Sick Leave credits available at the time he or she left the APS or commenced working with ASQA will be entitled to War Service Sick Leave credits equivalent to unused credits from their previous APS employment and will not be entitled to the nine weeks special War Service Sick Leave credit specified in clause 51.3.
- 51.5 War Service Sick Leave credits, not including the special credits received on engagement, will accumulate from one year to the next up to a maximum of nine weeks.
- 51.6 Approval of War Service Sick Leave will be subject to available credits and the provision of a medical certificate stating that the absence is a result of the relevant war caused condition.
- 51.7 Approved War Service Sick Leave will use the special War Service Sick Leave credits received on engagement before using any annual credits.
- 51.8 War Service Sick Leave counts as service for all purposes.
- 51.9 Accrual of War Service Sick Leave will be deferred by periods of unpaid leave not to count as service or any period of unauthorised absence.

## 52 Maternity and Parental Leave

- 52.1 Employees who are pregnant, or who have given birth, are covered by the Maternity Leave Act.
- 52.2 Employees with an entitlement to paid leave under the *Maternity Leave (Commonwealth Employees) Act 1973* are provided with an additional four weeks of paid leave, to be taken continuously with a period of paid maternity leave under the Maternity Leave Act.
- 52.3 Employees who adopt or permanently foster a child, and who have, or will have, responsibility for the care of the child, are entitled to 52 weeks of Parental Leave. Up to 16 weeks of that leave will be paid leave, commencing no earlier than two weeks prior to, but no later than, the time of placement of the child. Paid Leave is provided subject to the employee satisfying the same qualifying requirements as those required to receive paid leave in accordance with the Maternity Leave Act and the employee being the primary care giver to the child.
- 52.4 To be entitled to paid leave under clause 52.3:
- (a) the adoption or fostering must be recognised by the state or territory government as a permanent adoption;
  - (b) the child being adopted or fostered must:
    - (i) be under 16 as at the date of placement or expected date of placement;
    - (ii) have not lived continuously with the employee for a period of six months or more at the date of placement or expected date of placement;
    - (iii) not be a child of the employee or the employee's partner;
  - (c) the fostering arrangement must have been arranged by the state or territory government and, at the time of commencement of the fostering, be expected to be permanent.
- 52.5 Where an employee is planning to adopt a child, he or she is entitled to up to two days of unpaid Pre-Adoption Leave to attend interviews associated with the adoption.
- 52.6 Where the employee's partner will not be taking any maternity or other form of parental leave, the leave must commence no later than the date of birth of the child or the day of placement of the child in the case of adoptions and fosterings, unless the employee's partner

is not in employment and has a responsibility for the care of the child, in which case, the leave may commence at any time following the date of birth or day of placement of the child.

- 52.7 Employees who are eligible for paid maternity or parental leave may elect to have the payment for that leave spread over a maximum of 32 weeks at a rate no less than half normal salary. Where payment is spread over a longer period, a maximum of 16 weeks of the leave period will count as service.
- 52.8 On ending the initial period of up to 52 weeks of maternity or parental leave, employees may request an extension of unpaid parental leave for a further period of up to 52 weeks. The second period of unpaid leave is to commence immediately following the initial leave period.
- 52.9 Unpaid maternity or parental leave will not count as service for any purpose except for any unpaid leave taken during the first 12 weeks.
- 52.10 This leave is inclusive of public holidays and will not be extended because a public holiday (or Christmas closedown) falls during a period of paid or unpaid maternity or parental leave. On ending maternity or parental leave, employees have the return to work guarantee provided by Section 84 of the Fair Work Act.

### 53 Supporting Partner Leave

- 53.1 Employees who are not otherwise entitled to paid maternity leave under the Maternity Leave Act or parental leave under this Agreement are entitled to two weeks of paid leave on the birth, adoption or permanent foster care placement of a child or their partner's child.
- 53.2 For the purposes of this Section, a supporting partner is a spouse or de facto partner of the birth mother, in the case of the birth of a child of the employee, or primary carer, in the case of an adoption or long term fostering of a child.
- 53.3 An employee may elect to have the payment for that leave spread over a maximum four weeks at a rate no less than half normal salary. Where payment is spread over a longer period, only half the total weeks of the leave period will count as service.

### 54 Additional Parental Leave

- 54.1 An employee who has taken Maternity Leave, Adoption and Fostering Leave or Parental Leave under Section 52 may request additional unpaid Parental Leave up to a maximum of three years after the date of birth or placement of the child. Where the employee makes such a request:
  - (a) it must be made no later than four weeks before the end of the employee's available Parental Leave period;
  - (b) must commence immediately following the completion of the employee's other Maternity Leave or Parental Leave taken under Section 52;
  - (c) ASQA may only refuse the request on reasonable business grounds; and
  - (d) ASQA's response to the request must be provided in writing to the employee within 21 days of the request and where the request is refused, state the reasons for refusing the request.
- 54.2 A period of additional Parental Leave may be extended or shortened on application by the employee, subject to maximum limits specified in this Section, as long as the employee provides the Chief Executive Officer with at least 14 days written notice.

## 55 Return to work after Parental Leave

- 55.1 On ending unpaid Parental, Adoption and Fostering or Maternity Leave, an employee is entitled to return to:
- (a) the employee's pre Parental, Maternity or Adoption and Fostering Leave duties; or
  - (b) if those duties no longer exist, an available position for which the employee is qualified and suited nearest in status and pay as applied to the pre Parental, Maternity or Adoption and Fostering Leave position. Where this is not practical, other duties will be sought, with the redeployment, reduction and redundancy provisions applying to any placement.
- 55.2 For the purposes of this Section, duties means those performed:
- (a) if the employee was moved to safe duties because of the pregnancy – immediately before the move; or
  - (b) if the employee began working part-time because of the pregnancy – immediately before the part-time employment began; or
  - (c) otherwise – immediately before the employee commenced Parental, Maternity or Adoption and Fostering Leave.
- 55.3 Where an employee requests to return to work from Parental Leave on a part-time basis, the Chief Executive Officer will approve the request until at least the child's third birthday.

## 56 Long Service Leave

- 56.1 An employee is eligible for Long Service Leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.
- 56.2 The minimum period during which Long Service Leave can be taken is seven calendar days at full pay and 14 calendar days at half pay. Long Service Leave cannot be broken with other periods of leave, except as otherwise provided by legislation.
- 56.3 If, during a period of Long Service Leave, an employee becomes eligible for prevailing leave that is required by legislation or this Agreement to be granted, other than unpaid Parental Leave, the employee will be taken not to be on Long Service Leave for the affected period. This is subject to the employee producing satisfactory evidence. Long Service Leave will be re-credited to the extent of other leave granted. An example of such leave includes, but may not be limited to, Personal/carer's Leave, Compassionate Leave, Maternity Leave and Community Service Leave.

## 57 Community Service Leave

- 57.1 Employees are entitled to Community Service Leave in the following circumstances:
- (a) during any period of jury service;
  - (b) where an employee engages in voluntary emergency management activity;
  - (c) for regular training with a recognised emergency management body;
  - (d) for ceremonial duties with a recognised emergency management body;
  - (e) for reasonable travel time associated with voluntary emergency management activity or regular training or ceremonial duties with a recognised emergency management body;
  - (f) for reasonable recovery time following engagement in voluntary emergency management activity; or



- (g) for any other activity prescribed in the Fair Work Regulations as being applicable to Community Service Leave.
- 57.2 An employee is only entitled to Community Service Leave under clause 57.1(b) to (f) where the employee is a member of, or has a member like relationship with a recognised emergency management body.
- 57.3 Where an ongoing or non-ongoing employee is on Community Service Leave while on jury service, ASQA will pay the employee his or her normal salary, subject to the employee paying to ASQA any payments made to the employee for jury service other than payments of a reimbursement nature.
- 57.4 All Community Service Leave is unpaid except for:
- (a) the payment provisions for jury service outlined in this Section;
  - (b) up to five days per year of voluntary emergency management activity directly associated with a natural disaster, emergency or state of emergency declared by the Commonwealth, State or Territory government; and
  - (c) where otherwise approved by the Chief Executive Officer.
- 57.5 For the purposes of this Section, an employee engages in voluntary emergency management activity if:
- (a) the employee engages in an activity that involves dealing with an emergency or natural disaster; and
  - (b) the employee is engaged in the activity on a voluntary basis (whether or not the employee directly or indirectly takes or agrees to take an honorarium, gratuity or similar payment wholly or partly for engaging in the activity); and
  - (c) either:
    - (i) the employee was requested by or on behalf of the body to engage in the activity; or
    - (ii) no such request was made, but it would be reasonable to expect that, if the circumstances had permitted the making of such a request, it is likely that such a request would have been made.

## 58 Defence Reservists Leave

- 58.1 An employee may be granted leave (with or without pay) to enable the employee to fulfil Australian Defence Force (ADF) Reserve and Continuous full Time Service (CFTS) or Cadet Force obligations.
- 58.2 An employee is entitled to ADF Reserve leave with pay, for up to four weeks during each financial year for the purpose of fulfilling service in the ADF Reserve. These purposes include training and operational duty as required.
- 58.3 During the employee's first year of ADF Reserve service, a further two weeks paid leave may be granted to facilitate participation in additional ADF Reserve training, including induction requirements.
- 58.4 With the exception of the additional two weeks in the first year of service, leave can be accumulated and taken over a period of two years, to enable the employee to undertake training as a member of the ADF Reserves.
- 58.5 Employees are not required to pay their tax free ADF Reserve salary to ASQA in any circumstances.

- 58.6 An employee who is an officer or instructor of cadets in a Cadet Force may be granted paid leave of up to three weeks each financial year to perform duties as an officer or instructor of Cadets. For these purposes 'Cadet Force' means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.
- 58.7 Defence Reserve leave counts as service for all purposes, except for unpaid leave to undertake CFTS. Unpaid leave for the purpose of CFTS counts for all purposes except Annual Leave.
- 58.8 Eligible employees may also apply for Annual Leave, Long Service Leave, top-up pay or they may use their flextime or make up time, for the purpose of fulfilling ADF Reserve, CFTS or Cadet Force obligations.
- 58.9 Employees are to notify supervisors when the dates of ADF Reserve, CFTS or Cadet Force activities are known and/or changed.

## 59 Other Leave

- 59.1 The Chief Executive Officer may approve paid or unpaid Other Leave, which may count as service or not count as service, for any reason considered by the Chief Executive Officer to be appropriate and subject to any conditions which may be set by the Chief Executive Officer.
- 59.2 ASQA will respond to applications for Other Leave in a timely manner and will advise an employee of reasons where his or her application has been rejected.
- 59.3 With the exception of leave for personal and development training, any continuous period of other leave without pay greater than 30 calendar days will not count as service for any purpose unless otherwise provided by legislation.

### Other Leave and public holidays

- 59.4 Where an employee is on unpaid Other Leave on the working days immediately before and after a public holiday, he or she will not be paid for the public holiday.

## 60 Public Holidays

- 60.1 Employees will be entitled to the following public holidays:
- (a) New Year's Day (1 January);
  - (b) Australia Day (26 January);
  - (c) Good Friday;
  - (d) Easter Monday;
  - (e) Anzac Day (25 April);
  - (f) the Queen's birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
  - (g) Labour Day or equivalent (Eight Hour Day/May Day) as proclaimed by the relevant State or Territory Government;
  - (h) Christmas Day (25 December);
  - (i) Boxing Day (26 December); and
  - (j) any other day, or part day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part-day, or a kind of day or part-day, that is excluded by the Fair Work regulations from counting as a public holiday.

- 60.2 If under a state or territory law, a day or part day is substituted for one of the public holidays listed in clause 60.1, then the substituted day or part-day is the public holiday.
- 60.3 The Chief Executive Officer and an employee may agree on the substitution of a day or part-day that would otherwise be a public holiday, having regard to operational requirements.
- 60.4 An employee who is absent on a day or part-day that is a public holiday in the place where the employee is based for work purposes, is entitled to be paid for the day or part-day as if that day or part-day was not a public holiday, except where the person would not normally have worked on that day.
- 60.5 Where a public holiday falls during a period when an employee is absent on leave (other than annual or personal leave) there is no entitlement to receive payment as a public holiday. Payment for that day would be in accordance with the entitlement for that form of leave (for example, if on long service leave on half pay, payment is on half pay).

## 61 Christmas Closedown

- 61.1 ASQA will close its normal operations from close of business on the last working day before Christmas, with business resuming on the first working day after New Year's Day.
- 61.2 Employees will be provided with time off for the working days between Christmas and New Year's Day and will be paid in accordance with their ordinary hours of work. Where an employee is absent on leave, payment for the Christmas closedown provision will be in accordance with the entitlement for that form of leave, (for example, if on long service leave half pay, payment is on half pay).
- 61.3 There will be no deduction from Annual or Personal Leave credits for the closedown days.
- 61.4 Where an employee at APS1 to APS6 level is required by the Chief Executive Officer to work on:
- (a) the first working day between Christmas and New Year, the employee will be entitled to the same entitlements that would apply if that day was a public holiday;
  - (b) the remaining two working days between Christmas and New Year, the employee will either be paid at double time for any time worked on that day or be provided with time off in lieu for the hours actually worked.

## 62 Unauthorised absences

- 62.1 Where an employee is absent from work without approval, the absence will be without pay and will not count as service for any purpose. Other benefits provided under this Agreement, including the Flextime Scheme, will cease to be available to the employee until he or she resumes duty or is granted leave.

## **PART J. REMOTE LOCALITY CONDITIONS**

### **63 General**

63.1 This part applies to employees who are permanently or temporarily based in Darwin. It does not apply to employees who are temporarily working in Darwin but are based in a locality in another State or Territory.

### **64 District Allowance**

64.1 A Darwin based employee is entitled to payment of a District Allowance of:

- (a) \$4,060 per year where the employee has a dependant or partner whose annual income is less than \$16,792 per year; or
- (b) \$2,220 for all other employees.

64.2 The amount of District Allowance will be increased by the same percentage as pay rates increase as set out in clause 12.2.

64.3 District Allowance will be paid fortnightly and is not payable in respect of any unpaid leave or unauthorised absences.

### **65 Annual Leave**

65.1 A Darwin based employee is entitled to an additional week of Annual Leave each year. The accrual and usage of Annual Leave will be subject to the same provisions as other Annual Leave as set out in Section 45.

### **66 Leave Fares**

66.1 A Darwin based employee is entitled to one return economy flight from Darwin to Adelaide each year for the employee and his or her dependants and partner where the dependant or partner has an annual income of less than \$16,792 per year. The flight will be booked and paid for by ASQA.

66.2 The leave fare entitlement first accrues when the employee commences in Darwin. An additional leave fare entitlement will accrue after each 12 months of service in Darwin.

66.3 The maximum number of leave fare entitlements that may be held by an employee at any time is two. Where an employee has two unused leave fare entitlements, he or she will not accrue an additional leave fare entitlement until he or she uses one of the previously accrued entitlements.

66.4 An employee may elect to use a leave fare entitlement for travel to another locality, including use of a different means of travel (such as the employee's personal motor vehicle). Where this is the case, the maximum value of the entitlement will be the cost of a return airfare to Adelaide to ASQA at the time of the travel.

## PART K. STUDY ASSISTANCE

### 67 Support for employees undertaking study

67.1 Where the Chief Executive Officer determines that a course of study being undertaken by an employee is potentially of benefit to ASQA, the following assistance may be provided to the employee:

- (a) up to eight hours per week paid study leave; and
- (b) up to \$1,500 per six monthly semester or up to \$1,000 per trimester to cover course costs.

67.2 For a course of study to be of potential benefit to ASQA, the course must either be:

- (a) relevant to the employee's current position; or
- (b) relevant to the potential career path for the employee within the APS.

## **PART L. EMPLOYEE HEALTH AND WELLBEING**

### **68 Influenza vaccinations**

68.1 ASQA will make annual influenza vaccinations available to all employees at no cost.

### **69 Employee assistance program**

69.1 ASQA's workplace health strategy includes the provision of an employee assistance program (EAP) to assist employees should they be experiencing difficulty with work or personal issues. The service will be provided at no cost (for up to six consultations), to employees and their families, is offered through an independent external provider and is confidential between the employee, family member and the EAP provider.

### **70 Healthy Lifestyle Allowance**

70.1 ASQA will reimburse ongoing employees and non-ongoing employees with at least 12 months service for expenditure on healthy lifestyle activities and personal needs up to a maximum of \$300 each calendar year.

70.2 The activities that will be accepted for reimbursement under this clause include, but are not limited to:

- (a) Gym membership;
- (b) Exercise classes;
- (c) Weight loss programs;
- (d) Purchase of exercise equipment;
- (e) Cost associated with establishing an ASQA sporting team; and
- (f) Programs to assist with quitting smoking, gambling, drug or alcohol addiction.

## PART M. RELOCATION ASSISTANCE

### 71 Eligibility

- 71.1 An employee is eligible for relocation assistance where he or she is required to relocate to another locality as a result of:
- (a) a promotion to a higher level position in that locality; or
  - (b) a long term transfer to a position at the same level at that locality and the transfer has been initiated by ASQA.
- 71.2 Employees who move to another locality in other circumstances, including where the employee has applied for and won a position in another locality through a merit process may receive assistance with the employee's relocation where this is considered appropriate in the circumstances by the Chief Executive Officer.
- 71.3 Where an employee is eligible for relocation assistance under clause 71.1, the employee will be entitled to:
- (a) airfares for the employee and his or her family that will be residing with him at the new locality;
  - (b) reasonable removalist costs for furniture and effects;
  - (c) cost of transporting pets to the new locality;
  - (d) temporary accommodation costs for any transitional period while awaiting the availability of long term accommodation;
  - (e) costs of transferring an employee's vehicle to the new locality; and
  - (f) other reasonable costs, as determined by the Chief Executive Officer, incurred as a direct result of the move to the new locality.

## PART N. COMMUNICATION AND CONSULTATION

### 72 Consultation

72.1 This Section applies if ASQA:

- (a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
- (b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

#### *Major change*

72.2 For a major change referred to in clause 72.1(a):

- (a) ASQA must notify the relevant employees of the decision to introduce the major change; and
- (b) clauses 72.3 to 72.9 apply.

72.3 The relevant employees may appoint a representative for the purposes of the procedures in this term.

72.4 If:

- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- (b) the employee or employees advise ASQA of the identity of the representative; ASQA must recognise the representative.

72.5 As soon as practicable after making its decision, ASQA 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; and
  - (iii) measures ASQA 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; and
  - (ii) information about the expected effects of the change on the employees; and
  - (iii) any other matters likely to affect the employees.

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

72.7 ASQA must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

72.8 If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of ASQA, the requirements set out in clauses 72.2(a), 72.3 and 72.5 are taken not to apply.

72.9 In this term, 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 ASQA'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;
- (g) the restructuring of jobs.

*Change to regular roster or ordinary hours of work*

72.10 For a change referred to in clause 72.1(b):

- (a) ASQA must notify the relevant employees of the proposed change; and
- (b) clauses 72.11 to 72.15 apply.

72.11 The relevant employees may appoint a representative for the purposes of the procedures in this term.

72.12 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 employer of the identity of the representative; ASQA must recognise the representative.

72.13 As soon as practicable after proposing to introduce the change, ASQA must:

- (a) discuss with the relevant employees the introduction of the change; and
- (b) for the purposes of the discussion—provide to the relevant employees:
  - (i) all relevant information about the change, including the nature of the change; and
  - (ii) information about what ASQA reasonably believes will be the effects of the change on the employees; and
  - (iii) information about any other matters that ASQA reasonably believes are likely to affect the employees; and
- (c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

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

72.15 ASQA must give prompt and genuine consideration to matters raised about the change by the relevant employees.

72.16 In this Section *relevant employees* means the employees who may be affected by a change referred to in clause 72.1

### 73 Staff Consultative Committee

- 73.1 ASQA will convene a Staff Consultative Committee (SCC) to represent the collective interests of ASQA's employees and to provide a forum for consultation on workplace matters, including implementation of this Agreement.
- 73.2 The SCC will provide a structured means of consulting with employees. Examples of matters that would be appropriate for referral to the SCC are:
- (a) new human resource management policies or guidelines that are under development, including policies or guidelines that are developed to support the implementation of this Agreement; and
  - (b) changes to existing human resource management policies or guidelines that will impact on employees.
- 73.3 The membership of the SCC will include:
- (a) Chair – Chief Commissioner or delegate of the Chief Commissioner;
  - (b) Management representatives;
  - (c) Elected employee representatives which may include workplace delegates.
- 73.4 The SCC is not authorized to discuss or otherwise get involved in individual staff issues such as grievances, performance review, promotions, reclassifications, salary reviews, terminations, etc. ASQA has specific policies for employee matters and these must be used for such individual concerns.
- 73.5 The terms of reference for the SCC will be agreed by the SCC members.

## **PART O. REDEPLOYMENT, RETIREMENT AND REDUNDANCY**

### **74 General**

74.1 The following redeployment, reduction and retrenchment provisions will apply to ongoing employees who are not on probation.

### **75 Definition of excess employee**

75.1 An employee is excess when:

- (a) the employee is included in a class of employees employed in ASQA, which class comprises a greater number of employees than is necessary for the efficient and economical working of ASQA; or
- (b) the services of the employee cannot be effectively used because of technological or other changes in the work methods of ASQA or changes in the nature, extent or organisation of the functions of ASQA; or
- (c) the duties usually performed by the employee are to be performed at a different locality, the employee is not willing to perform duties at the locality, and the Chief Executive Officer has determined that the provisions of this Part will apply to that employee.

75.2 Where the Chief Executive Officer determines that an employee is excess, the Chief Executive Officer may do one or more of the following:

- (a) reassign duties to the employee within ASQA and determine the place at which the duties are performed;
- (b) reduce the classification level of the employee on the grounds that the employee is excess to the requirements of ASQA at the higher classification level;
- (c) move an ongoing employee (with his or her consent) from ASQA to another APS agency; and/or
- (d) terminate the employment of the employee on the grounds that the employee is excess to the requirements of ASQA.

### **76 Consultation**

76.1 When the Chief Executive Officer is aware that an employee is likely to become excess, the Chief Executive Officer will advise the employee at the earliest practicable time.

76.2 Discussions with the potentially excess employee, and where he or she chooses, his or her representative, will be held to consider:

- (a) redeployment opportunities for the employee concerned; and
- (b) whether voluntary retrenchment might be appropriate.

76.3 Unless a lesser period has been agreed between the Chief Executive Officer and the potentially excess employee, the discussion period will last for four weeks from the date the employee is notified that he or she is likely to become excess. During the discussion period, the Chief Executive Officer will not:

- (a) invite the employee to accept an offer of voluntary retrenchment; or
- (b) advise the employee in writing that he or she is excess.

76.4 The Chief Executive Officer may, prior to or after the conclusion of the discussion period, invite employees who are not potentially excess to express an interest in voluntary retrenchment, where those retrenchments would permit the redeployment of employees who are potentially excess.

## 77 Voluntary retrenchment

77.1 Where the Chief Executive Officer offers an excess employee voluntary retrenchment, the employee will have four weeks to decide whether to accept the offer. The Chief Executive Officer will not give notice of termination under section 29 of the Public Service Act on the grounds that the employee is excess to requirements before the end of that period or until the employee's decision is received (in circumstances where the decision is received before the end of that period).

77.2 Where an employee has not already received the following information, he or she must be provided with information on the:

- (a) amounts of severance pay, payment in lieu of notice, and paid up leave credits;
- (b) amount of accumulated superannuation contributions;
- (c) options open to the employee concerning superannuation; and
- (d) taxation rules applying to the various payments.

77.3 Where the employee agrees to be voluntarily retrenched, and the Chief Executive Officer approves his or her termination under section 29 of the Public Service Act, the required notice of termination will be given.

77.4 The period of notice will be four weeks (or five weeks for an employee over 45 years of age with at least five years of continuous service).

77.5 Where an employee retires, or is retired, at the beginning of, or within the notice period, he or she will receive payment in lieu of notice for the unexpired portion of the notice period.

## 78 Payment on voluntary retrenchment

78.1 An excess employee who agrees to be voluntarily retrenched and whose employment is terminated by the Chief Executive Officer under s29 of the Public Service Act on the grounds that he or she is excess to the requirements of ASQA, is entitled to paid redundancy pay of a sum equal to two weeks' salary for each completed year of continuous service, plus a pro rata payment for completed months of service since the last completed year of service, subject to any minimum amount the employee is entitled to under the National Employment Standards.

78.2 The minimum sum payable will be four weeks' salary and the maximum will be 48 weeks' salary.

78.3 For the purpose of calculating an entitlement in accordance with clause 78.1, "service" means:

- (a) Government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
- (b) service with the Commonwealth (other than service with a joint Commonwealth-State body or a body corporate in which the Commonwealth does not have a controlling interest) which is recognised for long service leave purposes;
- (c) service with the Australian Defence Forces; and
- (d) service in another organisation where:

- (i) an employee was moved from the APS to give effect to an administrative re-arrangement; or
  - (ii) an employee of that organisation is engaged as an APS employee as a result of an administrative re-arrangement; and
  - (iii) such service is recognised for long service leave purposes.
- 78.4 For the purpose of calculating an entitlement in accordance with clause 78.1, service does not include any period of service which ceased:
- (a) through termination on the following grounds:
    - (i) the employee lacks, or has lost, an essential qualification for performing his or her duties;
    - (ii) non-performance, or unsatisfactory performance, of duties;
    - (iii) inability to perform duties because of physical or mental incapacity;
    - (iv) failure to satisfactorily complete an entry level training course;
    - (v) failure to meet a condition imposed under subsection 22(6) of the Public Service Act;
    - (vi) breach of the Code of Conduct; or
    - (vii) any other ground prescribed by the Public Service Regulations; or
  - (b) through voluntary retirement at or above the minimum retiring age applicable to the employee; or
  - (c) with the payment of a redundancy benefit or similar payment or an employer-financed retirement benefit.
- 78.5 For earlier periods of service to count there must be no breaks between the periods except where the break in service is less than one month and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer.
- 78.6 Absences from duty which do not count as service for long service leave purposes will not count as service for redundancy pay purposes.
- 78.7 The redundancy benefit will be calculated on a pro rata basis for any period where an employee has worked part-time hours during his or her period of service and the employee has less than 24 years full-time service, subject to any minimum amount the employee is entitled to under the National Employment Standards.
- 78.8 For the purposes of calculating any payment under clause 78.1, "salary" will include:
- (a) the employee's full time salary, adjusted on a pro rata basis for periods of part time service; and
  - (b) allowances that are payable during periods of Annual Leave and on a regular basis and are not a reimbursement for expenses incurred or a payment for disabilities associated with the performance of a duty.
- 78.9 Additional payments for the performance of duties at a higher classification level are to be included in salary where the employee has been performing duties at the higher classification level for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of termination.

## 79 Involuntary Retrenchment

- 79.1 Where an excess employee has not accepted an offer of voluntary retrenchment, unless he or she agrees otherwise, the excess employee will not have his or her employment terminated by the Chief Executive Officer under Section 29 of the Public Service Act until the following retention periods have elapsed:
- (a) 56 weeks where an employee has 20 or more years of service or is over 45 years of age; or
  - (b) 30 weeks for other employees.
- 79.2 If an employee is entitled to a redundancy payment in accordance with the National Employment Standards, the relevant period in clause 79.1 is reduced by the number of weeks redundancy pay that the employee will be entitled to under the National Employment Standards on termination, as at the expiration of the retention period (as adjusted by this clause).
- 79.3 Service for the purposes of this Section has the same meaning as in Section 78.
- 79.4 The retention period will commence on the earlier of the following:
- (a) the day the employee is advised in writing by the Chief Executive Officer that he or she is an excess employee; or
  - (b) four weeks after the day on which the Chief Executive Officer invites the employee to elect to be voluntarily retired.
- 79.5 During a retention period the Chief Executive Officer will continue to provide appropriate training and take all reasonable steps to find alternative employment for the excess employee, including consideration of options such as reduction of classification.
- 79.6 The retention period as provided for in this Section will be extended by periods of leave for personal illness or injury, where supported by acceptable medical evidence.
- 79.7 In accordance with section 29 of the Public Service Act, the Chief Executive Officer may involuntarily terminate the employment of an excess employee at the end of the retention period.
- 79.8 The excess employee may request assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment where these expenses are not met by the prospective employer.
- 79.9 Where the Chief Executive Officer believes there is insufficient productive work available for an excess employee in ASQA during the retention period, and that there is no reasonable redeployment prospects in the APS:
- (a) the Chief Executive Officer may, with the agreement of the employee, terminate the employee's employment under section 29 of the Public Service Act; and
  - (b) upon termination the employee will be paid a lump sum comprising:
    - (i) the balance of the retention period (as shortened for the National Employment Standards under clause 79.2) and this payment will be taken to include payment in lieu of notice of termination of employment;
    - (ii) an additional redundancy payment equal to the amount the retention period was shortened under clause 79.2.
- 79.10 An excess employee will not have his or her employment terminated where the employee:
- (a) has not been invited to choose to be voluntarily retrenched; or

(b) has decided to be voluntarily retrenched but the Chief Executive Officer has refused to approve it.

79.11 An excess employee will be given four week notice (or five weeks' notice for an employee over 45 years of age with at least five years of continuous service) where it is proposed that he or she will have his or her employment terminated under section 29 of the Public Service Act. Wherever possible, the notice period will be concurrent with the retention period.

79.12 The Chief Executive Officer may, with four weeks' notice, reduce the excess employee's classification as a means of securing alternative employment for the excess employee.

79.13 Where an excess employee is reduced in classification before the end of the appropriate retention period, he or she will continue to be paid at their previous level for the balance of the retention period.

## PART P. DISPUTE RESOLUTION

### 80 Resolution of Agreement Disputes

- 80.1 If a dispute relates to a matter arising under this Agreement or the National Employment Standard, the parties to the dispute must first attempt to resolve the matter at the workplace level by discussions between the employee or employees concerned and the relevant supervisor/manager.
- 80.2 If a resolution to the dispute has not been achieved after discussions have been held in accordance with clause 80.1, the parties to the dispute will endeavour to resolve the dispute in a timely manner either through discussion with more senior levels of management where appropriate or through alternative dispute resolution methods.
- 80.3 If discussions at the workplace level do not resolve the dispute, and all appropriate steps have been taken in accordance with clauses 80.1 and 80.2, a party to the dispute may refer the matter to Fair Work Commission.
- 80.4 Fair Work Commission may deal with the dispute in two stages:
- (a) 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 Fair Work Commission is unable to resolve the dispute at the first stage, Fair Work Commission may then:
    - (i) arbitrate the dispute; and
    - (ii) make a determination that is binding on the parties.

*Note If Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Fair Work Act. A decision that Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Fair Work Act. Therefore, an appeal may be made against the decision.*

- 80.5 ASQA or an employee who is a party to the dispute may appoint another person, organisation or association to accompany and/or represent them for the purposes of this Section.
- 80.6 While the parties are trying to resolve the dispute using the procedures in this Section;
- (a) an employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
  - (b) an employee must comply with a direction given by ASQA to perform other available work at the same workplace, or at another workplace, unless;
    - (i) the work is not safe;
    - (ii) applicable occupational health and safety legislation would not permit the work to be performed;
    - (iii) the work is not appropriate for the employee to perform; or
    - (iv) there are other reasonable grounds for the employee to refuse to comply with the direction.
- 80.7 The parties to the dispute agree to be bound by a decision made by Fair Work Commission in accordance with this Section.



## **PART Q. TERMINATION OF EMPLOYMENT**

### **81 Cessation of employment**

#### **Termination for serious misconduct**

81.1 Nothing in this Agreement prevents the Chief Executive Officer from terminating the employment of an employee for serious misconduct, without further notice or payment in lieu, in accordance the Fair Work Act and associated regulations subject to compliance with the procedures established by the Chief Executive Officer for determining whether an employee has breached the Code of Conduct under Section 15 of the Public Service Act.

#### **Notice of termination**

81.2 Except where clause 81.1 applies, the Chief Executive Officer must provide an employee with no less than the notice periods provided for by this Agreement or the Fair Work Act, whichever is the greater. This clause does not apply to non-ongoing employees who are engaged on an irregular or intermittent basis and who are paid a loading in accordance with clause 13.1.

81.3 The Chief Executive Officer may pay an employee in lieu of all or part of the required period of notice.

#### **Invalidity retirement**

81.4 An employee will not, without his or her consent, be terminated on invalidity grounds before his or her available Personal Leave credits have been used, unless as otherwise provided by legislation.

#### **Termination payments**

81.5 Where an employee ceases employment with the APS, the employee will receive payment in lieu of unused Annual Leave credits, including uncredited Annual Leave entitlements. This payment will be based on the employee's final rate of salary including any allowances that would have continued to be payable during a period of Annual Leave.

#### **Payment on death**

81.6 Where an employee dies, or the Chief Executive Officer has determined that an employee is presumed to have died on a particular date, the Chief Executive Officer will authorise the payment of the amount to which the former employee would have been entitled had the employee ceased employment on resignation or retirement. Long Service Leave credits will be paid out in accordance with the *Long Service Leave Act (Commonwealth Employees) 1976*.

81.7 Payment of an amount authorised by the Chief Executive Officer under clause 81.6 shall be made to the executor of the former employee's estate, the administrator of the former employee's estate, the public trustee or such other person as the law requires in the jurisdiction pertaining to the former employee.

## Appendix 1

### Pay rates

Classification	Pay point under previous Agreement	Pay point under this Agreement	Pre Commencement Date	On Commencement	12 months after Commencement	18 months after Commencement
EL2	5	4	\$134,543	\$138,579	\$141,351	\$142,764
	4	3	\$132,346	\$136,316	\$139,043	\$140,433
	3	2	\$123,922	\$127,640	\$130,192	\$131,494
	2	1	\$116,917	\$120,425	\$122,833	\$124,061
EL1	5	4	\$105,269	\$108,427	\$110,596	\$111,702
	4	3	\$103,550	\$106,657	\$108,790	\$109,878
	3	2	\$98,344	\$101,294	\$103,320	\$104,353
	2	1	\$95,944	\$98,822	\$100,799	\$101,807
APS 6	4	3	\$85,178	\$87,733	\$89,488	\$90,383
	3	2	\$83,787	\$86,301	\$88,027	\$88,907
	2	1	\$78,673	\$81,033	\$82,654	\$83,480
APS 5	4	3	\$73,661	\$75,871	\$77,388	\$78,162
	3	2	\$72,458	\$74,632	\$76,124	\$76,886
	2	1	\$69,218	\$71,295	\$72,720	\$73,448
APS 4	4	3	\$66,737	\$68,739	\$70,114	\$70,815
	3	2	\$65,648	\$67,617	\$68,970	\$69,659
	2	1	\$63,096	\$64,989	\$66,289	\$66,952
APS 3	3	2	\$59,751	\$61,544	\$62,774	\$63,402
	2	1	\$58,776	\$60,539	\$61,750	\$62,368
APS 2	4	3	\$54,740	\$56,382	\$57,510	\$58,085
	3	2	\$53,846	\$55,461	\$56,571	\$57,136
	2	1	\$52,853	\$54,439	\$55,527	\$56,083
APS1	3	2	\$47,821	\$49,256	\$50,241	\$50,743
	2	1	\$47,039	\$48,450	\$49,419	\$49,913
Junior Rates	NA	20	\$39,152	\$40,327	\$41,133	\$41,544
	NA	19	\$34,851	\$35,897	\$36,614	\$36,981
	NA	18	\$30,115	\$31,018	\$31,639	\$31,955
	NA	Under 18	\$25,814	\$26,588	\$27,120	\$27,391

## Appendix 2

### Supported Wage System

#### 1 General

- 1.1 This Appendix defines 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. In the context of this Appendix, the following definitions will apply:
- (a) *“Supported Wage System”* means the Commonwealth Government System to promote employment for people who cannot work at full award wages because of a disability;
  - (b) *“Accredited Assessor”* means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual’s productive capacity within the Supported Wage System;
  - (c) *“Disability Support Pension”* means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme;
  - (d) *“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.

#### 2 Eligibility criteria

- 2.1 Employees covered by this Appendix will be those who 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 and who meet the impairment criteria for receipt of a Disability Support Pension.
- 2.2 Clause 2.1 does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers’ compensation legislation or any provision of this Agreement relating to the rehabilitation of employees who are injured in the course of their current employment.
- 2.3 The provisions of this Appendix do not apply to employers in respect of their facility, program, undertaking service or the like which receives funding under the *Disability Services Act 1986* and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of, or are eligible for, a disability support pension, except with respect to an organisation which has received recognition under s.10 or under s.12A of that Act, or if a part only has received recognition, that part.

#### 3 Supported wage rates

- 3.1 Employees to whom this clause 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, provided that the minimum amount payable shall be not less than \$84 per week or any higher amount determined by Fair Work Commission or its successor:

Assessed capacity	% of prescribed Agreement rate
10%	10%

20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

- 3.2 Where a person's assessed capacity is 10%, he or she shall receive a high degree of assistance and support.

#### **4 Assessment of capacity**

- 4.1 For the purpose of establishing the percentage of the Agreement 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 either:
- (a) ASQA and a representative of the employee, which may be a union, in consultation with the employee; or
  - (b) if requested by ASQA, the employee and an accredited Assessor from a panel determined by ASQA in consultation with the employee and his or her representative, which may be a union.

#### **5 Lodgement of assessment instrument**

- 5.1 All assessment instruments under the conditions of this Appendix, including the appropriate percentage of the Agreement wage to be paid to the employee, shall be lodged by ASQA with the Registrar of Fair Work Commission.
- 5.2 All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where the employee requests, the instrument shall be provided to a representative of the employee, which may be a union, and will take effect unless an objection is notified to the Registrar within 10 working days.

#### **6 Review of assessment**

- 6.1 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.

#### **7 Other terms and conditions of employment**

- 7.1 Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the provisions of this Appendix 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.

## **8 Workplace adjustment**

- 8.1 Where ASQA employs a person under the provisions of this Appendix it shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other employees in the area.

## **9 Trial period**

- 9.1 In order for an adequate assessment of the employee's capacity to be made, ASQA may employ a person under the provisions of this Appendix for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.
- 9.2 During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined.
- 9.3 The amount payable to the employee during the trial period shall be \$84 per week or any higher amount determined by Fair Work Commission or its successor. The Chief Executive Officer may increase this minimum in accordance with variations in the Department of Families, Housing, Community Services and Indigenous Affairs income test free area for earnings.
- 9.4 Work trials should include induction or training as appropriate to the job being trialled.
- 9.5 Where ASQA and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under clause 4.1.

## Appendix 3

### Definitions

Term	Definition
APS	Australian Public Service
ASQA	Australian Skills Quality Authority, ABN 72 581 678 650
Award	The Australian Public Service Enterprise Award, 2015
Commencement Date	The date that is seven days after this Agreement is approved by Fair Work Commission.
De facto partner	Means: <ul style="list-style-type: none"><li>• a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same or different sexes); and</li><li>• includes a former de facto partner of the employee.</li></ul>
Disability Support Pension	The Commonwealth pension scheme to provide income security for persons with a disability as provided under the <i>Social Security Act 1991</i> , as amended from time to time, or any successor to that scheme
Employee	Means a person employed and paid by ASQA under and within the meaning of the Public Service Act and who is within the coverage of this Agreement.
Fair Work Act	The <i>Fair Work Act 2009</i> and its successors.
FWC	Fair Work Commission
Household	A group of two or more related or unrelated people who usually reside in the same dwelling, who regard themselves as a household.

Immediate family	<p>Means:</p> <ul style="list-style-type: none"> <li>• a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or</li> <li>• a child, parent, grandparent, grandchild or sibling of a spouse, or de facto partner of the employee.</li> </ul> <p>Also Includes:</p> <ul style="list-style-type: none"> <li>• a member of an employee’s extended family who has a similar relationship with the employee as that of a parent, grandparent, child, grandchild or sibling of the employee; and</li> <li>• a member of the employee’s traditional kinship group where there is a relationship or obligation under the customs and traditions of the community or group to which the employee belongs.</li> </ul>
Chief Executive Officer	The Chief Executive Officer of ASQA or where that position no longer exists, another person or position nominated by the employer.
Irregular or intermittent employee	An employee whose hours and days of work are subject to change without notice and where there is no regular pattern of work or who is employed for a one-off short term task
Long Service Leave Act	<i>Long Service Leave (Commonwealth Employees) Act 1976</i>
Maternity Leave Act	<i>Maternity Leave (Commonwealth Employees) Act 1973</i>
National Employment Standards	The National Employment Standards included in the Fair Work Act.
Non-ongoing employee	An APS employee who is not an ongoing APS employee
Ongoing employee	A person engaged as an ongoing APS employee
Public Service Act	The <i>Public Service Act, 1999</i> and its successors.
Registered health practitioner	Has the same meaning as in the Fair Work Act and associated regulations.
Spouse	Includes a former spouse.
Trainee	Trainee APS (Administrative) as defined in the <i>Public Service Classification Rules 2000</i>

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**SIGNATURE PAGE**

**Australian Quality Skills Authority**

Signed for the Australian Quality Skills Authority by MARK IAN PATERSON  
(full name of signatory)

Address of signatory 410 255 ELIZABETH ST  
SYDNEY

Position in ASQA Chief Commissioner and Chief Executive Officer

Signature:   
Date: 11/8/2017

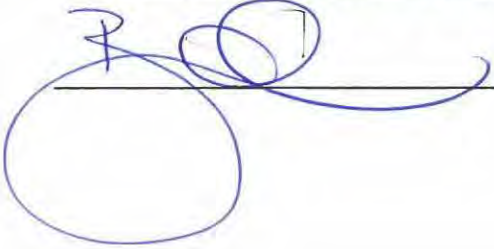
**Employee Bargaining Representatives**

**Community and Public Sector Union (CPSU)**

Signed for the CPSU by BETH VINCENT-PIETSCH  
(full name of signatory)

Address of signatory 40 BRISBANE AV  
BARTON ACT 2600

Position in CPSU DEPUTY SECRETARY

Signature:   
Date: 16/8/2017

# Australian Skills Quality Authority Enterprise Agreement 2017 - 2020 Undertaking

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The Australian Skills Quality Authority makes the following undertaking in relation to the *Australian Skills Quality Authority Enterprise Agreement 2017 - 2020*.

The pattern of hours for a part-time employee will provide for no less than three hours per day (or an alternative period agreed by the Chief Commissioner and Chief Executive Officer and the employee) and will be continuous on any one day.



Mark Paterson AO  
**Chief Commissioner and  
Chief Executive Officer  
Australian Skills Quality Authority**

2 November 2017