



## DECISION

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

**Australian Aged Care Quality Agency**  
(AG2016/7906)

### **AUSTRALIAN AGED CARE QUALITY AGENCY ENTERPRISE AGREEMENT 2016-2019**

Commonwealth employment

COMMISSIONER LEE

MELBOURNE, 6 MARCH 2017

*Application for approval of the Australian Aged Care Quality Agency Enterprise Agreement 2016-2019.*

[1] An application has been made for approval of an enterprise agreement known as the *Australian Aged Care Quality Agency Enterprise Agreement 2016-2019* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Australian Aged Care Quality Agency. The Agreement is a single enterprise agreement.

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

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

[4] The CPSU, the Community and Public Sector Union and the Australian Nursing and Midwifery Federation being bargaining representatives for the Agreement, have given notice under s.183 of the Act that they want the Agreement to cover them. In accordance with s.201(2) I note that the Agreement covers the organisations.

[5] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 13 March 2017. The nominal expiry date of the Agreement is 12 March 2020.



COMMISSIONER

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ANNEXURE A



**Australian Government**  
**Australian Aged Care Quality Agency**

**UNDERTAKING**

The CEO of the Australian Aged Care Quality Agency gives the following undertaking under S.190 of the Fair Work Act 2009 in relation to the Australian Aged Care Quality Agency's Enterprise Agreement 2016-2019 (Agreement):

*Notwithstanding clause 16.1, a casual employee will not be paid less than the applicable award rate (including penalties) for working outside the span of hours of 7:00am to 7:00pm, Monday to Friday.*

**EXPLANATION**

Clause 16.1 refers to the rates of pay for casual employees for work undertaken between Monday and Friday. The Public Service Award allows for overtime for casual employees outside the span of hours of 7:00am to 7:00pm. This undertaking ensures that casual employees will not be paid less than the applicable award rate (including penalties).

The effect of this undertaking will not cause financial detriment to any employee or result in substantial changes to the Agreement.

Signed

Nick Ryan  
**Chief Executive Officer, Australian Aged Care Quality Agency**  
Date

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Australian Government

Australian Aged Care Quality Agency



Welcome everyone

**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 this agreement.**

Enterprise agreement

2016 - 2019

Australian Aged Care Quality Agency (AACQA) would like to thank the following bargaining representatives for their commitment and efforts during the negotiations of this Enterprise Agreement:

AACQA	Staff	Union
Seema Srivastava	Sandra Lacey – ANMF	Andrew McCarthy - ANMF
Ann Wunsch	Simon Couper – ANMF	William Starritt – CPSU
Tracey Clerke	Richard Hanssens – CPSU	Matilda Hunt – CPSU
Charles Grady	David Horne – CPSU	
	Sandra Rosenthal	
	Peter Lloyd	
	Chris South	
	Stewart Brumm	
	Rebecca Smith	
	Cassandra Ristic (end September 2016)	
	Virginia Matthews (end September 2016)	

We would also like to acknowledge the bargaining representatives who participated in the Enterprise Agreement bargaining round from October 2014 until December 2015

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## **PART A: PRELIMINARY**

### **1. Title and commencement**

- 1.1. This Agreement shall be known as the Australian Aged Care Quality Agency Enterprise Agreement 2016-2019.

The Agreement takes effect seven days after approval by the Fair Work Commission. The nominal expiry date of the Agreement is three years after its date of commencement.

### **2. Coverage**

- 2.1 This Enterprise Agreement covers:

The Chief Executive Officer of the Australian Aged Care Quality Agency on behalf of the Commonwealth of Australia; and

Employees of the Australian Aged Care Quality Agency other than Senior Executive Service employees (as defined in the *Public Service Act 1999*).

### **3. Objectives**

- 3.1 The Quality Agency and its employees recognise the importance of working together. This Enterprise Agreement is intended to support achievement of the Quality Agency objectives by:

- o enabling the Quality Agency to fulfil its statutory role and functions;
- o ensuring that there is an alignment between work practices and the Quality Agency objectives;
- o supporting a culture of performance, innovation and continuous improvement which recognises and rewards high performance;
- o providing staff with the opportunity to develop their skills to effectively perform their roles and to create career opportunities by way of learning and development;
- o providing mechanisms to facilitate consultation and flexibility with staff;
- o having conditions of employment that attract and retain skilled staff;
- o providing opportunities for staff to manage work, life and family commitments;
- o increasing organisational productivity and efficiency; and
- o providing and maintaining a safe and healthy productive working environment.

- 3.2 The CEO and employees will work together to identify ongoing productivity initiatives over the life of the Enterprise Agreement.

- 3.3 The Quality Agency values fairness, equity and diversity and has put in place measures designed to prevent and eliminate discrimination and retain its diverse workforce.

### **4. Policies and guidelines**

- 4.1 This Agreement may be supported by workplace policies, procedures, guidelines or other administrative instruments. Such documents are not incorporated into and do not form part of this Agreement. Employees must familiarise themselves with relevant policies, procedures, guidelines or other administrative instruments which may be varied from time to time.

- 4.2 If there is any inconsistency between the terms of this Agreement and the terms of any workplace policy, procedure, guidelines or other administrative instrument the Agreement will prevail.

### **5. Definitions**

- **Act** means *Fair Work Act 2009* (Cth) as amended from time to time or any successor legislation.

- **CEO** means the Chief Executive Officer of the Quality Agency, or a delegate, or a person authorised by the CEO.
- **Employee** means a person employed by the Quality Agency under section 22(2)(a) and section 22(2)(b) of the *Public Service Act 1999* and covered by this Agreement and means an ongoing or non-ongoing employee.
- **Casual employee** means an employee engaged under section 22(2)c of the *Public Service Act 1999*.
- **Family** means a person who is related by blood or marriage, adoption, fostering or traditional kinship; or a person who stands in a genuine domestic relationship with the employee without discrimination as to sexual preference. Family includes a spouse (including a former spouse, a de facto partner or a former de facto partner), a child or a dependent adult child (including an adopted child or a step child), a parent, grandparent, grandchild or sibling of the employee or spouse of the employee.
- **Manager** means a person who carries responsibility for the supervision of a group of employees, including the monitoring of attendance and performance.
- **Medical certificate** means a certificate provided by a registered or licensed health practitioner under a law of a State or Territory or the Commonwealth that provides for registration or licensing of health practitioners of that type.
- **Ordinary hours of work** for full-time employees are 38 hours per week.
- **Ordinary rate of pay** means an employee's rate of pay for standard hours, excluding employer superannuation contribution, overtime, or any other allowance.
- **Part-time employee** means an employee who works on a regular basis and less than an average of 38 hours per week over the eight week settlement period.
- **Performance Planning and Review (PPR)** means the Quality Agency's performance development and appraisal system.
- **Primary caregiver** means the person who has primary care responsibilities for a child/children.
- **Quality Agency** means the Australian Aged Care Quality Agency.
- **Salary** means ordinary rate of pay for standard hours.
- **Standard hours** for full-time employees, for the purposes of calculating pay, attendance and for leave purposes, are 304 hours over an eight week settlement period. This equates to a standard day of 7 hours and 36 minutes.  
For part-time employees, standard hours are those agreed in their part-time arrangement or specified for the job.

All other terms are intended to have their standard dictionary meaning.

## 6. Delegation

- 6.1 The CEO may, in writing, delegate any of his or her powers or functions under this Agreement.
- 6.2 A person exercising delegated powers or functions under this Agreement must comply with any directions of the CEO.
- 6.3 This clause does not limit the power of the CEO to authorise a person to act for and on his or her behalf.

## **7. Individual flexibility arrangements**

7.1 The CEO and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of the terms of the Agreement if it deals with one or more of the following matters:

- a) arrangements about when work is performed;
- b) overtime rates;
- c) penalty rates;
- d) allowances;
- e) remuneration; and/or
- f) leave; and

the arrangement meets the genuine needs of the Quality Agency and the employee in relation to one or more of the matters mentioned above; and

7.1.1 The arrangement is genuinely agreed to by the CEO and the employee.

7.2 The CEO must ensure that the terms of the individual flexibility arrangement:

- a) are about permitted matters under section 172 of the Act;
- b) are not unlawful terms under section 194 of the Act; and
- c) result in the employee being better off overall than the employee would be if no arrangement were made.

7.3 The CEO must ensure that the individual flexibility arrangement:

- a) is in writing; and
- b) includes the name of the employer and employees; and
- c) is signed by the CEO and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and

includes details of:

- d) the terms of the enterprise agreement that will be varied by the arrangement; and
- e) how the arrangement will vary the effect of the terms; and
- f) 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
- g) states the day on which the arrangement commences.

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

7.5 The CEO or the employee may terminate the individual flexibility arrangement:

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

## **PART B: REMUNERATION AND PERFORMANCE**

### **8. Salary levels and classification structure**

- 8.1 The salary rates for all classifications are detailed in Attachments A and B of this Agreement. Supported wage rates (Attachment C) apply to an employee with a disability who is eligible for consideration under the Supported Wage System.
- 8.2 Salaries upon commencement of this Agreement:
- 8.2.1 All employees will receive a minimum 1% salary increase on commencement of this Agreement.
  - 8.2.2 The ordinary rate of pay for current casual assessors will increase by 1% on commencement of this Agreement.
  - 8.2.3 Employees who, prior to the commencement of this Agreement, were on a salary below the lowest salary point in their applicable classification band will, on commencement of this Agreement, receive a salary increase to the lowest salary point in that classification band. Where the difference between their current salary and the lowest pay-point is less than 1%, the salary will be increased by 1%. If the difference between the current salary and the lowest pay-point is greater than 1%, the employee's salary will increase to that pay-point.
  - 8.2.4 Employees who, prior to the commencement of this Agreement, were on a pay-point within the range of their applicable classification band will, on commencement of this Agreement, receive a salary increase to the next highest pay-point within that classification band. If the difference between the existing salary and the next pay-point is lower than 1%, the salary will be increased by 1%. If the difference between the existing salary and the next pay-point is greater than 1%, then the salary will increase to the next pay-point.
  - 8.2.5 Employees whose salary is above the top point for their classification subsequent to commencement of this Agreement will receive a 1% salary increase as provided for under 8.2.1. After receiving this salary increase this group of employees will retain their salary until their actual salary falls within the pay-point range for their APS classification.

### **9. General salary increases**

- 9.1 The salaries of employees who fall within the groups described in clauses 8.2.3 and 8.2.4 will be increased by 1.8% effective 12 months following commencement of the Agreement, and by 1.8% effective 24 months following commencement of the Agreement.

### **10. Salary on engagement, promotion or movement**

- 10.1 When a person either commences as an employee of the Quality Agency, or an existing APS employee is either promoted or moved to the Quality Agency, the person's salary will be the starting salary for the advertised role, unless the CEO determines otherwise.
- 10.2 The CEO may authorise a higher salary taking into account the experience, qualifications and skills of the employee.

### **11. Salary advancement**

- 11.1 Salary advancement to the next salary point in a classification will be subject to at least satisfactory performance and documented through the Quality Agency's performance planning and review system.

- 11.2 The opportunity for salary advancement for existing employees will occur in the first full payroll cycle in January 2018, following completion of the performance review cycle in the September quarter.
- 11.3 Thereafter, opportunity for salary advancement will occur annually, in the first full payroll cycle after January each year, following completion of the performance review cycle in the September quarter.
- 11.4 New and newly promoted employees can only be considered for salary advancement if they have completed at least six months continuous satisfactory performance at that classification band at the Quality Agency.
- 11.5 Salary advancement will be deferred where an employee has a 'managing underperformance' plan (the plan) in place. Salary advancement will occur at the first available pay period after the plan has been finalised and the employee is deemed to be performing at a satisfactory level or higher.

## **12. Movement within a broadband**

- 12.1 Movement between classification levels within a broadband applies to ongoing employees only.
- 12.2 Movement to a higher APS classification level within a broadband is not automatic and can only occur when:
  - a) there is work available at the higher level in accordance with the work level standards for the classification; and
  - b) the employee's performance is being consistently assessed as meeting or exceeding performance agreement metrics for both key business deliverables and observable work behaviours; and
  - c) the employee demonstrates to the employer's satisfaction a potential to undertake the higher level work and if appropriate has the necessary qualifications, skills and/or experience.

## **13. Voluntary reduction in classification**

- 13.1 An employee who is consulted and agrees to perform duties at a lower classification will be paid at the top pay-point in the lower classification.

## **14. Higher duties allowance**

- 14.1 If an employee is required to perform the duties of a role at a higher classification level for 5 or more consecutive working days (including public holidays), the employee will be paid a higher duties payment for the period worked. Payment will be at the minimum salary point for the position being filled.

## **15. Motor vehicle allowance**

- 15.1 The CEO may authorise an employee to use a private vehicle, owned or hired by the employee at the employee's expense, for official purposes, where the CEO considers that it will result in greater efficiency or involve less expense for the Quality Agency. Authorised employees will receive a motor vehicle allowance in accordance with the cents per kilometre method set by the Australian Taxation Office. This allowance does not count as salary for any purpose.

## **16. Casual employment**

- 16.1 Between Monday and Friday, casual employees will, in addition to their ordinary rate of pay, receive a 25% loading on this rate in lieu of public holidays not worked and all paid leave entitlements except long service leave.
- 16.2 On Saturdays, casual employees will, in addition to their ordinary rate of pay, receive a 75% loading on this rate in lieu of public holidays not worked and all paid leave entitlements except long service leave.

- 16.3 On Sundays, casual employees will, in addition to their ordinary rate of pay, receive a 125% loading on this rate in lieu of public holidays not worked and all paid leave entitlements except long service leave.
- 16.4 On public holidays, casuals will, in addition to their ordinary rate of pay, receive a 175% loading on this rate in lieu of public holidays not worked and all paid leave entitlements except long service leave.
- 16.5 Ordinary rates of pay for new casual employees will be equivalent to the hourly rate of the lowest salary point in the applicable band.
- 16.6 Casual employees are entitled to two days unpaid carer's leave and two days unpaid compassionate leave per occasion in accordance with the Act.

### **17. Superannuation**

- 17.1 The Quality Agency will make compulsory employer contributions to the Public Sector Superannuation Plan (PSSAP) and other choice of superannuation accumulation funds in accordance with ordinary time earnings (OTE) method as defined by the *Superannuation Guarantee (Administration) Act 1992*. This will not be reduced by any other contributions made through salary sacrifice arrangements. At the time of commencement of this Agreement the rate of PSSap employer contribution is 15.4%.
- 17.2 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 Employer superannuation contributions will not be paid on behalf of employees during periods of unpaid leave that do not count as service, unless otherwise required under legislation.
- 17.4 The CEO may choose to limit superannuation choice to complying superannuation funds that allow employee and/or employer contributions to be paid through fortnightly electronic funds transfer using a file generated by the Quality Agency's payroll system.

### **18. Salary Packaging**

- 18.1 Employees may access salary packaging and may package up to 100% of salary. Where an employee takes up the option of salary packaging, the employee's salary for purposes of superannuation, severance and termination payments, and any other purposes, will be determined as if the salary packaging arrangement had not occurred.
- 18.2 The CEO has discretion in respect of approving salary sacrifice arrangements other than for superannuation.
- 18.3 Any fringe benefits tax incurred by individual employees as a result of salary packaging arrangements will be met by the individual employee on a salary sacrifice basis.
- 18.4 All administrative costs associated with salary packaging arrangements must be met by the employee.
- 18.5 The Quality Agency is not responsible for any personal liability or loss incurred by an employee through salary packaging arrangements.

### **19. Performance Management Principles**

- 19.1 The Quality Agency's Performance Management principles aim to ensure a shared understanding between managers and their employees as to what is to be achieved, and how it is to be achieved in the course of the year. These principles include:
  - a) aligning employee performance with the Quality Agency's objectives;

- b) identifying competencies to each individual role so that employees know what is expected of them. This will assist in the effective measurement of performance and development and contribute to productivity;
- c) encouraging effective communication between the manager and employee;
- d) managing underperformance to encourage people to succeed which includes a discussion with the employee of relevant issues and allowing reasonable time to address them before any action is taken.

## **20. Study assistance scheme**

20.1 Financial assistance and study leave may be approved by the CEO where the CEO has determined that it is in the interests of the Quality Agency to do so.

## **21. Healthy lifestyle reimbursement**

21.1 An amount of up to \$200 may be reimbursed each financial year to an employee upon production of original receipts for costs spent on healthy lifestyle initiatives. These may include but are not limited to gym membership, weight loss programs, physical exercise equipment, and attire but does not include health insurance.

## **22. Loss of, or damage to, clothing or personal effects**

22.1 Where an employee incurs loss of or damage to clothing or personal effects, and this loss has been accepted by the Quality Agency as being attributable to, or reasonably associated with the employees satisfactory performance of their duties then reimbursement may be made for the amount of the loss or damage up to a maximum of \$1,000. This will be on the basis of an actual value of the clothing or personal effects lost or damaged at the time of loss, not its market value replacement cost.

## **23. First aid responsibilities**

23.1 Where an employee has been appointed first aid officer and following the employee obtaining a current first aid certificate, the employee will be paid a first aid allowance of \$10.69 per week.

## **PART C: WORKPLACE ARRANGEMENTS**

### **24. Attendance**

24.1 The span of hours during which an employee may work their ordinary hours is: 7.00am to 7.00pm Monday to Friday.

### **25. Hours of work**

25.1 Full-time employees are expected to work 38 hours per week (pro rata for part-time employees). Employees may, from time to time, be required to work reasonable additional hours (as defined in the *Fair Work Act 2009*)

25.2 For the purposes of calculating pay, attendance, flex-time, and for leave purposes, standard hours for full-time employees are 304 over an eight-week settlement period.

25.3 Employees must take a meal break of at least 30 minutes after five continuous hours of work. The maximum number of agreed working hours to be worked in a day is ten hours, unless the employee is required to also work overtime.

### **26. Part-time and flexible working arrangements**

26.1 An employee who wishes to work part-time or to engage in flexible working arrangements may request such arrangements. The request must be in writing and must set out the details of the changes sought and the reasons for the change. Part-time or flexible work arrangements may include job sharing arrangements.

26.2 A part-time employee is one who works a regular number of hours and whose hours of work are less than 304 hours over the eight-week week settlement period. The CEO will agree with the employee the number of days and number of hours to be

worked under the eight-week settlement period. However, a minimum of three hours are to be worked consecutively on any day.

- 26.3 The CEO will give every consideration to each request taking into account the individual's circumstances and operational requirements of the Quality Agency. The CEO must provide a written response within 21 days stating whether the CEO grants or refuses the request.
- 26.4 Approved part-time or flexible working arrangements will be subject to periodic review every six-months.
- 26.5 The CEO may refuse a request for part-time or flexible working arrangements on reasonable business grounds.
- 26.6 The CEO may initiate the introduction or extension of part-time or flexible working arrangements. A full-time employee cannot be compelled to work part-time or under flexible working arrangements.
- 26.7 The CEO and the employee may agree to vary the part time or flexible work agreement, including a reversion to full time hours, before the end of any period of an agreed part-time or flexible working arrangement.
- 26.8 Unless agreed otherwise between the employee and the CEO in writing, or otherwise described in the Agreement, remuneration and other benefits, except allowances of an expense or reimbursement, for part-time employees will be calculated on a pro-rata basis.

## **27. Flex-time**

- 27.1 Flex-time arrangements apply to employees at APS level 1-6.
- 27.2 Flex-time arrangements enable employees to work an average of 38 hours per week over an eight-week period, with flexibility in relation to the hours worked on a particular working day, week or fortnight (pro rata for part-time employees).
- 27.3 Flex-time is to be assessed every eight weeks (settlement period). If, at the end of a settlement period, an employee has cumulatively worked:
  - a) more than standard hours over the eight-week period – then a flex-credit is accrued and carried over to the next settlement period;
  - b) less than standard hours over the eight-week period – then a flex-debit is accrued and carried over to the next settlement period.
- 27.4 Employees cannot carry over more than 15 hours of flex-credits to the commencement of the following settlement period.
- 27.5 The CEO can direct an employee to take flex leave in order to reduce excess flex credits. Excess flex credits means more than 15 hours at the end of a settlement period. The CEO will provide a minimum 3 days' notice to the employee.
- 27.6 Where flex credits at the end of the settlement period are in excess of 15 hours, the CEO may, alternatively, approve hours in excess of 15 hours be paid out at ordinary rates where the excess hours result from operational requirements.
- 27.7 Employees cannot carry over more than 10 hours of flex-debits to the following settlement period.
- 27.8 Where the flex-debit at the end of the settlement period exceeds ten hours, the outstanding amount over and above the ten hours may be deducted from the employee's pay.
- 27.9 If, when an employee ceases employment, the employee has a flex debit, then:



- a) the Quality Agency is entitled to recover the amount of the outstanding flex-debit; and
  - b) the calculation of the flex-debit will be based on the employee's ordinary rate of pay.
- 27.10 If, when an employee ceases employment, an employee has a flex-credit, then:
- a) the employee will be paid the value of the flex-credit up to a maximum of 15 hours; and
  - b) the calculation of flex-credit will be based on the employee's ordinary rate of pay.
- 27.11 The CEO can direct an employee to work standard days or regular hours without access to flex-time for a period of time if:
- a) the employee has failed to comply with the flex time arrangements and the employee has been counselled by their manager within the previous six months about the inappropriate use of flex-time, including failing to complete timesheets within specified deadlines; or
  - b) the employee's attendance is unsatisfactory; or
  - c) the CEO considers it necessary because of essential work requirements.

## **28. Overtime**

- 28.1 Overtime payments can only be claimed if prior approval of the CEO has been obtained for an employee to work overtime.
- 28.2 Overtime is payable under this clause to employees who are eligible for the flex-time arrangements.
- 28.3 Overtime is time directed to be worked in order to meet specific operational or business requirements outside the span of hours and only after the employee has worked their standard hours on that day.
- 28.4 Where an employee has worked approved overtime the Quality Agency will provide a cab charge or equivalent, if required, to ensure safe travel home.
- 28.5 Where overtime is payable the following rates will apply:
- a) Monday to Friday – time and a half for the first 3 hours and double time thereafter;
  - b) Saturday – time and a half for the first 3 hours and double time thereafter (with a minimum payment of 4 hours);
  - c) Sunday – double time (with a minimum payment of 4 hours); and
  - d) Public holidays – double time and a half (with a minimum payment of 4 hours).

## **29. Overtime Meal Allowance**

- 29.1 An employee who works after the end of standard hours for the day to the completion of or beyond a meal period, without a break for a meal, will be paid a meal allowance of \$25.00 in addition to any overtime.
- 29.2 For the purposes of this clause a meal period means the following periods during Monday to Friday:
- a) 7:00 am to 9:00 am.
  - b) 12 noon to 2:00 pm.
  - c) 6.00 pm to 7.00 pm
  - d) midnight to 1.00 am
- 29.3 A meal allowance is also payable to an employee who

- a) is required, after completion of the employee's standard hours for the day, to perform duty after a break for a meal which occurs after that completion and is not entitled to payment for that break
- b) is required to perform duty before the commencement of standard hours, who breaks for a meal and is not entitled to payment for that break; or
- c) who is directed to work on a Saturday, Sunday and/or public holiday(s) in addition to the employee's standard hours for the week, extending beyond a meal break and is not entitled to payment for that meal break.

### **30. Additional leave**

- 30.1 Overtime is not payable for time spent travelling outside the span of hours. Instead, travel time outside the span of hours accrues as additional leave at the relevant overtime rates.
- 30.2 Additional leave can also be accrued in lieu of payment for overtime.
- 30.3 Where an employee elects to accrue all or part of their overtime time as additional leave, the accrual will be calculated at relevant overtime rates.
- 30.4 Where additional leave accruals at the end of the flex settlement period exceed 76 hours, the hours in excess of 38 hours as agreed by the CEO will be paid out at ordinary rates so that the additional leave balance is reduced to a maximum of 38 hours.

### **31. On-call allowances**

- 31.1 The Quality Agency may maintain an 'on-call roster' from time to time in order to meet its obligations.
- 31.2 Employees who nominate, and whose names are placed on the 'on-call roster', will be entitled to be paid an on-call allowance of \$65 for each period of up to 24 hours (or part thereof) on weekends and public holidays, and \$55 for each period of up to 24 hours (or part thereof) on weekdays, that they are required to be available.
- 31.3 Where an employee whose name is on the on-call roster has been advised that they are 'on-call', they must be contactable and be able to attend the nearest AACQA office if directed to do so.

### **32. Travel time**

- 32.1 An employee who travels:
  - a) for work related reasons (excluding the normal travel time and distance to and from work);
  - b) if travelling directly from home exceeds the travel time normally taken to commute to work;
 is entitled to record their travel time as 'on duty'.
- 32.2 Where an employee has been recalled to duty after completing their standard hours on that day, travel time from their home and the return trip will be counted as hours 'on duty'.

### **33. Working from home**

- 33.1 Subject to the operational, administrative and work health and safety arrangements, the CEO may approve an employee to work from home. Where this occurs, the time recognised (i.e. time worked) for this activity will be as per the budget allocated for this activity.

## **PART D: LEAVE**

### **34. Annual leave**

- 34.1 Full-time employees are entitled to 20 working days annual leave per year of service (pro rata for part-time employees) which will accrue progressively.
- 34.2 The CEO will not unreasonably refuse a request to take accrued annual leave. Where annual leave is not approved a written reason will be provided.
- 34.3 An employee on annual leave can, on production of acceptable evidence as required by the CEO, apply to take personal leave, carer's leave, compassionate leave or community services leave and have the annual leave re-credited.
- 34.4 Employees who have accrued an annual leave credit of 40 days or more may be directed by their manager to take at least ten days annual leave within 12 weeks of the direction.
- 34.5 An employee may seek approval from the CEO to take annual leave at half pay. If leave is taken at half pay, the deduction from the employee's annual leave credits will be half the period of leave taken. Where an employee takes annual leave at half pay, the employee cannot access purchased leave in the same calendar year.

### **35. Purchase of additional annual leave**

- 35.1 An employee may, subject to the operational requirements of the Quality Agency, nominate to purchase additional annual leave in return for a pro rata adjustment to their fortnightly pay in accordance with the following:
  - 35.1.1 up to a maximum of four weeks can be purchased per year;
  - 35.1.2 only one application can be made each year;
  - 35.1.3 additional annual leave can only be purchased in one week (38 hour) blocks;
  - 35.1.4 any purchased leave balance must be used within the 12 months of the leave being credited; and
  - 35.1.5 an employee enters into this arrangement for a 12-month period.
- 35.2 Purchased leave not taken during the nominated 12-month period will automatically be reimbursed as salary.

### **36. Cashing out of annual leave**

- 36.1 Employees are able to cash out a period of annual leave in accordance with the following conditions:
  - 36.1.1 paid annual leave cannot be cashed out if the cashing out would result in the employee having a balance of less than four weeks of accrued annual leave; and
  - 36.1.2 each cashing out of annual leave must be carried out on the basis of a separate agreement in writing between the CEO and the employee; and
  - 36.1.3 the employee must have taken at least an equivalent amount of annual leave in the previous 12-month period; and
  - 36.1.4 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 foregone.
- 36.2 Cashing out of annual leave will otherwise be in accordance with the *Fair Work Act 2009* (Cth).

### **37. Public holidays**

- 37.1 Public holidays are as provided for in the National Employment Standards.

37.2 Where the CEO and the employee agree a day or part day may be substituted for a day or part day that would otherwise be a public holiday under this clause.

37.3 Where an employee cannot work on a day for which a substituted holiday has been granted, the affected employee will work make-up time at times to be agreed without entitlement to overtime payment.

### **38. 'Quality Agency Day'**

38.1 Employees will be entitled to a day's paid leave in addition to their other leave entitlements. This day must be taken between Christmas and New Year (unless otherwise approved by the CEO) and it does not accrue. This paid day's leave will be called 'Quality Agency Day'.

### **39. Personal/carer's leave**

39.1 Employees will accrue 15 days personal/carer's leave on engagement and 15 days personal/carer's leave on the completion of each year of service thereafter. This amount will be prorated for part-time employees. This entitlement will accrue from year to year and cannot be cashed out.

39.2 Payment of personal/carer's leave shall be at the employee's ordinary rate of pay.

39.3 An employee may take paid personal leave if the leave is taken because the employee is not fit for work because of a personal illness, or personal injury, affecting the employee.

39.4 An employee may take paid carer's leave if the leave is taken:

- a) to provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of:
  - i. a personal illness, or personal injury affecting the member; or
  - ii. an unexpected emergency affecting the member.

39.5 The employee shall, as soon as practicable and preferably before 9.00am on the first day of absence, inform the CEO of his or her inability to attend due to one or more of the reasons specified 39.3 or 39.4.

39.6 An employee must provide satisfactory evidence as soon as reasonably practicable to support applications for personal/carers leave for more than three consecutive days. Satisfactory evidence can include a medical certificate or Statutory Declaration.

39.7 Where an employee has taken more than five days sick leave in the preceding 12-month period, the CEO may require a medical certificate, or where that is not practicable a statutory declaration, to be produced for every absence for the subsequent 12 months.

39.8 The CEO may refuse to approve a request for personal leave where the employee does not comply with the evidentiary requirements.

39.9 Where an employee does not provide the required evidence within a reasonable period, the absence will be treated as unauthorised leave.

39.10 The CEO may, in exceptional circumstances, approve an employee's request to convert their personal leave credits to half pay to cover a period of leave for sick or caring purposes. If leave is taken at half pay, the deduction from the employee's personal leave credits will be half the period of leave taken.

39.11 Personal/carer's leave is not paid out on termination of employment.

### **40. Compassionate leave**

40.1 An employee will be entitled to two days paid leave for each occasion for the purposes of spending time with a member of the employee's immediate family, or a

member of the employee's household, who has a personal illness or injury that poses a serious threat to his or her life.

- 40.2 An employee will be entitled to three days paid leave after the death of a member of the employee's immediate family, or a member of the employee's household.
- 40.3 If an employee has exhausted the leave entitlement under 40.2 in the current year, the employee will be entitled to two days paid leave and one day of unpaid leave for any subsequent death of a member of the employee's immediate family or a member of the employee's household.
- 40.4 Compassionate leave is otherwise in accordance with the *Fair Work Act 2009* (Cth).

#### **41. Portability of leave**

- 41.1 Where an employee transfers (including on promotion or for an agreed period) from another agency where they were an ongoing APS employee, the employee's unused accrued Annual leave and Personal leave (however described) will be recognised, provided there is no break in continuity of service.
- 41.2 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 accrued Annual leave and Personal leave (however described) will be recognised.
- 41.3 For the purposes of this clause:
  - a) 'APS employee' has the same meaning as the *Public Service Act 1999*.
  - b) 'Parliamentary Service' refers to employment under the *Parliamentary Service Act 1999*.

#### **42. Leave for ADF Reserve and Continuous Full-Time Service or Cadet Force obligations**

- 42.1 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.
- 42.2 An employee is entitled to leave with pay, of up to four weeks during each financial year, and an additional two weeks' paid leave in the first year of ADF Reserve Service for the purpose of fulfilling service in the ADF Reserve.
- 42.3 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.
- 42.4 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.
- 42.5 Defence Reserve leave counts as service for all purposes, except for unpaid leave to undertake Continuous Full Time Service (CFTS). Unpaid leave for the purpose of CFTS counts as service for all purposes except annual leave accrual.

#### **43. Community service leave**

- 43.1 An employee is entitled to leave for the purposes of engaging in eligible community service activities including jury duty and emergency management activities as defined in the *Fair Work Act 2009* (Cth).
- 43.2 Leave with pay will be granted for any period of jury duty including jury selection in accordance with the *Fair Work Act 2009* (Cth). Reasonable expenses will also be paid by the Quality Agency where they are not paid by the court. Further information is available in the relevant Quality Agency policy.

- 43.3 Employees must advise their manager of the period or expected period of leave as soon as possible. If an employee requests leave for jury service they need to provide evidence showing they attended jury selection or jury duty.
- 43.4 Before paying for community service activities the Quality Agency may request evidence from the employee to show: that the employee has taken all reasonable steps to obtain jury duty pay or any other payable community service pay and the total amount of jury duty pay or any other payable community service activity pay that the employee has been paid or will be paid.
- 43.5 Employees who are volunteer members of emergency services will be provided with up to 20 days paid leave each year when called out on duty including rest and recuperation time, on rostered work days. Employees may be required to produce supporting documentation in order to receive this payment.

#### **44. Leave without pay**

- 44.1 Employees may seek leave without pay. The CEO retains the discretion whether to grant such leave.

#### **45. Miscellaneous leave**

- 45.1 The CEO may grant leave to an employee, with or without pay, in circumstances not provided for elsewhere in this Agreement for a purpose that the CEO considers to be in the interests of the Quality Agency and having regard to operational impacts.

#### **46. Parental leave**

- 46.1 Parental leave includes maternity leave and adoption leave.
- 46.2 Maternity leave entitlements will be in accordance with the *Maternity Leave (Commonwealth Employees) Act 1973*.
- 46.3 Employees who are eligible for paid maternity leave may elect to have the payment for that leave spread over a maximum of 24 weeks at a rate no less than half normal salary. Where payment is spread over a longer period, only half of the total weeks of the leave period will count as service.

#### **47. Return to work after parental leave**

- 47.1 On ending parental or maternity leave an employee is entitled to recommence the :
- a) the employee's pre-parental/ maternity leave position; or
  - b) if those duties no longer exist an available position for which the employee is qualified and suited at the same classification and pay as applied pre-parental/ maternity leave. Where this is not practical another position at the same classification will be sought for the employee with the redeployment, reduction and redundancy provisions applying to any placement.
- 47.2 For the purposes of this clause a position means a position ordinarily held by the employee either prior the pregnancy or parental leave commencing.

#### **48. Paid supporting partner leave**

- 48.1 An employee who has 12 months or more continuous service within the Australian Public Service whose partner gives birth may take paid leave of two weeks during the four weeks following the birth of a child. This paid leave also applies to the non-primary caregiver of a couple who adopt a child. Otherwise parental leave is to be taken in accordance with the Act.

#### **49. Adoption leave**

- 49.1 An employee who has 12 months or more continuous service within the Australian Public Service is entitled to up to 12 weeks' paid adoption leave on the adoption of a child where the employee is the primary caregiver for the child.

- 49.2 Paid adoption leave is applicable from one week prior to the date of the placement of the child and must be taken within eight weeks of the child being adopted.
- 49.3 Unpaid adoption leave entitlements will be in accordance with the *Fair Work Act 2009*.

#### **50. Long-term foster care**

- 50.1 An employee who has 12 months or more continuous service is entitled to up to 12 weeks' paid foster care leave from the date of the placement of a child where:
- a) the employee becomes the primary caregiver of a long-term foster child;
  - b) the employee is granted custody and guardianship of a child up to the age of 18 years as a result of a permanent care order.
- 50.2 Leave under this clause is otherwise subject to the same conditions as apply to adoption leave under the Act.

#### **51. Unpaid pre-adoption leave**

- 51.1 An employee is entitled to up to two days of unpaid pre-adoption leave to attend any interviews or examinations required in order to obtain approval for the employee's adoption of the child. An employee is not entitled to take a period of unpaid pre-adoption leave if:
- a) the employee could instead take some other form of leave; and
  - b) the CEO directs the employee to take that other form of leave.
- 51.2 An employee who is entitled to a period of unpaid pre-adoption leave is entitled to take this leave as a single continuous period of up to two days or any separate periods to which the employee and the CEO agree.

#### **52. Long service leave**

- 52.1 An employee is eligible for long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.
- 52.2 The minimum period during which long service leave can be taken is seven calendar days (or 14 days at half pay). Long service leave cannot be broken with other periods of leave, except as otherwise provided by legislation.

### **PART E: REDUNDANCY AND TERMINATION OF EMPLOYMENT**

#### **53. Resignation/termination of employment**

- 53.1 The required notice period for resignation is four weeks unless otherwise agreed.

#### **54. Redeployment, reduction**

- 54.1 The provisions of this part do not apply to non-ongoing employees or employees who are on probation.
- 54.2 Where the CEO determines that one or more employees are excess to requirements, the CEO may decide to either:
- a) redeploy the employee to an available position of the same classification of the position they hold;
  - b) reduce the employee in classification and redeploy the employee to an available position below the classification of the position they hold;
  - c) terminate the employee's employment in accordance with the retrenchment / redundancy process set out in this Agreement.
- 54.3 An employee will be considered excess if:

- a) they have been included in a class of employees and there are more employees in that class than is necessary for the efficient and economical working of the Quality Agency.
  - b) the service of the employee cannot be effectively used because of technological or other changes in the methods, or changes in the nature extent or organisation of the functions of the Quality Agency; or
  - c) the duties usually performed by the employee are to be performed by the employee at a different locality and the employee is not reasonably able to perform duties at that locality and the CEO has determined that these provisions will apply to the employee.
- 54.4 Where the CEO becomes aware that an employee is likely to become potentially excess, the CEO will advise the employee in writing, as soon as practicable, of the situation. The advice should include:
- a) the reasons for the CEO considering that an employee is likely to become excess;
  - b) actions that might be taken to reduce the likelihood of the employee's becoming excess;
  - c) redeployment opportunities for the employee within the Agency or another APS agency;
  - d) the possibility of retrenchment with the payment of a redundancy benefit; and
  - e) that an employee may choose to be represented in any such discussions.
- 54.5 Where an employee is moved to a job below their substantive classification in accordance with this clause, they will maintain their previous salary for a period of 12 months; thereafter they will be paid in accordance with their new classification level.

**55. Retrenchment / redundancy**

- 55.1 In accordance with section 29 of the *Public Service Act 1999*, the CEO may terminate the employment of an excess employee.
- 55.2 Where an employee's employment is terminated by the CEO under section 29 of the *Public Service Act 1999* on the grounds that the employee is excess, the employee will (subject to any part of this Agreement to the contrary) be entitled to a redundancy payment of an amount equal to two weeks' salary for each completed year of continuous service, plus a pro rata payment for the 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.
- 55.3 The minimum sum payable will be 4 weeks salary and the maximum will be 48 weeks.
- 55.4 Redundancy pay will be calculated on a pro rata basis for any period where the employee has worked part-time hours during their 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.
- 55.5 Employees are entitled to a four-week notice period (or payment in lieu) in addition to redundancy payment. Employees who are over 45 years old and who have completed five years of continuous service will be entitled to a five-week notice period (or payment in lieu).
- 55.6 The CEO may approve the engagement of outplacement services to assist the employee. The CEO may approve reimbursement of up to \$500 to an employee to seek financial advice.



55.7 For the purpose of calculating an entitlement in accordance with clause 55.2 'service' means:

- a) service in an Australian Public Service Sector agency;
- b) government service as defined in section 10 of the *Long Service Leave (Commonwealth employees) Act 1976*;
- c) 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;
- d) service with the Australian Defence Forces; and
- e) 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 such service is recognised for long service leave purposes.

55.8 However, for the purpose of calculating an entitlement in accordance with clause 55.2 '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 1999*;
  - vi. breach of the Code of Conduct; or
  - vii. any other ground prescribed by the Public Service Regulations 1999;
- 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-finance retirement benefit.

55.9 Absences from duty which do not count as service for long service leave purposes will also not count as service for redundancy pay purposes.

55.10 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.

55.11 For the purposes of calculating any payment under this clause, 'salary' will include:

- a) the employee's full-time salary, adjusted on a pro rata basis for periods of part-time service, and
- b) for an allowance to be included as salary for redundancy pay purposes, it will have been paid during periods of annual leave and on a regular basis.

55.12 Employees who transitioned from Aged Care Standards and Accreditation Agency Ltd (ACSAA Ltd) to the Quality Agency on 1 January 2014 and who were covered by the ACSAA Enterprise Agreement 2010-2013 will be entitled to a redundancy payment of at least the amount of redundancy payment the employee would be entitled to in accordance with the table below if the employee had been retrenched immediately before the date of transition, that is, if the employee had been retrenched on 31 December 2013.

<b>Years of service</b>	<b>Under 45 years of age</b>	<b>Over 45 years of age</b>
<b>Less than 1 year</b>	<b>Nil</b>	<b>Nil</b>
<b>1 year and less than 2 years</b>	<b>4 weeks</b>	<b>5 weeks</b>
<b>2 years and less than 3 years</b>	<b>7 weeks</b>	<b>8.75 weeks</b>
<b>3 years and less than 4 years</b>	<b>10 weeks</b>	<b>12.5 weeks</b>
<b>4 years and less than 5 years</b>	<b>12 weeks</b>	<b>15 weeks</b>
<b>5 years and less than 6 years</b>	<b>14 weeks</b>	<b>17.5 weeks</b>
<b>6 years and up to 8 years</b>	<b>16 weeks</b>	<b>20 weeks</b>

**Entitlements to redundancy pay under this table are to be calculated on a pro rata basis for any period of service when the employee worked part-time**

- 55.13 Employees who transitioned from ACSAA Ltd to the Quality Agency on 1 January 2014 and who were covered by the ACSAA Enterprise Agreement 2010-2013 are entitled to a four-week notice period (or payment in lieu), in addition to redundancy payment. Employees who are over 45 years old and who have completed two years of continuous service will be entitled to a five-week notice period (or payment in lieu).
- 55.14 Where the amount of redundancy payment that an eligible employee would be entitled to under clauses 55.2-55.4 exceeds the amount of redundancy payment that the employee would be entitled to under clause 55.13, clauses 55.2-55.4 apply.

## **PART F: CONSULTATION**

### **56. Consultation on issues relating to the operation of this Enterprise Agreement**

56.1 The Quality Agency will consult with staff on issues relating to the implementation and operation of this Agreement, including consulting with staff before changes are made to policies affecting the employment conditions of employees. The Quality Agency will allow a reasonable period for staff to consider any such issues.

### **57. Consultation on major change**

57.1 This term applies if the employer:

- 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

- 57.2 For a major change referred to in paragraph 57.1 (a)
- a) the employer must notify the relevant employees of the decision to introduce the major change; and
  - b) subclauses 57.3-57.9 apply.
- 57.3 The relevant employees may appoint a representative for the purposes of the procedures in this term.
- 57.4 If:
- a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
  - b) the employee or employees advise the CEO of the identity of the representative the CEO must recognise the representative.
- 57.5 As soon as practicable after making the decision, the CEO must:
- a) discuss with the relevant employees:
    - i. the introduction of the change; and
    - ii. the effect the change is likely to have on the employees; and
    - iii. measures the CEO 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.
- 57.6 However, the CEO is not required to disclose confidential or commercially sensitive information to the relevant employees.
- 57.7 The CEO must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- 57.8 If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph 57.2 (a) and subclauses 57.3 and 57.5 are taken not to apply.
- 57.9 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 the employer's workforce or to the skills required of employees; or
  - c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
  - d) the alteration of hours of work; or
  - e) the need to retrain employees; or
  - f) the need to relocate employees to another workplace; or

g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

57.10 For a change referred to in paragraph 57.1 (b):

- a) the employer must notify the relevant employees of the proposed change; and
- b) subclauses 57.11 and 57.15 apply.

57.11 The relevant employees may appoint a representative for the purposes of the procedure in this term.

57.12 If:

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

57.13 As soon as practicable after proposing to introduce the change, the employer 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 the employer reasonably believes will be the effects of the change on the employees; and
  - iii. information about any other matters that the employer 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).

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

57.15 The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.

57.16 In this term, 'relevant employees' means the employees who may be affected by a change referred to in subclause 57.1.

**58. Dispute resolution**

58.1 If a dispute relates to

- a) a matter arising under this Agreement; or
- b) the National Employment Standards;

this term sets out procedures to settle the dispute.

58.2 An employee who is party to the dispute may appoint a representative for the purposes of the procedures in this term.

58.3 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.

58.4 If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the Fair Work Commission.

58.5 The Fair Work Commission may deal with the dispute in two stages:

- a) the Fair Work Commission will first attempt to resolve the dispute as it consider appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
- b) if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then
  - i. arbitrate the dispute; and
  - ii. make a determination that is binding on the parties.

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

58.6 While the parties are trying to resolve the dispute using the procedures in this term:

- a) an employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
- b) an employee must comply with a direction given by the CEO to perform other available work at the same workplace, or at another workplace, unless:
  - i. the work is not safe; or
  - ii. applicable work health and safety legislation would not permit the work to be performed; or
  - iii. the work is not appropriate for the employee to perform; or
  - iv. there are other reasonable grounds for the employee to refuse to comply with the direction.

58.7 The parties will be bound by a decision made by the Fair Work Commission in accordance with this term.

### **59. Employee Assistance Program**

59.1 Employees may access, confidential professional counselling to assist with personal or work related issues. This counselling service is provided by the Quality Agency through an external employee assistance program.

### **60. Representational Rights**

60.1 The right for an employee to belong to a union will be respected, as will the right not to belong to a union. The role of workplace representatives, including union delegates and employee representatives, will be respected and facilitated in accordance with the *Fair Work Act 2009* (Cth).

**ATTACHMENT A**

**APS classification structure**

<b>APS classification</b>	<b>Salary upon implementation</b>	<b>Salary 12 months after implementation</b>	<b>Salary 24 months after implementation</b>
APS level 1.1	\$42,368.00	\$43,130.62	\$43,906.98
APS Level 1.2	\$45,403.00	\$46,220.25	\$47,052.22
APS Level 1.3	\$47,639.00	\$48,496.50	\$49,369.44
APS Level 2.1	\$49,562.00	\$50,454.12	\$51,362.29
APS Level 2.2	\$51,261.00	\$52,183.70	\$53,123.00
APS Level 2.3	\$54,123.00	\$55,097.21	\$56,088.96
APS Level 3.1	\$57,190.00	\$58,219.42	\$59,267.37
APS Level 3.2	\$59,027.00	\$60,089.49	\$61,171.10
APS Level 3.3	\$60,707.00	\$61,799.73	\$62,912.12
APS Level 3.4	\$63,734.00	\$64,881.21	\$66,049.07
APS Level 4.1	\$65,084.00	\$66,255.51	\$67,448.11
APS Level 4.2	\$66,886.00	\$68,089.95	\$69,315.57
APS Level 4.3	\$67,594.00	\$68,810.69	\$70,049.28
APS Level 4.4	\$68,792.00	\$70,030.26	\$71,290.80
APS Level 5.1	\$70,694.00	\$71,966.49	\$73,261.89
APS Level 5.2	\$72,605.00	\$73,911.89	\$75,242.30
APS Level 5.3	\$76,418.00	\$77,793.52	\$79,193.81
APS Level 6.1	\$79,088.00	\$80,511.58	\$81,960.79
APS Level 6.2	\$84,203.00	\$85,718.65	\$87,261.59
APS Level 6.3	\$89,186.00	\$90,791.35	\$92,425.59
Executive Level 1.1	\$97,391.00	\$99,144.04	\$100,928.63
Executive Level 1.2	\$101,599.00	\$103,427.78	\$105,289.48
Executive Level 1.3	\$106,612.00	\$108,531.02	\$110,484.57
Executive Level 1.4	\$112,975.00	\$115,008.55	\$117,078.70
Executive Level 2.1	\$117,021.00	\$119,127.38	\$121,271.67
Executive Level 2.2	\$126,481.00	\$128,757.66	\$131,075.30
Executive Level 2.3	\$130,327.00	\$132,672.89	\$135,061.00
Executive Level 2.4	\$137,274.00	\$139,744.93	\$142,260.34

**ATTACHMENT B****APS Surveyor/Senior Surveyor broadband salary structure**

<b>APS classification</b>	<b>Salary upon implementation</b>	<b>Salary 12 months after implementation</b>	<b>Salary 24 months after implementation</b>
<b>Quality Surveyor APS 5.1</b>	\$70,694.00	\$71,966.49	\$73,261.89
<b>Quality Surveyor APS 5.2</b>	\$72,605.00	\$73,911.89	\$75,242.30
<b>Quality Surveyor APS 5.3</b>	\$76,418.00	\$77,793.52	\$79,193.81
<b>Soft barrier</b>			
<b>Senior Quality Surveyor APS 6.1</b>	\$79,088.00	\$80,511.58	\$81,960.79
<b>Senior Quality Surveyor APS 6.2</b>	\$84,203.00	\$85,718.65	\$87,261.59
<b>Senior Quality Surveyor APS 6.3</b>	\$89,186.00	\$90,791.35	\$92,425.59

## ATTACHMENT C

### Supported wage system

This schedule 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 award.

In this schedule:

- **Approved 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
- **Assessment instrument** means the tool 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
- **Disability Support Pension** means the Commonwealth Government pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991 (Cth)*, as amended from time to time, or any successor to that scheme
- **Relevant minimum wage** means the minimum wage prescribed in this award for the class of work for which an employee is engaged
- **Supported Wage System (SWS)** means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the JobAccess website ([www.jobaccess.gov.au](http://www.jobaccess.gov.au))
- **SWS wage assessment agreement** means the document in the form required by the Department of Education, Employment and Workplace Relations that records the employee's productive capacity and agreed wage rate

### 1. Eligibility criteria

- 1.1. Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.
- 1.2. The schedule 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 award relating to the rehabilitation of employees who are injured in the course of their employment.



## 2. Supported wage rates

- 2.1. Employees to whom this clause applies shall be paid the applicable percentage of the relevant minimum wage according to the following schedule:

<b>Assessed capacity</b>	<b>% of prescribed salary rate</b>
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

Provided that the minimum amount payable must be not less than \$82 per week.

- 2.2. Where an employee's assessed capacity is 10%; they must receive a high degree of assistance and support.

## 3. Assessment of capacity

- 3.1. For the purposes of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and the employee, and if the employee so desires, a union which the employee is eligible to join.
- 3.2. Assessment made under this schedule must be documented in a SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

#### **4. Lodgement of SWS wage assessment agreement**

- 4.1. All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.
- 4.2. All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

#### **5. Review of assessment**

- 5.1. The assessment of the applicable percentage should be subject to annual review or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the support wage system.

#### **6. Other terms and conditions of employment**

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

#### **7. Workplace adjustment**

- 7.1. An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve redesign of job duties, working time arrangements and work organisation in consultation with other workers in the area.


#### **8. Trial Period**

- 8.1. In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a Trial Period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- 8.2. During that Trial Period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
- 8.3. The minimum amount payable to the employee during the Trial Period must be no less than \$82 per week.
- 8.4. Work trials should include induction or training as appropriate to the job being trialled.

- 8.5. Where the employer and employee wish to establish a continuing employment relationship following the completion of the Trial Period, a further contract of employment will be entered into based on the outcome of assessment under clause C.5.


FORMAL ACCEPTANCE OF THE AGREEMENT AND SIGNATORIES

Date 20 Dec 2016

  
.....  
Nick Ryan  
Chief Executive Officer  
Australian Aged Care Quality Agency  
Level 9  
111 Phillip Street  
Parramatta NSW 2150


Date

19 December  
2016

  
.....  
Melissa Donnelly  
Deputy Secretary  
Community & Public Sector Union  
5/191-199 Thomas Street  
Haymarket NSW 2000

Date

19/12/16

  
.....  
Nick Blake  
Senior Federal Industrial Officer  
Australian Nursing and Midwifery Federation  
Level 1  
365 Queen Street  
Melbourne VIC 3000



Date



Sandra Rosenthal  
Employee Bargaining Representative  
Australian Aged Care Quality Agency  
The Terrace Office Park  
Level 2, South Tower 527 Gregory Terrace  
Bowen Hills Qld 4006

Date

16 December 2016



Peter Lloyd  
Employee Bargaining Representative  
Australian Aged Care Quality Agency  
Building B The Garden Office Park  
355 Scarborough Beach Road  
Osborne Park WA 6017

Date

19/12/2016



Chris South  
Employee Bargaining Representative  
Australian Aged Care Quality Agency  
The Terrace Office Park  
Level 2, South Tower 527 Gregory Terrace  
Bowen Hills Qld 4006



Date

16/12/16



Stewart Brumm  
Employee Bargaining Representative  
Australian Aged Care Quality Agency  
The Terrace Office Park  
Level 2, South Tower 527 Gregory Terrace  
Bowen Hills Qld 4006







## **UNDERTAKING**

The CEO of the Australian Aged Care Quality Agency gives the following undertaking under S.190 of the Fair Work Act 2009 in relation to the Australian Aged Care Quality Agency's Enterprise Agreement 2016-2019 (Agreement):

*Notwithstanding clause 16.1, a casual employee will not be paid less than the applicable award rate (including penalties) for working outside the span of hours of 7:00am to 7:00pm, Monday to Friday.*

## **EXPLANATION**

Clause 16.1 refers to the rates of pay for casual employees for work undertaken between Monday and Friday. The Public Service Award allows for overtime for casual employees outside the span of hours of 7:00am to 7:00pm. This undertaking ensures that casual employees will not be paid less than the applicable award rate (including penalties).

The effect of this undertaking will not cause financial detriment to any employee or result in substantial changes to the Agreement.

Signed

Nick Ryan  
**Chief Executive Officer, Australian Aged Care Quality Agency**  
Date