



# DECISION

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

**Victorian Building Authority**  
(AG2021/5826)

## **VICTORIAN BUILDING AUTHORITY ENTERPRISE AGREEMENT 2020**

State and Territory government administration

COMMISSIONER WILSON

MELBOURNE, 12 JULY 2021

*Application for approval of the Victorian Building Authority Enterprise Agreement 2020.*

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

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

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

[4] The Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia 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 19 July 2021. The nominal expiry date of the Agreement is 20 March 2024.



COMMISSIONER

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## Annexure A



### Undertaking Section 190

#### Victorian Building Authority Enterprise Agreement 2020-2024 (AG2021/5826)

#### Written undertakings under section 190 of the *Fair Work Act 2009*

I, Karen Wild, Executive Director, People and Capability of the Victorian Building Authority, give the following undertaking with respect to the Victorian Building Authority Agreement 2020 ("the Agreement").

1. I have the authority given to me by the Victorian Building Authority to provide this undertaking in relation to the application before the Fair Work Commission.

#### 2. Undertaking for payment of salaries to Legal Officers

In the event that the VBA employs Legal Officers at Grades 1, 2, or 3 as defined in the Victorian State Government Agencies Award 2015 (Award), the VBA will ensure that they are engaged with terms and conditions better off overall than the Award, and that they are remunerated at a salary increment level above the wages amount contained within the Award.

3. This undertaking is provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

Signed by the Victorian Building Authority in accordance with section 190(5) of the Act

Signature: 

Name: Karen Wild

Date: 9 July 2021

**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.**

# **Victorian Building Authority Enterprise Agreement 2020**

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## Section I – Core Terms and Conditions of Employment

### Part 1 Application and Operation of Agreement

#### 1. Title

This Agreement will be known as the *Victorian Building Authority Enterprise Agreement 2020*.

#### 2. Definitions and interpretation

In this document, unless the contrary intention appears:

**Accredited Representative of a Union** means an officer or employee of a Union or a workplace delegate accredited by an authorised officer of a Union

**Agreement** means the Victorian Building Authority Enterprise Agreement 2020

**Child** unless otherwise defined means:

(a) someone who is child of the Employee within the meaning of the Family Law Act 1975 (Cth), and

(b) an adopted child or step-child of the person, regardless of the age of the child.

**CPSU** means the Community and Public Sector Union

**De Facto Partner** means:

(c) 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 sex or different sexes); and

(d) includes a former De Facto Partner of the Employee.

**Employee** means an employee of the Victorian Building Authority, excluding Executive Officers

**Employer** means the Victorian Building Authority

**Fortnightly Salary** means an Employee's annual salary divided by 365.25 multiplied by 14

**FWC** means the Fair Work Commission or its successor

**Fair Work Act 2009** and **FW Act** means that Act, as may be amended from time to time and any successor to that Act

**Immediate Family** means:

(e) a Spouse, De Facto Partner, Child, parent, grandparent, grandchild or sibling of the Employee; or



(f) a Child, parent, grandparent, grandchild or sibling of a spouse or De Facto Partner of the Employee.

**Long Term Casual Employee** means a casual Employee who has been employed on a regular systematic basis by their employer for a sequence of periods of employment during a period of at least 12 months.

**Machinery of Government Change** means a change arising from the allocation and reallocation of functions between Victorian government departments and/or Agencies which is set out in a General Order allocating Acts of Parliament to Ministers signed by the Premier, an Administrative Arrangements Order made under the *Administrative Arrangements Act 1983 (Vic)* or an order or declaration made under the *Public Administration Act 2004 (Vic)*

**NES** means the National Employment Standards

**Party or Parties** means the Victorian Building Authority or the CPSU

**PAA** means the *Public Administration Act 2004 (Vic)* as may be amended from time to time, or any successor to that Act

**Public Holiday** means a day that is a public holiday pursuant to **clause 49**

**Salary** means the wage or salary rate, including all on-going progression payments, which an Employee receives in the normal course of their duty; provided that Salary does not include any payment for overtime, travelling allowance, incidental expenses or any payment of a temporary character.

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

**VBA** means the Victorian Building Authority

### **3. Commencement Date and Period of Operation**

**3.1** This Agreement will commence operation seven (7) days after it is approved by the FWC and will have a nominal expiry date of 20 March 2024.

**3.2** Employees to whom this Agreement applies will receive:

(a) Salary increases as provided for in **clause 30** (Salary Increases), with the first increase payable with effect from 20 March 2020; and

(b) Increases to allowances, with the first increase payable with effect from 20 March 2020.

**3.3** Salary and allowance increases payable for the period between 20 March 2020 and the commencement of the Agreement will be made as soon as reasonably practicable after the Agreement commences operation.

**3.4** Alterations to conditions of employment provided for in this Agreement will apply with effect from the commencement date of this Agreement, unless otherwise stated.

#### **3.5 Renegotiation Period**

(a) With the aim of avoiding protracted negotiations for a new agreement, the parties to this Agreement agree to a renegotiation period. The renegotiation

period will be from 20 September 2023 until 20 February 2024. The aim of the renegotiation period is to permit a new agreement to be reached prior to the nominal expiry date of this Agreement.

- (b) To meet this objective, the parties to this Agreement agree that:
  - (i) each will provide any proposals for change to the Agreement by 20 September 2023, and
  - (ii) they will meet regularly to progress negotiations in good faith. Small working groups may be established to examine particular areas of disagreement, and
  - (iii) the person/s responsible for negotiating will bring with them the necessary authority to finalise an agreement; and
  - (iv) if agreement is not reached by 20 December 2023, the Parties will discuss whether they should seek the assistance of a mutually agreed conciliator or the FWC. This does not prevent the parties seeking assistance, by agreement, on any individual issue which is creating an impasse; and
  - (v) should conciliation be sought, then the Parties to the conciliation may agree to an extension to the renegotiation period.
- (c) During this period the parties to this Agreement will not act in a manner that is designed to frustrate good faith bargaining.

#### **4. Application of Agreement and Parties Covered**

**4.1** This Agreement applies to and covers:

- (a) the VBA in respect of all Employees (as defined in **clause 2**);
- (b) all Employees whose employment is, at any time when this Agreement is in operation, subject to this Agreement; and
- (c) the CPSU, provided that the FWC in its decision to approve this Agreement notes that the Agreement covers the CPSU.

**4.2** In accordance with Part 2-8 of the FW Act, where there is a transfer of business to a new employer, the new employer is bound by this Agreement as a transferable instrument to the extent that it relates to the whole or part of the business transfer.

**4.3** The VBA will ensure all human resources policies are updated in accordance with changes to the Agreement and the Victorian Public Service policies, within 12 months of this Agreement coming into effect.

#### **5. No Further Claims**

**5.1** This Agreement is intended to set out, or set out processes for determining, all the terms and conditions of employment of the Employees which will be subject to the Agreement made under the FW Act for the period from the date of commencement of this Agreement until 20 March 2024.

- 5.2 The Employees, the Employer and the Union covered by this Agreement agree that they will not, for the period from the date of commencement of this Agreement until 20 September 2023, make claims for the making of an enterprise agreement under the *FW Act*, whether in relation to matters dealt with in this Agreement or otherwise.

## 6. Savings Provisions and Relationship with other Awards and Agreements

- 6.1 This Agreement operates to the exclusion of all previous awards and orders of the FWC and replaces all previous industrial instruments under the FW Act in respect of the Employees. However any entitlement in the nature of an accrued entitlement to an individual's benefit which has accrued under any such previous industrial instrument will not be affected by the making of this Agreement.
- 6.2 No Employee will, on balance, have their overall pay and conditions reduced as a result of the making of this Agreement.
- 6.3 No Employee's overall terms and conditions of employment shall, on balance, be reduced as a result of any Machinery of Government Changes that occur during the life of this Agreement.
- 6.4 A dispute or grievance that is being considered pursuant to **clause 21** of the *Victorian Building Authority Agreement 2016* at the time this Agreement commences operation may continue to be considered pursuant to **clause 13** (Resolution of Disputes) of this Agreement.

### 6.5 Transitional Arrangements

- (a) Transitional arrangements apply to several entitlements in the Agreement, including:
- (i) Performance Development and Progression within a Value Range (**Clause 29**), and
  - (ii) Employer contributions in respect of Primary Caregiver Parental Leave (**Clause 37.5**), and
  - (iii) Rest and Meal Breaks (**Clause 40 & 41**), and
  - (iv) Overtime (**Clause 39**), and
  - (v) Personal/Carers Leave (**Clause 51**), and
  - (vi) Parental Leave (**Clause 55**), and
  - (vii) Surrogacy Leave (**Clause 56**).
  - (viii) Accrued Time Leave;
- (i) Upon the commencement of this Agreement, Employees with outstanding Accrued Time Leave are required to submit an approved timesheet to the Employer setting out their Accrued Time Leave balance. Once submitted, the Employer will advise the Employee whether it agrees with the balance submitted by the Employee.

- (ii) In the 12 month period immediately following the commencement of this Agreement, Employees with an agreed Accrued Time Leave balance may access up to 38 hours of that Accrued Time Leave balance with such leave to be taken at a time agreed between the Employee and the Employer.
  - (iii) Where Employees do not use all of their Accrued Time Leave balance, up to a maximum of 38 hours, during the 12 month period immediately following the commencement of this Agreement, any remaining period of ATL will be exhausted and unable to be used.
  - (iv) If an Employee and the Employer are unable to agree on the Employee's Accrued Time Leave balance, the Employee can apply to have their proposed balance reviewed by the Working Group
  - (v) For the purpose of clause 6.5(c)(v), the Working Group is established under clause 9.8.
- (b) A transitional arrangement may require the continued application of provisions in the VBA Enterprise Agreement 2016 for a short period of time. The continued application of previous arrangements is set out in the relevant clause and will apply as a term of this Agreement for the period of the transitional arrangement.

## **7. Anti-Discrimination and Workplace Diversity**

- 7.1** The Parties covered by this Agreement respect and value the diversity of the workforce by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual preference, gender, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction, social origin or any other attributes protected by anti-discrimination legislation.
- 7.2** The Employer recognises the importance of workplace diversity and inclusion. The Employer will strive to create a diverse workforce and an environment that recognises, values, utilises and reflects the diverse society in which we live. In this context, diversity includes cultural diversity, Aboriginal and Torres Strait Islander identity, sexuality, age, gender identity, ability, neurodiversity and carer responsibilities.
- 7.3** Accordingly, in fulfilling their obligations under the procedures in **clause 13** (Resolution of Disputes), the Parties must make every endeavour to ensure that neither the Agreement provisions nor their operation are directly or indirectly discriminatory in their effects.
- 7.4** Nothing in this clause is to be taken to affect:
- (a) any different treatment (or treatment having different effects) which is specifically exempted under the Commonwealth anti-discrimination legislation; or
  - (b) an Employee, Employer or Union pursuing matters of discrimination in any State or Federal jurisdiction, including by application to the Australian Human Rights Commission; or

- (c) the exceptions in section 351(2) and 772(2) of the *FW Act* or the operation of sections 772(3) and 772(4) of the *FW Act*.

7.5 The Employer will act in accordance with its obligations under:

- (a) the *Equal Opportunity Act 2010* (Vic); and
- (b) the Victorian Charter of Human Rights and Responsibilities, and
- (c) the *Gender Equality Act 2020* (VIC)

These obligations apply to the Employer but do not form part of the Agreement.

## Part 2 Flexible Work

### 8. Flexible Work

- 8.1 The Parties are committed to providing a range of flexible working arrangements to give Employees a meaningful level of control over when, where and how work is accomplished.
- 8.2 These reflect a genuine commitment to support both individual flexibility and business performance needs, while recognising that not all forms of flexibility will be suitable for all roles at any time.
- 8.3 Several provisions in this Agreement are available to facilitate an individual's need for flexibility, consistent with business requirements and legislative obligations.

Clause	Title	Summary of entitlement (see clause for full entitlement and any conditions)
9	Individual Flexibility Arrangement (IFA)	An IFA may vary the effect of <b>clause 38</b> (Hours of Work).
10	Flexible Working Arrangements – Specific Circumstances	Under s65 of the FW Act Employees in circumstances as defined in the legislation may request flexible working arrangements.
18.4	Part-time Employment	Part time employment may be worked by agreement between the Employee and the Employer.
22	Working from Home	An individual Employee and Employer may agree to work from home on a case by case basis.
38	Hours of Work	An employee (other than a Shift Worker) can agree with the Employer to work their ordinary hours flexibly, within the span of hours, to best meet the Employer's work requirements and the Employee's personal and/or family circumstances. This may include, for example, working compressed hours.

46	Purchased Leave	An Employee and Employer may agree to work less than 52 weeks per year to increase the amount of leave available.
51	Family Violence Leave	An Employee experiencing family violence has an entitlement to additional leave and may request flexible work arrangements.
54	Parental Leave	An Employee returning to work after parental leave has a right to request a reduced time fraction until their Child reaches school age, or alternatively may request an extension of unpaid parental leave.

## 9. Individual Flexibility Arrangements

- 9.1** An Employee and the Employer may enter into an individual flexibility arrangement pursuant to this clause in order to meet the genuine needs of both the Employee and the Employer. An individual flexibility arrangement must be genuinely agreed to by the Employee and Employer.
- 9.2** An individual flexibility arrangement may vary the effect of **clause 38** (Hours of Work).
- 9.3** An Employee may nominate a representative to assist in negotiations for an individual flexibility arrangement.
- 9.4** The Employer must ensure that the terms of the individual flexibility arrangement:
- (a) are about permitted matters under section 172 of the *FW Act*; and
  - (b) are not unlawful terms under section 194 of the *FW Act*; and
  - (c) result in the Employee being better off overall than the Employee would be if no arrangement was made.
- 9.5** The Employer must ensure that an individual flexibility arrangement is in writing and signed by the Employee and Employer. If the Employee is under 18, the arrangement must also be signed by a parent or guardian of the Employee.
- 9.6** The Employer must give a copy of the individual flexibility arrangement to the Employee within 14 days after it is agreed to.
- 9.7** The Employer must ensure that any individual flexibility arrangement sets out:
- (a) which terms of this Agreement will be affected or varied by the individual flexibility arrangement; and
  - (b) how the individual flexibility arrangement will vary or affect the terms of this Agreement; and
  - (c) how the Employee will be better off overall in relation to the terms and conditions of their employment as a result of the individual flexibility arrangement; and

- (d) the day on which the individual flexibility arrangement commences; and
- (e) provides for the individual flexibility arrangement to be terminated:
  - (i) by either the Employee or Employer giving a specific period of written notice, with the specified period being not more than 28 days; and
  - (ii) at any time by written agreement between the Employee and Employer.

## 9.8 Review of Flexible Work Arrangements

- (a) The parties agree to establish a Working Group that will operate over the life of this Agreement to review the implementation of flexible work arrangements.
- (b) If an Employee believes that their application for a flexible working arrangement has been unreasonably refused, the Employee can apply to have the decision reviewed by the Working Group.
- (c) The Working Group will comprise equal numbers of representatives nominated by CPSU and the Employer with Terms of Reference to be developed during implementation of the Agreement.
- (d) The Working Group will be chaired by a mutually agreed independent person.
- (e) Where the Working Group cannot reach agreement, the independent Chairperson may provide a recommendation to the Employer.
- (f) The Employer will consider the recommendation, and will provide reasons to the Working Group confirming, varying, or rejecting the recommendation.
- (g) All parties are able to refer matters dealt with under this clause to the Fair Work Commission in accordance with **clause 13** (Resolution of Disputes).

## 10. Flexible Working Arrangements – Specific Circumstances

**10.1** Section 65 of the *FW Act* provides that an Employee may request a change in their working arrangements in any of the following circumstances:

- (a) the Employee is the parent, or has responsibility for the care, of a child who is of school age or younger; or
- (b) the Employee is a carer (within the meaning of the *Carer Recognition Act 2010*); or
- (c) the Employee has a disability; or
- (d) the Employee is 55 or older; or
- (e) the Employee is experiencing violence from a member of the employee's family; or
- (f) the Employee provides 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 the member is experiencing violence from the member's family.

Note: Examples of changes in working arrangements include changes in hours of work, changes in patterns of work and changes in location of work.

- 10.2** To avoid doubt, and without limiting **clause 10.1**, an Employee may request to work part-time to assist the Employee to care for the Child if the Employee:
- (a) is a parent, or has responsibility for the care, of a child; and
  - (b) is returning to work after taking leave in relation to the birth or adoption of the child;
- 10.3** A casual Employee is not entitled to make a request under this clause unless the Employee:
- (i) is a Long Term Casual Employee of the Employer immediately before making the request; and
  - (ii) has a reasonable expectation of continuing employment by the Employer on a regular and systematic basis.
- 10.4** A request made under this clause must be made in writing and set out details of the change sought and the reasons for the change.
- 10.5** Before responding to a request, the Employer must discuss the request with the Employee and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the Employee's circumstances having regards to:
- (a) the needs of the Employee arising from their circumstances; and
  - (b) the consequences for the Employee if changes in working arrangements are not made; and
  - (c) any reasonable business grounds for refusing the request.
- 10.6** On receipt of a request by an Employee under this clause, the Employer must give the Employee a written response within 21 days, stating whether the Employer grants or refuses the request.
- 10.7** The Employer may only refuse the request on reasonable business grounds.
- 10.8** Without limiting what are reasonable business grounds for the purposes of **clause 10.7**, reasonable business grounds include any of the following:
- (a) that the new working arrangements requested by the Employee would be too costly for the Employer; or
  - (b) that there is no capacity to change the working arrangements of other Employees, or recruit new Employees, to accommodate the new working arrangements requested by the Employer; or
  - (c) that it would be impractical to change the working arrangements of other Employees, or recruit new Employees, to accommodate the new working arrangements requested by the Employer; or



- (d) that the new working arrangements requested by the Employee would be likely to result in a significant loss in efficiency or productivity; or
  - (e) that the new working arrangements requested by the employee would be likely to have a significant negative impact on customer service.
- 10.9 If the Employer refuses the request, the written response under **clause 10.6** must include:
  - (a) details of the reasons for the refusal, including the business grounds or ground for the refusal and how the ground or grounds apply, and
  - (b) whether or not there are any changes in working arrangements that the Employer can offer the employee so as to better accommodate the Employee's circumstances; and
  - (c) if the Employer can offer the employee such changes in working arrangements, set out those changes in working arrangements.
- 10.10 If the Employer and Employee reached an agreement under **clause 10.6** on a change in working arrangements that differs from that initially requested by the Employee, the Employer must provide the Employee with a written response to their request setting out the agreed change or changes in working arrangements.

## Part 3 Communication, Consultation and Dispute Resolution

### 11. Implementation of Change

- 11.1 Where the Employer has developed a proposal for major change likely to have a significant effect on Employees, such as a restructure of the workplace, the introduction of new technology or changes to existing work practices of Employees, the Employer will advise:
  - (a) the relevant Employees and the relevant Union covered by this Agreement of the proposed change as soon as practicable after the proposal has been made; and
  - (b) the relevant Employees and the relevant Union covered by this Agreement of the likely effects on the Employees' working conditions and responsibilities; and
  - (c) of the rationale and intended benefits of any change, including improvements to productivity, if applicable.
- 11.2 For the purpose of this clause, a major change is ***likely to have a significant effect on Employees*** if it results in:
  - (a) the termination of the employment of Employees; or
  - (b) major change to the composition, operation or size of the 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.

**11.3** **Clause 11.2(f)** is subject to the rights and obligations set out in clause 19 (Usual Place or Places of Work).

**11.4** **Relevant Employees** means the Employees who may be affected by a change referred to in **clause 11.1**.

**11.5** The Relevant Employees may appoint a representative for the purposes of the procedures of this clause.

**11.6** The Employer must recognise the representative appointed by a Relevant Employee(s) if:

- i. a Relevant Employee appoints, or Relevant Employees appoint, a representative, which may include CPSU; and
- ii. the Employee or Employees advise the Employer of the identity of the representative.

**11.7** The Employer will:

- (a) regularly consult with relevant Employees, their nominated representatives (if any) and the relevant Union covered by this Agreement; and
- (b) give prompt consideration to matters raised by the Employees, their nominated representatives (if any) or the relevant Union covered by this Agreement; and
- (c) if appropriate provide training for the Employees to assist them to integrate successfully into the new structure.

**11.8** In accordance with this clause, the relevant Employees, their nominated representatives (if any) and the relevant Union covered by this Agreement may submit alternative proposals which will meet the indicated rationale and benefits of the proposal.

- (a) Such alternative proposals must be submitted in a timely manner so as not to lead to an unreasonable delay in the introduction of any contemplated change.
- (b) If such a proposal is made the Employer must give considered reasons to the affected Employees and the relevant Union covered by this Agreement if the Employer does not accept its proposals.
- (c) Indicative reasonable timeframes are set out below. The steps, timeframes, and the extent of consultation in each case will:
  - (i) be commensurate with the scale of the proposed major change and the likely significant effect for Employees, and

- (ii) take account of the Parties' agreement in **clause 15** (Agility Principles) that the principles of workforce mobility will be operationalised over the life of the Agreement through a range of change practices, modes of work and services delivery.

Step in process	Number of working days in which to perform each step
Employer advises Employees, their nominated representatives (if any) and relevant Union covered by this Agreement	
Response from Employees, their nominated representatives (if any) or the relevant Union covered by this Agreement	5 days following receipt of written advice from Employer
Meeting convened (if requested)	5 days following request for meeting
Further Employer response (if relevant)	5 days following meeting
Alternative proposal from Employees, their nominated representatives (if any) or relevant Union covered by this Agreement (if applicable)	10 days following receipt of Employer response
Employer response to any alternative proposal	10 days following receipt of alternative proposal

- 11.9 Any dispute concerning the Parties' obligations under this clause shall be dealt with in accordance with **clause 13** (Resolution of Disputes).

## 12. Consultation on Changes to Hours of Work

- 12.1 This clause applies if the Employer proposes to introduce a change to the ordinary hours of work of Employees.
- 12.2 The Employer must notify the relevant Employees of the proposed change. Relevant Employees means the Employees who may be affected by a change referred to in **clause 12.1**.
- 12.3 The relevant Employees may appoint a representative for the purposes of the procedures in this clause.
- 12.4 The Employer must recognise the representative appointed by a Relevant Employee(s) if:
- (a) a Relevant Employee appoints, or Relevant employees appoint, a representative, which may include CPSU, for the purposes of consultation; and
  - (b) the Employee or Employees advise the Employer of the identity of the representative.

- 12.5** 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).
- 12.6** However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- 12.7** The Employer must give prompt and genuine consideration to matters raised about the change by the relevant Employees.

### **13. Resolution of Disputes**

- 13.1** For the purposes of this **clause 13**, a dispute includes a grievance.
- 13.2** Unless otherwise provided for in this Agreement, a dispute about a matter arising under this Agreement or the National Employment Standards set out in the FW Act, other than termination of employment, must be dealt with in accordance with this clause. To avoid doubt, a dispute about termination of employment cannot be dealt with under this clause.
- 13.3** This clause does not apply to any dispute regarding a matter or matters arising in the course of bargaining in relation to a proposed enterprise agreement.
- 13.4** The Union may raise a dispute and be a party to a dispute in its own right or in a representative capacity for an Employee or group of Employees.
- 13.5** A person covered by this Agreement may choose to be represented at any stage by a representative, including a Union representative or Employer's organisation.
- 13.6 Obligations**
- (a)** The parties to the dispute and their representatives must genuinely attempt to resolve the dispute through the processes set out in this clause and must cooperate to ensure that these processes are carried out expeditiously.
  - (b)** Whilst a dispute is being dealt with in accordance with this clause, work must continue in accordance with usual practice, provided that this does not apply to an Employee who has a reasonable concern about an imminent risk to their health or safety, has advised the Employer of this concern and has not

unreasonably failed to comply with a direction by the Employer to perform other available work that is safe and appropriate for the Employee to perform.

- (c) No person covered by this Agreement will be prejudiced as to the final settlement of the dispute by the continuance of work in accordance with this clause.

### **13.7 Agreement and Dispute Settlement Facilitation**

- (a) For the purposes of compliance with this Agreement (including compliance with this dispute settlement procedure) if the chosen Employee representative is another Employee of the Employer, they must be released by the Employer from normal duties for such periods of time as may be reasonably necessary to enable them to represent Employees concerning matters pertaining to the employment relationship including but not limited to:
  - (i) Investigating the circumstances of a dispute or an alleged breach of this Agreement; or
  - (ii) Endeavouring to resolve a dispute arising out of the operation of this Agreement; or
  - (iii) Participating in conciliation, arbitration or any other agreed alternative dispute resolution process.
- (b) The release from normal duties referred to in this clause is subject to the proviso that it does not unduly affect the operations of the Employer.

### **13.8 Discussion of Dispute**

- (a) The dispute must first be discussed by the aggrieved Employee(s) with the immediate supervisor of the Employee(s).
- (b) If the dispute is not settled, the aggrieved Employee(s) can require that the dispute be discussed with another representative of the Employer appointed for the purposes of this procedure.

### **13.9 Internal Process**

- (a) If any party to the dispute who is covered by this Agreement refers the dispute to an established internal dispute resolution process, the matter must first be dealt with according to that process, provided that the process is conducted as expeditiously as possible and:
  - (i) is consistent with the rules of natural justice; and
  - (ii) provides for mediation or conciliation of the dispute; and
  - (iii) provides that the Employer will take into consideration any views on who should conduct the review; and
  - (iv) is conducted with as little formality as a proper consideration of the dispute allows.
- (b) If the dispute is not settled through an internal dispute resolution process, the matter can be dealt with in accordance with the processes set out below.

- (c) If the matter is not settled either party to the dispute may apply to the FWC to have the dispute dealt with by conciliation.

#### **13.10 Disputes of a Collective Character**

- (a) The Parties acknowledge that disputes of a collective character concerning more than one Employee may be dealt with more expeditiously by an early reference to the FWC.
- (b) No dispute of a collective character may be referred to the FWC directly unless there has been a genuine attempt to resolve the dispute at the workplace level prior to it being referred to the FWC.

#### **13.11 Conciliation**

- (a) Where a dispute is referred for conciliation, a member of the FWC will do everything that appears to the member to be right and proper to assist the parties to the dispute to agree on settlement terms.
- (b) This may include arranging:
  - (i) conferences of the parties to the dispute presided over by the member; and
  - (ii) for the parties to the dispute to confer among themselves at conferences at which the member is not present.
- (c) Conciliation before the FWC will be regarded as completed when:
  - (i) the parties to the dispute have reached agreement on the settlement of the dispute; or
  - (ii) the member of the FWC conducting the conciliation has, either of their own motion or after an application by a party to the dispute, satisfied themselves that there is no likelihood that, within a reasonable period, further conciliation will result in a settlement; or
  - (iii) the parties to the dispute have informed the FWC member that there is no likelihood of agreement on the settlement of the dispute and the member does not have substantial reason to refuse to regard the conciliation proceedings as completed.

#### **13.12 Arbitration**

- (a) If the dispute has not been settled when conciliation has been completed, a party to the dispute may request that the FWC proceed to determine the dispute by arbitration.
- (b) If a member of the FWC has exercised conciliation powers in relation to the dispute, the member must not exercise, or take part in the exercise of, arbitration powers in relation to the dispute if a party to the dispute objects to the member doing so.
- (c) Subject to **clause 13.12(d)**, the determination of the FWC is binding upon the persons covered by this Agreement.
- (d) A determination of a single member of the FWC made pursuant to this clause may, with the permission of a Full Bench of the FWC, be appealed.

### **13.13 General Powers and Procedures of the FWC**

Subject to any agreement between the parties in relation to a particular dispute and the provisions of this clause, in dealing with a dispute through conciliation or arbitration, the FWC may conduct the matter in accordance with Subdivision B of Division 3 of Part 5-1 of the FW Act.

## **14. Workload**

- 14.1** The Employer acknowledges the benefits to both the organisation and individual Employee gained through Employees having a balance between both their professional and family life.
- 14.2** The Employer further recognises that the allocation of work must include consideration of the Employee's hours of work, health, safety and welfare. Work will be allocated so that there is not an allocation that routinely requires work to be undertaken beyond an Employee's ordinary hours of work.
- 14.3** An Employee or group of Employees may request a review of their workload if they believe the workload is unreasonable. The request must be made in writing and set out details of the workload of the Employee or group of Employees and the reasons why the workload is considered unreasonable.
- 14.4** On receipt of a request by an Employee or group of Employees under this clause, the Employer must give the Employee a written response within 21 days, stating whether the Employer agrees to or refuses the request.
- 14.5** If the Employer refuses the request for a review, the written response under **clause 14.4** must include details of the reasons for the refusal.
- 14.6** If the Employer agrees to the request, a review of the workload of the Employee or group of Employee's will be conducted.
- 14.7** Following the completion of the review, the Employee or group of Employees and the Employer will agree on any necessary adjustments that are required to be implemented to ensure the workload for the Employee or group of Employees is reasonable.

## **Part 4 Employment Relationship and Related Arrangements**

### **15. Agility Principles**

- 15.1** The Parties agree to interpret and apply this Agreement consistently with the following principles aimed at promoting workforce agility:
  - (a)** The work required of the VBA may change over the life of the agreement due to factors such as new government priorities, business development, population growth, the pace and scale of technological advancement, changing community service delivery expectations and the need to respond to evolving complex public policy problems and issues.
  - (b)** Embracing these changing priorities is essential to providing secure, flexible employment in the VBA. Within the framework of secure employment

(**clause 17**) and flexibility (**clause 8**), the Parties acknowledge the importance of ensuring that Employees can be responsively deployed to support changing regulatory priorities.

- (c) VBA is a professional organisation that offers a career path that can offer employment careers beyond a fixed role within a specific business unit. Employees will be supported and encouraged to gain relevant, diverse and evolving skills and experiences within and across the organisation and, where appropriate, outside of the organisation, appropriate for facilitating delivery of regulatory priorities as they change over time.

**15.2** The Parties agree that the principles set out above will be operationalised over the life of the Agreement, through a range of changed workplace practices, modes of work and service delivery. These may include, for example but not limited to:

- (a) Reduction of operational and mobility barriers between the roles and business units, and between the VBA and the broader public sector; and
- (b) A model where Employees are deployed to priority regulatory or operational projects or programs within the VBA, and across the public sector based on their core skills and capabilities, but also for the purpose of building new skill and capabilities, rather than being limited to a specific function in a specific area; and
- (c) Greater operational flexibility around when and how work is performed, including promoting remote working arrangements and the use of shared office spaces; and
- (d) Development of generalist capability to allow strategic deployment of Employees across functional areas and business units with common or universal skill sets and enhancing this flexibility through the review of position descriptions to incorporate changes where appropriate; and
- (e) A better approach to secondments, and enhanced promotion of and opportunities for secondments, job shares and other reprioritisation of skills to ensure the right expertise informs policy and strategy development; and
- (f) Building of specialist skills through targeted professional development in growing sectors; and
- (g) Regularly reviewing the ways the agility principles can be operationalised, including in circumstances of any change in government priorities.

**15.3** The parties agree that workforce mobility measures are not intended to adversely affect Employees' overall employment security within the VBA or otherwise disadvantage Employees in their employment. In particular:

- (a) The Employer will not require an Employee to physically relocate without appropriate consultation and supports, and
- (b) The Employer will designate a line manager for personal development, wellbeing, performance assessment and related support. An Employee may report to a number of different managers for projects or work activities. The line manager may consult with the Employee's different project or work



activity managers in assessing an Employee's performance. The designated line manager will ensure an Employee's reporting arrangements are clear, and

- (c) **Clause 14** – Workload applies in respect of workforce agility measures, and
- (d) An Eligible Employee's participation in workforce agility measures will be regarded favourably and not place that Employee at a disadvantage for the purposes of performance development and progression at **Clause 29** (Performance Development and Progression within a Value Range), and
- (e) The Employer will at all times apply the appropriate classification level, and where applicable, higher duties allowance, to work performed by an Employee, and
- (f) The Employer will comply with its obligations under the Agreement (see **clauses 8 – 10**) and section 65 of the *FW Act* regarding flexible work arrangements and will ensure that an Employee's need for flexible work arrangements is taken into account in implementing mobility measures, and
- (g) The Employer will comply with its obligations under the Agreement and the *Occupational Health and Safety Act 2004 (Vic)* when implementing mobility measures, and
- (h) Agility measures will not disadvantage an Employee in their terms and conditions of employment.

## 16. Agility Payment

16.1 Employees will be paid an annual lump sum agility payment:

- (a) in recognition of the Parties commitment to the agility principles outlined in **clause 15** (Agility Principles) of the Agreement, and
- (b) in recognition of the fact that the work required of a modern public sector is not static but always changing, and
- (c) to acknowledge Employees are committed to ensuring they can be responsively deployed to support regulatory priorities.

16.2 The agility payment in the tables below will be made as once off lump sum payments on the dates specified (pro-rata for part-time Employees):

**Table 1: VBA Classification**

Grade	Value Range	22 December 2020	1 July 2021	1 July 2022	1 July 2023
1	1.1	\$642	\$655	\$668	\$682
2	2.1	\$757	\$772	\$788	\$803
	2.2	\$851	\$868	\$886	\$903
3	3.1	\$963	\$982	\$1,002	\$1,022
	3.2	\$1,056	\$1,077	\$1,099	\$1,121

4	4.1	\$1,222	\$1,246	\$1,271	\$1,297
5	5.1	\$1,373	\$1,400	\$1,428	\$1,457
	5.2	\$1,503	\$1,533	\$1,564	\$1,595
6	6.1	\$1,781	\$1,817	\$1,854	\$1,891
	6.2	\$2,039	\$2,080	\$2,122	\$2,165
7	7.1	\$2,318	\$2,365	\$2,412	\$2,461
	7.2	\$2,566	\$2,618	\$2,671	\$2,724
	7.3	\$2,815	\$2,871	\$2,929	\$2,988

## 17. Secure Employment

**17.1** The Employer acknowledges the positive impact that secure employment has on Employees and the provision of quality services to the Victorian community.

**17.2** The Employer will give preference to ongoing forms of employment over casual and fixed term arrangements wherever possible.

### 17.3 Use of Fixed Term Employment

- (a) The Employer will not use fixed term contract positions for the purpose of undermining the job security or conditions of full-time ongoing Employees.
- (b) In accordance with the principle set out in **clause 17.3(a)**, the use of fixed term employment in all areas covered by this Agreement is limited to:
  - (i) replacement of Employees proceeding on approved leave; or
  - (ii) meeting fluctuating client and employment needs and unexpected increased workloads; or
  - (iii) undertaking a specified task which is funded for a specified period; or
  - (iv) filling a vacancy resulting from an Employee undertaking a temporary assignment or secondment; or
  - (v) temporarily filling a vacancy where, following an appropriate selection process, a suitable ongoing Employee is not available; or
  - (vi) filling a vacant role whilst a review of the area is undertaken, provided that such appointment does not exceed a period of twelve months.
- (c) In other than exceptional or unforeseen circumstances, fixed term appointments to a specific position will be for a maximum of three years, subject to **clause 54 (Parental Leave)**.
- (d) Where an Employee is posted overseas the limitations on the use of fixed term employment outlined in this clause do not apply.

## **17.4 Use of Casual Employment**

- (a) The Employer will not use casual labour for the purpose of undermining the job security of ongoing Employees, for the purpose of turning over a series of casual workers to fill an ongoing employment vacancy or as a means of avoiding obligations under this Agreement.
- (b) In accordance with the principle set out in **clause 17.4(a)**, the employment of casuals in all areas covered by this Agreement is limited to meeting short-term work demands or specialist skill requirements which are not continuing and would not be anticipated to be met by existing Employee levels.
- (c) Casual employment will be for not less than three consecutive hours in any day worked except:
  - (i) where the Employee works from home by agreement with the Employer; or
  - (ii) with the agreement of the Employee.
- (d) Except as expressly provided for, all other provisions of this Agreement apply to casual Employees.

**17.5** If the Union or affected Employees identify fixed term or casual employment that is considered not to meet the criteria established in **clauses 17.3 or 17.4**, the Union or affected Employees will refer the matter to the Employer. If the Parties cannot resolve the matter, it will be dealt with under **clause 13** (Resolution of Disputes).

## **18. Employment Categories and Entitlements**

### **18.1 Basis of Employment**

Employees may be employed on:

- (a) an ongoing basis;
- (b) a fixed term basis; or
- (c) a casual basis.

### **18.2 Job Information**

- (a) As soon as practicable after the commencement of employment, the Employee will be provided in writing or electronically with details of the job title, classification level and job statement for their position.
- (b) A fixed term Employee must be provided in writing or electronically the reason for their fixed term employment consistent with **clause 17.3**.
- (c) The Employee will carry out the duties described in the job statement and such other duties as directed consistent with their skills and classification descriptors.
- (d) The Employer will provide the Employee with a copy of this Agreement and information regarding the role of Unions and/or Union delegates under the terms of this Agreement.

- (e) The Employer will ensure that an induction process is developed and maintained for the purpose of educating new Employees about VBA structures and policies within the framework of employment in the VBA. The Employer will ensure that Unions are provided with an opportunity to explain their role and functions in consultative and dispute resolution processes provided for under this Agreement.

### 18.3 Probationary Period – New Employee

- (a) New Employees, other than casual Employees, commence employment on a probationary basis for a period of six months (the Probationary Period).
- (b) In this clause, ‘New Employee’ means an Employee on their commencement of employment with the VBA.
- (c) The Probationary Period of a New Employee is reduced by any period of continuous employment in the VBA, immediately preceding the commencement of employment, including any fixed term employment but not including casual employment.

#### (d) Performance during probation

If the Employer identifies conduct or performance issues during the probationary period, the Employer will counsel the Employee during the Probationary Period in relation to their conduct or performance and provide a written record of such counselling to the Employee.

#### (e) Confirmation of employment

Unless the employment is terminated earlier, at the completion of the Probationary Period the Employee’s employment is confirmed.

#### (f) Termination of employment

- (i) A probationary Employee may resign at any time by giving a minimum of two weeks’ written notice to the Employer, or a shorter period that is agreed with the Employer.
- (ii) In the event that the Employee’s conduct or performance during the probationary period is unsatisfactory, the Employer may terminate the probationary Employee’s employment by giving two weeks’ notice or two weeks’ pay in lieu of notice.
- (iii) Any notice period must be given no later than two weeks’ prior to the end of the Probationary Period. Alternatively, the Employee’s employment may be terminated by giving two weeks’ pay in lieu of notice prior to the end of the Probationary Period.
- (iv) A probationary Employee’s employment may be terminated without notice or payment in lieu of notice if the Employee has committed any act of serious misconduct (as defined in regulation 1.07 of the *Fair Work Regulations 2009*).
- (v) An Employee’s absence from work for any period during the Probationary Period does not inhibit the Employer from terminating the Employee’s employment under this subclause.

#### 18.4 Part-Time Employment

- (a) Provisions relating to salary, leave and all other entitlements contained within this Agreement apply to part-time Employees on a pro rata basis calculated on the number of ordinary hours worked.
- (b) Part-time employment is for not less than three consecutive hours in any day worked except:
  - (i) if the Employee works from home by agreement with the Employer; or
  - (ii) with the agreement of the Employee.
- (c) Part-time employment may be worked only by agreement between the Employee and the Employer, where that agreement includes a roster specifying:
  - (i) the days in each fortnight the Employee will work; and
  - (ii) the start and finish times on the days which the Employee will work; and
  - (iii) the number of hours the Employee will work on each day they work; and
  - (iv) agreed processes for the variation of hours of work.
- (d) Rostered hours agreed under **clause 18.4(c)** will be considered the Employee's ordinary hours.

#### 19. Usual Place or Places of Work

19.1 The Employer must determine a usual place or places of work for an Employee.

19.2 The Employer may change an Employee's usual place or places of work, on either a temporary or permanent basis, in accordance with this clause.

19.3 For any change to an Employee's usual place or places of work:

- (a) The Employer must consider any alternative proposal put by an Employee who can demonstrate hardship in their personal circumstances arising from the change; and
- (b) The Employer must consider any disabilities the Employee may have and whether because of that, the Employee would be adversely affected by a change to work location; and
- (c) The Employer must ensure that any mobility aids or reasonable adjustments in place for an Employee continue at the new place or places of work.

#### 19.4 Definitions

- (a) **Work Area** means the Melbourne CBD or a Suburb or Regional Town
- (b) **Melbourne CBD** means any location on or within the areas:
  - (i) from Flinders Street to Queensberry Street; and

- (ii) from Spencer Street to Lansdowne Street; and
  - (iii) from the corner of Queensberry and Peel Street south to the Queen Victoria Market and along Dudley Street to Spencer Street; and
  - (iv) along Victoria Street to Rathdowne Street; and
  - (v) the Docklands; and
  - (vi) Southbank; or a location in close proximity to any of these areas.
- (c) **Suburb or Regional Town** means the area covered by the official postal subdivisions which apply to the location and any adjacent Suburb or Town which is within close proximity to the location.

**19.5 Temporary change to usual place or places of work**

**(a) Temporary change to usual place or places of work within a Work Area**

The Employer may change the usual place or places of work of an Employee within a Work Area by providing the Employee with at least 24 hours' notice, or a lesser period if agreed.

**(b) Temporary change to usual place or places of work to a different Work Area**

- (i) The Employer may change the usual place or places of work of an Employee to a different Work Area on a temporary basis, by providing the Employee with at least two weeks' notice, or a lesser period if agreed.
- (ii) Any additional travelling time for the Employee arising from the change will be regarded as time worked.
- (iii) The Employer must have regard to the Employee's practicable commuting options and personal circumstances, including childcare arrangements, in implementing the change.

**19.6 Permanent change to usual place or places of work which does not require residential relocation**

**(a) Permanent change to usual place or places of work within a Work Area**

The Employer may permanently change an Employee's usual place or places of work within a Work Area by providing two weeks' notice or a lesser period if agreed. The Employer must also pay the applicable disturbance allowance at **clause 19.6(c)**.

**(b) Permanent change to usual place or places of work to a different Work Area**

- (i) The Employer may permanently change an Employee's usual place or places of work to a different Work Area by:

- providing notice as set out in **clause 19.6(b)(iii)**, or a lesser period if agreed, and
  - payment of the applicable disturbance allowance at **clause 19.6(c)** in compensation for all disturbance factors arising from the change.
- (ii) The Employer must have regard to the Employee's practicable commuting options and personal circumstances, including childcare arrangements, in implementing the change.
- (iii) The minimum notice period required for a permanent change to the usual place or places of work to a different Work Area is outlined in the table below.

**Table 2: Notice provide for a permanent change to usual place or places of work to a different Work Area**

Distance/Time	Total notice period required
For the first 30 mins of additional daily travel time required or 30 kilometres additional daily distance or part thereof	2 weeks
For between 31-60mins of additional daily travel time or 60 kilometres additional daily distance or part thereof	4 weeks
For over 61mins of additional daily travel time or over 90 kilometres additional daily distance or part thereof	5 weeks

**(c) Disturbance allowance**

The Employee is entitled to a once only allowance in compensation for all disturbance factors arising from the change in accordance **with clause 19.6**. The Employee will be paid for extra daily travel the greater of the distance or time calculation set out in the table below based on the most direct route to the new usual place or places of work.

Table 3: Disturbance allowance for extra distance travelled or time per day

Date of effect					
20 March 2020	1 December 2020	1 September 2021	1 June 2022	1 March 2023	1 December 2023
<b>1. 10 Kilometres or less extra distance travelled</b>					
No allowance payable					
<b>2. 10 kilometres or more for the first 30 mins of extra travel time required or 30 kilometres distance or part thereof</b>					
\$1,497	\$1,516	\$1,539	\$1,558	\$1,581	\$1,597
<b>3. 31-60mins of extra travel time or 60 kilometres extra distance or part thereof</b>					
\$2,994	\$3,032	\$3,077	\$3,116	\$3,162	\$3,194
<b>4. 61-90mins of extra travel time or 90 kilometres extra distance or part thereof</b>					
\$4,491	\$4,548	\$4,616	\$4,673	\$4,744	\$4,791
<b>5. 91-120mins or more of extra travel time or 120 kilometres or more of extra distance or part thereof</b>					
\$5,989	\$6,063	\$6,154	\$6,231	\$6,325	\$6,388
<b>6. Each extra 30 minutes or 30 kilometres or part thereof beyond that provided for above, where it is reasonable and safe for the Employee to travel to the new work location</b>					
\$1,497	\$1,516	\$1,539	\$1,558	\$1,581	\$1,597

## 19.7 Permanent relocation of the usual place of work requiring residential relocation

### (a) Residential Relocation principles

If the Employer considers that it is reasonable and necessary for an Employee to move residence as a result of relocation from one work location to another, and the relocation arises from promotion or transfer as a result of an advertised vacancy, or redeployment, the Employee will be entitled to:

- (i) up to three days' paid leave associated with the relocation; and
- (ii) reimbursement of reasonable expenses associated with the relocation as per **clause 19.7(b)**.

### (b) Reasonable relocation expenses

Relocation expenses include reasonable expenses directly incurred by the Employee and their family as a result of:

- (i) the journey to the new location, including meals and accommodation;
- (ii) removal, storage and insurance; and



- (iii) selling and purchasing of a comparable residence.

## 19.8 Employee initiated changes

An Employee may request a change to their usual place or places of work in accordance with **Clause 10** (Flexible Work Arrangements – Specific Circumstances).

## 20. Termination of Employment

### 20.1 Notice of termination by Employer

- (a) In order to terminate the employment of an Employee, other than a casual Employee, the Employer must give to the Employee the following notice period:

**Table 4: Notice of termination by Employer**

Employee's period of continuous service with the Employer	Minimum period of notice
No more than 3 years	2 weeks
More than 3 years	4 weeks

- (b) In addition to this notice, Employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service are entitled to an additional week's notice.
- (c) Payment in lieu of the notice will be made if the Employer notifies the Employee that the Employer does not require the Employee to work the entirety of the applicable notice period. Employment may be terminated by the Employee working part of the required period of notice and by the Employer making payment for the remainder of the period of notice.
- (d) In calculating any payment in lieu of notice, the Employer will use the salary an Employee would have received for the ordinary time they would have worked during the period of notice had their employment not been terminated.
- (e) The period of notice in this clause will not apply to dismissal for serious misconduct.

### 20.2 Employee Resignation

- (a) Unless otherwise agreed by the Employer and an Employee, an Employee other than a casual or probationary Employee, may resign at any time by giving a minimum of four weeks' written notice to the Employer.
- (b) In the event an Employee resigns and elects to leave before serving the required notice period, the balance of the notice period not served will not be paid out by the Employer.

## **20.3 Abandonment of Employment**

- (a) Abandonment of employment is the unapproved absence of an Employee without reasonable grounds as described in **clause 20.4(b)**.
- (b) The Employer is entitled to regard the employment of an Employee as abandoned if:
  - (i) the Employee has been absent for more than 20 working days without the approval of the Employer; and
  - (ii) the Employee has not provided the Employer with a reasonable explanation for their absence; and
  - (iii) the Employer, after having made reasonable inquiries, could not reasonably be aware of any reasonable grounds for the absence.
- (c) Abandonment of employment constitutes grounds for termination by the Employer if the employment has not otherwise ended.
- (d) If the Employer terminates an Employee's employment due to abandonment of employment, the Employer will provide notice of termination or pay in lieu of notice in accordance with **clause 20.3**.

## **20.4 Statement of Employment**

- (a) The Employer must, on receipt of a request from an Employee whose employment will cease or has ceased, provide to the Employee a written statement specifying the period of their employment and the classification of or the type of work performed by the Employee.
- (b) Where the Employer terminates an Employee's employment, the Employer must, at the Employee's request, provide a written statement of the reasons for dismissal.

## **20.5 Rights Not Limited**

This clause does not limit the rights of Employees to pursue any other legal remedy in respect of termination of employment.

## **21. Costs of Employment Related Legal Proceedings**

- 21.1** If an Employee is required to attend or participate in a proceeding, hearing, examination, inquiry or investigative process on matters which arise from the performance of the Employee's duties, the Employer must meet the Employee's reasonable legal costs relating to the Employee's appearance and legal representation in the matter. This includes, but is not limited to, a matter before a Royal Commission, Independent Broad-based Anti-Corruption Commission, Ombudsman's or a Coroner's inquest.
- 21.2** Where legal proceedings are initiated against an Employee as a direct consequence of the Employee legitimately and properly performing their duties, the Employer will not unreasonably withhold agreement to meet the Employee's reasonable legal costs relating to the defence of such proceedings.

- 21.3** Where, as a direct consequence of the Employee legitimately and properly performing their duties, it is necessary to obtain an intervention order or similar remedy against a person, the Employer will not unreasonably withhold agreement to meet the Employee's reasonable legal costs in obtaining the order or other remedy.
- 21.4** An Employee's immediate supervisor must ensure that an application to meet reasonable legal costs will be referred to the appropriate person or body to enable the application to be decided expeditiously.
- 21.5** This clause does not require the Employer to meet any Employee legal costs incurred in response to an employment related act, process or decision of the Employer.

## **22. Working From Home**

- 22.1** Working from home arrangements may be agreed between the Employer and an individual Employee on a case by case basis.
- 22.2** During the life of the Agreement, the Parties agree to review working from home arrangements taking into account the experience gained during the Coronavirus (COVID-19) pandemic.

## **23. Redeployment**

Redeployment Principles are set out in **Schedule A**.

## **24. Management of Unsatisfactory Work Performance**

- 24.1** The purpose of this clause is to:
- (a)** support Employees with unsatisfactory work performance to improve their performance to the required standard;
  - (b)** ensure that unsatisfactory work performance is addressed expeditiously;
  - (c)** reflect the public sector values of integrity, impartiality, accountability and respect with the aim of ensuring that Employees are treated fairly and reasonably; and
  - (d)** provide a fair and transparent framework for action to be taken where an Employee continues to perform below the Employer's expected standard.
- 24.2 Application**
- (a)** Subject to applicable Victorian and federal legislation, action taken by the Employer in relation to unsatisfactory work performance will be consistent with this clause.
  - (b)** This clause applies to all Employees except casual Employees and Employees subject to a probationary period of employment.

**24.3 Referred unsatisfactory work performance matters**

The Employer may at any time elect, where there is reasonable cause, to manage the Employee's work performance in accordance with **clause 25** (Management of Misconduct). Once an election has been made by the Employer under this clause, any matters that have arisen under the process in this clause may be considered in the process pursuant to **clause 25** (Management of Misconduct).

**24.4 Meaning of unsatisfactory work performance**

An Employee's work performance is unsatisfactory if the Employee fails to behave in the ways described in the Code of Conduct for Victorian Public Sector Employees as issued under section 61 of the *Public Administration Act 2004* or perform to the required standards or expectations of their role.

**24.5 Procedural fairness to apply**

- (a) The process for managing unsatisfactory work performance will be consistent with the principles of procedural fairness.
- (b) All parties involved in the process will commit to completing it as quickly as practicable.
- (c) Before commencing formal unsatisfactory work performance processes, the Employer must:
  - (i) tell the Employee the purpose of the meeting;
  - (ii) provide the Employee with a copy of the formal unsatisfactory work performance process to be followed as outlined in **clause 24.9**;
  - (iii) provide a reasonable opportunity for the Employee to seek advice from the Union or a representative of their choice before the unsatisfactory work performance process commences; and
  - (iv) allow the Employee the opportunity to provide details of any mitigating circumstances.
- (d) The Employer must take into account any reasonable explanation of any failure by the Employee to participate before making a decision under this **clause 24**.

**24.6 Employee representation**

An Employee is entitled to be represented by a person of their choice (including a Union representative) at any stage of the formal review meetings of the unsatisfactory work performance management process.

**24.7 Prior to commencing the process**

Prior to commencing the formal unsatisfactory work performance process, the Employer must:

- (a) consider organisational or personal factors that play a role in the Employee's unsatisfactory work performance and consider alternatives to the unsatisfactory work performance process to address the problem; and

- (b) have a reasonable expectation that the Employee is capable of meeting the required level of performance. Where the Employer and Employee agree that the Employee is not capable of meeting the required level of performance the Employer may reassign the Employee to a suitable alternative position where reasonably practicable. The suitable alternative position may be at a lower grade should both the Employer and the Employee agree.

#### **24.8 Commencing the formal unsatisfactory work performance process**

Where the Employer considers that informal attempts to address an Employee's unsatisfactory work performance have been unsuccessful, the Employer may proceed to formally manage the Employee's unsatisfactory work performance in accordance with, but not limited to, all or some of the following measures:

- (a) increased supervision; or
- (b) changes to the Employee's performance plan; or
- (c) mentoring; or
- (d) training and professional development; or
- (e) increased feedback; or
- (f) coaching; or
- (g) performance improvement plan.

#### **24.9 First stage – formal counselling**

- (a) The first stage of formal management of unsatisfactory work performance is formal counselling of the Employee. The Employer must:
  - (i) advise the Employee of the unsatisfactory work performance and confirm the commencement of the formal counselling stage; and
  - (ii) outline the standard required of the Employee; and
  - (iii) provide the Employee with an opportunity to respond within a reasonable timeframe; and
  - (iv) provide the Employee with an opportunity to improve within a reasonable timeframe.
- (b) The Employee will be advised of the consequences of not improving their performance within a reasonable period of time and of engaging in any further unsatisfactory work performance.
- (c) A record of the formal counselling session will be placed on the Employee's personnel file.
- (d) The formal counselling record must indicate:
  - (i) the standard expected of the Employee; and
  - (ii) where and how the Employee is not meeting this standard; and

- (iii) the consequences if the Employee fails to improve their performance including that continued or repeated unsatisfactory work performance may result in termination of the Employee's employment.
- (e) If the Employer determines that the Employee has met the required standard of performance during the reasonable timeframe referred to in **clause 24.9(a)(iv)** the Employer will notify the Employee that:
  - (i) the formal unsatisfactory work performance process has been completed; and
  - (ii) no further action will be taken by the Employer unless the Employee engages in continued or repeated unsatisfactory work performance, in which case the formal unsatisfactory work performance process may continue to the next stage.

A copy of this notification will be placed on the Employee's personnel file.

**24.10 Second stage – formal written warning**

- (a) The Employee will be given a formal written warning by the Employer, if:
  - (i) the Employee's performance has not improved within the reasonable period following formal counselling in accordance with **clause 24.9(a)(iv)**; and/or
  - (ii) the Employee engages in further unsatisfactory work performance.
- (b) The Employer must:
  - (i) advise the Employee of the unsatisfactory work performance; and
  - (ii) outline the standard required of the Employee; and
  - (iii) provide the Employee with an opportunity to respond within a reasonable timeframe; and
  - (iv) provide the Employee with an opportunity to improve within a reasonable timeframe.
- (c) The formal written warning must indicate:
  - (i) the standard expected of the Employee; and
  - (ii) where and how the Employee is not meeting this standard; and
  - (iii) the consequences if the Employee fails to improve their performance including that continued or repeated unsatisfactory work performance may result in termination of the Employee's employment.
- (d) The written warning will be placed on the Employee's personnel file.
- (e) If the Employer determines that the Employee has met the required standard of performance during the reasonable timeframe referred to in **clause 24.10(b)(iv)**, the Employer will notify the Employee that:

- (i) the formal unsatisfactory work performance process has been completed; and
  - (ii) no further action will be taken by the Employer unless the Employee engages in continued or repeated unsatisfactory work performance, in which case the formal unsatisfactory work performance process may continue to the next stage.
- (f) A copy of this notification will be placed on the Employee's personnel file.

**24.11 Third stage – final warning**

- (a) The Employee will be given a final written warning by the Employer if:
- (i) the Employee's performance has not improved within the reasonable time period following receipt of a formal written warning in accordance with **clause 24.10(b)(iv)**; and/or
  - (ii) the Employee engages in further unsatisfactory work performance.
- (b) The Employer must:
- (i) advise the Employee of the unsatisfactory work performance; and
  - (ii) outline the standard required of the Employee; and
  - (iii) provide the Employee with an opportunity to respond within a reasonable timeframe; and
  - (iv) provide the Employee with an opportunity to improve within a reasonable timeframe.
- (c) The final written warning must indicate:
- (i) the standard expected of the Employee; and
  - (ii) where and how the Employee is not meeting this standard; and
  - (iii) the consequences if the Employee fails to improve their performance including that continued or repeated unsatisfactory work performance may result in termination of the Employee's employment.
- (d) The final written warning will be placed on the Employee's personnel file.
- (e) If the Employer determines that the Employee has met the required standard of performance during the reasonable timeframe referred to in **clause 24.11(b)(iv)**, the Employer will notify the Employee that:
- (i) the formal unsatisfactory work performance process has been completed; and
  - (ii) no further action will be taken by the Employer unless the Employee engages in continued or repeated unsatisfactory work performance, in which case the formal unsatisfactory work performance process may continue to the next stage.
- (f) A copy of this notification will be placed on the Employee's personnel file.

**24.12 Determination of unsatisfactory work performance outcome**

- (a) In the event that the Employee's performance has not improved within the reasonable time period following the process set out in **clauses 24.9** and **24.10** and on receipt by the Employee of the final written warning in accordance with **clause 24.11**, the Employer will advise the Employee of the Employee's continued or repeated unsatisfactory work performance and provide the Employee with a reasonable opportunity to respond.
- (b) After considering the Employee's performance and response (including any failure to respond in accordance with **clause 24.12(a)**), the Employer will determine the unsatisfactory work performance outcome that is to apply to the Employee.
- (c) The possible outcomes are:
  - (i) assignment of the Employee with or without their agreement to a role at a classification level or Value Range lower than the Employee's current classification level or Value Range; or
  - (ii) termination of the Employee's employment.
- (d) The Employer will advise the Employee of the unsatisfactory work performance outcome in writing and a copy will be placed on the Employee's personnel file.

**24.13 Disputes**

Any dispute arising under this clause may only be dealt with in accordance with **clause 13** (Resolution of Disputes) when any of the following are placed on the Employee's personnel file in accordance with this clause (this may include whether **clause 24.5** has been complied with in the Employer coming to a decision):

- (a) a record of formal counselling; or
- (b) a formal written warning; or
- (c) a final written warning; or
- (d) a notification given to the Employee pursuant to **clauses 24.9(e)**, **24.10(e)** or **24.11(e)**; or
- (e) a record of unsatisfactory work performance outcome.

**25. Management of Misconduct**

**25.1** The purpose of this clause is to:

- (a) establish procedures for managing misconduct or alleged misconduct of an Employee; and
- (b) provide for Employee alleged misconduct to be investigated and addressed expeditiously and with minimal disruption to the workplace; and



- (c) reflect the public sector values of integrity, impartiality, accountability and respect with the aim of ensuring that Employees are treated fairly and reasonably; and
- (d) manage the Employee's performance in accordance with this **clause 25** instead of **clause 24** (Management of Unsatisfactory Work Performance) where the Employer determines that it would be more appropriate.

## **25.2 Application**

- (a) Subject to applicable Victorian and federal legislation, action taken by the Employer in relation to misconduct will be consistent with this clause.
- (b) This clause applies to all Employees except casual Employees and Employees subject to a probationary period of employment.

## **25.3 Meaning of misconduct**

For the purposes of this clause, misconduct includes:

- (a) a contravention of a provision of the *Public Administration Act 2004* (Vic), the regulations to that Act, a binding code of conduct or a provision of any statute or regulation that applies to the Employee in the Employee's employment; or
- (b) improper conduct in an official capacity; or
- (c) a contravention, without reasonable excuse, of a lawful direction given to the Employee as an Employee by a person authorised to give that direction; or
- (d) an Employee making improper use of their position for personal gain; or
- (e) an Employee making improper use of information acquired by virtue of their position to gain personally, or for anyone else, financial or other benefits or to cause detriment to the VBA or the public sector.

## **25.4 Referred matters under clause 24**

Any matters that have arisen under the management of unsatisfactory work performance process in **clause 24** may be considered in the misconduct process pursuant to this **clause 25**.

## **25.5 Employee representation**

An Employee is entitled to be represented by a person of their choice (including a Union representative) at any stage of the misconduct process.

## **25.6 Procedural fairness to apply**

- (a) The process for managing Employee misconduct will be consistent with the principles of procedural fairness.
- (b) All parties involved in the misconduct process will commit to completing it as quickly as practicable.

- (c) The Employer will:
  - (i) advise the Employee of the purpose of any meetings; and
  - (ii) provide the Employee with a copy of the formal process to be followed; and
  - (iii) provide a reasonable opportunity for the Employee to seek advice from the Union or a representative of their choice at any stage of the misconduct process; and
  - (iv) allow the Employee the opportunity to provide details of any mitigating circumstances.
- (d) The Employer must take into account any reasonable explanation of any failure by the Employee to participate before making a decision under this **clause 25**.

#### **25.7 Directions**

- (a) Where Employee misconduct is alleged, the Employer may do any of the following:
  - (i) make an initial assessment of the alleged misconduct before commencing the formal process to determine if an investigation is required in accordance with **clause 25.10**; and/or
  - (ii) determine that it is appropriate to immediately commence an investigation of the alleged misconduct in accordance with **clause 25.10**; and/or
  - (iii) direct the Employee to proceed immediately to perform alternative duties or work at an alternative place of work; and/or
  - (iv) direct the Employee not to speak to other Employees of the Employer about the matter or not to visit certain places of work; and/or
  - (v) suspend the Employee with pay.
- (b) In the event that the Employer suspends the Employee with pay under **clause 25.7(a)(v)**, the Employer will:
  - (i) review this decision no later than a date which is four weeks after the commencement of the suspension; and
  - (ii) confirm whether the suspension is to continue or is no longer necessary.
- (c) The Employer will continue to review any decision regarding an Employee's suspension every four weeks thereafter, until the end of the misconduct process in accordance with this **clause 25**.

#### **25.8 Advising the employee**

- (a) As soon as practicable after an allegation of misconduct has been made and the Employer has determined in accordance with **clause 25.7(a)(i)** or **clause 25.7(a)(ii)** that an investigation is required, the Employer will advise the Employee of the alleged misconduct in writing.

- (b) The written advice will contain the allegation/s of misconduct made about the Employee. Relevant information will only be withheld where it is necessary to withhold that information in order to protect the personal privacy of any other person consistent with Federal or State legislation.

## **25.9 Admissions by Employee**

- (a) The Employee may at any stage elect to admit the alleged misconduct.
- (b) If the Employee admits the alleged misconduct, the Employer may:
  - (i) determine that further investigation is required (for example to investigate partial admissions, mitigating circumstances or other relevant issues); or
  - (ii) may proceed immediately to the determination of the misconduct **clause 25.12** by advising the Employee of the proposed discipline outcome and giving the Employee a reasonable opportunity to respond to the findings in accordance with **clause 25.11**.

## **25.10 Investigation of alleged misconduct**

- (a) Where an investigation is required, the Employer will appoint a person to conduct an investigation into the alleged misconduct. Where appropriate, the investigation may be conducted by the Employee's immediate manager. The appointed person must not have any prior personal involvement in the matter.
- (b) The Employer will provide the Employee with an opportunity to speak to the investigator if the Employee wishes to do so.
- (c) The investigation may include:
  - (i) collecting any relevant materials; and
  - (ii) speaking with the Employee; and
  - (iii) speaking with any relevant witnesses; and
  - (iv) providing the Employee with specific particulars to allow the Employee to properly respond to the alleged misconduct; and
  - (v) seeking an explanation from the Employee; and
  - (vi) investigating any explanation made by the Employee for the purposes of verifying the explanation so far as possible.
- (d) In relation to each allegation of misconduct, the investigator will make findings as to whether:
  - (i) the allegation is substantiated; or
  - (ii) the allegation is not substantiated.
- (e) Where the investigator makes a finding that an allegation is not substantiated, which is accepted by the Employer, the misconduct process will conclude in relation to any such allegation and the Employee will be informed accordingly.

- (f) Where the investigator makes a finding that the allegation is substantiated, the Employer will consider this information and propose a discipline outcome.

#### **25.11 Opportunity for response by Employee**

- (a) As soon as practicable after the investigator has made a finding that any allegation of misconduct is substantiated, the Employee will be provided with the findings of the investigator and the proposed discipline outcome. The Employee will be provided with sufficient information to allow them a reasonable basis to respond.
- (b) The Employee will be given a reasonable time to respond to the findings or the material and the recommended discipline outcome. Any response must be provided within the above reasonable time.

#### **25.12 Determination of discipline outcome**

- (a) The Employer will consider:
  - (i) the findings of the investigator; and
  - (ii) any recommendations as to the appropriate disciplinary outcome; and
  - (iii) any response of the Employee (including any admission of misconduct under **clause 25.9**; and
  - (iv) any prior disciplinary outcomes,

and then determine the discipline outcome that is to apply to the Employee. The discipline outcome must not be disproportionate to the seriousness of the matter.

- (b) The possible discipline outcomes are:
  - (i) no action; or
  - (ii) performance management; or
  - (iii) formal counselling; or
  - (iv) formal warning; or
  - (v) final warning; or
  - (vi) assignment of the Employee with or without their agreement to a role at a classification level or Value Range lower than the Employee's current classification level or Value Range:
    - Where no suitable positions are available at the Employee's existing work location, the disciplinary outcome may also include a transfer of the Employee with or without their agreement to a different work location;
    - Where the disciplinary outcome includes a transfer of the Employee to a different work location, this will not preclude the Employee from being entitled to payment of any applicable relocation allowance in accordance under **clause 19** (Usual Place or Places of Work).

- (vii) transfer of the Employee with or without their agreement to a different work location at the Employee's current classification level (which will not preclude the Employee being entitled to payment of any applicable relocation allowance in accordance with **clause 19** (Usual Place or Places of Work).
- (viii) termination of employment.
- (c) In order to avoid a more severe discipline outcome being applied to an Employee, the Employer may apply the discipline outcomes listed in **clause 25.12 (b) (ii) to 25.12(b)(vii)** together to form a single disciplinary outcome.
- (d) The Employer will advise the Employee of the discipline outcome in writing and a copy will be placed on the Employee's personnel file.

#### **25.13 Informing Employee who raised allegation of misconduct**

If a process was conducted in accordance with this clause because of an allegation of misconduct by another Employee, the Employer must advise that Employee that the allegation has been dealt with in accordance with this clause, and may provide the Employee with other information as is reasonably practicable.

#### **25.14 Disputes**

- (a) Any dispute arising under this clause may only be dealt with in accordance with **clause 13** (Resolution of Disputes) when any of the following are placed on the Employee's personnel file in accordance with this clause (this may include whether **clause 25.6** has been complied with in the Employer coming to a decision):
  - (i) a record of formal counselling; or
  - (ii) a formal written warning; or
  - (iii) a final written warning; or
  - (iv) a record of discipline outcome.
- (b) Despite **clause 25.14(a)**, a party to a misconduct investigation, may use **clause 13** (Resolution of Disputes) over the application of **clause 25.6(b) when:**
  - (i) a misconduct investigation under **clause 25.10** has not been completed within six months of the Employee being advised of alleged misconduct under **clause 25.8**, and
  - (ii) the party considers the delay to be unreasonably caused by the other party.

#### **25.15 Potential criminal conduct**

Where alleged misconduct that is the subject of a process in accordance with this **clause 25** is also the subject of a criminal investigation or criminal proceedings, the Employer is not required to delay or cease the management of misconduct process under this **clause 25** but the Employer may exercise its discretion to do so.

## Part 5 Salary and Related Matters

### 26. Application

- 26.1 Classification and progression arrangements are set out in **clauses 27** and **29** of this Agreement.

### 27. Classifications and Salaries

- 27.1 Positions will be classified within the VBA Classification Structure based on work value.

- 27.2 Classifications are divided into Grades and Value Ranges.

- 27.3 Employees will be employed within one of these Grades and Value Ranges based on work requirements in accordance with the Classification and Value Range Standard Descriptors at **Schedule C** to this Agreement.

- 27.4 **Clause 27.7** deals with the arrangements for the use of the VBA 1 classification.

#### 27.5 Movement Between Value Ranges

- (a) Employees and/or positions can move between Value Ranges.
- (b) Movement between the Value Ranges can occur following a job resizing review. The review process includes an assessment of the work the Employer requires to be undertaken and the performance of that work by the Employee. These are assessed against the benchmarks specified in the Classification and Value Range Standard Descriptors at **Schedule C** to this Agreement.

#### 27.6 Classification and Salary on Appointment

- (a) Employees will be appointed to a Grade and Value Range based on work requirements in accordance with the Classification and Value Range Standard Descriptors at **Schedule C** to this Agreement.
- (b) In determining whether to recruit an Employee above the base salary point of the relevant Value Range, the Employer will have regard to the following matters:
  - (i) an assessment of whether the existing remuneration of the individual would require paying above the base;
  - (ii) for Grades 1 to 4, appointment will be to a progression step within the relevant Value Range; and
  - (iii) the gender equity effects of appointments.

#### 27.7 VBA 1 Classification

- (a) The VBA 1 classification is a training Grade for employees participating in formal trainee or cadetship programs. Employees classified as VBA 1 who are not participating in a formal employment program of this nature will transition to the VBA 2 classification.

## **28. Gender Equality**

### **28.1 Gender Pay Equity Principles**

The provisions of this Agreement are to be interpreted consistently with the following gender pay equity principles:

- (a) Establishing equal pay for work of equal or comparable value: Equal or comparable value refers to work valued as equal in terms of skill, effort, responsibility and working conditions. This includes work of different types.
- (b) Freedom from bias and discrimination: Employment and pay practices are free from the effects of unconscious bias and assumptions based on gender.
- (c) Transparency and accessibility: Employment and pay practices, pay rates and systems are transparent. Information is readily accessible and understandable.
- (d) Relationship between paid and unpaid work: Employment and pay practices recognise and account for different patterns of labour force participation by workers who undertake unpaid and/ or caring work.
- (e) Sustainability: Interventions and solutions are collectively developed and agreed, sustainable and enduring.
- (f) Participation and engagement: Workers, unions and employers work collaboratively to achieve mutually agreed outcomes.

### **28.2 Meaning of 'Pay'**

In this clause, 'pay' refers to remuneration including but not limited to salary, bonuses, overtime payments, allowances and superannuation.

### **28.3 Commitment to collaborative approach to achieving gender pay equity**

The Employer will work collaboratively with Employees and the Union to identify, support and implement strategies designed to eradicate the gender pay gap, gender inequality and discrimination across the VBA.

### **28.4 Claims relating to systemic gender equality issues**

- (a) A systemic gender equality issue means an issue of a systemic nature within the Employer, which adversely affects a class or group of employees of the Employer, relating to:
  - (i) The gender composition of any or all workforce levels of the Employer; or
  - (ii) The gender composition of governing bodies; or
  - (iii) Equal remuneration for work of equal or comparable value across any or all workforce levels of the Employer, irrespective of gender; or
  - (iv) Sexual harassment in the workplace; or
  - (v) Recruitment and promotion practices in the workplace; or
  - (vi) Availability and utilisation of terms, conditions and practices in the workplace relating to family violence leave, flexible working

arrangements and working arrangements supporting Employees with family or caring responsibilities; or

- (vii) Gendered workplace segregation.
- (b) The Union and/or a class or group of Employees (Claimant/s) may seek resolution of a dispute relating to a systemic gender equality issue (Claim) in accordance with this clause.
- (c) A Claim or Claims under this clause must be made in writing to the Employer.
- (d) In the first instance the Claim should include sufficient detail for the Employer to make a reasonable assessment of the nature of the Claim, the employees impacted by the Claim and any proposals to resolve the Claim.
- (e) The Employer must meet and discuss the Claim with the Claimant prior to responding to the Claim.
- (f) The Employer must respond to the Claim in writing to the Claimant, within a reasonable time, including enough details in the response to allow the Claimant to understand the Employer's response to each element of the Claim, including reasons why the Claim is accepted or rejected.
- (g) If the Claim is unable to be resolved between the Employer and the Claimant/s, either the Claimant/s or the Employer may refer the Claim to the Public Sector Gender Equality Commissioner (Commissioner) to deal with.
- (h) In dealing with a Claim, the Commissioner:
  - (i) Must consider the Gender Pay Equity Principles articulated I clause 1.1 above; and
  - (ii) Must be objective and free from assumptions based on gender; and
  - (iii) Must acknowledge that current pre-existing views, conclusions or assessments of comparable worth or value may not be free of assumptions based on gender; and
  - (iv) Must ensure that skills, responsibilities, effort and conditions that are commonly undervalued such as social and communication skills, responsibility for wellbeing of others, emotional effort, cultural knowledge and sensitivity are considered; and
  - (v) Must ensure that dispute resolution outcomes consider current or historical gender-based discrimination and do not further promote systemic undervaluation. and
  - (vi) Must deal with the Claim in a manner that is independent of the Employer or the Claimant; and
  - (vii) Must consider evidence that the Claim may not be isolated to the Employer subject to the Claim but may affect Employees from other public sector employers not covered by this Agreement; and



- (viii) May jointly deal with a Claim and any other dispute which has been referred to the Commissioner which relates to the same or similar systemic gender equality issues; and
- (ix) Must consider the views of the Claimant prior to jointly dealing with multiple Claims or disputes; and
- (x) May otherwise deal with the Claim in any way the Commissioner considers appropriate, consistent with the requirements of the *Gender Equality Act 2020* (Vic). This can include mediation, conciliation, making recommendations or offering opinions.
- (i) If a Claim is unable to be resolved by the Commissioner, either the Claimant or the Employer may refer the Claim to the FWC for resolution pursuant to **clause 13.10 or 13.11**.
- (j) This clause does not apply to any dispute regarding a matter or matters arising in the course of bargaining in relation to a proposed enterprise agreement.
- (k) A Claimant or the Employer may choose to be represented at any stage by a representative, including a Union representative or Employer's organisation.
- (l) The Claimant and Employer and their representatives must genuinely attempt to resolve the dispute through the processes set out in this clause and must cooperate to ensure that these processes are carried out expeditiously.
- (m) Whilst a Claim is being dealt with in accordance with this clause, work must continue in accordance with usual practice, provided that this does not apply to an Employee who has a reasonable concern about an imminent risk to their health or safety, has advised the Employer of this concern and has not unreasonably failed to comply with a direction by the Employer to perform other available work that is safe and appropriate for the Employee to perform. No party will be prejudiced as to the final settlement of the Claim by the continuance of work in accordance with this clause.

## **28.5 Gender Equality Action Plans**

The Employer will consult with the Union in the preparation of *Gender Equality Action Plans under the Gender Equality Act 2020* (VIC).

## **29. Performance Development and Progression within a Value Range**

### **29.1 Transitional Arrangement**

- (a) Performance Development Plans agreed between 1 July 2020 and 30 June 2021 will be prepared in accordance with the performance development and progression arrangements in the *Victorian Building Authority Enterprise Agreement 2016*:
  - (i) Performance Development Plans agreed between 1 July 2020 and the commencement of this Agreement, prepared in accordance with the performance development and progression arrangements in the *Victorian Building Authority Agreement 2016*, will be taken to have been prepared in accordance with this clause;

- (ii) An Employee appointed on probation between 1 July 2020 and the commencement of this Agreement will be eligible to access progression in accordance with **clause 24.3(g)** of the *Victorian Building Authority Enterprise Agreement 2016* for the 2020/21 Performance Cycle.
  - (iii) An Employee who obtains a promotion to a position at a higher Grade or Value Range, or otherwise negotiated a salary increase, between 1 July 2020 and the commencement of this Agreement, will be eligible to access progression in accordance with **clause 24.3(g)** of the *Victorian Building Authority Enterprise Agreement 2016* for the 2020/21 Performance Cycle.
  - (iv) The eligibility requirements set out at **clause 29.5** below apply on and from the date this Agreement commences operation.
  - (v) The entitlement to additional Progression payments for Employees returning from Primary Caregiver Parental leave applies in respect of a period of Primary Caregiver Parental leave which commences on or after 1 July 2021.
- (b) The Performance development and progression arrangements outlined in this clause, will operate for the Performance Cycle commencing 1 July 2021.

## 29.2 Performance Cycle and Review

- (a) The performance development and review process is the framework within which an Employee's performance and development is planned, managed and reviewed to determine whether an Employee is entitled to Progression or a Top of Grade or Value Range Payment at the end of the Performance Cycle.
- (b) "Progression" means advancing to the next Progression Step for VPS 1-4 or adding the next progression amount to substantive Salary for VPS 5-7 in accordance with this clause. Progression Steps and Progression Amounts are referred to in the final column of clause 1 of Schedule B.
- (c) "Top of Grade or Value Range Payment" means the 1 per cent lump sum of the Employee's Salary as at 30 June of the Performance Cycle, paid in accordance with this clause to an Employee at the top of their Grade or Value Range in lieu of Progression.
- (d) The Performance Cycle is twelve months (1 July to 30 June).
- (e) All Employees must participate in the performance development and review process, including in the development of performance development plans and conduct of performance discussions and reviews.
- (f) Employees who refuse to participate in the performance development and review process will be ineligible for Progression or Top of Grade or Value Range Payment, unless the Employee's lack of participation is due to the Employer's failure to initiate the performance development process.
- (g) The performance development and review process has three formal stages:

Table 5: Performance development and review process

Stage	Description
Commencement of the Performance Cycle	<p>Employer and Employee agree a performance development plan outlining:</p> <ul style="list-style-type: none"> <li>• the agreed performance goals appropriate to the Employee's role; and</li> <li>• the agreed learning and development goals required for the Employee's role and/or to build the Employee's professional capacity and career opportunities.</li> </ul> <p>In addition, the Employee is expected to comply with the Public Sector Values and Code of Conduct for Victorian Public Sector Employees.</p> <p>Collectively these three elements constitute the Employee's Progression Criteria. The expected standard for the setting of Progression Criteria is outlined in <b>clause 29.3</b>.</p>
Mid-Cycle Performance Review	Undertaken around the mid-point of the Performance Cycle, the Employer and Employee meet to monitor and assess the Employee's performance towards meeting their Progression Criteria.
End of Cycle Performance Review	Undertaken at the end of each Performance Cycle during which the Employee's performance throughout the Performance Cycle is assessed to determine whether they have met the Progression Criteria.

- (h) All Employees can expect informal and formal feedback about their performance throughout the Performance Cycle from their supervisor or manager.

### 29.3 Progression Criteria

- (a) The Progression Criteria are to be agreed with each Employee at the start of the Performance Cycle or on the Employee's commencement in a role. The Progression Criteria may be adjusted by agreement during the Performance Cycle.
- (b) Progression Criteria should be sufficiently detailed and clear to enable proper assessment of performance to occur and be consistent with the Employee's role, skills, capabilities and the relevant Classification Descriptors outlined in Schedule C of the Agreement. The expected capabilities, responsibilities and behaviours appropriate to the role may be weighed and combined to develop the Progression Criteria.
- (c) Central to the performance development and review process is the need for supervisors and managers, in consultation with Employees, to determine what should, and can, be delivered to warrant Progression through a combination of increasing capability, productivity, performance and professionalism. This interaction between managers and Employees gives authority and integrity to the structure and its sustainability in the long term.
- (d) **Setting Progression Criteria**
- (i) VBA 1 to 4 Classified Employees

For VBA Grades 1 to 4 (or equivalent), Progression Criteria will not be as onerous as those required for VBA 5 through VBA 7 (or equivalent).

While VBA Grades 3 and 4 (or equivalent) are clearly seen as transition points to higher levels of management within the structure and carry additional responsibility, this does not mean work at all lower levels will not be important and demanding. However, it is expected that in setting agreed Progression Criteria the overwhelming majority of persons within Grades 1 to 4 will achieve the objectives and should move through the Salary points.

(ii) VBA 5 to VBA 7

In setting Progression Criteria for VBA 5 to VBA 7 (or equivalent) classified Employees it is expected Progression Criteria will:

- include measures of excellence and skill acquisition; and
- be commensurate with the higher level of responsibility expected of positions of these Grades; and
- be more challenging and difficult to achieve.

- (e) Management should facilitate an individual Employee's ability to undertake appropriate learning and development. An individual Employee must actively pursue appropriate learning and development to build professional capacity and career opportunities.

**29.4 Progression Steps, Progression Amounts and Top of grade or Value Range payment**

- (a) Within each Value Range of Grades 1 to 4 there are progression steps (expressed salary points) as detailed in the table at **Schedule B**.
- (b) Within Grades 5 to 7 there are standard Progression Amounts as detailed in the table in Schedule B. The Progression Amounts are expressed in terms of dollars and are common to all Employees within a given Grade/Value Range.
- (c) Progression Steps or Progression Amounts within Value Ranges are not points of defined work value. Progression within the salary structure will not be automatic, consistent with wage fixing principles.
- (d) An Employee at the top of their Grade or Value Range who achieves Progression (as described in **clause 29.8**), will, in lieu of a Progression Step or Progression Amount, receive a top of Grade or Value Range Payment equal to one per cent of the Employee's Salary as at 30 June of the relevant Performance Cycle.

**29.5 Eligibility requirements for Progression or a Top of Grade or Value Range Payment**

- (a) Employees are eligible to be considered for a Progression or a Top of Grade or Value Range Payment unless any of the exclusions in **clause 29.5(b)** apply.
- (b) An Employee is not eligible to be considered for a Progression or Top of Grade or Value Range Payment in respect of a Performance Cycle if:

- (i) the Employee has been continuously employed in the VBA for less than 12 months as at the end of the Performance Cycle; or
  - (ii) the Employee obtained a promotion to a position at a higher Grade or Value Range, or otherwise negotiated a salary increase, within the performance cycle; or
  - (iii) the Employee was subject to a formal underperformance process under **clause 24** at any time during the Performance Cycle; or
  - (iv) the Employee is subject to proven misconduct as per **clause 25** during the course of the Performance Cycle. If the investigation of alleged misconduct spans more than one Performance Cycle, the eligibility exclusion is to be applied in the Performance Cycle in which the determination of the discipline outcome (under **clause 25.12** of the Agreement) is made. If a misconduct investigation is ongoing but has not yet concluded the Employee is eligible to be considered for Progression or Top of Grade or Value Range payment but the Employer is not precluded from considering matters which have arisen under **clause 25** in assessing whether the Employee has met their Progression Criteria where it is fair and reasonable to do so.
- (c) For the purposes of this clause a promotion does not include any moves to the next Grade or Value Range:
- (i) which resulted in the Employee receiving less than the equivalent of one progression step or amount, or
  - (ii) was achieved as a result of obtaining relevant work experience or a qualification which is part of an automatic career advancement pathway established or
  - (iii) occurred following a job-re-sizing review process conducted under **clause 27.5** (Movement between Value Ranges).

**29.6 Eligibility requirements for Progression or Top of Grade or Value Range Payment – Higher Duties**

- (a) If an Employee has been acting in a higher position for a period of twelve months at the end of the Performance Cycle and neither **clause 29.5(b)(ii)**, **29.5(b)(iii)** or **29.5(b)(iv)** apply to the Employee, the Employee will be eligible to be considered for Progression or a Top of Grade or Value Range Payment for continued performance of the higher duties beyond 12 months.
- (b) If an Employee progresses to the next progression step or amount while acting in a higher position they will progress to the next Progression Step/ Amount within their substantive Grade (if applicable).
- (c) An Employee who has been acting in a higher position for a period of less than twelve months at the end of the Performance Cycle, may be eligible to be considered for Progression or a Top of Grade or Value Range payment at their substantive Grade or Value Range, if they are not otherwise ineligible because of the operation of **clause 29.5**.

**29.7 Progression payments for Employees returning from Primary Caregiver Parental leave**

- (a) An Employee is entitled to advance two progression steps or amounts or be paid two Top of Grade or Value Range payments in the following circumstances:
  - (i) The Employee was not considered for Progression or a Top of Grade or Value Range payment due to the Employee's absence on a period of Primary Carer Parental Leave not exceeding 52 weeks; and
  - (ii) The Employee is otherwise eligible to be considered for Progression or a Top of Grade or Value Range Payment; and
  - (iii) The Employee is assessed as meeting progression criteria in the Performance Cycle in which the Employee returns to work.
- (b) Any Progression or Top of Grade or Value Range payment will be processed by the Employer at the same time as other progression outcomes resulting for the Performance Cycle following the Employee's return to work.
- (c) An Employee's absence from work on parental leave for part of a relevant Performance Cycle must not disadvantage the Employee in the Employer's application of the Progression Criteria.

**29.8 Achieving Progression or Top of Grade or Value Range Payment**

- (a) Progression between progression steps or amounts or the payment of a Top of Grade or Value Range payment will occur if the Employee:
  - (i) meets the eligibility requirements set out in **clause 29.5** or **clause 29.6** (as relevant); and
  - (ii) is assessed as having met their Progression Criteria at the End of Cycle Performance Review.
- (b) An End of Cycle Performance Review is undertaken at the end of each Performance Cycle. The Employee's performance against the Progression Criteria is assessed by their supervisor or manager at that time.
- (c) An Employee will not be disadvantaged where through the Employer's act or omission:
  - (i) learning and development opportunities are not available; or
  - (ii) a Performance Development Plan is not completed, or
  - (iii) a Mid-Cycle or End of Cycle Performance Review is not conducted.
- (d) Where an Employee is assessed as having not met their agreed Progression Criteria, the Employee will not obtain Progression or be paid a top of Grade or Value Range Payment.

**29.9 Operation of Progression Steps or Amounts or Top of Grade or Value Range Payment where progression is achieved**

- (a) Other than as provided for in **clause 29.9(b)**, progression will take effect backdated to 1 July following the completion of the Performance Cycle to which the progression relates.
- (b) For an Employee who:
  - (i) has been ineligible to be considered for Progression or Top of Grade or Value Range payment for a period of 18 months or longer as a result of the operation of **clause 29.5(b)(i)** or **29.5(b)(ii)**; and
  - (ii) is assessed as having met their Progression Criteria at the end of the first Performance Cycle in which the employee becomes eligible for progression after the exclusions prescribed in **clause 29.5(b)(i)** or **29.5(b)(ii)** are complete;
- (c) progression will take effect backdated to 1 January in the Performance Cycle to which the progression relates, or the Employee's 18 Month Date, whichever is later.
- (d) An Employee's 18 Month Date for the purposes of **clause 29.9(b)** is the date 18 months after the Employee commenced employment with the VBA (if **clause 29.5(b)(i)** applies) or the date 18 months from the date of promotion for the purposes of **clause 29.5(b)(ii)**.
- (e) Top of Grade or Value Range payments will be paid as a lump sum processed by the Employer at the same time as other progression outcomes resulting for the Performance Cycle following the Employee's return to work.

**30. Salary Increases**

**30.1 Salary Increases**

- (a) Employees employed by the Employer at or after the date of commencement of this Agreement will receive the following salary increases:

Table 6: Salary Increases

Date of Effect	Percentage Increase
20 March 2020	1.50%
1 December 2020	1.25%
1 September 2021	1.50%
1 June 2022	1.25%
1 March 2023	1.50%
1 December 2023	1.00%

- (b) The salary increases outlined in **clause 30.1** are to apply to the salary ranges set out in clause 1 of **Schedule B**.

### 30.2 Increases to salary caps for certain entitlements

Where eligibility for any Employee entitlement is to be calculated by reference to a rate of pay, then the rate of pay applicable as at date of commencement of this Agreement will be increased by the same increases and from the same operative dates as provided for in **clause 30.1**.

### 30.3 Allowance adjustment

- (a) All work and condition allowances in this Agreement will be increased by the same increases and from the same operative dates as provided for in **clause 30.1**.
- (b) An exception to this is any allowances or payment which is expressed in the relevant provision to have been increased based on the annual rates listed in the relevant table. These annual rates incorporated the Salary increases for the relevant year.

## 31. Casual Employees – Loading

Employees employed on a casual basis will receive a loading of 25 per cent in addition to the applicable hourly rate of pay as compensation in lieu of any entitlement to the following benefits:

- (a) Payment for public holidays not worked; and
- (b) annual leave and annual leave loading; and
- (c) paid parental leave; and
- (d) paid compassionate leave; and
- (e) paid personal/carer's leave; and
- (f) jury service; and



- (g) defence reserve leave; and
- (h) accident make-up pay; and
- (i) leave to attend rehabilitation programs.

## **32. Supported Wage System**

The conditions which apply to Employees who, because of a disability, are eligible for a supported wage, are set out in **Schedule D**.

## **33. Payment of Salaries**

- 33.1 Salaries, allowances, penalty or overtime payments due to an Employee must be paid by the Employer by fortnightly electronic direct credit to a bank account, credit union or building society account nominated by the Employee. In exceptional circumstances, including significant delays in payment of salary, the Employer will make provision for off-line payments.
- 33.2 Where a normal payday falls on a Public Holiday the direct credit to the Employee's nominated account must be made no later than the last working day prior to the Public Holiday.
- 33.3 Employees must be provided either in writing or electronically, with details of each pay regarding the make-up of their remuneration and any deductions.
- 33.4 By agreement with the Employer, the Employee may authorise deductions from salary for forwarding to superannuation funds.
- 33.5 In the event of an overpayment of salary, allowance, loading or other payment, the Employer must advise the Employee. Similarly, the Employee must advise the Employer if they know there has been an overpayment. Where agreement cannot be reached on a repayment arrangement, the Employer may recover the overpayment by instalments to be paid in accordance with the *Financial Management Act 1994* (Vic) as amended from time to time or any successor to that Act.

## **34. Salary Packaging**

- 34.1 An Employee may enter into a salary packaging arrangement with their Employer using pre-tax salary in respect of superannuation, a novated lease and/or other approved benefits under State or Federal legislation. In the case of salary sacrifice to State Government defined benefit superannuation schemes, arrangements must comply with State legislation.
- 34.2 All costs associated with salary packaging, including the Employer's reasonable administrative costs, are to be met from the salary of the participating Employee.

## 35. Allowances – Work or Conditions

### 35.1 General provisions

Work or conditions allowances will be paid by the Employer subject to the Employee meeting the requirements for receipt of the allowance as set out in this clause.

### 35.2 First aid allowance

- (a) Where an Employee, in addition their normal duties, agrees to be appointed by the Employer to perform first aid duties:
  - (i) the Employee must hold a current first aid certificate or an equivalent qualification; and
  - (ii) the Employee will be paid an annual allowance payable in fortnightly instalments; and
  - (iii) this allowance will be as follows:

**Table 7: First aid allowance**

Date of Effect	Amount per Annum
1 March 2020	\$647
1 March 2021	\$660
1 March 2022	\$673
1 March 2023	\$686

- (b) The Employer must reimburse any additional costs incurred by the Employee in obtaining and maintaining the first aid qualification.

### 35.3 Higher duties allowance

#### (a) When does higher duties allowance apply

A higher duties allowance will be paid where an Employee is required to undertake all or part of the duties of a higher classified position (including a position classified at a higher Value Range) for:

- (i) a period longer than five consecutive working days; or
- (ii) where the Employee works in the higher classified position on a regular and systematic basis.

#### (b) Level of allowance

The level of the allowance shall be in proportion to the extent of the higher duties performed, and shall be calculated on the base of the Grade or Value Range.

**(c) Leave while performing higher duties**

Paid leave taken during a higher duties assignment shall be paid inclusive of the allowance, provided the Employee resumes the duties of the higher duties position on their return from leave.

**35.4 Language allowance**

- (a) Where the Employee, in addition to their normal duties, agrees to be appointed by the Employer to use their skills in a second language to assist members of the public who have low English proficiency:
- (i) the Employee must hold a current accreditation from the National Accreditation Authority for Translators and Interpreters (NAATI); and
  - (ii) the Employee will be paid an annual allowance payable in fortnightly instalments as follows:

**Table 8: Language allowance**

<b>Date of Effect</b>	<b>Language aide accreditation</b>	<b>Paraprofessional interpreter accreditation</b>	<b>Interpreter accreditation or higher</b>
20 March 2020	\$1,114	\$1,534	\$2,091
1 December 2020	\$1,128	\$1,553	\$2,117
1 September 2021	\$1,145	\$1,576	\$2,149
1 June 2022	\$1,160	\$1,596	\$2,176
1 March 2023	\$1,177	\$1,620	\$2,208
1 December 2023	\$1,189	\$1,636	\$2,230

- (b) The Employer will pay the cost of the NAATI pre-testing workshop.
- (c) The Employer will also meet the cost of the NAATI test, up to two times per Employee per level of accreditation. The Employee must apply annually for renewal of the allowance.
- (d) The Employer will assess the Employee's renewal application to determine whether the Employer still requires the Employee to perform interpreting duties.

**35.5 Registration and Licence Allowance**

Where an Employee is required to hold a plumbing registration or licence, or building registration, to perform their duties, the Employer will meet the costs of the registration or licence fee, including any required insurance costs.

## **36. Reimbursement of Expenses**

### **36.1 General provisions**

- (a) The Employer will reimburse the Employee for the Employee's reasonable out of pocket expenses actually and necessarily incurred in the course of their authorised duties.
- (b) The Employer must apply the rulings of the Commissioner of Taxation (Australian Tax Office) relating to reasonable allowances in determining the maximum rates payable, unless otherwise agreed.
- (c) The amount of an expense will be considered reasonable where it does not exceed the relevant amounts set by the Australian Tax Office as adjusted from time to time.

### **36.2 Allowable expenses**

Allowable expenses include:

- (a) travelling, accommodation, meals and other incidental expenses associated with an overnight absence from home or part day duties away from the normal work location; and
- (b) expenses incurred in using private mobile and home phones in accordance with **clause 36.3**; and
- (c) expenses incurred in using private vehicles in accordance with **clause 36.4**.

### **36.3 Private mobile and home phone use**

- (a) An Employee required to use their private mobile phone or home phone in the course of their employment will be reimbursed for work-related calls under their plan.
- (b) The Employee must obtain the prior approval of the Employer before using their private mobile or home phone during the course of their employment.
- (c) Following use, the Employee must submit an itemised statement of the calls made and their cost.

### **36.4 Private motor vehicle use**

- (a) An Employee, required to use their private motor vehicle in the course of their employment, will be reimbursed for kilometre costs and any other motor vehicle reimbursement expenses incurred in the course of the Employee's employment and authorised by the Employer.
- (b) The Employee must obtain the prior approval of the Employer before using their private motor vehicle during the course of their employment.
- (c) Following use, the Employee must submit a declaration stating the date, the purpose of the trip, the number of kilometres travelled and the type of vehicle used.
- (d) The rates payable in respect of motor kilometre costs will be the rates determined by the Australian Tax Office from time to time.

**36.5 Expense claims**

- (a) The Employer may require an Employee to submit to the Employer official receipts substantiating allowable expenses incurred by the Employee as soon as practical after incurring the expense, except where the Employee uses their own motor vehicle for work purposes in which case the Employee will submit a declaration in accordance with **clause 36.4(c)**.
- (b) A declaration from the Employee that the expense was incurred may be accepted by the Employer if the official receipt is lost or misplaced, and suitable verification can be made. A declaration from the Employee that an incidental expense was incurred may be accepted if the Employer and the Employee agree that the obtaining of a receipt was impractical.

**36.6** The Employer will pay the Employee money owing under this clause in a manner to be agreed between the Employer and Employee as soon as practicable, but not later than two pay periods after the Employee submits a claim.

**36.7** Upon request, the Employer will provide an advance for the expected costs associated with work related travel or any other exercise where an Employee is likely to incur work related expenses. As soon as practicable after the event, the Employee will provide the Employer with an account of all expenses incurred together with receipts (and where necessary a statement) together with any balance owed to the Employer.

**37. Superannuation**

**37.1 Superannuation legislation**

- (a) Superannuation legislation, including the Superannuation Guarantee (Administration) Act 1992 (Cth), the Superannuation Guarantee Charge Act 1992 (Cth), the Superannuation Industry (Supervision) Act 1993 (Cth) and the Superannuation (Resolution of Complaints) Act 1993 (Cth), deals with the superannuation rights and obligations of Employers and Employees. Under superannuation legislation individual Employees generally have the opportunity to choose their own superannuation fund. If an Employee does not choose a superannuation fund, any superannuation fund nominated in the Agreement covering the Employee applies.
- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

**37.2 Employer contributions**

The Employer must make such superannuation contributions to a superannuation fund for the benefit of an Employee, regardless of age, as will avoid the Employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that Employee.

**37.3 Voluntary Employee contributions**

- (a) Subject to the governing rules of the relevant superannuation fund, an Employee may, in writing, authorise their Employer to pay on behalf of the Employee a specified amount from the post-taxation wages of the Employee

into the same superannuation fund as the Employer makes the superannuation contributions provided for in **clause 37.2**.

- (b) An Employee may adjust the amount the Employee has authorised their Employer to pay from the wages of the Employee from the first of the month following the giving of three months' written notice to their Employer.
- (c) The Employer must pay the amount authorised under **clauses 37.3(a)** or **37.3(b)** no later than 28 days after the end of the month in which the deduction authorised under **clauses 37.3(a)** or **37.3(b)** was made.

#### **37.4 Superannuation fund**

Unless, to comply with superannuation legislation, the Employer is required to make the superannuation contributions provided for in **clause 37.2** to another superannuation fund that is chosen by the Employee, the Employer must make the superannuation contributions provided for in **clause 37.2** and pay the amount authorised under **clauses 37.3(a)** or **37.3(b)** to one of the following superannuation funds:

- (a) the Employer's default superannuation fund; or
- (b) any superannuation fund to which the Employer was making superannuation contributions for the benefit of its Employees before 12 September 2008, provided the superannuation fund is an eligible choice fund and is a fund that offers a MySuper product or is an exempt public sector superannuation scheme; or
- (c) a superannuation fund or scheme which the Employee is a defined benefit member of.

#### **37.5 Employer contributions in respect of Primary Caregiver Parental Leave**

- (a) An Employee is entitled to have superannuation contributions made in respect of the period of the Employee's Primary Caregiver Parental Leave which occurs after the commencement of the Agreement.
- (b) The Employer will pay the superannuation contributions as a lump sum to the Employee's fund as provided for in **clause 37.4**.
- (c) The lump sum payment will be made on or before the first superannuation guarantee quarterly payment due date following the Employee's return to work at the conclusion of their Primary Caregiver Parental Leave.
- (d) The quantum of superannuation contributions payable under this clause will be calculated based on:
  - (i) The number of weeks of Primary Caregiver parental leave taken by the Employee, capped at 52 weeks; and
  - (ii) The Employee's weekly pay calculated in accordance with **clause 55.25** of the Agreement; and
  - (iii) The applicable contribution rate under the Superannuation Guarantee Administration Act 1992 (Cth) at the time the payment is made.

## Part 6 Hours of Work and Related Matters

### 38. Hours of Work

38.1 The ordinary hours of work for each Employee, except for casual or part-time Employees, will average 76 (exclusive of meal breaks), to be worked over an average of no more than ten days per fortnight.

#### 38.2 Spread of Hours

##### (a) Flexible Arrangement of Hours of Work

The ordinary hours of work will, by agreement, be worked flexibly to best meet both the Employer's work requirements and the Employee's personal and/or family circumstances.

##### (b) Arrangement of Hours

(i) The actual days and hours of work will be those agreed between the Employer and the Employee. Either party may seek to alter the days or hours of duty. Agreement to such alteration will not be unreasonably withheld, taking into account the personal/ family circumstances of the Employee, and the work requirements of the Employer. Disputes over the operation of this clause will be dealt with under **clause 13** (Resolution of Disputes).

(ii) The Employer must not require an Employee to:

- perform ordinary hours of work outside the times of 7.00am to 7.00pm on any weekday (the "span of hours"); or
- perform ordinary hours of work on Saturdays, Sundays or Public Holidays.

(iii) In determining the days and hours of duty, both the Employer and the Employee accept that the Employee is eligible to use the flexibility of these arrangements to take time off by agreement, subject to meeting the specified leave requirement(s) and not unduly affecting the work requirements of the Employer. Agreement by the Employer will not be unreasonably withheld.

### 39. Overtime

39.1 Overtime means the hours worked at the direction of the Employer in addition to an Employee's ordinary daily hours of work on any day established in accordance with **clause 38**.

#### 39.2 Reasonable Hours of Work

(a) Subject to **clause 39.2(b)** the Employer may require an Employee to work reasonable overtime at overtime rates.

- (b) An Employee may refuse to work overtime in circumstances where the working of such overtime would result in the Employee working hours which are unreasonable having regard to:
- (i) any risk to the Employee's health and safety; or
  - (ii) the Employee's personal circumstances including family responsibilities; or
  - (iii) the needs of the workplace; or
  - (iv) the notice (if any) given by the Employer of the overtime and by the Employee of their intention to refuse it; and
  - (v) any other relevant matter.

### 39.3 Requirement to pay overtime

- (a) An Employee who works overtime must be paid at the appropriate overtime rate specified in **clause 39.5**. Exceptions are provided at **clause 39.4**.
- (b) An Employee may request that time be granted in lieu of payment. If the Employer agrees, time in lieu of payment will accrue at the rate specified in **clause 39.6**.

### 39.4 Exceptions

**Clause 39.3** does not apply to Employees:

- (a) classified as Grade 5 or higher, unless agreed to otherwise by the employer based on exceptional business grounds; or
- (b) who are part-time Employees working less than 38 hours a week and are subject to overtime conditions contained in **clause 39.9**.

### 39.5 Overtime – Rates of payment

- (a) Where an Employee is paid for overtime work pursuant to **clause 39.3** the following overtime rates will be paid:

**Table 9: Overtime – Rates of payment**

For overtime work on	Overtime rate (% of ordinary hourly rate)
Monday to Saturday – first three hours	150%
Monday to Saturday – after 3 hours	200%
Sunday - in all cases except public holidays	200%
Public holiday or substituted day	250%

- (b) The ordinary hourly rate of payment for overtime will be calculated on the lower of either the Employee's salary or the lowest pay point within Grade 4.



**39.6 Overtime – Rate of accrual for time in lieu of payment**

Where an Employee is granted time in lieu of payment for overtime work, the time will accrue on the following basis:

- (a) in the case of overtime worked Monday to Friday – on an hour for hour basis; and
- (b) in the case of overtime worked on weekends or Public Holidays – two hours of time in lieu per hour worked.

**39.7 How does time in lieu apply**

- (a) Time in lieu is to be taken at a time mutually agreed. The Employer will endeavour to permit the Employee to take time in lieu at a time of the Employee's choosing.
- (b) Time in lieu may accumulate to a maximum of 38 hours. Any Employee who has accumulated 38 hours of time in lieu must be paid overtime for any additional overtime hours worked.
- (c) By agreement, the Employee may convert 38 hours of accrued time in lieu to one additional week of converted leave, to be taken at a time mutually agreed. In this case, time in lieu may continue to accrue. Any converted leave under this clause must be used within 12 months of the conversion date or will be paid out. By agreement, all or any part of the accumulated converted leave may be paid out at any time within 12 months of the conversion date.
- (d) Upon termination for any reason, the Employee will be paid out any time in lieu accrued to their credit as if it were time worked.

**39.8 Overtime – minimum period**

- (a) Employees must be paid (unless time in lieu is agreed) for a minimum of three hours when they are either recalled to duty or on stand-alone overtime.

**39.9 Overtime – staff working less than 38 hours a week**

- (a) A part-time Employee must be compensated for overtime in accordance with **clause 39.3** for work performed:
  - (i) outside the span of hours in **clause 38**; or
  - (ii) outside the Employees agreed hours.
- (b) Additional hours performed by a part-time Employee which are performed both before 38 hours has been worked in any week, and within the span of hours in **clause 38**, will be compensated at the Employee's ordinary rate. Additional hours compensated at the part-time Employee's ordinary rate will count as service for leave accrual.

**39.10 Overtime Meal Payment**

- (a) An Employee will be eligible to receive an overtime meal payment if the Employee is required to work a period of overtime which:

- (i) is immediately before or after a scheduled period of ordinary duty and is more than two hours in duration; or
  - (ii) is a stand-alone period of overtime that is four hours or more in duration.
- (b) The overtime meal payment payable to an Employee is set out below:

**Table 10: Overtime Meal Payment**

Date of Effect	Overtime Meal Payment
20 March 2020	\$21.70
1 December 2020	\$22.00
1 September 2021	\$22.30
1 June 2022	\$22.60
1 March 2023	\$22.95
1 December 2023	\$23.15

- (c) The overtime meal payment is not payable where the Employer provides a meal.

## **40. Rest Breaks**

### **40.1 Rest periods between periods of duty**

- (a) Other than in exceptional circumstances, an Employee must not be required to perform:
- (i) a further period of overtime duty; or
  - (ii) a period of ordinary duty; if:
    - either the Employee has not been provided with a ten hour rest period between the time of completion of one period of duty and the commencement of the next; or
    - the Employee has not been provided with a ten hour rest period within the preceding 24 hours from the time of the commencement of the stand-by duty.
- (b) The Employer must not make a deduction from normal salary if an Employee is released from normal duty to enable the Employee to observe a rest break in **clause 40.1(a)**.
- (c) An Employee required to work, as a result of an exceptional circumstance, during or after a rest period is due, will receive overtime compensation in accordance with **clause 41** for all time worked until a rest period of at least ten hours continuous duration is taken.

- (d) Where at the commencement of the Agreement, Employees currently do not receive a rest break of at least ten hours, Employers will have six months from the date of commencement of the Agreement to make the necessary changes to existing roster practices.

## **41. Meal breaks**

- (a) The Employer will grant meal breaks at times suitable to operational requirements, taking into account the wishes of the Employee. The number and starting and finishing times of meal breaks will be specified.
- (b) Except where otherwise permitted by this clause, the Employee will not be required to work for more than five hours without an unpaid meal break unless the Employee and the Employer otherwise agree. The length of the meal interval must be at least thirty minutes.
- (c) If for operational or emergency reasons the Employee is required to remain on duty, they may arrange to take meals during their hours of duty without a specific meal break.
- (d) Where agreement cannot be reached as specified in **clause 41(b)** and the Employee is required by their supervisor to work through their meal break in accordance with **clause 41(c)**, time in lieu or payment for overtime will be approved in accordance with this Agreement.
- (e) If for operational reasons it is impractical for all Employees within a work group to observe the same time for the taking of a meal break, meal breaks may be staggered.

## **42. Christmas Closedown**

- 42.1** The purpose of this clause is to enable the Employer to closedown part or all of its operations for the three working days from the first working day after Christmas Day to the end of the last working day before New Year's Day (1 January) (closedown period).
- 42.2** Where the Employer intends to closedown part or all of its operations for the closedown period, the Employer:
  - (a) will notify relevant Employees in writing of this intention no later than 1 October of the year in which the closedown is to take place; and
  - (b) will request relevant Employees to utilise any accrued time in lieu, annual leave, substitute leave or additional hours accrued under a flexible working arrangement; and
  - (c) may require a minimum level of staffing to meet the operational requirements of the workplace.
- 42.3** If there are insufficient expressions of interest from relevant Employees to give effect to the closedown period, the following process will be applied, in order:

- (a) the Employer may direct an Employee who has excessive annual leave (as defined in **clause 45.5(b)(i)**) to take annual leave during the closedown period;
- (b) the Employer may then direct an Employee with accrued time in lieu or substitute leave to take that leave during the closedown period.

**42.4** The Employer will provide at least 4 weeks' notice of any direction to take leave, under **clause 42.3**.

**42.5** Where an Employee has insufficient leave or time in lieu, the Employer may agree to temporarily alter the ordinary working arrangements of the Employee to allow the Employee to bank sufficient time to cover their absence. This clause also applies to Employees classified at VBA Grade 5 or higher.

## **43. Childcare**

Where Employees are required by the Employer to work outside their ordinary hours of work and where less than 24 hours' notice of the requirement to perform such overtime work has been given by the Employer, the Employee will be reimbursed for reasonable childcare expenses incurred. Evidence of expenditure incurred by the Employee must be provided to the Employer as soon as possible after the working of such overtime.

## **Part 7 Leave of Absence and Public Holidays**

### **44. Leave of Absence – General**

#### **44.1 Standard day for approved leave purposes**

For each day that an Employee is absent on approved leave, the hours of work for the purposes of such entitlements shall be taken as 7.6 hours. Where an alternative arrangement of days and hours is worked leave shall be debited on the basis of the actual hours to be worked on the day of the leave.

#### **44.2 Leave entitlements for Employees in receipt of workers compensation payments**

- (a) An Employee, absent from work and in receipt of workers' compensation payments is entitled to:
  - (i) take and accrue annual and personal leave, and.
  - (ii) accrue long service leave for the first twelve months the Employee is absent from work in accordance with **clause 62.5(c)**.

### **45. Annual Leave**

#### **45.1 Entitlement to annual leave**

An Employee, other than a casual Employee, is entitled to four weeks' paid annual leave for each year of employment. The entitlement accrues on a daily basis.

**45.2 Taking of accrued annual leave**

- (a) An Employee may only take the leave they have accrued, unless otherwise provided in this clause or agreed.
- (b) Annual leave entitlements must be taken by the end of the calendar year following the calendar year in which they are accrued and at a time convenient to the needs of the Employer and Employee. By agreement between the Employer and the Employee, leave may be deferred beyond that date. Unless otherwise agreed, the Employee may be directed to take leave, in accordance with **clause 45.5**.
- (c) An Employee may request that the whole or any the part of their annual leave be taken at half pay for a period equal to twice the period to which Employee would otherwise be entitled.
- (d) The Employer will consider operational requirements and the needs of the Employee when assessing applications for annual leave at half pay. Approval will not be unreasonably withheld.

**45.3 Payment whilst on annual leave**

- (a) Subject to **clause 45.3(b)**, each Employee who takes annual leave is entitled to be paid in addition to their salary the greater of the following two amounts for the period of the leave:
  - (i) an annual leave allowance at the rate of 17.5 per cent of the Employee's salary for the period of annual leave; or
  - (ii) an annual leave allowance equal to any additional payments to which the Employee would be entitled for Saturday or Sunday duty which the Employee would be required to perform if they were not proceeding on annual leave.
- (b) The maximum allowance payable under **clause 45.3(a)** will not exceed an amount calculated in respect of a salary at the top of Grade 4.

**45.4 Payment of accrued annual leave entitlement upon termination**

An Employee, who, upon retirement, resignation or termination of employment, has an outstanding annual leave entitlement, will be paid an amount equal to the unused annual leave entitlement and any unpaid annual leave allowance. Any annual leave allowance payable pursuant to this **clause 45.4** shall be calculated in accordance with **clause 45.3**.

**45.5 Excessive Annual Leave Accruals**

This clause contains provisions additional to the NES about taking paid annual leave, to deal with excessive paid annual leave accruals.

**(a) Dealing with annual leave accruals by agreement**

Where an Employee's accrued annual leave entitlement has not been taken by the end of the calendar year following the calendar year in which it accrued, the Employer and Employee must genuinely try to agree upon steps that will be taken to reduce or eliminate that leave accrual. This agreement must be

attempted before the Employer can direct that leave be taken under **clause 45.5(b)(ii)** or the Employee can give notice of leave to be granted under **clause 45.5(c)(ii)**.

**(b) Employer may direct that excessive annual leave be taken**

- (i) An Employee has an excessive annual leave accrual if the Employee has accrued more than eight weeks' paid annual leave.
- (ii) Where the Employee has an excessive annual leave accrual (and agreement has not been reached under **clause 45.5(a)**), the Employer may give a written direction to the Employee to take a period or periods of paid annual leave. Such a direction must not:
  - result in the Employee's remaining accrued entitlement to paid annual leave at any time being less than six weeks (taking into account all other paid annual leave that has been agreed, that the Employee has been directed to take or that the Employee has given notice of under **clause 45.5(c)(ii)**;
  - require the Employee to take any period of leave of less than one week; or
  - require the Employee to take any period of leave commencing less than eight weeks after the day the direction is given to the employee; or
  - require the Employee to take any period of leave commencing more than 12 months after the day the direction is given to the Employee; or
  - be inconsistent with any leave arrangement agreed between the Employer and Employee.
- (iii) An Employee to whom a direction has been given under this clause may make a request to take paid annual leave as if the direction had not been given.
- (iv) The Employer must not unreasonably refuse to agree to a request by the Employee to take paid annual leave.
- (v) If leave is agreed after a direction is issued and the direction would then result in the Employee's remaining accrued entitlement to paid annual leave at any time being less than six weeks, the direction will be deemed to have been withdrawn.
- (vi) The Employee must take paid annual leave in accordance with a direction complying with this clause.

**(c) Employee may require that leave be granted**

- (i) This **clause 45.5(c)** applies if an Employee has had an excessive annual leave accrual for more than six months and the Employer has not given a direction under **clause 45.5(b)(ii)** that will eliminate the Employee's excessive leave accrual.

- (ii) If agreement is not reached under **clause 45.5(a)**, the Employee may give a written notice to the Employer that they wish to take a period or periods of paid annual leave. Such a notice must not:
- result in the Employee's remaining accrued entitlement to paid annual leave at any time being less than six weeks (taking into account all other paid annual leave that has been agreed, that the Employee has been directed to take or that the Employee has given notice of under this clause); or
  - provide for the Employee to take any period of leave of less than one week; or
  - provide for the Employee to take any period of leave commencing less than eight weeks after the day the notice is given to the Employer; or
  - provide for the Employee to take any period of leave commencing more than 12 months after the day the notice is given to the Employer; or
  - be inconsistent with any leave arrangement agreed between the Employer and Employee.
- (iii) The maximum amount of leave that an Employee can give notice of under this clause is four weeks' leave in any 12 month period.
- (iv) The Employer must grant the Employee paid annual leave in accordance with a notice complying with this clause.

**(d) Disputes in relation to the operation of clause 45.5**

A dispute in relation to the operation of this clause may be dealt with in accordance with **clause 13** (Resolution of Disputes).

## **46. Cashing Out of Annual Leave**

**46.1** Annual leave must not be cashed out except in accordance with this clause.

**46.2** The Employer and an Employee may agree to the Employee cashing out a particular amount of the Employee's accrued annual leave provided that the following requirements are met:

- (a) the cashing out of a particular amount of accrued annual leave must be by agreement between the Employer and the Employee which must:
- (i) be in writing and retained as an Employee record; and
  - (ii) state the amount of accrued leave to be cashed out and the payment to be made to the Employee; and
  - (iii) state the date on which the payment is to be made; and
  - (iv) be signed by the Employer and Employee and, if the Employee is under 18 years of age, the Employee's parent or guardian;

- (b) the Employee must be paid at least the full amount that would have been payable to the Employee had the Employee taken the leave at the time that it is cashed out; and
- (c) annual leave must not be cashed out if the cashing out would result in the Employee's remaining accrued entitlement to annual leave being less than four weeks; and
- (d) an Employee may only cash out annual leave on one occasion during the term of this Agreement.

## 47. Purchased Leave

- 47.1** An Employee may, with the agreement of the Employer, work less than 52 weeks per year. Access to this entitlement may only be granted on application from an Employee and cannot be required as a precondition for employment.
- 47.2** An Employee can only make an application under this clause where the Employee does not have an excessive annual leave accrual (as defined in **clause 45.5(b)(i)**).
- 47.3** Where an Employee, with an excessive annual leave accrual, wishes to make an application under this clause, the extent of the Employee's excessive annual leave accrual and any plans the Employee has to take some or all of their accrued annual leave entitlements in conjunction with any approved purchased leave arrangement, will be considered by the Employer in assessing the Employee's application for purchased leave.
- 47.4** Where the Employer and an Employee agree on an employment arrangement under **clause 47.1**, the annual salary applicable to an employee relative to the additional leave purchased will be as follows:

Proportion of annual salary applicable under Schedule B	Number of additional weeks of purchased leave	Total amount of leave (purchased and annual leave)
44/52 weeks	Additional 8 weeks' leave	12 weeks in total
45/52 weeks	Additional 7 weeks' leave	11 weeks in total
46/52 weeks	Additional 6 weeks' leave	10 weeks in total
47/52 weeks	Additional 5 weeks' leave	9 weeks in total
48/52 weeks	Additional 4 weeks' leave	8 weeks in total
49/52 weeks	Additional 3 weeks' leave	7 weeks in total
50/52 weeks	Additional 2 weeks' leave	6 weeks in total
51/52 weeks	Additional 1 weeks' leave	5 weeks in total



- (a) The above does not preclude an Employee and the Employer from agreeing to a similar type of arrangement that would provide an Employee with additional converted leave of more than eight weeks.
- (b) The Employee will receive a salary equal to the period worked (e.g. 46 weeks, 49 weeks) which will be spread over a 52 week period.
- (c) The accrual of personal/carer's leave and long service leave by the Employee shall remain unchanged.

**47.5** The Employer will endeavour to accommodate Employee requests for arrangements under this clause subject to operational requirements. Where such requests are granted, the Employer will make proper arrangements to ensure that the workloads of other Employees are not unduly affected and that excessive overtime is not required to be performed by other Employees as a result of these arrangements.

**47.6** An Employee may revert to ordinary 52 week employment by giving the Employer no less than four weeks' written notice. Where an Employee so reverts to 52 week employment, appropriate pro rata salary adjustments will be made.

## **48. Infectious Diseases**

Upon report by a Registered Medical Practitioner that by reason of contact with a person suffering from an infectious disease and through the operation of restrictions imposed by law in respect of such disease, an Employee is unable to attend work, the Employer may grant the Employee special leave of absence with pay. The period of leave must not be for any period beyond the earliest date at which it would be practicable for the Employee to return to work having regard to the restrictions imposed by law.

## **49. Dangerous Medical Conditions**

Where the Employer reasonably believes that the Employee is in such state of health as to render the Employee a danger to other Employees, themselves or other persons, the Employer may require the Employee to absent themselves from the workplace until the Employee obtains and provides to the Employer a report from a Registered Medical Practitioner. Upon receipt of the medical report, the Employer may direct the Employee to be absent from duty for a specified period or, if already on leave, direct such Employee to continue on leave for a specified period. Any absence under this clause must be taken as personal/carer's leave or leave without pay.

## **50. Public Holidays**

**50.1** All Employees (except casual Employees) will be entitled to be absent from work on the following Public Holidays without deduction of pay where the Public Holiday occurs on a day the Employee would normally work:

- (a) New Year's Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Christmas Day (25 December), Boxing Day, Australia Day, Anzac Day, Queen's Birthday, Labour Day, the Friday before the Australian Football League Grand Final, and Melbourne Cup Day.

## **50.2 Prescribed substitute and additional public holidays**

### **(a) Christmas Day (25 December)**

- (i)** When Christmas Day (25 December) is a Saturday an additional holiday will be observed on the next Monday.
- (ii)** When Christmas Day (25 December) is a Sunday, an additional holiday will be observed on the next Tuesday.

### **(b) Boxing Day**

- (i)** When Boxing Day is a Saturday an additional holiday will be observed the next Monday.
- (ii)** When Boxing Day is a Sunday, an additional holiday will be observed on the next Tuesday.

### **(c) New Year's Day**

When New Year's Day is a Saturday or a Sunday, an additional holiday will be observed on the next Monday.

### **(d) Australia Day**

When Australia Day is a Saturday or a Sunday, a holiday in lieu will be observed on the next Monday.

## **50.3 Melbourne Cup Day Substitution**

Where, outside the Melbourne Metropolitan area, a Public Holiday is proclaimed in that municipality for the observance of local events, that day will be observed as a Public Holiday in lieu of Melbourne Cup Day.

## **50.4 Additional or Substituted Public Holidays**

Where in the whole or part of the State of Victoria, additional or substituted Public Holidays are declared or prescribed on days other than those set out in **clauses 50.1 and 50.3**, those days shall constitute additional or substituted holidays for the purpose of this Agreement for Employees who have their place of principal employment in a municipality to which the additional or substituted Public Holiday applies.

## **50.5 Substitution of Public Holiday**

- (a)** An Employee may by agreement with the Employer substitute another day for any prescribed in this clause to observe religious or cultural occasions or like reasons of significance to the Employee.

## **51. Personal/ Carer's Leave**

### **51.1 Definitions**

In this clause:

**Assistance Animal** means an animal formally trained to assist a person with a disability to alleviate the effect of their disability. This includes

- (a) a guide dog for people with vision impairment, or
- (b) hearing dogs for people with hearing impairment, or
- (c) assistance dogs for people with a physical disability, or
- (d) medical alert animals that help people before and during a medical emergency, or
- (e) psychiatric service animals that help people with a mental illness, or
- (f) any other animal agreed by the Employer or to which an Assistance Animal Pass granted by the Department of Transport applies.

Assistance Animal does not include a pet, companion or therapy animals.

**Registered Practitioner** means one of the following: Aboriginal and Torres Strait Islander health practitioner, Chinese medicine practitioner, Chiropractor, Dental care practitioner, Medical practitioner, Medical Radiation Practitioner, Nurse practitioner, Midwife, Occupational Therapist, Optometrist, Osteopath, Pharmacist, Physiotherapist, Podiatrist, Psychologist or any other profession registered under the *Health Practitioner Regulation National Law (Victoria) Act 2009*.

#### **51.2 Paid personal/ carer's leave**

- (a) An Employee, other than a casual Employee, is entitled to paid personal / carer's leave when they are absent because of:
  - (i) Personal illness or injury; or
  - (ii) Personal illness or injury of an Employee's Immediate Family, household member or Assistance Animal who required the Employee's care or support; or
  - (iii) An unexpected emergency affecting an Employee's Immediate Family, household member or Assistance Animal, or
  - (iv) Attendance at a medical appointment with a Registered Practitioner, subject to **clause 51.6**.

#### **51.3 Amount of paid personal/carers leave**

- (a) A full time Employee is entitled to paid personal/carers leave of 114 hours (120 hours for Employees whose ordinary hours of duty average 80 hours per fortnight).
- (b) A part-time Employee is entitled to a pro-rata amount of paid personal/carers leave based on the part-time Employee's hours of work.
- (c) The Employer will not apply the provisions of this clause in a manner which is inconsistent with the NES.
- (d) Leave will be credited on commencement of employment and subsequently on the anniversary date of the Employee's employment.
- (e) Employees appointed for a fixed-term period will accrue on a pro-rata basis paid personal/carers leave according to length of their service.

- (f) Leave without pay will not count as service for personal/carer's leave accrual purposes.
- (g) Unused paid personal/carer's leave accumulates from year to year.
- (h) Accrued personal / carer's leave will not be paid out on termination of employment.

#### 51.4 Payment for Personal/Carer's Leave

The Employer will pay an Employee for Personal/Carers Leave they take at the ordinary hourly rate of pay they would have received had they been at work.

*Note: This means that a full time or part-time employee who takes one full day of personal carers leave will be paid 7.6 hours. An employee who takes leave on a day where they work more than 7.6 hours will be paid the hours they would have been paid had they been at work. A part-time employee working less than the equivalent of a full-time day will be paid for the hours they would have been paid had they been at work.*

#### 51.5 How leave is deducted from leave balance

- (a) It is the intent of the Parties that full-time equivalent Employees receive 15 days paid personal carers leave per annum irrespective of the length of their ordinary hours of work or shift. **Clause 51.5(b)(i)** is intended to give effect to that intent.

- (b) From the commencement of the Agreement:

- (i) For full-time Employees and part-time Employees who work the equivalent of a full-time day.

The Employer will deduct leave from the Employee's leave balance at a nominal value of 7.6 hours for each day of Personal/Carer leave taken irrespective of the actual ordinary hours worked on the day;

Where the Employee is absent on paid personal/carer's leave for part of a day, the following formula determines the number of hours the Employer will deduct from the Employee's leave balance for that absence:

$$\frac{\text{Number of hours of personal / carers leave taken}}{\text{Employee's ordinary hours of work on the day}} \times 7.6 \text{ hours}$$

- (ii) **For part-time employees who work less than the equivalent of a full-time day**

Part-time employees who work part-days which are less than the relevant full-time equivalent shift will have their leave deducted by the hours they would have worked on that day had they been at work.

#### 51.6 Personal Leave for medical appointments

- (a) An Employee may access their accrued Personal/Carer's Leave to attend a medical appointment with a Registered Practitioner when the appointment cannot be reasonably scheduled outside the Employee's working hours.

- (b) The Employee must provide notice in accordance with **clause 51.8** and evidence in accordance with **clause 51.9(a)**. Approval will not be unreasonably refused having regard to the Employer's operational requirements, the needs of the Employee and the amount of notice provided by the Employee.
- (c) Attendance at routine medical appointments may, by agreement with the Employer, also be facilitated through flexible working arrangement (such as agreement to make up the time taken to attend medical appointments) as an alternative to using accrued Personal/Carers Leave.

**51.7 Personal/Carer's leave at half pay**

- (a) In exceptional circumstances, an Employee may be granted approval to convert any or all of their accrued paid personal/carer's leave entitlement to half pay for a period equal to twice the period to which the Employee would otherwise be entitled.
- (b) Approval of half-pay personal/carer's leave will only be granted in relation to an absence of 4 weeks or more.
- (c) To be eligible for personal/carer's leave at half pay under this clause, the Employee must comply with all notice and documentary evidence requirements stipulated in this clause.

**51.8 Notice**

An Employee must give the Employer notice of the taking of personal/ carer's leave under this clause. The notice:

- (a) must advise the Employer of the period, or expected period, of the leave; and
- (b) must be given to the Employer as soon as practicable, which may be a time after the personal/carer's leave has started.

**51.9 Evidentiary Requirements**

**(a) Personal leave**

The Employee must provide the Employer with a medical certificate or evidence of attendance at a medical appointment from a Registered Practitioner to be paid personal leave.

**(b) Carer's leave**

- (i) The Employee must provide the Employer with appropriate documentary evidence to be paid carers leave.
- (ii) The form of evidence required by the Employer will depend on the circumstances of the carer's leave request. This may include:
  - A medical certificate from a Registered Practitioner, or
  - Evidence from a registered veterinary practitioner (in the case of an Assistance Animal), or

- A statutory declaration stating that the condition of the person or Assistance Animal concerned required the Employee's care or support, or
- Other relevant documentary evidence.

**(iii) Additional evidentiary requirements for an Assistance Animal**

- The Employer may require the Employee to provide appropriate documentary evidence that states the Assistance Animal is within the definition of an Assistance Animal at **clause 51.1**.
- The form of evidence may include an accreditation certificate, proof of training or a statutory declaration stating the animal is an Assistance Animal.

**51.10 Exceptions**

- (a) In each year of employment, the following exceptions apply to the evidence requirements in **clause 51.9**:
- (i) An Employee may take up to an aggregate of 5 days or equivalent pro-rata amount accrued personal/carer's leave in each year of employment, without having to provide the Employer with the documentary evidence required by **clause 51.9**.
- (ii) Despite **clause 51.10(a)(i)** an Employee must provide appropriate evidence to the Employer as set out in **clause 51.9** for any absence which is for a continuous period exceeding 3 days.
- (b) If an Employee cannot reasonably provide documentary evidence from a Registered Practitioner for Personal Leave, the Employee may provide a statutory declaration. The statutory declaration must state why the Employee was unable to attend a Registered Practitioner and the reason why they were unable to attend work. A statutory declaration can only be used for single day absences, on no more than three non-consecutive occasions.
- (c) Despite **clause 51.10(a)**, the Employer may require that an Employee provide appropriate documentary evidence in accordance with **clause 51.9**.

**51.11 Further documentary evidence**

- (a) The Employer may require that an Employee provide a further medical certificate from an independent Registered Practitioner where an Employee has been on personal leave for at least six weeks and has a medical certificate indicating on-going need for personal leave. The Employee will select a Registered Practitioner from a list of at least three Registered Practitioners nominated by the Employer. The nominated Registered Practitioners will not include a Registered Practitioner employed by the Employer. If it is not possible for the Employer to nominate three appropriately specialised Registered Practitioners, the Employer may provide fewer than three Registered Practitioners for the Employee to select from.
- (b) The Employer may require that an Employee provide further documentary evidence to the satisfaction of the Employer where an Employee has been on

carer's leave for at least two weeks including evidence stating that the condition of the person concerned requires the continued care or support of the Employee.

**51.12 Evidence to facilitate return to work**

If the Employee has been on personal leave for at least six weeks the Employer may request that the Employee obtain other documentary evidence from the Employee's treating Registered Practitioner for the purposes of determining when the Employee can return to work and any reasonable adjustments that may be necessary in the workplace.

**51.13 Employee's incapacity to undertake duties**

If the Employer has a genuine concern about an Employee's capacity to undertake their duties, the Employer may require that the Employee provide a medical report from an independent Registered Practitioner. The Employee will select a Registered Practitioner from a list of at least three Registered Practitioners nominated by the Employer. The nominated Registered Practitioners will not include a Registered Practitioner employed by the Employer. If it is not possible for the Employer to nominate three appropriately specialised Registered Practitioners, the Employer may provide fewer than three Registered Practitioners for the Employee to select from.

**51.14 Failure to provide relevant evidence**

Failure by the Employee to provide documentary evidence as required by the Employer within a reasonable period of time may render the Employee ineligible for payment for personal/carer's leave.

**51.15 Absence on Public Holidays**

If the period during which an Employee takes paid personal/carer's leave includes a day or part-day that is a Public Holiday in the place where the Employee is based for work purposes, the Employee is taken not to be on paid personal/carer's leave on that Public Holiday.

**51.16 Unpaid personal leave**

An Employee who has exhausted all paid personal/carer's leave entitlements may take unpaid personal leave with the consent of the Employer. The Employer will require that the Employee provide documentary evidence to support the unpaid personal leave to the satisfaction of the Employer.

**51.17 Unpaid carer's leave**

- (a) An Employee who has exhausted all paid personal/carer's leave entitlements may take unpaid carer's leave to provide care or support in the circumstances outlined in **clauses 51.2(a)(ii) and 51.2(a)(iii)** providing the Employee complies with the notice and evidence requirements outlined in **clause 51.9(b)**. The Employer and the Employee will agree on the period of unpaid leave. In the absence of agreement, the Employee may take up to two days unpaid carer's leave per occasion.

- (b) Alternatively, the Employee may, with the consent of the Employer, elect to work make-up time, under which the Employee takes time off during ordinary hours and works those hours at a later time during the Employee's spread of ordinary hours.

#### **51.18 Casual Employees – Caring responsibilities**

- (a) Casual Employees may be unavailable to attend work or may be required to leave work if they need to care for members of their Immediate Family or household who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (b) The Employer and a casual Employee will agree on the period for which the casual Employee may be unavailable to attend work. In the absence of agreement, a casual Employee is permitted to be absent from work for up to two days per occasion. A casual Employee is not entitled to any payment for the period of non-attendance.
- (c) A casual Employee must comply with the notice and evidence requirements outlined in this **clause 51**.

### **52. Family Violence Leave**

#### **52.1 General Principles**

- (a) The Employer recognises that Employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. Therefore, the Employer is committed to providing support to employees that experience family violence.
- (b) Leave for family violence purposes is available to Employees who are experiencing family violence to allow them to be absent from the workplace to attend counselling appointments, legal proceedings and other activities related to, and as a consequence of, family violence.
- (c) The supports and paid or unpaid leave provided under this clause do not extend to perpetrators (or alleged perpetrators) of family violence.

#### **52.2 Definition of Family Violence**

Family violence includes physical, sexual, financial, verbal or emotional abuse by a family member as defined by the *Family Violence Protection Act 2008* (Vic).

#### **52.3 Eligibility**

- (a) Leave for family violence purposes is available to all Employees with the exception of casual Employees.
- (b) Casual Employees are entitled to access leave without pay for family violence purposes. The Employer may use their discretion to grant paid leave to a casual Employee experiencing family violence under **clause 70** (Other Leave) of the Agreement on a case by case basis.



## 52.4 General Measures

- (a) Evidence of family violence may be required and can be in the form of an agreed document issued by the Police Service, a Court, a registered health practitioner, a Family Violence Support Service, district nurse, maternal and health care nurse or Lawyer. A signed statutory declaration can also be offered as evidence.
- (b) All personal information concerning family violence will be kept confidential in line with the Employer's policies and relevant legislation. No information will be kept on an Employee's personnel file without their express written permission.
- (c) No adverse action will be taken against an Employee if their attendance or performance at work suffers as a result of experiencing family violence.
- (d) The Employer will identify contact/s within the workplace who will be trained in family violence and associated privacy issues. The Employer will advertise the name of any Family Violence contacts within the workplace.
- (e) An Employee experiencing family violence may raise the issue with their immediate supervisor, Family Violence contacts, union delegate or nominated Human Resources contact. The immediate supervisor may seek advice from Human Resources if the Employee chooses not to see the Human Resources or Family Violence contact.
- (f) Where requested by an Employee, the Human Resources contact will liaise with the Employee's manager on the Employee's behalf, and will make a recommendation on the most appropriate form of support to provide in accordance with **clause 52.5** and **clause 52.6**.
- (g) The Employer will develop guidelines to supplement this clause and which details the appropriate action to be taken in the event that an Employee reports family violence.

## 52.5 Leave

- (a) An Employee experiencing family violence will have access up to 20 days per calendar year of paid special leave for medical appointments, legal proceedings and other activities related to family violence (this leave is not cumulative but if the leave is exhausted consideration will be given to providing additional leave). This leave will be in addition to existing leave entitlements and may be taken as consecutive or single days or as a fraction of a day and can be taken without prior approval.
- (b) An Employee who supports a person experiencing family violence may utilise their personal/carer's leave entitlement to accompany them to court, to hospital, or to care for children. The Employer may require evidence consistent with **clause 52.4(a)** from an Employee seeking to utilise their personal/carer's leave entitlement.

## 52.6 Individual Support

- (a) In order to provide support to an Employee experiencing family violence and to provide a safe work environment to all Employees, the Employer will

approve any reasonable request from an Employee experiencing family violence for:

- (i) temporary or ongoing changes to their span of hours or pattern of hours; or
  - (ii) temporary or ongoing job redesign or changes to duties; or
  - (iii) temporary or ongoing relocation to suitable employment; or
  - (iv) a change to their telephone number or email address to avoid harassing contact; or
  - (v) any other appropriate measure including those available under existing provisions for family friendly and flexible work arrangements.
- (b) Any changes to an Employee's role should be reviewed at agreed periods. When an Employee is no longer experiencing family violence, the terms and conditions of employment may revert back to the terms and conditions applicable to the Employee's substantive position.
- (c) An Employee experiencing family violence will be offered access to the Employee Assistance Program (EAP) and/or other available local Employee support resources. The EAP shall include professionals trained specifically in family violence.
- (d) An Employee that discloses that they are experiencing family violence will be given information regarding current support services.

## **53. Military Service Sick Leave**

- 53.1** Where the Employer is satisfied that an illness of an Employee with at least six months paid continuous service is directly attributable to, or is aggravated by, service recognised under the *Veterans' Entitlements Act 1986* (Cth), including operational service, peacekeeping service or hazardous service, the Employee will be credited with 114 hours of special leave with pay for each year of service with the VBA from the conclusion of the Employee's operational, peacekeeping or hazardous service.
- 53.2** Leave under this clause will be cumulative to a maximum of 760 hours.
- 53.3** This leave is in addition to personal leave under **clause 51**.
- 53.4** The Employer may require the Employee to provide evidence of the existence of the illness and its relationship to service from a Registered Practitioner as specified in **clause 51.9(a)**.
- 53.5** For each period of special leave taken, the Employee must comply with the notice and evidence requirements outlined in **clause 51**.

## **54. Compassionate Leave**

### **54.1 Amount of compassionate leave**

- (a) An Employee, other than a casual Employee, is entitled to up to three days paid compassionate leave on each occasion when a member of the Employee's Immediate Family or a member of the Employee's household:
  - (i) contracts or develops a personal illness that poses a serious threat to their life;
  - (ii) sustains a personal injury that poses a serious threat to their life; or
  - (iii) dies,each of which constitutes a permissible occasion for the purposes of this **clause 54**.
- (b) An Employee may take compassionate leave for a particular permissible occasion if the leave is taken:
  - (i) to spend time with the member of the Employee's Immediate Family or household who has contracted or developed a personal illness or sustained a personal injury referred to in **clause 54.1(a)**; or
  - (ii) after the death of a member of the Employee's Immediate Family or household referred to in **clause 54.1(a)**.
- (c) An Employee is not required to take compassionate leave in respect of a permissible occasion consecutively.
- (d) Compassionate leave will not accrue from year to year and will not be paid out on termination of the employment of the Employee.

### **54.2 Payment for Compassionate Leave (other than for casual Employees)**

An Employee, other than a casual Employee, who takes paid compassionate leave, is entitled to be paid at their salary for ordinary hours of work in the period in which the compassionate leave is taken.

### **54.3 Unpaid Compassionate Leave**

- (a) An Employee, including a casual Employee may take unpaid compassionate leave by agreement with the Employer.
- (b) In addition to the other provisions of this clause, Employees of Aboriginal or Torres Strait Islander descent may be granted paid and unpaid leave in relation to the death of a member of their Immediate Family or extended family in accordance with **clause 60.4** (Ceremonial Leave).

### **54.4 Notice and Evidence Requirements**

- (a) An Employee who is taking compassionate leave under this clause must give notice to the Employer "as soon as practicable" (which may be at a time after the compassionate leave has started) and must advise the Employer of the period, or expected period, of the compassionate leave.

- (b) An Employee must provide the Employer with satisfactory evidence to support the taking of compassionate leave. Satisfactory evidence may include a medical certificate from a Registered Practitioner (as that term is defined in **clause 51.1**), a statutory declaration or other relevant documentary evidence to the reasonable satisfaction of the Employer.
- (c) The Employee is not entitled to compassionate leave under this clause unless the Employee complies with the evidence and notice requirements set out in this clause.

#### **54.5 Other significant family or personal connections**

- (a) An Employee may, at the discretion of the Employer, be granted compassionate leave with or without pay when a person with a significant family or personal connection to the Employee, but who is not a member of the Employee's Immediate Family (as defined in **clause 2**) or household, dies or sustains a personal illness or injury that poses a serious threat to that person's life.

### **55. Parental Leave**

#### **55.1 Application**

- (a) Eligible Employees are entitled to parental leave under this clause if the leave is associated with:
  - (i) the birth of a Child of the Employee, the Employee's Spouse or the Employee's legal surrogate or the placement of a Child with the Employee for adoption; and
  - (ii) the Employee has or will have a responsibility for the care of the Child.
- (b) An Employee currently on parental leave (excluding an Employee on Extended Family Leave under **clause 55.33**) is not required to return to work in order to access a further period of parental leave under this clause.

#### **55.2 Definitions**

For the purposes of this clause:

- (a) **Eligible Employee** means:
  - (i) a full time or part-time Employee, whether employed on an ongoing or fixed term basis, or
  - (ii) a Long Term Casual Employee who has, but for accessing parental leave under this clause, a reasonable expectation of continuing employment by the Employer on a regular and systematic basis.
- (b) **Continuous Service** is work for the Employer on a regular and systematic basis (including any period of authorised leave) and any period of Recognised Prior Service (as defined in **clause 55.2(g)**).
- (c) **Child** means:

- (i) in relation to birth-related leave, a child (or children from a multiple birth) of the Employee or the Employee's Spouse or the Employee's legal surrogate; or
- (ii) in relation to adoption-related leave, a child (or children) who will be placed with an Employee, and:
  - who is, or will be, under 16 as at the day of placement, or the expected day of placement;
  - has not, or will not have, lived continuously with the Employee for a period of 6 months or more as at the day of placement, or the expected day of placement; and
  - is not (otherwise than because of the adoption) a child of the Employee or the Employee's spouse.
- (d) **Primary Caregiver** means the person who takes primary responsibility for the care of a newborn or newly adopted Child. The Primary Caregiver is the person who meets the Child's physical needs more than anyone else. Only one person can be a Child's Primary Caregiver on a particular day.
- (e) **Secondary Caregiver** means a person who has parental responsibility for the Child but is not the Primary Caregiver.
- (f) **Spouse** includes a de facto spouse, former spouse or former de facto spouse. The Employee's de facto spouse means a person who lives with the Employee as husband, wife or same sex partner on a bona fide domestic basis, whether or not legally married to the Employee.
- (g) **Recognised Prior Service** means any service immediately prior to the Employee's employment with the Employer, where the Employee was employed:
  - (i) by a public entity under the PAA;
  - (ii) under Part 6 of the PAA; or
  - (iii) as a parliamentary officer or electorate officer under the *Parliamentary Administration Act 2005* (Vic);

### 55.3 Summary of Parental Leave Entitlements

- (a) The entitlements summarised in the table below apply to a period of Parental Leave after the commencement of the Agreement.

Table 11: Parental Leave Entitlements

	Paid leave	Unpaid leave	Total
<b>Primary Caregiver</b>			
More than 3 months continuous service	16 weeks	Up to 36 weeks	52 weeks
Less than 3 months continuous service	0	Up to 52 weeks	52 weeks
Long term casual employee	0	Up to 52 weeks	52 weeks
<b>Secondary Caregiver</b>			
More than 3 months continuous service	4 weeks	Up to 48 weeks	52 weeks
More than 3 months continuous service <b>and</b> takes over the primary responsibility for the care of the Child within the first 78 weeks	An additional 12 weeks	Up to 36 weeks	52 weeks
Less than 3 months continuous service	0	Up to 52 weeks	52 weeks
Long term casual employee	0	Up to 52 weeks	52 weeks
<b>Pre-natal leave</b>			
Pregnant employee	38 hours		
Spouse	7.6 hours		
<b>Pre-adoption leave</b>			
More than 3 months continuous service	2 days		
<b>Permanent Care Leave</b>			
More than 3 months continuous service	16 weeks	Up to 36 weeks	52 weeks
Less than 3 months continuous service	0	Up to 52 weeks	52 weeks
<b>Grandparent Leave</b>	0	Up to 52 weeks	52 weeks

#### 55.4 Parental Leave – Primary Caregiver

- (a) An Employee who has, or will have, completed at least three months paid Continuous Service and who will be the Primary Caregiver at the time of the

birth or adoption of their Child, is entitled to up to 52 weeks parental leave, comprising:

- (i) 16 weeks paid parental leave; and
  - (ii) up to 36 weeks unpaid parental leave.
- (b) An Eligible Employee who will be the Primary Caregiver, who has not completed at least three months paid Continuous Service at the time of the birth or adoption of their Child, or a Long Term Casual Employee, is entitled to up to 52 weeks unpaid parental leave.
- (c) Only one parent can receive Primary Caregiver parental leave entitlements in respect to the birth or adoption of their Child. An Employee cannot receive Primary Caregiver parental leave entitlements:
- (i) if their Spouse is, or will be, the Primary Caregiver at the time of the birth or adoption of their Child;
  - (ii) if their Spouse has received, or will receive, paid maternity leave, primary caregiver entitlements, or a similar entitlement, from their employer; or
  - (iii) if the Employee has received, or will receive, Secondary Caregiver parental leave entitlements in relation to their Child.

#### **55.5 Parental Leave – Secondary Caregiver**

- (a) An Eligible Employee who has, or will have, completed at least three months paid Continuous Service and who will be the Secondary Caregiver at the time of the birth or adoption of their Child, is entitled to up to 52 weeks parental leave, comprising:
- (i) 4 weeks paid parental leave; and
  - (ii) 12 weeks Additional paid Secondary Caregiver parental Leave, subject to the conditions in **clause 55.6**, and
  - (iii) unpaid parental leave to bring the total available paid and unpaid leave to 52 weeks.
- (b) An Eligible Employee who will be the Secondary Caregiver and has not completed at least three months paid Continuous Service at the time of the birth or adoption of their child, or a Long Term Casual Employee, is entitled to up to 52 weeks unpaid parental leave.
- (c) Only one parent can receive Secondary Caregiver parental leave entitlements in respect to the birth or adoption of their Child.
- (d) An Employee cannot receive Secondary Caregiver parental leave entitlements where the Employee has received Primary Caregiver parental leave entitlements in relation to their Child.

#### **55.6 Additional paid leave for Secondary Caregiver**

- (a) A Secondary Caregiver is entitled to up to an additional 12 weeks' paid leave within the first 78 weeks of the date of birth or adoption of the Child provided that:

- (i) the Secondary Caregiver assumes primary responsibility for the care of a child, by meeting the Child's physical needs more than anyone else; and
  - (ii) the Secondary Caregiver's spouse is not concurrently taking primary responsibility for the care of the Child or receiving paid parental leave, primary caregiver entitlements or a similar entitlement from their employer.
- (b) To access additional paid leave, the Employee must have been eligible for paid Secondary Caregiver leave at the time of birth or adoption of their Child, irrespective of when the Employee elects to take the paid leave under this clause.

#### **55.7 Pre-Natal Leave**

- (a) A pregnant Employee will have access to paid leave totalling up to 38 hours per pregnancy to enable the Employee to attend routine medical appointments associated with the pregnancy.
- (b) An Employee who has a Spouse who is pregnant will have access to paid leave totalling up to 7.6 hours per pregnancy to enable the Employee to attend routine medical appointments associated with the pregnancy.
- (c) The Employee is required to provide a medical certificate from a registered medical practitioner confirming that the Employee or their Spouse is pregnant. Each absence on pre-natal leave must also be covered by a medical certificate.
- (d) The Employer should be flexible enough to allow the Employee the ability to leave work and return on the same day.
- (e) Paid pre-natal leave is not available to casual Employees.

#### **55.8 Pre-adoption leave**

- (a) An Employee seeking to adopt a Child is entitled to two days paid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure.
- (b) An Employee seeking to adopt a Child may also access further unpaid leave. The Employee and the Employer should agree on the length of any unpaid leave. Where agreement cannot be reached, the Employee is entitled to take up to two days unpaid leave.
- (c) Where accrued paid leave is available to the Employee, the Employer may require the Employee to take such leave instead of taking unpaid leave under this sub-clause.
- (d) The Employer may require the Employee to provide satisfactory evidence supporting the leave.
- (e) The Employer should be flexible enough to allow the Employee the ability to leave work and return on the same day.



- (f) Paid pre-adoption leave is not available to casual Employees.

**55.9 Permanent Care Leave**

An Employee will be entitled to access parental leave in accordance with this clause at a time agreed with the Employer if they:

- are granted a permanent care order in relation to the custody or guardianship of a Child pursuant to the *Children, Youth and Families Act 2005 (Vic)* (or any successor to the legislation) or a permanent parenting order by the Family Court of Australia, and
- will be the Primary or Secondary Caregiver for that Child.

**55.10 Grandparent Leave**

An Employee, who is or will be the Primary Caregiver of a grandchild, is entitled to a period of up to 52 weeks' continuous unpaid grandparent leave in respect of the birth or adoption of the grandchild of the Employee.

**55.11 Access to parental leave for an Employee whose Child is born by surrogate**

An Employee whose Child is born through a surrogacy arrangement which complies with Part 4 of the *Assisted Reproductive Treatment Act 2008 (Vic)* (or successor instrument), is eligible to access the parental leave entitlements outlined in **clause 56**.

**55.12 Continuing to work while pregnant**

- (a) The Employer may require a pregnant Employee to provide a medical certificate stating that the Employee is fit to work their normal duties where the Employee:
- (i) continues to work within a six week period immediately prior to the expected date of birth of the child; or
  - (ii) is on paid leave under **clause 55.14(b)**.
- (b) The Employer may require the Employee to start parental leave if the Employee:
- (i) does not give the Employer the requested certificate within seven days of the request; or
  - (ii) gives the Employer a medical certificate stating that the Employee is unfit to work.

**55.13 Personal/Carer's Leave**

A pregnant Employee, not then on parental leave, who is suffering from an illness whether related or not to the pregnancy, may take any paid and/or unpaid personal/carers' leave in accordance with **clause 51**.

**55.14 Transfer to a Safe Job**

- (a) Where an Employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the Employee make it inadvisable for the Employee

to continue at their present work, the Employee will, if the Employer deems it practicable, be transferred to a safe job with no other change to the Employee's terms and conditions of employment until the commencement of parental leave.

- (b) If the Employer does not think it to be reasonably practicable to transfer the Employee to a safe job, the Employee may take No Safe Job Paid Leave, or the Employer may require the Employee to take no safe job paid leave immediately for a period which ends at the earliest of either:
  - (i) when the Employee is certified unfit to work during the six week period before the expected date of birth by a registered medical practitioner; or
  - (ii) when the Employee's pregnancy results in the birth of a living child or when the Employee's pregnancy ends otherwise than with the birth of a living child.
- (c) The entitlement to No Safe Job Leave is in addition to any other leave entitlement the Employee has.

#### **55.15 Special Parental Leave**

Where the pregnancy of an Employee not then on parental leave terminates other than by the birth of a living Child, the Employee may take leave for such periods as a registered medical practitioner certifies as necessary, as follows:

- (a) where the pregnancy terminates during the first 20 weeks, during the certified period/s the Employee is entitled to access any paid and/or unpaid personal/carer's leave entitlements in accordance with **clause 51**.
- (b) where the pregnancy terminates after the completion of 20 weeks, during the certified period/s the Employee is entitled to paid special maternity leave not exceeding the amount of paid parental leave available under **clause 55.2(g)(iii)** and thereafter, to unpaid special maternity leave.

#### **55.16 Notice and evidence requirements**

- (a) An Employee must give at least 10 weeks written notice of the intention to take parental leave, including the proposed start and end dates. At this time, the Employee must also provide a statutory declaration stating:
  - (i) that the Employee will become either the Primary Caregiver or Secondary Caregiver of the Child, as appropriate;
  - (ii) the particulars of any parental leave taken or proposed to be taken or applied for by the Employee's Spouse; and
  - (iii) that for the period of parental leave the Employee will not engage in any conduct inconsistent with their contract of employment.
- (b) At least four weeks before the intended commencement of parental leave, the Employee must confirm in writing the intended start and end dates of the parental leave, or advise the Employer of any changes to the notice provided in **clause 55.16(a)**, unless it is not practicable to do so.

- (c) The Employer may require the Employee to provide evidence which would satisfy a reasonable person of:
  - (i) for birth-related leave, the date of birth of the Child (including without limitation, a medical certificate stating the date of birth or expected date of birth); or
  - (ii) for adoption-related leave, the commencement of the placement (or expected day of placement) of the Child and that the Child will be under 16 years of age as at the day of placement or expected day of placement.
- (d) An Employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement or placement occurring earlier than the expected date or in other compelling circumstances. In these circumstances the notice and evidence requirements of this clause should be provided as soon as reasonably practicable.

#### **55.17 Commencement of parental leave**

- (a) An Employee who is pregnant may commence Primary Caregiver parental leave at any time within 16 weeks prior to the expected date of birth of the Child. In all other cases, Primary Caregiver parental leave commences on the day of the birth or placement of the Child.
- (b) Secondary caregiver parental leave may commence up to one week prior to the expected birth or placement of the Child. Where a Secondary Caregiver takes additional paid leave in accordance with **clause 55.6**, the additional leave will commence on the date the Employee takes on primary responsibility for the care of a Child.
- (c) The Employer and Employee may agree to alternative arrangements regarding the commencement of parental leave.
- (d) The period of parental leave for the purpose of calculating an Employee's maximum entitlement to paid and unpaid parental leave will commence from the date parental leave commenced or otherwise no later than the date of birth of the Child, irrespective of when the Employee elects to use any paid entitlements they may have under this clause.

#### **55.18 Rules for taking parental leave entitlements**

- (a) Parental leave is to be available to only one parent at a time, except parents may take up to eight weeks leave concurrently with each other, comprising any paid leave to which the Employee may be eligible for under **clause 55.3** or unpaid, in connection with the birth or adoption of their Child (Concurrent Leave).
  - (i) Concurrent Leave may commence one week prior to the expected date of birth of the Child or the time of placement in the case of adoption.
  - (ii) Concurrent leave can be taken in separate periods, but each block of concurrent leave must not be less than 2 weeks, unless the Employer otherwise agrees.
- (b) While an Employee's eligibility for parental leave is determined at the time of birth or adoption of the Child, the Employee and Employer may agree to

permit the Employee to use the paid leave entitlements outlined in this clause at any time within the first 52 weeks of parental leave, or where an extension is granted under **clause 55.23(b)**, within the first 78 weeks where **clause 55.6** is invoked or otherwise the first 104 weeks.

- (c) Parental leave does not need to be taken in a single continuous period. The Employer and Employee will agree on the duration of each block of parental leave. The Employer will consider their operational requirements and the Employee's personal and family circumstances in considering requests for parental leave in more than one continuous period. Approval of such requests will not be unreasonably refused.

**55.19 Using other accrued leave in conjunction with Parental Leave**

An Employee may in lieu of or in conjunction with parental leave, access any annual leave or long service leave entitlements which they have accrued subject to the total amount of leave not exceeding 52 weeks or a longer period as agreed under **clause 55.23(b)**.

**55.20 Public holidays during a period of paid parental leave**

- (a) Where a Public Holiday occurs during a period of paid parental leave, the Public Holiday is not to be regarded as part of the paid parental leave and the Employer will grant the Employee a day off in lieu, to be taken by the Employee immediately following the period of paid parental leave.

**55.21 Effect of unpaid parental leave on an Employee's continuity of employment**

- (a) Other than provided for in **clause 62** (Long Service Leave), unpaid parental leave under **clauses 55.4, 55.5, 55.23** and **55.29** shall not break an Employee's continuity of employment but it will not count as service for leave accrual or other purposes.

**55.22 Keeping in touch days**

- (a) During a period of parental leave the Employer and Employee may agree to perform work for the purpose of keeping in touch in order to facilitate a return to employment at the end of the period of leave.
- (b) Keeping in touch days must be agreed and be in accordance with section 79A of the *Fair Work Act 2009*.

**55.23 Extending parental leave**

- (a) **Extending the period of parental leave where the initial period of parental leave is less than 52 weeks**
  - (i) An Employee, who is on an initial period of parental leave of less than 52 weeks under **clause 55.4** or **55.5**, may extend the period of their parental leave on one occasion up to the full 52 week entitlement.
  - (ii) The Employee must notify the Employer in writing at least four weeks prior to the end date of their initial parental leave period. The notice must specify the new end date of the parental leave.

**(b) Right to request an extension to parental leave beyond the initial 52-week period to a maximum of 104 weeks**

- (i)** An Employee who is on parental leave under **clause 55.4** or **55.5** may request an extension of unpaid parental leave for a further period of up to 12 months immediately following the end of the current parental leave period.
- (ii)** In the case of an Employee who is a member of an employee couple, the period of the extension cannot exceed 12 months, less any period of parental leave that the other member of the Employee couple will have taken in relation to the Child.
- (iii)** The Employee's request must be in writing and given to the Employer at least 4 weeks before the end of the current parental leave period. The request must specify any parental leave that the Employee's spouse will have taken.
- (iv)** The Employer shall consider the request having regard to the Employee's circumstances and, provided the request is based on the Employee's parental responsibilities, may only refuse the request on reasonable business grounds.
- (v)** The Employer must not refuse the request unless the Employer has given the Employee a reasonable opportunity to discuss the request.
- (vi)** The Employer must give a written response to the request as soon as practicable, and no later than 21 days after the request is made. The response must include the details of the reasons for any refusal.

**55.24 Total period of parental leave**

- (i)** The total period of parental leave, including any extensions, must not extend beyond 24 months.
- (ii)** In the case of an Employee Couple, the total period of parental leave for both parents combined, including any extensions, must not extend beyond 24 months. The Employee's entitlement to parental leave under **clause 55.4** or **55.5** will reduce by the period of any extension taken by a member of the couple under **clause 55.23**.

**55.25 Calculation of pay for the purposes of parental leave**

- (a)** The calculation of weekly pay for paid parental leave purposes will be based on the average number of ordinary hours worked by the Employee over the past three years from the proposed commencement date of parental leave (Averaging Period).
- (b)** Where an Employee has less than three years of service the Averaging Period will be their total period of service at the VBA.
- (c)** The calculation will exclude any of the following periods which fall during the Averaging Period:
  - (i)** periods of unpaid parental leave, and

- (ii) any time worked at a reduced time fraction in order to better cope during pregnancy, and
  - (iii) authorised unpaid leave for an unforeseen reason beyond the Employee's control, and
  - (iv) time worked at a reduced time fraction on returning to work after a period of parental leave under **clause 55.30(c)**.
- (d) For the purposes of **clause 55.25(c)(iii)**, an 'unforeseen reason beyond the Employee's control' may include, for example, a personal illness or injury suffered by the Employee, or the care or support of an ill or injured Immediate Family or household member by the Employee. But would not include leave taken for lifestyle or personal reasons, career breaks or leave to undertake other employment.
- (e) The average number of weekly hours, determined in accordance with **clause 55.25(a)** above, will be then applied to the annual Salary applicable to the Employee's classification and salary point at the time of taking parental leave to determine the actual rate of pay whilst on parental leave.

#### **55.26 Half Pay**

The Employee may elect to take any paid parental leave entitlement at half pay for a period equal to twice the period to which the Employee would otherwise be entitled.

#### **55.27 Employer Superannuation contributions in respect of Primary Caregiver Parental Leave**

An Employee who returns to work at the conclusion of a period of Primary Caregiver Parental Leave will be entitled to have superannuation contributions made in respect of the period of the Employee's Primary Caregiver Parental Leave, subject to requirements in **clause 37.5** (Superannuation).

#### **55.28 Effect of parental leave on progression for Primary Caregivers**

An Employee who returns to work at the conclusion of a period of Primary Caregiver Parental Leave may be entitled to Progression Steps or Amounts forgone as a result of being on parental leave in accordance with **clause 29** (Performance Development Progression).

#### **55.29 Commonwealth Paid Parental Leave**

Paid parental leave entitlements outlined in this clause are in addition to any payments which may be available under the Commonwealth Paid Parental Leave Scheme.

#### **55.30 Returning to Work**

##### **(a) Returning to work early**

- (i) During the period of parental leave an Employee may return to work at any time as agreed between the Employer and the Employee, provided that time does not exceed four weeks from the recommencement date desired by the Employee.

- (ii) In the case of adoption, where the placement of an eligible child with an Employee does not proceed or continue, the Employee will notify the Employer immediately and the Employer will nominate a time not exceeding four weeks from receipt of notification for the Employee's return to work.

**(b) Returning to work at conclusion of leave**

- (i) At least four weeks prior to the expiration of parental leave, the Employee will notify the Employer of their return to work after a period of parental leave.
- (ii) Subject to **55.30(b)(iii)**, an Employee will be entitled to the position which they held immediately before proceeding on parental leave. In the case of an Employee transferred to a safe job pursuant to **clause 55.14** above, the Employee will be entitled to return to the position they held immediately before such transfer.
- (iii) Where such position no longer exists but there are other positions available which the Employee is qualified for and is capable of performing, the Employee will be entitled to a position as nearly comparable in status and pay to that of their former position.

**(c) Returning to work at a reduced time fraction**

- (i) To assist an Employee in reconciling work and parental responsibilities, an Employee may request to return to work at a reduced time-fraction until their Child reaches school age, after which the Employee will resume their substantive time-fraction.
- (ii) Where an Employee wishes to make a request under **clause 55.30(c)(i)** such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the Employee is due to return to work from parental leave.

**55.31 Lactation breaks**

- (a) Employees cannot be discriminated against for breastfeeding or chestfeeding or expressing milk in the workplace.
- (b) An Employee who wishes to continue breastfeeding or chestfeeding after returning to work from a period of parental leave or keeping in touch days, may take reasonable time during working hours without loss of pay to do so.
- (c) Paid lactation breaks are in addition to normal meal and rest breaks provided for in this Agreement.

**55.32 Consultation and Communication during Parental Leave**

- (a) Where an Employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the Employer shall take reasonable steps to:
  - (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the Employee held before commencing parental leave; and

- (ii) provide an opportunity for the Employee to discuss any significant effect the change will have on the status or responsibility level of the position the Employee held before commencing parental leave.
- (b) The Employee shall take reasonable steps to inform the Employer about any significant matter that will affect the Employee's decision regarding the duration of parental leave to be taken, whether the Employee intends to return to work and whether the Employee intends to request to return to work on a part-time basis.
- (c) The Employee shall also notify the Employer of changes of address or other contact details which might affect the Employer's capacity to comply with **clause 55.32(a)**.

#### **55.33 Extended Family Leave**

- (a) An Employee who is the Primary Caregiver and has exhausted all parental leave entitlements may apply for unpaid Extended Family Leave as a continuous extension to their parental leave taken in accordance with this clause. The total amount of leave, inclusive of parental leave taken in accordance with this clause cannot exceed seven years from the commencement date of parental leave.
- (b) The Employee must make an application for Extended Family Leave each year.
- (c) An Employee will not be entitled to paid parental leave whilst on Extended Family leave.
- (d) Upon return to work the Employer may reallocate the Employee to other duties.

#### **55.34 Replacement Employees**

- (a) A replacement Employee is an Employee specifically engaged or temporarily acting on higher duties or transferred, as a result of an Employee proceeding on parental leave.
- (b) Before the Employer engages a replacement Employee the Employer must inform that person of the temporary nature of the employment and of the rights of the Employee who is being replaced.
- (c) The limitation in **clause 17.3** on the use of fixed term employment to replace the Employee does not apply in this case.

#### **55.35 Casual Employees**

The Employer must not fail to re-engage a casual Employee because the Employee has accessed parental leave in accordance with this clause. The rights of the Employer in relation to engagement and re-engagement of casual Employees are not affected, other than in accordance with this clause.



## **56. Surrogacy Leave**

### **56.1 Entitlement to Leave**

An Employee (excluding a Casual Employee) who has completed at least three months paid Continuous Service, who enters into a formal surrogacy arrangement after the commencement of the Agreement, which complies with Part 4 of the *Assisted Reproductive Treatment Act 2008 (Vic)*, as the surrogate, is entitled to access the following leave entitlements:

- (a) Pre-Natal leave in accordance with **clause 55.7** of the Agreement, and
- (b) six weeks of paid leave

### **56.2 Continuing to work while pregnant**

- (a) A pregnant employee acting as the surrogate as part of a formal surrogacy arrangement wanting to work during the six weeks before the birth may be asked to provide a medical certificate stating they are fit for work and whether there are any risks in connection to their duties.
- (b) An Employee who fails to provide a requested medical certificate within seven days or provides one which states they are unfit for work may be required to commence surrogacy leave.

### **56.3 Transfer to safe job**

- (a) If an Employee provides a medical certificate stating they are fit for work but it is inadvisable for the Employee to continue in their present duties because of risks or illness the Employee is entitled to be transferred to an appropriate safe job that has the same, or other agreed ordinary hours of work with no other changes to the Employee's terms and conditions.
- (b) If no appropriate safe job is available the Employee is entitled to take paid or unpaid (if not eligible for parental leave) 'No Safe Job Leave'.

### **56.4 Commencement of Surrogacy Leave**

- (a) An Employee who is pregnant as a result of acting as a surrogate may commence paid Surrogacy Leave at any time within 6 weeks prior to the expected date of birth of the Child. Otherwise the period of parental leave must commence no later than the date of birth of the Child, unless agreed with the Employer.
- (b) Unless otherwise agreed, any entitlement to paid surrogacy leave will be paid from the date of commencement of Surrogacy Leave.

### **56.5 Surrogacy Leave and other entitlements**

An Employee may access, in conjunction with Surrogacy Leave, any other paid or unpaid entitlements available under this Agreement with the approval of the Employer.

### **56.6 Personal/Carer's Leave**

A pregnant Employee, not then on Surrogacy Leave, who is suffering from an illness whether related or not to the pregnancy, may take any paid and/or unpaid personal/carer's leave in accordance with **clause 51**.

#### **56.7 Special Surrogacy Leave**

- (a) Where the pregnancy of an Employee not then on parental leave terminates other than by the birth of a living child, the Employee may take leave for such periods as a registered medical practitioner certifies as necessary, as follows:
  - (i) where the pregnancy terminates during the first 20 weeks, during the certified period/s the Employee is entitled to access any paid and/or unpaid personal/carer's leave entitlements in accordance with **clause 51**;
  - (ii) where the pregnancy terminates after the completion of 20 weeks, during the certified period/s the Employee is entitled to paid special surrogacy leave not exceeding the amount of paid surrogacy leave available under this **clause 56.1**.

#### **56.8 Public holidays during a period of paid surrogacy leave**

Where a Public Holiday occurs during a period of paid surrogacy leave, the Public Holiday is not to be regarded as part of the paid surrogacy leave and the Employer will grant the Employee a day off in lieu, to be taken by the Employee immediately following the period of paid surrogacy leave.

#### **56.9 Notice and Evidentiary Requirements**

- (a) An Employee must provide 10 weeks' written notice to the Employer of their intention to take Surrogacy Leave. The notification should include a Statutory Declaration which specifies:
  - (i) the intended start and end dates of the leave, and
  - (ii) if known, any other leave the Employee seeks approval to take in conjunction with their Surrogacy Leave, and
  - (iii) for the period of surrogacy leave the Employee will not engage in any conduct inconsistent with their contract of employment.
- (b) The Employer may also require the Employee to provide documentary evidence confirming:
  - (i) the expected date of birth of the Child, and
  - (ii) the formal surrogacy arrangement, which complies with Part 4 of the *Assisted Reproductive Treatment Act 2008 (Vic)*.
- (c) The Employee must confirm these details at least 4 weeks prior to the commencement of the proposed period of Surrogacy leave.

### **57. Foster and Kinship Care Leave**

- 57.1** An Employee who provides short-term foster or kinship care as the primary caregiver to a Child who cannot live with their parents as a result of an eligible child protection

intervention is entitled to up to two days paid leave on up to five occasions per calendar year to be taken at the time the placement of the child with the Employee commences.

**57.2** For the purposes of this clause Foster and Kinship Care includes:

- (a) Foster Caring, which is the temporary care of a child of up to 18 years of age on a short-term basis by an Employee who is an accredited foster carer.
- (b) Kinship Care, which is temporary care provided by an Employee who is a relative or a member of the child's social network when the child cannot live with their parents.
- (c) Aboriginal Kinship Care, which is temporary care provided by an Employee who is a relative or friend of an Aboriginal child who cannot live with their parents, where Aboriginal family and community and Aboriginal culture are valued as central to the child's safety, stability and development.

**57.3** Eligible child protection interventions include emergency respite and short-term or long-term placements on a non-permanent basis, as issued by the Victorian Department of Health and Human Services, the Children's Court or other similar federal, state or judicial authority.

**57.4** Subject to the approval of the Employer, the paid leave provided in this clause may be used in conjunction with any other paid or unpaid leave entitlements the Employee may be eligible for under this Agreement.

**57.5** In the case of foster carers, one occasion totalling up to two days duration may be used for accreditation purposes, including attending compulsory interviews or training.

**57.6** The Employer may require the Employee to provide reasonable evidence to satisfy themselves of the Employee's entitlement to leave under this provision.

## **58. Gender Transition Leave**

**58.1** The Employer encourages a culture that is supportive of transgender and gender diverse Employees and recognises the importance of providing a safe environment for Employees undertaking gender transition.

**58.2** Gender Transition refers to the process where a transgender Employee commences living as a member of another gender. This is sometimes referred to 'affirming' their gender. This may occur through medical, social or legal changes.

**58.3** Employees may give effect to their transition in a number of ways and are not required to be undergoing specific types of changes, such as surgery, to access leave under this clause.

### **58.4 Amount of gender transition leave**

- (a) An Employee (other than a Casual Employee) who commences living as a member of another gender is entitled Gender Transition Leave for the purpose of supporting the Employee's transition. Gender Transition Leave will comprise:
  - (i) up to 4 weeks (20 days) paid leave for essential and necessary gender affirmation procedures, and

- (ii) up to 48 weeks of unpaid leave.
- (b) The Gender Transition Leave entitlements outlined in **clause 58.4(a)** are available to be taken by the Employee within the first 52 weeks after they commence living as a member of another gender.
- (c) Essential gender affirmation procedures may include:
  - (i) medical or psychological appointments, or
  - (ii) hormonal appointments, or
  - (iii) surgery and associated appointments, or
  - (iv) appointments to alter the Employee's legal status or amend the Employee's gender on legal documentation, or
  - (v) any other similar necessary appointment or procedure to give effect to the Employee's transition as agreed with the Employer.
- (d) An Employee who is entitled to unpaid Gender Transition Leave may, in conjunction with all or part of that leave utilise accrued Annual or Long Service Leave, provided that the combined total of all paid and unpaid leave taken does not exceed 52 continuous weeks.
- (e) Gender Transition Leave may be taken as consecutive, single or part days as agreed with the Employer.
- (f) Leave under this clause will not accrue from year to year and cannot be cashed out on termination of employment.

#### **58.5 Gender Transition Leave – Casual employees**

Casual Employees are entitled to access unpaid leave of up to 52 continuous weeks duration for gender transition purposes.

#### **58.6 Notice and evidence requirements**

- (a) An Employee seeking to access Gender Transition Leave must provide the Employer with at least 4 weeks' written notice of their intended commencement date and expected period of leave, unless otherwise agreed by the Employer.
- (b) An Employee seeking to access Gender Transition Leave may be required to provide suitable supporting documentation or evidence of their attendance at essential gender affirmation procedures. This may be in the form of a document issued by a registered practitioner, a lawyer, or a State, Territory or Federal government organisation, statutory declaration or other suitable supporting documentation.
- (c) For the purpose of this clause, Registered Practitioner has the same meaning as set out in **clause 51.1**.

## 59. Leave to Attend Rehabilitation Program

**59.1** An Employee, other than a casual Employee, may be granted leave with or without pay to undertake an approved rehabilitation program where the Employer is satisfied that:

- (a) the Employee's work performance is adversely affected by the misuse of drugs or alcohol or problem gambling;
- (b) the Employee is prepared to undertake a course of treatment designed for the rehabilitation of persons with alcohol, drug or gambling related problems; and
- (c) in the case of an alcohol or drug addiction, a Registered Practitioner has certified that in their opinion the Employee is in need of assistance because of their misuse of alcohol or drugs and that the Employee is suitable for an approved rehabilitation program; or
- (d) in the case of problem gambling the Employee satisfies the eligibility criteria for entry into an approved problem gambling rehabilitation program.

**59.2** On production of proof of attendance at an approved rehabilitation program in accordance with **clause 59.1**, an Employee may be granted leave as follows:

- (a) An Employee who has completed two years' continuous or aggregate service and who has exhausted all other accrued leave entitlements may be granted leave with pay up to the maximum number of days specified below:

Years of Service	First Year of Program	Subsequent Years of Program
2 years	20 days	15 days
3 years	27 days	20 days
4 years	33 days	25 days
5 or more years	40 days	30 days

- (b) An Employee who has completed less than two years continuous or aggregate service may be granted leave without pay for the purposes of attending an approved rehabilitation program.

**59.3** For the purpose of this clause, Registered Practitioner has the same meaning as set out in **clause 51.1**.

## 60. Cultural and Ceremonial Leave

### 60.1 NAIDOC Week Leave

- (a) An Employee of Aboriginal or Torres Strait Islander descent is entitled to one day of paid leave per year to participate in National Aboriginal and Islander Day Observance Committee (NAIDOC) week activities and events.

- (b) NAIDOC week leave will not accrue from year to year and will not be paid out on termination of the employment of the Employee.

**60.2 Leave to attend Aboriginal community meetings**

The Employer may approve attendance during working hours by an Employee of Aboriginal or Torres Strait Islander descent at any Aboriginal community meetings, except the Annual General Meetings of Aboriginal community organisations at which the election of office bearers will occur.

**60.3 Leave to attend Annual General Meetings of Aboriginal community organisations**

The Employer may grant an Employee of Aboriginal or Torres Strait Islander descent accrued annual or other leave to attend Annual General Meetings of Aboriginal community organisations at which the election of office bearers will occur.

**60.4 Ceremonial leave**

- (a) Ceremonial leave will be granted to an Employee of Aboriginal or Torres Strait Islander descent for ceremonial purposes:
  - (i) connected with the death of a member of the Immediate Family or extended family (provided that no Employee shall have an existing entitlement reduced as a result of this clause); or
  - (ii) for other ceremonial obligations under Aboriginal and Torres Strait Islander lore.
- (b) Where ceremonial leave is taken for the purposes outlined in **clause 60.4(a)**, up to three days in each year of employment will be with pay. Paid ceremonial leave will not accrue from year to year and will not be paid out on termination of the employment of the Employee.
- (c) Ceremonial leave granted under this **clause 60.4** is in addition to compassionate leave granted under **clause 54**.

**61. Leave to participate in the First Peoples' Assembly of Victoria**

- 61.1** An Employee who is a member of the First Peoples' Assembly of Victoria is entitled to up to 10 days paid leave per calendar year to fulfil their official functions during their term of office.
- 61.2** Leave will be available to attend sessions of the First Peoples' Assembly of Victoria, participate in constituent consultation relevant to their role or for any other ancillary purpose as agreed with the Employer.
- 61.3** Where in any calendar year an Employee exhausts their entitlement under this clause the Employer may grant further paid or unpaid leave, under **clause 70** (Other Leave), to support the Employee's representative functions.
- 61.4** The Employee may also utilise flexible working arrangements, in addition to leave provided in this clause, to help support their representative functions, with the agreement of the Employer.

- 61.5** Leave under this clause will not accrue from year to year and cannot be cashed out on termination of employment.

## **62. Long Service Leave**

### **62.1 Basic Entitlement and accrual**

- (a) Long service leave is paid leave accrued during Continuous Employment with the VBA.
- (b) Employees accrue long service leave based on the number of ordinary hours worked. Part-time Employees accrue long service leave on a pro rata basis. Casual Employees are entitled to accrue long service leave as provided for in this clause.
- (c) The basic entitlement for each 10 years' full-time Continuous Employment is set out in the table below.

	Entitlement after 10 full time continuous employment	Approximate leave accrual per hour
Employee whose ordinary hours of work average 76 hours per fortnight	495.6967 hours (3 months)	0.0250 hours per hour

### **62.2 When can Long Service Leave be accessed?**

- (a) An Employee is entitled to take long service leave on a pro-rata basis after seven years of Continuous Employment, and at any time after that in accordance with **clause 62.3**.
- (b) An Employee with seven or more years of Continuous Employment is entitled to be paid out any unused long service leave accrual on the date their employment ends.
- (c) Despite **clause 62.2(b)** an Employee with 4 or more years of Continuous Employment is entitled to be paid out any unused long service leave accrual if:
  - (i) on account of age or ill health the Employee retires or is retired; or
  - (ii) the employment of the Employee is terminated for any reason except for serious misconduct or resignation; or
  - (iii) the Employee dies.

### **62.3 Taking long service leave**

- (a) Long service leave will be taken at a time convenient to the needs of the Employer and Employee.
- (b) An Employee and Employer may agree that the whole or any part of their entitlement is paid

- (i) at the current time fraction they work, or
- (ii) at a different time fraction to that currently worked.
- (c) Long service leave may be taken for any period of not less than 1 day.
- (d) A Public Holiday falling within a period of approved long service leave is not regarded as part of the long service leave. An Employee is entitled to take and be paid for a public holiday falling within a period of approved long service leave.
- (e) On return from leave, the Employee will revert to the time fraction they worked immediately prior to going on leave, unless otherwise agreed by the Employer and the Employee.

**62.4 Payment while on long service leave**

- (a) While on long service leave the Employer will continue to pay the Employee using the same method and frequency as if the Employee was not on long service leave.
- (b) Payment to an Employee for or in lieu of long service leave includes:
  - (i) Salary, and
  - (ii) salary maintenance if the Employee is receiving salary maintenance; and
  - (iii) any additional payment payable for a temporary assignment where the assignment has continued for a period of at least twelve months before the commencement of the leave; and
  - (iv) any annual allowance payable to the Employee which the Employer determines should be included, except excluding (if relevant):
    - any payment of overtime, commuted overtime or Shift Work allowances; and
    - any travelling or transport allowance; and
    - any allowance which is a reimbursement of an expenditure.

**62.5 Periods of Continuous Employment in which long service leave accrues**

Long service leave continues to accrue during the following absences from work:

- (a) an absence on paid leave;
- (b) from 1 January 2019, an absence after birth or adoption of a child (other than in the case of a casual employee) on unpaid parental leave which, in combination with any period of paid parental leave, totals 52 weeks or less;
- (c) an absence of 52 weeks or less when the employee is in receipt of weekly payments of compensation under the Workplace Injury Rehabilitation and Compensation Act 2013 (Vic) or any predecessor;



- (d) an absence of 52 weeks or less during which a pension under section 83A(1) of *State Superannuation Act 1988 (VIC)* (or similar provision applying to Employees of a declared authority) was paid; or
- (e) an absence on unpaid leave for which the Employer expressly authorises long service leave to accrue.

**62.6 Periods of Continuous Employment in which long service leave does not accrue**

- (a) Long service leave does not accrue for the following periods:
  - (i) a gap between engagements of a Casual Employee of less than 3 months; or
  - (ii) an absence on unpaid leave, other than as provided for in **clause 62.5**; or
  - (iii) an absence from duty in excess of 12 months when the Employee was in receipt of weekly payments of compensation under the *Workplace Injury Rehabilitation and Compensation Act 2013 (Vic)* or any corresponding previous enactment; or
  - (iv) a period of service which followed the date on which a pension under the *State Superannuation Act 1988 (Vic)* (or similar provision applying to Employees on the staff of a declared authority) became payable by reason of retirement on the ground of disability.
- (b) The periods at **clause 62.6(a)** do not break Continuous Employment, and may be periods of recognised service for the purposes of long service leave.

**62.7 Absences which break Continuous Employment**

Continuous Employment will be broken by the following:

- (a) any gap between engagements in Continuous Employment by a Casual Employee of more than 3 months; or
- (b) any absence from employment due to the dismissal of the Employee for disciplinary reasons; or
- (c) receipt of a Voluntary Departure Package from any Victorian Public Sector employer; or
- (d) any gap or break in service or absence not provided for in **clause 62.5** or **clause 62.6** or **clause 62.8**.

**62.8 Previous employment which counts towards Continuous Employment**

- (a) Service in previous employment with any employer referred to in **clause 62.9** counts towards Continuous Employment where the service concluded within 12 months of the commencement or re-commencement of employment with the VBA.
- (b) Despite **clause 62.8(a)**, service in previous employment with any employer referred to in **clause 62.9** counts towards Continuous Employment where:
  - (i) the service concluded within three years of retirement occasioned by disability, or

- (ii) the service concluded within two years of the commencement of employment with the VBA and the Employer considers special circumstances exist.
- (c) An Employee is not entitled to long service leave (or payment for long service leave):
  - (i) for a period of service for which the Employee was entitled to receive long service leave (or payment for long service leave) from a different employer or for previous employment; or
  - (ii) where the Employee has received long service leave (or a payment in respect of long service leave) from a different employer or for previous employment.
- (d) **Clause 62.8(c)** does not apply if funds have been transferred to the Employer to cover long service leave.
- (e) **Clauses 62.6 and 62.7** apply to service in previous employment.

**62.9 Service with other employers that counts towards Continuous Employment**

- (a) The following service will be recognised as Continuous Employment for the purposes of long service leave:
  - (i) any service with a State, Commonwealth or Territory of Australia Government Department or Public Service authority; or
  - (ii) any service with a public entity under the PAA; or
  - (iii) any service with a local government authority that is established by or under a law of Victoria.
- (b) In addition, the Employer may recognise service with
  - (i) a public sector authority; or
  - (ii) a local governing authority of the Commonwealth, a State other than Victoria or a Territory of Australia
- (c) For the purposes of **clause 62.9(a)** and **62.9(b)** authority means an authority, whether incorporated or not, that is constituted:
  - (i) by or under a law of a State, the Commonwealth or a Territory of Australia; and
  - (ii) for a public purpose.
- (d) Where an Employee believes they have service with other employers which should be counted towards Continuous Employment, the Employee should make application to the Employer seeking this service be counted towards the Employee's period of Continuous Employment within six months of an Employee's starting date with the VBA. The Employer will take reasonable steps within this period to ascertain from the Employee whether the Employee has prior service.
- (e) **Clauses 62.6, 62.7 and 62.8** apply to service in previous employment

### **63. Defence Reserve Leave**

- 63.1** An Employee required to complete Defence Reserve service may be granted leave up to a maximum period of 78 weeks' continuous service.
- 63.2** The Employee will consult with the Employer regarding the proposed timing of the service. Applications for leave under this clause must be made with as much notice as is possible and be accompanied by evidence supporting the call to duty or reasons for the service.
- 63.3** Where the base salary excluding allowances received by the Employee from the Australian Defence Force or Defence Reserve service during their ordinary hours of work is below the Employee's VBA salary, the Employer will, unless exceptional circumstances arise, pay to the Employee make-up pay for the period of Defence Reserve service.
- 63.4 Preservation of prior entitlement**
- For Employees in employment prior to 9 May 2002, any more favourable provision relating to their previous entitlement to Defence Force leave is maintained.

### **64. Jury Service**

- 64.1** An Employee required to attend for jury service under the *Juries Act 2000* (Vic) is entitled to leave with pay for the period during which their attendance is required. The Employee must provide a certificate of attendance issued by the Juries Commissioner as evidence of attendance.
- 64.2** Any payment made to the Employee in accordance with the *Juries Act 2000* (Vic) for serving as a juror during their ordinary hours of work must be repaid to the Employer, less an amount for reasonable expenses actually incurred.

### **65. Leave for Blood Donations**

Leave may be granted to an Employee without loss of pay to visit the Red Cross Blood Bank as a donor once every twelve weeks.

### **66. Leave to Engage in Voluntary Emergency Management Activities**

- 66.1** An Employee who engages in a voluntary emergency management activity with a recognised emergency management body that requires the attendance of the Employee at a time when the Employee would otherwise be required to be at work is entitled to leave with pay for:
- (a) time when the Employee engages in the activity;
  - (b) reasonable travelling time associated with the activity; and
  - (c) reasonable rest time immediately following the activity.
- 66.2** The Employee must advise the Employer as soon as reasonably practicable if the Employee is required to attend a voluntary emergency management activity and must advise the Employer of the expected or likely duration of the Employee's attendance.

The Employee must provide a certificate of attendance or other evidence of attendance as reasonably requested by the Employer.

**66.3** Recognised emergency management bodies include but are not limited to, the Country Fire Authority, Red Cross, State Emergency Service and St John Ambulance.

**66.4** An Employee who is required to attain qualifications or to requalify to perform activities in an emergency management body must be granted leave with pay for the period of time required to fulfil the requirements of the training course pertaining to those qualifications, provided that such training can be undertaken without unduly affecting the operations of the Employer.

## **67. Voluntary Community Activities Leave**

**67.1** An Employee is entitled to leave with pay of up to 10 days, per calendar year, to fulfil official functions during their term of office as an elected member of

(a) a Local Government Council or

(b) a committee of management of a not-for-profit community organisation which operates under a formal legal structure subject to applicable State of Federal legislation.

**67.2** Leave will be subject to Employer's operational needs

**67.3** Leave will be available for any of the following purposes:

(a) To enable the Employee to attend any training program required to meet grant, funding or governance obligations, or

(b) Participate in a community event as part of their role with the organisation, or

(c) Participate in consultation relevant to their role in the organisation, or

(d) Any other purpose agreed with the Employer.

**67.4** Leave will not accrue from year to year and cannot be cashed out on termination of employment.

## **68. Participation in Sporting Events**

**68.1** Leave with pay up to a maximum of two weeks in any two calendar year period may be granted to an Employee to participate either as a competitor or an official in any non-professional state, national or international sporting event.

**68.2** The length of absence from work and travel arrangements for participation in sporting events must be agreed with the Employer in advance before leave may be granted.

## **69. Study Leave**

**69.1** The Employer acknowledges that learning and development benefits both the Employee and Employer.

- 69.2** The Employer may grant to any Employee paid leave to undertake an accredited course of study provided by an educational institution or registered training organisation.
- 69.3** The Employer may grant any Employee time off without loss of pay under this clause for professional development including Continuing Professional Development (CPD), short courses, micro-credentialing or other training.
- 69.4** In determining whether to grant study leave, the Employer will consider matters such as the relevance of the proposed study to the Employee's employment, the development of the Employee's capability and skills, alignment to organisational goals and the reasonable operational requirements of the Employer.
- 69.5** The Employer may grant an Employee the following leave entitlements:
- (a)** Paid leave to enable travel to an attendance of up to seven hours of classroom or related project work per week, and
  - (b)** Up to five days paid leave per annum to:
    - (i)** prepare for and attend examinations associated with the course of study, or
    - (ii)** finish major project work required to complete an accredited course of study, professional development, short-course, micro-credentialing or other training.
- 69.6** The Employer may grant additional leave with or without pay as considered necessary.
- 69.7** Part-time Employees may be granted Study Leave on a pro-rata basis calculated on the number of ordinary hours worked.
- 69.8** In determining the amount of any leave to be granted under **clause 69.2**, the Employer will have regard to the course requirements, the Employer's operational requirements and the development of the Employee.
- 69.9** Where an Employee undertakes an accredited course of study professional development, short course, micro-credentialing or other training, the Employee may be expected to complete some of the course requirements in their own time.
- 69.10** The paid leave provided for in **clause 69.5(a)** may be used weekly or, with the approval of the Employer, banked to support attendance at intensive courses. Study leave will not accrue from year to year and will not be paid out on termination.

## **70. Other Leave**

- 70.1** An Employee may be granted leave without pay by the Employer for any purpose.
- 70.2** Leave under this clause may be granted for purposes including:
- (a)** Cultural and religious purposes; or
  - (b)** Activities inherently associated with an Employee's disability not already provided for by specific leave entitlements under this Agreement or otherwise agreed with the Employer; or
  - (c)** Paid family violence leave for casual employees.

- 70.3** Unless otherwise provided for in this Agreement, leave without pay shall not break the Employee's continuity of employment but leave without pay will not count as service for leave accrual or other purposes.

## **Part 8 Occupational Health and Safety**

### **71. Accident Make-Up Pay**

- 71.1** Where an Employee is absent from duty as a result of sustaining an injury in respect of which the Employee is entitled to weekly payments of compensation under the *Workplace Injury Rehabilitation and Compensation Act 2013 (Vic)*, the Employee will, except where otherwise provided in **clause 71.2** below, be entitled to accident make-up pay equivalent to their normal Salary less the amount of weekly compensation payments.

#### **71.2 Payment – maximum entitlement**

- (a) The Employer will continue to provide accident make-up pay to the Employee for either a continuous period of 52 weeks, or an aggregate of 261 working days, or an aggregate period of 1984 hours unless employment ceases.
  - (b) An entitlement to accident make-up pay will cease when the Employee has been absent from work for either a continuous period of 52 weeks, or an aggregate period of 261 working days, or an aggregate of 1984 hours or when employment ceases or when the benefits payable under the *Workplace Injury Rehabilitation and Compensation Act 2013(Vic)* cease.
  - (c) The Employer may grant the Employee leave without pay where an entitlement to accident make-up pay has ended.
- 71.3** For the avoidance of doubt, an Employee may, with the Employer's consent, take annual leave, long service leave or substitute leave (in accordance with **clause 44.2**) whilst receiving accident make up pay.
- 71.4** For an injury prior to the proclamation of the *Workplace Injury Rehabilitation and Compensation Act 2013*, a reference to that Act shall be deemed to be a reference to the *Accident Compensation Act 1985 (Vic)*.

### **72. Occupational Health and Safety and Rehabilitation**

#### **72.1 Objectives**

- (a) This Agreement acknowledges and supports the rights of Employees to work in an environment, which is, so far as is practicable, safe and without risks to health. The Parties are committed to the promotion of a joint and united approach to consultation and resolution of Occupational Health and Safety (OH&S) issues.
- (b) The Agreement commits the Parties to improving health and safety with a view to improving workplace efficiency and productivity. This will be accomplished through the ongoing development, in consultation with

Employees and their health and safety representatives, of management systems and procedures designed to, so far as is practicable to:

- (i) identify, assess and control workplace hazards; and
  - (ii) reduce the incidence and cost of occupational injury and illness; and
  - (iii) identify and appropriately manage work and work practices which impact on OH&S; and
  - (iv) provide a rehabilitation system for Employees affected by occupational injury or illness; and
  - (v) consider the impact of changes to work practices and staffing on occupational health and safety; and
  - (vi) ensure the health and safety representatives can exercise their powers to the extent provided for in the *Occupational Health and Safety Act 2004* (Vic) and the Occupational Health and Safety Regulations 2017.
- (c) OH&S statutory requirements, including regulations and codes of practice/ compliance codes are minimum standards and will be improved upon where practicable.

#### **72.2 OH&S consultation**

- (a) Consultative mechanisms appropriate to the VBA will be established to address OH&S issues. Such mechanisms will be:
- (i) in accordance with the Victorian *Occupational Health and Safety Act 2004*;
  - (ii) established in consultation with Employees and their health and safety representatives; and
  - (iii) consistent with the Employer's agreed issue resolution procedures and the rights and functions of health and safety representatives, consistent with the *Occupational Health and Safety Act 2004* (Vic).
- (b) Where an OH&S committee is established at least half the members shall be Employees, including health and safety representatives.
- (c) The OH&S committee must operate within the requirements of the *Occupational Health and Safety Act 2004* (Vic).
- (d) A CPSU Workplace representative may attend local OH&S committee meetings (by giving notice) from time to time.

#### **72.3 OH&S training**

- (a) Workplace training programs, including induction and on-the-job training will outline relevant details of OH&S policies and procedures.
- (b) The contents of OH&S training programs will outline the OH&S roles and responsibilities of Employees, managers and supervisors, OH&S policies and procedures, particular hazards associated with their workplaces, control

measures applicable to each hazard, and how to utilise OH&S systems to identify hazards and instigate preventative action.

#### 72.4 Designated Work Groups

- (a) The parties at the local level will review the Designated Work Groups (DWGs), and negotiate revised DWGs where appropriate through workplace Union/management consultative structures.
- (b) The parties at the central level will establish instructions for the conduct of the reviews of DWGs at the local level.
- (c) Unions will be notified of vacancies for health and safety representatives in DWGs where the majority of DWG Employees are eligible to be members of a Union.
- (d) Each elected health and safety representative will be provided with reasonable access to facilities such as email, telephone, fax, office and computer access, where available. An Employee will be granted reasonable time release or paid time (including time in lieu) to attend to their functions as a health and safety representative, including but not limited to regularly inspecting workplaces (as defined by their DWG), consulting with Employees in their DWGs, OH&S representatives and other persons involved in the organising of Employees' health, safety and welfare.
- (e) The Employer will post and maintain current in each workplace the names and relevant contact details, including email where available, of elected health and safety representatives for identified DWGs. Such circular shall be required to be posted on a notice board for the regular attention of all Employees working in the workplace.
- (f) To monitor the maintenance of effective OH&S structures and training delivery the parties will jointly establish a central register or local registers of DWG's and their health and safety representatives. The register will be maintained by the Employer from information provided on a quarterly basis from each region/workplace.
- (g) Information from the updated register(s) will be provided periodically (quarterly) in electronic format to a Union. The information provided will be in accordance with the *Privacy and Data Protection Act 2014* (Vic). Where possible, this information will include:
  - (i) a description, including the location, of each DWG;
  - (ii) the name of each elected health and safety representative, their workplace contact details and email address;
  - (iii) the date the health and safety representative was elected;
  - (iv) a description of the training the health and safety representative has attended and the date of attendance;
  - (v) the name and contact details of the nominated management representative responsible for each DWG;



- (vi) details of the structure of OH&S committees, their meeting frequency and the name and contact details of the committee convener.

## **72.5 Bullying and violence at work**

- (a) The Parties to this Agreement are committed to working together to reduce bullying and occupational assault so far as is practicable in the workplace.
- (b) Over the life of the agreement, the Parties commit to work towards a consistent, service wide approach to prevent and manage negative workplace behaviour, including by:
  - (i) continuing and finalising the drafting of a common bullying policy.
  - (ii) ensuring employee awareness of expected standards of behaviour, employee duties in respect of occupational health and safety and of what constitutes and how to prevent and address negative workplace behaviour;
  - (iii) ensuring supervisor and manager capability to prevent and manage negative workplace behaviour;
  - (iv) ensuring consistent, best practice processes for managing negative behaviour in accordance with **clause 25** processes.

## **72.6 Employee support and debriefing**

- (a) The Employer will provide support and debriefing to Employees who have directly or vicariously experienced a “critical incident” during the course of the work that results in personal distress or psychological trauma. The Employer is committed to assisting the recovery of Employees experiencing distress or trauma following a critical incident with the aim of returning Employees to their pre-incident level of functioning as soon as possible.
- (b) A critical incident is defined as an event outside the range of usual human experience which has the potential to easily overcome a person's normal ability to cope with stress. It may produce a negative psychological response in an Employee who was involved in or witnessed, or otherwise deals with and/ or is exposed through the course of their duties to the details of such an incident.
- (c) Critical incidents in the workplace environment include, but are not limited to:
  - (i) aggravated assaults; or
  - (ii) robbery; or
  - (iii) suicide or attempted suicide; or
  - (iv) murder; or
  - (v) sudden or unexpected death; or
  - (vi) hostage or siege situations; or
  - (vii) discharge of firearms; or

- (viii) vehicle accidents involving injury and/or substantial property damage; or
- (ix) acts of self-harm by persons in the care of others; or
- (x) industrial accidents involving serious injury or fatality; or
- (xi) accounts of sexual violence; or
- (xii) accounts of child abuse and domestic violence; or
- (xiii) any other serious accidents or incidents.

## **73. Industrial Relations/Occupational Health and Safety Training**

- 73.1** In order to encourage co-operative workplace relations and facilitate the operation of this Agreement, an Employee who has been nominated by a Union and has been accepted by a training provider to attend a designated trade union training course may be granted up to five days leave on full pay in any one calendar year, so long as the granting of such leave does not unduly effect the operations of the VBA.
- 73.2** The Employee may be granted the leave specified in **clause 73.1** where the Employer is satisfied that the course of training is likely to contribute to a better understanding of industrial relations, occupational health and safety, safe work practices, knowledge of award and other industrial entitlements and the upgrading of Employee skills in all aspects of trade union functions.
- 73.3** An Employee may be granted paid leave under this clause in excess of five days and up to ten days in any one calendar year subject to the total leave taken in that calendar year and in the subsequent calendar year not exceeding ten days.
- 73.4** An Employee, upon election as a health and safety representative, shall be granted up to five days' paid leave, as soon as practicable after election, to undertake an appropriate introductory health and safety representative's course from a training organisation of their choice that is approved by the Victorian WorkCover Authority, having regard to course places and the Employer's operations. The Employer shall meet any reasonable costs incurred. Leave under this **clause 73.4** must only be granted to an Employee on one occasion and is additional to any other leave granted under this clause.
- 73.5** Additional paid leave may be approved for health and safety representatives to attend training approved by the Victorian WorkCover Authority under the *Occupational Health and Safety Act 2004* (Vic), which is relevant to the functions of the DWG.

## **74. Facilities, Equipment and Accommodation – General**

- 74.1** The Employer shall provide Employees with all such instruments, equipment, tools, stationery and furniture as may be reasonably necessary for carrying out their work except as otherwise agreed between the Parties to this Agreement.
- 74.2** The Employer shall provide, in readily accessible locations, first aid equipment adequate for the nature of the Employee's duties.

## **75. Agreement Compliance and Union Related Matters**

### **75.1 Protection**

- (a) An Employee shall not be dismissed or injured in their employment or have their employment altered to their prejudice, or be threatened with prejudicial or injurious treatment or with dismissal by reason of their status as an Accredited Representative of a Union, engagement in lawful activities as an authorised representative of a Union or on the basis of their membership of a Union or participation in lawful Union activities, provided that where any such activities are undertaken during working hours, the Employee's release has been approved. Approval will not be unreasonably withheld.
- (b) The Employer shall not injure a person in their employment, or alter the terms or conditions of employment of a person to their prejudice on the basis of their membership of or participation in the lawful activities of a Union, provided that where any such activities are undertaken during working hours, the Employee's release has been approved. Approval will not be unreasonably withheld.

### **75.2 Facilities**

- (a) An Accredited Representative of a Union shall be released by the Employer from normal duties for such periods of time as may be reasonably necessary to enable them to carry out their representative functions including, but not limited to, investigating any alleged breach of this Agreement, endeavouring to resolve any dispute arising out of the operation of this Agreement, participating in any bargaining, conciliation or arbitration process conducted under the provisions of the FW Act. Such release must not unduly affect the operations of the VBA.
- (b) Members of a Union shall be permitted by the Employer to post written material authorised by a Union in a place within the workplace to which members of that Union have convenient access, and to distribute such written material by appropriate means to Union members.
- (c) Employees will be allowed reasonable access to electronic communication devices to facilitate communication between Employees and/or the Union, provided that such communication is not offensive or improper.

### **75.3 Employee Representation on CPSU SPSF Victorian Branch Council**

- (a) Employees who are CPSU SPSF Victorian Branch Council members nominated by the Branch Secretary of the CPSU will be entitled to a half day per month to attend Branch Council meetings. Time release will include reasonable time to travel to the meetings.
- (b) Additional paid leave will be granted to employees who are CPSU SPSF Victorian Branch Council members nominated by the Branch Secretary to attend:

  - (i) Federal Executive and Federal Council meetings of the CPSU; and
  - (ii) the Australian Council of Trade Unions' triennial conference.

- (c) On application, the Employer shall grant leave without pay to an Employee for the purposes of secondment to work for a Union.

## **76. Right of Entry**

- 76.1** For the purposes of ensuring compliance with this Agreement and the FW Act, an official of a Union who has been issued with an entry permit by the FWC pursuant to section 512 of the FW Act will be permitted access to the workplace provided they comply with the provisions set out in Part 3-4 of the FW Act.
- 76.2** A permit holder may only enter the workplace for the purposes permitted by and in compliance with the provisions of Part 3-4 of the FW Act.
- 76.3** Subject to **clauses 76.1** and **76.2** a permit holder may enter the premises and shall adhere to the principles that they must not intentionally hinder or obstruct any person, or otherwise act in an improper manner.

## **Schedule A     Redeployment**

The redeployment policy will be based on the following principles:

1. The redeployment of surplus Employees wherever practical and consistent with the application of merit;
2. Surplus Employees have priority to be placed in vacancies that occur within the VBA, unless the surplus Employee is determined to be unsuitable for appointment to that vacancy by the Employer;
3. The placement of surplus Employees be managed within the VBA. Surplus Employees will be provided with individualised case management and support, including counselling, provision of job search skills, liaison and retraining to assist in achieving placements;
4. Processes to be consistent with the application of the principles of fair and reasonable treatment and merit selection;
5. Surplus Employees to have access to departure packages only after a reasonable period;
6. Retrenchment and payment of a separation package to be used as an action of last resort where redeployment within a reasonable period does not appear likely;
7. Where a vacancy exists for which a redeployee is suitable and is the only candidate or the best candidate amongst redeployees, a valid offer will be made. A valid offer involves an offer of duties to a suitably qualified Employee (which may be at the same or different level or status or the same or different general location as the Employee's previous employment);
8. Redeployees will have priority access to vacancies both at the Employee's classification level and below their classification level and, where appropriate, will be provided with salary maintenance;
9. The VBA will provide support to redeployees being placed in alternative positions utilising high quality and professional expertise; and
10. Redeployees will actively engage in the redeployment process.

## Schedule B Salaries - VBA

Effective 20 March 2020

	Grade	Value Range	Salary Ranges		Progression amounts	
			Min.	Max.		
VBA Officer	1	1.1	\$48,623	\$51,616	1.1.1	\$48,623
					1.1.2	\$49,619
					1.1.3	\$50,617
					1.1.4	\$51,616
	2	2.1	\$53,280	\$60,851	2.1.1	\$53,280
					2.1.2	\$54,362
					2.1.3	\$55,443
					2.1.4	\$56,527
					2.1.5	\$57,605
					2.1.6	\$58,689
					2.1.7	\$59,770
					2.1.8	\$60,851
		2.2	\$54,573	\$60,292	2.2.1	\$54,573
					2.2.2	\$55,527
					2.2.3	\$56,479
					2.2.4	\$57,433
					2.2.5	\$58,384
					2.2.6	\$59,340
					2.2.7	\$60,292
	3	3.1	\$69,917	\$77,407	3.1.1	\$69,917
					3.1.2	\$71,416
					3.1.3	\$72,915
					3.1.4	\$74,412
					3.1.5	\$75,907
					3.1.6	\$77,407
		3.2	\$78,903	\$84,895	3.2.1	\$78,903
					3.2.2	\$80,403
					3.2.3	\$81,900
					3.2.4	\$83,395
	4	4.1	\$86,558	\$98,210	4.1.1	\$86,558
					4.1.2	\$88,502
					4.1.3	\$90,443
					4.1.4	\$92,381
					4.1.5	\$94,327
					4.1.6	\$96,268
					4.1.7	\$98,210
Senior Technical Officer	5	5.1	\$99,872	\$110,355		\$2,994
		5.2	\$110,357	\$120,838		
	6	6.1	\$122,502	\$143,219		\$3,780
		6.2	\$143,220	\$163,934		
Senior Technical Specialist	7	7.1	\$166,390	\$186,355		\$6,209
		7.2	\$186,359	\$206,325		
		7.3	\$206,325	\$226,292		

**Victorian Building Authority Enterprise Agreement 2020**

**Effective 1 December 2020**

	Grade	Value Range	Salary Ranges		Progression amounts	
			Min.	Max.		
VBA Officer	1	1.1	\$49,231	\$52,261	1.1.1	\$49,231
					1.1.2	\$50,239
					1.1.3	\$51,250
					1.1.4	\$52,261
	2	2.1	\$53,946	\$61,612	2.1.1	\$53,946
					2.1.2	\$55,042
					2.1.3	\$56,136
					2.1.4	\$57,234
					2.1.5	\$58,325
					2.1.6	\$59,423
					2.1.7	\$60,517
					2.1.8	\$61,612
		2.2	\$62,705	\$69,276	2.2.1	\$62,705
					2.2.2	\$63,801
					2.2.3	\$64,895
					2.2.4	\$65,992
					2.2.5	\$67,084
					2.2.6	\$68,182
					2.2.7	\$69,276
					2.2.8	\$70,370
	3	3.1	\$70,791	\$78,375	3.1.1	\$70,791
					3.1.2	\$72,309
					3.1.3	\$73,826
					3.1.4	\$75,342
					3.1.5	\$76,856
					3.1.6	\$78,375
		3.2	\$79,889	\$85,956	3.2.1	\$79,889
					3.2.2	\$81,408
					3.2.3	\$82,924
					3.2.4	\$84,437
	4	4.1	\$87,640	\$99,438	4.1.1	\$87,640
					4.1.2	\$89,608
					4.1.3	\$91,574
					4.1.4	\$93,536
					4.1.5	\$95,506
					4.1.6	\$97,471
					4.1.7	\$99,438
Senior Officer	5	5.1	\$101,120	\$111,734		\$3,031
		5.2	\$111,736	\$122,348		
	6	6.1	\$124,033	\$145,009		\$3,827
		6.2	\$145,010	\$165,983		
Senior Technical Specialist	7	7.1	\$168,470	\$188,684		\$6,287
		7.2	\$188,688	\$208,904		
		7.3	\$208,904	\$229,121		

**Victorian Building Authority Enterprise Agreement 2020**

**Effective 1 September 2021**

	Grade	Value Range	Salary Ranges		Progression amounts	
			Min.	Max.		
VBA Officer	1	1.1	\$49,969	\$53,045	1.1.1	\$49,969
					1.1.2	\$50,993
					1.1.3	\$52,019
					1.1.4	\$53,045
	2	2.1	\$54,755	\$62,536	2.1.1	\$54,755
					2.1.2	\$55,868
					2.1.3	\$56,978
					2.1.4	\$58,093
					2.1.5	\$59,200
					2.1.6	\$60,314
					2.1.7	\$61,425
					2.1.8	\$62,536
		2.2	\$63,646	\$70,315	2.2.1	\$63,646
					2.2.2	\$64,758
					2.2.3	\$65,868
					2.2.4	\$66,982
					2.2.5	\$68,090
					2.2.6	\$69,205
					2.2.7	\$70,315
					2.2.8	\$71,425
	3	3.1	\$71,853	\$79,551	3.1.1	\$71,853
					3.1.2	\$73,394
					3.1.3	\$74,933
					3.1.4	\$76,472
					3.1.5	\$78,009
					3.1.6	\$79,551
		3.2	\$81,087	\$87,245	3.2.1	\$81,087
					3.2.2	\$82,629
					3.2.3	\$84,168
					3.2.4	\$85,704
	4	4.1	\$88,955	\$100,930	4.1.1	\$88,955
					4.1.2	\$90,952
					4.1.3	\$92,948
					4.1.4	\$94,939
					4.1.5	\$96,939
					4.1.6	\$98,933
					4.1.7	\$100,930
Senior Officer	5	5.1	\$102,637	\$113,410		\$3,076
		5.2	\$113,412	\$124,183		
	6	6.1	\$125,893	\$147,184		\$3,884
		6.2	\$147,185	\$168,473		
Senior Technical Specialist	7	7.1	\$170,997	\$191,514		\$6,381
		7.2	\$191,518	\$212,038		
		7.3	\$212,038	\$232,558		



**Victorian Building Authority Enterprise Agreement 2020**

**Effective 1 June 2022**

	Grade	Value Range	Salary Ranges		Progression amounts	
			Min.	Max.		
VBA Officer	1	1.1	\$50,594	\$53,708	1.1.1	\$50,594
					1.1.2	\$51,630
					1.1.3	\$52,669
					1.1.4	\$53,708
	2	2.1	\$55,439	\$63,318	2.1.2	\$56,566
					2.1.3	\$57,690
					2.1.4	\$58,819
					2.1.5	\$59,940
					2.1.6	\$61,068
					2.1.7	\$62,193
					2.1.8	\$63,318
					2.1.2	\$56,566
		2.2	\$64,442	\$71,194	2.2.1	\$64,442
					2.2.2	\$65,567
					2.2.3	\$66,691
					2.2.4	\$67,819
					2.2.5	\$68,941
					2.2.6	\$70,070
					2.2.7	\$71,194
	3	3.1	\$72,751	\$80,545	3.1.1	\$72,751
					3.1.2	\$74,311
					3.1.3	\$75,870
					3.1.4	\$77,428
					3.1.5	\$78,984
					3.1.6	\$80,545
		3.2	\$82,101	\$88,336	3.2.1	\$82,101
					3.2.2	\$83,662
					3.2.3	\$85,220
					3.2.4	\$86,775
	4	4.1	\$90,067	\$102,192	3.2.5	\$88,336
					4.1.1	\$90,067
					4.1.2	\$92,089
					4.1.3	\$94,110
					4.1.4	\$96,126
					4.1.5	\$98,151
					4.1.6	\$100,170
					4.1.7	\$102,192
Senior Officer	5	5.1	\$103,920	\$114,828		\$3,114
		5.2	\$114,830	\$125,735		
	6	6.1	\$127,467	\$149,024		\$3,933
		6.2	\$149,025	\$170,579		
Senior Technical Specialist	7	7.1	\$173,134	\$193,908		\$6,461
		7.2	\$193,912	\$214,688		
		7.3	\$214,688	\$235,465		

**Victorian Building Authority Enterprise Agreement 2020**

**Effective 1 March 2023**

	Grade	Value Range	Salary Ranges		Progression amounts	
			Min.	Max.		
VBA Officer	1	1.1	\$51,353	\$54,514	1.1.1	\$51,353
					1.1.2	\$52,404
					1.1.3	\$53,459
					1.1.4	\$54,514
	2	2.1	\$56,271	\$64,268	2.1.1	\$56,271
					2.1.2	\$57,414
					2.1.3	\$58,555
					2.1.4	\$59,701
					2.1.5	\$60,839
					2.1.6	\$61,984
					2.1.7	\$63,126
					2.1.8	\$64,268
		2.2	\$65,409	\$72,262	2.2.1	\$65,409
					2.2.2	\$66,551
					2.2.3	\$67,691
					2.2.4	\$68,836
					2.2.5	\$69,975
					2.2.6	\$71,121
					2.2.7	\$72,262
					2.2.7	\$72,262
	3	3.1	\$73,842	\$81,753	3.1.1	\$73,842
					3.1.2	\$75,426
					3.1.3	\$77,008
					3.1.4	\$78,589
					3.1.5	\$80,169
					3.1.6	\$81,753
		3.2	\$83,333	\$89,661	3.2.1	\$83,333
					3.2.2	\$84,917
					3.2.3	\$86,498
					3.2.4	\$88,077
					3.2.5	\$89,661
					3.2.5	\$89,661
	4	4.1	\$91,418	\$103,725	4.1.1	\$91,418
					4.1.2	\$93,470
					4.1.3	\$95,522
					4.1.4	\$97,568
					4.1.5	\$99,623
					4.1.6	\$101,673
					4.1.7	\$103,725
Senior Officer	5	5.1	\$105,479	\$116,550		\$3,161
		5.2	\$116,552	\$127,621		
	6	6.1	\$129,379	\$151,259		\$3,992
		6.2	\$151,260	\$173,138		
Senior Technical Specialist	7	7.1	\$175,731	\$196,817		\$6,558
		7.2	\$196,821	\$217,908		
		7.3	\$217,908	\$238,997		

**Victorian Building Authority Enterprise Agreement 2020**

**Effective 1 December 2023**

	Grade	Value Range	Salary Ranges		Progression amounts	
			Min.	Max.		
VBA Officer	1	1.1	\$51,867	\$55,059	1.1.1	\$51,867
					1.1.2	\$52,928
					1.1.3	\$53,994
					1.1.4	\$55,059
	2	2.1	\$56,834	\$64,911	2.1.1	\$56,834
					2.1.2	\$57,988
					2.1.3	\$59,141
					2.1.4	\$60,298
					2.1.5	\$61,447
					2.1.6	\$62,604
					2.1.7	\$63,757
					2.1.8	\$64,911
		2.2	\$66,063	\$72,985	2.2.1	\$66,063
					2.2.2	\$67,217
					2.2.3	\$68,368
					2.2.4	\$69,524
					2.2.5	\$70,675
					2.2.6	\$71,832
					2.2.7	\$72,985
					2.2.8	\$74,138
	3	3.1	\$74,580	\$82,571	3.1.1	\$74,580
					3.1.2	\$76,180
					3.1.3	\$77,778
					3.1.4	\$79,375
					3.1.5	\$80,971
					3.1.6	\$82,571
		3.2	\$84,166	\$90,558	3.2.1	\$84,166
					3.2.2	\$85,766
					3.2.3	\$87,363
					3.2.4	\$88,958
					3.2.5	\$90,558
	4	4.1	\$92,332	\$104,762	4.1.1	\$92,332
					4.1.2	\$94,405
					4.1.3	\$96,477
					4.1.4	\$98,544
					4.1.5	\$100,619
					4.1.6	\$102,690
					4.1.7	\$104,762
Senior Officer	5	5.1	\$106,534	\$117,716		\$3,193
		5.2	\$117,718	\$128,897		
	6	6.1	\$130,673	\$152,772		\$4,032
		6.2	\$152,773	\$174,869		
Senior Technical Specialist	7	7.1	\$177,488	\$198,785		\$6,624
		7.2	\$198,789	\$220,087		
		7.3	\$220,087	\$241,387		

## Schedule C Classification Descriptors

### VBA Non-Executive Career Structure Classification and Value Range Standard Descriptors

Table 1.1: VBA Grade Descriptors and Value Range Standard Descriptors - Grades 1 to 4						
	Grade 1	Grade 2		Grade 3		Grade 4
	<b>Grade 1</b> For employees participating in formal trainee, cadetship, or similar entry level employment program					
<b>Value Range</b>		<b>VR1</b>	<b>VR2</b>	<b>VR1</b>	<b>VR2</b>	
<b>Decision Making</b>	<b>1.1A</b>	<b>2.1A</b>	<b>2.2A</b>	<b>3.1A</b>	<b>3.2A</b>	<b>4.1A</b>
<b>Accountability and Frameworks</b>	<p>Undertakes specific and defined tasks within established rules under close supervision, defined as:</p> <ul style="list-style-type: none"> <li>clear and detailed instructions are provided; tasks are covered by standard procedures;</li> <li>deviation from procedures or unfamiliar situations are referred to higher levels; and</li> <li>work is regularly checked</li> </ul> <p>Influences own daily work priorities and</p>	<p>Applies rules, processes and standards under general supervision</p> <p>Plans and prioritises own work program to achieve defined targets</p> <p>Changes own work program, which may impact on the operations of the work area</p>	<p>Selects from a range of accepted options established by rules, processes, and standards</p> <p>Makes decisions that may have significant impact on clients</p>	<p>Team leadership may be exercised where appropriate to the role</p> <p>Exercises professional judgement about the application of rules, or the selection of choices within guidelines</p> <p>Resolves local operational service delivery problems within guidelines</p> <p>Reviews decisions, assessments and recommendations from less experienced team members</p> <p>Determines the work organisation of the work area</p>	<p>Sets local precedents regarding the application of guidelines</p> <p>Provides guidance for others in the work area and/ or related areas</p>	<p>Develops guidelines within the work area</p> <p>Resolves operational service delivery problems consistent with program objectives</p> <p>Interprets and applies business plans and policies to own area of responsibility</p> <p>Advice and analysis contributes to policy formulation</p>

**Table 1.1: VBA Grade Descriptors and Value Range Standard Descriptors - Grades 1 to 4**

	<b>Grade 1</b>	<b>Grade 2</b>		<b>Grade 3</b>		<b>Grade 4</b>
	<b>Grade 1</b> <b>For employees participating in formal trainee, cadetship, or similar entry level employment program</b>					
<b>Value Range</b>		<b>VR1</b>	<b>VR2</b>	<b>VR1</b>	<b>VR2</b>	
	schedules under direction of supervisor  Accountable for accuracy and timeliness of outputs			Analysis and advice contributes to decision making by others  Manages budget and resources for the work area		
<b>Innovation and Originality</b>	The focus is on maintaining existing systems and processes  Identifies opportunities to improve own efficiency and suggests these to supervisor	Judgement is required to solve problems arising in own work program  Takes initiative to recommend improved processes in immediate work area	Creatively deals with problems within the work area	Initiates improvements to procedures within the work area	Assesses and responds to policy and process changes in the work area  Identifies and applies developments within professional field to problem solving within the work area	Innovative thinking is an inherent feature of the job  Defines the appropriate methodology in the analysis of policy or research options
<b>Communication</b>	<b>1.1B</b>	<b>2.1B</b>	<b>2.2B</b>	<b>3.1B</b>	<b>3.2B</b>	<b>4.1B</b>
	Provides and receives routine information  Communication is mainly focused on routine issues that may require an understanding of the operational context	Explains rules, procedures and operational policies to individual clients or colleagues  Presents routine information to small groups and provides	Conducts formal community information sessions and consultative process involving small groups or participates in a similar process in larger groups	May lead a team through activities including individual and team performance management and development  Explains concepts and policies to clients, stakeholders and staff	Plan, lead and facilitate consultative processes in a range of settings involving more difficult or sensitive issues  Prepares complex operational reports	Conveys specialist concepts and policies to clients, staff and stakeholders  Prepares reports, briefs and correspondence on complex issues that impact at program or organisational level

**Table 1.1: VBA Grade Descriptors and Value Range Standard Descriptors - Grades 1 to 4**

	<b>Grade 1</b>	<b>Grade 2</b>		<b>Grade 3</b>		<b>Grade 4</b>
	<b>Grade 1</b> <b>For employees participating in formal trainee, cadetship, or similar entry level employment program</b>					
<b>Value Range</b>		<b>VR1</b>	<b>VR2</b>	<b>VR1</b>	<b>VR2</b>	
		feedback to organisation  Draft routine internal reports and correspondence  Liaises with stakeholders, clients and external providers of goods and services  Suggests alternative approaches to clients or stakeholders  Understands procedures for effectively dealing with people exhibiting challenging behaviours	Uses persuasion skills in dealing with an individual client, colleague, service provider or the like	Plans, leads and facilitates information sessions and consultative processes in a range of settings  Prepares briefs on sensitive issues for consideration of others  Draft public communication documents  Communicates issues and advocates a preferred case or option to stakeholders  Communicate professional/ technical concepts and advice  Provides communication guidance to less experienced colleagues  Uses persuasion, advocacy, negotiation and motivation skills with clients, providers,	requiring in-depth factual analysis	Develops and implements operational communication and consultation strategies on specific projects  Applies negotiation persuasion and motivation skills to manage staff and stakeholders

**Table 1.1: VBA Grade Descriptors and Value Range Standard Descriptors - Grades 1 to 4**

	<b>Grade 1</b>	<b>Grade 2</b>		<b>Grade 3</b>		<b>Grade 4</b>
	<b>Grade 1</b> <b>For employees participating in formal trainee, cadetship, or similar entry level employment program</b>					
<b>Value Range</b>		<b>VR1</b>	<b>VR2</b>	<b>VR1</b>	<b>VR2</b>	
				staff, peers and managers		
<b>Knowledge and Proficiency</b>	<b>1.1C</b>	<b>2.1C</b>	<b>2.2C</b>	<b>3.1C</b>	<b>3.2C</b>	<b>4.1C</b>
	Focus is on learning, developing and refining work skills  Requires knowledge of equipment and tools to perform routine tasks, experiments and procedures, and develops practical application of these skills  Requires understanding of general office work routines and procedures  Acquire and apply proficiency in standard office equipment and computer applications	Understands and applies theoretical principles, under supervision, to achieve defined outcomes  Develops knowledge of established techniques and organisational processes  Proficient in use of software or technical equipment  Knowledge of legislation, regulations, policies and processes relevant and specific to the role	Uses theoretical knowledge under supervision to achieve defined outcomes in a variety of work situations  Local reference point in operational processes and procedures	Uses theoretical knowledge to achieve agreed outcomes in moderately complex work situations  Authoritative in application of processes and policy relevant to the work unit  Knowledge of relevant legislation, regulations, policies and processes	Adapts theoretical knowledge based on practical experience and/or understanding of current issues in the field  Applies understanding of interrelationships between stakeholders and/or other work units to achieve local objectives	Researches and applies advanced theoretical knowledge in a specialised field to operational problem solving  Applies sound theoretical and practical expertise in development of policy options  Authoritative in application of processes
<b>Policy and Projects</b>	<b>1.1D</b>	<b>2.1D</b>	<b>2.2D</b>	<b>3.1D</b>	<b>3.2D</b>	<b>4.1D</b>

**Table 1.1: VBA Grade Descriptors and Value Range Standard Descriptors - Grades 1 to 4**

	<b>Grade 1</b>	<b>Grade 2</b>		<b>Grade 3</b>		<b>Grade 4</b>
	<b>Grade 1</b> <b>For employees participating in formal trainee, cadetship, or similar entry level employment program</b>					
<b>Value Range</b>		<b>VR1</b>	<b>VR2</b>	<b>VR1</b>	<b>VR2</b>	
	Provides administrative support to policy and projects, consistent with the support elements described in 1.1B	Drafts minutes and action plans for consideration by others  Collects data, undertakes basic analysis and prepares simple reports	Undertakes research specified by others, including data analysis  Administers routine projects under direction or coordinates project steps  Contributes to operational service delivery policy development	Researches issues and prepares draft reports and briefings within a project plan or policy framework set by others  Conducts projects of defined scope under direction  Obtains, summarises and reports on stakeholder views	Plans and conducts several narrowly scoped projects simultaneously  Conducts aspects of more complex projects under direction  Contributes to planning on large projects	Researches and develops recommendations in a specific field of expertise  Develops and implements operational policy which impacts the immediate work area  Contributes to strategic policy development within a specific field of expertise  Manages projects, usually under limited direction  Contributes expertise to a team working on complex projects  Prepares project scopes and briefs within broad parameters  Manages multi-disciplinary project teams
<b>Administrative and Corporate Support</b>	<b>1.1E</b>	<b>2.1E</b>	<b>2.2E</b>	<b>3.1E</b>	<b>3.2E</b>	<b>4.1E</b>



**Table 1.1: VBA Grade Descriptors and Value Range Standard Descriptors - Grades 1 to 4**

	<b>Grade 1</b>	<b>Grade 2</b>		<b>Grade 3</b>		<b>Grade 4</b>
	<b>Grade 1</b> <b>For employees participating in formal trainee, cadetship, or similar entry level employment program</b>					
<b>Value Range</b>		<b>VR1</b>	<b>VR2</b>	<b>VR1</b>	<b>VR2</b>	
	Performs routine administrative tasks, including general telephone, counter and front office enquiries, mail deliveries, assisting with stock control, supporting organisation of meetings, receiving and initial processing of standard paperwork	Provides office support through activities such as using and maintaining standard office equipment and software  Drafts routine correspondence and minutes  Organises routine meetings and small functions  Undertakes standard processing work such as data entry, purchasing, payments and reports using office databases  Performs telephone and counter duties consistent with 2.1B	Responsible for office support services and systems for a work unit  Documents meeting outcomes in more complex situations  Provides support to contract administration  Demonstrates problem solving in processing work  Create and maintains local databases or reporting systems utilising standard software  Analyse standard reports and data to identify exceptions	May lead a corporate support team  Manages team performance through activities such as monitoring and reporting  Maintains corporate databases and completes analysis  Monitors and administers straight forward, local contracts and service agreements within a well-defined service delivery framework	Prepares and analyses reports from corporate databases to support decision making in the broader work area  Develops local databases or reporting systems  Negotiate straight forward, local contracts and service agreements	Leads a larger or complex corporate support work unit  Provides specialist administrative and corporate support expertise  Negotiates and manages straight forward, corporate contracts and service agreements  Drafts reports and recommendations by interpreting and analysing data
<b>Operational Service Delivery</b>	<b>1.1F</b>	<b>2.1F</b>	<b>2.2F</b>	<b>3.1F</b>	<b>3.2F</b>	<b>4.1F</b>

**Table 1.1: VBA Grade Descriptors and Value Range Standard Descriptors - Grades 1 to 4**

	<b>Grade 1</b>	<b>Grade 2</b>		<b>Grade 3</b>		<b>Grade 4</b>
	<b>Grade 1</b> <b>For employees participating in formal trainee, cadetship, or similar entry level employment program</b>					
<b>Value Range</b>		<b>VR1</b>	<b>VR2</b>	<b>VR1</b>	<b>VR2</b>	
	<p>Provides routine information, such as standard information and explanations, to clients and members of the public</p> <p>Receives payment for routine services such as the sale of publications and individual licence fees</p> <p>Performs routine service delivery functions for clients such as, driving, food preparation, cleaning, gardening, assisting qualified trade persons and minor maintenance</p> <p>Operates and maintains tools and equipment appropriate to the function and level of qualification</p>	<p>Provides standard services under general supervision and within a defined service delivery framework</p> <p>Delivers information services to the general public or clients, including initial advice and referral</p> <p>Consistent with the development of knowledge specified at 2.1C, participates in routine investigations under direction and provides evidence if required</p> <p>Reconciles, banks monies and manages petty cash</p>	<p>Assesses client needs and implements appropriate service delivery from a range of accepted options</p> <p>Identifies where limited precedents apply and may recommend action to be taken</p> <p>Assists in preparing or presenting cases in a range of review forums, tribunals and courts</p>	<p>Supervises a service delivery team</p> <p>Assesses client needs and delivers a range of services in complex situations investigates and assesses actions by individuals or organisations against legislation, rules, regulations and service agreements</p> <p>Advocates issues involving established precedents before a range of review forums, tribunals and courts</p> <p>Participates in the development of strategies to represent the organisation or clients, involving complex and challenging problems</p>	<p>Reviews client assessments and associated service delivery plans</p> <p>Advocates more complex cases to represent the organisation or clients before a range of review forums, tribunals and courts</p> <p>Recommends strategies to represent the agency and/or clients involving complex and challenging problems</p>	<p>Determines operational service delivery plans based on accepted standards</p> <p>Recommends resource allocation to immediate manager in order to meet service delivery priorities</p> <p>Manages operational work teams</p> <p>Undertakes advanced case management, which may include cross agency collaboration</p> <p>Undertakes complex or technical investigations and makes recommendations for action</p>
<b>Technical/Specialist</b>	<b>1.1G</b>	<b>2.1G</b>	<b>2.2G</b>	<b>3.1G</b>	<b>3.2G</b>	<b>4.1G</b>

**Table 1.1: VBA Grade Descriptors and Value Range Standard Descriptors - Grades 1 to 4**

	<b>Grade 1</b>	<b>Grade 2</b>		<b>Grade 3</b>		<b>Grade 4</b>
	<b>Grade 1</b> <b>For employees participating in formal trainee, cadetship, or similar entry level employment program</b>					
<b>Value Range</b>		<b>VR1</b>	<b>VR2</b>	<b>VR1</b>	<b>VR2</b>	
	<p>Assists technicians, scientists and specialists in tasks that are straightforward and use established techniques and work practices</p> <p>Operates and maintains technical or scientific equipment appropriate to the function and level of qualification</p> <p>This level performs routine technical support functions such as setting up a laboratory, cleaning equipment, and supporting field work</p>	<p>Conducts routine scientific, technical or specialist procedures and data collection, collation and analysis</p> <p>Diagnoses and corrects faults and problems with technical equipment</p> <p>Contributes to scientific or technical project planning</p>	<p>Modifies routine scientific, technical or specialist procedures to a limited specification</p> <p>Exercises discretion in use of equipment and actions to achieve results within specifications</p>	<p>Conducts small to medium scientific, technical or specialist projects defined by others</p> <p>Undertakes technical data analysis in field of expertise</p> <p>Conducts field or desk-top studies as part of a team</p> <p>Assembles non-standard technical systems or equipment to a specification</p> <p>Leads a small scientific, technical or specialist team</p>	<p>Plan small to medium scientific, technical or specialist projects</p> <p>May control a laboratory function or field operation where a range of related technical functions are performed</p> <p>Prepares complex reports requiring in-depth factual analysis</p>	<p>Manages a scientific, technical or specialist team and/or projects</p> <p>Independently performs professional or technical work at an advanced level in a narrow field of expertise or on research projects</p> <p>Provides professional scientific, technical or specialist advice based on field of expertise</p> <p>Undertakes technical data analysis and modelling and prepares reports</p>

**Table 1.2: VBA Grade Descriptors and Value Range Standard Descriptors - Grades 5 And 6**

	<b>Grade 5</b>		<b>Grade 6</b>	
<b>Value Range</b>	<b>VR 1</b>	<b>VR 2</b>	<b>VR 1</b>	<b>VR 2</b>
<b>Decision Making</b>	<b>5.1A</b>	<b>5.2A</b>	<b>6.1A</b>	<b>6.2A</b>
<b>Rules, Guidelines, and Frameworks</b>	<p>Decisions often impact upon staff, peers and clients outside the immediate work area</p> <p>Makes decisions in situations where there is some, but not definitive, precedent about the application of an organisational framework</p> <p>Advice and analysis influences policy development</p> <p>Contributes to strategic business planning</p> <p>Interprets and applies business plans and policies in own area of responsibility and provides advice to others on implementation issues</p> <p>Accountable for work organisation, the allocation of resources within and the outputs required of the work area</p>	<p>Decisions may set precedents for peers</p> <p>Develops business plans to deliver on evolving organisational priorities</p>	<p>Develops policy frameworks within area of expertise or responsibility based on defined organisational priorities</p> <p>Participates in strategic planning and contributes to strategic decision making process</p> <p>Accountable for achievement of established corporate objectives including the formulation and implementation of local business plans</p>	<p>Develops policies, programs and initiatives that impact on programs or major functional areas</p> <p>Required to interpret general policy framework to make decisions in the absence of definitive operational policies</p>
<b>Innovation and Originality</b>	<p>Innovative thinking and analysis influences developments within area of responsibility</p>	<p>Solutions and thinking may advance organisational innovation or occupational/professional knowledge</p> <p>Creatively develops options in a changing organisational environment</p>	<p>Identifies and responds to new and emerging strategic issues impacting on the operating environment</p>	<p>Contributes advanced expertise and knowledge to strategic planning and decision making processes</p>

**Table 1.2: VBA Grade Descriptors and Value Range Standard Descriptors - Grades 5 And 6**

	<b>Grade 5</b>		<b>Grade 6</b>	
<b>Value Range</b>	<b>VR 1</b>	<b>VR 2</b>	<b>VR 1</b>	<b>VR 2</b>
<b>Communication</b>	<b>5.1B</b>	<b>5.2B</b>	<b>6.1B</b>	<b>6.2B</b>
	<p>Initiates and maintains relationships with peer and senior internal and external stakeholders</p> <p>Focuses on understanding stakeholder issues</p> <p>Negotiates with stakeholders and peers with the object of gaining co-operation and meeting timelines for delivery of project, service or advice</p> <p>Prepares technical reports at an advanced professional level</p>	<p>Relies on formal and informal communication channels to achieve goals and engages stakeholders to help them identify areas and opportunities for improvement</p> <p>Initiates and maintains effective relationships with internal and external stakeholders at peer or senior levels</p> <p>Manages consultation processes including engagement with key stakeholders.</p> <p>Negotiates with stakeholders, peers, industry bodies and other government agencies with the objective of gaining co-operation, influencing views and meeting timelines for delivery of project, service or advice</p> <p>Is influential in negotiations with external suppliers of major services</p>	<p>Purpose of communication may be to resolve complex issues through a process of consultation and negotiation</p> <p>Prepares technical reports at an authoritative level</p> <p>Develops briefs on highly complex issues that provide options for decision within an organisation</p> <p>Initiates and manages negotiations with peers (internal and external to work unit) to gain commitment to projects, and delivery of activities to meet timelines</p> <p>Provides and receives highly complex, contentious or sensitive information where high levels of negotiation, communication and interpersonal skills are required</p> <p>Explains highly complex concepts, ideas and issues to an executive (i.e. non-expert) audience</p> <p>Represents own work area with external stakeholders, and effectively manages feedback</p>	<p>Is required to use formal and informal channels to influence organisation or program management to achieve goals</p> <p>Influences stakeholders holding competing priorities and views</p> <p>Briefs high level stakeholders in own area of expertise in a variety of forums</p> <p>Operates with loosely defined hierarchies of decision-making</p> <p>Negotiates to resolve differences to achieve agreement to project/program</p> <p>May be required to negotiate on the spot, often on the basis of limited information</p>

**Table 1.2: VBA Grade Descriptors and Value Range Standard Descriptors - Grades 5 And 6**

	<b>Grade 5</b>		<b>Grade 6</b>	
<b>Value Range</b>	<b>VR 1</b>	<b>VR 2</b>	<b>VR 1</b>	<b>VR 2</b>
			<p>Confidently represents the agency with external peers and negotiate within parameters agreed with immediate manager</p> <p>Focuses on understanding stakeholder issues and influencing their views</p> <p>Provides authoritative expert advice on complex issues within own area</p>	
<b>Policy and Projects</b>	<b>5.1C</b>	<b>5.2C</b>	<b>6.1C</b>	<b>6.2C</b>
	<p>Formulates policy options and advice</p> <p>Develops project briefs consistent with business plan direction</p> <p>Manages and leads projects</p> <p>Develops briefs on highly complex issues that provide options for discussion and consideration and will contribute to the development of a set of final options for decision</p>	<p>Advocates policy options</p> <p>Manages and leads complex projects</p>	<p>Responsible for operational policy or service development impacting on a major functional area</p> <p>Responsible for implementation of endorsed strategic policy within the functional area</p> <p>Routinely advises senior stakeholders on policy issues and solutions within a functional area</p>	<p>Responsible for operational policy or service development that has significant impact across functional areas</p> <p>Responsible for implementation of endorsed strategic policy across functional areas</p> <p>Area of expertise and responsibility is complicated by the scale and difficulty of the issues</p> <p>Manages major projects for the organisation</p> <p>Provides policy advice to government, senior levels of the organisation and key external stakeholders</p>
<b>Administrative and Corporate Support</b>	<b>5.1D</b>	<b>5.2D</b>	<b>6.1D</b>	<b>6.2D</b>

**Table 1.2: VBA Grade Descriptors and Value Range Standard Descriptors - Grades 5 And 6**

	<b>Grade 5</b>		<b>Grade 6</b>	
<b>Value Range</b>	<b>VR 1</b>	<b>VR 2</b>	<b>VR 1</b>	<b>VR 2</b>
	<p>Manages a discrete function with limited budget or staff responsibilities</p> <p>Provides high level expertise dealing with more complex issues in a specialised corporate support function</p>	<p>Manages a discrete function with increased budget, staff responsibilities, or sensitive or complex issues</p> <p>Provides professional leadership in a specialised corporate support function</p>	<p>Manages an area with significant budget, staff responsibilities or strategic importance</p> <p>Contributes to strategic corporate initiatives and is responsible for implementation</p>	<p>Provides leadership and guidance based on advanced expertise</p> <p>Manages a range of strategic corporate functions, each with significant budget, staff responsibilities or strategic importance</p> <p>Leads strategic corporate initiatives</p>
<b>Operational Service Delivery</b>	<b>5.1E</b>	<b>5.2E</b>	<b>6.1E</b>	<b>6.2E</b>
	<p>Manages cross-functional delivery within a defined service</p> <p>Develops service plans and delivery standards for the area of responsibility</p> <p>Determines service delivery resource allocation</p> <p>Provides specialist professional services or advice</p>	<p>Manages cross-functional delivery of a defined service with increased budget, staff responsibilities, or sensitive or complex issues</p> <p>Provides specialist professional services or advice, including leadership and guidance to other specialists in the field</p>	<p>Manages a large scale organisational service or regional delivery function</p> <p>Develops service delivery models within business plans and objectives</p> <p>Provides highly specialist services or expert advice on service delivery</p>	<p>Provides leadership and guidance based on advanced expertise</p> <p>Develops complex or specialised service delivery models</p> <p>Responsible for meeting service objectives, including financial, quality and time related targets for programs or major projects</p>
<b>Technical Specialist</b>	<b>5.1F</b>	<b>5.2F</b>	<b>6.1F</b>	<b>6.2F</b>
	<p>Specialist in an area of their profession and relied on for advice in this field</p> <p>Undertakes complex independent scientific, technical or specialist work and analysis</p> <p>Initiates research and analysis within an area of expertise</p>	<p>Provides leadership and guidance to other specialists in the field</p> <p>Contributes to the development of standards relating to the sector, program or profession</p>	<p>Subject matter expert that conceptualises, initiates, implements, promotes and evaluates complex and innovative technical programs</p> <p>Routinely advises senior levels of the organisation on policy issues and solutions within a functional</p>	<p>Area of expertise and responsibility is complicated by the scale and difficulty of the issues</p> <p>Provides leadership and guidance based on advanced expertise</p>

**Table 1.2: VBA Grade Descriptors and Value Range Standard Descriptors - Grades 5 And 6**

	<b>Grade 5</b>		<b>Grade 6</b>	
<b>Value Range</b>	<b>VR 1</b>	<b>VR 2</b>	<b>VR 1</b>	<b>VR 2</b>
	consistent with organisational objectives		area Develop technical or professional standards for the organisation	
<b>Knowledge and Proficiency</b>	<b>5.1G</b>	<b>5.2G</b>	<b>6.1G</b>	<b>6.2G</b>
	<p>Uses specialist knowledge within a confined field to challenge policies and professional concepts. Applies complex concepts to policy development or research</p> <p>Provides leadership in the adaptation and application of concepts to operational matters within local work area</p> <p>Models high level leadership attributes</p>	<p>Modifies and applies concepts to new situations that may impact beyond the immediate work area</p> <p>Provides leadership in the application of concepts to policy development</p>	<p>Uses knowledge of structures, processes and culture of government, the sector and the Department to develop policies and new program or project initiatives</p> <p>Applies complex concepts drawn from non-related fields to address policy issues</p> <p>High level expertise in the field or discipline</p>	<p>Proficiency and expertise has a significant impact on the capability to deliver the policy agenda, program or project initiatives</p> <p>High level expertise in the program area</p> <p>High level expertise in a field or discipline that is critical to the program or organisation</p>



**Table 1.3: VBA Grade Descriptors and Value Range Standard Descriptors - Senior Technical Specialist**

<b>Value Range</b>	<b>VR 1</b>	<b>VR 2</b>	<b>VR 3</b>
	<b>7.1A</b>	<b>7.2A</b>	<b>7.3A</b>
	<p>Leads highly specialised professional research, Provides professional leadership in a major program or field of research</p> <p>Manages a significant professional research institute or function with significant resource management responsibilities</p> <p>Provide state-wide expertise within a specific field of endeavour critical to the agency's overall program</p> <p>Responsible for quality professional outcomes of work</p> <p>Understands the implications of the work and its impact on/contribution to Departmental or Government policy</p> <p>Provides professional leadership and development of staff in area of professional expertise</p> <p>Influences departmental policy direction and may develop or change policy as a result of specialised work or research.</p> <p>Responsible for the quality professional outcomes of major projects</p> <p>Departmental and Statewide reputation is associated with positions at this level</p>	<p>This value range is characterised by work consistent with that expressed in Value range 1 with broader scope, complexity and impact</p> <p>Provides authoritative advice and leadership in area of expertise</p> <p>Manages a professional discipline that impacts on department wide operations and provides high level professional advice to programs across the agency</p> <p>Manages substantial resources primarily associated with projects of significance to the Department/Government or within the field of expertise</p> <p>Provides professional leadership and development of staff in area of professional expertise including leading and inspiring teams of fellow professionals</p>	<p>Regarded as having the highest level of expertise within the Agency and is recognised nationally and internationally in narrower fields</p> <p>Expertise is of primary importance to the Department/Government</p> <p>Considerable resource management responsibility primarily associated with projects of primary importance to the Department/Government or within the field of scientific or professional expertise</p> <p>Manages capital management projects in the order of multi-million dollar, cross portfolio or major agency projects</p>
<b>Decision Making</b>	<b>7.1B</b>		
<b>Accountability and Frameworks</b>	<p>Limited frameworks, precedents and guidelines beyond broad Government policy and professional discipline standards</p> <p>Generates strategic directions and programs for the agency or the sector</p> <p>Develops strategic frameworks for research or industry development</p>		

**Table 1.3: VBA Grade Descriptors and Value Range Standard Descriptors - Senior Technical Specialist**

<b>Value Range</b>	<b>VR 1</b>	<b>VR 2</b>	<b>VR 3</b>
	<p>Typically operates in an environment with a high degree of sensitivity or risk associated with the particular industry sector, field or professional endeavour</p> <p>Outcomes directly affect external perceptions of the Department by Government and the community</p> <p>Influences the national and international debate in the profession/ field of expertise</p>		
<b>Innovation and Originality</b>	<b>7.1C</b>		
	<p>Recognised nationally as a specialist in a particular field and applies this knowledge to achieve highly creative and/or innovative solutions to major challenges/ major projects</p> <p>Identifies and responds to new and emerging issues in the field and their longer term implications for the State</p>		
<b>Communication</b>	<b>7.1D</b>	<b>7.2D</b>	<b>7.3D</b>
	<p>Interacts with executives/ professional staff within the organisation and with other experts in the field/profession</p> <p>Communicates at highest managerial levels and with Ministers</p> <p>Communicates externally across industry. Can be at national and international levels</p> <p>Informs stakeholders of matters arising from 'professional/expert' role. As an expert, communication will rarely be questioned</p> <p>Close interaction with other professionals in the field</p> <p>Direct contact with senior political,</p>	<p>Develops and utilises national and international communication networks to ensure appropriate development and application of research or project initiatives in accordance with government priorities</p> <p>Negotiates elements of million dollar projects or the involvement or contribution of senior public or private sector leaders</p>	<p>Initiates and negotiates joint research programs with universities and other agencies</p> <p>Negotiates all aspects of multi-million dollar projects to ensure they are on-budget and on-time</p>

**Table 1.3: VBA Grade Descriptors and Value Range Standard Descriptors - Senior Technical Specialist**

<b>Value Range</b>	<b>VR 1</b>	<b>VR 2</b>	<b>VR 3</b>
	<p>commercial, community or sector stakeholders</p> <p>Provides expert information and advice on professional field of interest/major project/s</p> <p>Develops and utilises communication networks to ensure appropriate development and application of research or project initiatives in accordance with government priorities</p>		
<b>Knowledge and Proficiency</b>	<b>7.1E</b>		
	<p>Requires significant experience in the field/area of expertise</p> <p>Authoritative specialist/expert in the field</p> <p>Enhances the standing of the agency and its reputation for excellence</p> <p>Writes, publishes and presents research, arguments and cases to peers, stakeholders and senior management</p> <p>Demonstrates strategic management skills</p> <p>Combines significant achievement with a substantial body of demonstrated effectiveness and professional experience</p>		

## Schedule D Supported Wage System

### 1. Supported Wage System

1.1 This schedule deals with the calculation of minimum rates of pay 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 clause, 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, as documented in the Supported Wage System (SWS) Handbook.
- (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(Cth)* 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.
- (e) **SWS wage assessment** agreement means the document in the form required by the Department of Social Services that records the employee's productive capacity and agreed wage rate.

### 1.2 Eligibility criteria

- (a) Employees covered by this clause 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.
- (b) This clause does not apply to any existing employee who has a claim against the employer which is subject to the provisions of accident compensation legislation or any provision of this Agreement relating to the rehabilitation of employees who are injured in the course of their employment.
- (c) This clause does not apply to employers in respect of their facility, programme, undertaking, service or the like which receives funding under the *Disability Services Act 1986 (Cth)* 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 the *Disability Services Act 1986 (Cth)*, or if a part only has received recognition, that part.

### 1.3 Supported wage rates

- (a) Supported wage rates must be calculated as a percentage of the minimum rate of pay prescribed by this Agreement for the class of work the person is performing according to the following table:

Assessed capacity	Percentage of prescribed agreement rate
10% *	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

- (b) Provided that the minimum amount payable to an Employee is not less than \$89.00 per week effective 1 July 2020. This rate will be adjusted by the movement in the Special national minimum wage 2 as determined by the annual National minimum Wage Order.
- (c) \* Where a person's assessed capacity is 10 per cent, they shall receive a high degree of assistance and support.

### 1.4 Assessment of capacity

- (a) For the purpose of establishing the applicable 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 by an approved assessor, having consulted with the Employer and Employee, and if the Employee so desires, a union which the Employee is eligible to join.
- (b) All assessments 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.

### 1.5 Lodgement of assessment instrument

- (a) All SWS wage assessment agreements under this Schedule, including the applicable percentage of the Agreement Salary to be paid to the Employee, must be lodged by the Employer with FWC.
- (b) All SWS wage assessment agreements must be agreed and signed by the parties to the assessment.

## **1.6 Review of assessment**

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 shall be in accordance with the procedures for assessing capacity under the supported wage system.

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

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

## **1.8 Workplace adjustment**

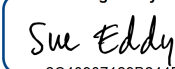
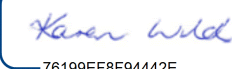
The Employer wishes to employ a person under the provisions of this clause they must take reasonable steps to make changes in the workplace to enhance the Employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other employees in the area.

## **1.9 Trial period**



- (a) In order for an adequate assessment of the employee's capacity to be made, the Employer may employ a person under the provisions of this clause for a trial period not exceeding twelve weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- (b) During that trial period the assessment of the employee's capacity shall be undertaken and the proposed salary rate for a continuing employment relationship shall be determined.
- (c) The minimum amount payable to the employee during the trial period shall be no less than \$89 per week effective 1 July 2019. The rate will be adjusted by the movement in the Special national minimum wage 2 as determined by the annual National Minimum Wage Order.
- (d) Work trials should include induction or training as appropriate to the job being trialled.
- (e) Where the Employer 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 1.4** hereof.

## Signatories

**SIGNED** for and on behalf of the **VICTORIAN BUILDING AUTHORITY** by its authorised representatives:

<p>DocuSigned by:</p>  <p>2C40907129B244D...</p> <p>Signature:</p>	<p>DocuSigned by:</p>  <p>76199EF8F94442E...</p> <p>Witness Signature:</p>
<p><b>SUE EDDY (or representative)</b> <b>Chief Executive Officer, Victorian Building Authority</b> 733 Bourke Street, Docklands VIC 3008</p>	<p>Name of witness: <b>Karen Wild</b></p>

**SIGNED** for and on behalf of **CPSU, THE COMMUNITY AND PUBLIC SECTOR UNION** by authorised officer.

 <p>Signature:</p>	 <p>Witness Signature:</p>
<p><b>WAYNE TOWNSEND</b> <b>Branch Assistant Secretary,</b> <b>CPSU/SPSF Victorian Branch</b> Level 4/128 Exhibition Street, Melbourne 3000</p>	<p>Name of witness: <b>JASON CLEELAND</b></p>

## Undertaking Section 190

### Victorian Building Authority Enterprise Agreement 2020-2024 (AG2021/5826)

#### Written undertakings under section 190 of the *Fair Work Act 2009*

I, Karen Wild, Executive Director, People and Capability of the Victorian Building Authority, give the following undertaking with respect to the Victorian Building Authority Agreement 2020 ("the Agreement").

1. I have the authority given to me by the Victorian Building Authority to provide this undertaking in relation to the application before the Fair Work Commission.

#### **2. Undertaking for payment of salaries to Legal Officers**

In the event that the VBA employs Legal Officers at Grades 1, 2, or 3 as defined in the Victorian State Government Agencies Award 2015 (Award), the VBA will ensure that they are engaged with terms and conditions better off overall than the Award, and that they are remunerated at a salary increment level above the wages amount contained within the Award.

3. This undertaking is provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

Signed by the Victorian Building Authority in accordance with section 190(5) of the Act

Signature: 

Name: Karen Wild

Date: 9 July 2021