



**Australian Government**

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**Australian Transport Safety Bureau**

**Enterprise Agreement  
2009 - 2011**

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## **SECTION A SCOPE OF THE AGREEMENT**

### **A1 ORGANISATIONAL OBJECTIVES**

**A1.1** On 1 July 2009, the Australian Transport Safety Bureau (ATSB) became a Commonwealth Government statutory Agency, independent of the Department of Infrastructure, Transport, Regional Development and Local Government. The Bureau is now governed by a Commission and is entirely separate from transport regulators, policy makers and services providers. The ATSB's function is to improve safety and public confidence in the aviation, marine and rail modes of transport through excellence in:

- (a) independent investigation of transport accidents and other safety occurrences;
- (b) safety data recording, analysis and research; and
- (c) fostering safety awareness, knowledge and action.

### **A2 BACKGROUND**

**A2.1** In accommodating these recent Machinery of Government changes, the ATSB through its bargaining representatives determined that the preferred basis for this particular agreement would be an amalgamation of the following:

- (a) the relevant conditions of employment as contained within the extant Department of Infrastructure, Transport, Regional Development and Local Government Enterprise Agreement 2009-2011; and
- (b) the specific Transport Safety Investigator conditions that were not carried over from the previous Department of Transport and Regional Services Collective Agreement 2006-2009.

### **A3 STRATEGIC INTENT**

**A3.1** While acknowledging the amalgamation of these conditions of employment is the most practical course of action in light of the recent transition, management (over the life of this agreement) will remain committed to ongoing continuous improvement initiatives that recognise the benefits and constraints of working in a smaller specialist organisation. These improvements will be built upon and fostered through the existing culture of openness and trust, and the shared commitment to achieve organisational objectives.

## **SECTION B     ACHIEVING RESULTS THROUGH PEOPLE**

### **B1           INTRODUCTION**

**B1.1**       The ATSB and its employees commit to the following four key principles underpinning performance exchanges and individual plans:

- (a) commitment - to develop people to achieve the Bureau's aims and objectives;
- (b) planning - to be clear about the Bureau's aims and objectives and what people need to do to achieve them;
- (c) action - to develop people effectively in order to improve performance; and
- (d) evaluation - to understand the impact of investing in people to achieve good performance.

### **B2           STUDY ASSISTANCE**

**B2.1**       In the context of developing employees to achieve the ATSB's objectives and to improve performance, the Bureau encourages employees to undertake tertiary, professional or technical study.

**B2.2**       Financial assistance may be approved by the appropriate delegate for any or all of the following items in accordance with the ATSB's study assistance employment procedure:

- (a) the amount of the discounted up-front fee for Commonwealth supported places, or up to 100% of other course/tuition fees (if no discount is available);
- (b) compulsory administrative fees (if any) imposed by the educational, technical or professional institution;
- (c) the accommodation and travel costs of compulsory residential programs for external students; and
- (d) any other compulsory costs if, in the opinion of the Chief Executive Officer (CEO), non-payment would hinder a student's ability to complete an approved course of study satisfactorily.

**B2.3**       The CEO may approve up to eight hours paid leave per week to enable an employee to travel to and attend lectures.

**B2.4**       If an employee voluntarily leaves the ATSB (and not due to extenuating circumstances such as, but not restricted to and on a case-by-case basis, illness, redeployment, retrenchment or redundancy), or has their employment terminated due to misconduct within 12 months of the date of the financial assistance, the Bureau may seek reimbursement of the financial assistance paid during this period.

### **B3           PROFESSIONAL MEMBERSHIPS/ACCREDITATIONS**

**B3.1**       The ATSB recognises the benefits of membership of professional organisations and may reimburse membership fees and accreditation fees where a membership or accreditation from a professional association is appropriate or required for an employee to undertake their responsibilities for the Bureau.

## **B4 RECOGNITION AND REWARD**

**B4.1** Recognition and reward schemes will operate to:

- (a) encourage and reward achievements by individuals and teams; and
- (b) strengthen commitment to the values and objectives of the ATSB by encouraging behaviours which align with the APS values and the Bureau's service standards.

**B4.2** Informal recognition is an essential component of the feedback between manager and employee. The ATSB will support strategies aimed at ensuring high levels of informal recognition. The Bureau will encourage coaching, mentoring and feedback programs that reinforce the importance of informal recognition strategies.

## **B5 MANAGING INDIVIDUAL PERFORMANCE**

**B5.1** The ATSB's employment procedures set out how individual performance is managed.

**B5.2** Individual performance management is an important way of improving personal performance, recognising personal achievement and meeting the ATSB's objectives. All employees including supervisors are expected to participate in regular, interactive and constructive two-way feedback in accordance with the Bureau's guidelines and policies.

**B5.3** The ATSB aims to improve its individual performance management system during the life of this Agreement by:

- (a) providing increased clarity around performance requirements; and
- (b) better articulating the expected outcomes and key performance indicators for employees, which will be aligned with the Bureau's business plans.

**B5.4** There is an obligation for all employees including supervisors to participate fully in the ATSB's individual performance management system.

### **Performance Standards**

**B5.5** As part of six monthly performance exchanges, each employee will be assessed against the following performance standards:

- (a) "exceeds expectations" – based on the "plan-on-a-page" and the ATSB's work level standards, the employee has clearly and consistently demonstrated superior overall performance and made significant contributions, exceeding the performance standards for the job. Objectives not met were due to circumstances beyond the individual's control;
- (b) "effective" – based on the "plan-on-a-page" and the ATSB's work level standards, the employee has consistently demonstrated effective performance and met the performance standards for the job. Objectives not met were due to circumstances beyond the individual's control; or
- (c) "requires development" – based on the "plan-on-a-page" and the ATSB's work level standards the employee requires further development in order to meet the performance standards for the job.

**B5.6** In addition to the ATSB's work level standards, detailed advice on performance standards and on how performance will be fairly assessed will be set out in the ATSB's employment procedures.

**B5.7** The ATSB will consult with employees using the consultative arrangements (clause C2) in relation to any proposed amendments to the ATSB's employment procedures concerning performance standards and assessment of performance standards and the Bureau's work level standards.

**B6 MANAGING UNDERPERFORMANCE**

**B6.1** The ATSB's employment procedures set out how underperformance is managed.

**B7 RECRUITMENT**

**B7.1** All recruitment decisions in the ATSB are made in accordance with the *Public Service Act 1999*, and the Public Service Commissioner's Directions.

Section 10(2) of the PS Act sets out that a decision relating to engagement and promotion is based on merit if:

- (a) an assessment is made of the relative suitability of candidates for the duties, using a competitive selection process; and
- (b) the assessment is based on the relationship between the candidates' work-related qualities genuinely required for the duties; and
- (c) the assessment focuses on the relative capacity of the candidates to achieve outcomes related to the duties; and
- (d) the assessment is the primary consideration in making the decision.

For other selection decisions, such as assignment of duties at level or to a lower classified position, whether on an ongoing or temporary basis or temporary assignments to a higher classification, merit is defined at Clause 2.3(1) (b) of the Public Service Commissioner's Directions:

*For any other employment decision in the Agency the decision is made on the basis of an assessment of a person's work-related qualities and the work-related qualities required for efficient and effective organisational performance.*

**B7.2** Where a permanent vacancy exists, the CEO may:

- (a) transfer an employee whose substantive level is the same as the vacancy; or
- (b) advertise the vacancy internally and/or externally for filling.

The CEO will use the relevant processes as outlined in the ATSB's employment procedures on selection and recruitment.

**B7.3** In determining the process to be used at **subclause B7.2**, the CEO will take into account the employees who work in activities where funding is unlikely to be continued.

**B7.4** Jobs that are, or are likely to be, available for periods of greater than eight weeks will first be advertised within the ATSB as open to all ongoing employees.

**B7.5** The reasons for decisions taken in respect of selection activities are to be documented and retained in accordance with procedures outlined in the ATSB's employment procedures on selection and recruitment.

**B7.6** Feedback, about why an employee was not successful, is to be provided to that employee if he or she is unsuccessful in obtaining an advertised vacancy. Feedback should include information on areas where the employee needs to develop to be successful for similar vacancies in the future.

**B8 PROVISION OF LEGAL COUNSEL**

**B8.1** If an employee is required to attend a court, tribunal, or other similar forum, as part of the employee's official duties for the ATSB, the employee will be provided with appropriate legal representation consistent with the Bureau's Chief Executive's Instructions.

## **SECTION C     ACHIEVING EQUALITY AND FAIRNESS IN THE                   WORKPLACE**

### **C1            WORK LIFE BALANCE**

**C1.1**        The ATSB recognises the need for employees to establish an appropriate balance between work and other commitments. To meet this goal the Bureau will:

- (a)   continue to offer flexible working hours;
- (b)   retain flexible leave provisions; and
- (c)   facilitate home-based work.

### **C2            CONSULTATION TERM – MAJOR CHANGES**

**C2.1**        This term applies if the ATSB has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and the change is likely to have a significant effect on employees of the enterprise.

**C2.2**        The ATSB must notify the relevant employees of the decision to introduce the major change.

**C2.3**        The relevant employees may appoint a representative for the purposes of the procedures in this term if; a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and the employee or employees advise the Bureau of the identity of the representative; the Bureau must recognise the representative.

**C2.4**        As soon as practicable after making its decision, the ATSB must discuss with the relevant employees: the introduction of the change; the effect the change is likely to have on the employees; for the purposes of the discussion — provide, in writing, to the relevant employees:

- (a)   all relevant information about the change including the nature of the change proposed;
- (b)   information about the expected effects of the change on the employees; and
- (c)   any other matters likely to affect the employees.

**C2.5**        However, the ATSB is not required to disclose confidential or commercially sensitive information to the relevant employees.

**C2.6**        The ATSB must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

**C2.7**        If a term in the enterprise agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in subclauses (2.2), (2.3) and (2.4) are taken not to apply.

**C2.8**        In this term, a major change is likely to have a significant effect on employees if it results in:

- (a)   the termination of the employment of employees;

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

**C2.9** In this term, relevant employees mean the employees who may be affected by the major change.

### **C3 CONSULTATION TERM - OTHER**

**C3.1** In addition to the model term set out in sub-clauses C2.1 to C2.9, the following consultative framework is established in recognition that the parties covered by this agreement value open communication, co-operation and input from employees and their representatives on matters that affect their workplace.

**C3.2** Under this framework, consultation involves:

- (a) providing relevant information to employees and their representatives;
- (b) providing reasons for proposed decisions;
- (c) providing employees and their representatives the opportunity to put their views to the appropriate decision-maker;
- (d) providing feedback to employees and their representatives on those views; and
- (e) considering the views of employees and their representatives before the final decision is made.

**C3.3** In facilitating this consultation, the ATSB will utilise the following mechanisms:

- (a) CEO updates;
- (b) all staff meetings;
- (c) post Executive Management Team meeting updates; and through
- (d) document change control processes available through the Safety Investigation Quality System.

### **C4 REPRESENTATION**

**C4.1** In any matter arising under this agreement, an employee may have an employee representative, which may be a union workplace delegate, assist or represent them, and all relevant persons will deal with any such representative in good faith.

## **C5 PRINCIPLES FOR WORKPLACE DELEGATES**

**C5.1** The role of union workplace delegates is to be respected and facilitated. The ATSB and workplace delegates will deal with each other in good faith. The rights of union workplace delegates and recognised representatives include but are not limited to:

- (a) the right to be treated fairly and to perform their role as workplace delegates without any discrimination in their employment;
- (b) recognition by the Bureau that endorsed workplace delegates speak on behalf of their members in the workplace;
- (c) the right to participate in collective bargaining on behalf of those who they represent, as per the Fair Work Act;
- (d) the right to reasonable paid time to provide information to and seek feedback from employees in the workplace;
- (e) reasonable paid time off to represent union members in the Bureau at relevant union forums;
- (f) reasonable access to agency facilities for the purpose of carrying out work as a delegate and consulting with workplace colleagues and the union, subject to Bureau policies and protocols;
- (g) reasonable paid time during normal working hours to consult with colleagues in the workplace;
- (h) reasonable access to appropriate training in workplace relations matters including training provided by the union;
- (i) the right to consultation, and access to relevant information about the workplace and the Bureau; and
- (j) the right to reasonable paid time to represent the interests of members to the Bureau and industrial tribunals

**C5.2** The ATSB will seek to facilitate official union communication with employees by means they may include:

- (a) the use of email as a means of communicating with employees and other means of information sharing, including written materials and access to the internal website; and
- (b) group or individual meetings between employees and their representatives.

**C5.3** In exercising their rights, workplace delegates and unions will consider operational issues, ATSB policies and guidelines and the likely affect on the efficient operation of the Bureau and the provision of services by the Commonwealth.

## **C6 DIVERSITY**

**C6.1** The ATSB and its employees commit to respecting and valuing the diversity of the Bureau's workforce by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

**C6.2** The parties covered by this Agreement recognise their shared desire to assist and involve Indigenous people in the workplace by:

- (a) providing a sensitive and supportive environment for Indigenous people; and

- (b) supporting Australian Government programs in relation to employment of Indigenous people.

**C6.3** Every endeavour will be made to ensure that neither the Agreement nor its operations are directly or indirectly unlawfully discriminatory in effect.

**C7 CARER'S FACILITIES**

**C7.1** The ATSB will maintain, where practicable, facilities to allow employees with child caring responsibilities to perform their duties in the workplace, on a needs basis.

**C8 RETAINING SKILLED EMPLOYEES, INCLUDING MATURE AGED EMPLOYEES**

**C8.1** The ATSB recognises the value of retaining skilled and experienced employees, including mature aged employees and will support Australian Government programs in relation to the employment and retention of mature aged employees. With the continued ageing of the Australian workforce, management and work practices should optimise the contribution of mature age employees, and encourage those who are making a valuable contribution to stay longer in the workforce.

**C8.2** In keeping with the ATSB's commitment to work/life balance, flexible working arrangements such as part-time work and other provisions contained in this Agreement can be suitable for use by mature age employees as a means to assist their transition to retirement. Employees are encouraged to explore these flexibilities as a means of extending their working lives. Subject to operational requirements, managers will consider flexible working arrangements including phased-in retirement, postponed retirement and options to return to work post-retirement, as a means of retaining mature age employees who might otherwise choose to leave the Bureau.

## **SECTION D     ACHIEVING SAFETY IN THE WORKPLACE**

### **D1           ACCOMMODATION**

**D1.1**       The parties covered by this Agreement agree that accommodation, including the provision of employee amenities to both Canberra and regional based employees, will be designed and implemented through a consultative process in accordance with the following principles, subject to any APS wide arrangements initiated during the life of the Agreement or if there are any specialist accommodation requirements:

(a)   Organisational

- i)       optimise opportunities for improved work group efficiency and productivity, with a view to maintaining current amenity;
- ii)      optimise the operational and physical flexibility for the whole of the organisation and for individual work groups;
- iii)     maximise the interaction within and between groups and individuals;
- iv)      express a unified corporate identity;
- v)       improve workplace environment; and
- vi)      support organisational change.

(b)   Fit-Out Design

- i)       provide an environment that has the capacity to meet the changing organisational needs of the ATSB;
- ii)      provide standardised work-points which can easily and quickly be re-configured without disturbing productivity;
- iii)     provide a practical work environment;
- iv)      meet Australian standards for lighting, air-conditioning and air-quality, while mindful of energy obligations;
- v)       maximise access to natural light;
- vi)      standardise furniture;
- vii)     provide functional areas for staff, e.g., meeting rooms, break-out areas, storage, photocopy areas; and
- viii)    provide for more efficient use of work areas, offices, meeting and tertiary spaces.

**D1.2**       The ATSB will comply with the following minimum standards:

- (a)   individual work spaces in a standard four-booth configuration will be 7.74m<sup>2</sup>, with a minimum of 7.3m<sup>2</sup> for non-standard configurations - individual work space includes the standard suite of work station furniture (desk, chair, bookcase and storage unit/locker) and circulation space;
- (b)   individual work spaces provided for TSIs in a standard single booth configuration will be 12m<sup>2</sup> - individual work space includes the standard suite of work station furniture (desk, chair, bookcase and 2 x storage unit/locker/go-kit) and circulation space;
- (c)   office space allocation per employee to be no less than 17m<sup>2</sup> - office space includes all meeting, utility, office and ancillary space.

**D2 OCCUPATIONAL HEALTH AND SAFETY**

- D2.1** The ATSB and its employees agree that they will strive to promote and maintain a safe workplace and work environment, one that is free from bullying, harassment and unsafe practices.
- D2.2** OH&S and protection from bullying and harassment are to be facilitated by appropriate measures including Health and Safety Management Arrangements (HSMAs), OH&S polices, OH&S Committee maintenance and an agreement with employee representatives under sub-section 16(3)(c) of the OHS Act, with any disputes being dealt with under the terms of this Agreement. The Bureau will:
- (a) conduct and maintain a health and wellbeing program;
  - (b) monitor OH&S issues and make available funding within budget for activities which address prevailing OH&S issues including, for example, personal protective equipment;
  - (c) make available annual influenza vaccinations to all employees;
  - (d) provide access by employees and their families to the Employee Assistance Program;
  - (e) provide access to specialist critical incident stress debriefing to employees as required; and
  - (f) provide reasonable time of in lieu (TOIL) for additional time worked by employees following deployment to an accident site, in accordance with the Safety Investigation Policy and Procedures Manual.
- D2.3** The ATSB will continue to provide Fire and Building Wardens, First Aid Officers, first aid kits and carer's rooms.

## **SECTION E DISPUTE RESOLUTION TERM**

### **E1 DISPUTE RESOLUTION**

- E1.1** If a dispute relates to: a matter arising under the agreement; or the National Employment Standards, this term sets out procedures to settle the dispute.
- E1.2** An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.
- E1.3** In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.
- E1.4** If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to Fair Work Australia.
- E1.5** Fair Work Australia may deal with the dispute in 2 stages:
- (a) Fair Work Australia will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
  - (b) if Fair Work Australia is unable to resolve the dispute at the first stage, Fair Work Australia may then:
    - (i) arbitrate the dispute; and
    - (ii) make a determination that is binding on the parties.

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

- E1.6** While the parties are trying to resolve the dispute using the procedures in this term:
- (a) an employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety;
  - (b) and an employee must comply with a direction given by the ATSB to perform other available work at the same workplace, or at another workplace, unless:
    - (i) the work is not safe; or
    - (ii) applicable occupational health and safety legislation would not permit the work to be performed; or
    - (iii) the work is not appropriate for the employee to perform; or
    - (iv) there are other reasonable grounds for the employee to refuse to comply with the direction.
- E1.7** The parties to the dispute agree to be bound by a decision made by Fair Work Australia in accordance with this term.

## **SECTION F SALARY & CLASSIFICATION**

### **F1 CLASSIFICATION STRUCTURE**

- F1.1** The ATSB's classification structure below the SES will continue. It consists of the classifications specified within the tables at Section N.
- F1.2** The TSI designation incorporates all employees undertaking investigatory functions in the ATSB in a single structure aligned to the APS classification framework.
- F1.3** There are four TSI levels:
- (a) Transport Safety Investigator (APS 6 equivalent);
  - (b) Senior Transport Safety Investigator (broadbanded EL1 — EL2 equivalent);
  - (c) Team Leader Transport Safety Investigation (EL2 equivalent); and
  - (d) Director Transport Safety Investigation (EL2 equivalent).
- F1.4** TSI (APS6) and Senior TSI (EL1 and EL2) levels are broad-banded with soft barriers between APS6 and EL1, and EL1 and EL2.

### **F2 INCREASES**

- F2.1** The ATSB and its employees, in agreeing to the terms and conditions of this Agreement for its duration, confirm they will pursue productivity gains, flexible work practices, and continuous improvement, and agree that employees will receive the salary increases specified at Section N.
- F2.2** The ATSB will pay its employees a \$500 payment on commencement of this Agreement.

### **F3 EMPLOYEES ON NON-STANDARD SALARY RATES**

- F3.1** Employees in receipt of a salary rate not listed in Section N will remain on that rate until it reaches the relevant equivalent salary point for the employee's classification as a result of the salary increases applying under this Agreement.

### **F4 PAYMENT OF SALARY**

- F4.1** Employees will be paid fortnightly in arrears based on the following formula:

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

- F4.2** Each employee will be paid his or her fortnightly pay by electronic funds transfer into the financial institution account nominated by the employee.
- F4.3** An employee may be paid salary in advance if the CEO approves prepayment on the basis of the employee's special circumstances.

### **F5 FLEXIBILITY ARRANGEMENTS**

- F5.1** The ATSB and its employees covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
- (a) the agreement deals with one or more of the following matters:
    - (i) arrangements about when work is performed;

- (ii) overtime rates;
  - (iii) allowances;
  - (iv) remuneration;
  - (v) leave; and
- (b) the arrangement meets the genuine needs of the Bureau and employee in relation to one or more of the matters mentioned in paragraph (a); and
- (c) the arrangement is genuinely agreed to by the Bureau and employee.

**F5.2** The ATSB must ensure that the terms of the individual flexibility arrangement:

- (a) are about permitted matters under section 172 of the FW Act;
- (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.

**F5.3** The ATSB will ensure that the individual flexibility arrangement:

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

**F5.4** The ATSB must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

**F5.5** The ATSB or employee may terminate the individual flexibility arrangement:

- (a) by giving 28 days written notice to the other party to the arrangement; or
- (b) if the Bureau and employee agree in writing — at any time.

**F6 SALARY ON ENGAGEMENT AND PROMOTION**

**F6.1** Subject to the following clauses, if an employee is engaged or promoted to a classification within the ATSB, salary will be payable at the minimum salary point within the relevant classification.

**F6.2** The CEO may authorise payment of salary above the minimum point in the salary range after considering the employee's experience (including any previous periods of ARA at or above that level), qualifications, skills, and any other relevant factor.

**F7 SALARY ON MOVEMENT FROM ANOTHER APS AGENCY**

**F7.1** If an employee transfers to the ATSB from another APS agency, the CEO will determine a rate of salary applying to the new job in light of the rate of salary the employee previously received.

**F7.2** At the discretion of the CEO an employee moving to the ATSB whose salary in their previous agency (current salary) exceeds the current rate the employee would otherwise be entitled to under this agreement, the employee will be maintained on their current salary until such time as their salary is absorbed by Bureau pay increases.

**F8 SALARY ON REDUCTION**

**F8.1** If an employee requests, in writing, a temporary reassignment of duties at a lower classification level, the CEO may determine in writing that the employee will be paid a rate of salary applicable to the lower level for the period specified in the request.

**F8.2** If an employee is reduced to a lower classification, the CEO will determine the employee's salary point on the basis of the lower classification.

**F9 EMPLOYEES PERFORMING IRREGULAR DUTIES**

**F9.1** A non-ongoing employee engaged to perform irregular or intermittent duties under paragraph 22(2)(c) of the PS Act will receive a salary loading of 20% in lieu of Public Holidays, Annual and paid Personal Circumstances Leave.

**F10 GRADUATE APS EMPLOYEES**

**F10.1** Graduate APS employees will be paid the salary specified in Section N for the duration of their training.

**F10.2** Graduate APS employees will undertake a course of training as determined by the CEO.

**F10.3** On successfully completing their training, Graduate APS employees will progress to the minimum salary point within the APS Level 3 / APS Level 4 (Graduate) Broadband subject to effective performance.

**F10.4** Prior to being transferred to the general APS classification structure, Graduate APS employees will be assigned an APS level 4 classification within the graduate broadband in accordance with the *Public Service Classification Rules 2000* (as amended from time to time).

**F11 CADET APS EMPLOYEES**

**F11.1** Subject to the following clause, Cadet APS employees' rates of pay as a percentage of the APS Level 1.1 salary point will apply as follows:

(a) 100% when undertaking practical training; and

(b) 57% when undertaking full-time study.

**F11.2** Cadet APS employees will undertake a course of training as determined by the CEO.

**F11.3** Junior rates of pay apply to both practical training and full-time study.

**F11.4** The ATSB will assist Cadet APS employees to purchase compulsory books and any other equipment required for their studies.

**F11.5** On successfully completing their training, Cadet APS employees will progress to a salary point at or above the minimum salary point applying to APS Level 3 as determined by the CEO and will be assigned to this APS classification or such other classification which is in accordance with the *Public Service Classification Rules 2000* (as amended from time to time).

## **F12 REMUNERATION PACKAGES**

**F12.1** Employees have access to flexible remuneration packages, provided that the employee meets any costs (eg, establishment and administration fees etc) incurred by the ATSB.

**F12.2** If an employee opts for flexible remuneration packaging on the basis of 'salary sacrifice', the employee's salary for purposes of superannuation or severance and termination will be determined as if the salary sacrifice arrangements had not taken place.

## **F13 SUPERANNUATION**

**F13.1** For an employee who exercises superannuation choice, the ATSB will maintain the maximum basic contribution for designated employers as specified in Part 2, Division 2 of the Deed to establish the Public Sector Scheme Accumulation Plan (PSSap) (pursuant to section 10 of the Superannuation Act). For the purpose of this **clause F15**, an employee is an employee who, if not for the exercise of superannuation choice, would be an ordinary employer sponsored member of the PSSap.

**F13.2** The ATSB may choose to limit superannuation choice to funds which:

- (a) are complying and registered superannuation funds;
- (b) allow employee and/or employer contributions to be paid fortnightly through electronic funds transfer; and
- (c) make satisfactory arrangements for the acceptance of payments from the Bureau and for information transfer between the Bureau's payroll and the fund.

## **F14 PAYMENT ON DEATH OF EMPLOYEE**

**F14.1** Where an employee dies, or the CEO has directed that an employee will be presumed to have died on a particular date, the CEO may authorise the payment of the amount to which the former employee would have been entitled had the employee ceased employment through resignation or retirement. Payment may be made to dependants or the partner of the former employee or to their legal representatives. If a payment has not been made within a year of the former employee's death, it should be paid to the former employee's legal representative.

## **F15 SALARY PROGRESSION**

**F15.1** Unless otherwise provided in this **clause F17**, an employee will be entitled to progress one salary point up the salary scale applying to the employee's classification after 12 months employment at that salary point. The 12 months period excludes any leave without pay totalling more than 30 calendar days

**F15.2** The date for salary progression includes any period of service at an equivalent salary point in another salary and/or classification structure (including any previous periods of ARA at or above that level within the 12 month period).

**F15.3** Salary progression is subject to confirmation by the employee's supervisor that the employee:

- (a) has participated in the individual performance management system; and
- (b) has met the requirements of his or her job, including achieving a rating of "effective" or "exceeds expectations" in the employee's performance management review; and
- (c) satisfies any qualifications criteria or prescribed work level standards for progression; and
- (d) satisfies any accelerated advancement requirements determined by the CEO.

**F16 ACCELERATED SALARY PROGRESSION**

**F16.1** A supervisor may recommend an employee for accelerated salary progression if the employee has demonstrated outstanding skills and competencies (ie, above the capability indicators applying to the classification level).

**F16.2** The CEO may progress the employee to the next salary point up the salary scale applying to the employee's classification before he or she has completed 12 months employment at that salary point on the recommendation of the employee's supervisor. The supervisor will confirm that the employee has participated in the performance planning process; and has met the requirements of his/her job, including achieving a minimum rating of "effective" at the time the request for accelerated salary progression is submitted.

**F16.3** In spite of anything else in this **clause F16**, accelerated salary progression is subject to:

- (a) any qualifications criteria or prescribed work level standards for progression; and
- (b) any accelerated advancement requirements determined by the CEO.

**F17 EMPLOYEES PERFORMING LEGAL DUTIES**

**F17.1** The APS3.1 LAW through to APS 6.3 LAW levels salary points are broad-banded with soft barriers. A merit selection process will apply between the EL 1.3 SLAW and the EL 2.1 PLAW.

**F17.2** Salary progression between APS3.1 LAW through to APS 6.3 LAW salary points are subject to confirmation by the employee's supervisor that the employee:

- (a) has participated in the individual performance management system; and
- (b) has met the requirements of his or her job, including (but not limited to) achieving a rating of "effective" or "exceeds expectations" in the employee's performance management review.

**F17.3** An employee locally designated as a Lawyer (APS 6) will not progress beyond the APS 6.3 LAW salary point to the Senior Lawyer (EL 1) salary point 1 or higher unless:

- (a) has participated in the individual performance management system; and
- (b) has met the requirements of his or her job, including (but not limited to) achieving a rating of "effective" or "exceeds expectations" in the employee's performance management review; and
- (c) in the opinion of the CEO, the level of the work allocated to the employee is classified as higher level work; and

- (d) the employee has performed work at the higher level for a minimum of three months and has satisfied all advancement criteria.

**F17.4** An employee performing legal duties will be assigned an APS classification and relevant salary point as outlined in Section N of this agreement.

**F17.5** Where it is required for an employee to undertake their responsibilities as a lawyer for the ATSB, the Bureau will reimburse the annual cost of their practising certificate and other costs (if any) in maintaining their accreditation, including for any CLE (Continuing Legal Education) requirements.

**F18 EMPLOYEES PERFORMING PUBLIC AFFAIRS DUTIES**

**F18.1** For the purposes of determining salary on engagement, promotion, movement from another APS agency, reduction and salary progression, those employees employed to perform duties commensurate with those determined by the CEO as:

- (a) APS Level 6 (Public Affairs) shall operate only salary points APS Level 6.2, 6.3 and 6.5; and
- (b) Executive Level 1 (Public Affairs) shall operate only salary points EL1.2, EL1.4 and EL1.5; and
- (c) Executive Level 2 (Public Affairs) shall operate only salary points EL2.3 and EL2.4

## **SECTION G ALLOWANCES**

### **G1 INTRODUCTION**

- G1.1** Unless otherwise specified, the rates in this Section G come into effect on the first pay day after the Agreement commences.
- G1.2** Unless otherwise stated in this Section G, allowances will:
- (a) be paid during periods of paid leave if an employee would have continued to receive the allowance but for the leave taken;
  - (b) be reduced on a pro rata basis during periods of leave taken at less than full pay; and
  - (c) not count for superannuation purposes.
- G1.3** An employee who is paid an allowance under this Section G and who does not perform the duties for which the allowance is paid must repay the amount of that allowance.

### **G2 ADDITIONAL RESPONSIBILITY ALLOWANCE (ARA)**

- G2.1** Additional Responsibility Allowance (ARA) is paid for additional and/or higher work value duties performed by an employee.
- G2.2** The CEO will determine the level of ARA payable and the period for which it is to be paid.
- G2.3** An employee who is temporarily reassigned to perform duties at the SES level will be eligible for ARA.
- G2.4** ARA may be paid to TSIs for involvement in Level 1 and 2 investigations.
- G2.5** ARA is paid fortnightly and counts as salary for superannuation purposes.
- G2.6** ARA is payable for periods of additional responsibility of 10 working days or more but payment must not extend beyond 12 months, except in exceptional circumstances and where authorised by the CEO.

### **G3 FIRE WARDEN ALLOWANCE, FIRST AID OFFICER ALLOWANCE AND HEALTH AND SAFETY REPRESENTATIVE ALLOWANCE**

- G3.1** Subject to **subclause G3.2**, an employee will be paid a fortnightly allowance of \$21 if he or she:
- (a) holds a current first aid certificate and has been authorised by the employer to perform first aid duties; or
  - (b) holds a fire safety training certificate and the CEO has authorised the employee to perform Fire Warden duties; or
  - (c) holds a certificate from an accredited health and safety training organisation and is elected by members of his or her designated work group to perform health and safety representative duties.
- G3.2** Employees will not be paid more than one allowance pursuant to **subclause G3.1**.

**G3.3** A Fire Warden Allowance, a First Aid Officer Allowance and a Health and Safety Representative Allowance count as salary for superannuation purposes.

**G4 ORGANISATIONAL LIAISON OFFICER ALLOWANCE**

**G4.1** An employee who performs the duties of Organisational Liaison Officer in the office of a Minister or Parliamentary Secretary will be paid a fortnightly allowance in lieu of overtime in accordance with the following table:

**Annual allowance payable (fortnightly) from the first pay after:**

<b>Commencement of the Agreement</b>	<b>1 July 2010</b>
\$18,648	\$19,207

**G5 EMPLOYEES TRAVELLING ON OFFICIAL DUTY - DOMESTIC AND OVERSEAS**

**Terms and conditions**

**G5.1** The ATSB will meet all fair and reasonable costs associated with official domestic and international travel while an employee is on official duty. Details are set out in the ATSB's Travel Policy.

**G5.2** An employee travelling on official duty must use the Travel Card for any travel costs and the cost of accommodation, meals and any incidental expenses incurred by the employee, except where accommodation or meals, or both, are provided.

**G5.3** If an employee travelling on official duty is required to take Personal Circumstances Leave for medical reasons, the employee may apply to the CEO to be reimbursed for the cost of his or her return home. Any reimbursed costs must not exceed the amount that would have been payable had the employee been on duty.

**G5.4** The CEO will determine the rates for overseas travel but 'business class' travel or its equivalent will be the standard. However, an alternative class of travel may be approved, for which a minimum number of hours for business may be specified.

**G5.5** The CEO may approve 'business class' domestic travel for any trip involving more than three hours of flying time without a 12 hour break prior to the employee engaging in official duties, or if it can be demonstrated that the duration of the trip or the personal health of the employee warrants the alternative class of travel.

**G5.6** The CEO may require a request for approval of 'business class' travel based on medical grounds to be supported by a medical certificate.

**G5.7** Employees travelling overseas on official duty are entitled to reasonable rest breaks.

**G5.8** In recognition of the requirement for TSIs to travel frequently and at short notice, and to improve the operational efficiency of TSIs working in remote locations:

- (a) TSIs have the right to refuse travel with organisations or in vehicles that may, on reasonable grounds, be considered unsafe, particularly in areas outside Australia;

- (b) to reduce costs, TSIs will use accumulated frequent-flyer points to travel (including for cheaper travel options) as may be appropriate to the task; and

**G5.9** TSIs will be provided with an airline lounge membership.

**G6 MEAL ALLOWANCE**

**G6.1** Employees who work two hours of overtime on a normal rostered work day, or four hours on a non-work day, will be entitled to a meal allowance. The amount of the meal allowance will be the amount published from time to time by the Australian Taxation Commissioner as the reasonable amount for overtime meal expenses in the Commissioner's ruling on reasonable travel and meal allowance expense amounts.

**G6.2** Employees who work nine hours continuous overtime will be entitled to a further meal allowance.

**G6.3** Employees who are performing overtime at home, or who are on the HBW scheme, will not be entitled to a meal allowance.

**G6.4** Meal allowance will be paid to employees through the fortnightly payroll system.

**G7 ON-CALL ALLOWANCE**

**G7.1** An employee who has been directed to be contactable and available to be called out to perform extra duties outside the bandwidth of 7.00 am - 7.00 pm will be entitled to an out of hours payment for each week the employee is so directed, calculated in accordance with the following table.

**Weekly on call allowance payable from the first pay after:**

<b>Commencement of the Agreement</b>	<b>1 July 2010</b>
\$446	\$459

**G7.2** For any period of on-call of less than one week in total, the employee will be paid 1/7 of the on-call allowance for each 24-hour period.

**G7.3** If an employee is on call and is recalled to duty at a place of work, the employee will be paid overtime at the applicable rate of pay so long as the cumulative time involved in performing that duty is more than one hour. In this case, the rate of overtime is the applicable rate of pay for the total period worked.

**G7.4** Executive Level 1 and 2 employees may be eligible for payment of an on-call allowance as determined by the CEO.

**Investigator On-Call Allowance**

**G7.5** All TSIs covered by this Agreement will make themselves available to undertake the duties associated with the current ATSB non-office hours information, notification and response rosters and associated tasks and will receive an Investigator On-Call Allowance in accordance with the following table (The allowance includes an amount in lieu of telephone line rental costs and the cost of work-related calls):

<b>Commencement of the Agreement</b>	<b>1 July 2010</b>
\$7,353	\$7,574

**G7.6** If a TSI is released, with the approval of the CEO, from the roster requirements because of extenuating circumstances, the TSI will not be paid the Investigator On-Call Allowance. If a TSI is deemed on reasonable grounds by the CEO not to meet OH&S or competency requirements of the roster, he or she will not be paid the Investigator On-Call Allowance until the issues are satisfactorily resolved.

**G7.7** The Investigator On-Call Allowance counts as salary for all purposes.

**On-Call Periods**

**G7.8** TSIs will be on-call for no more than 18 weeks each year (with 13 weeks on-call generally applying). If this requirement changes because of operational requirements, any further on-call periods above 18 weeks will attract additional payment of On-Call Allowance as provided in **clause G7** of this Agreement.

**G7.9** The ATSB will maintain, at a minimum, all records of availability periods, periods of deployment, and rostered telephone duty for each rostered employee.

**G7.10** Rostered tasks will be allocated with due regard for a TSI's WLS, experience and preferences, subject to maintaining equity among TSIs and to meet applicable operational requirements.

**G7.11** TSIs not on-call may be called in the case of a major accident, a series of less major occurrences, or if particular skills or specialist knowledge is required. Non-rostered investigators called in these circumstances would make themselves available where possible.

**Newly-recruited TSIs**

**G7.12** Newly-recruited TSIs will generally be rostered during normal office hours for investigations for training purposes. Outside of office hours, they may be invited to participate in investigations on an opportunity basis.

**G7.13** Newly recruited TSIs will be eligible for Investigator On-Call Allowance if they have:

- (a) completed general investigation policy briefings;
- (b) completed occupational health and safety requirements;
- (c) attained satisfactory probation reports; and
- (d) been recommended as being capable of acting as part of an investigation team.

*Note:* these requirements would generally be completed within 6 to 12 months of commencing employment.

**G8 ALLOWANCE FOR USE OF PRIVATE MOTOR VEHICLE FOR OFFICIAL BUSINESS**

**G8.1** An employee may be authorised, in advance, to use a private motor vehicle owned or hired by the employee for official purposes if the CEO decides that it is appropriate to

do so, having regard to the individual circumstances. Use of the car for official purposes is at the employee's own expense and risk.

**G8.2**

If an employee's private motor vehicle is approved for official purposes, the employee will be entitled to be paid the amount per kilometre as specified in Part 2 of Schedule 1 of the *Income Tax Assessment Regulations 1997* per kilometre. On request by the ATSB, an employee will provide evidence of the engine capacity of the employee's private motor vehicle for the purposes of determining the applicable rate of allowance.

## **SECTION H REIMBURSEMENTS**

### **H1 RELOCATION ASSISTANCE**

**H1.1** Where an employee is relocated, the ATSB will meet all fair and reasonable costs associated with the relocation.

**H1.2** The cost of relocating must be approved by the CEO in advance of the employee's removal, having regard to the employee's personal circumstances and ATSB's employment procedures on relocation expenses.

**H1.3** If an employee voluntarily leaves the ATSB (and not due to extenuating circumstances such as, but not restricted to and on a case-by-case basis, illness, redeployment, retrenchment or redundancy), or has their employment terminated due to misconduct within 12 months of the date of the relocation, the ATSB may seek reimbursement of the relocation assistance.

### **H2 REIMBURSEMENT FOR WORK RELATED EXPENSES**

**H2.1** Employees may be reimbursed for fair and reasonable work-related expenses incurred during the course of, or arising out of their employment, if the CEO so decides.

### **H3 REIMBURSEMENT FOR CANCELLATION OF APPROVED LEAVE OR RECALL TO DUTY WHILE ON APPROVED LEAVE**

**H3.1** Subject to the presentation of receipts for consideration by the CEO, an employee may be reimbursed the reasonable costs arising from the employee's approved leave being cancelled or the employee being recalled to duty while on Annual or Long Service Leave.

### **H4 REIMBURSEMENT FOR LIFE INSURANCE POLICY LOADING**

**H4.1** If an employee's life insurance policy includes a loading based on or originating from the nature of the employee's official duties, the employee may be reimbursed that part of the cost of the policy to which the loading relates.

**H4.2** A 'life insurance policy' means a life policy within the meaning of section 9 of the *Life Insurance Act 1995* (Cth).

## **SECTION I      WORKING HOURS**

### **I1            STANDARD WORKING HOURS**

- I1.1**            Standard hours of work in the ATSB are 7.5 hours per day (Monday to Friday), within the bandwidth of 7.00 am to 7.00 pm. This is a total of 37.5 hours per week or 150 hours per four-week settlement period.
- I1.2**            Standard hours for part-time employees shall be those agreed between the employee and their supervisor in accordance with this Section I.

### **I2            UNAUTHORISED ABSENCE**

- I2.1**            If an employee is absent from duty without authorisation and the absence is longer than 30 minutes in total during any pay period, the absence shall be without pay and any other benefit provided under this Agreement (including but not limited to flextime) will cease to apply until the employee resumes duty or is granted leave or the CEO decides otherwise.
- I2.2**            An employee who is not entitled to access flextime in the above circumstances will revert to standard hours of work of 7.5 hours per day, from 8.30 am to 5.00 pm (or other standard hours determined by the employee's supervisor to genuinely address the employee's needs) for a period of time at the discretion of the delegate.
- I2.3**            A period of absence under this **clause I2** will not count as service for any purpose.

### **I3            BANDWIDTH**

- I3.1**            Any employee may propose a different working pattern either on a short-term or continuing basis. Any individually negotiated bandwidth may encompass any hours of the week.
- I3.2**            Regardless of the bandwidth applying to an employee, he or she must break for at least 30 minutes after five hours continuous work.

### **I4            HOME BASED WORK (HBW)**

- I4.1**            HBW is administered in accordance with Bureau policy as varied from time to time in consultation with employees. Employees who wish to consider a HBW arrangement must first read the ATSB's employment procedures.
- I4.2**            Employees are entitled to apply for HBW and any such application will be considered favourably subject to operational requirements.

### **I5            REGULAR PART-TIME WORK**

- I5.1**            An employee may, by written agreement with the employee's supervisor, work less than an average of 75 hours a fortnight over a specified period. Employees must work at least three hours on any agreed working day.
- I5.2**            An employee may, with the agreement of his or her supervisor, vary the agreed hours of work.
- I5.3**            An employee and their supervisor will annually review part-time arrangements.
- I5.4**            Salary, benefits and allowances for employees who work part-time will be calculated on a pro rata basis, being the appropriate percentage of the salary, benefits and allowances applying to full-time employees.

- 15.5** A supervisor may initiate the introduction or extension of part-time employment, but a full-time employee will not be required to convert to part-time hours (or vice-versa) without the employee's agreement.
- 15.6** If a full-time employee initiates part-time work, the employee will have the right to revert to full-time employment:
- (a) at the expiry of the agreed period; or
  - (b) if the reversion is required or compelled by a change in the employee's circumstances.
- 15.7** An application for regular part-time work will be considered favourably subject to operational requirements. Supervisors should favourably consider requests from an employee returning from maternity leave to work on a part-time basis.

## **16 RETURN TO WORK ASSISTANCE**

- 16.1** The ATSB will assist an employee to return to work if the employee has been absent from the workplace for an extended period of time due to illness, consistent with the procedures for managing long-term illness.
- 16.2** The ATSB will assist an employee to return to work in cases of extended absence, or absence for extenuating personal circumstances.

## **17 FLEXIBLE HOURS - EXECUTIVE LEVEL (EL) EMPLOYEES**

- 17.1** EL employees will be required, as senior professionals responsible for delivering key work outputs, to work additional hours from time to time but may, by agreement in advance with their supervisor, work flexible hours. The ATSB has employment procedures on working hours.
- 17.2** EL employees are entitled to be absent from the workplace, including whole days off, under a flexible hours arrangement agreed with their supervisor.
- 17.3** Flexible hours for EL employees are not based on an hour-for-hour recognition.
- 17.4** EL employees may use either an attendance record or diary to record hours of attendance. Any short-term absences that have been agreed and recorded in the diary or attendance sheet need not be covered by official leave.

## **18 FLEXTIME**

### **General**

- 18.1** Flextime is available to all APS Levels 1 – 6 employees to enable employees to start and finish work at times of their choosing, subject to operational requirements, the availability of work, and the approval of the employee's supervisor, which may be either general or specific.
- 18.2** Part-time employees may access the same flextime arrangements as full-time employees but their maximum flextime credit and debit levels will be on a pro rata basis
- 18.3** Flextime may not be used to vary a part-time employee's hours without the consent of the employee concerned.

**18.4** Supervisors are responsible for monitoring and managing workloads in accordance with flextime arrangements, and should encourage employees to reduce flextime credit and debit levels especially if limits are being reached.

**18.5** Supervisors are responsible for ensuring that employees have an adequate opportunity to access accrued flextime leave.

#### **Flextime Credits**

**18.6** Employees may accrue flextime credit to a total of 22.5 hours. Employees may carry forward a greater accrued flextime credit than 22.5 hours, subject to the explicit agreement of their supervisor.

**18.7** Excess balances beyond 22.5 hours require the employee and manager to agree to a strategy to reduce the excess hours to under 22.5 hours within four weeks.

**18.8** With the agreement of their supervisor and subject to operational requirements, an employee may take as much consecutive flextime leave as they have accrued.

**18.9** Supervisors are to provide employees with an opportunity to exhaust their flex leave credits before an employee ceases their employment with the ATSB.

**18.10** If an employee leaves the ATSB, any unexhausted flex credit will not be paid out.

#### **Flextime Debits**

**18.11** Employees may carry forward a maximum flextime debit of 15 hours from one pay period to the next.

**18.12** Employees with a maximum flextime debit of 15 hours may be required to take any additional debits as leave without pay. Supervisors should seek to ensure that employees do not reach the maximum flextime debit.

#### **Recording Attendance**

**18.13** Employees and supervisors are responsible for ensuring that flextime attendance records are:

- (a) completed accurately;
- (b) promptly checked and certified; and
- (c) stored in accordance with ATSB's employment procedures.

### **19 TRAVELLING (DOMESTIC)**

**19.1** If an employee travelling domestically on official duty is required to work longer than 7.5 hours in a standard day, the employee may record the time spent travelling domestic out of hours as working hours excluding the usual time taken for the employee to travel to and from their regular place of work.

**19.2** If an employee is required to travel domestically on a day the employee is not normally rostered for duty, the employee may record all of the actual time spent travelling domestic as working hours at single time rates.

**19.3** This clause allows an employee and the employee's supervisor to agree to a local arrangement for time off in lieu (TOIL) to recognise domestic travel undertaken out of hours.

## **SECTION J OVERTIME**

### **J1 OVERTIME**

#### **APS Level 1 - 6 Employees**

**J1.1** APS Level 1 – 6 employees are entitled to overtime payment, or time off in lieu (TOIL), if their supervisor has directed that they perform additional duties, as follows:

- (a) if the day is a normal work day for the employee — payment of overtime or accrual of TOIL commences on the employee completing more than 7.5 hours duty in a single day (subject to a recall to duty in an emergency); or
- (b) if the day is not a normal work day — payment of overtime or accrual of TOIL will be for all hours worked.

**J1.2** Overtime will be payable or TOIL will accrue only to employees who do not have a flextime debit at the time of performing the additional duties. If an employee has a flextime debit and performs overtime, the flextime debit will be set-off at the same rate as the applicable overtime rate.

**J1.3** APS Level 1 – 6 employees who are recalled to duty in an emergency at a time when they would normally not have been on duty will have the time taken to travel to and from emergency duty included in their overtime payment or TOIL accrual. In such cases, Motor Vehicle Allowance will also be payable if use of the employees' private vehicle for official duty has been approved. However, employees who commence normal work immediately after their emergency duty will be paid only for the inward journey.

#### **Part-time Employees**

**J1.4** APS Level 1 - 6 part-time employees who are directed to work outside their agreed daily hours for any particular day are entitled to overtime payments. However, if a regular pattern of overtime develops, the supervisor will discuss with the part-time employee the suitability of their hours of work.

#### **Executive Level 1 and 2 Employees**

**J1.5** Executive Level 1 and 2 employees are not eligible for overtime payments except in the case of a major accident (Level 1 or 2) or other exceptional circumstances as determined by the CEO.

**J1.6** Any overtime so paid must not include any payment of ARA as salary.

#### **Overtime Rates**

**J1.7** The rates payable for overtime are as follows:

- (a) **Monday to Sunday:** time and a half; and
- (b) **Public holidays:** single time for the first 7.5 hours (as an additional payment - employees already receive single time payment for public holidays) and double time after that.

**J1.8** The rate of overtime includes any allowances being paid as salary.

**J1.9** Calculation of overtime will be rounded to the nearest quarter of an hour. The hourly rate of overtime payment is calculated according to the following formula:

**Time and a half rate**

$$\frac{\text{Annual Salary}}{313} \times \frac{6}{37.5 \text{ hours}} \times \frac{3}{2}$$

**Double time rate**

$$\frac{\text{Annual Salary}}{313} \times \frac{6}{37.5 \text{ hours}} \times \frac{2}{1}$$

## **SECTION K LEAVE**

### **K1 INTRODUCTION**

**K1.1** There are nine types of leave:

- (a) Personal Circumstances Leave (PCL);
- (b) Annual Leave (AL);
- (c) Purchased Leave;
- (d) Other Leave (OL);
- (e) Maternity Leave (ML);
- (f) Adoption Leave;
- (g) Parental Leave;
- (h) Long Service Leave (LSL); and
- (i) Defence Reserve Leave.

**K1.2** ATSB employment procedures are available to assist employees and their supervisors to make effective use of all aspects of these leave types.

**K1.3** Absence due to long-term illness will be managed in accordance with the ATSB's employment procedures.

**K1.4** Arrangements under this Section K must be discussed between supervisors and employees to settle individual leave requirements in terms of the operational requirements of the ATSB.

**K1.5** Under this Section K, provision is also made in the ATSB for the Annual Closedown and for public holidays.

### **K2 GENERAL**

**K2.1** Leave may only be taken with the approval of the CEO (or the appropriate delegate).

**K2.2** For leave purposes, a standard day is one involving standard hours of work of 7.5 hours per day (Monday to Friday), within the bandwidth of 7.00am to 7.00pm.

**K2.3** If a full-time employee takes any form of leave for an entire day on which the employee would normally work, a standard day will be debited from the employee's applicable leave balance, except for LSL under the LSL Act, in which case a standard day will be deducted for each calendar day taken.

**K2.4** Where an employee joins the ATSB on or after the commencement date from an employer staffed under the PS Act, the *Parliamentary Service Act 1999*, from the ACT Government Service, accrued annual leave and personal/carer's leave (however described) will be transferred, provided there is no break in continuity of service.

### **K3 MACHINERY OF GOVERNMENT CHANGES**

**K3.1** The accrued leave entitlements of employees transferred to the ATSB under a Machinery of Government change will be considered on a case-by-case basis to ensure they suffer no disadvantage as a result of the transfer.

### **K4 PERSONAL CIRCUMSTANCES LEAVE (PCL)**

#### **Introduction**

**K4.1** PCL is leave based on the traditional circumstances of sick, family and emergency leave, together with bereavement, new parent and ceremonial leave, as well as leave for any other approved purpose.

**K4.2** Subject to the provisions of **subclause K4.17** an application for PCL for the reasons provided in **subclause K4.7(a)** shall be granted and applications for PCL for other reasons set out in **subclause 4.7** shall be considered favourably subject to operational requirements.

**K4.3** PCL should not be used where Flex Leave or Time Off In Lieu is a more appropriate form of leave.

**K4.4** For the purposes of this **clause K4**, the definition of family is a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee, fostering and traditional kinship.

#### **Exclusions**

**K4.5** An employee who falls ill during a period of approved Other Leave without pay cannot apply for PCL during that period.

**K4.6** An employee who is entitled to leave with pay under the ML Act is not entitled to PCL with pay for any period of paid Maternity Leave.

#### **Coverage**

**K4.7** PCL applies, but is not limited, to leave for:

- (a) personal illness or injury or to provide care or support, to a member of the employee's family or household who requires care and support because of personal illness or injury or an unexpected emergency affecting the employee's family member;
- (b) short-term incidental family responsibilities (other than those periods which can generally be planned for eg. school holidays or childcare centre annual closure unless the child is sick over these periods) including caring for the elderly, while longer term arrangements are put in place;
- (c) genuine emergency situations such as bushfires, floods and earthquakes;
- (d) important personal medical appointments that can only be attended during standard work time;
- (e) compassionate purposes (2 days for each occasion);
- (f) short-term volunteer or community service activities;

- (g) attending cultural ceremonies and commitments including National Aboriginal and Islander Day Observance Committee (NAIDOC) ceremonies; and
- (h) a period of up to two days for the purposes of obtaining approval to adopt an eligible child (as defined in clause K10.10).

**K4.8** An employee may be directed to take PCL on the basis of a medical report stating the employee is unfit for duty.

**K4.9** The maximum period of continuous PCL that may be granted to an employee under this **clause K4** is 52 weeks, unless the employee has accrued more than 52 weeks paid PCL, or is otherwise entitled to paid leave under the NES, in which case the employee may be granted that period of paid PCL.

**K4.10** PCL without pay does not count as service for any purpose except long service leave.

**Accrual**

**K4.11** An ongoing employee who works full-time is entitled to up to 187.5 hours (25 days) full pay PCL on engagement and will receive a further accrual of 187.5 hours on completion of each 12-month period of service.

**K4.12** Accrual of PCL is unlimited for ongoing and non-ongoing employees.

**K4.13** The PCL accrual for an ongoing employee who works part-time will be based on the employee's prescribed weekly hours on the day of accrual multiplied by 5.

- (a) non-ongoing employees employed for a period of 12 months or more will be credited PCL in the same manner as an ongoing employee; and
- (b) non-ongoing employees employed for a period of less than 12 months will be allowed to anticipate PCL on engagement in accordance with the following formula:

$\frac{A \times B \times C}{D}$	<b>A</b>	=	Standard number of hours per week for period
Where:	<b>B</b>	=	number of calendar days to count as service in period
	<b>C</b>	=	a basic PCL credit of 5 weeks
	<b>D</b>	=	number of calendar days in the year

- (c) an employee who receives compensation under the *Safety, Rehabilitation and Compensation Act 1988* (Cth) for more than 45 weeks accrues PCL credit on a pro rata basis based on the hours worked.

**K4.14** Absences which do not count for service totalling more than 30 calendar days in a PCL year defer the next PCL accrual by one day for each day's absence.

**K4.15** An employee's PCL entitlement includes, and is paid in satisfaction of, the employee's entitlements to paid personal/carer's leave and paid compassionate leave under the Australian Fair Pay and Conditions Standard and the NES. However:

- (a) in the case of the Australian Fair Pay and Conditions Standard, to the extent the Australian Fair Pay and Conditions Standard provides a more favourable outcome than this Agreement in a particular respect, then the Standard applies instead of this Agreement; or

- (b) in the case of the NES, to the extent this Agreement is detrimental to the employee in any respect when compared to the NES, the NES applies instead of this Agreement.

**K4.16** PCL credits are accrued in hours and minutes.

**Applying for PCL**

**K4.17** An employee applying for PCL may be granted leave of absence with pay subject to:

- (a) the employee's available leave credits;
- (b) notice by the employee of the prospective absence where practicable, or as early as possible on the day of absence; and
- (c) if regular or long periods of leave are requested — supporting documentation (eg, a medical certificate, including from a health service provider) may be required if the supervisor so decides, in accordance with the PCL employment procedures.

**Half Pay**

**K4.18** Paid PCL will be debited at the relevant full pay rate, unless the employee requests conversion to half pay. If the employee requests conversion, half the period of leave granted will be paid personal leave and the other half will be unpaid personal leave. The payment for the paid personal leave component will be paid in full at a rate so that payment of the amount is spread over the full period of leave taken. Notwithstanding **clause K4.10**, all PCL taken under this clause shall count as service for all purposes.

**K4.19** An employee may apply to take PCL without pay while the employee has accrued paid leave credits.

**Spent PCL Credits**

**K4.20** The CEO may allow an employee to:

- (a) anticipate one year's PCL accrual where paid credits are exhausted; or
- (b) take PCL without pay where paid credits are exhausted.

**K4.21** However, where an employee's PCL accruals have been exhausted the employee will have access to:

- (a) take additional paid PCL for two days per occasion, for compassionate purposes when a member of the employee's family or household:
  - (i) contracts or develops a personal illness or sustains a personal injury that poses a serious threat to his or her life; or
  - (ii) dies;
- (b) take PCL without pay for two days per occasion for the purpose of unpaid carer's leave; and
- (c) take PCL without pay, at any time, for the purposes of undertaking community service (including volunteer emergency activities).

**Additional Paid PCL**

**K4.22** An employee may be granted additional paid PCL by the CEO if the employee's paid credits are exhausted.

### **Conversion of Annual Leave to PCL**

**K4.23** An employee who is certified as medically unfit for duty for 7.5 hours or longer while on Annual Leave may apply for PCL. Annual leave will be re-credited to the extent of the period of PCL granted.

### **K5 ANNUAL LEAVE**

**K5.1** Annual leave is important to enable employees to refresh, recharge and be ready to resume productive work.

#### **Annual Leave Entitlement**

**K5.2** The primary Annual Leave entitlement will accrue as 150 hours per annum.

**K5.3** Annual Leave counts as service for all purposes.

**K5.4** Annual Leave accrues daily and will be credited monthly once the employee has completed 30 calendar days service.

**K5.5** Annual Leave will be calculated in accordance with the following formula:

$$\frac{A \times B \times C}{D}$$

Where:

<b>A</b>	=	Standard number of hours per week for period
<b>B</b>	=	Number of calendar days to count as service in period
<b>C</b>	=	a basic Annual Leave credit of 4 weeks
<b>D</b>	=	Number of calendar days in the year

**K5.6** Annual Leave may be taken at either full-pay or half-pay.

**K5.7** Annual Leave will not generally be paid in advance and in any case not be advanced across two financial years.

**K5.8** Annual Leave will be taken at a time agreed between the employee and the employee's supervisor.

**K5.9** Approved annual leave may be cancelled and recredited where an employee makes application and their supervisor agrees that special circumstances warrant this.

**K5.10** Annual Leave cannot be used to break periods of LSL except as provided for by the Maternity Leave Act.

#### **Forgoing Annual Leave**

**K5.11** The CEO may approve an employee's written application to cash out up to two weeks of accrued annual leave per calendar year. Where such approval is given, the employee will be paid a lump sum payment equivalent to the full amount that would have been payable to the employee during Annual Leave. The application and approval must be documented in a written agreement.

**K5.12** An employee may only apply to cash out leave pursuant to **subclause K5.11** if the employee:

- (a) has at least 12 months continuous service in the APS; and
- (b) has taken at least an equivalent amount of annual leave in the previous 12 month period to the amount they are seeking to cash out;

- (c) will have a remaining accrued entitlement to paid annual leave of at least four weeks after any cash out;
- (d) each cashing out of a particular amount of paid annual leave must be in a separate written application to the CEO; and
- (e) the employee must be paid at least the full amount of what would have been payable to the employee had the employee taken the leave that the employee has forgone.

**Directed Annual Leave**

**K5.13** Where an employee's amount of accrued annual leave is approaching 450 hours, the employee and the employee's supervisor should discuss the situation and seek to agree on a leave management strategy to reduce the amount of accrued annual leave.

**K5.14** Where an employee has accrued 450 hours or more of annual leave, the CEO may require an employee to absent themselves from the workplace and take annual leave on one month's written notice to the employee, unless the manager has in place a demonstrated strategy to reduce the accrued leave within three months. The CEO may require an employee to take up to 75 hours of annual leave in each instance. The employee may apply to take additional annual leave at this time and the application will be approved unless exceptional circumstances apply.

**K5.15** An employee may not be required to take annual leave under **subclause K5.14** where:

- (a) the employee has made an application for annual leave of a period greater than 75 hours in the previous 6 month period and the application was not approved; or
- (b) the employee is following a leave management strategy to reduce the employee's amount of accrued leave, which has been agreed with their supervisor consistent with **subclause K5.13**.

**Payment on Separation**

**K5.16** On separation from the APS, an employee will be entitled to payment in lieu for Annual Leave credits.

**K5.17** Payment in lieu will be calculated using the employee's final salary, including allowances that would have been included during Annual Leave. Remote localities assistance will be included in the calculation only for leave accrued in a remote locality.

**K6 ANNUAL CLOSEDOWN**

**K6.1** The ATSB's offices will be closed for normal business purposes during the period from 25 December to the first working day following the first day of January ('the Annual Closedown').

**K6.2** Over the Annual Closedown, employees who work full-time are entitled to absent themselves for the working days during that period and record on their attendance record approved Closedown Leave. There will be no requirement to take Annual or flextime leave over this period. Employees who work part-time are entitled to credit themselves with the number of hours that they would have worked during the working days of approved Closedown Leave.

**K6.3** If an employee is recalled to duty to attend an emergency during a period of Closedown Leave, the employee is entitled to overtime in accordance with Section J.

## **K7 PURCHASED LEAVE**

**K7.1** Subject to an employee having at least 12 months continuous service in the APS, the employee may apply to purchase up to 40 days additional leave per year. Purchased leave will be purchased by a corresponding reduction in the employee's fortnightly pay over a 12 month period commencing on the first pay after the application to purchase leave is approved. Periods of purchased leave count for service.

**K7.2** Purchased leave must be used:

- (a) within 12 months of the application to purchase leave being approved;
- (b) in the case of shift workers, for an entire shift cycle; and
- (c) in the case of all other employees, in amounts of no less than 5 consecutive days.

**K7.3** An employee will be refunded any unused purchased leave amount after 12 months, unless the employee receives written approval to carry the purchased leave over.

**K7.4** Applications for purchased leave will be considered having regard to the operational requirements of the ATSB. To assist in this consideration, an application for purchased leave should include an indication of the period(s) during which the employee intends to use the purchased leave.

## **K8 OTHER LEAVE (OL)**

**K8.1** OL is available for a purpose that the CEO considers to be in the interest of the ATSB, the Commonwealth, or the community in general or where the employee is entitled to leave under the NES. OL is also available for personal purposes not otherwise covered by this **subclause K8.1**.

**K8.2** OL with pay:

- a) attendance at industrial and judicial proceedings, or where summoned as a witness in industrial and judicial proceedings;
- b) learning and development activities endorsed by the CEO (including workplace relations and industrial training or seminars);
- c) community service activities, including jury service, State/Territory Emergency Services and appropriate reasonable training, noting that applications for this leave will be considered favourably; and
- d) participation in international sporting or cultural days.

**K8.3** OL without pay may be approved in circumstances such as, but not limited to, where an employee is:

- a) in employment in the interests of the ATSB or the APS;
- b) accompanying a spouse or partner on a posting;
- c) undertaking a sabbatical to broaden employee skills and knowledge after having completed two years of service in the Bureau;
- d) a long-term volunteer or involved in community service work; or

e) undertaking other personal development and training such as full-time study.

**K8.4** OL will not be granted if another form of leave is more appropriate.

**K8.5** OL may be paid or unpaid leave:

- (a) subject to any condition imposed under this **clause K8**, approved OL with pay counts as service for all purposes;
- (b) approved OL without pay counts as service if the CEO so decides in writing; and
- (c) OL without pay does not count as service for any purpose if the employee does not resume duty in the ATSB at the end of the period of the OL.

**K9 MATERNITY LEAVE (ML)**

**K9.1** An eligible employee is entitled to 14 weeks full pay ML (comprising 12 weeks under the ML Act and an additional two weeks), after completing a minimum of 12 months of continuous APS employment as defined by the ML Act.

**K9.2** Under the ML Act, an employee is entitled to access up to 52 weeks leave.

**K9.3** An employee may elect in advance to take the 14 weeks ML at half pay up to a maximum of 28 weeks.

**K9.4** Only the entitlement to 14 weeks full pay ML will count as service for all purposes.

**K9.5** Detailed information is available in the ATSB's employment procedures.

**K10 ADOPTION LEAVE**

**Unpaid adoption leave**

**K10.1** An employee who has at least 12 months continuous service in the APS is entitled to unpaid short adoption leave and/or unpaid long adoption leave in accordance with Subdivision B of Division 5 of Part 2-2 of the FW Act.

**K10.2** A period of unpaid adoption leave does not break the employee's period of continuous service, but will not count as service for any purpose.

**Paid Adoption Leave**

**K10.3** An employee who:

- (a) has at least 12 months continuous service in the APS;
- (b) adopts an eligible child; and
- (c) is that eligible child's primary care giver,

is entitled to 14 weeks paid adoption leave immediately after the placement of the eligible child with the employee for adoption.

**K10.4** An employee may elect in advance to take that leave at half pay up to a maximum of 28 weeks.

**K10.5** Only the entitlement to 14 weeks full pay adoption leave will count as service for all purposes.

**K10.6** Detailed information is available in the ATSB's employment procedures.

**K10.7** An employee who applies for paid adoption leave must provide the ATSB with the following documents:

- (a) a statement from an adoption agency of the expected date for the placement of the eligible child; and
- (b) a statutory declaration made by the employee which states:
  - i) that the child who will be placed with the employee is an eligible child;
  - ii) that the employee intends to be the child's primary care-giver at all times while on paid adoption leave;
  - iii) the first and last days of the period (or periods) of adoption leave, or any other authorised leave taken, or intended to be taken, by the employee's spouse because of the placement of the child; and
  - iv) that the employee will not engage in any conduct inconsistent with the employee's contract of employment while on Adoption Leave.

**K10.8** An employee may not take PCL during the period of paid adoption leave.

**K10.9** Paid adoption leave counts as service for all purposes.

**K10.10** For the purposes of **K10**, **eligible child** means a child who:

- (a) has not previously lived continuously with the employee for a period of 6 months or more before the day of placement;
- (b) is not a child or step-child of the employee or the employee's spouse or, from 1 January 2010, the employee's de facto partner; and
- (c) is not related to the employee.

## **K11 PARENTAL LEAVE**

### **Unpaid Parental Leave**

**K11.1** An employee who has at least 12 months continuous service in the APS and is the primary caregiver is entitled to unpaid parental leave of:

- (a) up to 12 months of maternity leave in accordance with the NES (as applicable);  
or
- (b) up to 12 months of adoption leave in accordance with the NES (as applicable); or
- (c) up to 12 months of paternity leave in accordance with the NES (as applicable).

Upon request from the employee, the ATSB will agree to an extension of unpaid parental leave for a further period of up to 12 months, immediately following the end of the initial 12 month period.

### **Paid Parental Leave**

**K11.2** An employee who has become a new parent, either through birth or adoption and is not the primary caregiver, nor has ever been the primary caregiver, is entitled to 6 weeks paid parental leave to be taken at any time during the period they qualify for unpaid leave.

**K11.3** An employee may not take PCL during the period of paid parental leave.

**K11.4** Paid parental leave counts as service for all purposes.

**K12 LONG SERVICE LEAVE (LSL) - MINIMUM PERIOD OF LEAVE**

**K12.1** Employees are entitled to accrue and access LSL in accordance with the LSL Act.

**K12.2** The minimum amount of accrued LSL that an employee may take at any one time is seven calendar days.

**K12.3** Continuous periods of LSL may not be broken by Annual Leave.

**K13 DEFENCE RESERVE LEAVE**

**K13.1** The CEO may grant an employee Defence Reserve leave, with or without pay, to enable the employee to undertake peacetime training and/or deployment with the Australian Defence Force.

**K13.2** An employee who is a member of the Australian Defence Force Reserve may be granted paid Defence Reserve leave of up to 20 days each financial year. During the employee's first year of Defence Reserve service, a further 10 days' paid leave may be granted to allow the employee to participate in common induction training.

**K13.3** Periods of Defence Reserve leave without pay in excess of 6 months do not count as service for annual leave purposes. Leave granted for Defence Reserve purposes counts as service for all other purposes.

**K13.4** Defence Reserve leave entitlements can be accumulated and taken over a period of two years.

**K13.5** In addition to leave approved under this **clause K13**, employees who are members of the Defence Reserve may apply for AL, LSL or flex leave for Defence Reserve purposes.

**K14 PUBLIC HOLIDAYS**

**Basic Observance**

**K14.1** An employee may observe public holidays where the Commonwealth notifies that day in the Gazette, or where a State or Territory Government gazettes a public holiday and the employee works in that State or Territory (and, if the holiday is a local public holiday, in the relevant locality).

## **SECTION L REDEPLOYMENT, RETRENCHMENT & REDUNDANCY**

### **L1 INTRODUCTION**

- L1.1** The parties to this Agreement agree to support the redeployment of employees as the primary option in managing staffing levels across the ATSB.
- L1.2** The following provisions apply to ongoing APS employees not on probation.
- L1.3** For the purposes of this Agreement, an employee may be declared excess if the CEO considers that:
- (a) the employee is included in a level of employees employed in the ATSB, which class comprises a greater number of employees than is necessary for the efficient and economical working of the Bureau; or
  - (b) the services of the employee cannot be effectively used because of technological or other changes in the work methods of the Bureau or structural or similar changes in the nature, extent or organisation of the functions of the Bureau; or
  - (c) the duties are to be performed at a different locality, which is not within a capital city and the employee is not willing to move to the different locality.
- L1.4** If requested, the employee may have a representative present at any discussions concerning the application of this **Section L** to the employee.

### **L2 CONSULTATION PROCESS**

- L2.1** When the CEO is aware that an employee is likely to become excess, the CEO will at the earliest practicable time commence the consultation process by advising the employee of the situation.
- L2.2** Discussions with the potentially excess employee will be held to consider:
- (a) reasons for the excess employee situation and the method used to determine excess employees;
  - (b) measures that could be taken to resolve the situation, including redeployment opportunities for the employee at or below level;
  - (c) job swap opportunities at level;
  - (d) referral to an appropriate employment agency at departmental expense; and
  - (e) whether voluntary retrenchment might be appropriate and whether the employee wants to be offered voluntary retrenchment.
- L2.3** Where an employee is potentially excess or is excess, the CEO may:
- (a) invite employees who are not potentially excess to express interest in voluntary retrenchment, where those retrenchments would permit the redeployment of employees who are potentially excess;
  - (b) allow a job swap within the ATSB where it is judged that:
    - (i) the employee is suitable for the job after a reasonable period of adjustment; and

- (ii) it would be of no detriment to the efficient operation of the gaining area;
- (c) allow a job swap with another APS agency if it would be of no detriment to the efficient operation of the Bureau; and
- (d) if the employee wishes, refer the excess employee to an agreed employment agency at bureau expense.

**L2.4** Unless requested by the employee, the CEO will not advise an employee that he or she is excess within one month of the employee receiving advice under **subclause L2.1** and until, in the opinion of the CEO, the discussions in **subclause L2.2** have been completed.

**L2.5** If, one month after the commencement of the consultation process in **subclause L2.1**, the discussions in **subclause L2.2** have been completed and the employee has not secured a permanent job within the ATSB or another APS agency, the CEO will, taking into account the redeployment prospects of the excess employee and the excess employee's wishes:

- (a) place the employee on a retention period; or
- (b) make an offer of voluntary retrenchment if an offer has not already been made under **clause L3**.

**L2.6** Prior to or at the time the CEO notifies an employee that he or she is excess, the employee will receive the following information:

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

**L2.7** An excess employee will be reimbursed reasonable costs for financial counselling up to an amount determined by the CEO.

### **L3 VOLUNTARY RETRENCHMENT**

**L3.1** Where the CEO invites an excess employee to elect to be retrenched, the employee will have a consideration period of one month to elect for voluntary retrenchment. The CEO will not give notice of termination under section 29 of the PS Act on the grounds that the employee is excess to requirements before the end of that period.

**L3.2** On receipt of an agreement from the excess employee to be voluntarily retrenched, the CEO will terminate the excess employee's employment under section 29 of the PS Act within five working days of the employee's agreement to voluntary retrenchment, or within such other period as is agreed.

**L3.3** Only one offer of a voluntary retrenchment will be made to an excess employee.

### **L4 PERIOD OF NOTICE**

**L4.1** Where the employee agrees to be voluntarily retrenched under **clause L3**, the CEO can approve the employee's retrenchment and upon approval will give the required notice of termination under s.29 of the PS Act. The period of notice will be four weeks

(or five weeks for an employee over 45 years of age with at least five years continuous service).

**L4.2** Where an employee is retrenched prior to the end of the notice period, the employee will receive payment in lieu of any unexpired portion of the consultation process, consideration and notice periods.

**L5 SEVERANCE BENEFIT**

**L5.1** An excess employee who elects to accept an offer of a VR and whose employment is then terminated by the CEO under s.29 of the PS Act is entitled to be paid a redundancy payment equal to two weeks salary for each completed year of service, plus a pro rata payment for completed months of service since the last completed year of service, or any greater redundancy payment payable under the NES.

**L5.2** The minimum sum payable will be four weeks' salary and the maximum will be 48 weeks' salary.

**L5.3** The redundancy benefit will be calculated on a pro rata basis for any period where an employee has worked part-time hours during his or her period of service and the employee has less than 24 years full-time service.

**L5.4** Subject to **subclauses L5.5** and **L5.6**, service for redundancy pay purposes means:

- (a) service in the ATSB;
- (b) Government service as defined in section 10 of the Long Service Leave Act;
- (c) service with the Commonwealth (other than service with a Joint Commonwealth-State body corporate in which the Commonwealth does not have a controlling interest) which is recognised for long service leave purposes;
- (d) service with the Australian Defence Forces;
- (e) APS service immediately preceding deemed resignation under section 49 of the repealed *Public Service Act 1922* (Cth), if the service has not previously been recognised for severance pay purposes; or
- (f) service in another organisation where an employee was moved from the APS to that organisation with a transfer of function, or an employee engaged by that organisation on work within a function is engaged as a result of the transfer of that function to the APS, and such service is recognised for Long Service Leave purposes.

**L5.5** For earlier periods of service to count there must be no breaks between the periods of service, except where:

- (a) the break in service is less than one month and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer; or
- (b) the earlier period of service was with the APS and ceased because the employee was deemed to have resigned from the APS on marriage under section 49 of the repealed *Public Service Act 1922* (Cth).

**L5.6** Any period of service which ceased:

- (a) through termination on the following grounds or on a ground equivalent to any of the following grounds:
  - (i) the employee lacks, or has lost, an essential qualification for performing his or her duties;
  - (ii) non-performance, or unsatisfactory performance, of duties;
  - (iii) inability to perform duties because of physical or mental incapacity;
  - (iv) failure to satisfactorily complete an entry level training course;
  - (v) failure to meet a condition imposed under subsection 22(6) of the PS Act;
  - (vi) breach of the APS Code of Conduct; or
  - (vii) any other ground prescribed by the Public Service Regulations; or
- (b) on a ground equivalent to those in paragraph (a) above under the repealed *Public Service Act 1922*; or
- (c) through voluntary retrenchment at or above the minimum retiring age applicable to the employee; or
- (d) with the payment of a redundancy benefit or similar payment or an employer financed retirement benefit, such as a military pension;
- (e) will not count as service for redundancy pay purposes.

**L5.7** Absences from work which do not count as service for Long Service Leave purposes will not count as service for severance pay purposes.

**L6 RATE OF PAYMENT — REDUNDANCY BENEFIT**

**L6.1** For the purpose of calculating any payment under **subclause L5.1**, salary will include:

- (a) the employee's full-time salary, adjusted on a pro rata basis for periods of part-time service; or
- (b) the higher salary, where the employee has been in receipt of ARA for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of retrenchment; and
- (c) other allowances in the nature of salary which are paid during periods of Annual Leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred (e.g. car parking allowances), or a payment for disabilities associated with the performance of duty;
- (d) shift penalties, where the employee has undertaken shift work and is entitled to shift penalties for 50% or more of the pay periods in the 12 months preceding being given notice of retrenchment. A weekly average of penalties due over the 12 months will be included in the salary; and
- (e) to the extent that redundancy payment is required by the NES, any additional amount required by the NES.

**L7 RETENTION PERIOD**

**L7.1** Where an excess employee has not accepted an offer of voluntary retrenchment, and unless he/she agrees otherwise, the excess employee will not be involuntarily

terminated by the CEO under s.29 of the PS Act until the following retention periods have elapsed.

- (a) 13 months where an employee has 20 or more years of service or is over 45 years of age; or
- (b) seven months for other employees.

**L7.2** If an employee is entitled to a redundancy payment in accordance with the NES, the relevant period in clause L7.1 (above) is reduced by the number of weeks redundancy pay that the employee will be entitled to under the NES on termination, as at the expiration of the retention period (as adjusted by the clause).

**L7.3** The retention period will commence on the earlier of the following:

- (a) the day the employee is advised in writing by the CEO that he or she is an excess employee; or
- (b) one month after the day on which the CEO invites the employee to elect to be retrenched.

**L7.4** The CEO will consider an excess ATSB employee in isolation from and not in competition with other applicants for vacancies to which an excess employee of the Bureau seeks a move at level. An excess employee on retention is not eligible to access the provisions of this Agreement for job swapping, being paragraphs L2.3(b) and L2.3(c) respectively.

**L7.5** During the retention period the CEO:

- (a) will continue to take all reasonable steps to find alternative employment for the excess employee; and/or
- (b) may, with four weeks' notice, reduce the excess employee's classification as a means of securing alternative employment for the excess employee. Where an excess employee is reduced in classification before the end of the appropriate retention period, the employee will continue to be paid at the employee's previous level for the balance of the retention period. The salary maintenance will include:
  - (i) the higher salary where an employee has been in receipt of ARA for more than 12 months continuously and the ARA would have continued except for the excess situation; and
  - (ii) other allowances in the nature of salary which are paid during periods of Annual Leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.

**L7.6** During the retention period the excess employee will:

- (a) take reasonable steps to find alternative employment; and
- (b) actively participate in learning and development activities, trial placements or other arrangements agreed to, to assist in obtaining a permanent placement.

**L7.7** The retention period will be extended by any periods of certified illness taken during the period.

- L7.8** The excess employee is entitled to assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment where these expenses are not met by the prospective employer.
- L7.9** Where the CEO believes there is insufficient productive work available for an excess employee during the retention period, the CEO may, with the agreement of the employee, terminate the employee's employment under s.29 of the PS Act and pay the balance of the retention period (adjusted for the NES under sub-clause L7.2 above) as a lump sum. This payment will be taken to include the payment in lieu of notice of termination of employment. An employee whose employment is terminated in these circumstances will also be entitled to a redundancy payment in accordance with their NES entitlement.
- L7.10** An excess employee will be given four weeks notice (or five weeks notice for an employee over 45 years of age with at least five years of continuous service) where it is proposed that the employee will be involuntarily retrenched. Wherever possible, this notice period will be concurrent with the retention period.
- L7.11** An excess employee will not be retrenched involuntarily if the employee has not been invited to elect to be retrenched or has elected to be retrenched but the CEO refuses to approve it.

## **SECTION M INTERPRETATION**

### **M1 PERSONS COVERED**

**M1.1** This Agreement is made under section 172 of the FW Act and applies to and covers:

- (a) the CEO of the Australian Transport Safety Bureau on behalf of the Commonwealth of Australia;
- (b) all the ATSB's employees employed under the PS Act other than any employee who is party to an Australian Workplace Agreement or SES employees.

**M1.2** This Agreement covers the following unions if Fair Work Australia notes in its decision to approve this Agreement that it covers that particular union:

- (a) the Community and Public Sector Union (CPSU); and
- (b) the Association of Professional Engineers, Scientists and Managers Australia (APESMA).

### **M2 NO EXTRA CLAIMS**

**M2.1** It is agreed by the parties to this Agreement that up to the nominal expiry date of this Agreement, the parties will not pursue or make any further claims in respect of improvements in terms and conditions of employment that exist for the term of the Agreement, except where consistent with the terms of this Agreement.

### **M3 AGREEMENT OPERATES IN CONJUNCTION WITH OTHER DOCUMENTATION**

**M3.1** This Agreement and the following related documents will be placed on the ATSB's intranet site and linked where relevant:

- (a) Chief Executive's Instructions;
- (b) business plans;
- (c) employment procedures; and
- (d) other internal material.

**M3.2** The documents referred to in **clause M3.1** (and any other policies or procedures referred to in this Agreement) do not form part of this Agreement. ATSB employment procedures, however described, are subordinate to this Agreement to the extent that they deal with terms and conditions of employment expressly set out in this Agreement.

**M3.3** ATSB employment procedures that provide employee benefits, conditions of employment or entitlement may be made or varied from time to time following consultation with the parties to the Agreement, and will apply in the form they are in as at the time of any relevant action or decision. Disputes over the content, variation of, application or interpretation of employment procedures are subject to the Dispute Resolution Term of this Agreement.

**M3.4** Actions and decisions of managers and supervisors regarding employees will, where relevant, be taken in accordance with the terms of the documents described in **clause M3.1**.

**M4 COMMENCEMENT AND DURATION OF THIS AGREEMENT**

**M4.1** This Agreement commences the seventh day after notification is given by Fair Work Australia that the Agreement passes the Better-Off Overall Test, in accordance with the FW Act. This Agreement nominally expires on 30 June 2011.

**M5 DELEGATION**

**M5.1** The CEO may, in writing, delegate to a person any of the CEO's powers or functions under this Agreement (other than power set out in this **subclause M6.1**).

**M5.2** A person exercising powers or functions under a delegation under this **clause M6** must comply with any directions of the CEO.

**M6 DEFINITIONS**

**M6.1** In this Agreement, the singular includes the plural.

**M6.2** For the purposes of this Agreement the following definitions apply:

**Agreement** means the Australian Transport Safety Bureau Enterprise Agreement 2009-2011;

**APS** means the Australian Public Service;

**ARA** means Additional Responsibilities Allowance;

**ATSB** means the Australian Transport Safety Bureau or its successor however described;

**Bureau and the Bureau** mean the Australian Transport Safety Bureau or its successor however described;

**CEO** means the person for the time being holding or performing the duties of the office of Chief Executive Officer;

**Consult** means to **give** those consulted an opportunity to be heard and to express their views so that they may be taken into account before decisions are made. Consultation provides a genuine opportunity to influence the decision maker;

**CPI** means the Consumer Price Index, Australia (Catalogue 6401.0) published quarterly by the Australian Bureau of Statistics;

**dependant** in relation to an employee, means the partner of the employee or a child or parent of the employee, being a child or parent who ordinarily resides with the employee and who is wholly or substantially dependent on the employee;

**dependent child** for an employee, means a child of the employee who is less than 21 years old or dependent on the employee;

**Disability Act** means the *Disability Service Act 1986* (Cth);

**eligible dependant** means a dependant whose income, if any, is less than \$16,792 per annum, adjusted on each 1 July during this Agreement by the percentage change in the CPI last published for the quarter prior to that 1 July from the CPI last published from the CPI last published for the quarter 12 months prior to that 1 July;

**employee** means an employee engaged under subsection 22(2) of the PS Act, but does not include an SES employee;

**employee representative** means any person whom the employee(s) nominates or elects as a representative which may include an employee or a representative from the unions listed in **subclause M1.2**;

**Fair Work Australia** means the national workplace relations tribunal;

**family** means a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee, fostering or traditional kinship.

**FW Act** means the *Fair Work Act 2009* as amended from time to time;

**Intranet** means the ATSB's intranet site incorporating a Enterprise Agreement information page;

**LSL** means Long Service Leave as defined in the LSL Act;

**Long Service Leave Act** means the *Long Service Leave (Commonwealth Employees) Act 1976*;

**Minister** means the Minister for the time being administering the ATSB;

**Maternity Leave Act** means the *Maternity Leave (Commonwealth Employees) Act 1973*;

**ML Act** means maternity leave as defined in the Maternity Leave Act;

**NES** means the National Employment Standard as set by Fair Work Australia.

**non-ongoing employee** means an employee engaged under subsection 22(2)(b) or (c) of the PS Act but does not include a non-ongoing SES employee;

**OHS Act** means the *Occupational Health & Safety Act 1991*;

**ongoing employee** means an employee engaged under subsection 22(2)(a) of the PS Act but does not include an ongoing SES employee;

**partner** means, in relation to a person who is a member of a couple, the other member of the couple;

**primary care giver** is the employee who will assume the principal role for the care and attention of a child/children. The employer may require confirmation of primary care giver status;

**PS Act** means the *Public Service Act 1999* as amended from time to time;

**salary** means the employee's rate of pay specified in Section N unless otherwise defined;

**SES** means the Senior Executive Service as defined in the PS Act;

**settlement period** means a four week period commencing on a Thursday and ending on a Wednesday;

**Superannuation Act** means the *Superannuation Act 2005* (Cth);

**supervisor** means an employee with responsibility for managing another employee in the conduct of all aspects of the first employee's work;

**Tertiary Spaces** means all other spaces such as storage rooms, machine rooms and other spaces not included in work areas, offices and meeting rooms; and

**TSI or STSI** means Transport Safety Investigator or Senior Transport Safety investigator (respectively)

**usual place of work**, for an employee, means the place where the employee ordinarily performs duty, or for an employee who does not ordinarily perform his or her duties at a single place, the place where the employee is ordinarily required to report for duty.

**M7 HOURS/DAYS AND HOURS/WEEKS READY RECKONER**

**HOURS DAY/S**

7.5	1
15	2
22.5	3
30	4
37.5	5

**HOURS WEEK/S**

37.5	1
75	2
112.5	3
150	4
450	12

## SIGNATURES OF PARTIES BOUND

By signing below the employer and bargaining representatives bound by this Agreement signify their agreement to its terms.

.....

Dated:

Martin Dolan  
Chief Executive Officer  
Australian Transport Safety Bureau

.....

Dated:

Nadine Flood  
Deputy Secretary  
On behalf of the Community and Public Sector Union

.....

Dated:

David Smith  
Director, ACT  
On behalf of the Association of Professional Engineers, Scientists and  
Managers Australia

.....

Dated:

Julian Walsh  
Bargaining Representative  
Australian Transport Safety Bureau

.....

Dated:

Ian Brokenshire  
Bargaining Representative  
Australian Transport Safety Bureau

.....

Dated:

Graham Drummond  
Bargaining Representative  
Australian Transport Safety Bureau

.....

Dated:

Andrew Hodgson  
Bargaining Representative  
Australian Transport Safety Bureau

.....

Dated:

Simon Grummett  
Bargaining Representative  
Australian Transport Safety Bureau

.....

Dated:

Stephen Curry  
Bargaining Representative  
Australian Transport Safety Bureau

.....

Dated:

Ethan Eastman  
Bargaining Representative  
Australian Transport Safety Bureau

.....  
Jane Childs  
Bargaining Representative  
Australian Transport Safety Bureau

Dated:

.....  
Stuart Macleod  
Bargaining Representative  
Australian Transport Safety Bureau

Dated:

.....  
Marcus Matthews  
Bargaining Representative  
Australian Transport Safety Bureau

Dated:

.....  
Kerri Hughes  
Bargaining Representative  
Australian Transport Safety Bureau

Dated:

.....

Dated:

## SECTION N SALARY RATES

### Enterprise Agreement 2009 - 2011: Remuneration

The following tables set out the ATSB's rates of pay and classification levels under this Agreement.

Pay level	Commencement of Agreement	1 July 2010 3 per cent
GAPS	\$48,582	\$50,039
APS 1.1	\$37,597	\$38,725
APS 1.2	\$38,748	\$39,910
APS 1.3	\$39,901	\$41,098
APS 1.4	\$41,413	\$42,655
APS 2.1	\$42,580	\$43,857
APS 2.2	\$43,862	\$45,178
APS 2.3	\$45,306	\$46,665
APS 2.4	\$47,009	\$48,419
APS 3.1	\$48,582	\$50,039
APS 3.2	\$49,833	\$51,328
APS 3.3	\$51,087	\$52,620
APS 3.4	\$52,456	\$54,030
APS 4.1	\$53,827	\$55,442
APS 4.2	\$55,542	\$57,208
APS 4.3	\$56,980	\$58,689
APS 4.4	\$58,491	\$60,246
APS 5.1	\$60,092	\$61,895
APS 5.2	\$61,985	\$63,845
APS 5.3	\$63,719	\$65,631
APS 6.1	\$65,155	\$67,110
APS 6.2	\$68,283	\$70,331
APS 6.3	\$71,410	\$73,552
APS 6.4	\$74,541	\$76,777
APS 6.5 PAO**	\$75,977	\$78,256
EL 1.1	\$83,464	\$85,968
EL 1.2	\$86,650	\$89,250
EL 1.3	\$90,128	\$92,832
EL 1.4 PAO**	\$94,645	\$97,484
EL 1.5 PAO**	\$99,337	\$102,317
EL 2.1	\$95,880	\$98,756
EL 2.2	\$103,176	\$106,271
EL 2.3	\$108,723	\$111,985
EL 2.4	\$113,250	\$116,648

Notes:

\*\* Identified pay points accessible only to employees locally classified as Public Affairs Officers for the term of this Agreement. Salary points used for Public Affairs Officers are set out at **clause F18**.

Pay level	Commencement of Agreement	1 July 2010 3 per cent
APS 6.1 TSI	\$74,376	\$76,607
APS 6.2 TSI	\$77,505	\$79,830
EL 1.1 STSI	\$90,128	\$92,832
EL 1.2 STSI	\$96,314	\$99,203
EL 2.1 STSI	\$103,176	\$106,271
EL 2.2 STSI	\$113,250	\$116,648
EL 2.1 TLTSI	\$117,965	\$121,504
EL 2.2 TLTSI	\$121,951	\$125,610
EL 2.1 DTSI	\$125,860	\$129,636
EL 2.2 DTSI	\$131,524	\$135,470

Notes:

The rate of remuneration for TSIs recognises the specialist technical skills, expertise, nature of their work and the additional time required to meet key work outputs (including travel and operating on accidents and incidents at field or remote sites). An explanation of the TSI broadband structure is provided at **clause F1**.

Pay level	Commencement of Agreement	1 July 2010 3 per cent
APS 3.1 LAW	\$49,833	\$51,328
APS 3.2 LAW	\$52,846	\$54,431
APS 4 LAW	\$56,980	\$58,689
APS 5 LAW	\$60,092	\$61,895
APS 6.1 LAW	\$65,155	\$67,110
APS 6.2 LAW	\$68,283	\$70,331
APS 6.3 LAW	\$74,541	\$76,777
EL 1.1 SLAW	\$83,464	\$85,968
EL 1.2 SLAW	\$90,128	\$92,832
EL 1.3 SLAW	\$101,186	\$104,222
EL 2.1 PLAW	\$108,723	\$111,985
EL 2.2 PLAW	\$114,838	\$118,283

Notes:

Advancement for employees who are in the law broadband is covered under **clause F17** for the term of this Agreement.

Pay level	Commencement of Agreement	1 July 2010 3 per cent
APS 3.5	\$53,827	\$55,442
APS 4.1	\$53,827	\$55,442
APS 4.2	\$55,542	\$57,208
APS 4.3	\$56,980	\$58,689
APS 4.4	\$58,491	\$60,245

Notes:

An explanation of the graduate broadband structure is provided at **clause F10**.

## **SECTION O EMPLOYEES ON SUPPORTED WAGE**

### **O1 EXCLUSIONS**

- O1.1** This Section O does not apply to a current employee with a workers' compensation claim against the ATSB (regardless of whether liability has been accepted by Comcare), or to any employee undertaking rehabilitation for a work-related injury or illness.
- O1.2** This Section O does not apply to the ATSB in respect of any programme, undertaking, or service funded under the *Disability Service Act 1986* (Cth) to enable the Bureau to fulfil the dual role of service provider and sheltered employer to people with disabilities or who receive or are eligible for a Disability Support Pension, except to the extent that the Bureau, or a part of the Bureau, is recognised under ss.10 or 12A of that Act.

### **O2 ELIGIBLE EMPLOYEES**

- O2.1** This Section O applies to an employee who is unable to perform the range of duties of his or her job at the required level of competence because the employee's productive capacity is affected by a disability and the employee meets the impairment criteria for a Disability Support Pension.
- O2.2** Employees to whom this Section O applies will be paid the percentage of the rate of pay applying to the duties of the employee's job relevant to the employee's assessed performance capacity as set out in Table E.

**Table E**

Assessed Capacity	% of salary
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

- O2.3** An employee to whom this Section O applies will be paid in accordance with the minimum weekly payment set by the Fair Work Australia (or its predecessor) or such appropriately higher amount as may be determined by the CEO during the life of this Agreement to reflect one or more increases in the minimum wage.
- O2.4** If an employee's assessed capacity is 10% or less, the ATSB will provide a higher degree of assistance and support to him or her.
- O2.5** The productive capacity of an employee will be assessed in accordance with the SWS and documented in an assessment instrument by the ATSB and an Accredited Assessor.
- O2.6** An assessment instrument applying to an employee will be agreed and signed by the parties to the assessment, and lodged by the ATSB with Fair Work Australia together with the employee's applicable rate of pay.

**O2.7** The ATSB will review the employee's applicable rate of pay annually. The Bureau may undertake an earlier review on request if it is reasonable and practicable to do so. The review process will be in accordance with the procedures for assessing capacity under the SWS.

**O2.8** An employee to whom this Section O applies will receive the same terms and conditions of employment as apply to all other employees paid on a pro rata basis.

### **O3 TRIAL PERIOD OF EMPLOYMENT**

**O3.1** The ATSB may employ a person under the provisions of this Section O for a trial period under an interim contract of employment for a period not exceeding 12 weeks to enable the assessment of the person's performance capacity.

**O3.2** If any additional work adjustment time is required during the trial period, the additional time must not exceed a further 4 weeks.

**O3.3** During the trial period, the assessment of the person's capacity will be undertaken and the rate of pay determined for the person's ongoing employment.

**O3.4** During the trial period the person will be paid in accordance with the minimum weekly payment set by the Fair Work Australia (or its predecessor) or such appropriately higher amount as may be determined during the life of this Agreement to reflect one or more increases in the minimum wage.

**O3.5** On the completion of the trial period, if the ATSB and the person decide to establish a continuing employment relationship, a further contract of employment will be entered into based on the rate of pay determined under Table E.

**O3.6** The ATSB will, in considering the engagement of a person to whom this Section O may apply, take reasonable steps to consider changes in the workplace that will enhance the person's capacity to perform the duties of the job. Changes may involve the re-design of duties, or new time or work arrangements. The ATSB will consult other employees in the area in these circumstances.

### **O4 INTERPRETATION**

**O4.1** In this Section O:

**Accredited assessor** means a person accredited by the managing unit established by the Australian Government under the Supported Wage System (SWS) to perform assessments of an individual's productive capacity within the SWS.

**Assessment instrument** means the form provided for under the SWS that records the assessment of the productive capacity of the person to be employed under the SWS.

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

**Supported wage system** means the Australian Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in *Supported Wage System: Guidelines and Assessment Process*.