

PROPOSED
NORTHERN TERRITORY PUBLIC SECTOR
TEACHER AND EDUCATOR
2014 - 2017
ENTERPRISE AGREEMENT

EXPLANATORY NOTES

**THIS DOCUMENT REFLECTS THE CHANGES IN THE PROPOSED AGREEMENT COMPARED WITH THE
CURRENT AGREEMENT**

Teacher and Educator Enterprise Agreement – Explanatory Notes

November 2014

NTPS Teacher and Educator 2010-2013 Enterprise Agreement Provision			Proposed Changes
All provisions (including Schedules) where applicable			<p>Subject to Negotiations</p> <ul style="list-style-type: none"> Remove matters better dealt with through policy and procedure and place under <i>Public Sector Employment and Management Act</i> (PSEMA) or general policy Compliance with the NTPS Wages Policy (Wages Policy) Review and/or amend provisions where possible to improve performance and administration <p>Drafting</p> <ul style="list-style-type: none"> Remove references to other legislation which are better dealt with specifically under that legislation Compliance with the <i>Fair Work Act</i> (FW Act) Consistence in common provisions across NTPS agreements for core conditions Retention of current relevant provisions Technical changes in line with amended PSEMA (eg ‘permanent employee’ replaced with ‘ongoing employee’ etc)
PART 1 – APPLICATION AND OPERATION OF AGREEMENT			
ORIGINAL CLAUSE	NEW CLAUSE	TITLE	COMMENT
1.	1.	Title	Update as necessary
2.	2.	Arrangement	Update as necessary
3.	3.	Coverage	No change
4.	4.	Definitions	Updated terminology as necessary
5.	5.	Period of Operation	Updated nominal expiry date to 11 October 2017

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6.	6.	Operation of Schedules	No change
7.	7.	Variation of PSEM By-laws and Determinations	Minor changes: Renamed clause to “Variation to Public Sector Employment and Management Act” and changed reference to PSEM By laws and Determinations to PSEM Act. Clarified that the PSEM Act is not incorporated into the Agreement.
8.		Anti-Discrimination	Omit – proposed to omit this clause as the obligations already fall under the <i>Anti-Discrimination Act</i> .
9.		Variation	Omit – Propose to omit as any variation to enterprise agreements is in accordance with, and is provided by, the <i>Fair Work Act</i> (FW Act) and therefore, not necessary to include in enterprise agreements.
10.	8.	No Extra Claims	No change
11.	9.	Objectives of Agreement	Minor drafting changes (update cross referencing) no change to intention of clause
12.	10.	Commitment of the Parties	No change
13.		Monitoring and Implementation of the Agreement	Omit – propose to omit as the Department cannot obviate its responsibility to implement the terms of the agreement.
13A.	11.	Negotiations for a Replacement Agreement	No change
14.	12.	Productivity and Efficiency	No change
15.	13.	Dispute Settling Procedures	<p>Updated to meet the 2010 – 2013 FWC undertaking, for consistency as a common core clause across the NTPS and to take into account the FW Act amendments by amending the following:</p> <ul style="list-style-type: none"> • A new sub-clause 15.1 to be added which will give effect to an undertaking made to Fair Work Australia when the current agreement was approved. It will also take into account the FW Act amendments regarding the ability of an employer to refuse requests for flexible working arrangements on reasonable business grounds. • Propose to clarify that employees can access the provisions under PSEMA in

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			relations to grievances.
PART 2 – PROCEDURAL MATTERS			
16.	14.	Public Sector Consultative Council	Propose to update for consistency as a common core clause across the NTPS, by amending the following: <ul style="list-style-type: none"> • Rename clause to ‘Consultative Committees’ • Retain the reference to Public Sector Consultative Council (PSCC) as a forum for matter relating to the NTPS. Remove the procedural and functional aspects from the clause as these are already provided for under PSEMA. • Propose to add a new subclause relating to the CEO’s discretion to form other consultative committees for consultation at the agency level.
17.	15.	Management of Change	In line with the amendments to the FW Act and the requirement to include mandatory clauses relating to consultation and roster changes it is proposed to insert the FW Act ‘Model Consultation Term’ clause.
18.		Filling Vacancies Resulting from Substantial Change	Omit – it is proposed to omit this clause as these provisions are contained within PSEMA Employment Instruction No. 1 ‘Filling Vacancies’ . The provisions of this Employment Instruction (EI) apply to all NTPS employees and Agencies. The entitlements under EI1 are equal to those contained in the Agreement. There is no loss of entitlements.
19.	16.	Security of Employment	It is proposed to remove sub-clause 19.3 to 19.5 as the requirement to use fixed period and casual employment appropriately is derived under PSEMA, as too is the process for a CEO to seek direct appointment of employees.
20.	17.	Group Variation Working Arrangements for Groups of Employees	No change

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20A.	18.	Individual Flexible Working Arrangements	Proposed to updated for consistency with other NTPS common core clauses, by amending the following: <ul style="list-style-type: none"> • Broaden the grounds on which to make IFAs (remove ‘within the span of hours’ from 20A.1(a)(i)) • Retains entitlements and remove the elements which are procedural; and • Reflect current FW Act requirements brought in under recent amendments
20B.		Modern Enterprise Award	Omit – propose to omit this clause, as it was included in the agreement to facilitate the creation of a sector wide modern enterprise award by 31 December 2013. The application for a modern enterprise award for the NTPS was submitted by 31 December 2013 and development of the Award is ongoing with union consultation.
20C	19.	Union Representation	No substantive change to clause – seeking to combine 20C, 20D and 20E into one clause titled “Union Rights”. This will also be consistent with how the clause is drafted in other NTPS agreements. Minor amendments to terminology to seek consistency across all three clauses.
20D		Union Training Leave	See comments in 20C
20E		Union Communication with Members	See comments in 20C
PART 3 – GENERAL EMPLOYMENT CONDITIONS			
21.	20.	Classifications, Salaries and Allowances	Insert the salary increase of 3% per annum from ffpp on or from 1 September 2014, 2 nd 3% increase on or from ffpp on or from the day an agreement is made, and 3% per annum on or from ffpp from 11 October 2015 and 2016. Remove the transitional arrangements relating to new classification structures as transition completed and sub-clause now redundant.

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22.	21.	Increments	<p>Include progression requirements for Assistant Teachers to move from level 4 to the new level 5 (successful completion of the Advanced Diploma).</p> <p>Update references relating to progression for CT5 to CT6 (process now developed and in use).</p> <p>Remove sub-clause 22.4 “Translation Arrangements for Classroom Teacher Restructures” as has been implemented and now redundant.</p>
23.	22.	Highly Accomplished and Lead Teacher	<p>Update clause as scheme now implemented and make reference to allowance.</p> <p>No change to the operation or available entitlements under the scheme.</p>
24.	23.	First Aid Allowance	No change
25.	24.	Remote Incentive Allowance	No change
26.	25.	Remote Retention Payment	No change
27.	26.	Remote Localities – Additional Provisions	No change
28.	27.	Salary Sacrifice	No substantive change
29.	28.	Temporary Employment – Classroom Teacher	<p>Enable merit principle to apply to employees being appointed on an ongoing basis by removing sub-clause 29.6.</p> <p>Update terminology (temporary to fixed period).</p>
30.	29.	Probation	No change
31.	30.	Parental Leave	<p>Seeking consistency with other NTPS agreement clauses.</p> <p>Proposed changes to this clause incorporate amendments to FW Act and National Employment Standards (NES) which enhance existing NTPS parental leave</p>

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			<p>entitlements. Changes which reflect the FW Act amendments relate to enhancing entitlements for casuals with regards to transfer to a safe job, partner/concurrent leave, adoption leave, 'Keeping in Touch Days', and reasonable business grounds parameters if the employer refuses requests for extension of parental leave or returning to work on a part-time basis.</p> <p>Also seek the removal of the provision that provides an employee on the first 52 weeks of unpaid parental leave access to personal leave to ensure consistency with the principle that there is no access to personal leave during any periods of unpaid leave that do not count as service. Employees will have access to their accrued recreation leave and long service leave entitlements anytime during unpaid parental leave, an improvement on the current provision (there is currently a restriction to access to such leave to the first 24 months from time of birth or date of placement of adopted children).</p> <p>Also propose to improve the readability of the clause through drafting.</p>
32.	31.	Compassionate Leave	<p>Propose to update for consistency with NTPS core clauses, by amending the following:</p> <ul style="list-style-type: none"> • Clarifying how the clause applies to casual employees; • Updating terminology in the definitions to reflect FW Act terminology (eg changed facto spouse to de facto partner) • Update notice requirements, consistent with FW Act.
33.	32.	Use of Emergency Leave in Conjunction with Compassionate Leave	No change
34.	33.	Personal Leave	Propose to update for consistency with NTPS core clauses, by amending the following:

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			<ul style="list-style-type: none"> Updating terminology and wording in the clause to reflect terminology and wording of the FW Act (eg changed facto spouse to de facto partner) Fix the error relating to fixed period employee's entitlements (change from one day to two days under 34.4(b)(i)) Include a new sub-clause regarding documentary evidence requirements in relation to carer's leave to reflect the specific nature of carer's leave. Intended to clarify the evidence that is provided to the CEO to allow the CEO to determine if the leave is for the purposes of sick leave or carer's leave. Remove duplication with PSEMA between sub-clauses 34.9 (d) and (e) in relation to seeking the opinion of the NT Medical Advisor as both these provisions are mirrored in Employment Instruction No. 5 Medical Examinations and no longer required in the Agreement.
35.	34.	Recreation Leave	No substantive change, clarify existing provision of public holidays whilst on periods of leave at half pay.
36.	35.	Recreation Leave Loading	No change
37.	36.	Long Service Leave	Propose to update for consistency with NTPS core clauses, by referring long service leave to the PSEMA By-Law 8.
38.	37.	Work Life Balance	<p>Propose to update for consistency with NTPS core clauses, by amending the following:</p> <ul style="list-style-type: none"> Remove reference to extended leave scheme and replace this with reference to the advanced notice of leave without pay Updated the 'right to request' clause to be consistent with FW Act amendments Provided details of what 'reasonable business grounds' may include

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39.	38.	Professional Learning and Training	No change
40.	39.	Learning Organisation	No change
41.		Performance Management	Omit – propose to omit this clause as the Department of Education is required to have a Performance Management Framework under the PSEM Act and Employment Instruction 4 ‘Employee Performance Management and Development System’ . This applies across the NTPS regardless of referencing it in an enterprise agreement.
42.	40.	Non-Contact Time	No change
43.	41.	Class Sizes	No change
44.		Omitted	Omit
	42.	Teacher Responsibilities	New clause inserted relating to no changes to the Teacher Responsibility Guide without the agreement of the Union.
45.	43.	Workloads	No change
46.	44.	Redeployment and Redundancy	Propose to update for consistency as a common core clause across the NTPS, by amending the following: <ul style="list-style-type: none"> Amended to reflect FW Act position in relation to redundancy situations involving a transfer of business where the employer finds alternative employment for the employee.
47.		Inter-Industry Mobility Exchange	Omit – Propose to omit clause as the Employer’s commitment to facilitate inter-industry mobility and exchange outlined in NTPS Broadening Our Horizons – Avenues for Career Mobility policy (2010) and s 39 of PSEMA provides that Chief Executive Officers may make secondment arrangements.

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48.	45.	'Cashing up' of Airfares on a Common Date	No change
49.	46.	Superannuation	No substantive change to the provision. Updated to reflect current legislation and improve readability.
50.	47.	Recovery of Overpayments and Relocation Costs on Cessation of Employment	No change
50A.	48.	Recovery of Costs Associated with Cleaning and Repairs to Rental Accommodation	No change
51.		Occupational Health and Safety	Omit – propose to omit as Employer's obligation already provided under the <i>Work Health and Safety (National Uniform Legislation) Act</i> . This Act operates externally to the agreement and applies regardless of referencing it. Therefore it is not necessary to include in an enterprise agreement.
52.	49.	Preventing Bullying and Harassment in the Workplace	Propose to update for consistency as a common core clause across the NTPS, by amending the following: <ul style="list-style-type: none"> • Updated to reflect terms and provisions consistent with Employment Instruction No. 13 Appropriate Workplace Behaviour which is sub-ordinate legislation under the PSEM Act. • Rename clause to "Preventing Inappropriate Workplace Behaviour and Bullying in the Workplace"; • Re-word provisions to reflect the parties' commitment and obligations in this area
53.		Omitted	Omit
PART 4 – EMPLOYEES IN THE DEPARTMENT OF CORRECTIONAL SERVICES			

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54.	50.	Prison Educators	No substantive change (update Agency name)
54A.		Ongoing Employment for Prison Educators	Omit – propose to omit this clause as referred to a commitment which has now been fulfilled.
54B.	51.	Qualification Requirements	No change
54C.	52.	Reviews	No change
54D.	53.	Hours of Work and the Delivery of Educational Programs	No change
54E.	54.	Planning and Preparation	No change
54F.	55.	Professional Development	No change
PART 5 – MISCELLANEOUS PROVISIONS			
55.	56.	Christmas Closedown	No change
56.	57.	Higher Duties Allowance	No change
57.	58.	Improved Service Delivery and Teacher Support	No substantive change – remove sub-clause 57.2 as implementation completed and reference to this is redundant.
58.	59.	“Surviving and Thriving” Workshops	No change
59.	60.	Relief Teacher Provisions	No change
60.	61.	Extended School Year – Identified Remote Schools	No change

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61.	62.	Electricity Subsidy – Borroloola	No change
62.	63.	Remote Access to Satellite Television or Internet Services	No change
SCHEDULES			