

PROPOSED
NORTHERN TERRITORY PUBLIC SECTOR
2013 – 2017
ENTERPRISE AGREEMENT

EXPLANATORY NOTES

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

Please note:

- i. Reference to the 'current Agreement' means the NTPS 2010 – 2013 Enterprise Agreement and reference to the 'new Agreement' means the proposed NTPS 2013-2017 Enterprise Agreement.
- ii. Technical changes were required throughout the new Agreement in line with amendments introduced on 1 January 2012 to the *Public Sector Employment and Management Act* (PSEM Act) (eg 'permanent employee' changed to 'ongoing employee; 'temporary employee' to 'fixed period employee').
- iii. Unless otherwise stated, reference to clause and sub-clause numbers in the explanatory notes are referring to the current Agreement clauses.

PART 1 – APPLICATION AND OPERATION OF AGREEMENT

1. Title

Change title: NTPS 2013-2017 Enterprise Agreement.

2. Arrangement

Clause and page numbering updated.

3. Parties covered by this Agreement

Updated two union names that have changed since 2010: United Voice and Australian Nursing and Midwifery Federation.

4. Definitions

Updated Fair Work Australia with Fair Work Commission (FWC) (sub-clause 4(k)), added the phrase ‘as amended from time to time’ after PSEM Act (sub-clause 4(n)) and *Fair Work Act* (FW Act)(sub-clause 4(j)), to clarify that the agreement applies taking into account any amendments to this legislation during the life of the new Agreement. Similarly, the phrase ‘as varied from time to time’ was added following reference to PSEM Act subordinate legislation in sub-clause 4(j).

5. Period of Operation

Updated to reflect the nominal expiry date of the new Agreement: 10 August 2017. Updated the reference to the Fair Work Australia with the FWC.

6. Operation of Schedules

No change.

7. Modern Enterprise Award

Omitted. This clause, to facilitate the creation of a sector wide modern enterprise award by 31 December 2013, is no longer necessary.

8. Variation of Public Sector Employment and Management By-laws and Determinations

Minor changes. Renamed clause to “Variation to Public Sector Employment and Management Act” and reference to “PSEM Act” used in the clause where appropriate, as PSEM Act defined in the definitions (clause 4) to include Regulations, By-laws, Determinations and Employment Instructions. Updated to clarify existing provision that in all cases of inconsistency between the agreement provisions and By-law provisions, the Agreement will prevail. Clarified that the PSEM Act is not incorporated into the new Agreement.

9. Anti Discrimination

Omitted. The anti-discrimination legislation exists externally to the agreement and applies regardless of referencing it in an enterprise agreement therefore it is not necessary to include in an enterprise agreement.

10. Variation

Omitted. Any variation to enterprise agreements is in accordance with, and is provided by, the Fair Work Act (FW Act) and therefore, not necessary to include in enterprise agreements.

11. No Extra Claims

No change.

12. Negotiations for Replacement Agreement

Added the phrase “or later” to the current clause to provide greater flexibility to the parties. Clause now reads: ‘Negotiations to replace the proposed Agreement will commence four months prior to the expiry of the Agreement or earlier or later by agreement between the parties to the Agreement.’

13. Objectives of Agreement

No change.

14. Productivity and Efficiency

No change.

15. Dispute Settling Procedures

Updated to: include the FWC undertaking issued in 2010 upon the approval of the current agreement; reflect changes in FW Act legislation during 2013; and added a new sub-clause to clarify that an employee who has a grievance about those matters outlined in sub-clause 15.1 (b) may utilise section 59 of the PSEM Act.

PART 2 – PROCEDURAL MATTERS

16. Union Rights

Minor change to add ‘an accredited Union delegate’ in sub-clause 16.2(a) to keep reference to delegate consistent throughout clause 16.

17. Management of Change

Key change is the addition of a new provision to encourage the establishment of consultative committees at the agency level. Removal of the words under 17.2 (k)(ii) ‘including the opportunity,

where relevant to meet with employee representatives’, as all steps under 17.2 (k) (i) to (iv) may involve meetings with representatives; not just (ii).

18. Filling of Vacancies Resulting from Substantial Change

Omitted as these matters are of policy and procedure. These provisions have been clarified and included in the draft updating the current [Employment Instruction No. 1 ‘Filling Vacancies’](#), which is sub-ordinate legislation under the PSEM Act. Any changes will involve consultation with the unions.

19. Public Sector Consultative Council

Renamed as a ‘Consultative Committees’ clause and added provision (see new sub-clause 19.2) regarding the establishment of consultative committee at the agency level. Retained reference to Public Sector Consultative Council (PSCC) under sub-clause 19.1. However, as the function, operation and procedural requirements of the PSCC are addressed in PSEM Regulations, the function and procedural clauses in the current Agreement have been omitted.

20. Occupational Health and Safety

Omitted. The Work Health and Safety legislation exists externally to the agreement and applies regardless of referencing it in an enterprise agreement therefore it is not necessary to include in an enterprise agreement.

21. Commitment to Employee Assistance Program

No change.

22. Trainees

No change.

23. Inter-Industry Mobility Exchange

Omitted. The PSEM Act provides authority for transfers and employee mobility and this clause is therefore unnecessary.

24. Preventing Harassment and Bullying in the Workplace

Updated to reflect terms and provisions consistent with [Employment Instruction No. 13 Appropriate Workplace Behaviour](#) which is sub-ordinate legislation under the PSEM Act: renamed clause “Preventing Inappropriate Workplace Behaviour and Bullying in the Workplace”, re-worded provisions to reflect the parties’ commitment and obligations in this area.

PART 3 – GENERAL EMPLOYMENT CONDITIONS

Division 1 – Pay, Allowances and Hours of Work

25. Rates of Pay

Updated to reflect new salary increases, dates of salary increases and the abolishment of junior rates. Sub-clause 25.3 (b) explains that employees on junior rates will translate to the minimum rate of the relevant classification from 10 October 2013. Deleted provisions in relation to transitioning to new restructured classification levels introduced in the current agreement as new classification levels have been fully operational since 1 January 2011.

26. Supported Wage System

No change.

27. Increments

Reference to 1 January 2011 no longer required as Senior Classification levels fully implemented. Updated the provision that if a grievance arises it will be heard by way of section 59 of the PSEM Act; the Promotions Appeal Board is no longer the relevant avenue to deal with grievances under this provision.

28. Senior Classification Structure – Pay Progression Principles

References to 1 January 2011 no longer required as Senior Classification levels fully implemented. Renamed clause: 'Pay Progression for Senior Administrative Officers and Senior Professionals'. Updated to reflect the results of the senior pay progression agency survey, including: the application for pay progression is at the discretion of the employee and is not reliant on an invitation of a manager; and clarifying entitlements aspects of the provision around performance cycles, annual assessment date and review rights.

Procedures underpinning the senior pay progression process will remain in a Commissioner's determination.

29. Additional hours and Overtime

No change.

30. Restrictive Duty

Minor change to remove the reference to By-laws because the Schedules to the Agreement provide for restrictive duty provisions.

31. Hours of Work

Amended to clarify the provision to meal breaks (sub-clause 31.2) including reference to additional payments may apply in accordance with relevant schedule.

32. Averaging Hours

No change.

33. Span of Hours

No change.

34. Flexible Working Hours (Flextime) Guidelines

Omitted – reference to Flexible Working Hours (Flextime) Guidelines and span of hours under the Guidelines moved to clause 48.1(a) Work Life Balance Initiatives.

35. Electricity Subsidy for Employees in Remote Localities

Minor change: 'de facto spouse' replaced with 'de facto partner' - consistent with the term used in the new Agreement's leave clauses and FW Act.

36. Higher Duties Allowance

No change

37. Payment of Meal Allowance

No change.

38. 'Cashing up' of Airfares on a Common Date

No change.

39. Recovery of Overpayments and Relocation costs on Cessation of Employment

Minor technical change: 'temporary' replaced with 'fixed period' to reflect the terms in the PSEM Act.

40. Superannuation

No change to effect of the provision. Updated to reflect current legislation and improve readability.

41. Salary Sacrifice

No change to effect of the provision. Updated to reflect current legislation.

Division 2 – Employment Arrangements

42. Part-Time Employment

New provision sub-clause 42.8: where an employee agrees, they may work fewer or more hours than the maximum/minimum weekly limits set under the clause. New provision intended to assist part-time employees with work life balance or transition to retirement needs.

43. Casual Employment

No change.

44. Security of Employment

Deleted sub clauses 44.3, 44.4 and 44.5: operational in nature and addressed under the PSEM Act.

45. Individual Flexible Working Arrangements

Updated to clarify that arrangements may include arrangements about working outside the span of hours. The current agreement includes arrangements about when work is performed *within the span of hours*, however, this can occur under the Agreement without the requirement of an individual flexible working arrangement; meaning there is no scope for further flexibility about when work can be performed which was not the intention of the provision.

There are a number of safety provisions underpinning the application of such an arrangement including that 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, such arrangements may benefit the employee that may not be monetary based.

Sub-clauses 45.2 and 45.3 have been re-written to improve readability. Sub-clause 45.6(a) notice period in relation to either party terminating an individual flexible working arrangement changed to reflect FW Act wording.

46. Variation to Working Arrangements for Groups of Employees

No change.

47. Workloads

No change.

48. Work Life Balance

Updated to include: reference to requests for Leave Without Pay for extended periods (to replace the extended leave scheme currently under schedule 13.4), addition of a reference to Flexible Working Hours (Flextime) Policy under sub-clause 48.1(a) work life balance initiatives; reflect FW Act changes (ie

formal requirements) in relation to requests for change in working arrangements because of care responsibilities and refusals of requests based on reasonable business grounds.

Division 3 – Leave

49. Parental Leave

Amendments to FW Act and National Employment Standards (NES) have been incorporated into the new Agreement which enhance existing NTPS parental leave entitlements. Changes to reflect the FW Act amendments specifically around entitlements relating to casuals and 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.

One of the few efficiencies being sought is the removal of the provision that provides an employee on the first 52 weeks of unpaid parental leave access to personal leave (as per sub-clauses 49.10(b) & (c)). This would 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 continue to have access to their accrued recreation leave and long service leave entitlements during unpaid parental leave. This existing entitlement has been improved as the new Agreement will remove the current limitation which restricts access to accrued entitlements only during the period 24 months from time of birth or date of placement of the child.

Other changes include improving the readability and simplifying of the provisions for better understanding of the provisions.

50. Compassionate Leave

Consistent with other leave clauses, this clause has been amended to move explanation of relationship with By-laws and other instruments and application to casuals to the beginning of the clause, and updated definition of 'immediate family' and 'spouse' to reflect FW Act definitions.

Addition of new sub-clause 50.5 regarding notice requirements consistent with other leave provisions.

51. Personal Leave

Consistent with other leave clauses, this clause has been amended to move explanation of relationship with By-laws and other instruments and updated definition of 'immediate family' and 'spouse' to reflect FW Act definitions.

Addition of a new sub-clause 51.8(c) 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. Removal of sub-clauses 51.9 (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

52. Recreation Leave

Updated definitions and clarified sub clause 52.6 Public holidays to reflect the FW Act provisions: employee entitled to full rate of pay that he or she would have been paid had the public holiday fallen on a day that he or she was not on recreation leave.

53. Christmas Closedown

Minor change: replaced 'recreation leave credits' with 'accrued recreation leave entitlements'.

54. Recreation Leave Loading

No change.

55. Long Service Leave

Long Service Leave (LSL) entitlements are contained in PSEM Act By-law 8. The current Agreement included clauses that amended the By-law in some specific areas. The By-law was amended on 1 January 2012 to reflect the agreement changes so the provisions are no longer required in the new Agreement. The amended clause confirms that LSL entitlements are contained in By-law 8.

Division 4 – Other

56. Training and Development

No change.

57. Access to Computer Training

Omitted: no longer relevant.

58. Professional Issues

Omitted sub-clause 58.1 (ii) as invalid provision left in by error in current Agreement: new professional classification structure resulted in old Professional levels 1.1 and 1.2 being abolished. Deleted sub-clause 58.1 (iv) as supervisory allowances were absorbed upon translation to the new professional classification structure.

Minor grammatical changes to sub-clause 58.2 Professional Excellence Status Scheme noting, the professional excellence status determination will be updated in line with the Agreement. Deleted sub-clause 58.3 Professional Recruitment and Retention Scheme as these initiatives were replaced by introduction of the new professional classification structure. CEOs may still make submissions to the Commissioner to address any recruitment and retention difficulties which may arise during the term of the Agreement. Professional Development Allowance amounts have been indexed and amended under sub-clause 58.4 (new sub-clause 58.3). Clause 58.4 has also been amended to clarify the date at which continuous service is determined for the purpose of Professional Development Allowance (1 January

each year) and that a Professional employee can seek reimbursement of professional development activity costs at any time during the year.

59. Technical 1/Technical 2

No change.

60. Redeployment and Redundancy

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.

PART 4 – SPECIFIC AGENCY ISSUES

61. Department of Health and Families

Omitted. Review completed and provisions no longer relevant.

62. Department of Construction and Infrastructure – Darwin Bus Service

Omitted. Provision for money handling allowance already exists in Schedule 7 sub-clause 5.4 to the Agreement.

SCHEDULE	CHANGE
<p><u>General updates</u> across the schedules include: updating union names, agency names, deleted provisions relating to junior rates, technical changes reflect PSEM Act terminology (eg replacing ‘temporary employment’ with ‘fixed period employment’).</p>	
<p>SCHEDULE 1-NORTHERN TERRITORY PUBLIC SECTOR (GENERAL CONDITIONS OF SERVICE) PROVISIONS</p>	<p>Sub-Clause 5.1 (e) – deleted and 5.1 (g) amended. Inconsistent with clause 36 higher duties allowance in the core.</p> <p>Sub-clause 5.2 – updated references to legislation.</p> <p>Sub-clause 7.1 (h) – moved to 2nd sub-clause to clarify exemptions earlier in clause.</p> <p>Sub-clause 7.2 (c) – deleted reference to cap on time off in lieu for seasonal workers.</p> <p>Sub-clause 7.4(d) – added “Subject to sub-clause 9.3(e)” to reflect one hour minimum payment applicable to overtime whilst on Restriction Duty when employee is not required to return to workplace. Consistent with clause 9 Restriction Duty</p> <p>Sub-clause 7.5 (reasonable overtime) – deleted. Already covered in clause 29 in part 3 of the core.</p> <p>Sub-clause 9.3 (f) (restriction duty) – correct error where recalled to duty 3hours min payment (not one hour).</p>
<p>SCHEDULE 2 – THE COMMUNITY AND PUBLIC SECTOR UNION (NORTHERN TERRITORY PUBLIC SECTOR) PROVISIONS</p>	<p>Clause 1 – updated with correct senior officer classification titles.</p> <p>Clause 5 –amended to include award competency tables for Competency Based Assessment and Training employees.</p> <p>Clause 10A – New: notice of change in rostered hours of duty.</p> <p>Clause 17 – removed sub-clauses that should have been deleted in 2010 (ie current agreement) as references to applicable pay points depending on qualification obtained invalid since introduction of restructured professional classification in January 2011.</p>

SCHEDULE	CHANGE
SCHEDULE 3 - CONSTRUCTION AND MAINTENANCE WORKERS (NORTHERN TERRITORY PUBLIC SERVICE) PROVISIONS	Clause 6 – deleted. Inconsistent with fixed period employment conditions under the PSEM Act and deduction of pay addressed in cl 39 of the core agreement.
SCHEDULE 4 - HEALTH EMPLOYEES (NORTHERN TERRITORY PUBLIC SECTOR) MISCELLANEOUS WORKERS UNION PROVISIONS	<p>Clause 1 – updated with correct senior officer classification titles.</p> <p>Clauses 3.9, 13.6 & 14.10– replaced ‘Aboriginal Health Worker’ (AHW) with ‘Aboriginal and Torres Strait Islander Health Practitioner’ (ATSIHP) – change to the nomenclature reflects the current legislated protected title. Clarified use of the protected title for Trainees.</p> <p>Clause 4 – deleted. Inconsistent with fixed period employment conditions under the PSEM Act.</p> <p>Clause 6 – Note added: Reference made to T1/T2 Progression Scheme for Dental Assistants.</p>
SCHEDULE 5 - GENERAL EMPLOYEES (NORTHERN TERRITORY PUBLIC SECTOR) MISCELLANEOUS WORKERS UNION PROVISIONS	No change apart from any general updates as explained above.
SCHEDULE 6 - PROFESSIONAL ENGINEERS (NORTHERN TERRITORY PUBLIC SECTOR) PROVISIONS	<p>Clause 1 – updated with correct senior officer classification titles</p> <p>Clause 2 – amended to reflect the correct Professional level 1 pay points applicable to qualifications since introduction of restructured professional classification in January 2011.</p>
SCHEDULE 7 – TRANSPORT WORKERS’ (NORTHERN TERRITORY PUBLIC SECTOR) PROVISIONS	No change apart from any general updates as explained above.
SCHEDULE 8 – DRAFTING SUPERVISORY TECHNICAL AND OTHER EMPLOYEE PROVISIONS	No change apart from any general updates as explained above.
SCHEDULE 9 – GOVERNMENT PRINTING OFFICE (NORTHERN TERRITORY PUBLIC SECTOR) PROVISIONS	No change apart from any general updates as explained above.
SCHEDULE 10 – NORTHERN TERRITORY PUBLIC SECTOR REDEPLOYMENT AND REDUNDANCY PROVISIONS	PART A <i>entitlements</i> will be rewritten under new Agreement’s Schedule 10: Redeployment and Redundancy Entitlements

SCHEDULE	CHANGE
	<p>PART B <i>procedures</i> will be rewritten and placed in an Employment Instruction No. 14: Redeployment and Redundancy Procedures</p> <p>Key changes</p> <p>1. Voluntary retrenchment entitlements and notice of redundancy periods remain unchanged. Some minor amendments were made to ensure compliance with minimum NES requirements. Provision included to clarify that the notice periods under new clause 5.2 are offset by the redundancy payment provisions of the NES .</p> <p>The proposed NTPS redundancy entitlement remains generous compared to the NES.</p> <p>2. The income maintenance provisions following termination due to redundancy have been removed. The existing provisions allow an employee to elect to be terminated (subject to Commissioner approval) during the notice period, rather than serving the whole period. However, the provisions contain an anomaly in that they require an employee to be paid the unexpired portion of the notice period in lieu on termination, and also provide for income maintenance post termination until the notice period has expired. From a practical perspective, the removal of the income maintenance following termination provision has no effect as it is not considered appropriate that rights and obligations arising from an employment relationship continue beyond the termination of that relationship and the Commissioner would not allow such a situation to occur in any case.</p> <p>3. The income maintenance provisions that apply on the transfer of an employee to a lower level designation and salary, including provisions relating to the impact of personal leave in extending the income maintenance period, have been retained and clarified.</p> <p>4. Definitions have been updated to more closely align with the revised PSEM Act provisions. Consistent with the PSEM Act the Schedule also</p>

SCHEDULE	CHANGE
	<p>clarifies that employees cannot be transferred to a lower level designation and salary without their consent.</p> <p>5. New, practical union consultation provisions have been included and replace the convoluted, historical provisions.</p> <p>6. Former Part A provisions of a procedural nature have been moved from the Schedule to a proposed new Employment Instruction (subordinate legislation under the PSEM Act) setting out procedures for Redeployment and Redundancy situations.</p> <p>7. In addition, the proposed procedures include the following new concepts:</p> <ul style="list-style-type: none"> • Where a redeployee is placed in a longer term fixed period vacancy (ie 18 months or over) the employee may elect, subject to CEO's approval, to have his or her redeployee status removed. • As part of suitability assessment, an agency may offer to place employee redeployee in a position for a trial period of up to six months, with the employee or the agency having the ability to terminate the arrangement by mutual agreement. If the employee is serving out a period notice of redundancy at the time that the trial takes place, the notice period will be extended by the period of the trial to ensure that the employee does not lose the opportunity to actively seek other suitable employment options if they are not ultimately suitable for the trial position. Trials are available in some other jurisdictions and are considered a useful training mechanism, likely to facilitate positive suitability outcomes. <p>It should be noted there have been:</p> <ul style="list-style-type: none"> • no changes to the requirement to offer an employee voluntary retrenchment before a

SCHEDULE	CHANGE
	<p>notification of redundancy;</p> <ul style="list-style-type: none"> • no reductions in voluntary retrenchment entitlements; • no change to the focus on finding suitable employment for redeployees; and • minor amendments to bring clauses in line with the FW Act. <p>To assist in clarifying these and other aspects of the proposed redeployment and redundancy provision please refer to the:</p> <p>Information Sheet 12 of 2013 FAQ Redeployment and Redundancy</p>
<p>SCHEDULE 11 PART A – SALARIES PART B – WORK RELATED ALLOWANCES PART C – EXPENSE RELATED ALLOWANCES</p>	<p>PART A: Updated to reflect 3% increase from 10 October 2013; 3% increase from 14 August 2014, 3% increase from 13 August 2015 and 3% increase from 11 August 2016.</p> <p>Aboriginal Health Worker changed to Aboriginal and Torres Strait Islander Health Practitioner as per changes to Schedule 4 above.</p> <p>PART B: Updated to reflect the applicable increases to Work-Related Allowances during a 4 year term (3%, 3%, 3%, 3%).</p> <p>PART C: Expense-related allowances are adjusted annually according to Darwin CPI (refer sub-clause 25.5 of the new Agreement). Part C table updated to reflect the most recent allowance increase on 1 January 2013.</p>
<p>SCHEDULE 12 – SUPPORTED WAGE SYSTEM</p>	<p>Clause 1.1 (a) - updated name of the Commonwealth scheme.</p> <p>Clauses 3.1 and 9.3 – updated minimum payment per week to “as per the Special National Minimum Wage 2 as varied each year”.</p>
<p>SCHEDULE 13 - WORK LIFE BALANCE INITIATIVES</p>	<p>Sub clause 2.5 - updated to reflect that recreational leave accrues progressively.</p> <p>Sub clause 3.3 (g) – amended to bring in line with</p>

SCHEDULE	CHANGE
	<p>FW Act entitlements and Recreation Leave clause 52.6 in the core agreement.</p> <p>Sub clauses 3.5 & 3.6 – amended and provisions dealing with procedures for purchased leave arrangements removed as these are in guidelines.</p> <p>Clause 4 (Extended Leave Scheme) – deleted and replaced with Leave Without Pay Requests for extended periods under clause 48 Work Life Balance in the core agreement.</p>

Information on the New Agreement

If you would like further information on the agreement, please contact the Employee Relations unit in the Office of the Commissioner for Public Employment on telephone **08 8999 4282**. Alternatively you can email your query online www.enterpriseagreements.nt.gov.au/general_feedback . Also visit our website at www.enterpriseagreements.nt.gov.au for more information.