



ACT
Government

Chief Minister, Treasury and
Economic Development

WHAT'S DIFFERENT ABOUT THE ACT PUBLIC SECTOR CANBERRA INSTITUTE OF TECHNOLOGY ENTERPRISE AGREEMENT 2021-2022

PURPOSE

The purpose of this document is to explain the proposed main amendments to the ACT Public Sector Canberra Institute of Technology Enterprise Agreement 2021-2022 ("the Agreement"). This is one of two documents that explain the proposed amendments, with this particular document covering amendments derived from the ACTPS common terms and conditions that have been incorporated into the Agreement following centralised negotiations with unions and other representatives across the ACTPS.

GENERAL

The purpose of this Agreement is to provide a fast-tracked interim Agreement for a period of 12 months in recognition of the added burdens imposed on the ACT Public Sector workforce as a consequence of the COVID pandemic. The Agreement provides a mechanism for continuing existing terms and conditions while providing for further wage increases during the 12-month period.

A number of changes to the proposed Agreement have sought to clarify minor technical and operational requirements relating to existing entitlements and processes. Among these are important changes that ensure consistency with legislation, and changes which are aimed at consistency within the Agreement itself. There has also been a number of style and language changes in the Agreement to ensure the language is modernised, clear and unambiguous. These amendments do not change the intent of the provisions.

The proposed Agreement also contains a number of new and enhanced leave provisions which are detailed below, as well as CIT-specific amendments that are detailed in a separate document.

MAJOR AMENDMENTS: COMMON TERMS AND CONDITIONS

Duration – Clause A4

The nominal expiry date of the Agreement is proposed to be 31 October 2022.

Remuneration – Annex A and Clause C2

PAY OFFER

The Government's pay offer covers a period of twelve months duration with percentage increases being provided at six-monthly intervals as follows:

- 1.35% from the first full pay period on or after 1 December 2021; and
- 1.35% from the first full pay period on or after 1 June 2022.

Allowances – Annex C and Clause C17

Allowances in Annex C of the proposed Agreement will be increased by the same percentage amounts as the pay increases outlined above where applicable.

Subclause C17.14 provides a head of service power that permits payment of an allowance not otherwise covered by the Agreement, in reasonable and exceptional circumstances to an employee who has been undertaking the work to which that allowance would ordinarily be payable.

Superannuation – D7

Members of preserved Commonwealth schemes like the CSS, PSS and PSSaP will continue to receive the contributions they do currently.

The Government will continue to offer 1% additional employer contribution for members of Superannuation Guarantee Funds who choose to contribute at least 3% of their fortnightly Ordinary Time Earnings to their nominated superannuation fund each pay through the ACT Government's payroll system. These provisions have been amended to provide more clarity about the process.

Secure Employment – Clause A2, Clause B11 and Clause B12

The Government remains committed to promoting permanent employment and job security for employees as far as possible. Amendments in the proposed Agreement are aimed at strengthening this commitment.

REVIEW OF CASUAL EMPLOYMENT STATUS

The right in the current Agreement for casuals to request a review of their employment status is being strengthened. Casual employees will have their pattern of work reviewed every twelve months. Where their pattern of work has been regular and systematic during the six-month period prior to an assessment of the role, and where there is a reasonable expectation that these arrangements will continue on a part-time or full-time basis without significant changes, consideration will be given to engaging the employee on a different basis, including on a temporary or permanent basis.

Existing secure workforce conversion processes will continue. Where these processes identify that roles occupied by casual or temporary employees are ongoing in nature, or that a casual or temporary employee ought to be offered ongoing employment and such a recommendation is made, existing casual and temporary employees may be permanently appointed without further merit selection process.

INSOURCING and SECURE EMPLOYMENT

The Government is committed to minimising the use of consultants and contractors, labour-hire, and the use of sub-contractors wherever possible.

The amendments to the Agreement flag the establishment of an insourcing and secure employment framework, in consultation with relevant staff and unions, under which all procurements exceeding \$200,000 in value will be assessed with a view to insourcing where there are demonstrable benefits in terms of economic costs, social benefits and environmental impact.

Internal Reviews and Appeals – Clause J1

The existing Agreement appeal processes for misconduct, underperformance and other matters are being extended to include any decision that is subject to appeal under the *Public Sector Management Act 1994* to remove any uncertainty around the applicable appeal processes.

Leave – Section F

COMPASSIONATE LEAVE – Clause F12

Currently, an employee may access up to 5 days compassionate leave with pay for each occasion of the death of a member of the employee's immediate family or household, and additional paid or unpaid compassionate leave subject to delegate approval. This does not apply to miscarriages.

The new Agreement extends the compassionate leave entitlement to employees who experience a miscarriage, where an employee's pregnancy ends before reaching 20 weeks gestation, and to where an employee's domestic partner experiences a miscarriage. In these circumstances, the employee who experiences a miscarriage is not entitled to birth leave but may be eligible for Special Birth leave.

Clarification has also been provided that the death of a member of the employee's immediate family or household also includes a child that is still born for the purposes of compassionate leave. Where an employee's pregnancy ends by stillbirth, the employee continues to be eligible for paid and unpaid birth leave.

DISABILITY LEAVE – Clause F27

The new Agreement provides Disability leave to employees to enable them to be absent from duty for the purposes of activities associated with an employee's diagnosed permanent or ongoing physical or psychological disability.

Disability leave supports the Territory's commitment to being an equitable employer and to support employees with disability to balance their work commitments with appointments or like activities associated with their disability.

Employees eligible for disability leave will be entitled up to a maximum of 5 days/shifts of disability leave per calendar year, subject to the provision of appropriate evidence. Disability leave is non-cumulative.

SURROGACY LEAVE – Clause F28

The new Agreement provides for a new Surrogacy leave type to pregnant employees who have entered into a valid surrogacy arrangement to enable them to be absent from duty to support their own wellbeing and support the employee's right to continuity of service.

An employee who is eligible for paid surrogacy leave is entitled to 12 weeks of paid leave in relation to each surrogate birth.

Under the existing Agreement, employees who entered into a surrogacy arrangement were entitled to Birth Leave. Under the new agreement, employees will no longer be eligible for Birth leave where the employee is a surrogate.

GENDER TRANSITION LEAVE – Clause F29

The new Agreement provides a new Gender transition leave type to employees to enable them to be absent from duty for the purposes of activities associated with affirming an employee's gender.

Gender transition leave is available to an employee for the first 52 weeks after commencement of living as in a way that affirms their gender identity. An employee undergoing gender transition is entitled, subject to the provision of appropriate evidence, up to 4 weeks (20 days) paid leave and up to 48 weeks unpaid leave.

PRIMARY CARE GIVER LEAVE and ADOPTION and PERMANENT CARE LEAVE – Clause F16 and F20

Amendments have been made to Primary Care Giver Leave and Adoption and Permanent Care Leave types, consistent with Birth leave, to enable employees to take these leave types in a non-continuous manner. Employees cannot access a period of annual leave or long service leave until the employee has used all of the employee's paid Primary Care Giver or Adoption and Permanent Care leave entitlement within 52 weeks of the birth of the child or the commencement of the adoption or permanent caring responsibility.

Overpayments – Clause D5

Amendments have been made to the Overpayments provision to clarify the interaction of the provision with *Fair Work Act 2009* obligations for recovery of overpayment debts from employees. The provisions also clarify that unless the debt is a discrepancy, there is a requirement for directorates to consider whether a waiver would be appropriate in the circumstances before the employee is notified of the overpayment. The employee is also provided with 10 working days to request a waiver before the repayment plan negotiations commence.

Disputes – Clause G6

An addition was made to the disputes provision to provide the Fair Work Commission with jurisdiction to deal with certain unresolved disputes once a new enterprise agreement is approved.

Probation – B3

Provision of a 2 week notice period for termination of probation provided under the *Public Sector Management Act 1994* has been incorporated into the enterprise agreement for clarification.

MINOR AMENDMENTS: COMMON TERMS AND CONDITIONS

Minor and technical changes to the Agreement include but are not limited to:

- Style and language
- Grammar and spelling
- Dictionary updates – introduction of new/revised definitions of disability, casual employee, miscarriage and still birth
- Updates for consistency with the Fair Work Act 2009 and National Employment Standards where relevant and
- Any undertakings as required by the Fair Work Commission

