

# Orders



SOUTH  
AUSTRALIAN  
**EMPLOYMENT**  
**TRIBUNAL**

## Case Details

|                      |   |
|----------------------|---|
| <b>Case number</b>   | 02457/2019                                  |
| <b>Applicant</b>     | The Corporation of the City of Holdfast Bay |
| <b>Other parties</b> | Australian Services Union SA-NT             |

## Orders - Approval of Enterprise Agreement

### City of Holdfast Bay & Australian Services Union (ASU) Administration Staff Enterprise Agreement (No 8) 2019

I HEREBY APPROVE this Enterprise Agreement pursuant to section 79 of the *Fair Work Act 1994*.

This Agreement shall come into force on and from 1 July 2019 and have a life extending for a period until 30 June 2022.

Commissioner McMahon

02 Oct 2019

DOC\_BUILDER\_ENTERPRISE\_AGREEMENTS



**City of Holdfast Bay and  
ASU Administration Staff  
Enterprise Agreement  
(No 8) 2019**

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# **APPLICATION AND OPERATION OF AGREEMENT**

## **1. TITLE**

- 1.1 This Agreement shall be known as the City of Holdfast Bay and the Australian Services Union Administrative Staff Enterprise Agreement (No.8) 2019.

## **2. PARTIES BOUND**

- 2.1 This Agreement will be binding on:

2.1.1 The City of Holdfast Bay;

2.1.2 The Australian Municipal, Administrative, Clerical and Services Union (ASU) and its members employed by the City of Holdfast Bay;

2.1.3 Employees of the City of Holdfast Bay who are covered by the terms and conditions of the South Australian Municipal Salaried Officers Award, as amended from time to time, or any successor Award. This includes the position of Immunisation Nurse.

- 2.2 This Agreement does not apply to the Senior Leadership Team, as defined in Clause 5.14 of this Agreement.

- 2.3 Members of the Leadership Team may agree to enter into a contract of employment which displaces certain terms and conditions of this Agreement providing that the terms and conditions of the contract of employment are more beneficial than the equivalent terms of this Agreement.

## **3. AIMS AND OBJECTIVES OF THIS AGREEMENT**

- 3.1 Its intent is to ensure that all Employees have equal rights and access to:

3.1.1 Contemporary leave provisions;

3.1.2 Flexible working arrangements;

3.1.3 Employment security; and

3.1.4 Certainty in times of organisational change.

- 3.2 This Agreement responds to community expectations of a workforce which is agile, responsive, diverse and well informed.

- 3.3 Our aims will be achieved by:

3.3.1 Developing and supporting flexible working arrangements for all;

3.3.2 Encouraging a resourceful workplace culture where all Employees are able to express pride in their workplace and achievements;

3.3.3 Implementing mechanisms for change which are fair, clear, and supportive and which are based on a participative and consultative approach; and.

3.3.4 Enhanced employment security for all new and existing Employees.

#### 4. RELATIONSHIP TO PARENT AWARD AND COUNCIL POLICY MANUAL

- 4.1 This Agreement shall be read and applied in conjunction with the terms of the Award, as amended from time to time, provided that where there is any inconsistency between this Agreement and the Award, this Agreement will prevail to the extent of the inconsistency.
- 4.2 The City of Holdfast Bay administrative policies will also be read in conjunction with the Award and this Agreement, but do not form part of this Agreement, except where such policies are specifically included in this Agreement.

#### 5. DEFINITIONS

- 5.1 **“Act”** means the Fair Work Act 1994 (SA).
- 5.2 **“Agreement”** means the City of Holdfast Bay and Australian Services Union (ASU) Administration Staff Enterprise Agreement (No. 8) 2019.
- 5.3 **“SAET”** means the South Australian Employment Tribunal.
- 5.4 **“ASU”** or **“Union”** means the Australian Municipal, Administrative, Clerical and Services Union.
- 5.5 **“Award”** means the South Australian Municipal Salaried Officers Award.
- 5.6 **“Chief Executive Officer”** means the Chief Executive Officer (or CEO) of the City of Holdfast Bay, who is the Employer pursuant to the Local Government Act 1999 (SA).
- 5.7 **“Consultation”** is a process that will have regard to Employees’ interests in the formulation of plans and policy that have a direct impact upon them. It provides Employees with the genuine opportunity to have their viewpoints heard and for them to contribute effectively to any decision making process prior to a decision being made. Consultation allows for decisions to be made giving due regard to matters raised by Employees.
- 5.8 **“Continuous Improvement”** means the ongoing process of review and improvement to work practices.
- 5.9 **“Council”** means the City of Holdfast Bay.
- 5.10 **“Immediate Family”** includes the Employee’s spouse or former spouse, de facto partner or former de facto partner, child, parent, grandparent, grandchild or sibling of the Employee or Employee’s spouse or de facto partner (or former spouse or de facto partner). This definition also includes step-relations (eg step-parents and step-children) as well as adoptive parents. Employees will be able to take compassionate leave for other relatives (eg cousins, aunts and uncles) if they are a member of the employee’s household, or if the Employer agrees to this.
- 5.11 **“Employee”** means an employee of the Council who performs work covered by this Agreement and the above Award.
- 5.12 **“Employer”** means the City of Holdfast Bay.
- 5.13 **“Full-time”** means an Employee who works either 38 hours per week (7.6 hours per day); or 40 hours per week (comprising 7.6 hours per day plus 0.4 hours per day) to enable the accruing of Rostered Day Off.
- 5.14 **“Senior Leadership Team”** means the Chief Executive Officer and General Managers.

5.15 **"SBU"** means the Single Bargaining Unit established under Clause 8 consisting of Employee and Employer representatives.

5.16 **"Superannuation Contributions"** means contributions which the Employer must pay to a superannuation fund in respect of the Employee in order to avoid the imposition of superannuation guarantee charge under the Superannuation Guarantee (Administration) Act 1992 (Cth), and any additional superannuation contributions which the Employer agrees to pay in respect of an Employee.

5.17 **"Statewide Superannuation"** means the default superannuation fund for the City of Holdfast Bay.

5.18 **"Family & Domestic Violence"** is as stipulated in the Domestic Violence Act 1994 (SA). Includes physical, sexual, financial, verbal or emotional abuse by a family member.

## **6. RELATIONSHIP TO PREVIOUS CERTIFIED AGREEMENT**

This Agreement supersedes and entirely replaces (by rescission) all previously certified agreements applying to the Employer and Employees. This rescission will apply to all previous agreements that have been certified by the Australian Industrial Relations Commission and the SAET.

## **7. TERM OF AGREEMENT**

7.1 This Agreement shall be extended by variation (pursuant to the Act).

7.2 The Agreement shall continue in force until 30 June 2022.

## **8. SINGLE BARGAINING UNIT**

8.1 The SBU shall comprise:

8.1.1 A minimum of three (3) ASU and/or Employee Representatives;

8.1.2 An ASU Industrial Officer, if requested by ASU members;

8.1.3 A minimum of three (3) Employer Management Representatives;

8.1.4 An external person or Industrial Officer acting on behalf of the Employer, if deemed necessary by the Employer.

8.2 The role of the SBU as it relates to this Agreement shall be:

8.2.1 To formalise an Agreement acceptable to all parties.

8.2.2 To reach decisions through consensus that shall operate as recommendations to the parties they represent.

8.2.3 To consider reports and ideas generated by Employees and Employer representatives on a range of issues.

8.2.4 To distribute minutes of meetings together with regular bulletins.

8.2.5 Members of the SBU will make themselves available to Employees for the purpose of receiving and providing information.

8.2.6 To meet on an as required basis to monitor the Agreement, resolve relevant issues and provide a focal point for improved communication. Any party to the Agreement may convene a meeting as required.

- 8.2.7 To consider and implement agreed suggestions for continuous improvement and to document these and record them to be taken into account for the next round of enterprise bargaining negotiations.
- 8.2.8 To resolve any disputes arising out of the operation of the Agreement.
- 8.2.9 To carry out all functions as assigned within this Agreement.
- 8.3 The Employer recognises the need for support and resources to enable the SBU members to properly carry out their role.

## **9. EMPLOYEE REPRESENTATIVES**

- 9.1 The Employer acknowledges the moral and legal right of Employees to belong to, or not belong to a Union and to be represented.
- 9.2 Employee Representatives will be entitled to:
  - 9.2.1 Be treated with respect and without discrimination by representatives of the Employer;
  - 9.2.2 Bargain collectively;
  - 9.2.3 Be consulted about workplace issues and have access to information about the workplace and the business; and
  - 9.2.4 Meet with Management to discuss issues of concern.
- 9.3 Employee Representatives will be allowed reasonable work time to carry out tasks as a result of their representative role and these may include:
  - 9.3.1 Speaking to, meeting with and representing other Employees;
  - 9.3.2 Attending conferences, seminars and committee meetings;
  - 9.3.3 Representing other Employees at industrial tribunal hearings and conferences as relevant to the workplace;
  - 9.3.4 Speaking to and meeting with officials of the Union; and
  - 9.3.5 Speaking to and meeting with members of other Unions at the workplace when appropriate.
- 9.4 To enable them to represent other Employees, Employee representatives will be allowed to:
  - 9.4.1 Use the Council telephones, fax, photocopier, internet and email;
  - 9.4.2 Access the Award and/or Agreement;
  - 9.4.3 Display notices on the various staff notice boards present in the organisation;
  - 9.4.4 Store and secure material relating to the representation of other Employees in facilities provided by the Council; and
  - 9.4.5 Use meeting rooms to meet with other Employees.



9.5 Employee Representatives will have the following responsibilities:

In order to allow the Employer to properly deploy resources it is recognised that the following responsibilities accompany the entitlements outlined above;

- 9.5.1 Before an Employee Representative leaves their work area to attend to representative tasks, they must inform their Manager/Supervisor;
- 9.5.2 If a general meeting of staff in work time is required, this must be authorised by the Chief Executive Officer or delegate;
- 9.5.3 Care must be taken to ensure that representative matters of a routine nature are dealt with at times that provides the least inconvenience to the community and other customers;
- 9.5.4 The use of the Employer's equipment and facilities to undertake representation is a privilege and, therefore, care should be taken to ensure that the Employer's policy for their appropriate use is followed and communication is at all time respectful and courteous.

9.6 The Employer will allow its Employees access during working hours to an accredited official, workplace representatives or other accredited advisor.

**10. NEGOTIATION OF FURTHER AGREEMENT**

The parties commit themselves to commence negotiations for a further Agreement not later than six months prior to the expiration of this Agreement.

# EMPLOYMENT STANDARDS

## 11. RECRUITMENT

The Employer confirms its preferred position is to recruit from within rather than to recruit external applicants. This results in assisting Employee career paths, provides opportunities for Employees 'down the line' to progress to more senior levels, and benefits the Employer by utilising the expertise within the existing Employee group. This preferred position applies across the Employer's workplace but does not apply to a person who is performing in that role and is not an Employee of the Employer.

- 11.1 Where a choice of suitably qualified and experienced applicants exists within the Employer's business, who are likely to apply for the vacant position, the vacancy will be advertised internally within Council.
- 11.2 All vacancies classified at Level 8 or above will be advertised externally to ensure the recruitment and selection of the best person available for the position.
- 11.3 Where the recruitment base is considered as unduly restrictive, a vacancy may be simultaneously advertised in the outside media and within Council.
- 11.4 Selection to all vacancies shall be made on the basis of 'merit', except where re-deployees are available who may, either with or without training, be able to satisfactorily perform the duties, in which case preference shall be afforded to such Employees.
- 11.5 All existing Employees who apply for the position and meet the selection criteria included in the Position Description will be granted an interview.
- 11.6 Internal applicants who are unsuccessful in gaining an advertised position will be provided with feedback from the selection panel and, where applicable, with appropriate training to further their career opportunities.

## 12. WORK HEALTH & SAFETY (WHS)

- 12.1 The parties recognise the importance of an effective workplace health & safety management system in providing a safe work environment for all Employees. It is further recognised that improved workplace health & safety will increase productivity by reducing the number of incidents / accidents and therefore lost time.
- 12.2 The necessity to fulfil obligations outlined in the Work Health & Safety Act 2012 (SA) is recognised and the parties are committed to ongoing training in this area.
- 12.3 In any alterations to work practices, workplace health & safety will be of prime importance.

## 13. EMPLOYEE HEALTH PROGRAM

- 13.1 To support Employees with their health and wellbeing, the Employer will provide Employees the opportunity to participate in annual health and skin clinics.
- 13.2 There shall be no smoking permitted by Employees within Council owned and/or leased buildings, near environs and/or vehicles.

## 14. EMPLOYEE ASSISTANCE PROGRAM

- 14.1 As part of the commitment to the provision of a safe, healthy and harmonious working environment, the Employer will provide Employees with access to professional, independent and confidential counselling services at no cost to the Employee. A self-referral service will be available for easy access by all Employees.

## **WORK ARRANGEMENTS**

### **15. ORDINARY HOURS OF WORK**

- 15.1 The ordinary hours of work of an Employee are a maximum of 38 hours per week worked within the span of 7.00 am to 7.00 pm (other than Employees who have expressed hours of work that form part of their employment contract).
- 15.2 Office hours are normally worked from 8.30 am to 5.00 pm Monday to Friday inclusive.
- 15.3 An Employee may work up to a maximum 10 hours per day in accordance with Clause 20 "Flexible Working Arrangements" subject to the following conditions:
  - 15.3.1 Additional hours of work shall be determined by mutual agreement between the Employee and their Manager;
  - 15.3.2 An Employee shall not be required to work more than five (5) additional hours per week, unless they agree to do so.
- 15.4 The Employer's offices may be opened to the public between the hours of 8.00 am and 6.00 pm, Monday to Friday. Any changes to existing opening hours will be undertaken in consultation with the relevant work teams.

### **16. HOURS OF WORK – Libraries Only**

Full-time library staff work a roster of 152 hours per 4 week cycle with specific roster details documented within individual employment contracts.

### **17. LUNCH BREAKS**

#### **17.1 Civic Centre, Depot Administration and Glenelg Town Hall**

- 17.1.1 An Employee must take a minimum of 30 minutes for lunch. With the approval of the General Manager/Manager, an Employee may extend the break up to two (2) hours in accordance with Clause 20.1 "Time Off In Lieu". Employee's working 8 hours per day where an accrual for an RDO is expected, must work an 8 hour shift on any day in accordance with Clause 20.2 "Rostered Day Off".
- 17.1.2 The lunch break may be taken at any time between 11.00 am and 3.00 pm, except where work unit requirements prevent this.

#### **17.2 Libraries**

The normal break for Employees who work in the Library shall be 30 to 60 minutes, dependent on rostered hours being worked. Lunch breaks are to be taken between 12.00 noon and 2.00 pm.

#### **17.3 Civic Centre Front Reception/Switchboard Counter**

In addition to sub-clause 17.1, an Employee working full-time and/or a minimum of a half day shift at the Civic Centre Front Reception/Switchboard Counter shall be entitled to a ten (10) minute break both in the morning and afternoon. Food and/or beverages should not be consumed in the public view.

#### **17.4 No Employee shall be permitted to take smoke breaks during working hours.**

## **18. MANDATORY CHRISTMAS SHUTDOWN (EXCLUDING LIBRARY)**

- 18.1 This clause applies to all Employees (excluding Library).
- 18.2 For the purpose of this clause the shutdown period relates to all working days between Christmas Day and New Year's Day. The period also incorporates Boxing Day/Proclamation Day.
- 18.3 Employees will be required to take off this minimum nominated period over the Christmas/New Year shutdown period.
- 18.4 Employees may utilise annual leave, long service leave, RDO's, accrued TOIL; or leave without pay during this period.
- 18.5 At the discretion of the Chief Executive Officer or delegate, exemption to this clause may be granted to specific roles that have been identified as being required to work during this period due to specific business and/or customer needs.

## **19. PUBLIC HOLIDAYS – LIBRARIES**

- 19.1 In accordance with current arrangements, both the Glenelg and Brighton Libraries will be closed for the entirety of the Easter weekend (Friday to Monday, inclusive). Employees who would normally be rostered to work on Sunday shall, by arrangement, take accrued leave, RDO, TOIL, leave without pay or rearrange their work hours with the Manager.
- 19.2 Both Glenelg and Brighton Libraries will be closed on ANZAC Day.
- 19.3 When Christmas Day or Boxing Day/Proclamation Day or New Year's Day or Australia Day occur on a Saturday/Sunday and the gazetted Public Holiday occurs on another day of the week – the Library Service will be closed to the public on that Saturday/Sunday as well as the gazetted public holiday.
- 19.4 In these circumstances, Employees, who would normally be rostered to work on that Saturday or Sunday (when not gazetted as a Public Holiday) shall, by arrangement, take accrued leave, RDO, TOIL, leave without pay or rearrange their work hours with the Library Manager.
- 19.5 If staff who have rolling RDO's as part of their individual terms and conditions, are scheduled to take an RDO on a gazetted public holiday, the RDO will accrue and they will be paid the day as a Public Holiday.

## **20. FLEXIBLE WORKING ARRANGEMENTS**

In order to meet the challenge of providing improved customer service and to meet changing business requirements, the parties recognise that flexible working hours may be required.

It is further recognised that an Employee's family commitments may require flexibility in working hours. Therefore, the City of Holdfast Bay is committed to offering flexible working arrangements for all Employees to attend to personal matters and other non-work related issues during working hours.

### **20.1 Time Off In Lieu**

All Employees (apart from casuals and Employees adopting the RDO system) are able to access time off in lieu (TOIL) when required to work extra hours due to work demands; activities related to normal duties; or following instruction by management. This Clause should be read in conjunction with Clause 15 of the Agreement (Ordinary Hours of Work) and Part 5 of the Award (Hours, Shift Work, Overtime and Meal Breaks).

- 20.1.1 The ordinary hours of work of an Employee are as described in Clause 15 (Ordinary Hours of Work), other than Employees who have expressed hours of work that form part of their employment contract.
- 20.1.2 Employees working the TOIL system may work longer hours as mutually agreed with their Manager subject to work being available; that the work is completed in a timely and acceptable fashion; and that customer service and business needs are not compromised at any time.
- 20.1.3 The minimum block of time that TOIL can be accumulated is 15 minutes, with 5 minute blocks following the first 15 minutes.
- 20.1.4 Participation in personal development programs, training programs, conferences, seminars etc which are not at the Employer's request do not attract TOIL. This includes any travel outside of ordinary working hours to attend such activities.
- 20.1.5 Employees who have been requested by the Employer to participate in planning and/or training activities conducted outside of ordinary working hours as mutually agreed, will accumulate TOIL.
- 20.1.6 The parties agree that Library staff working on Saturdays commence work 15 minutes earlier to set up, and finish work 15 minutes late to close up. This 30 minutes accumulates as TOIL under the purposes of this clause.
- 20.1.7 As mutually agreed with their Manager, Employees may choose to reduce their lunch break to 30 minutes per day in order to accumulate TOIL.
- 20.1.8 TOIL will be taken as time off during ordinary hours and will be taken at the ordinary time rate, that is, an hour for each hour worked.
- 20.1.9 At the Employer's specific request, Employees may be required to work outside of the ordinary hours of work and/or ordinary span of hours of 7 am to 7 pm Monday to Friday. Mutual agreement between the Employer and Employee is required prior to this work being undertaken. The time worked will preferably be paid as TOIL, however, overtime may be paid as an alternative.

TOIL will be accrued in line with applicable overtime rates as indicated in Clause 5.4 of the Award:

- Monday to Friday – accrued at the rate of time and a half for the first three hours and double time thereafter.
  - Saturday before noon - accrued at the rate of time and a half for the first three hours and double time thereafter.
  - All day Sunday or afternoon on Saturday – accrued at double time.
  - Public holidays – accrued at double time and a half (must work a minimum of 3 hours).
- 20.1.10 In accordance with Clause 5.5 of the Award, a full ten (10) hour break must be taken by the Employee prior to their next required starting time.
- 20.1.11 A maximum of five (5) calendar days of TOIL may be accrued. An Employee who has accrued five (5) calendar days of TOIL must not work further additional hours until the balance has been reduced, unless specifically approved by the Chief Executive Officer or delegate.
- 20.1.12 Accrued TOIL must be taken within a period of three (3) months and can be taken in whole or part days, unless otherwise authorised by the Chief Executive Officer, or delegate.

- 20.1.13 Accrued TOIL may be taken during the Christmas/New Year period in lieu of taking other types of leave.
- 20.1.14 The date and time of taking the accrued TOIL will be by mutual agreement between the Employee and Employer after consideration of business and customer service needs which must be maintained.
- 20.1.15 Where the accrued TOIL cannot be taken within three (3) months (at the Employer's discretion due to business or operational constraints), the time shall be paid out at the Employee's ordinary rate of pay following the approval of the Chief Executive Officer or delegate.
- 20.1.16 Should an Employee terminate their employment with the Employer and have an accrued balance of TOIL, this time is preferably to be taken prior to the termination date or a maximum of five (5) days will be paid out at the Employee's ordinary rate of pay.
- 20.1.17 TOIL will be managed internally within each department by the relevant Manager who will ensure compliance with the requirements within the Enterprise Agreement.
- 20.1.18 The CEO (or their delegate) may, in their discretion, impose conditions upon or suspend an Employee's access to TOIL as an outcome of a related disciplinary process for a period of up to 6 months.

## **20.2 Rostered Days Off**

This clause only applies to Employee's whose current terms and conditions of employment include working standard 8 hours per day in order to accrue structured RDO's prior to the approval and implementation of this Enterprise Agreement. Rostered Days Off will not be available to any Employee appointed under the terms and conditions of this Enterprise Agreement post approval, where an alternative form of flexible working arrangements is available to them.

- 20.2.1 Employees must work 8 hours per day to be entitled to an RDO in each 4 week cycle. These hours may be worked between the hours of 7.00 am to 7.00 pm with the start and finish time being mutually agreed between the Employee, Manager and/or General Manager. A minimum 30 minute lunch break must be taken.
- 20.2.2 Employees working within the conditions of this Clause will not be entitled to any other accruable flexible working arrangements (eg TOIL) as indicated in the Enterprise Agreement.
- 20.2.3 Employees currently working 8 hours per day in order to accrue scheduled RDO's may agree in writing to "opt-out" at any time to access the alternative form of flexible working arrangements as per Clause 20.1 (eg TOIL).
- 20.2.4 Should an Employee agree to "opt-out" of the structured RDO system at any time, they will not be able to reinstate this condition at any time in the future.
- 20.2.5 Employees currently working within RDO structure that do not elect to "opt out" will only retain the RDO conditions whilst in their current position. If they apply for and are appointed to another position within Council they will automatically convert to the new flexible working arrangements as detailed above.

- 20.2.6 The taking and accrual of RDOs shall be in accordance with a roster to be prepared by the relevant Manager in consultation with Employees during January each calendar year. RDO's will be taken as full days.
- 20.2.7 The roster shall provide for a maximum of 13 RDOs to be taken during the year. Rosters shall be prepared with a focus on equity for Employees in line with business requirements.
- 20.2.8 Rostered days off are to be taken in accordance with the roster and these arrangements can only be altered by mutual agreement and discussion with the relevant work Manager and the Employee.
- 20.2.9 Should a rostered RDO fall on a public holiday, the RDO will accrue and the Employee will be paid at their ordinary rate of pay for the public holiday.
- 20.2.10 Employees may bank up to a maximum of three (3) RDOs at any one time, with all accrued RDOs required to be taken by the final pay period of each calendar year. Accrued RDO's will not be carried forward into the following calendar year, unless alternative arrangements have been approved by the Employee's relevant Manager.
- 20.2.11 If an Employee is unable to take their accrued RDO, (in excess of those accrued in accordance with Sub-clause 6), in the following calendar month in which it accrued, and the Employee has been unable to reach an agreement with the Employer as to an appropriate time to take the RDO, the Employee will have the RDO paid out at the appropriate overtime rate of pay.
- 20.2.12 Employees entitled to RDOs in accordance with this Agreement, upon written application to their General Manager, may in lieu of taking their entitlement to RDOs, work an additional 8-hour day per 4-week cycle and receive an allowance of 5% per annum of their base salary. The ability to receive this allowance only applies to an Employee while in their current position. If the Employee applies for and is appointed to another position within Council they will automatically convert to the new flexible working arrangements as detailed above and the 5% allowance will be discontinued.
- 20.2.13 Any such arrangement as indicated in sub-clause 20.2.12 must be mutually agreed in writing for a minimum period of no less than twelve (12) months.
- 20.2.14 Should an Employee be requested by the Employer to mutually agree to undertake work outside of their ordinary working hours, this may be taken as TOIL on an hour by hour basis. However, this time will not form part of the accruable flexible working arrangements system as detailed in Clause 20.1. The owed time should be taken as soon as practicable following the additional time worked.

## **21. JOB SHARING**

- 21.1 Job sharing occurs when one full-time equivalent position is divided between two (2) or more Employees. This process promotes a more flexible workforce that is able to respond more quickly to organisational changes.
- 21.2 By arrangement with the relevant General Manager, job sharing may be granted and the Employees' prescribed hours varied (by mutual agreement).
- 21.3 On the resignation of one of the job sharing Employees, the remaining Employees will have the option to renegotiate their respective hours and the hours of the position will be maintained.

## **22. WORK FROM HOME**

22.1. Subject to approval by the relevant General Manager an Employee may work from home in lieu of attending the workplace in special circumstances.

22.2. This Clause is applicable only to work carried out during normal working hours.

## **23. PROBATIONARY (QUALIFYING) PERIOD**

23.1 For a permanent or fixed-term Employee, the first six (6) months of initial employment will be as a probationary Employee serving a qualifying period.

23.2 For a casual Employee who converts to permanent or fixed-term employment within six (6) months of their employment first commencing, up to six (6) months of their initial employment (being the combined period of casual, fixed-term or permanent employment) with the Employer will be as a probationary Employee serving a qualifying period.

23.3 While an Employee is in the probationary (qualifying) period either party may terminate the employment for any reason (not limited to matters specified in this Agreement) by giving one (1) weeks' notice or payment in lieu, unless the termination is for misconduct that justifies summary dismissal.



## **SALARY & ALLOWANCES**

### **24. SUPERANNUATION**

#### **24.1 Superannuation Contributions**

- 24.1.1 Employees may choose an Australian Taxation Office compliant superannuation fund of their choice.
- 24.1.2 In the event that an Employee fails to make an election, contributions will be made in respect of that Employee to the Employers default fund (Statewide Super).

#### **24.2 Salary Sacrifice**

- 24.2.1 An Employee can elect to have an amount of their current salary (whole percentage only) paid each pay period by the Employer into their nominated fund.
- 24.2.2 Any contribution made by the Employer on behalf of the Employee will represent a deemed contribution. A deemed contribution is made on behalf of the member, and is paid from gross salary, thus effectively reducing the taxable salary of the Employee.
- 24.2.3 An Employee can elect to vary the amount of salary sacrifice at any time during the life of this Agreement, subject to acceptance by Statewide Super or the fund of their choice in accordance with 24.1.2 above.
- 24.2.4 The Employee's substantive salary for all purposes (such as Award and Agreement entitlements including Superannuation, leave and annual leave loading, penalties etc) shall be the pre-sacrificed salary.
- 24.2.5 Within 12 months from the date of commencement of this Agreement, the Employer will investigate and implement other salary sacrifice options which may be offered to Employees.
- 24.2.6 During the life this Agreement, the Employee accepts that, if they enter into a salary sacrifice arrangement, pursuant to this Clause, the Employee's take home pay will be less than that provided for in Appendix B of this Agreement.
- 24.2.7 As salary sacrificing is a complex matter, it is the responsibility of the Employee to obtain competent financial advice and to ensure that they fully understand all implications of salary sacrifice before entering into arrangements under this Clause.

### **25. INSURANCE**

- 25.1 The Employer will maintain a journey insurance cover, which will apply in respect of an Employee's travel to and from work.
- 25.2 The Employer will maintain 24-hour private journey insurance cover for all Employees during the Life of the Agreement.
- 25.3 In the event of an Employee having an accident in their private vehicle whilst on the Employer's business, the Employee will be required to claim costs through their own insurance cover scheme. The Employer agrees to reimburse the Employee for out of pocket expenses that may be outstanding after a claim has been made to the Employee's insurance company, to a maximum of \$300.00.

## 26. CORPORATE WARDROBE

The objective of the Corporate Wardrobe is to improve the public profile of the Employer by presenting a professional image and to develop a feeling of pride amongst staff.

- 26.1 The Employer will engage the services of preferred suppliers to provide the corporate wardrobe.
- 26.2 Employees' corporate wardrobe may consist of clothing and/or task appropriate footwear or other accessories (eg sun hat) which are purchased through Council's preferred suppliers.
- 26.3 With the exception of staff within Customer Experience and Customer Service Counter at Glenelg Library, the wearing of the corporate wardrobe is voluntary. However, the Employer requires those Employees electing to wear the uniform to maintain the image of the corporate wardrobe.
- 26.4 The Employer will provide an annual subsidy for reimbursement of items purchased to a maximum of \$350.00. As the wearing of the corporate wardrobe is compulsory for Customer Experience/Customer Service Counter staff an annual allowance of up to \$700 for such wardrobe will be met by the Employer in accordance with the Dress Code/Uniform procedure.
- 26.5 The maximum allowance for an individual Employee's corporate wardrobe will be determined on a pro rata basis, based on the number of working days they are engaged by the Employer as indicated below:

| WORKING DAYS                      | ANNUAL SUBSIDY               |
|-----------------------------------|------------------------------|
| 7 day roster                      | Full amount (\$350 or \$700) |
| 5 days per week                   | Full amount (\$350 or \$700) |
| 4 days per week                   | \$280 or \$560               |
| 3 days per week or less & Casuals | \$230 or \$450               |

- 26.6 The Employer will provide a facility whereby staff will be permitted to repay any additional purchases. This will commence from the date of delivery of the corporate wardrobe items. Repayments can be made by either monthly repayments or payroll deduction facility. All outstanding amounts are to be repaid by the end of the current financial year.
- 26.7 Should an Employee leave the Employer within the first 12 months of the corporate wardrobe being purchased, the Employee will pay back half of the contribution made by the Employer, plus all other debts outstanding.
- 26.8 Should an Employee leave the Employer after the first 12 months of the corporate wardrobe being purchased, they must repay all amounts outstanding.
- 26.9 To assist in the acquiring of the corporate wardrobe, a Coordinator will be appointed to manage this process. All conditions of purchase must comply with the requirements of the service provider(s).
- 26.10 The cleaning and repair of the corporate wardrobe is the responsibility of the Employee.

## **27. WAGE ADJUSTMENTS - (REFER SCHEDULE A)**

27.1 On lodgement of this Agreement, the Employer shall pay the following wage increases:

27.1.1 An increase of 2% effective from the first full pay period on or after 1 July 2019;

27.1.2 An increase of 2% effective from the first full pay period on or after 1 July 2020; and

27.1.3 An increase of 2% effective from the first full pay period on or after 1 July 2021.

## **28. INCREMENTAL PROGRESSION FOR PART-TIME EMPLOYEES**

Incremental progression within a classification level for part-time Employees will be based on calendar years of experience, regardless of the hours worked.

## **29. HIGHER DUTIES**

29.1 All higher duty payments covered under this Clause must be approved by the relevant Manager and General Manager prior to the commencement of the higher duties.

29.2 A higher duties allowance may be payable when an Employee performs the duties of a higher level position for five (5) working days or longer. For the purpose of this Clause, a Public Holiday is not considered to be a "working day".

29.3 A Public Holiday that occurs within the period of higher duties will be paid at the higher duty rate, providing the total working days (excluding the Public Holiday) is a total of five (5) working days or longer during the higher duty period.

29.4 Public Holidays that occur at the beginning or end of the higher duty period will not be paid at the higher duty rate.

29.5 The higher duty allowance will be paid at least at the minimum rate (first incremental level) prescribed for the higher level.

29.6 When only a portion of the responsibilities of the position at the higher level is undertaken, a lower percentage may be determined by the relevant Manager. A higher duty allowance will not be paid when less than 50 percent of the responsibilities of the higher position are undertaken.

29.7 Higher duties will not be paid to Employees undertaking training to develop the competencies required to perform the duties of a higher level position, where that training is under the supervision of the incumbent of the higher level position.

## LEAVE ENTITLEMENTS

For the purpose of calculating leave entitlements (other than annual leave, long service leave and leave without pay), a full time working day equals 7.6 hours, except for full-time staff working 40 hours per week to accrue RDO's in accordance with Clause 20.2. In this case, a working day equals 8 hours.

Part time staff accrue leave entitlements on a pro-rata basis.

### 30. ANNUAL LEAVE

#### 30.1 Entitlement to Annual Leave

- 30.1.1 Four (4) weeks (20 work days) of paid annual leave are cumulative for each year of continuous service. Employees regularly rostered over seven (7) days, including Sundays and public holidays, shall be granted an additional week of annual leave.
- 30.1.2 If an Employee's employment comes to an end, annual leave will be paid on a pro rata basis and payment will include the relevant leave loading.
- 30.1.3 Normally annual leave will be taken in the year in which it accrues however, an Employee may accrue and carry forward their entitlements (refer Clause 30.2.4).
- 30.1.4 An annual leave loading of 17.5% applies to full and part time Employees. Employees rostered over seven (7) days will instead receive 20% annual leave loading.
- 30.1.5 Leave loading will be paid at the higher rate where an Employee has acted in a continuous period of long term higher duty or long term contract for a total period of six (6) months or more (in the preceding 12 month period).
- 30.1.6 Employees whose annual salary is in excess of the salary payable to the Level 6, Year 2 classification provided for within this Agreement, shall receive as a maximum loading, the loading calculated at the rate applicable to the Level 6, Year 2.

| Maximum Loading Payable |                      |
|-------------------------|----------------------|
| Year 1 of the Agreement | \$1,277.54 per annum |
| Year 2 of the Agreement | \$1,303.09 per annum |
| Year 3 of the Agreement | \$1,329.15 per annum |

#### 30.2 Taking Paid Annual Leave

- 30.2.1 Paid annual leave may be taken for a period agreed between an Employee and the Employer.
- 30.2.2 Annual leave may be taken in hours or full days.
- 30.2.3 The Employer shall not unreasonably refuse to agree to a request by an Employee to take paid annual leave.
- 30.2.4 The Employer may, by giving an Employee reasonable notice in writing, require an Employee to reduce their annual leave entitlements greater than 40 work days by no more than one quarter ( $\frac{1}{4}$ ) of the current balance.
- 30.2.5 Payment of Annual Leave must not be made or accepted in lieu of taking annual leave (except in the case of termination of employment) except with the approval of the CEO or delegate.

## **31. PERSONAL LEAVE (including carer's, sick & family leave)**

### **31.1 Entitlement to Paid Personal Leave**

- 31.1.1 During the first year of continuous service with the Employer, an Employee's paid personal leave entitlement accrues on the basis of 1/26<sup>th</sup> of the number of nominal hours worked per 4 weeks of continual service.
- 31.1.2 For each subsequent year of service with the Employer, an Employee is entitled to ten (10) days of paid personal leave, accruing at the beginning of each year.
- 31.1.3 In addition, once the above entitlement has been exhausted, up to two (2) work days (unpaid) per occasion is also available.
- 31.1.4 Personal leave may be taken in hours or full days.
- 31.1.5 Unused personal leave will accrue from year to year.
- 31.1.6 Unused personal leave will not be paid out on termination.

### **31.2 Taking Paid Personal Leave**

An Employee may take paid personal leave if the leave is taken:

- 31.2.1 Because the Employee is not fit for work because of a personal illness, or personal injury, affecting the Employee, or
- 31.2.2 To provide care or support to a member of the Employee's Immediate Family, or Employee's Household, who requires care or support because of a personal illness, or personal injury, affecting the member; or for an unexpected emergency affecting the member.

Unexpected emergencies includes situations outside of the Employee's control when a member of their Immediate Family, or Household, require support during working hours when normal arrangements are not available. This may include:

- Supporting elderly parents with business arrangements or emergency assistance which they are not able to do themselves.
- Assisting with family arrangements or emergency childcare of grandchildren when their parents (or their usual childcare providers) are unable to do so.
- Preparation and/or assistance following catastrophic storm/flood/fire damage

- 31.2.3 The parties agree that the nucleus of the definition of a traditional family (blood/marriage) has changed, particularly in the areas of diversity and multiculturalism. This is particularly relevant in relation to kinship (a sharing of bonds, friendships, communion or origins etc), customs and religions where close bonds and relationships are formed.

Should an Employee be required to provide care or support because of a personal illness, personal injury, or an unexpected emergency affecting someone where they have a close bond or relationship as described, requests to access paid personal leave will be considered on a case by case basis by the relevant Manager/Supervisor or delegate.

### **31.3 Notice and Evidence Requirements**

31.3.1 An Employee must give the Employer notice of the intended taking of leave under this clause. The notice must be given to the Employer where practicable prior to the commencement of the working day and the Employee should make best endeavours to advise the Employer of the period, or expected period, of the leave.

31.3.2 Employees are required to produce a medical certificate or other reasonable evidence for any absence taken for personal leave:

- (a) for more than two (2) consecutive working days;
- (b) during a period of annual leave (refer sub-clause 31.3.5).

An Employee will not be required to produce a medical certificate for personal leave where the circumstances would make it unreasonable for the Employee to do so. In this case the Employee must provide the Employer with a statutory declaration or any other form of reasonable evidence to the satisfaction of the Employer that substantiates the reason for the absence.

31.3.3 An Employee must make best endeavours to provide a medical certificate, a statutory declaration or other form of reasonable evidence to the satisfaction of the Employer as applicable. Failure to provide this information may result in non-payment of personal leave. In such cases the time away from work may be regarded as an unauthorised absence that is unpaid.

31.3.4 On the Employee's return to work after taking personal leave, the Employee must make best endeavours to complete the appropriate leave approval (preferably within 24 hours) after resuming duty.

31.3.5 Where an Employee falls sick for a period of more than two (2) working days while on annual leave, the Employee is entitled to personal leave. Satisfactory evidence in accordance with sub-clause 31.3.2 must accompany lodgement of a personal leave claim for annual leave entitlements to be re-credited for the period of incapacity.

### **31.4 Entitlement to Unpaid Carer's/Family Leave**

31.4.1 An Employee may elect, with the consent of the Employer, to take unpaid leave for the purpose of providing care to an Immediate Family member who is ill.

31.4.2 Unpaid Carer's/Family Leave may also be approved in accordance with Clause 31.2.3.

31.4.3 The notice and evidence requirements of clause 31.3.2 must be complied with.

### **31.5 Non Compliance with Evidence and/or Notice Obligations**

An Employee must make best endeavours to provide the required notice or the evidence as required by this clause. Failure to provide this information may result in non-payment of personal leave. In such cases the time away from work may be regarded as an unauthorised absence that is unpaid.

## **32. COMPASSIONATE LEAVE**

### **32.1 Paid Compassionate Leave (other than for casual Employees)**

32.1.1 An Employee is entitled to two (2) days of paid compassionate leave on each occasion an immediate family or household member dies or contracts or develops a life-threatening illness or injury.

32.1.2 The parties agree that the nucleus of the definition of a traditional family blood/marriage) has changed, particularly in the areas of diversity and multiculturalism. This is particularly relevant in relation to kinship (a sharing of bonds, friendships, communion or origins etc), customs and religions where close bonds and relationships are formed.

Should an Employee require Compassionate Leave for someone where they have a close bond or relationship as described, requests to access the entitlement to two (2) days of paid leave on each occasion will be considered on a case by case basis by the relevant Manager/Supervisor or delegate.

32.1.3 Compassionate leave may be taken at a time of the Employee's choosing within a period commencing on the date of the death of the immediate family member of the Employee's household, or as detailed in 31.2.2, and ending 2 days after the funeral; or at some other time agreed with the Employer.

32.1.4 The compassionate leave can be taken as a single continuous two (2) day period; two (2) separate days of one (1) day each; or any separate periods the Employee and Employer agree.

32.1.5 With approval from, and in consultation with the Employer, the Employee may choose to use other leave entitlements (eg annual leave, long service leave) in addition to unpaid compassionate leave.

### **32.2 Unpaid Compassionate Leave**

An Employee may take unpaid compassionate leave by agreement with the Employer.

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

If, in accordance with this clause, an Employee, other than a casual Employee, takes a period of compassionate leave, the Employer shall pay the Employee at the Employee's Ordinary Rate of Pay for what would have normally been the Employee's ordinary hours of work in the period. For casual Employees, compassionate leave is unpaid leave.

### **32.4 Notice and Evidence Requirements**

32.4.1 An Employee must give the Employer notice of the need to take compassionate leave. The notice must be given to the Employer as soon as practicable and must advise the Employer of the period, or expected period, of the leave.

32.4.2 An Employee who has given the Employer notice of the taking of compassionate leave must, if required by the Employer, produce a medical certificate or other reasonable evidence for any absence taken for compassionate leave. An Employee will not be required to produce a medical certificate for compassionate leave where the circumstances would make it unreasonable for the Employee to do so. In this case the Employee must provide the Employer with a statutory declaration or other form of reasonable evidence to the satisfaction of the Employer that substantiates the reason for the absence.

- 32.4.3 On the Employee's return to work after taking compassionate leave, the Employee must make best endeavours to complete the appropriate leave approval (preferably within 24 hours) after resuming duty.

### **32.5 Non Compliance with Evidence and/or Notice Obligations**

An Employee must make best endeavours to provide the required notice or the evidence as required by this clause. Failure to provide this information may result in non-payment of compassionate leave. In such cases the time away from work may be regarded as an unauthorised absence that is unpaid.

## **33. LONG SERVICE LEAVE**

All Employees are entitled to long service leave in accordance with the South Australian Long Service Leave Act 1987.

- 33.1 Employees are entitled to 13 weeks long service leave after completing 10 years of continuous service.
- 33.2 Employees are eligible to take pro-rata of accumulated Long Service Leave when they reach 7 years of continuous service
- 33.3 Employees are entitled to take long service leave with 60 days' notice, unless mutually agreed otherwise.
- 33.4 Employees may take a minimum of 1 day of long service leave.
- 33.5 Where an Employee has accumulated an entitlement in excess of 90 days long service leave the Employer may give the Employee written notice to reduce their entitlements to 60 work days within a 2 year period.
- 33.6 Employees will not be required to take Long Service Leave if they have agreed to retire within a 2 year period.
- 33.7 Recognition of prior service will be in accordance with the Long Service Leave Act.

## **34. JURY SERVICE/WITNESS LEAVE**

- 34.1 Employees who are called to serve on a jury shall be entitled to leave for that purpose without loss of pay, provided that:
- 34.1.1 The Employee notifies the Employer as soon as possible of the date(s) involved in jury service;
- 34.1.2 The Employee supplies proof of jury attendance including the relevant dates and times together with full details of the amounts received in respect of the attendance; and
- 34.1.3 The Employee, as far as is practicable shall return to work if the jury attendance ceases prior to the end of the normal day's work.
- 34.2 Employees must claim from the relevant court the full amount payable in respect of jury service or witness fees and repay such amounts in full to the Employer, other than daily incidentals such as public transport fares; car parking fees; and lunch costs.
- 34.3 Jury service shall count as service for all purposes of the Award.



### **35. DEFENCE FORCES LEAVE (ADF)**

- 35.1 Employees may apply for up to 20 work days per calendar year for paid annual training.
- 35.2 Employees may apply for up to 10 work days per calendar year for Special Instruction (Induction).
- 35.3 This leave is non-cumulative.
- 35.4 Verification of required leave is required as well as written confirmation by the respective service of the period of training to be undertaken.
- 35.5 Part-time or Casual Employees, after their first year of employment, are entitled to ADF leave on a pro-rata basis. Any leave in the first year is without pay.
- 35.6 Employees will be granted leave with pay for enlistment or medical purposes with no time limit provided special leave has been exhausted.

### **36. LEAVE OF ABSENCE (LEAVE WITHOUT PAY)**

- 36.1 A period of unpaid leave (leave of absence) may be granted to an Employee at the discretion of the Employer.
- 36.2 Each application will be assessed on merit and organisational needs.
- 36.3 Applications for five (5) or more working days leave without pay must be made in writing to the relevant General Manager and full details of the reasons provided. Approval may only be granted by the relevant General Manager or delegate.
- 36.4 Employees must make best endeavours to submit applications with at least eight (8) weeks' notice to ensure organisational continuity and effectiveness.
- 36.5 Any period of leave without pay granted to an Employee will not be counted as service, however does not break continuous service.

### **37. PARENTAL LEAVE AND RELATED ENTITLEMENTS (PAID AND UNPAID)**

Employees are entitled to parental leave in accordance with the *Fair Work Act (2009) (Cth)*. See Schedule B for an extract which is current at the time of approval of this Agreement.

#### **37.1 Paid Maternity Leave**

Fulltime and part-time Employees who have completed 12 months of continuous service with the City of Holdfast Bay are entitled to twelve (12) weeks paid maternity leave.

#### **37.2 Paid Adoption Leave**

37.2.1 Fulltime and part-time Employees who have completed 12 months of continuous service with the City of Holdfast Bay are entitled to twelve (12) weeks paid adoption leave if they are the primary carer.

37.2.2 Adoption leave is applicable for a child up to the age of 5 years.

- 37.3 The period of paid maternity/adoption leave may be taken in one consecutive block or at half pay (24 weeks) within the first 12 month parental/adoption leave period.

### **37.4 Unpaid Partner Leave**

All Employees may take up to 52 weeks of unpaid leave, provided it is certified the Employee is the primary caregiver.

## **38. PAID PARTNER LEAVE**

38.1 A reference to a "partner" in this clause is taken to include a spouse or de facto partner as defined in the *Fair Work Act 2009 (Cth)*.

38.2 Full-time and part-time Employees who have completed 12 months of continuous service will be entitled to paid partner leave, at or shortly after the birth or adoption of a child, if the Employee is not the primary caregiver of the child and is:

- the biological father of the child; or
- the birth mother's partner; or
- an adopting parent; or
- an adopting parent's partner.

38.3 The entitlement to paid partner leave will be five (5) days of paid leave.

38.4 The leave is to be taken within two (2) months of the date on which the child is born or placed with the Employee.

38.5 An Employee is required to provide a minimum of four (4) weeks' notice before the anticipated date of birth or adoption unless it is not possible to do so.

38.6 An Employee is required to provide a medical certificate as evidence of the actual or expected date of the birth of a child or in the event of an adoption, reasonable evidence of the expected date of placement.

38.7 For the avoidance of doubt, the entitlement in this clause is in addition to any payment that an Employee may be entitled to receive from the Department of Human Services by virtue of the "Dad and Partner Pay" provided by the Commonwealth Government.

## **39. PURCHASED LEAVE**

39.1 Purchased leave is where Employees have periods of one (1) or two (2) weeks of unpaid leave, which is funded by reduced salary payments. This allows Employees to continue to receive pay during the periods of purchased leave.

39.2 Purchased leave is of particular interest to Employees trying to balance family and work commitments.

Following are the processes which define the application of purchased leave;

39.2.1 An Employee may purchase either one (1) or two (2) weeks leave per financial year;

39.2.2 Purchased leave will only occur when requested by an Employee;

39.2.3 A request will not automatically be granted. This will depend upon organisational requirements. There is no right of appeal for denied purchased leave;

39.2.4 Written applications for purchased leave must be made to the Chief Executive Officer or his nominee by the first day of May in the year prior to the financial year in which the leave is being sought;

- 39.2.5 Purchased leave can only be taken in whole week blocks;
- 39.2.6 Purchased leave must be utilised in the financial year in which it is purchased or the leave will be forfeited and the payment reimbursed to the individual;
- 39.2.7 Purchased leave will count as service;
- 39.2.8 Approval of purchased leave will be determined by the relevant General Manager in conjunction with the manager of the area in which the Employee works;
- 39.2.9 An Employee's fortnightly deductions will remain unchanged if they elect to be part of the purchase leave scheme;
- 39.2.10 Where an Employee/Employer requests cancellation of the purchased leave before the leave has been taken due to exceptional circumstances, and this is agreed, the necessary adjustment to salary will be paid as a lump sum;
- 39.2.11 Where an Employee ceases paid employment during the year in which the purchased leave has been approved, reconciliation will occur to ensure that all monies owing to the Employee or the Employer are accounted for and an appropriate recovery or payment is made.

#### **40. STUDY LEAVE**

- 40.1 Relevant study may be identified through mutual agreement as part of an Employee's Performance Development Review and incorporated in the associated Development Plan.
- 40.2 The course of study identified should directly benefit the Employee in the performance of their present position and/or be relevant to the Employee in developing their Local Government career path.
- 40.3 Study leave may be granted at the discretion of the Employer but will not be withheld unreasonably to an Employee.
- 40.4 Where it is not possible for an Employee to undertake study outside of ordinary working hours, up to five (5) hours paid leave (pro rata part-time) per week may be supported by the Employer. The Employee should where practicable, undertake equal course time in their own time during the period of their approved study leave.
- 40.5 All Enrolment and course expenses will be met by the Employee, however, they will receive a reimbursement of such fees not exceeding \$600 per semester. Reimbursement is subject to seeking approval for this prior to commencing the study, and will be paid upon producing written evidence of successful completion of the subject and expenditure incurred.

#### **41. FAMILY & DOMESTIC VIOLENCE LEAVE**

The Employer recognises that Employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. Therefore, the Employer is committed to providing support to staff that experience family and domestic violence.

- 41.1 An Employee (including a casual Employee) is entitled to twenty (20) days of unpaid family and domestic violence leave each year. Employees are entitled to the full twenty (20) days from the day they commence employment.

- 41.2 The twenty (20) day entitlement renews each 12 month period and is not accumulative.
- 41.3 Employees may utilise this leave if they need to do something to deal with the impact of family and domestic violence and it is impractical to do so outside of their ordinary hours of work. For example, this could include, but is not limited to:
- Making arrangements for their safety, or safety of a family member (including relocation);
  - Attending medical appointments;
  - Attending to legal proceedings including court hearings;
  - Accessing police services; or
  - Other related activities.
- 41.4 Leave may be taken all at once or can be taken as single or multiple days.
- 41.5 The Employer and Employee can also mutually agree for less than one day at a time.
- 41.6 By mutual agreement between the Employer and Employee, more than the twenty (20) unpaid days may also be taken.
- 41.7 Employees are entitled to access their existing leave entitlements (including annual leave, long service leave, and TOIL/RDOs) if required.
- 41.8 Such leave, either paid or unpaid, will not be unreasonably withheld by the Employer.
- 41.9 The Employee Assistance program is available free of charge to Employees to provide support.
- 41.10 In order to provide support to an Employee experiencing family and domestic violence, and if requested by the Employee, the Employer may make reasonable modifications to the Employee's working arrangements to provide support for a short period of time. Any reasonable modifications put in place should not significantly affect operational requirements.
- 41.11 It is recognised that experiencing family and domestic violence may have an adverse effect on an Employee's workplace performance or conduct. Where the Employer is aware of an Employee's personal circumstances in this regard, they are to take this into account in any assessment of that Employee's workplace performance or conduct.

#### **41.12 Proof Requirements**

- 41.12.1 Proof of family or domestic violence must be provided where the Employee has requested or taken leave to deal with the impact. This can be in the form of, but not limited to documents issued by:
- the Police Service;
  - a Court;
  - a Doctor;
  - a District Nurse;
  - a Family Violence Support Service; or
  - a lawyer.

A signed statutory declaration can also be offered as proof.

- 41.12.2 Should sufficient proof not be provided as requested, leave may not be granted for any time off work, including as little as one day or less.

## **41.13 Confidentiality**

41.13.1 The Employer will take reasonably practicable steps to keep any information about an Employee's situation confidential, when they receive it as part of an application for leave. This includes information about the Employee giving notice that they are taking the leave and any proof provided.

41.13.2 The Employer is not prevented from disclosing information if:

- It is required by law; or
- Is necessary to protect the life, health or safety of the Employee or another person.

41.13.3 The Employer understands that information about an Employee's experience of family or domestic violence is sensitive. If information is mishandled, it could have adverse consequences for the Employee. As such, the Employer will work with the Employee to discuss and agree on how information is handled.

41.13.4 No information will be placed on the Employee's employment file without their express written permission.

## **42. CULTURAL & CEREMONIAL LEAVE**

All parties to the Agreement are committed to encouraging diversity and recognise the importance of enabling and encouraging all cultures within the workplace. Where it is impractical to do so outside of their ordinary hours of work Employees will be supported to attend cultural and ceremonial activities such as:

- Events that relate to a specific culture;
- Events that are representative of a culture (may be related to music, art, performance, food, unique activities, NAIDOC week, or similar things);
- Activities that embody or convey cultural expressions (including carnivals, ceremonies and rituals);
- Days or times of religious significance.

42.1 All cultural and ceremonial leave will be mutually agreed in advance within reasonable timeframes between the Manager/Supervisor and Employee to ensure that operational requirements are maintained.

42.2 Employees are entitled to access their existing leave entitlements (including annual leave, long service leave, and TOIL/RDOs) for the purposes of attending special events, ceremonies, and rituals associated with their culture.

42.3 A maximum of five (5) days per calendar year of unpaid Cultural and Ceremonial Leave may also be granted to an Employee.

42.4 Should an Employee require more than five (5) days of unpaid leave per calendar year, this will be at the discretion of the General Manager or delegate. In deciding whether or not to grant such leave, the Employer will take into account fairness, the Employee's years of service, the operational requirements of the organisation, the nature of the cultural and/or ceremonial obligations and the importance of enabling and encouraging Employees to attend and participate in cultural and ceremonial activities.

42.4 Such leave, either paid or unpaid, will not be unreasonably withheld by the Employer.

#### **43. REGISTERED ASSOCIATION TRAINING LEAVE**

Employees with a minimum of 12 months service, who are members of the ASU or other Registered Association, may take paid leave to a maximum of 5 days per annum (subject to adequate staffing arrangements), to attend courses conducted or approved by the ASU or other Registered Association with the principle of promoting better industrial relations within the Council. Not less than 4 weeks' notice must be given to the Employer of the date of commencement of the training course.

## WORKPLACE RELATIONS

### 44. RECLASSIFICATION

44.1 Any request for a reclassification shall be examined and determined by the Chief Executive Officer as expeditiously as practicable. In all instances the following procedure shall be followed:

44.1.1 The applicant shall be advised in writing of the receipt of their application within five (5) business days of submission of the application.

44.1.2 The applicant shall be advised in writing of the expected date of determination of their application within 20 business days of submission of the application.

44.1.3 The date of reclassification shall be the date the Employee first submitted the formal application.

44.1.4 Applications for reclassification shall be determined within three (3) months from the date the Employee first submitted the formal application.

44.2 The applicant shall be provided with written confirmation of the decision on their application. If the applicant is unsuccessful, written reasons shall be provided.

44.3 Any applicant not satisfied with the determination may access the Dispute Avoidance Resolution Procedure pursuant to Clause 47.

### 45. EMPLOYMENT SECURITY

The parties agree that changes to workplace methods, practices, quality and productivity must be consistent with the efficient operation of Council. Further, the parties acknowledge that Council is a dynamic workplace with diversity of skills, capabilities and Employees. The parties recognise this diversity and the challenges that the wider economic environment will place on the:

- (a) need for increased flexibility towards changing skills sets;
- (b) the retention of existing skills and capabilities over time;
- (c) managing service delivery and customer expectations within available resources.

#### 45.1 Organisational Change

Where organisational change is required the following shall apply:

45.1.1 Prior to any decision being made regarding the implementation of significant changes in structure, technology and/or other changes which may impact on employment security, the Employees and the ASU will be informed in writing of the nature of the changes and the expected impacts on employment security. Employees will be consulted from the initial stages of the change/technology project through to project completion. There will be full, open, honest disclosure of all information relevant to the proposed change, presented within a time frame to allow meaningful consideration and consultation.

45.1.2 Training will be provided for Employees required to use new technology or to deal with changed duties/responsibilities.

- 45.1.3 The parties to this agreement have agreed that the rule of no forced redundancies will no longer apply. The exception to this is where the City of Holdfast Bay amalgamates or otherwise merges with another local government organisation, in which case, the no forced redundancies rule will be reinstated but only in respect of redundancies arising directly out of the merger/amalgamation process.

#### **45.2 Positions Identified as Excess to Requirements**

- 45.2.1 The parties agree that any positions declared as excess to requirements will be a genuine redundancy and therefore "a position that is no longer required to be performed by anyone".
- 45.2.2 Redeployment to a position of the same classification level or redeployment to a position of lower classification level with income maintenance, and Voluntary Redundancy Packages (VRP), will be the preferred means of dealing with Employees declared as excess to requirements through organisational change.
- 45.2.3 Where organisational change results in positions being no longer required the Employee(s) will be advised in writing to that effect, with the options of redeployment or a VRP being offered.
- 45.2.4 Council will ensure that the use of short term contract and labour hire staff is reduced wherever possible to support Employees in the redeployment process.
- 45.2.5 The parties acknowledge that this process is not intended to cover performance-related matters and/or misconduct that are subject to separate procedural fairness.

#### **45.3 Re-deployment**

- 45.3.1 It is the primary aim to re-deploy Employees into a position of equal classification and status as their pre-redeployment position.
- 45.3.2 Role specific training determined in consultation between the Employer and Employee shall be made available as a priority to affected Employees to assist in their re-deployment to another position.
- 45.3.3 After examining all available options, and in consultation with the Employee, an Employee may be re-deployed into a position at a lower classification level. If re-deployment is to a lower classification and is accepted within three (3) months, the Employee's pre-re-deployment salary shall be maintained for 18 months, during which time the Employer shall consider all practicable means to redesign the position to return it to the Employee's classification and scope of responsibility prior to re-deployment. After the 18-month period has expired, the re-deployee's total maintenance package will be pegged until such time as the Award and/or Agreement level commensurate with the re-deployee's duties reaches the pegged salary.
- 45.3.4 Any re-deployee provided with work under this provision will be deemed capable of the class of work that the re-deployee performed immediately prior to the organisation structure being introduced. As such, the re-deployee shall be offered any vacancy that has a reasonably equivalent skill and capability set, subsequently arising in that class of work in the Council in preference to any person not employed by the Employer.



45.3.5 Re-deployees are required to:

45.3.5.1 Adapt and develop their skills in accordance with their new role as quickly as possible, and participate actively in any training programs.

45.3.5.2 Accept as quickly as possible and must not refuse a re-deployment option that is a reasonable match with their skills and capabilities (including training) and prior scope of responsibility.

45.3.6 An Employee who is placed in an ongoing or fixed term contract position of no less than 12 months will be formally advised that they are no longer an excess Employee. Should a fixed term contract not be extended for any reason, the Employee will revert to re-deployment status with the process commencing again.

45.3.7 Work injured Employees who are not able to carry out their normal duties as a result of compensable injury and therefore require alternative duties as part of rehabilitation and return to work plan are to be given priority consideration ahead of excess Employees.

**45.4 Voluntary Redundancies**

45.4.1 An Employee, whose position has been declared as excess to requirements may choose to take a VRP.

45.4.2 The entitlement under the VRP will include;

45.4.2.1 The payment of twelve (12) weeks' pay (based on total salary) in lieu of notice, plus three (3) weeks' pay (based on total salary) for each full year of continuous service up to a maximum payment of 104 weeks.

45.4.2.2 The amount of a VRP shall be determined by the gross ordinary time earnings immediately prior to separation which shall include allowances (not including overtime) payable pursuant to the Award. In the case where an Employee's hours have decreased over the previous 12 months, an average of the previous 12 months earnings shall be used in determining the annual salary to apply.

45.4.2.3 Where a motor vehicle is provided as part of a salary package, the weekly value of the motor vehicle for the purposes of a VRP shall be determined by dividing the following amounts by 52 and adding that payment to an Employee's weekly rate of pay;

- \$10,000 where an Employee has full private use.
- \$2,400 where the Employee has commuter use only.

45.4.2.4 The following will be provided as part of the VRP:

- Financial Advice (max 2 sessions).
- Employee Assistance Program.
- Career Counselling (expense level at Council's discretion and dependent on position).
- Support with time off to attend external interviews as required during the notice period (if worked in lieu of payment).

## 45.5 Other Separation Packages

45.5.1 An Employee, whose position has been declared as excess to requirements and who:

- (a) In the Employer's view cannot be gainfully re-deployed at any classification level; and
- (b) Has been unsuccessful in obtaining an alternative ongoing or fixed term re-deployment option at either their current classification or lower; and
- (c) Has declined earlier consideration of a Voluntary Redundancy Package;

may be separated after three (3) months (since written advice of being declared excess) with a suitable payment consisting of:

45.5.1.1 The payment of eight (8) weeks' pay (based on total salary) in lieu of notice, plus three (3) weeks' pay (based on total salary) for each full year of continuous service up to a maximum payment of 104 weeks.

45.5.1.2 The amount of a separation package shall be determined by the gross ordinary time earnings immediately prior to separation which shall include allowances (not including overtime) payable pursuant to the Award. In the case where an Employee's hours have decreased over the previous 12 months, an average of the previous 12 months earnings shall be used in determining the annual salary to apply.

45.5.1.3 Where a motor vehicle is provided as part of a salary package, the weekly value of the motor vehicle for the purposes of a separation package shall be determined by dividing the following amounts by 52 and adding that payment to an Employee's weekly rate of pay;

- \$10,000 where an Employee has full private use
- \$2,400 where the Employee has commuter use only.

45.5.2. Excepting for those positions that are discontinued and, as such, declared as excess to requirements within the parameters of this Agreement, other separation packages will be at the discretion of the Chief Executive Officer following negotiations with the Employee and in those instances such arrangements will be outside the provisions of this Agreement.

## 45.6 Fixed Term Contracts of Employment

45.6.1 The parties agree that the Employer may engage an Employee for a fixed term contract of employment to undertake a specific project of limited duration or work of a limited duration or where employment is being facilitated by funding from an external source.

45.6.2 The Employer may engage an Employee in circumstances other than those provided for in 43.6.1 for senior positions that are classified at Level 7 or above.

45.6.3 During the life of the Agreement the Employer will commit to converting current Employees engaged on a Fixed Term Contract to permanent as follows:

|                  |               |
|------------------|---------------|
| Year 1 – 2019/20 | Minimum of 5% |
| Year 2 – 2020/21 | Minimum of 5% |
| Year 3 – 2021/22 | Minimum of 5% |

Decisions regarding positions to be converted will be based on business needs only and will be made by the Chief Executive Officer or delegate.

#### **46. EMPLOYEE RELATIONS**

- 46.1 The parties recognise the need to maintain mutual trust and understanding in Employee relations throughout the organisation.
- 46.2 The parties agree to continue to focus on an industrial relations approach of 'Employee Relations', where consultation and negotiation are viewed as essential.
- 46.3 The parties agree that enhanced communication processes will improve the implementation of strategies contained in the Agreement and enhance the efficiency of day to day operations.
- 46.4 The Employer is committed to Employee consultation, in that opportunities will be provided for Employees to be involved and express their opinions before changes occur which are likely to have a significant impact on the workplace and their jobs.
- 46.5 Where issues relating to the operation of this Agreement are not resolved through this consultation process at the local work site they will be referred to the Single Bargaining Unit for further.

#### **47. DISPUTE AVOIDANCE RESOLUTION PROCEDURE**

- 47.1 The parties agree to follow all stages in the Dispute Avoidance Resolution Procedure to ensure that all matters receive prompt attention and are resolved by consultation, negotiation, mediation or conciliation wherever possible at the enterprise level.
- 47.2 **General (Individual Employee Grievances)**
  - 47.2.1 Employee grievances shall be dealt with in the first instance between the Employee and the Supervisor for the relevant work area.
  - 47.2.2 Where the issue remains unresolved, the Employee (and/or their Union Representative) may discuss the matter at a mutually convenient time with the relevant General Manager and/or the Manager, People and Culture as the circumstances dictate.
  - 47.2.3 The above procedures should be completed within 14 days of the issue first being raised.
  - 47.2.4 Should the matter remain unresolved, the Employee (and/or their Union Representative) may discuss the matter at a mutually convenient time with the Chief Executive Officer together with the relevant General Manager.
  - 47.2.5 Should the matter still remain unresolved, either party may notify the SAET of a dispute and seek conciliation in the first instance and in the event of not reaching agreement, then arbitration.
  - 47.2.6 Whilst the matter is being handled in accordance with these procedures the parties agree that work will continue as normal, where possible (there may be a situation where an Employee may need to be relocated from their work station).
  - 47.2.7 Nothing in the above process shall prevent the Union from raising a matter directly with the Manager, People and Culture.

### **47.3 Enterprise Bargaining Grievances**

- 47.3.1 Where a dispute or grievance arises out of the operation of this Agreement the matter should be discussed with the relevant General Manager and/or the Manager People & Culture.
- 47.3.2 Where the matter remains unresolved it should be referred to the SBU.
- 47.3.3 The above steps should be completed within 14 days of the matter first being raised.
- 47.3.4 If it remains unresolved, the parties should discuss the matter at a mutually convenient time with the Chief Executive Officer and/or the Manager People & Culture.
- 47.3.5 Should the matter still remain unresolved, either party may notify the SAET of a dispute and seek conciliation in the first instance and in the event of not reaching agreement, then arbitration.
- 47.3.6 Whilst the matter is being handled in accordance with these procedures the parties agree that work will continue as normal.
- 47.3.7 Nothing in the above process shall prevent the Union from raising a matter directly with Manager, People and Culture.

## **ORGANISATIONAL DEVELOPMENT**

### **48. PERFORMANCE DEVELOPMENT AND REVIEW – PDR**

- 48.1 The parties recognise that continuous improvement of service delivery is necessary and desirable to improve the efficiency of the organisation and customer service, and to provide job satisfaction and improve job security. The parties therefore commit to a work culture of analysis, innovation and improvement.
- 48.2 Within the spirit of Clause 48.1 above, the Employer and Employees are committed to ongoing effective implementation of the annual performance appraisal program to ensure all Employees are provided with timely and accurate feedback on both positive and negative aspects of job performance, as well as facilitating career and development opportunities for Employees.
- 48.3 Annual PDR's shall involve the relevant Manager/Supervisor and Employee reaching agreement over individual objectives and outcomes that have been identified in departmental Business Plans. Required outcomes should be:
- simple and easy to communicate;
  - easy to measure;
  - limited in number to a manageable level; and
  - realistic and achievable.

The process should also include a Development Plan which identifies relevant training and skill development requirements. Performance outcomes will be monitored regularly by Managers/Supervisors through the Corporate Reporting Process with a final formal review undertaken with the Employee annually by the end of July.

At the final review, an assessment against the organisational Values and associated behaviours will also be undertaken by the Manager/Supervisor and Employee.

- 48.4 Performance outcomes will have regard to the key focus areas identified in the Council's Strategic Plan.

### **49. LEARNING AND DEVELOPMENT**

- 49.1 Learning and development is an essential long-term investment to ensure that Employees can make the most effective contribution to the business and can achieve their full personal potential.
- 49.2 The Employer encourages Employee participation in courses at recognised educational institutions and in training programs. Learning and Development is based on identified business needs and agreed individual professional development plans which form part of the Performance Development Review process. Career development is a partnership where Employees manage their individual development and the Employer provides opportunities, encouragement and assistance.
- 49.3 The parties also recognise that planning sessions and personal/professional development training programs, particularly those involving whole work groups can be disruptive to the efficient operation of the Employer and affect the maintenance of proper customer service.

As a means of enabling greater flexibility in the provision of planning/training activities, and subject to agreement, the Employer may require Employees to attend selected activities conducted on weekday evenings (excluding Public Holidays and Library closed days for Library Employee) between the hours of 5.00 pm and 8.00 pm or on Saturdays between the hours of 8.00 am and 5.00 pm. Training shall not be conducted on a Saturday forming part of a weekend adjacent to a Public Holiday.

- 49.4 A minimum period of four (4) weeks' notice will be provided prior to any planning/training activity being conducted during the times set out above. Where possible, more than one opportunity to attend an activity will be provided. This arrangement should not be utilised in excess of 24 hours per year unless the Employee genuinely agrees otherwise.
- 49.5 Time spent on planning/training activities conducted during the times set out above shall, by mutual agreement, either be paid at ordinary time or taken as time off in lieu of payment at ordinary time (Refer Clause 20 "Flexible Working Arrangements"). Activities conducted on a Saturday will be for a minimum of three hours.
- 49.6 No other payments or penalties will apply with the exception of either provision of a meal by the Employer or payment of the appropriate meal allowance.
- 49.7 The Employer will provide child care or reimburse reasonable child care expenses incurred for Employees with family responsibilities who would be unable to attend such training without child care arrangement.
- 49.8 Assistance with special family circumstances will be considered on an individual basis prior to training taking place. In each instance the situation is to be discussed with the Employee's Manager.
- 49.9 No Employee shall be required to participate in a planning/training activity which in addition to their normal duties would require them to attend work in excess of 12 hours in any one (1) day.
- 49.10 Unless otherwise agreed, training that relates to the workplace health & safety of Employees will be conducted during normal working hours.
- 49.11 No Employee (including part-time Employees) shall be disadvantaged by the operation of this Clause in their access to training programs provided by the Employer.
- 49.12 Notwithstanding the above, the Employer may offer training opportunities for personal development outside of normal working hours in the Employee's own time on a voluntary basis.

## **50. PROFESSIONAL MEMBERSHIP FEES**

The Employer will reimburse 50% of the fees where an Employee is required to hold membership to a professional body in order to fulfil the essential requirements of their position.

The requirement to hold such membership must be:

- Documented in the approved Position Description; and
- Prescribed by legislation.

The Employee is required to provide proof of payment and complete the appropriate reimbursement form for approval by the Manager or delegate.

## SIGNATORIES

Signed for and on behalf of  
THE CITY OF HOLDFAST BAY:

  
\_\_\_\_\_  
ROBERTO BRIA  
A/CHIEF EXECUTIVE OFFICER

17/6/19  
\_\_\_\_\_  
DATE

   
\_\_\_\_\_  
WITNESS

17/6/19  
\_\_\_\_\_  
DATE

EMPLOYEE REPRESENTATIVES  
THE CITY OF HOLDFAST BAY:

  
\_\_\_\_\_  
TANIA O'BRIEN  
SENIOR RECORDS COORDINATOR

17/6/19  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
WITNESS

17/6/19  
\_\_\_\_\_  
DATE

AUSTRALIAN SERVICES UNION -  
SOUTH AUSTRALIAN &  
NORTHERN TERRITORY BRANCH:

   
\_\_\_\_\_  
JOSEPH SCALES ABBIE SPENCER  
BRANCH SECRETARY

18/6/19  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
WITNESS - Saint Dean

18/6/19  
\_\_\_\_\_  
DATE

## SCHEDULE A – WAGES SCHEDULE

| LEVEL | YEAR | AS AT FFPP AFTER<br>1 JULY 2019 (2%) | AS AT FFPP AFTER<br>1 JULY 2020 (2%) | AS AT FFPP AFTER<br>1 JULY 2021 (2%) |
|-------|------|--------------------------------------|--------------------------------------|--------------------------------------|
| One   | 1    | \$51,530                             | \$52,561                             | \$53,612                             |
|       | 2    | \$52,793                             | \$53,849                             | \$54,926                             |
|       | 3    | \$54,539                             | \$55,630                             | \$56,743                             |
|       | 4    | \$56,446                             | \$57,575                             | \$58,726                             |
|       | 5    | \$58,340                             | \$59,507                             | \$60,697                             |
|       | 6    | \$60,224                             | \$61,428                             | \$62,657                             |
|       |      |                                      |                                      |                                      |
| Two   | 1    | \$62,142                             | \$63,385                             | \$64,653                             |
|       | 2    | \$64,031                             | \$65,311                             | \$66,617                             |
|       | 3    | \$65,925                             | \$67,243                             | \$68,588                             |
|       | 4    | \$67,814                             | \$69,170                             | \$70,553                             |
|       |      |                                      |                                      |                                      |
| Three | 1    | \$69,708                             | \$71,102                             | \$72,524                             |
|       | 2    | \$71,593                             | \$73,025                             | \$74,485                             |
|       | 3    | \$73,487                             | \$74,957                             | \$76,456                             |
|       | 4    | \$75,375                             | \$76,882                             | \$78,420                             |
|       |      |                                      |                                      |                                      |
| Four  | 1    | \$77,268                             | \$78,813                             | \$80,390                             |
|       | 2    | \$79,156                             | \$80,739                             | \$82,354                             |
|       | 3    | \$81,045                             | \$82,666                             | \$84,319                             |
|       | 4    | \$82,938                             | \$84,597                             | \$86,289                             |
|       |      |                                      |                                      |                                      |
| Five  | 1    | \$84,826                             | \$86,523                             | \$88,253                             |
|       | 2    | \$86,717                             | \$88,452                             | \$90,221                             |
|       | 3    | \$88,607                             | \$90,380                             | \$92,187                             |
|       |      |                                      |                                      |                                      |
| Six   | 1    | \$91,758                             | \$93,593                             | \$95,465                             |
|       | 2    | \$94,903                             | \$96,801                             | \$98,737                             |
|       | 3    | \$98,060                             | \$100,021                            | \$102,021                            |
|       |      |                                      |                                      |                                      |
| Seven | 1    | \$101,204                            | \$103,228                            | \$105,293                            |
|       | 2    | \$104,358                            | \$106,445                            | \$108,574                            |
|       | 3    | \$107,509                            | \$109,659                            | \$111,852                            |
|       |      |                                      |                                      |                                      |
| Eight | 1    | \$111,291                            | \$113,517                            | \$115,787                            |
|       | 2    | \$115,069                            | \$117,371                            | \$119,718                            |
|       | 3    | \$118,851                            | \$121,228                            | \$123,653                            |



## SCHEDULE B – PARENTAL LEAVE AND RELATED ENTITLEMENTS

(Extract from the Fair Work Act 2009 [Cth])

### SUBDIVISION A – GENERAL

#### SB.1 General Rule – Employee must have completed at least 12 months of Service

- SB.1.1 An Employee, other than a casual Employee, is not entitled to leave under this clause (other than unpaid pre-adoption leave or unpaid no safe job leave) unless the Employee has, or will have, completed at least 12 months of continuous service with the Employer immediately before the date that applies under sub-clause SB.1.3.
- SB.1.2 A casual Employee, is not entitled to leave (other than unpaid pre-adoption leave or unpaid no safe job leave) unless:
- (a) the Employee is, or will be, a long term casual Employee of the Employer immediately before the date that applies under sub-clause S?.1.3, and
  - (b) but for:
    - (i) the birth or expected birth of the child; or
    - (ii) the placement or the expected placement of the child, or
    - (iii) if the Employee is taking a period of unpaid parental leave that starts under sub-section SB.5.6 or sub-section SB.6.3(b) or SB.6.4(b) - the taking of the leave;
    - (iv) the Employee would have a reasonable expectation of continuing employment by the Employer on a regular and systematic basis.
- SB.1.3 For the purpose of this clause the date at which Employee must have completed 12 months of service that applies is:
- (a) unless paragraph (b) or (c) applies:
    - (i) if the leave is birth-related leave – the date of birth, or the expected date of birth, of the child; or
    - (ii) if the leave is adoption-related leave – the day of placement, or the expected day of placement, of the child; or
  - (b) for an Employee taking a period of unpaid parental leave that is to start within 12 months after the birth or placement of the child under sub-section S?.5.6 – the date on which the Employee's period of leave is to start, or
  - (c) for a member of an Employee couple taking a period of unpaid parental leave that is to start under sub-clause SB.6.3(b) or SB.6.4(b) after the period of unpaid parental leave of the other member of the Employee couple – the date on which the Employee's period of leave is to start.
- SB.1.4 **Birth Related Leave** means leave of either of the following kinds:
- (a) unpaid parental leave taken in association with the birth of a child (see clause SB.4);
  - (b) unpaid special maternity leave (see clause SB.17).
- SB.1.5 **Adoption Related Leave** means leave of either of the following kinds:
- (a) unpaid parental leave taken in association with the placement of a child for adoption (see clause SB.4);
  - (b) unpaid pre-adoption leave (see clause SB.25).

SB.1.6 The day of placement, in relation to the adoption of a child by an Employee, means the earlier of the following days:

- (a) the day on which the Employee first takes custody of the child for the adoption;
- (b) the day on which the Employee starts any travel that is reasonably necessary to take custody of the child for the adoption.

**SB.2 General Rule for Adoption Related Leave – Child must be under 16**

SB.2.1 An Employee is not entitled to adoption-related leave unless the child that is, or is to be, placed with the Employee for adoption:

- (a) is, or will be, under 16 as at the day of placement, or the expected day of placement, of the child; and
- (b) has not, or will not have, lived continuously with the Employee for a period of six (6) months or more as at the day of placement, or the expected day of placement, of the child, and
- (c) is not (otherwise than because of the adoption) a child of the Employee or the Employee's spouse or de facto partner.

**SB.3 Transfer of Employment Situations in which Employee is Entitled to Continue on Leave**

SB.3.1 If there is a transfer of employment in relation to an Employee and the Employee has already started a period of leave under this clause when their employment with the first employer ends, the Employee is entitled to continue on that leave for the rest of that period.

SB.3.2 If there is a transfer of employment in relation to an Employee and the Employee has, in relation to the first employer, already taken a step that is required or permitted by a provision of this clause in relation to taking a period of leave, the Employee is taken to have taken the step in relation to the second Employer.

**SUBDIVISION B – PARENTAL LEAVE**

**SB.4 Entitlement to Unpaid Parental Leave**

SB.4.1 An Employee is entitled to 12 months of unpaid parental leave if:

- (a) the leave is associated with:
  - (i) the birth of a child of the Employee or the Employee's spouse or de facto partner; or
  - (ii) the placement of a child with the Employee for adoption, and
- (b) the Employee has or will have a responsibility for the care of the child.

**SB.5 The Period of Leave – Other than for Members of an Employee Couple who each intend to take Leave**

SB.5.1 This section applies to an Employee who intends to take unpaid parental leave if:

- (a) the Employee is not a member of an Employee couple, or
- (b) the Employee is a member of an Employee couple, but the other member of the couple does not intend to take unpaid parental leave.

SB.5.2 The Employee must take the leave in a single continuous period.

- SB.5.3 If the leave is birth-related leave for a female Employee who is pregnant with, or gives birth to, the child, the period of leave may start up to six (6) weeks before the expected date of birth of the child, or earlier if the Employer and Employee agree, but must not start later than the date of birth of the child.
- SB.5.4 If the leave is birth-related leave but sub-clause SB.5.3 does not apply, the period of leave must start on the date of birth of the child.
- SB.5.5 If the leave is adoption-related leave, the period of leave must start on the day of placement of the child.
- SB.5.6 Despite sub-clauses SB.5.3 to SB.5.5, the period of leave may start at any time within 12 months after the date of birth or day of placement of the child if:
- (a) the Employee has a spouse or de facto partner who is not an Employee, and
  - (b) the spouse or de facto partner has a responsibility for the care of the child for the period between the date of birth or day of placement of the child and the start date of the leave.

**SB.6 The Period of Leave – Members of an Employee Couple who each intend to take Leave**

- SB.6.1 This section applies to an Employee couple if each of the Employees intends to take unpaid parental leave.
- SB.6.2 Each Employee must take the leave in a single continuous period.
- SB.6.3 If the leave is birth-related leave:
- (a) one (1) Employee's period of leave must start first, in accordance with the following rules:
    - (i) if the member of the Employee couple whose period of leave starts first is a female Employee who is pregnant with, or gives birth to, the child – the period of leave may start up to six (6) weeks before the expected date of birth of the child, or earlier if the Employer and Employee agree, but must not start later than the date of birth of the child;
    - (ii) if paragraph (i) does not apply – the period of leave must start on the date of birth of the child, and
  - (b) the other Employee's period of leave must start immediately after the end of the first Employee's period of leave (or that period as extended under the provisions of clause SB.9 or SB.10).
- SB.6.4 If the leave is adoption-related leave:
- (a) one (1) Employee's period of leave must start on the day of placement of the child, and
  - (b) the other Employee's period of leave must start immediately after the end of the first Employee's period of leave (or that period as extended under the provisions of clause SB.9 or SB.10).
- SB.6.5 If one (1) of the Employees takes a period (the first Employee's period of leave) of unpaid parental leave in accordance with sub-clause SB.6.3(a) or SB.6.4(a), the other Employee may take a period of unpaid parental leave (the concurrent leave) during the first Employee's period of leave, if the concurrent leave complies with the following requirements:
- (a) the concurrent leave must not be longer than eight (8) weeks in total;
  - (b) the concurrent leave may be taken in separate periods, but, unless the Employer agrees, each period must not be shorter than two (2) weeks;

- (c) unless the Employer agrees, the concurrent leave must not start before:
  - (i) if the leave is birth-related leave – the date of birth of the child, or
  - (ii) if the leave is adoption-related leave – the day of placement of the child;

**SB.6.6 Concurrent leave taken by an Employee:**

- (a) is an exception to the rule that the Employee must take their leave in a single continuous period as provided in this clause, and
- (b) is an exception to the rules about when the Employee's period of unpaid parental leave must start as provided in this clause.

**SB.7 Pregnant Employee may be required to take Unpaid Parental Leave within 6 weeks before the Birth**

**SB.7.1** If a pregnant Employee who is entitled to unpaid parental leave (whether or not she has complied with the provisions of clause SB.8) continues to work during the six (6) week period before the expected date of birth of the child, the Employer may ask the Employee to give the Employer a medical certificate containing the following statements (as applicable):

- (a) a statement of whether the Employee is fit for work;
- (b) if the Employee is fit for work – a statement of whether it is inadvisable for the Employee to continue in her present position during a stated period because of:
  - (i) illness, or risks, arising out of the Employee's pregnancy, or
  - (ii) hazards connected with the position.

**SB.7.2** The Employer may require the Employee to take a period of unpaid parental leave (the period of leave) as soon as practicable if:

- (a) the Employee does not give the Employer the requested certificate within seven (7) days after the request; or
- (b) within seven (7) days after the request, the Employee gives the Employer a medical certificate stating that the Employee is not fit for work, or
- (c) the following sub-paragraphs are satisfied:
  - (i) within seven (7) days after the request, the Employee gives the Employer a medical certificate stating that the Employee is fit for work, but that it is inadvisable for the Employee to continue in her present position for a stated period for a reason referred to within this clause;
  - (ii) the Employee has not complied with the notice and evidence requirements of clause SB 8 for taking unpaid parental leave.

**SB.7.3** The period of leave must not end later than the earlier of the following:

- (a) the end of the pregnancy;
- (b) if the Employee has given the employer notice of the taking of a period of leave connected with the birth of the child (whether it is unpaid parental leave or some other kind of leave) - the start date of that leave.

**SB.7.4** The period of leave:

- (a) is an exception to the rule that the Employee must take her unpaid parental leave in a single continuous period (see sub-clause SB.5.2 or SB.6.2), and
- (b) is an exception to the rules about when the Employee's period of unpaid parental leave must start (see sub-clause SB5.3 and SB 6.3).

- SB.7.5 The Employee is not required to comply with the provisions of the sub-clause SB.8 in relation to the period of leave.

**SB.8 Notice and Evidence Requirements**

- SB.8.1 An Employee must give the Employer written notice as provided in clause SB.5 or SB.6 of the taking of unpaid parental leave by the Employee.
- SB.8.2 The notice must be given to the Employer:
- (a) at least:
    - i. ten (10) weeks before starting the leave, unless subparagraph (ii) applies; or
    - ii. if the leave is to be taken in separate periods of concurrent leave (see paragraph 6.5(b)) and the leave is not the first of those periods of concurrent leave--4 weeks before starting the period of concurrent leave; or
  - (b) if that is not practicable – as soon as practicable (which may be a time after the leave has started).
- SB.8.3 The notice must specify the intended start and end dates of the leave.
- SB.8.4 At least four (4) weeks before the intended start date specified in the notice given under sub-clause SB.8.1, the Employee must:
- (a) confirm the intended start and end dates of the leave, or
  - (b) advise the Employer of any changes to the intended start and end dates of the leave;
- unless it is not practicable to do so.
- SB 8.4A Subclause 8.4 does not apply to a notice for a period of concurrent leave referred to in subparagraph 8.2(a)(ii).
- SB.8.5 An Employee who has given the Employer notice of the taking of unpaid parental leave must, if required by the Employer, give the Employer evidence that would satisfy a reasonable person:
- (a) if the leave is birth-related leave – of the date of birth, or the expected date of birth, of the child; or
  - (b) if the leave is adoption-related leave:
    - (i) of the day of placement, or the expected day of placement, of the child, and
    - (ii) that the child is, or will be, under 16 as at the day of placement, or the expected day of placement, of the child.
- SB.8.6 Without limiting sub-clause SB.8.5, the Employer may require the evidence referred to in sub-clause SB.8.5(a) to be a medical certificate.
- SB.8.7 An Employee is not entitled to take unpaid parental leave under clause SB.5 or SB.6 unless the Employee complies with this clause.

**SB.9 Extending Period of Unpaid Parental Leave – Extending to Use more of available Parental Leave Period**

SB.9.1 This section applies if:

- (a) an Employee has, in accordance with the notice and evidence requirements, given notice of the taking of a period of unpaid parental leave (the original leave period); and
- (b) the original leave period is less than the Employee's available parental leave period, and
- (c) the original leave period has started.

SB.9.2 An Employee's available parental leave period is 12 months, less any periods of the following kinds:

- (a) a period of concurrent leave that an Employee has taken in accordance with sub-section SB.6.5;
- (b) a period of unpaid parental leave that the Employee has been required to take under sub-clause SB.7.2 or SB.20.2;
- (c) a period by which the Employee's entitlement to unpaid parental leave is reduced under sub-clause SB.10.6(c);

SB.9.3 An Employee may extend the period of unpaid parental leave by giving the Employer written notice of the extension at least four (4) weeks before the end date of the original leave period. The notice must specify the new end date for the leave.

SB.9.4 Only one extension is permitted under sub-clause SB.9.3.

SB.9.5 If the Employer agrees, an Employee may further extend the period of unpaid parental leave one (1) or more times.

SB.9.6 An Employee is not entitled under this section to extend the period of unpaid parental leave beyond the Employee's available parental leave period.

**SB.10 Extending Period of Unpaid Parental Leave – Extending for up to 12 months beyond available Parental Leave Period**

SB.10.1 An Employee who takes unpaid parental leave for their available parental leave period may request the Employer to agree to an extension of unpaid parental leave for the Employee for a further period of up to 12 months immediately following the end of the available parental leave period.

SB.10.2 The request must be in writing, and must be given to the Employer at least four (4) weeks before the end of the available parental leave period.

SB.10.3 The employer must give the Employee a written response to the request stating whether the employer grants or refuses the request. The response must be given as soon as practicable, and not later than 21 days, after the request is made.

SB.10.4 The Employer may refuse the request only on reasonable business grounds.

SB.10.5 If the Employer refuses the request, the written response must include details of the reasons for the refusal.

SB 10.5A The Employer must not refuse the request unless the Employer has given the Employee a reasonable opportunity to discuss the request.

SB.10.6 The following paragraphs apply in relation to a member of an Employee couple extending a period of unpaid parental leave in relation to a child under this section:

- (a) the request must specify any amount of unpaid parental leave that the other member of the Employee couple has taken, or will have taken, in relation to the child before the extension starts;
- (b) the period of the extension cannot exceed 12 months, less any period of unpaid parental leave that the other member of the Employee couple has taken, or will have taken, in relation to the child before the extension starts;
- (c) the amount of unpaid parental leave to which the other member of the Employee couple is entitled under clause SB.4 in relation to the child is reduced by the period of the extension.

SB.10.7 Despite any other provision of this clause, an Employee is not entitled to extend the period of unpaid parental leave beyond 24 months after the date of birth or day of placement of the child.

#### **SB.11 Reducing Period of Unpaid Parental Leave**

If the Employer agrees, an Employee whose period of unpaid parental leave has started may reduce the period of unpaid parental leave they take.

#### **SB .12 Pregnancy ends (other than by birth of a living child) or child born alive dies**

SB .12.1 This section applies to unpaid parental leave, if:

- (a) the leave is birth-related leave; and
- (b) either:
  - i. the pregnancy ends other than by the child being born alive; or
  - ii. the child dies after being born.

SB 12.2 Before the leave starts:

- (a) the Employee may give the Employer written notice cancelling the leave; or
- (b) the Employer may give the Employee written notice cancelling the leave.

SB 12.3 If the Employee or Employer does so, the Employee is not entitled to unpaid parental leave in relation to the child.

SB 12.4 The Employee may give the Employer written notice that the Employee wishes to return to work:

- (a) after the start of the period of leave, but before its end; and
- (b) within 4 weeks after the employer receives the notice.

SB 12.5 The Employer:

- (a) may give the Employee written notice requiring the Employee to return to work on a specified day; and
- (b) must do so if the Employee gives the Employer written notice under subsection SB12.4;
- (c) unless the leave has not started and the Employer cancels it under subsection AB12.2.

- SB12.6 The specified day must be after the start of the period of leave, and:
- (a) if subsection SB12.4 applies--within 4 weeks after the employer receives the notice under that subsection; or
  - (b) otherwise--at least 6 weeks after the notice is given to the Employee under subsection SB12.5.

SB 12.7 The Employee's entitlement to unpaid parental leave in relation to the child ends immediately before the specified day.

SB12.8 This section does not limit clause SB11.

#### **SB.13 Employee who ceases to have Responsibility for Care of Child**

SB.13.1 This clause applies to an Employee who has taken unpaid parental leave in relation to a child if the Employee ceases to have any responsibility for the care of the child.

SB 13.1A However, this section does not apply if clause 12 applies to the unpaid parental leave (the unpaid parental leave is birth-related leave and either the pregnancy ends other than by the child being born alive or the child dies after being born).

SB.13.2 The Employer may give the Employee written notice requiring the Employee to return to work on a specified day.

SB.13.3 The specified day:

- (a) must be at least four (4) weeks after the notice is given to the Employee, and
- (b) if the leave is birth-related leave taken by a female Employee who has given birth – must not be earlier than six (6) weeks after the date of birth of the child.

SB.13.4 The Employee's entitlement to unpaid parental leave in relation to the child ends immediately before the specified day.

#### **SB.14 Interaction with Paid Leave**

SB.14.1 This clause (except for sub-clauses SB.14.2 and SB.14.3) does not prevent an Employee from taking any other kind of paid leave while they are taking unpaid parental leave. If the Employee does so, the taking of that other paid leave does not break the continuity of the period of unpaid parental leave.

SB.14.2 An Employee is not entitled to take paid personal/carer's leave or compassionate leave while they are taking unpaid parental leave.

SB.14.3 An Employee is not entitled to any payment under clause 7.2 (which deals with community service leave) in relation to activities the Employee engages in while taking unpaid parental leave.

#### **SB 15 Keeping in touch days**

SB 15.1 This Subdivision does not prevent an Employee from performing work for the Employer on a keeping in touch day while they are taking unpaid parental leave. If the Employee does so, the performance of that work does not break the continuity of the period of unpaid parental leave.

SB 15.2 A day on which the Employee performs work for the employer during the period of leave is a keeping in touch day if:

- (a) the purpose of performing the work is to enable the Employee to keep in touch with their employment in order to facilitate a return to that employment after the end of the period of leave; and
- (b) both the Employee and the Employer consent to the Employee performing work for the employer on that day; and



(c) the day is not within:

- i. if the Employee suggested or requested that he or she perform work for the Employer on that day--14 days after the date of birth, or day of placement, of the child to which the period of leave relates; or
- ii. otherwise--42 days after the date of birth, or day of placement, of the child; and

(d) the Employee has not already performed work for the employer or another entity on 10 days during the period of leave that were keeping in touch days.

The duration of the work the Employee performs on that day is not relevant for the purposes of this subsection.

SB 15.3 The Employee's decision whether to give the consent mentioned in paragraph SB15.2(b) is taken, for the purposes of section 344 of the *Fair Work Act 2009 (Cth)* (which deals with undue influence or pressure), to be a decision to make, or not make, an arrangement under the National Employment Standards.

SB 15.4 For the purposes of SB 15.2(d), treat as 2 separate periods of unpaid parental leave:

- (a) a period of unpaid parental leave taken during the Employee's available parental leave period; and
- (b) a period of unpaid parental leave taken as an extension of the leave referred to in paragraph (a) for a further period immediately following the end of the available parental leave period.

#### **SB 16 Unpaid parental leave not extended by paid leave or keeping in touch days**

If, during a period of unpaid parental leave, an Employee:

- (a) takes paid leave; or
- (b) performs work for his or her employer on a keeping in touch day;

taking that leave or performing that work does not have the effect of extending the period of unpaid parental leave.

### **SUBDIVISION C-OTHER ENTITLEMENTS**

#### **SB.17 Unpaid Special Maternity Leave**

SB.17.1 A female Employee is entitled to a period of unpaid special maternity leave if she is not fit for work during that period because:

- (a) she has a pregnancy-related illness, or
- (b) she has been pregnant, and the pregnancy ends within 28 weeks of the expected date of birth of the child otherwise than by the birth of a living child.

SB.17.2 An Employee must give the Employer notice of the taking of unpaid special maternity leave by the Employee.

SB.17.3 The notice:

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

SB.17.4 An Employee who has given the Employer notice of the taking of unpaid special maternity leave must, if required by the Employer, give the Employer evidence that would satisfy a reasonable person that the leave is taken for a reason specified in sub-clause SB.17.1.

SB.17.5 Without limiting sub-clause SB.17.4, the Employer may require the evidence referred to, to be a medical certificate.

SB.17.6 An Employee is not entitled to take unpaid special maternity leave unless the Employee complies with sub-clauses SB.17.2 to SB.17.4.

#### **SB.18 Transfer to a Safe Job**

SB.18.1 This section applies to a pregnant Employee if they give the Employer evidence that would satisfy a reasonable person that they are fit for work, but that it is inadvisable for them to continue in their present position during a stated period (the risk period) because of:

- (a) illness, or risks, arising out of her pregnancy, or
- (b) hazards connected with that position.

SB.18.2 If there is an appropriate safe job available, then the Employer must transfer the Employee to that job for the risk period, with no other change to the Employee's terms and conditions of employment.

SB.18.3 An appropriate safe job is a safe job that has:

- (a) the same ordinary hours of work as the Employee's present position, or
- (b) a different number of ordinary hours agreed to by the Employee.

SB.18.4 If the Employee is transferred to an appropriate safe job for the risk period, the Employer must pay the Employee for the safe job at the Employee's full rate of pay (for the position she was in before the transfer) for the hours that she works in the risk period.

SB.18.5 If the Employee's pregnancy ends before the end of the risk period, the risk period ends when the pregnancy ends.

SB 18.6 Without limiting clause SB 18.1, the Employer may require the evidence to be a medical certificate.

#### **SB 19 Paid no safe job leave**

SB 19.1 If:

- (a) clause SB.18 applies to a pregnant Employee but there is no appropriate safe job available; and
- (b) the Employee is entitled to unpaid parental leave; and
- (c) the Employee has complied with the notice and evidence requirements of clause SB 8 for taking unpaid parental leave;

then the Employee is entitled to paid no safe job leave for the risk period.

SB 19.2 If the Employee takes paid no safe job leave for the risk period, the Employer must pay the Employee at the Employee's base rate of pay for the Employee's ordinary hours of work in the risk period.

#### **SB.20 Employee on paid no safe job leave may be asked to provide a further medical certificate**

SB.20.1 If an Employee is on paid no safe job leave during the six (6) week period before the expected date of birth of the child, the Employer may ask the Employee to give the Employer a medical certificate stating whether the Employee is fit for work.

SB.20.2 The Employer may require the Employee to take a period of unpaid parental leave (the period of leave) as soon as practicable if:

- (a) the Employee does not give the Employer the requested certificate within seven (7) days after the request, or

- (b) within seven (7) days after the request, the Employee gives the Employer a certificate stating that the Employee is not fit for work.

SB.20.3 When the period of leave starts, the Employee's entitlement to paid no safe job leave ends.

SB.20.4 Sub-clauses SB.7.3, SB.7.4 and SB.7.5 apply to the period of leave.

## **SB 21 Unpaid no safe job leave**

SB 21.1 If:

- (a) clause SB 18 applies to a pregnant Employee but there is no appropriate safe job available; and
- (b) the Employee is not entitled to unpaid parental leave; and
- (c) if required by the Employer--the Employee has given the Employer evidence that would satisfy a reasonable person of the pregnancy;

then the Employee is entitled to unpaid no safe job leave for the risk period.

SB 21.2 Without limiting clause SB 21.1, an Employer may require the evidence referred to in paragraph (1)(c) to be a medical certificate.

## **SB.22 Consultation with Employee on Unpaid Parental Leave**

SB.22.1 If:

- (a) an Employee is on unpaid parental leave, and
- (b) the Employer makes a decision that will have a significant effect on the status, pay or location of the Employee's pre-parental leave position;

the Employer must take all reasonable steps to give the Employee information about, and an opportunity to discuss, the effect of the decision on that position.

SB.22.2 The Employee's pre-parental leave position is:

- (a) unless paragraph (b) applies, the position the Employee held before starting the unpaid parental leave, or
- (b) if, before starting the unpaid parental leave, the Employee:
  - (i) was transferred to a safe job because of her pregnancy, or
  - (ii) reduced her working hours due to her pregnancy;

the position the Employee held immediately before that transfer or reduction.

## **SB.23 Return to Work Guarantee**

On ending unpaid parental leave, an Employee is entitled to return to:

- (a) the Employee's pre-parental leave position, or
- (b) if that position no longer exists - an available position for which the Employee is qualified and suited nearest in status and pay to the pre-parental leave position.

## **SB 24 Replacement Employees**

Before the Employer engages an Employee to perform the work of another Employee who is going to take, or is taking, unpaid parental leave, the Employer must notify the replacement Employee:

- (a) that the engagement to perform that work is temporary; and
- (b) of the rights:
  - i. the Employer; and
  - ii. the Employee taking unpaid parental leave;

have under clauses SB 12.2 and SB 12.3 (which provide a right to cancel the leave if the pregnancy ends other than by the birth of a living child or if the child dies after birth); and

- (c) of the rights the Employee taking unpaid parental leave has under:
  - i. clauses SB12.4 to SB 12.6 (which provide a right to end the leave early if the pregnancy ends other than by the birth of a living child or if the child dies after birth); and
  - ii. clause SB 23 (which deals with the return to work guarantee); and
- (d) of the effect of clause SB 13 (which provides the employer with a right to require the Employee taking unpaid parental leave to return to work if the Employee ceases to have any responsibility for the care of the child).

## **SB.25 Unpaid Pre-adoption Leave**

SB.25.1 An Employee is entitled to up to two (2) days of unpaid pre-adoption leave to attend any interviews or examinations required in order to obtain approval for the Employee's adoption of a child.

SB.25.2 However, an Employee is not entitled to take a period of unpaid pre-adoption leave if:

- (a) the Employee could instead take some other form of leave, and
- (b) the Employer directs the Employee to take that other form of leave.

SB.25.3 An Employee who is entitled to a period of unpaid pre-adoption leave is entitled to take the leave as:

- (a) a single continuous period of up to two (2) days, or
- (b) any separate periods to which the Employee and the Employer agree.

SB.25.4 An Employee must give the Employer notice of the taking of unpaid pre-adoption leave by the Employee.

SB.25.5 The notice:

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

SB.25.6 An Employee who has given the Employer notice of the taking of unpaid pre-adoption leave must, if required by the Employer, give the Employer evidence that would satisfy a reasonable person that the leave is taken to attend an interview or examination as referred to in sub-clause SB.25.1.

SB.25.7 An Employee is not entitled to take unpaid pre-adoption leave unless the Employee complies with sub-clauses SB.25.4 to SB.25.6.

