



ASIC
Australian Securities &
Investments Commission

Australian Securities and Investments Commission

Enterprise Agreement 2019-2022

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Definitions

In this Agreement, unless a contrary intention is clear, the following definitions apply:

Act means the *Fair Work Act 2009* as varied or replaced;

Agreement means this agreement being the *Australian Securities and Investments Commission Enterprise Agreement 2019-2022*;

APS means the Australian Public Service;

ASIC means the Australian Securities and Investments Commission and includes the Chair;

ASIC Act means the *Australian Securities and Investments Commission Act 2001*;

Chair means the person appointed as Chairperson of ASIC for the time-being, holding, occupying or performing the duties of the office of Chairperson of ASIC, and includes a person authorised as an employing authority in accordance with Schedule 6.3 of the *Fair Work Regulations 2009*;

De facto partner, in relation to an employee means:

- (a) a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and
- (b) includes a former de facto partner of the employee.

Employee means an employee of the Australian Securities and Investments Commission or its successor who falls within the classifications set out in this Agreement but does not include a senior executive.

Employee Representative means a person nominated by an employee or employees;

Family Member in relation to an employee means:

- (a) a spouse, de facto partner, former spouse, child, parent, grandparent, grandchild or sibling of the employee;
- (b) a child, parent, grandparent, grandchild or sibling of a spouse or de facto or former spouse of the employee;
- (c) a member of the employee's household or person of significance, as determined by ASIC;
- (d) a relationship of traditional kinship, provided that ASIC is satisfied that there is an obligation under the customs and traditions of the community to which the employee belongs which necessitates the employee taking personal/carer's leave or compassionate leave.

FWC means the Fair Work Commission;

Higher Duties means when ASIC requests an employee to perform the duties of another position at a higher classification level than the employee's current classification;

Higher Duties Allowance is the allowance paid to an employee in accordance with clause 30 of this Agreement, when ASIC requires the employee to perform Higher Duties;

Manager means the person who has responsibility for overseeing, monitoring, managing, directing or supervising another employee;

Maximum Term Contract means an employment contract in which an employee's employment will end on a specified date or at some earlier date in accordance with the contract's terms.

National Consultative Committee (NCC) is the consultative forum chaired by the Chair or his or her representative and includes employee representatives and ASIC representatives;

NES means the National Employment Standards as set out in Part 2-2 of the *Fair Work Act 2009*.

Temporary employee is an employee employed on a Maximum Term Contract for a specified period of time under section 120(1) of the ASIC Act;

Permanent employee is an employee employed on a permanent basis under section 120(1) of the ASIC Act;

Salary means the employee's salary rate as set out in Attachment A and Attachment B (including continuing higher duties allowance if applicable) which will be the salary for all purposes including for calculation of leave entitlements, termination benefits, salary sacrifice arrangements, annual performance review and bonus payments where applicable. Salary does not include ASIC's superannuation contributions or bonus payments;

SCT means the Superannuation Complaints Tribunal;

Work Level Standards as referred to in this Agreement are descriptors established by the Australian Public Service Commission and used by ASIC to describe work value and the characteristics of work to be performed at each classification level.

Part A – About this Agreement

1. Title

This Agreement will be known as the Australian Securities and Investments Commission Enterprise Agreement 2019-2022.

2. Objectives

2.1 ASIC recognises the importance of investing in its employees and through this Agreement aims to support the achievement of corporate objectives by:

- (a) supporting a culture of performance, innovation and continuous improvement which recognises and rewards high performance;
- (b) providing the opportunity for employees to develop their skills to effectively perform their roles and develop their careers; and
- (c) maintaining a safe and healthy working environment and a workplace free of bullying and harassment.

2.2 ASIC is an organisation which values fairness, equity and diversity and has put in place measures designed to prevent and eliminate unlawful discrimination and retain its diverse workforce.

2.3 ASIC supports flexible working arrangements for employees to balance their working life commitments with other competing interests such as family, community work, and lifestyle choices.

2.4 The Objectives in this clause are a statement of intent only. As such, clauses 2.1 to 2.3 are not intended to be legally enforceable. For the avoidance of doubt, this does not affect any party's legal rights independent of this Agreement.

3. Coverage

3.1 This Agreement covers collectively the following parties:

- (a) the Australian Securities and Investments Commission and its Chair;
- (b) employees of ASIC at ASIC 1 to 4 and Executive Level 1 and Executive Level 2 classification levels (including ASIC employees working at the SCT and, before 1 July 2019, Australian Public Service (**APS**) employees engaged by the Chair for the purposes of ASIC under section 22 of the *Public Service Act 1999* in those classifications).

4. Adjustment to first pay increase under this agreement

4.1 In this clause:

- (a) **Commencement Date** means the date the Agreement commences operation; and
- (b) **Effective Date** means the day which is 12 weeks after the date the Agreement was made in accordance with section 182 of the Act.

4.2 Subject to clause 4.3, if the Commencement Date occurs after the Effective Date, then, in the first available pay period after the Commencement Date, ASIC will make a salary adjustment payment calculated on the basis that the salary rates payable under the Agreement on the Commencement Date applied from the Effective Date.

- 4.3 If the Effective Date occurs before the nominal expiry date of the *Australian Securities and Investments Commission Enterprise Agreement 2016-2019*, the payment and adjustments referred to in clause 4.2 will be calculated and made on the basis that the Agreement commenced operation on the day after the nominal expiry date of the *Australian Securities and Investments Commission Enterprise Agreement 2016-2019*.
- 4.4 The salary adjustment payment at clause 4.2 applies only to salary and does not apply to any allowance or other payments provided for in this enterprise agreement.

5. Duration

- 5.1 This Agreement will commence on 27 May 2019 or 7 days after the date it is approved by the Fair Work Commission, whichever is the later.
- 5.2 The nominal expiry date of the Agreement is three years from the date of commencement.

6. National Employment Standards (NES)

- 6.1 The NES are a set of minimum employment entitlements set out in the Act. As a matter of law the NES:
- (a) apply to employees covered by this Agreement, except where this Agreement provides a more favourable outcome; and
 - (b) prevail over any term of this Agreement to the extent that the effect of the term is detrimental to an employee, in any respect, when compared to an entitlement of the employee under the NES.
- 6.2 Subject to clause 6.1(a), when this Agreement refers to a condition of employment provided for in the NES, the NES definition applies.

7. Operation

- 7.1 There are guidelines, policies, including those identified in clause 7.2, and procedures which prescribe conditions for working in ASIC. They are not incorporated into and do not form part of this Agreement. Employees should familiarise themselves with these guidelines, policies and procedures, which may vary from time to time. Any proposed changes to policy will be made by ASIC in consultation with the National Consultative Committee (NCC).
- 7.2 The following ASIC policies are referred to in this Agreement:
- (a) Remuneration Policy;
 - (b) Working Flexibly Guide;
 - (c) Domestic Travel Policy;
 - (d) International Travel Policy;
 - (e) Leave Policy;
 - (f) Relocation Policy;
 - (g) Performance Management Policy;
 - (h) Learning and Development Policy; and
 - (i) Studies Assistance Procedures.

References to each of these policies are reference to the policy as renamed, varied, amended, supplemented or replaced from time to time.

- 7.3 If after consultation with the NCC a party to this Agreement considers that any changes in policy are materially detrimental to employees, a dispute resolution process as outlined in the NCC Terms of Reference will be applied. Further information is available in the NCC Terms of Reference.

8. Delegations

- 8.1 ASIC has an internal regime of delegations, authorisations and business rules governing the exercise by employees of the Chair's powers under this Agreement. Any of the Chair's powers under this Agreement are exercised by employees in accordance with that regime.

9. Individual flexibility arrangements

- 9.1 ASIC and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of this Agreement if:
- (a) the arrangement deals with one or more of the following matters:
 - (i) arrangements about when work is performed;
 - (ii) overtime rates;
 - (iii) penalty rates;
 - (iv) allowances;
 - (v) remuneration; and/or
 - (vi) leave; and
 - (b) the arrangement meets the genuine needs of ASIC and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
 - (c) the arrangement is genuinely agreed to by ASIC and employee.
- 9.2 ASIC must ensure that the terms of the individual flexibility arrangement:
- (a) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
 - (b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
 - (c) result in the employee being better off overall than the employee would be if no arrangement was made.
- 9.3 ASIC must ensure that the individual flexibility arrangement:
- (a) is in writing; and
 - (b) includes the name of the employer and employee; and
 - (c) is signed by ASIC and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
 - (d) includes details of:
 - (i) the terms of the enterprise agreement that will be varied by the arrangement; and
 - (ii) how the arrangement will vary the effect of the terms; and
 - (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
 - (e) states the day on which the arrangement commences, and where applicable, when the arrangement ceases.
- 9.4 ASIC must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 9.5 ASIC or the employee may terminate the individual flexibility arrangement:

- (a) by giving no more than 28 days written notice to the other party to the arrangement; or
- (b) if ASIC and employee agree in writing — at any time.

Part B – Consultation and Dispute Resolution

10. Consultation on Major Change

10.1 This term applies if the employer:

- (a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
- (b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Major change

10.2 For a major change referred to in paragraph 10.1(a):

- (a) the employer must notify the relevant employees of the decision to introduce the major change; and
- (b) subclauses 10.3 to 10.9 apply.

10.3 The relevant employees may appoint a representative for the purposes of the procedures in this term.

10.4 If:

- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- (b) the employee or employees advise the employer of the identity of the representative; the employer must recognise the representative.

10.5 As soon as practicable after making its decision, the employer must:

- (a) discuss with the relevant employees:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the employees; and
 - (iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and
- (b) for the purposes of the discussion—provide, in writing, to the relevant employees:
 - (i) all relevant information about the change including the nature of the change proposed; and
 - (ii) information about the expected effects of the change on the employees; and
 - (iii) any other matters likely to affect the employees.

10.6 However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

10.7 The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

10.8 If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph 10.2(a) and subclauses 10.3 and 10.5 are taken not to apply.

- 10.9 In this term, a major change is **likely to have a significant effect on employees** if it results in:
- (a) the termination of the employment of employees; or
 - (b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
 - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - (d) the alteration of hours of work; or
 - (e) the need to retrain employees; or
 - (f) the need to relocate employees to another workplace; or
 - (g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

- 10.10 For a change referred to in paragraph 10.1(b):
- (a) the employer must notify the relevant employees of the proposed change; and
 - (b) subclauses 10.11 to 10.15 apply.
- 10.11 The relevant employees may appoint a representative for the purposes of the procedures in this term.
- 10.12 If:
- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (b) the employee or employees advise the employer of the identity of the representative; the employer must recognise the representative.
- 10.13 As soon as practicable after proposing to introduce the change, the employer must:
- (a) discuss with the relevant employees the introduction of the change; and
 - (b) for the purposes of the discussion—provide to the relevant employees:
 - (i) all relevant information about the change, including the nature of the change; and
 - (ii) information about what the employer reasonably believes will be the effects of the change on the employees; and
 - (iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and
 - (c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- 10.14 However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- 10.15 The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.
- 10.16 In this term:
relevant employees mean the employees who may be affected by a change referred to in subclause 10.1.

11. National Consultative Committee

- 11.1 ASIC is committed to communicating and consulting with employees on workplace matters and will maintain the National Consultative Committee (**NCC**) chaired by ASIC or his or her representative, and comprising of:
- (a) employees and their representatives; and
 - (b) representatives of ASIC.
- 11.2 The NCC will have the primary responsibility for monitoring the implementation of this Agreement with respect to employees covered by this Agreement.
- 11.3 The NCC will maintain Terms of Reference. Further information can be found in the NCC Terms of Reference. As required, from time to time, any changes to the Terms of Reference will be consulted upon at the NCC.
- 11.4 Employees may raise issues for discussion at the NCC through any representative who attends the NCC.

12. Employee Support and Representation

- 12.1 Employees may be assisted, accompanied and represented by another person, including an employee representative, in the workplace and in processes relating to the review of a decision, unsatisfactory performance, workforce adjustment, alleged misconduct or in the dispute avoidance and settlement procedures outlined below. ASIC and employee representatives will deal with each other in good faith.
- 12.2 The role of employee representatives, including union delegates and other non-union representatives, will be respected and facilitated.
- 12.3 Employees who choose to be represented, will inform their immediate manager and/or relevant level of management prior to any discussions taking place.

13. Resolution of Agreement Disputes

- 13.1 If a dispute relates to:
- (a) a matter arising under this Agreement; or
 - (b) the National Employment Standards;
- this term sets out procedures to settle the dispute.
- 13.2 An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.
- 13.3 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and their relevant manager/s.
- 13.4 If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to Fair Work Commission.
- 13.5 The Fair Work Commission may deal with the dispute in 2 stages:
- (a) the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
 - (b) if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
 - (i) arbitrate the dispute; and

- (ii) make a determination that is binding on the parties.

Note : If Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Act.

A decision that the Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

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

Part C – Types of Employment and Termination of Employment

14. Types of Employment

14.1 Employees covered by this Agreement will be employed in accordance with section 120 of the ASIC Act in one of the following categories:

- (a) Full-time;
- (b) Part-time; or
- (c) Casual.

14.2 Full-time and part-time employees will be employed on either a permanent or temporary basis.

15. Full-time Employment

15.1 A full-time employee is an employee who is engaged to work 37.5 hours per week, or an average of 150 hours over a four week settlement period, pursuant to clause 42.1 of this Agreement.

16. Part-time Employment

16.1 A part-time employee is one whose regular hours of work are less than a full-time employee's regular hours.

16.2 A Manager and employee will agree in writing on:

- (a) the length of the part-time work agreement; and
- (b) the number of days and hours the employee will work over a four-week settlement period.

16.3 A part-time work agreement must not:

- (a) require an employee to work less than three consecutive hours on any particular day that they work, unless agreed to between ASIC and the Employee; and
- (b) be longer than 2 years' duration.

16.4 At the conclusion of the part-time work agreement, the employee and their manager may renegotiate a new part-time work agreement. Discussions for a new part-time work agreement should commence three months before the end of the part-time work agreement. Alternatively, the employee may return to full-time work. If the Manager and Employee cannot agree on a part-time work agreement, the employee will return to full-time work.

16.5 If a part-time employee moves into a new job at their own initiative or returns to full-time work, any future period of part-time work must be negotiated under a new part-time work agreement as outlined above.

16.6 Remuneration and other entitlements for part-time employees (other than long service leave, which is calculated in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*) will be calculated on a pro-rata basis. ASIC will not pro-rate any NES entitlement which may not be reduced in accordance with the minimum requirements of the Act.

16.7 Part-time employees will be reimbursed for actual expense-related allowances (which will not be pro-rated). Non-expense related allowances will be calculated on a pro-rata basis.

- 16.8 A manager or an employee may initiate the introduction, extension, variation or cessation of a part-time employment or job-sharing arrangement. Employees will not be required, without their agreement, to convert from full-time to part-time hours, or from part-time to full-time hours, during the life of their part-time work agreement. Part-time work agreements will be reviewed annually to ensure that they meet the needs of employees and ASIC.
- 16.9 Unless there are reasonable business grounds to refuse, ASIC will agree to requests for regular part-time work in accordance with the provisions of the Act for flexible working arrangements. Further detail is available in ASIC's Working Flexibly Guide.

17. Casual Employment

- 17.1 A casual employee is an employee employed by ASIC on a casual basis.
- 17.2 Casual employees will receive a loading of 20% of their hourly rate of pay in lieu of paid leave entitlements, except long service leave, and for public holidays on which the employee is not rostered to work, and redundancy.
- 17.3 Casual employees are employees who do not have regular hours of work or an expectation of continuing work. A casual employee's employment terminates at the end of each day or shift in which they are engaged.
- 17.4 Provisions in this Agreement in relation to flex-time, notice periods and redundancy do not apply to employees who are employed on a casual basis.

18. Assignment of Duties

- 18.1 ASIC may from time to time determine the duties of an Employee, and the place or places at which the duties are to be performed.
- 18.2 If ASIC makes a major change, resulting in ASIC exercising powers under clause 18.1, clause 10.8 of this Agreement, will not apply.

19. Termination of Employment

- 19.1 Subject to clause 19.2, ASIC may terminate an employee's employment by providing the notice, or payment in lieu of notice, as set out in clause 20 of this Agreement.
- 19.2 ASIC may terminate an employee's employment immediately, without notice, if the employee is found to have engaged in serious misconduct as defined in regulation 1.07 of the *Fair Work Regulations 2009* as amended or replaced from time to time.

20. Notice of Termination

- 20.1 Employees are required to give written notice of their intention to resign or retire from their employment to their Manager or Senior Executive Leader.
- 20.2 The required notice is at least 14 days for ASIC 1- 4 level employees and at least 28 days for Executive Level employees, unless a shorter period (or no notice) is agreed by the Manager or Senior Executive Leader.
- 20.3 If the required notice is not given, an amount in lieu of the notice period not worked may be deducted from final monies on cessation. Where a contract is to be extended, ASIC will provide temporary employees with as much notice as is practicable.

- 20.4 Except in cases of serious misconduct where termination of employment may be immediate, ASIC may terminate the employment of a permanent or temporary employee on giving the following periods of notice (or payment in lieu thereof):

Length of Service	Employee under 45 years of age	Employee 45 years old or more
0 - 1 year	1 week	1 week
More than 1 year but less than 2 years	2 weeks	2 weeks
At least 2 years but not more than 3 years	2 weeks	3 weeks
More than 3 years but not more than 5 years	3 weeks	4 weeks
More than 5 years	4 weeks	5 weeks

21. Suspension from duties

- 21.1 ASIC may suspend an employee from duties if ASIC believes on reasonable grounds that:

- (a) the employee has, or may have, engaged in misconduct; or
- (b) the suspension is in ASIC's interests.

- 21.2 Suspension may be with or without pay.

- 21.3 ASIC will review the suspension at reasonable intervals.

22. Redundancy and Redeployment

- 22.1 The following redeployment and redundancy provisions will apply only to permanent employees who have completed probation.

Definitions

Eligible Service

- 22.2 Subject to the following sub-clauses, **eligible service** for this clause means:

- (a) continuous service in ASIC;
- (b) continuous government service in the Australian Defence Force or as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
- (c) APS service immediately preceding deemed resignation under repealed provisions proscribing the employment of married women due to the marriage bar, if the service has not previously been recognised for severance pay purposes; and
- (d) service in another organisation where the employee was transferred from the APS to an organisation with a transfer of function, or the employee was engaged by an organisation on work within a function which was transferred to the APS, and such service is recognised for long service leave purposes.

- 22.3 For earlier periods of service to count, there must be no breaks between the periods of service except where the break in service is:

- (a) less than one month; and

- (b) occurred where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer.

22.4 Prior service, which would otherwise be eligible service, will not be eligible service if it was terminated by way of:

- (a) voluntary or involuntary redundancy;
- (b) retirement with the payment of an employer-financed retirement benefit;
- (c) retirement or dismissal on grounds of invalidity, inefficiency, loss of qualifications or misconduct;
- (d) termination of probationary employment for any reason;
- (e) forfeiture of office; or
- (f) resignation from any employment under this Agreement with the payment of employee superannuation contributions.

22.5 Absences from work which do not count as service for any purpose will not count as service for this benefit.

Excess Employee

22.6 An employee becomes an **excess employee** if:

- (a) they are employed substantively at a level, in a role and at a location where there is a greater number of employees than is necessary for the efficient and economical working of ASIC; or
- (b) the duties of the employee are to be performed at a different locality and the employee is not willing to perform duties at that locality and ASIC has determined that the excess employee provisions of this agreement apply; or
- (c) the services of the employee can no longer be effectively used because of technological or other changes in work methods of ASIC or structural or other changes in the nature, extent or organisation of functions of ASIC.

Notification Time

22.7 The commencement of the consultation process is outlined below between clauses 22.11 to 22.13.

Salary

22.8 For the purpose of calculation of entitlements under sub-clauses 22.20, 22.22, and 22.23 **salary** will include:

- (a) the employee's substantive salary; or
- (b) the salary of the higher level, where the employee has been acting at the higher level for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of termination of employment.

22.9 Salary for the purposes of this clause includes allowances in the nature of salary which are paid on a regular basis and during periods of annual leave but excludes allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.

Support Period

22.10 The **support period** will be:

- (a) 13 months where the employee has 20 or more years of continuous service or is over 45 years of age and has at least 5 years continuous service; or
- (b) 7 months for other employees.

Stage 1: Consultation Process

- 22.11 The consultation under clause 22.13 to 22.18 (Consultation Arrangements) and/or clause 10 (Consultation on Major Change) is referred to in this clause as the 'Consultation Process'.
- 22.12 Clauses 22.13 to 22.17 (Consultation Process) do not apply where clause 10 (Consultation on Major Change) applies.
- 22.13 When ASIC becomes aware that an employee is likely to become excess to requirements ASIC or their nominee will advise the employee and, where they choose, their representative, of the situation and have discussions with the employee to determine any measures that can be taken to resolve this situation. These discussions will include:
- (a) redeployment opportunities for the employee concerned within ASIC either at or below their substantive level, and
 - (b) redundancy.
- 22.14 Before the conclusion of the consultation process or earlier on request an employee will be given information in relation to:
- (a) the amount of severance benefit, or the amount in lieu of support period, pay in lieu of notice and paid up leave credits the employee is entitled to receive; and
 - (b) the taxation rules applying to the various payments the employee is entitled to receive provided that they are still an affected employee at that stage.
- 22.15 The employee will also be advised to contact their superannuation scheme to receive information in relation to:
- (a) the amount of accumulated superannuation contributions; and
 - (b) the options open to the employee concerning superannuation.
- 22.16 ASIC may, before the end of the Consultation Process, invite other employees who are not potentially excess to express interest in redundancy. ASIC may then allow that employee to "swap" their position into a redundant position and the employee declared excess to take another position. This will enable the redundancy of employees who would otherwise not be excess.
- 22.17 The Consultation Process will take up to 1 month.
- 22.18 During the Consultation Process, the employee may
- (a) indicate they wish to examine options for redeployment (Redeployment) – in which case, clause 22.19 will apply and there will be a redeployment period of up to 2 months; or
 - (b) request to be made redundant (Accelerated Voluntary Redundancy) and made redundant which must be within 14 days of the Consultation Process if the employee is to be eligible for the Accelerated Voluntary Redundancy Benefit. In this case, clause 22.20 will apply.
- 22.19 If the employee indicates that they wish to seek Redeployment:
- (a) ASIC will assist the employee to find alternate employment within ASIC from the Notification Time for a period of no less than 2 months (Redeployment Period). This assistance will include:
 - (v) assistance and support from a People and Development employee;
 - (vi) advice of vacancies within ASIC;
 - (vii) support in relevant appropriate trial placements;
 - (viii) where appropriate outplacement services.
 - (b) The employee may be granted assistance for reasonable time off to seek alternative employment.
 - (c) Where during the Redeployment Period, ASIC considers there is insufficient productive work available for the excess employee at their actual level, ASIC may redeploy the

excess employee to a position at a lower level, which the employee is qualified and capable of performing with salary maintenance for the balance of the support period.

Accelerated Voluntary Redundancy

22.20 If an employee requests Accelerated Voluntary Redundancy and ASIC declares them excess to requirements and their employment is terminated by ASIC under clause 19.1 of this Agreement, within 14 days of the Notification Time, they will be eligible for an additional 6 weeks' severance benefit calculated in accordance with clause 22.8 (Accelerated Voluntary Redundancy Benefit). In this case, clauses 22.22 to 22.23 do not apply.

Stage 2: Declaration of Employee to be Excess

22.21 At the completion of the Consultation Process or at the end of one month, whichever is the earlier:

- (a) ASIC will declare the employee excess to requirements unless they have been redeployed to another position within ASIC or have already been made voluntarily redundant (Excess Employees Declaration);
- (b) unless they have already been offered it, the employee will be offered voluntary redundancy (VR), which the employee has one month to accept;
- (c) the employee will be given information as outlined in clause 22.14 and 22.15 above;
- (d) the employee will be advised to contact their superannuation scheme in relation to their amount of contributions and their superannuation options; and
- (e) the employee will become entitled to reimbursement for financial and/or career counselling, to a maximum of \$600 in total. A claim for reimbursement may be made up to three months following the employee being declared excess.

22.22 In relation to the offer of voluntary redundancy:

- (a) The employee will then have up to one month to consider and accept or reject the offer of VR. The employee may accept or reject the offer at any time within this 1 month period.
- (b) ASIC may give notice in writing to the employee of termination of employment under clause 17 of this Agreement at any time after the offer has been accepted and will do so generally within 2 days of the acceptance of the offer.
- (c) An employee who does not accept or decline the offer of VR within 1 month of the offer being made will be deemed to have declined the offer.
- (d) An employee who agrees to be voluntarily retrenched and whose employment is terminated under clause 18 of this Agreement on the grounds that they are excess to the requirements of ASIC is entitled to be paid redundancy pay of a sum equal to two weeks' salary for each completed year of continuous service plus a pro-rata payment for completed months of service since the last completed year of service, subject to any minimum amount the employee is entitled to under the National Employment Standards. The maximum payment is 48 weeks. Where the employee has less than 24 years full time service this benefit will be calculated on a pro rata basis for any period where the employee has worked part time during their eligible service.
- (e) When an excess employee is made voluntarily redundant, the employee will be given 4 weeks' notice (or 5 weeks' notice for employees over 45 years with at least 5 years' of continuous service). Where ASIC directs, or the employee requests, the employee's employment may be terminated at any time within the period of notice. In that case, the employee will therefore be entitled to receive payment in lieu of salary for the unexpired portion of the notice period.

Stage 3: Involuntary Redundancy

22.23 At any time after the end of 2 months from the start of the Consultation Process, (or earlier, where the employee agrees) or at the end of the support period if the employee has not been redeployed to another position within ASIC, or their employment with ASIC has not already ceased, ASIC may terminate the employment of the excess employee involuntarily under clause 18 of this

Agreement . The employee will be paid their salary for the balance of the support period from the date of the Excess Employee Declaration, broken down as follows:

- (a) the redundancy pay that the employee is entitled to under the NES; and
- (b) the balance of the support period as a payment in lieu of notice.

Part D – Remuneration and Related matters

23. Remuneration

- 23.1 This Agreement provides for a 6% increase over the life of the Agreement as follows:
- (a) subject to clause 4.2, 2% on commencement of the Agreement;
 - (b) 2%, 12 months following commencement of the Agreement; and
 - (c) 2%, 24 months following commencement of the Agreement.
- 23.2 The new salary rates for ASIC 1-4 employees are detailed in Attachment A and Executive Level employees in Attachment B.
- 23.3 The salaries for ASIC 4 employees who transitioned from an Australian Workplace Agreement (AWA) to the ASIC 1- 4 Level Enterprise Agreement 2009 - 2011 salaries also appear in Attachment A. These salary rates are only available for employees who transitioned from an AWA while they remain at the ASIC4 level. For the avoidance of doubt, no other employees can access these salary rates.

24. Salary

- 24.1 An employee is entitled to an annual salary in accordance with Attachments A and B of this Agreement corresponding to their classification level. Salary will be paid fortnightly in arrears directly into a bank account nominated by the employee.

25. Salary on commencement

- 25.1 On commencement, salary will generally be paid at the minimum point of the salary scale applicable to the classification of the job. However, ASIC may authorise payment of salary above the minimum point based on factors including the experience, qualifications and skills of the new employee.
- 25.2 At the discretion of ASIC, a person moving to ASIC whose nominal salary in their previous agency exceeds the current maximum of the relevant classification level in this Agreement, will be maintained on their current salary until such time as their salary is absorbed by ASIC pay increases.

26. Salary Advancement

- 26.1 Salary advancement within ASIC 1-4 classification levels will occur on the basis of a performance rating of at least Achieving. For Executive Level 1 and 2 employees, salary advancement will occur on the basis of a performance rating of at least Achieving and where all key objectives are met or as a result of significant changes in job size or responsibilities. Further information can be found in ASIC's Remuneration Policy and Performance Management Policy. Identified advancement points for each classification level are noted in the salary scale at Attachment A for ASIC 1-4 employees and at Attachment B for Executive Level 1 and 2 employees.
- 26.2 To advance through soft barriers, employees at ASIC 2 and 3 classification levels must meet specific requirements. The soft barriers are included in Attachment A. Further information is set out in the Remuneration Policy. At Executive Levels 1 and 2, progression through the soft barriers will require an "Exceeding" or higher rating and the availability of work at the higher level. The soft barriers are included in Attachment B. Generally, for movement above step 5 of the Executive Level 2 salary range, a rating of Outstanding will be required.

- 26.3 Salary advancement for Executive Level 2 Senior Managers and Senior Specialists will be consistent with the Remuneration Policy.

27. 2% Supplementation Payment for ASIC 1-3 Employees

- 27.1 Employees at ASIC 1-3 classification levels at the top salary point of a classification range or at the salary point before a soft barrier who are unable to move through the soft barrier (soft barriers are explained in the Remuneration Policy) will be eligible for a 2% supplementation payment if at the end of the performance management cycle they receive a rating of Exceeding or Outstanding. This payment is a one off payment at the end of each performance cycle, which will not increase base salary and will not count as salary for any purpose. This payment will not be available for ASIC4 employees as they are eligible to receive a bonus.

28. Salary on Reduction

- 28.1 Where an employee elects to be assigned duties at a lower level, ASIC may determine that the employee will be paid a rate of salary applicable to the lower level.

29. Salary on Promotion

- 29.1 Where an employee is promoted, salary will generally be payable at the minimum point of the salary range applicable to the higher work value level. However, ASIC may authorise payment of salary on promotion above the minimum point in the salary range applicable to the work value level of the job based on factors including the experience, qualifications and skills of the employee.

30. Temporary work at a higher level (higher duties)

- 30.1 ASIC level 1-4 employees who are required to undertake work at a higher level, including an Executive Level position, will be paid higher duties allowance for duty of more than 10 continuous working days. This minimum period is inclusive of periods of authorised leave during which the payment of higher duties allowance would have continued if not for the leave. Work performed at a higher level for periods of 10 continuous working days or less will be taken into account as part of the annual performance assessment, but higher duties allowance will not be paid. Any periods of work at a higher level will be recognised if an employee reverts to a lower level.
- 30.2 ASIC Executive Level 1 and 2 employees who perform work at a higher level will be paid higher duties allowance for temporary performance of 3 months or more. The allowance paid will be the equivalent to the difference between their normal salary and the salary of the higher level. No allowance will normally be paid for duty performed for less than 3 months. However, the Senior Executive People and Development may authorise payment for shorter periods in special circumstances.

31. Bonuses

- 31.1 ASIC 4 and Executive Level employees may be paid a performance bonus based on the employee's performance rating:

ASIC4		Executive Level	
Rating	Bonus	Rating	Bonus
Achieving	3%	Achieving	3% - 5%
Exceeding	6%	Exceeding	6% - 10%
Outstanding	9% - 15%	Outstanding	11% - 15%

- 31.2 Bonuses are calculated based on hours worked (if less than full-time) and take into account salary changes, including periods of paid higher duties. A pro-rata bonus will be payable where an employee works less than the full year in a performance cycle. An employee whose substantive level is lower than ASIC 4 level, but who performs duties at the ASIC 4 level or higher for at least 3 months may be eligible for a bonus for the period performed at the higher level.
- 31.3 A bonus will be paid to ASIC4 and Executive Level 1 and 2 employees where an employee, excluding an employee on probation, has:
- a performance agreement in place;
 - received a rating of at least 'Achieving'; and
 - worked for at least 3 months during the performance cycle.
- 31.4 The bonus payment is taxable but will not count as salary for any other purpose, including salary for superannuation purposes. The bonus is inclusive of any superannuation.
- 31.5 Further information can be found in the Remuneration Policy.
- 31.6 Executive level employees who have achieved an Exceeding or Outstanding rating may choose to convert an equivalent amount of their bonus to 3 days leave. This leave will preferably be taken as individual days. Further information is available in the Leave Policy.

32. Rewards other than pay

- 32.1 ASIC will recognise and reward high performance in ways other than salary increases. Further information can be found in the Performance Management Policy.

33. Salary Sacrifice Arrangements

- 33.1 Employees will be able to access salary sacrifice arrangements. Employees will not be able to use salary sacrifice arrangements to reduce their salary in order to be eligible for community benefits that they would not normally be entitled to or to avoid community obligations. Salary is in accordance with the salary rates at Attachment A for ASIC1- 4 employees and Attachment B for Executive Level employees, and will be the salary for all purposes including superannuation. Further information can be found in the ASIC Remuneration Policy.
- 33.2 Any fringe benefits tax and administrative costs incurred as a result of remuneration packaging arrangements will be met by the employee.

34. Employer's Contribution of Superannuation

- 34.1 ASIC will make compulsory employer contributions as required by the applicable legislation and fund requirements.
- 34.2 Where an employee has chosen an accumulation superannuation fund other than the PSS Accumulation Plan (PSSap), the employer contribution will be the same percentage of the fortnightly superannuation contribution salary as that required for employees who are members of PSSap. This will not be reduced by any other contributions made through salary sacrifice

arrangements. This clause does not apply where a superannuation fund cannot accept employer superannuation contributions (e.g. unable to accept contributions for people aged over 75).

Note: At the time of commencement of this Agreement, the rate of PSSap employer contribution is 15.4%.

- 34.3 Employer superannuation contributions will not be paid on behalf of employees during periods of unpaid leave that does not count as service, unless otherwise required under legislation or superannuation fund rules.

35. Classifications

- 35.1 For the purpose of determining an employee’s classification, this Agreement will maintain the following local designations:

Local Designation	APS Classification
ASIC1	APS1
ASIC2	APS2 and APS3 broadbanded
ASIC3	APS4 and APS5 broadbanded
ASIC4	APS6
Executive Level 1	Executive Level 1
Executive Level 2	Executive Level 2
Senior Manager/Specialist	Executive Level 2

- 35.2 ASIC will determine an employee's classification in accordance with the relevant Work Level Standards.
- 35.3 Salary advancement will occur on the basis of performance as outlined at clauses 26.1, 26.2 and 26.3. Further information can be found in the Performance Management Policy.
- 35.4 ASIC may reduce the classification of an Employee, without the Employee's consent, only in the following circumstances:
- (a) as a sanction for serious misconduct;
 - (b) on the ground that the Employee is excess to the requirements of ASIC at the higher classification;
 - (c) on the ground that the Employee lacks, or has lost, an essential qualification for performing duties at the higher classification;
 - (d) on the ground of non-performance, or unsatisfactory performance, of duties at the higher classification arising from a process under cl 63 of this Agreement.
 - (e) on the ground that the Employee is unable to perform duties at the higher classification because of physical or mental incapacity.

Part E – Allowances

36. Motor Vehicle Allowance

- 36.1 Where a manager considers that it will result in greater efficiency or involve less expense, they may authorise an employee to use a private car owned or hired by the employee at their own expense for official purposes. Where authorised, an employee will be entitled to a motor vehicle allowance in accordance with the rates set by the *Tax Assessment Regulations 1997*.
- 36.2 Further information can be found in ASIC's Domestic Travel Policy.

37. First Aid Allowance

- 37.1 ASIC will pay \$21.42 per fortnight to employees with a current first aid certificate who ASIC designates in writing as a first aid officer. This amount will increase by 2%, 12 months from the Commencement Date and a further 2% 24 months from the Commencement Date in line with wage increases.
- 37.2 Further information can be found in ASIC's work, health and safety arrangements.

38. Relocation Expenses

- 38.1 ASIC will meet all reasonable costs arising from the relocation of an employee and his or her household if ASIC requires the Employee to relocate as a result of a reassignment of duties, engagement or promotion. Further information can be found in ASIC's Relocation Policy.

39. Working away from the office

- 39.1 Employees may work away from the office on a regular or temporary basis subject to agreement with their manager. The agreement may be terminated by either party with 2 weeks' notice or a lesser period as agreed. Further information on working away from the office can be found in ASIC's Working Flexibly Guide.

40. Restriction Allowance

- 40.1 Only employees at ASIC 1-4 classification levels are eligible for restriction allowance payments.
- 40.2 Where ASIC directs an employee to be contactable and available to perform duties outside of their normal hours of duty, the employee will be paid an allowance calculated on the basis of their actual salary at the rate of:
- (a) 7.5% of their hourly rate for each hour restricted from Monday to Friday;
 - (b) 10% of their hourly rate for each hour restricted on Saturday and Sunday; and
 - (c) 15% of their hourly rate for each hour restricted on public holidays.
- 40.3 Where during such period the employee is recalled to duty at a place of work, payment in accordance with the relevant overtime provisions will be made subject to a two-hour minimum payment. Payment will include reasonable travel time. Employees are entitled to either payment of a restriction allowance or overtime provisions but not both for the same period worked.

41. Business Related Travel Allowances

- 41.1 Employees will be provided with reasonable standards of travel, accommodation, and meals, and will not be out of pocket for additional expenses which are required while travelling on official

business on behalf of ASIC. Further information can be found in ASIC's Domestic Travel Policy and International Travel Policy.

- 41.2 ASIC's Domestic Travel Policy sets out the rates for meals and out of pocket business related travel expenses. An employee who is required to be absent from their usual place of work on official business for more than 10 hours but not overnight will be paid an allowance for meal and incidental expenses of \$35. Further information can be found in the ASIC Domestic Travel Policy.
- 41.3 Where an employee transfers to a new locality for a period greater than 21 days, entitlements will be reviewed. Further information can be found in ASIC's Relocation Policy.

Part F – Hours of Work and Related Matters

42. Hours of Work

- 42.1 Standard hours of work for full-time employees are 150 hours over a four week settlement period (37.5 hours per week). A standard working day is 8.30 am to 5.00 pm (7 hours 30 minutes), Monday to Friday with a one hour lunch break. For part-time employees, a standard day is that agreed in their part-time work agreement.

Hours of Work for ASIC 1-4 Employees

- 42.2 All employees will agree their pattern of attendance in writing with their manager.
- 42.3 Operational requirements will be the major consideration in determining the pattern of hours. Other considerations include:
- (a) personal needs of the employee;
 - (b) impact on service delivery; and
 - (c) impact on other employees.
- 42.4 The pattern of hours that must be worked, and any variation to them, is a matter for agreement between managers and employees. However, employees should not work for more than:
- (a) ten hours ordinary time on any day; or
 - (b) five consecutive hours without a meal break of at least thirty minutes.
- 42.5 Where no agreement can be reached on a pattern of attendance, or where attendance is unsatisfactory, employees will be required to work a standard working day.
- 42.6 ASIC can direct that where an employee is absent from duty without authorisation or not in accordance with this Agreement, the period of absence does not count as service for any purpose. If an employee is absent from duty without authorisation, all pay and other benefits, e.g. flexitime credits, will cease to be available until the employee resumes duty or is granted authorised leave.
- 42.7 Consideration will be given to whether the absence was reasonable under the circumstances, the extent of the absence and any other relevant factor.

Hours of work for Executive Level 1 and 2 employees

- 42.8 Executive Level employees covered by this Agreement may agree flexible working arrangements including variations in attendance times with their manager which take into account operational requirements and personal commitments.
- 42.9 ASIC acknowledges that, from time to time, and consistent with their seniority, experience and flexible working arrangements, Executive Level employees may be reasonably requested to work longer than the ordinary hours specified in this clause to meet extraordinary deadlines or special

operational requirements. ASIC believes that it is important that these efforts are recognized. This means managers can agree variations in attendance times, part and full day absences without the need for a leave application. Further information can be found in ASIC's Working Flexibly Guide.

- 42.10 Reasonable time off is not on an hour for hour basis but is intended to provide Executive Level employees with fair and reasonable access to flexible arrangements including time-off.
- 42.11 Executive Level Employees covered by this Agreement who have agreed flexible working arrangements, should not commence work on any day without having at least eight hours plus reasonable travel time minimum break from the previous day's work.

43. Bandwidth

- 43.1 The bandwidth is between the hours of 7.00 am and 7.00 pm Monday to Friday.
- 43.2 Where an employee requests to work outside this span of hours – e.g. on a Saturday, Sunday, or on a public holiday - they may do so with the agreement of their manager. The key consideration will be operational requirements. Any hours worked on this basis will be treated as ordinary hours and will not attract overtime rates.

44. Flextime

- 44.1 ASIC 1 to 4 employees, including part time employees, may access flextime arrangements under this Agreement. Further information on flextime can be found in ASIC's Working Flexibly Guide.
- 44.2 Flextime is worked within the bandwidth of 7.00am to 7.00pm Monday to Friday.
- 44.3 With the agreement of their manager, an employee may vary their pattern of ordinary hours within the flextime bandwidth. Such variation will take account of the operational requirements of the work area and the personal requirements of the employee.
- 44.4 ASIC 1 to 4 employees acting at the Executive levels do not have access to the flextime system in keeping with the more professional nature of their employment, however, they may agree on flexible working arrangements with their manager.
- 44.5 The settlement period over which flextime hours are calculated is 4 weeks.
- 44.6 The variation of working hours may result in a working hours' credit or debit over a settlement period. At the end of a settlement period:
 - (a) the maximum flex credit carried over to the next settlement period is the equivalent of 1 week, that is, the standard weekly working hours for the employee;
 - (b) the maximum flex debit is 10 hours; and
 - (c) a flex debit of greater than 10 hours must be reduced either by leave without pay or by a deduction of accrued annual leave.
- 44.7 If an employee and their manager cannot agree on flextime hours, the employee will revert to standard hours as defined in clause 42.1.
- 44.8 Patterns of attendance and record keeping arrangements for flextime can be found in ASIC's Working Flexibly Guide.

45. Overtime

- 45.1 Overtime is only payable for employees at ASIC 1 to 4 classification levels.

- 45.2 Overtime is only payable for work performed at the direction of a manager in addition to the employee's standard day of work. Overtime is payable for work in excess of 7 hours 30 minutes or where an employee's normal regular hours are other than 7 hours 30 minutes, after the completion of the employee's regular hours or outside the bandwidth. The 7 hours and 30 minutes does not include meal breaks. The direction to work overtime is to meet operational requirements and business needs.
- 45.3 Employees working authorised additional hours who have a flex debit, may elect to reduce their flex debit by these additional hours actually worked instead of receiving an overtime payment. These debits are to be reduced by the period of additional hours worked at normal time.
- 45.4 All employees working authorised additional hours who do not have a flex debit have, with the agreement of their manager, the option to record the extra hours as part of their normal attendance calculated at the applicable hourly overtime rate. These hours may be taken in accordance with flextime arrangements.
- 45.5 Overtime will be paid at time and a half of the hourly rate for all overtime worked from Monday to Saturday, double time of the hourly rate on Sundays and double time and a half on public holidays.
- 45.6 Where an employee is directed to work additional hours on a public holiday which falls on a week day, the rate for that overtime is double time and a half.
- 45.7 An overtime meal allowance of \$30.60 is payable to ASIC1 - 4 team members who take an approved unpaid meal break of at least 30 minutes during a period of overtime. The meal allowance is only payable where overtime starts before and goes beyond the meal break. This will be adjusted annually as per ATO rates.
- 45.8 An employee who has been working overtime will not commence a subsequent period of work until such time as they have had a break of at least 8 hours plus reasonable travel time.

46. Shiftwork

- 46.1 Only employees at ASIC 1 to 4 classification levels are eligible for shiftwork arrangements.
- 46.2 Shiftwork arrangements, including periods of notice, will be agreed with employees required to work outside the bandwidth.
- 46.3 Employees required to work outside the bandwidth for an ongoing or fixed period will be paid a loading of 15% additional to their ordinary hourly rate of pay for the period of the shift. Employees required to work shifts on a Saturday, Sunday or public holiday, or shifts which include duty wholly between 6.00 pm and 8.00 am for a continuous period of four weeks or more, will be paid a loading of 30% for the period of the shift.
- 46.4 Where employees are directed to work additional hours at the conclusion of their shift, the overtime rules as set out at clause 45 "Overtime" will apply.

47. Time Off in Lieu of Travel for ASIC 3 or Below

- 47.1 When an employee at ASIC level 3 or below is required to travel to a location other than their usual work location, the employee may be given time off in lieu to a maximum of five hours per return trip to compensate them for the additional travelling time.

Part G – Leave and Public Holidays

48. Annual Leave

- 48.1 Full-time employees are entitled to 4 weeks (20 working days) of annual leave each completed year of service. Part-time employees are entitled to a pro rata amount of annual leave. Annual leave will accrue progressively on a pro rata basis.
- 48.2 ASIC can direct an employee who has more than 8 weeks' accrued leave, to take annual leave to reduce their leave balance so that they have a balance of no more than 8 weeks' (40 days for full time employees) leave by 1 October in that year. In exceptional circumstances, an employee and their manager may agree on the employee having up until 1 November to reduce their leave balance to no more than 8 weeks.
- 48.3 An employee who has had a period of extended annual leave approved (sufficient to bring their balance below 8 weeks) will not be directed to take leave in accordance with this clause. Further information can be found in ASIC's Leave Policy.
- 48.4 Unused Annual leave credits will be paid to an employee on separation from ASIC or death at the employee's current salary rate.

49. Annual Leave at Half Pay

- 49.1 An employee may elect to take annual leave at half pay with the agreement of their manager. If an employee elects to take leave at half pay, ASIC will only deduct leave credits for half the leave period's duration. ASIC will only allow an employee to take annual leave at half pay for a minimum of one week's duration (2.5 days leave credits) per request.
- 49.2 Annual leave taken at half pay will not affect the employee's superannuation entitlements.
- 49.3 Employees who elect to take annual leave under these arrangements may not access purchased leave arrangements during the Purchase Period (defined in clause 52.1).

50. Annual Leave for Shift Workers

- 50.1 Shiftworkers, as defined in clause 50.2 of this Agreement, are entitled to an additional half a day's paid annual leave for each Sunday rostered, up to a maximum of five days per year. A rostered overtime shift of three hours or more which commences or ceases on a Sunday will count in the calculation.
- 50.2 For the purpose of the additional leave provided for in clause 50.1, an employee will be considered a shiftworker if rostered to perform ordinary duty:
- (a) outside the period 6.30am to 6.00pm, Monday to Friday, and/or;
 - (b) on Saturdays, Sundays or Public Holidays;
- for an ongoing or fixed period.
- 50.3 Part-time employees are entitled to leave under clause 50.1 only where the employee has a shift pattern involving the regular performance of rostered duty on Sundays and Public Holidays and involving not less than five shifts per week or an average of not less than the number of shifts per week of an equivalent full-time employee.

51. Cashing out of Annual Leave

- 51.1 By written agreement between an employee and their manager, employees may cash out one week of annual leave per calendar year for a lump sum payment equivalent to one week's salary providing the employee retains at least 4 weeks accrued annual leave after the cashing out. Payment will be the full amount that would have been payable to the employee had the employee taken the leave that the employee has foregone.
- 51.2 Cashed out annual leave will not affect the employee's superannuation entitlements.

52. Purchased Leave

- 52.1 Subject to the agreement of their manager and the terms of the ASIC Leave Policy, all permanent employees are eligible to apply to purchase additional leave of up to 2 weeks per year. Employees must take purchased leave in minimum blocks of 1 week, in return for a pro-rata reduction in annual salary (excluding allowances) over a 12 month purchase period ('Purchase Period').
- 52.2 Purchased leave will not have an effect on existing salary packaging arrangements and employees cannot enter into salary packaging arrangements to purchase leave
- 52.3 The minimum salary payable to the employee under this Agreement is also adjusted on a pro rata basis for the Purchase Period. The purchased additional leave will accrue progressively over the course of the Purchase Period. The purchase price is determined using the same payment rate as for annual leave.
- 52.4 Purchased leave must be used by the expiry of the 12 months following the end of the Purchase Period and will lapse at that time. Any outstanding monies will be reconciled at the end of the 12 months following the end of the Purchase Period.
- 52.5 Purchased leave will count as service for all purposes. If the employee's employment terminates before all purchased additional leave is taken, the employee will receive a payment in lieu of the unused accrued additional leave.
- 52.6 Employees who elect to purchase leave under these arrangements may not access half pay annual leave during the Purchase Period.
- 52.7 Full details about the purchased leave scheme are available in ASIC's Leave Policy.

53. Personal/Carer's Leave

Entitlement to Personal/carer's leave

- 53.1 Full-time employees are entitled to 18 days' paid personal/carer's leave each year of service. Part-time employees are entitled to personal/carer's leave on a pro-rata basis.
- 53.2 Leave entitlements are subject to adjustment for periods of leave without pay that do not count as service and for unauthorised absences.
- 53.3 Casual employees are not entitled to paid personal/carer's leave.

Personal/carer's leave accrual

- 53.4 Un-used Personal/carer's leave accumulates from year to year.
- 53.5 Personal/carer's leave does not accrue during a period in which an employee is absent on leave without pay which does not count as service, or during any unauthorised absence.

Permanent employees

- 53.6 All permanent employees are credited their yearly entitlement to personal/carer's leave on engagement, and then each year on the anniversary of their engagement.

Temporary employees

- 53.7 Temporary executive level employees are credited their entitlement to personal/carer's leave on engagement and then each year on the anniversary of their engagement;
- 53.8 Temporary ASIC 1 to 4 employees' entitlement to personal/carer's leave accrues progressively during a year of service, according to the employee's ordinary hours of work.

Taking personal/carer's leave

- 53.9 ASIC will grant personal/carer's leave, subject to available credit, in the following circumstances:
- (a) where an employee is not fit for work because of a personal illness or injury affecting the employee;
 - (b) where an employee needs to take time off work due to domestic or family violence (refer to clause 59); or
 - (c) to provide care or support to an employee's Family Member who requires care because:
 - (i) they are ill or injured; or
 - (ii) of an unexpected emergency affecting the Family Member.
 - (d) If the employee has another type of emergency. Leave will not be granted under this sub-clause (d) to the extent that it results in less than 10 days' of an employee's credits per year being available for personal/carer's leave in accordance with the NES.
- 53.10 Personal/carer's leave may be taken in periods of less than 1 day.
- 53.11 No medical certificate or other supporting evidence will normally be required for absences of three consecutive working days or less. However, by giving the employee prior notice, a manager may require a medical certificate or other suitable supporting evidence for periods of three days or less in particular circumstances. Medical certificates or other supporting evidence are required for absences of more than three consecutive working days.
- 53.12 Employees must advise their manager as soon as practicable of their absence or their intention to be absent.
- 53.13 An employee receiving workers' compensation in excess of 45 weeks will only accrue personal/carer's leave based on the hours he or she has actually worked.
- 53.14 Unused personal/carer's leave will not be paid out on separation, or in any other circumstances.
- 53.15 In exceptional circumstances, employees may be granted personal/carer's leave at half pay, in which case, payable leave credits are only deducted for half of the leave duration.
- 53.16 Employees who re-join ASIC after a break in service of not more than 6 months will have their previous unused personal/carer's leave credit reinstated less any leave taken and this credit may be used for subsequent personal/carer's leave.

Direction to attend an independent medical assessment

- 53.17 If ASIC considers that an employee may have an illness or injury that:
- (a) may affect the employee's ability to perform their duties;

- (b) has caused an extended absence from work; or
- (c) may be a danger to the employee, other employees or members of the public;

ASIC may direct the employee to attend a medical examination (**IME**) with an independent medical practitioner of ASIC's choice. ASIC will cover all costs of such an appointment.

- 53.18 If an employee disagrees with ASIC's choice of medical practitioner for the IME, the employee may discuss an alternative with ASIC.
- 53.19 If ASIC directs an employee to attend an IME in accordance with clause 53.17 the employee must attend.
- 53.20 In accordance with ASIC's Privacy Policy, the IME report will be given to ASIC and the employee's medical practitioner.
- 53.21 The IME report will be used by ASIC to determine:
- (a) the employee's fitness for duty;
 - (b) rehabilitation and return to work strategies; and/or
 - (c) any reasonable adjustments that ASIC can make to assist the employee's return to work.

Unpaid personal/carer's leave

- 53.22 ASIC will grant employees, including casual employees, up to 2 days of unpaid personal/carer's leave for carer's purposes on each occasion for a purpose as set out in clause 53.9(c) provided they have exhausted their paid personal/carer's leave entitlement and subject to adequate proof of the need to take such leave.

54. Compassionate Leave

- 54.1 Employees are entitled to an amount of compassionate leave as set out in clause 54.2 for each occasion (a **permissible occasion**) when an employee's Family Member:
- (a) contracts or develops a personal illness that poses a serious threat to their life; or
 - (b) sustains a personal injury that poses a serious threat to their life; or
 - (c) dies.
- 54.2 Employees who satisfy the requirements for compassionate leave as set out in clause 54.1 will be entitled to the following amount of leave on each permissible occasion:
- (a) permanent and temporary employees are entitled to 3 days paid compassionate leave; and
 - (b) casual employees 2 days unpaid compassionate leave;
- subject to the employee providing adequate proof of the need to take such leave.
- 54.3 Untaken compassionate leave does not accumulate from year to year and will not be paid out if an employee's employment ends. Further information can be found in ASIC's Leave Policy.

55. Maternity Leave, Supporting Partner's Leave and Leave for Adoptive and Fostering Parents

- 55.1 Employees who are pregnant or employees who have given birth are covered by:
- (a) the provisions of the *Maternity Leave (Commonwealth Employees) Act 1973 (the ML Act)*; and
 - (b) the "Parental Leave and Related Entitlements" provisions set out in the NES.

- 55.2 ASIC provides employees with an entitlement to paid leave under the ML Act, an additional 2 weeks of paid leave, to be taken continuously with an entitlement to paid maternity leave provided by the ML Act.
- 55.3 Eligible employees including employees who adopt or permanently foster a child are entitled to up to 52 weeks of parental leave. For an employee who is a primary care giver for an adopted or fostered child, ASIC will pay up to 14 weeks of that leave, commencing from the time of placement of the child, provided the employee satisfies the same qualifying requirements as those required to receive paid leave in accordance with the ML Act.
- 55.4 Employees are entitled to parental leave for adoption or permanent foster care when that child:
- (a) is under 16 years of age;
 - (b) has not, or will not have, lived continuously with the employee for a period of 6 months or more as at the day (or expected day) of placement; and
 - (c) is not (otherwise than because of the adoption) a child of the employee or the employee's spouse/partner/de facto partner.
- 55.5 Documentary evidence of approval for adoption or enduring parental responsibilities under formal fostering arrangements must be submitted when applying for parental leave for adoption or permanent foster carer purposes.
- 55.6 Employees who are eligible for paid maternity or parental leave may elect to have the payment for that leave spread over a maximum of 28 weeks at a rate no less than half normal salary.
- 55.7 On ending the initial 52 weeks of maternity or parental leave, employees may access an extension of unpaid parental leave for a further period of up to 52 weeks. The second period of unpaid leave is to commence immediately following the initial 52 weeks' leave period.
- 55.8 Unpaid maternity, adoption or foster carers leave will not count as service for any purpose except any unpaid leave taken during the first 12 weeks of maternity leave as prescribed in the ML Act, which will count as service for all purposes.
- 55.9 This leave is inclusive of public holidays and will not be extended because a public holiday or Christmas closedown falls during a period of paid or unpaid maternity or parental leave.

Supporting partner leave

- 55.10 Employees who are a supporting partner (not the primary care giver) may take 10 days' (or a pro-rata amount for part-time employees) paid supporting partner leave on the birth, adoption or permanent foster care on placement of a child or their partner's child.
- 55.11 This paid leave will count as service for all purposes.

Return to work after parental leave

- 55.12 An employee returning to work after parental, maternity, adoption or foster carer's leave is entitled 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; and
 - (c) request flexible working arrangements in accordance with section 65 of the Act. Further details are available in ASIC's Working Flexibly Guide.

56. Military service leave

- 56.1 ASIC may grant an employee leave (with or without pay) to enable the employee to fulfil Australian Defence Force (ADF) Reserve and Continuous Full Time Service (CFTS) or Cadet Force obligations.
- 56.2 An employee is entitled to leave with pay, of up to 4 weeks' during each financial year, and an additional 2 weeks' paid leave in the first year of ADF Reserve Service, for the purpose of fulfilling service in the ADF Reserve.
- 56.3 With the exception of the additional 2 weeks in the first year of service, leave can be accumulated and taken over a period of 2 years.
- 56.4 Defence Reserve leave counts as service for all purposes, except for unpaid leave to undertake Continuous Full Time Service (**CFTS**). Unpaid leave for the purpose of CFTS counts as service for all purposes except Annual leave accrual.

57. Community Service Leave

- 57.1 ASIC will grant employees community service leave in accordance with the NES.

58. Other Leave

- 58.1 ASIC may grant leave of absence to an employee in appropriate circumstances. Further information can be found in ASIC's Leave Policy. Leave may be granted:
- (a) for the period requested or for another period up to a maximum of 12 months with the option for extension;
 - (b) with or without pay; and
 - (c) subject to conditions.
- 58.2 ASIC will provide advice to an employee of a decision to refuse leave.

59. Domestic Violence Support

- 59.1 ASIC recognises that employees sometimes face situations of domestic violence or other forms of abuse in their personal lives that may affect their attendance or performance at work. ASIC wishes to assist those employees by providing support as set out below.
- 59.2 ASIC will provide domestic violence leave in accordance with the provisions set out in the NES.
- 59.3 In addition to the support set out in 59.2, if an employee is entitled to domestic violence leave in accordance with the NES, ASIC may also provide the following assistance to enable the employee to undertake activities to deal with the impact of that violence:
- (a) allow the employee to use paid leave from their accrued personal/carer's leave; and
 - (b) consider any request made by the employee for:
 - i. further paid or unpaid leave in accordance with clause 58;
 - ii. changes to the employee's hours of work;
 - iii. relocation to suitable employment elsewhere within ASIC (subject to business requirements);
 - iv. a change of telephone number or email address to avoid being contacted by a violent person;

- v. any other appropriate measure including those available under existing provisions for family friendly and flexible work arrangements.

59.4 ASIC may require evidence from employees seeking to take domestic violence leave under clause 59.3(a), in the form of a letter from the police, a court, a lawyer, a domestic violence service or a statutory declaration from the employee.

59.5 Personal information concerning domestic violence will be kept confidential in line with ASIC's policies and relevant privacy legislation.

60. Public Holidays

60.1 An employee is entitled to be absent from their employment on a day or part-day that is a public holiday in the place where the employee is based for work purposes.

60.2 The following public holidays will be observed as public holidays:

- (a) New Year's Day (1 January);
- (b) Australia Day (26 January);
- (c) Good Friday;
- (d) Easter Monday;
- (e) Anzac Day (25 April);
- (f) the relevant Queen's Birthday observance day;
- (g) Christmas Day (25 December); and
- (h) Boxing Day (26 December).

60.3 Employees may also observe additional public holidays declared under a State or Territory law and observed by the community generally at the locality.

60.4 If under a State or Territory law, a day or part day is substituted for one of the public holidays listed above, then the substituted day or part day is the public holiday.

60.5 Where a manager and an employee agree, another day may be substituted for any public holiday prescribed above.

61. Christmas Closedown

61.1 ASIC will close its normal operations from close of business on the last working day before Christmas, with business resuming on the first working day after New Year's Day.

61.2 Employees will be provided with time off for the working days between Christmas and New Year's Day and will be paid in accordance with their ordinary hours of work. Where an employee is absent on leave, payment for the Christmas closedown provision will be in accordance with the entitlement for that form of leave, (e.g. if on long service leave half pay, payment is at half pay).

61.3 There will be no deduction from Annual or Personal/carer's leave credits for the closedown days.

61.4 Where ASIC directs an employee to work during their ordinary hours on the working days between Christmas and New Year's Day to provide essential services, the employee will receive time off in lieu or overtime at the rate of double time and a half for hours worked. For duty within an employee's ordinary hours of work this is calculated at time and a half as the employee is already being paid for the day. For duty outside an employee's ordinary working hours the employee will be eligible for time off in lieu or overtime at double time and a half. Further information can be found in ASIC's Leave Policy.

Part H – Employee Development

62. Performance Management

- 62.1 ASIC's Performance Management Policy encourages a high-performance culture in ASIC by:
- (a) recognising, rewarding and supporting high performance;
 - (b) aligning organisational objectives with the employee's performance individually and within teams (where appropriate);
 - (c) providing opportunities for development;
 - (d) encouraging effective communication between the manager and employee and communication of policies and practices;
 - (e) making salary decisions based on performance; and
 - (f) providing for the performance of duties by employees to be effectively managed.
- 62.2 The Performance Management Policy is applied across ASIC and includes:
- (a) agreement of responsibilities and expected standards of performance including personal and interpersonal skills consistent with ASIC's Corporate Plan and the Classification Descriptions set out in the Work Level Standards;
 - (b) continuous, clear, honest and timely performance feedback;
 - (c) personal development discussions and planning that facilitate career planning; and
 - (d) performance review and appraisal. A rating scale is used to assess performance which includes the following ratings – Outstanding, Exceeding, Achieving, Improvement Required and Unsatisfactory.
- 62.3 All Managers and employees are required to comply with the Performance Management Policy.
- 62.4 Each year, employees and their Manager will agree on the employee's expected standards of performance. The standards of performance will be set out in a performance agreement. Salary advancement and rewards other than pay are determined on the basis of the employee's performance rating, as determined by their Manager, against the employee's performance agreement.
- 62.5 Continuous informal performance and development discussions should occur between a Manager and an employee or team regularly throughout the year.
- 62.6 If a Manager has concerns that an Employee's performance is not meeting expectations, the Manager should provide feedback as soon as practicably possible identifying the nature of the unsatisfactory performance.
- 62.7 Employees may also provide feedback to their Managers to inform the assessment of their performance.
- 62.8 Further information on performance management can be found in ASIC's Performance Management Policy.

63. Managing Underperformance

- 63.1 If an employee's performance is rated as "Improvement Required" or "Unsatisfactory", their Manager will assist the employee to return to an "Achieving" rating based on the following principles. The Manager will:
- (a) identify and action issues with a view to returning the employee's performance to an Achieving level;
 - (b) apply procedural fairness principles at each stage of the process; and

- (c) give the employee the opportunity to have the assistance of a support person or representative at any point during a performance management process.

Further information is available in the Performance Management Policy.

Improvement Required

- 63.2 Where an employee's performance is assessed as "Improvement Required" at any point, including at the conclusion of the performance management cycle, the employee will be required to undertake further development in consultation with their Manager. Further information is available in the Performance Management Policy.
- 63.3 An employee who is rated by their Manager as "Improvement Required" at the end of a performance cycle is not entitled to salary advancement within a classification until their performance returns to the rating of "Achieving" or higher. Further details are available in ASIC's Remuneration Policy.
- 63.4 An employee who receives a rating of "Improvement Required" at two consecutive annual performance management ratings will automatically undertake the process for an "Unsatisfactory", rating as set out in clauses 63.5 and 63.7 of this Agreement, unless the role or responsibilities of the role have substantially changed.

Unsatisfactory

- 63.5 Where a manager has assessed an employee's performance against their performance agreement, or at any point during the performance management cycle formed the view that an employee's work is "Unsatisfactory" or where an employee receives a rating of "Improvement Required" at two consecutive performance cycles in accordance with clause 63.2, the manager will:
 - (a) advise the employee in writing of why their performance is rated "Unsatisfactory" and will provide reasons for that rating;
 - (b) inform them of the consequences if their performance does not improve;
 - (c) give the employee an opportunity to respond;
 - (d) give the employee a reasonable opportunity to have a support person or a representative present at any discussion or meeting; and
 - (e) create a Performance Improvement Plan as outlined in the Performance Management Policy.
- 63.6 An employee who is rated by their Manager as "Unsatisfactory" at the conclusion of a performance management cycle, is not eligible for salary advancement until their Manager rates their performance at the "Achieving" level or higher. Further details are available in ASIC's Remuneration Policy.
- 63.7 If an employee is on a Performance Improvement Plan, and at the end of the assessment period, the employee's performance is still assessed as being "Unsatisfactory", ASIC may issue a notice to the employee of intention to:
 - (a) allocate reasonable alternate duties (if available) to the employee;
 - (b) reduce the employee's classification, if this is practicable and work is available at a lower level; or
 - (c) terminate the employee's employment.
- 63.8 The employee will have at least 7 days to show cause why this action should not be taken. ASIC or its representative has the discretion to extend this period in special circumstances.

64. Learning and Development Opportunities and the Study Assistance Procedure

- 64.1 ASIC encourages employees to undertake formal study, and assistance is available for courses of study at tertiary and higher education institutions, and other vocational education courses, where the study is agreed as part of the employee's development plan.
- 64.2 ASIC's Learning and Development Policy and Study Assistance Procedures provide further information on the administration of the study assistance program including financial assistance and time off work to travel to and attend classes, undertake examinations, or for other study purposes.
- 64.3 Employees may also apply for leave for study purposes outside the Study Assistance Procedure. Such applications will be considered under the Other Leave provisions.
- 64.4 ASIC will provide reasonable access to, and funding for, credential building opportunities relevant to the role and function of ASIC. For further information, refer to ASIC's Learning and Development Policy and Studies Assistance Procedures.

65. Recognition of professional standing

- 65.1 Titles such as Accountant, Analyst, Investigator or Lawyer will be used to recognise specialist occupations including professional networks and maintenance of skill development as required.
- 65.2 ASIC may establish professional practice groups for accountants, investigators, lawyers, market analysts and other relevant groupings, to ensure continuation and enhancement of professional skills, qualifications and standing.

Attachment A – ASIC 1 to 4 salary rates

Salary Rates and Increments

To advance through soft barriers employees must meet specific requirements set out in clause 26.2 and in the Remuneration Policy.

Classification	Current EA Salary	Salary Steps	Salary Increase on commencement (2%)	Salary Increase 12 months following commencement (2%)	Salary Increase 24 months following commencement (2%)
ASIC 1 (APS 1)	\$45,004	Step 1	\$45,904	\$46,822	\$47,758
	\$46,521	Step 2	\$47,451	\$48,400	\$49,368
	\$47,778	Step 3	\$48,734	\$49,709	\$50,703
	\$49,740	Step 4	\$50,735	\$51,750	\$52,785
ASIC 2 Lower (APS 2)	\$52,339	Step 1	\$53,386	\$54,454	\$55,543
	\$53,712	Step 2	\$54,786	\$55,882	\$57,000
	\$55,109	Step 3	\$56,211	\$57,335	\$58,482
	\$56,484	Step 4	\$57,614	\$58,766	\$59,941
ASIC 2 Upper (APS 3)	\$58,015	Step 5	\$59,175	\$60,358	\$61,565
	\$59,523	Step 6	\$60,713	\$61,927	\$63,166
	\$61,035	Step 7	\$62,256	\$63,501	\$64,771
	\$62,619	Step 8	\$63,871	\$65,148	\$66,451
ASIC 3 Lower (APS 4)	\$66,714	Step 1	\$68,048	\$69,409	\$70,797
	\$68,453	Step 2	\$69,822	\$71,218	\$72,642
	\$70,208	Step 3	\$71,612	\$73,044	\$74,505
ASIC 3 Upper (APS 5)	\$72,119	Step 4	\$73,561	\$75,032	\$76,533
	\$74,380	Step 5	\$75,868	\$77,385	\$78,933
	\$76,473	Step 6	\$78,002	\$79,562	\$81,153
ASIC 4 (APS 6)	\$79,830	Step 1	\$81,427	\$83,056	\$84,717
	\$82,020	Step 2	\$83,660	\$85,333	\$87,040
	\$86,142	Step 3	\$87,865	\$89,622	\$91,414
	\$89,478	Step 4	\$91,268	\$93,093	\$94,955
ASIC 4 (APS 6) Previously AWA	\$90,372	Step 4 * *All staff under this arrangement are on Step 4	\$92,179	\$94,023	\$95,903

Key:

Dotted line indicates soft barrier between steps.

Attachment B – Executive Level salary rates

Classification	Current EA Salary	Salary Steps	Salary Increase on commencement (%)	Salary Increase 12 months from commencement (%)	Salary Increase 24 months from commencement (%)
Executive Level 1	\$104,617	Step 1	\$106,709	\$108,843	\$111,020
	\$107,389	Step 2	\$109,537	\$111,728	\$113,963
	\$111,635	Step 3	\$113,868	\$116,145	\$118,468
	\$115,340	Step 4	\$117,647	\$120,000	\$122,400
	\$121,012	Step 5	\$123,432	\$125,901	\$128,419
Executive Level 2	\$118,513	Step 1	\$120,883	\$123,301	\$125,767
	\$121,012	Step 2	\$123,432	\$125,901	\$128,419
	\$130,045	Step 3	\$132,646	\$135,299	\$138,005
	\$134,392	Step 4	\$137,080	\$139,822	\$142,618
	\$137,829	Step 5	\$140,586	\$143,398	\$146,266
	\$139,844	Step 6	\$142,641	\$145,494	\$148,404
	\$142,869	Step 7	\$145,726	\$148,641	\$151,614
	\$148,583	Step 8	\$151,555	\$154,586	\$157,678
	\$151,274	Step 9	\$154,299	\$157,385	\$160,533
	\$157,325	Step 10	\$160,471	\$163,680	\$166,954
	\$159,679	Step 11	\$162,873	\$166,130	\$169,453
	\$166,066	Step 12	\$169,387	\$172,775	\$176,230

Key:

Dotted line indicates soft barrier between steps.