



**Australian Government**  

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**Indigenous Business Australia**

**INDIGENOUS BUSINESS  
AUSTRALIA  
ENTERPRISE AGREEMENT  
2012 – 2014**

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## **PART A. TECHNICAL MATTERS**

### **1. Title of this Agreement**

- 1.1 This Agreement shall be known as the Indigenous Business Australia Enterprise Agreement 2012 – 2014.

### **2. Parties to the Agreement**

- 2.1 This Agreement is made under Section 172 of the Fair Work Act 2009 between:
- (a) Indigenous Business Australia; and
  - (b) Employees of Indigenous Business Australia employed under section 175 of the *Aboriginal and Torres Strait Islander Act 2005*.

### **3. Coverage of the Agreement and no extra claims**

- 3.1 This Agreement applies to all employees employed by Indigenous Business Australia other than:
- (a) Senior Executive Service (SES) and acting SES employees of Indigenous Business Australia; and
  - (b) Employees of IBA subsidiary companies.
- 3.2 The Community and Public Sector Union (CPSU) is covered by the Agreement (if Fair Work Australia notes this in its decision to approve the Agreement).
- 3.3 This Agreement operates in all States and Territories of the Commonwealth.
- 3.4 From the commencement of this Agreement, a person or organisation covered by the Agreement or an employee whose employment is subject to the Agreement shall not pursue further claims for terms and conditions of employment that would have effect during the period of operation of this Agreement, except where consistent with the terms of this Agreement.

### **4. Commencement and duration**

- 4.1 This Agreement commences 7 days after it is approved by Fair Work Australia (the Commencement Date).
- 4.2 The nominal expiry date is 31 December 2014.

### **5. Relationship with Award and other instruments**

- 5.1 This Agreement displaces the Award and all certified or collective agreements that would otherwise apply.

- 5.2 The conditions and entitlements in this Agreement replace any conditions and entitlements included in any other employment instrument, whether this be a formal or informal instrument that previously applied to an employee who is covered by this Agreement. This clause does not impact on the nature of an employee's employment contract with IBA or on any obligations or responsibilities of an employee that pre-existed this Agreement except where they are inconsistent with the provisions of this Agreement.
- 5.3 This Agreement does not change or negate any policies of IBA except where such policies are inconsistent with the provisions of this Agreement.

## **6. Categories of employment**

- 6.1 Employees of IBA are employed in one of the following categories:
- (a) continuing employees;
  - (b) temporary employees who may be employed for a specified term or a specified task;
  - (c) cadets;
  - (d) trainees; or
  - (e) casual employees.

## **7. Work flexibility**

- 7.1 The Chief Executive Officer may require an employee to undertake any duties the employee is reasonably capable of performing, and may move an employee to another position at the same or a higher level, provided that the employee is given at least five (5) working days notice and the Chief Executive Officer complies with all other obligations under this Agreement.
- 7.2 An employee may agree to a shorter notice period than the period provided under Clause 7.1.

## **8. Individual Flexibility Arrangements**

- 8.1 The Chief Executive Officer and an employee covered by this Agreement may agree to make an arrangement (an Individual Flexibility Arrangement) to vary the effect of terms of this Agreement if:
- (a) the agreement deals with one or more of the following matters:
    - (i) arrangements about when work is performed;
    - (ii) remuneration;
    - (iii) overtime rates;
    - (iv) allowances, including the annualisation and incorporation of any relevant allowance into salary, where it is provided for under this Agreement;
    - (v) salary for superannuation purposes; and/or

- (vi) leave; and
  - (b) the arrangement meets the genuine needs of IBA and the employee in relation to one or more of the matters set out in subclause 8.1(a).
- 8.2 The Chief Executive Officer 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.
- 8.3 The Chief Executive Officer 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 IBA and the 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 employment as a result of the arrangement; and
    - (iv) states the day on which the arrangement commences and, where applicable, when the arrangement ceases.
- 8.4 The Chief Executive Officer must give the employee a copy of the Individual Flexibility Arrangement within 14 days after it is agreed to.
- 8.5 The Chief Executive Officer or 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 the Chief Executive Officer and employee agree in writing at any time.

## **9. Relationship with Legislation**

- 9.1 IBA and its employees acknowledge that the employment of employees covered by this Agreement is subject to the provisions of the following

Commonwealth Acts and Regulations or instruments made under these Acts, including:

- (a) Aboriginal and Torres Strait Islander Act 2005;
- (b) Fair Work Act 2009;
- (c) Commonwealth Authorities and Companies Act 1997;
- (d) Long Service Leave (Commonwealth Employees) Act 1976;
- (e) Maternity Leave (Commonwealth Employees) Act 1973;
- (f) Superannuation Act 1976;
- (g) Superannuation Act 1990;
- (h) Superannuation Productivity Benefit Act 1988;
- (i) Superannuation Benefits (Supervisory Mechanisms) Act 1990.
- (j) Superannuation Guarantee (Administration) Act 1992;
- (k) Superannuation Act 2005 (No. 80 of 2005);
- (l) Safety Rehabilitation and Compensation Act 1988;
- (m) Work Health and Safety Act 2011;
- (n) Paid Parental Leave Act 2010;
- (o) Privacy Act 1988.

## **10. Delegations**

- 10.1 All the powers and authorities of the employer in this Agreement are held by the Chief Executive Officer.
- 10.2 The Chief Executive Officer may, by instrument in writing, delegate to (or authorise) a person, any of his powers, authorities or functions under this Agreement.
- 10.3 The Chief Executive Officer may issue instructions relating to the exercise of a delegated power, authority or function.

## **11. Interpretation**

- 11.1 Some words or expressions used in this Agreement (or in a particular provision of this Agreement) are defined in Appendix 3.
- 11.2 In this Agreement, unless the context otherwise indicates, a reference to:
  - (a) the singular includes the plural and the plural includes the singular;
  - (b) one gender includes the other gender; and
  - (c) a Part, Section, clause, sub-clause or paragraph is to a Part, Section, clause, sub-clause or paragraph in this Agreement, unless otherwise specified;

- (d) headings are for convenience only and do not affect the interpretation of this Agreement; and
- (e) where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.

## **PART B. A FAIR WORKPLACE**

### **12. Consultation on major changes**

12.1 Where IBA has made a definite decision to introduce:

- (a) major changes to its organisational structure, workplace, or to a program, or to any technology used in a work area (other than under a Clause in this Agreement) and
- (b) the major change is likely to have significant effects on employees, the Chief Executive Officer will notify employees who are likely to be affected by the proposed change as soon as practical.

12.2 The affected employees may appoint another person, employee organisation or association to accompany them or represent them in relation to any consultation under this Clause.

12.3 The Chief Executive Officer will discuss with the employees affected and their representatives, if any, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees.

12.4 The Chief Executive Officer will provide the affected employees and their representatives, if any, with relevant information about the changes, including written information (but is not required to disclose confidential or commercially sensitive information to the employees).

12.5 The Chief Executive Officer will give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.

12.6 For the purpose of this clause, a major change is likely to have a significant impact on employees if:

- (a) it results in the termination of the employment of employees;
- (b) it substantially alters the composition, operation or size of the workforce or the skills required;
- (c) it results in the elimination or diminution of job opportunities, promotion opportunities or job tenure;
- (d) it is a significant alteration in hours of work;
- (e) it results in the need to retrain employees;
- (f) it results in the need to relocate employees to another workplace; or
- (g) it is a major restructuring of jobs.

### **13. Work Place Consultative Committee**

13.1 In addition to consultations held under Clause 12, IBA will continue to consult regularly with its employees through the use of the Workplace Consultative Committee.

- 13.2 The Workplace Consultative Committee will comprise the Chief Executive Officer, his nominees and elected employee representatives.
- 13.3 The Workplace Consultative Committee will meet regularly to discuss matters which are likely to affect employees in accordance with the Committee Charter and may consider (without limitation):
- (a) training and development;
  - (b) job design, evaluation and classification structures;
  - (c) working hours arrangements, including flexible working hours;
  - (d) workplace diversity;
  - (e) policies referred to in this Agreement; and
  - (f) the implementation of this Agreement.
- 13.4 The Workplace Consultative Committee may make recommendations to the Chief Executive Officer.
- 13.5 IBA will work with the Workplace Consultative Committee to review the Committee Charter during the life of the Agreement.

#### **14. Indigenous Staff Network**

- 14.1 IBA is committed to ongoing consultation with its Indigenous staff.
- 14.2 IBA will work with its Indigenous staff to develop an Indigenous staff network that can effectively support Indigenous staff and can contribute to improving IBA processes and activities.
- 14.3 The Chief Executive Officer will ensure that any report by the Indigenous Staff Network concerning the progress of its activities is made available to the IBA Board.

#### **15. Resolution of Disputes**

- 15.1 If a dispute relates to a matter arising under this Agreement, or the National Employment Standards (NES), IBA and its employees will work-cooperatively to resolve the dispute at the workplace level through discussions between the employee or employees concerned and the relevant supervisor/manager.
- 15.2 While IBA and its employees are trying to resolve the dispute using the procedures in this clause, employees must continue to perform their work as they would normally, unless they have a reasonable concern about an imminent risk to their health or safety.
- 15.3 A party to a dispute may appoint another person, organisation or association to accompany them or represent them in relation to the dispute.
- 15.4 If IBA and its employees are unable to resolve the dispute at the workplace level, they may agree to refer the dispute to mediation. Where this is the case, the mediation will only proceed where both parties agree upon the

mediator to be appointed. IBA will pay the mediator's fees and any associated costs.

15.5 If a dispute cannot be resolved, a party to the dispute may refer the matter to Fair Work Australia. Fair Work Australia may deal with the dispute in two stages:

- (a) Fair Work Australia 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 Fair Work Australia is unable to resolve the dispute at the first stage, Fair Work Australia may then:
  - (i) arbitrate the dispute; and
  - (ii) make a determination that is binding on the parties.

15.6 The parties to the dispute agree to be bound by a decision made by Fair Work Australia in accordance with this term.

## **16. Role of employee organisations and workplace delegates**

16.1 IBA acknowledges that the role of employee associations and workplace delegates is to be respected and facilitated.

16.2 IBA will deal with employee associations and workplace delegates in good faith.

16.3 IBA will not unreasonably refuse a request from an employee association, or workplace delegate, for:

- (a) access to relevant information about a matter arising under this Agreement, the workplace or a decision that may have a significant affect on employees of IBA;
- (b) permission to use the IBA email system to send information to employees (provided that the employee is able to opt-out of receipt of the relevant information and information is not sent that would breach IBA's policies concerning electronic communications);
- (c) reasonable access to meeting rooms, lunch rooms, tea rooms (and other areas where employees meet) for the purpose of carrying out work as a delegate and consulting with members and other interested employees and the union, subject to IBA policies and protocols;
- (d) reasonable access to appropriate training in workplace relations matters, including training provided by an employee association that is relevant to the operations of IBA (provided that approved requests for training do not accumulate to more than six days per year);
- (e) reasonable paid time to perform the functions that are necessary or incidental to the role of a workplace delegate within IBA, provided that this does not cause an adverse impact on IBA's operational efficiency.

16.4 IBA will ensure that employees performing their role as workplace delegates are treated fairly and without any discrimination in their employment.

## **17. Rights of Entry**

17.1 IBA will comply with the right of entry provisions in the Fair Work Act 2009 or successive legislation.

## **18. Freedom of Association**

18.1 IBA recognises that employees are free to choose whether or not to join a union and will not disadvantage or discriminate against an employee on the basis of that choice.

18.2 Employees who choose to be members of an employee organisation can participate in relevant activities and have their industrial interest represented by that organisation.

## **PART C. REMUNERATION**

### **19. Pay rates**

- 19.1 The employee's pay rate is comprised of a base salary and, where applicable, an employee loading and/or bonus buyout allowance where paid fortnightly;
- 19.2 The base salary rates for each IBA classification level payable under this Agreement are specified in Appendix 1.
- 19.3 Subject to Clause 28 in relation to IBA Level 5 employees, an existing employee will be paid the same base salary he was being paid immediately before this Agreement began to apply, plus the salary increase of 2% set out in Clause 24.1(a).

### **20. Base salary on commencement of employment**

- 20.1 The Chief Executive Officer will determine a new employee's base salary based on the employee's skills and experience, subject to the employee being paid at one of the pay points specified for his classification in Appendix 1.

### **21. Employee loadings**

- 21.1 An employee loading may be paid to an employee in the following circumstances with the approval of the Remuneration Committee:
- (a) the employee has consistently demonstrated high level performance and/or productivity that is considered beyond the requirements of his position and classification level;
  - (b) the employee is provided with additional responsibilities that are beyond normal requirements of his position and level, but not sufficient to justify an increase in classification level; or
  - (c) additional remuneration is required to attract or retain the employee due to labour market forces and the Chief Executive Officer believes on reasonable grounds that this is important.
- 21.2 The Remuneration Committee may review the employee loading that is payable to an employee. This review may result in a decrease or cessation of the loading where:
- (a) the employee's performance levels have fallen;
  - (b) additional responsibilities allocated to the employee are no longer required; and/or
  - (c) the labour market value of the employee's skills has fallen.
- 21.3 The Remuneration Committee may increase the employee loading that is payable to an employee following a reconsideration of the issues listed in clause 21.1.

21.4 IBA will advise employees in writing of the outcome of any review of a loading that is payable to the employee.

## **22. Bonus buyout allowance**

22.1 From the Commencement Date of this Agreement, Eligible Employees will be paid a bonus buyout allowance which will be paid fortnightly in arrears in accordance with the following formula:

$$7.2\% \text{ of the employee's base annual salary (on the day before the Commencement Date of Date of this Agreement) } \times \frac{12}{313}$$

22.2 For the purpose of this Clause Eligible Employees are:

Employees, other than cadets or trainees, who would have been eligible for a payment of a performance bonus under Clause 20 of the Indigenous Business Australia Collective Agreement 2009 – 2011.

22.3 To avoid doubt, employees who commence employment on or after the Commencement Date of this Agreement will not be Eligible Employees and will not be paid a bonus buyout allowance.

22.4 The bonus buyout allowance for part time employees will be reduced to reflect the hours included in the employee's part time work arrangement as at the day before the Commencement Date of this Agreement.

22.5 Eligible Employees may elect to have the bonus buyout allowance paid as a single annual payment, payable on the first payday in July each year, with a pro rata amount payable on exiting IBA.

22.6 The election can be made once only. It must be made in writing and be received by IBA within 30 days of the Commencement Date unless alternative arrangements are made between IBA and the employee.

22.7 Where an Eligible Employee elects to receive the bonus buyout allowance in a single, annual payment, interest will not be payable by IBA to the employee.

22.8 Where an Eligible Employee does not make an election, IBA will pay the bonus buyout allowance to the employee fortnightly in arrears.

22.9 The bonus buyout allowance will be indexed in line with the salary increases payable on 1 July of each year under this Agreement, that is, the allowance will be indexed by:

- (a) 2% on 1 July 2012,
- (b) 2.5% on 1 July 2013; and
- (c) 2.5% on 1 July 2014.
- (d)

## **23. Method of payment**

23.1 Employees will be paid fortnightly in arrears and the fortnightly rate of pay will be calculated using the following formula:

$$\text{Fortnightly pay} = \text{Annual Salary} \times 12/313$$

23.2 Employees will have their fortnightly salary paid by electronic funds transfer into an eligible financial institution account of their choice.

## **24. Salary increases**

24.1 Subject to Clause 24.3, employees' base salaries will increase by the following amounts during the operation of this Agreement:

- (a) 2 per cent from the Date of Commencement;
- (b) 2 per cent from 1 July 2012;
- (c) 2.5 per cent from 1 July 2013; and
- (d) 2.5 per cent from 1 July 2014.

24.2 All salaries at Appendix 1 will be increased in accordance with the increases set out in this Clause.

24.3 The base salary increase will not be paid to an employee if:

- (a) the employee does not have a performance agreement in place by 1 May of the relevant year (without reasonable cause); and/or
- (b) the employee was assessed under the performance management system as persistently failing to meet expectations (FM) for the most recently completed performance management cycle.

24.4 Where the employee does not receive an increase in base salary because he was assessed as persistently failing to meet expectations (FM), and the employee is assessed as meeting expectations (ME) at the employee's next mid-cycle review, the employee's base salary will be increased by the amount set out in Clause 24.1 with effect from no later than 1 January in the following year.

## **25. Salary advancement**

25.1 An employee will be eligible for a salary advancement to the next incremental pay point within his classification level, and/or acting classification level, on 1 July each year where he:

- (a) has been at a specific salary level within his classification level, and/or acting classification level, for at least 6 months, excluding any periods that do not count as service;
- (b) is not already at the maximum salary for his classification level, and/or acting classification level, and

- (c) has been assessed as meeting (ME) or exceeding (EE) the expectations of the employee's position, including satisfactory work performance and adherence to the IBA Values and Code of Conduct.

25.2 Where the employee does not receive a salary advancement because he was assessed as PD (performance has declined), and the employee is assessed as meeting expectations (ME) at the employee's next mid-cycle review, the employee will be entitled to a salary advancement following a 12 week period of sustained performance.

25.3 An employee assessed as FM is not eligible for salary advancement.

## **26. Casual loading**

26.1 Casual employees shall receive a 20 per cent loading in lieu of access to all forms of paid leave (other than Long Service Leave).

26.2 IBA will comply with future Award changes that apply to IBA and prescribe an increase in casual loadings.

## **27. Flexible remuneration packaging**

27.1 Employees may have access to Flexible Remuneration Packaging. This allows employees to receive non-salary benefits in lieu of salary. IBA guidelines on Flexible Remuneration Packaging will provide the basis for the administration and operation of the scheme. Employees must provide IBA with a written election to enter into Flexible Remuneration Packaging.

27.2 The key features of the scheme are:

- (a) the scheme operates at no cost to IBA;
- (b) participation is entirely voluntary;
- (c) employees must obtain financial advice to be able to participate in the scheme; and
- (d) salary for superannuation, severance and termination purposes where an employee has elected to convert part of his salary to non-salary benefits, shall be determined as if those arrangements did not exist.

## **28. Transitional arrangements**

28.1 Where on the Commencement Date of this Agreement, an employee who is classified at IBA Level 5 is remunerated at a level less than the lowest pay point for that classification as set out in Appendix 1, then that employee's salary will automatically increase to the lowest pay point for the IBA Level 5 classification on the Commencement Date. Where, on 30 June 2012, an employee,:

- (a) is entitled to salary advancement under Clause 25; and
- (b) salary advancement to the next incremental pay point for the employee's classification level set out in Appendix 1 would result in an

increase in the employee's base salary of less than 1% to that employee's base salary on 1 July 2012 (taking into account the 2% increase to the employee's pre 1 July 2012 base salary on that date independent of the salary advancement),

then, on 1 July 2012, that employee will automatically advance by two incremental pay points within their classification level (or to the highest pay point for their classification level if the employee is less than one pay point from the highest pay point for that classification level).

28.2 Where, on 30 June 2012, an employee,:

- (a) is entitled to salary advancement under Clause 25; and
- (b) salary advancement to the next incremental pay point for the employee's classification level set out in Appendix 1 would result in an increase in the employee's base salary of more than 1% but less than 2.5% to that employee's base salary on 1 July 2012 (taking into account the 2% increase to the employee's pre 1 July 2012 base salary on that date independent of the salary advancement)

then, the employee's base salary will be increased by 2.5% effective from 1 July 2012 (with no further adjustment being applied to subsequent advancements to the next incremental pay point), or to the highest pay point for the employee's classification, whichever is lower."

28.3 IBA's performance bonus scheme will cease upon the commencement of this Agreement.

28.4 As soon as practicable after the Commencement Date of this Agreement, IBA will pay Eligible Existing Employees a final performance bonus payment of 7.2% of the employee's base salary on the day before the Commencement Date of this Agreement.

28.5 For the purpose of this Clause Eligible Existing Employees are:

- (a) Employees, other than cadets or trainees, who would have been eligible for a payment of a performance bonus of up to 15% of base salary calculated on the basis of individual and team performance under Clause 20 of the Indigenous Business Australia Collective Agreement 2009 – 2011; and
- (b) who, on the day before the Commencement Date of this Agreement:
  - (i) had in place, a performance agreement complying with the guidelines set out in IBA's Performance Management and Development System guidelines (with respect to both the timing and content of the performance agreement), and
  - (ii) participated in a mid-cycle assessment of their performance in December 2011; and
  - (iii) were assessed as being 'on-track';

- (c) provided that the employee has not taken more than 6 months of leave of any kind, including any secondment to another public sector agency, since 1 July 2011.

- 28.6 The final performance bonus payment will be paid on a pro-rata basis calculated from 1 July 2011, or the employees commencement date (if later) to the day before the Commencement Date of this Agreement.
- 28.7 The final performance bonus payment for part time employees will be reduced to reflect the hours included in the employees' part time work agreement.
- 28.8 The final performance bonus payment for employees who have taken any period of unpaid, or reduced pay leave, since 1 July 2011 will be reduced to reflect the periods of leave.
- 28.9 To avoid doubt, employees who commence work on or after the Commencement Date of this Agreement will not be Eligible Existing Employees and will not be entitled to be paid a final performance bonus payment.

## **29. Superannuation**

- 29.1 IBA will make compulsory employer superannuation contributions in accordance with relevant legislation and fund requirements for members of the CSS, PSS and PSSap superannuation schemes. PSSap members will receive a minimum contribution of 15.4% of fortnightly contribution salary.
- 29.2 An eligible employee's bonus buyout allowance is not a component of the employee's salary for superannuation purposes.
- 29.3 Where permitted by law, an employee may nominate a complying superannuation fund of his choice, so long as that fund accepts contributions by electronic funds transfer. IBA will contribute 15.4% of the employee's fortnightly salary and allowances (but not any bonus buyout allowance) which are recognised for PPSap contribution purposes unless prohibited by law.
- 29.4 Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements.
- 29.5 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).
- 29.6 IBA will make superannuation contributions for employees who earn below the Superannuation Guarantee minimum payment of \$450 per month or such other minimum payment as may be provided under the *Superannuation Guarantee (Administration) Act 1992* from time to time.
- 29.7 IBA will make superannuation contributions for employees who take paid or unpaid parental leave (which includes maternity, adoption and supporting

partner leave). The contributions will be made for a period equal to a maximum of 52 weeks as if the leave was paid leave, in accordance with the rules of the appropriate superannuation fund.

### **30. Supported Salary**

- 30.1 Employees who have a disability to the extent that they meet the impairment criteria for the Disability Support Pension (DSP) may be employed under this Agreement and be paid a supported salary, appropriate to the classification in which they are employed, determined in accordance with the procedures and provisions included in Appendix 4.

### **31. Cadetships**

- 31.1 IBA may engage cadets under established cadetship schemes.
- 31.2 Where IBA engages a cadet, it will provide the cadet with remuneration and conditions as required by the relevant cadetship scheme.
- 31.3 IBA will provide the conditions included in this Agreement to the cadet during any period in which the cadet is working with IBA during the work experience component of their cadetship and may extend some or all of those conditions to also apply during study periods.
- 31.4 Cadets will be casual employees and will be paid at the IBA Level 1 rate unless the Chief Executive Officer determines otherwise.
- 31.5 Cadets will be paid a casual loading as provided under Clause 26 while undertaking the work experience component of their cadetship with IBA.
- 31.6 On successful completion of a cadetship, IBA will offer continuing employment to the cadet, subject to the availability of a suitable position for the cadet and satisfactory work performance.

### **32. Traineeships**

- 32.1 IBA may engage employees as trainees under established traineeships schemes administered by the State, Territory or Federal Governments.
- 32.2 Trainees may be engaged as temporary employees for the duration of their traineeship. IBA may offer a trainee continuing employment on successful completion of his traineeship. Where this is the case, and the employee accepts the offer of continuing employment, the period of their traineeship will count as service for all purposes under this Agreement.
- 32.3 Trainees pay rates will be in accordance with the relevant Australian Pay and Classification Scale.
- 32.4 Each trainee will have a traineeship agreement that will set out specific conditions and requirements applying to the trainee.
- 32.5 Remote Locality Allowance is not payable to a trainee.

### **33. Graduates**

- 33.1 IBA may engage an employee as a graduate where the employee has successfully completed a relevant tertiary qualification at degree level.
- 33.2 Graduates will be paid at the bottom pay point on the IBA 2 scale, unless the CEO approves payment of a higher salary having regard to the employee's experience, qualifications, skills and pre-engagement salary.
- 33.3 On successful completion of the graduate program, graduates will be paid at the IBA 3 rate, unless the CEO determines otherwise.

## **PART D CLASSIFICATION STRUCTURE AND ADVANCEMENT**

### **34. Classification Structure**

34.1 The IBA classification structure is outlined in Appendix 1.

34.2 The following indicates the corresponding classification in the Award that would otherwise apply to the employee:-

IBA Classification	Award Classification
IBA1	ASO1 to 2
IBA2	ASO3
IBA3	ASO4
IBA4	ASO5
IBA5	ASO6
IBA6	SOGC
IBA7	SOGB

### **35. Broadbanding**

35.1 The Chief Executive Officer may convert a position to a broadband of two classification levels where:

- (a) the duties of the position genuinely span more than one level; or
- (b) there is capacity for the duties of the position to expand to take on higher level responsibilities appropriate to a higher classification level as the occupant of the position becomes more highly skilled and experienced.

35.2 In the event that variations to this Agreement are considered necessary, application will be made to Fair Work Australia to vary this agreement in accordance with the Fair Work Act.

### **36. Advancement to higher classification level within a broadband**

36.1 Where an employee is occupying a broad-banded position, the Chief Executive Officer will determine whether the employee may progress to a higher level within the broadband where:

- (a) He is at the maximum base salary for his existing level; and
- (b) the employee satisfies the conditions specified in Clause 25.

36.2 The date of effect for advancement to a higher level in a broadband will be 1 July.

### **37. Temporary work at a higher classification level**

- 37.1 Where an employee is absent for a period of time, IBA will consider ways of redistributing the employee's work that do not involve another employee performing the whole of the absent employee's job.
- 37.2 Where it is not possible to redistribute an employee's duties during an absence, another employee may be required to work at the higher classification level for a period of 21 consecutive days, i.e. more than 4 weeks, without additional remuneration.
- 37.3 Where an employee is required to work at a higher classification for 21 consecutive days (i.e. more than 4 weeks), the Chief Executive Officer will determine an amount of additional remuneration to be paid to the employee for the duration of the higher level work, provided that the employee is paid at one of the pay points set out in Appendix 1.
- 37.4 Where an employee is required to work at a higher classification but the remuneration is proposed not to be the full salary for the higher level work, the employee will be advised in writing of the duties that they are not required to perform.
- 37.5 Where on 1 July an employee is being paid for undertaking temporary work at a higher classification and has received such payment for six months in the previous twelve, they will be entitled to salary advancement as set out under Clause 25.
- 37.6 Employees will continue to receive payment for temporary work at a higher classification level while on paid leave and during public holidays for the period that the temporary work at a higher classification level would have continued but for the leave or the public holiday.
- 37.7 Where an employee ceases employment and had been paid at a higher classification immediately prior to cessation, payment in lieu of leave will be made at the higher level.

## PART E PERFORMANCE MANAGEMENT

### 38. Performance Management and Development

38.1 Performance Management and Development provides managers and employees with a framework for establishing individual performance expectations that align with Indigenous Business Australia's corporate goals. It assists employees and manager to set performance targets, measure performance against them and provides employees with the development and support that is necessary to assist them to achieve their full potential.

38.2 IBA's Performance Management and Development system will:

- (a) Provide employees with a clear understanding of their role and what is expected of them at work;
- (b) Recognise and reward employees for their performance and achievements at work;
- (c) Provide a clear link between an employee's performance, learning and development needs and the achievement of Indigenous Business Australia's corporate goals and strategic objectives; and
- (d) Be supported by an open, positive and responsible work culture.

38.3 A key objective of the Performance Management and Development System is that each employee arrives at the end of each performance cycle knowing how they have performed, after having received regular feedback during the year.

38.4 All ongoing employees and non-ongoing employees engaged for three months or more will participate in the scheme and each will prepare a Performance Agreement within three weeks of commencement.

38.5 The Performance Management and Development System will have the following key features:

- (a) A 12 month cycle commencing each year on 1 May;
- (b) Ongoing discussions between employees and managers,
- (c) A mid-cycle and end-of-cycle review;
- (d) A rating scale as set out in the table below:

	Rating	Performance standard
EE	Exceeds expectations	The employee has exceeded some or all of the required standards and accountabilities of his position; and The employee consistently behaves in

		accordance with IBA's behavioural framework. The employee may also have made a substantial contribution to IBA's outcomes.
ME	Meets expectations	The employee meets the standards and achieves the accountabilities of his position; and The employee consistently behaves in accordance with IBA's behavioural framework. A new, or newly promoted employee will meet expectations if he is progressing as expected towards meeting all of the accountabilities and standards of the position, including through any appropriate learning and development.
PD	Performance has declined	The employee's performance has declined since the last performance appraisal and the employee is no longer meeting the standards or achieving the accountabilities of his position; or The employee has behaved in a manner that does not accord with IBA's behavioural framework.
FM	Failure to meet expectations	The employee has persistently failed to meet the required standards and accountabilities of his position; or The employee has engaged in a serious breach of IBA's behavioural framework or has regularly behaved in a manner that does not accord with IBA's behavioural framework.

- (e) A separate category of *unable to be assessed* where the employee has not worked a sufficient period of time during the cycle to enable a properly informed assessment of his performance; and
- (f) Internal review mechanisms to deal with disputes over the content of performance agreements or where an employee disagrees with his assessment.

### 39. Managing underperformance

39.1 The procedures outlined in this Section do not apply to an employee during a probationary period or to a temporary employee who has not been employed by IBA for more than 12 months.

- 39.2 The following procedures will be applied where an employee is not performing at the standard expected of his level. This includes employees who are, or are likely to be, assessed under the performance management system as PD (performance has declined) or FM (persistent failure to meet expectations).
- 39.3 The steps to be taken in managing an employee's performance are:
- (a) informal efforts to improve the employee's performance including feedback on the areas of performance that require improvement and action on appropriate development activities;
  - (b) formal performance counselling and development of a performance improvement plan which specifies:
    - (i) areas of performance that require improvement;
    - (ii) the performance standards that must be attained;
    - (iii) appropriate development activities; and
    - (iv) the length of an assessment period in which the employee's work will be assessed in relation to the required performance standards;
  - (c) preparation of a report comparing the employee's performance with the required performance standards, including a recommendation on action to be taken.
- 39.4 The length of the assessment period to be included in the performance improvement plan will be by agreement between the employee and his supervisor, with a default period of eight weeks where they are unable to agree.
- 39.5 Where an employee is subject to an underperformance process, he is entitled to be accompanied to any meetings associated with the underperformance process by a support person who may assist the employee including by providing encouragement, support or advice. The assistance provided by the support person may include representation or advocacy on behalf of the employee.
- 39.6 Following the completion of an underperformance process and consideration of the report of the outcome of that process and any relevant recommendations, the Chief Executive Officer may:
- (a) take no further action as the employee has met the required standards; or
  - (b) require a further assessment period; or
  - (c) reduce the employee's classification level; or
  - (d) transfer the employee to another position at the same level; or
  - (e) terminate the employee's employment.

39.7 Where the Chief Executive Officer takes one or more of the actions set out in clause 39.6, or decides not to take any further action, and the employee's performance again falls below the required standards during the next 12 months, the default assessment period where the employee and supervisor are unable to agree on the period shall be four weeks.

39.8 Nothing in this Section limits the power of the Chief Executive Officer to transfer the employee to another position at the same classification level at any time, provided that the employee is given five (5) working days notice.

#### **40. Code of Conduct**

40.1 All employees must comply with the IBA Code of Conduct.

## **PART F                    HOURS OF WORK**

### **41. Ordinary Hours of Work**

- 41.1 The ordinary hours of work for a full time employee are 7 hours 30 minutes per day, Monday to Friday, or 37 hours 30 minutes per week.
- 41.2 The ordinary hours of work for a part time employee are as specified in his part time work agreement.

### **42. Christmas Closedown**

- 42.1 IBA will close its normal operations from close of business on the last working day before Christmas until the first working day after New Year's Day.
- 42.2 Employees will be provided with time off for the working days between Christmas and New Year's Day and will be paid in accordance their base salary in accordance with their ordinary hours of work.
- 42.3 There will be no deduction from Annual or Personal Leave credits for the closedown days.
- 42.4 An employee who is required to work on the working days between Christmas and New Year will be provided with equivalent time off in lieu within four weeks of the closedown.

### **43. Flextime**

- 43.1 Flextime is available to employees who are classified at the IBA Level 1 to IBA Level 5, unless:
  - (a) the Chief Executive Officer has determined that an employee will be subject to the regular hours provisions set out in this Agreement;
  - (b) the Chief Executive Officer determines that an employee is required to work fixed hours for operational or disciplinary reasons.
- 43.2 The following are standard terms and concepts used in the flextime system:
  - (a) *Bandwidth* is the span of hours within which ordinary hours can be worked. The bandwidth hours are 7.00 am to 7.00 pm, Monday to Friday.
  - (b) *Core hours* are the times during the day during which employees working under the flextime system must be at work unless on a form of approved leave;
    - (i) for full time employees, core hours are 9.30 am to 12.00 midday and 2.00 pm to 4.00 pm;
    - (ii) for part-time employees, core hours are as specified in their part-time work agreement.

- (c) *Flex credit* is a tally of hours an employee has worked under the flextime system that are in excess of his ordinary hours of work.
- (d) *Flex debit* is a tally of hours an employee has worked under the flextime system that are less than his ordinary hours of work.
- (e) *Flex leave* is an approved absence during core hours other than a form of paid leave specified in part G of this Agreement.
- (f) *Settlement period* is a four week period that provides the basis for reconciling an employee's actual working hours with his ordinary hours of work.
- (g) *Standard day* is the basis for calculating leave credits and debits and is the working day for employees who have been removed from the flextime system for operational or disciplinary reasons:
  - (i) for full time employees, the standard day is 8.30 am to 5.00 pm, Monday to Friday, with a one hour lunch break as determined by an employee's supervisor between the hours of 12.00 midday and 2.00 pm, but normally between 12.30 pm and 1.30 pm; and
  - (ii) for part-time employees, the standard day is as specified in each employee's part-time work agreement.

43.3 Where an employee is working under the flextime system, he may commence and finish work at any time within the hours of 7.00 am and 7:00 pm, subject to the following:

- (a) the employee must be at work during core hours unless on an approved form of leave, including flex leave;
- (b) the employee must have the written agreement of his supervisor to commence work before 8.00 am or finish work after 6.00 pm. This agreement may be for an individual day, or on a continuous basis;
- (c) an employee who intends to work in excess of 7 hours and 30 minutes on any day must ensure that there is sufficient available work to justify the additional time;
- (d) the employee's supervisor may require him or her to finish work after the completion of 7 hours and 30 minutes where the supervisor does not consider there is sufficient priority work available to justify working additional time;
- (e) an employee who intends to work between 7 am and 8 am or between 6 pm and 7 pm must ensure that there is sufficient available work that can be completed outside of ordinary office hours;
- (f) for operational reasons, the employee's supervisor may require the employee to:
  - (i) start work no later than a specific time within the standard day;
  - (ii) work up until at least the end of the standard day; and/or

- (iii) have a lunch break at a specific time within the period 12.00 midday to 2.00 pm;
  - (g) the employee should not work for more than 5 hours without taking a meal break of at least 30 minutes; and
  - (h) the employee should not work hours that will result in him exceeding the maximum flex debit at the end of the settlement period.
- 43.4 Notwithstanding anything else in clause 43, the Chief Executive Officer may determine that a quiet period is to apply to a specified group of employees. During the quiet period:
- (a) each employee in the specified group may not work more than 7 hours and 30 minutes on any day without the approval of the employee's supervisor, in which case, the employee may not work more than 37 hours and 30 minutes for that week; and
  - (b) where an employee has flex credits, the employee's supervisor may require the employee to take flex leave on a particular day or days to reduce the flex credits as long as this would not result in the employee having a flex debit.
- 43.5 An alternative bandwidth may apply to an individual employee or to a group of employees, subject to:
- (a) the Chief Executive Officer and the individual employee or a majority of the group of employees agreeing; and
  - (b) the alternative bandwidth not impacting on operational requirements.
- 43.6 An employee may take flex leave subject to the following:
- (a) reasonable notice being provided to the employee's supervisor, particularly where there are operational implications; and
  - (b) prior approval from the employees' supervisor is obtained.
- 43.7 The maximum flex leave that can be taken in a settlement period is 2 days, except where an employee is required to take flex leave in accordance with clause 43.4
- 43.8 Supervisors will consider the operational requirements of the office and the needs of employees when determining whether or not to approve flex leave.
- 43.9 The maximum flex credit is 15 hours for full time employees and a pro rata amount for part time employees.
- 43.10 Where an employee has more than the maximum flex credit at the end of the settlement period, his supervisor must allow the employee to take sufficient flex leave to reduce the credit to below the maximum by the end of the following settlement period. Where the employee and his supervisor are unable to agree on the timing of the flex leave to be taken in the settlement period, the supervisor may determine the timing of the leave.

- 43.11 Where an employee still has more than the maximum flex credit at the end of the following settlement period, his flex credits will be reduced to the maximum flex credit that applies to the employee, provided that the reduction in flex credits does not result in the employee being paid less than an amount equivalent to a basic periodic rate of pay.
- 43.12 The maximum flex debit is 10 hours for full time employees and a pro rata amount for part time employees. Any debit in excess of the maximum debit at the end of the settlement period will be cancelled using leave without pay.
- 43.13 Where an employee is found to have breached his obligations under the flextime system as described in this section, including exceeding the maximum flex debit at the end of the settlement period, the Chief Executive Officer may require the employee to work standard days for a specified period.

#### **44. Regular hours**

- 44.1 The Chief Executive Officer may determine that an employee, or employees in a workplace, classified at IBA Level 1 to IBA Level 5 will be subject to regular hours provisions as set out in this Clause in place of the flextime provisions.
- 44.2 The negotiation of a pattern of regular hours may be initiated by the Chief Executive Officer, the employee or his manager;
- 44.3 The pattern of regular hours may be temporary (for example, in response to a specific operational requirements) or ongoing;
- 44.4 IBA and the employee will if possible, agree upon the pattern of regular hours that will apply to the employee, or the employees in the workplace, provided that the hours are equal to the employee's ordinary hours for the settlement period;
- 44.5 The pattern of regular hours may include:
- (a) different hours on different days during the settlement period; and
  - (b) whole or part days off.
- 44.6 Where an employee and his supervisor are unable to reach agreement on the pattern of regular hours to apply to the employee, the employee's supervisor will vary the employees hours after giving five (5) working days notice in writing, provided that the hours are contained within the hours of 8 am and 6 pm.
- 44.7 An employee who has regular hours set may work different hours to those specified in his pattern of regular hours with the approval, or at the direction, of his supervisor. Where this involves more or less time than set out in his pattern of regular hours, the employee will accumulate a flex credit or debit.

44.8 Where an employee accumulates a flex credit or debit under clause 44.7, the provisions of clauses 43.6 and 43.12 will apply.

#### **45. Working hours for IBA Level 6 to IBA Level 7 employees**

45.1 The ordinary hours of work for a full time IBA level 6 or 7 employee are 7 hours 30 minutes per day, Monday to Friday, or 37 hours 30 minutes per week.

45.2 Employees classified at IBA Level 6 and Level 7 may be required to work reasonable additional hours in order to achieve the expected outcomes.

45.3 The employee's manager may approve absences during normal working hours in recognition of additional hours worked by the employee. Such approved absences will be paid as if the employee was working.

45.4 An employee who is dissatisfied with the decision or action taken in relation to the employee's hours of work may seek a review of that decision by a higher level manager.

#### **46. Failure to comply with flextime**

46.1 The Chief Executive Officer may direct an employee to work standard hours of work where the employee has failed to maintain a satisfactory pattern of attendance or has not been complying with the administrative or other requirements of the Flextime or time off in lieu (TOIL) systems as in place from time to time.

46.2 Failure to comply with Flextime or TOIL provisions may constitute a breach of the IBA Code of Conduct.

#### **47. Part time work**

47.1 A part time employee is one whose ordinary hours of work are less than 37 hours and 30 minutes per week.

47.2 Unless otherwise specified in this Agreement, remuneration and other conditions for part time employees, including leave, will be calculated on a pro rata basis.

47.3 Allowances of a reimbursement nature will be the same for part time and full time employees.

47.4 Where an employee is part time, he will have a part time work agreement prepared which will specify:

- (a) the ordinary hours of work;
- (b) the core hours and standard day that will apply to the employee;
- (c) the duration of the part time work; and
- (d) any specific arrangements that are needed to facilitate the part time work.

## **48. Employee initiated part time work**

- 48.1 The Chief Executive Officer will consider an employee request for part time work taking into account:
- (a) the reasons for the employee's request to convert to part time work;
  - (b) the impact the part time work will have on operational effectiveness; and
  - (c) any options that may reduce the operational impact of the employee's conversion to part time work.
- 48.2 The commencement or continuation of part time work will only occur where agreement is reached on the content of the part time work agreement.
- 48.3 The part time work agreement will usually specify the arrangements to apply on its completion. Where this is not the case, on completion of the part time work agreement, an employee may request a further period of part time work or a return to full time work. Such request will be considered by the Chief Executive Officer in accordance with clause 49.1.
- 48.4 The part time work agreement may be reviewed on the initiation of either the employee or his supervisor, provided the employee is given at least five (5) working days notice in writing of the proposed review.

## **49. Part time work on return from Maternity, Paternity or Adoption Leave**

- 49.1 An employee returning from maternity, adoption or parental leave may request part time work for a period of up to three years after the birth or adoption of the child. The Chief Executive Officer will not refuse to grant a request for part time work unless the approval would have a significant operational impact on IBA.
- 49.2 A request for part time work must be made in writing, no less than 2 weeks prior to the employee's expected return to work date.
- 49.3 The Chief Executive Officer and the employee will, if possible, agree on a part time work agreement.

## **50. Flexible working arrangements for parents**

- 50.1 A request for flexible working arrangements may be made by an employee to assist him or her to care for a child if the child is:
- (a) Under school age; or
  - (b) Under 18 and has a disability.
- 50.2 Flexible working arrangements include (but are not limited to) the following:
- (a) Changes in hours of work (part time working arrangements, reduction of work hours, changes to start or finish times);

- (b) Changes in patterns of work (job sharing arrangements);
  - (c) Changes in location of work (working from home or working from another location).
- 50.3 A request for flexible working arrangements must be made in writing and must set out the details of the changes sought and the reasons for the changes.
- 50.4 If reasonably possible, the Chief Executive Officer and the employee will enter into a mutually agreeable flexible working arrangement that balances the needs of IBA and the employee.
- 50.5 The Chief Executive Officer will give the employee a written response to the request within 21 days, stating whether he grants or refuses the request.
- 50.6 The Chief Executive Officer will only refuse a request for flexible working arrangements where there are reasonable business grounds for the refusal. If the Chief Executive Officer refuses the request, he will provide the employee with details of the reasons for his refusal.

## **51. Overtime**

- 51.1 Overtime is available to employees at classification levels below IBA Level 6.
- 51.2 The Chief Executive Officer may require an employee to work a reasonable amount of overtime.
- 51.3 Subject to clause 51.1, overtime occurs where the Chief Executive Officer requires an employee to:
- (a) work outside the standard day and that time is in excess of 7 hours and 30 minutes; or
  - (b) work outside the bandwidth;
  - (c) attend work on a day that the employee would not otherwise have been required to work; or
  - (d) attend work for a period that is not continuous with his normal duty or immediately following a meal break.
- 51.4 A part time employee's part time work agreement may specify additional circumstances in which overtime would be applicable.
- 51.5 Overtime is calculated at the following rates:
- (a) Monday to Saturday - time and a half for the first three hours and double time thereafter;
  - (b) Sunday – double time;
  - (c) public holidays during the standard day – time and a half in addition to payment for the day; and
  - (d) public holidays outside the standard day – double time and a half.

51.6 With the consent of the Chief Executive Officer, employees may elect to take time off in lieu of overtime payments. Time off in lieu must be taken within eight weeks of the overtime being worked;

51.7 Where the Chief Executive Officer is unable to identify a time within the following eight weeks for the employee to take time in lieu, the employee will be paid for the overtime.

## **52. Overtime Meal Allowance**

52.1 An employee is entitled to payment of a an overtime meal allowance at the rate at a rate determined by the Chief Executive Officer where he is at IBA Level 1 to 5 and is required to work overtime which spans a meal allowance period.

52.2 The meal allowance periods are:

- (a) 7.00 am to 9.00 am;
- (b) 12 noon to 2.00 pm;
- (c) 6.00 pm to 7.00 pm; and
- (d) midnight to 1.00 am

52.3 Overtime meal allowance is not payable if an employee is receiving a meals and incidentals allowance.

## **PART G LEAVE**

### **53. General provisions**

- 53.1 Employees will retain all leave credits that were held before the commencement of this Agreement.
- 53.2 All deductions of leave credits will be based on employees' ordinary hours of work and the standard day applying to each employee.

### **54. Portability of leave**

- 54.1 Where an employee is engaged as either a continuing or temporary employee immediately following a period of ongoing or non-ongoing employment in:
- (a) a statutory agency under the Public Service Act employing under their enabling Act,
  - (b) the Parliamentary Service,
  - (c) the ACT Government Service,
  - (d) any Commonwealth agencies under the *Financial Management and Accountability Act 1997* (the FMA Act), or
  - (e) bodies under the Commonwealth Authorities and Companies Act 1997 (the CAC Act),

the Chief Executive Officer may recognise the employee's unused accrued Annual leave or part thereof or, personal/carers leave (however described). If it is agreed that annual leave can be transferred this will be on the basis that funds are transferred by the previous employer.

- 54.2 Where an employee is engaged as either a continuing or temporary employee immediately following a period of ongoing or non-ongoing employment in:
- (a) a statutory agency under the Public Service Act employing under their enabling Act,
  - (b) the Parliamentary Service,
  - (c) the ACT Government Service,
  - (d) any Commonwealth agencies under the *Financial Management and Accountability Act 1997* (the FMA Act), or
  - (e) bodies under the Commonwealth Authorities and Companies Act 1997 (the CAC Act), and
  - (f) there has been a break in the employee's continuity of service of not more than two calendar months,

then, the Chief Executive Officer may recognise the employees unused personal/carer's leave (however described).

54.3 IBA will recognise an employee's prior service for long service leave purposes in accordance with the Long Service Leave (Commonwealth Employees) Act 1976 if there is no break in service of more than 12 months.

54.4 For the purposes of this clause:

- (a) 'APS employee' has the same meaning as the *Public Service Act 1999*;
- (b) 'Parliamentary Service' refers to employment under the Parliamentary Service Act 1999.
- (c) 'non-ongoing employee' includes employees employed for a specified term, duration of a specified task or duties that are irregular or intermittent.

## **55. Annual Leave**

55.1 Each employee will accrue 4 weeks of Annual Leave for each 12 months of service on a pro rata basis.

55.2 Employees are entitled to take Annual Leave with the agreement of the Chief Executive Officer, which will not be unreasonably withheld.

55.3 Employees will not accrue any Annual Leave during any unauthorised absences or period of unpaid leave that is not to count as service.

55.4 Where an employee is on leave for a compensable condition for more than 45 weeks, he will have Annual Leave credits calculated according to actual hours worked after completion of the 45 weeks.

55.5 Where an employee is unfit for work due to personal illness injury or caring and support to members of immediate family while on Annual Leave for at least one day and the illness or injury is supported by a medical certificate or other medical evidence acceptable to the Chief Executive Officer, the relevant period may be taken as Personal Leave and the corresponding period of Annual Leave re-credited to the employee.

## **56. Half pay Annual Leave**

56.1 An employee may elect to take up to 4 weeks of Annual Leave in any 12 month period at half pay. This option is only available where the employee is not also participating in the Purchased Leave system in that year. The full period of the leave will count as service for all purposes.

## **57. Recall from leave**

57.1 Where the Chief Executive Officer cancels approved Annual Leave for an employee without reasonable notice, he may approve the reimbursement of any reasonable expenses incurred by the employee and his immediate family that are not otherwise recoverable under any insurance or from any other source and which are a direct result of the cancellation of the leave.

## **58. Maximum Annual Leave Credits**

- 58.1 IBA encourages employees to use their Annual Leave on a regular basis each year.
- 58.2 Where an employee has more than 8 weeks of Annual Leave credits, the Chief Executive Officer may require the employee to take up to one third of the employee's total annual leave credits within the following six months.
- 58.3 Where an employee is required to take Annual Leave under this Clause, the Chief Executive Officer and the employee, will if reasonably possible, agree upon a mutually convenient time for the employee to take the Annual Leave.
- 58.4 Where the Chief Executive Officer and the employee cannot agree upon a mutually convenient time for the employee to take leave, the Chief Executive Officer may determine the timing of the leave provided that the employee is given at least six (6) weeks' notice of the commencement of the leave.

## **59. Cashing out of Annual Leave credits**

- 59.1 The Chief Executive Officer may agree to a request by an employee to 'cash out' a maximum of 2 weeks Annual Leave in any 12 month period, subject to the following conditions:
- (a) the request to cash out the Annual Leave is made by the employee in writing;
  - (b) the employee must:
    - (i) have already taken at least 2 weeks of Annual Leave during that 12 month period; or
    - (ii) take at least 2 weeks of Annual Leave in conjunction with the cashing out; and
    - (iii) have at least 4 weeks paid Annual Leave remaining after cashing out the leave.
  - (c) the employee must be paid at least the full amount that would have been payable had the Annual Leave been taken; and
  - (d) the Chief Executive Officer accepts that the employee does not need to take a longer period of leave for rest and recovery purposes.
- 59.2 Each cashing out of Annual Leave must be by separate agreement in writing between the Chief Executive Officer and the employee

## **60. Payment for Annual Leave Credits on Termination of Employment**

- 60.1 Employees will be paid for any unused Annual Leave credits on resignation or termination of employment.

## **61. Purchased Leave**

61.1 Continuing employees may apply to the Chief Executive Officer to purchase a period of up to 4 weeks annual leave each year. The application must be made before the end of February in each year.

61.2 When applying for Purchased Leave, an employee must advise when he will be taking the Purchased Leave and the reasons for requesting the additional leave.

61.3 Periods of Purchased Leave can only be purchased in full week blocks.

61.4 When considering an employee's application to purchase leave, the Chief Executive Officer will take into account:

- (a) the reasons for the employee requesting the additional leave;
- (b) the current leave balance of the employee;
- (c) the operational impact of the additional leave; and
- (d) the employee's personal circumstances.

61.5 Where the Chief Executive Officer approves the application to purchase leave, the employee will have an amount deducted from his fortnightly salary over a 52 week period according to the following formula:

$$\frac{\text{Gross fortnightly salary} \times \text{number of weeks of Purchased Leave}}{52}$$

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61.6 Purchased Leave will count as service for all purposes.

61.7 Approval to purchase leave does not affect the employee's salary for superannuation purposes.

61.8 An employee may cancel the purchased leave arrangements where exceptional circumstances exist. In this case, the employee will be refunded the salary deductions made less any Purchased Leave already taken.

61.9 Where the leave is not used within 12 months of the purchase of the leave commencing it will be repaid to the employee at the rate it was purchased.

## **62. Accrual of Personal Leave**

62.1 Continuing employees will receive 18 days of full pay Personal Leave credits on commencement with IBA and after each subsequent 12 months of service.

62.2 Temporary employees will receive 18 days of full pay Personal Leave for each year of service with IBA, which will accrue as follows:

- (a) during the first 12 months of employment, the leave will accrue progressively according to the employee's ordinary hours of work; and

- (b) for each subsequent year of employment, the full year's leave entitlement will be credited to the employee on the anniversary of their commencement date in advance of the next 12 months of service.
- 62.3 Personal Leave does not accrue, and will not be credited to an employee, in respect of any period of unauthorised absence from work by the employee.
- 62.4 Where an employee is on worker's compensation leave for more than 45 weeks he will have Personal Leave credits calculated according to actual hours worked after completion of the 45 weeks, unless this is inconsistent with legislation in any State or Territory;
- 62.5 Where an employee obtains workers' compensation benefits for a period during which he received paid Personal Leave, the employee shall repay the amount paid for that period and IBA will re-credit that Personal Leave to the employee.
- 62.6 An employee may not access Personal Leave credits while absent from work due to a compensable condition.
- 62.7 Unused Personal Leave credits will accumulate from year to year without limit.

### **63. Access to Personal Leave**

- 63.1 If an employee has Personal Leave credits available, the employee may take Personal Leave for the following purposes:
  - (a) where the employee is ill or injured and as a result is unable to work;
  - (b) to provide care or support for members of his immediate family or household who require care or support because of:
    - (i) an illness or injury of a family or household member, or
    - (ii) an unexpected emergency affecting a family or household member.
- 63.2 Where personal leave with pay credits have been exhausted and an employee is absent as a result of personal illness or injury, the Chief Executive Officer may approve personal leave without pay which will not count as service.
- 63.3 The Chief Executive Officer may approve anticipation of the following year's Personal Leave credits where an employee is ill or injured and does not have any available credits.
- 63.4 In deciding whether to allow anticipation of Personal Leave credits, the Chief Executive Officer will take into account:
  - (a) the employee's recent work performance; and
  - (b) the nature of the illness or injury.

- 63.5 Medical certificates or other medical evidence acceptable to the Chief Executive Officer must be provided by employees for absences due to personal injury or illness where:
- (a) an employee has already had 5 days of Personal Leave for personal illness or injury in the Personal Leave accrual year without providing a medical certificate; or
  - (b) the absence is for more than 3 consecutive days.
- 63.6 Notwithstanding clause 63.5, the Chief Executive Officer may waive the requirement to provide a medical certificate where he does not require any verification that the employee is unfit for work.
- 63.7 The Chief Executive Officer may require an employee to provide appropriate verification of the reasons for seeking Personal Leave where it is for a reason other than personal illness or injury as follows:
- (a) where the leave is because of an illness or injury of a family or household member, a medical certificate or other medical evidence acceptable to the Chief Executive Officer; or
  - (b) where the leave is because of an unexpected emergency affecting a family or household member, supporting evidence acceptable to the Chief Executive Officer.
- 63.8 Employees may not take Personal Leave while on paid Maternity Leave, Adoption Leave or Supporting Parent Leave.
- 63.9 The Chief Executive Officer may approve Personal Leave without use of any Personal Leave credits where an employee is unfit for work due to a condition determined to be a war caused condition under the Veterans' Entitlements Act 1986, subject to application of reasonable limits on the amount of leave that can be accessed under this clause as determined by the Chief Executive Officer.

## **64. Personal Leave - notification**

- 64.1 Employees must notify their supervisor of their absence on the first day of their absence, or as soon as is reasonable practicable.

## **65. Personal Leave – failure to comply with obligations**

- 65.1 Where an employee fails to comply with his obligations as specified in this Part, other than because of circumstances beyond the employee's control, the absence may be regarded as unauthorised and without pay.

## **66. Unpaid Carer's Leave**

- 66.1 Where an employee does not have any Personal Leave credits available, the employee is entitled to unpaid Carer's Leave to provide care or support for members of his family or household who require care or support because of:

- (a) an illness or injury of a family or household member, or
  - (b) an unexpected emergency affecting a family or household member.
- 66.2 An employee is entitled to two (2) days unpaid Carer's Leave per occasion.
- 66.3 Employees must notify their supervisor of their absence on the first day of their absence, or as soon as is reasonable. The Chief Executive Officer may require verification of the reason for taking unpaid Carer's Leave as follows:
- (a) where the leave is because of an illness or injury of a family or household member, a medical certificate or other supporting evidence acceptable to the Chief Executive Officer;
  - (b) where the leave is because of an unexpected emergency affecting a family or household member, supporting evidence acceptable to the Chief Executive Officer.
- 66.4 Where an employee does not comply with his obligations under this Section, other than because of circumstances beyond his control, the leave may not be approved and would be treated as an unauthorised absence.

## **67. Compassionate Leave**

- 67.1 Employees are entitled to paid Compassionate Leave of 3 days for each occasion when a member of an employee's immediate family or cultural kinship system:
- (a) contracts or develops a personal illness that poses a serious threat to his life; or
  - (b) sustains a personal injury that poses a serious threat to his life; or
  - (c) dies.
- 67.2 For the purposes of Compassionate Leave, an employee's immediate family comprises the employee's partner or former partner, and the parent, grandparent, child, grandchild and siblings of the employee and his partner, including where this is through a legal adoption.
- 67.3 To be eligible for Compassionate Leave under this Section, an employee may be required to provide verification of the illness, injury or death, or provide substantiation of the person's status as part of the employee's immediate family or cultural kinship system. The verification of the illness or injury may require certification from a medical practitioner that the illness or injury poses a serious threat to the person's life.

## **68. Annual Leave / Personal Leave Conversion**

- 68.1 The Chief Executive Officer may, upon receiving a written request from an employee, approve a conversion of that employee's Personal leave to Annual leave, where an employee satisfies the following eligibility criteria:

- (a) the employee has at least 5 years' continuous service with IBA since 1 July 2005;
  - (b) the employee has more than 12 weeks of Personal Leave credits; and
  - (c) the employee has less than 8 weeks of Annual Leave credits.
- 68.2 Where the Chief Executive Office approves a conversion of personal leave to annual leave, the employee will, on the next personal leave accrual date:
- (a) be credited with an additional week of Annual Leave credits; and
  - (b) have his Personal Leave accrual reduced to 13 days for that year.
- 68.3 Each conversion of Personal Leave to Annual Leave must be by a separate agreement in writing between the Chief Executive Officer and the employee.

## **69. Maternity and maternal leave**

- 69.1 Employees covered by this Agreement may be entitled to a maximum of 52 weeks Maternity Leave in accordance with the *Maternity Leave(Commonwealth Employees) Act 1973* (the Maternity Leave Act).
- 69.2 An employee who is entitled to paid leave under the Maternity Leave Act is also entitled to 4 weeks of paid maternal leave, to be taken in a continuous period immediately following the paid leave under the Maternity Leave Act.
- 69.3 Paid leave under the Maternity Leave Act and maternal leave are not extended by public holidays or the Christmas Closedown.
- 69.4 In order to provide more flexibility, an eligible employee may elect to spread the payment of paid maternity leave and maternal leave over a period of up to 32 weeks at a rate of half normal salary and allowances. However, any absence in excess of 16 weeks is considered to be maternity leave without pay not to count as service. This administrative arrangement does not extend the total period of paid maternity leave available under the Maternity Leave Act.
- 69.5 An employee may not access personal leave while on paid maternity and maternal leave.
- 69.6 Where an employee returns to work after a period of maternity or maternal leave (or adoption or parental leave), the employee will be assigned to the duties previously performed or to alternative duties where appropriate to the employee's skills and classification.
- 69.7 Subject to Clause 49, an employee returning to work from maternity, maternal or parental leave who is the primary caregiver of the child may elect to work on a part-time basis until the child has reached school age.

## **70. Purchased annual leave and half pay annual leave**

70.1 Employees eligible for leave under the Maternity Leave Act are not restricted by Clause 56 in relation to the taking of half pay annual leave in the same year as the employee takes purchased annual leave.

## **71. Pre-paid allowance**

71.1 An employee who is planning on having or adopting a child may elect to set aside an amount of gross salary each fortnight and have it paid to them at a nominated rate during a period of unpaid maternity or parental leave. The employee may request the repayment of this money at any time if they decide not to use it in connection with the birth or adoption of a child. The monies will be repaid three years after salary deductions begin if the employee has not commenced a period of maternity or parental leave by that time. The receipt of payments under this clause does not impact on the nature of the leave available to the individual or its effect on their entitlements.

## **72. Adoption leave**

72.1 An employee with more than 12 continuous months service with IBA is entitled to sixteen (16) weeks paid adoption leave for the purposes of adopting a child, where:

- (a) the employee provides the Chief Executive Officer with documentary evidence of the approval for adoption when applying for adoption leave; and
- (b) the adoptive child is under school age on the day of placement; and
- (c) the adoptive child did not previously live with the employee for a period of six months or more before the day of placement; and
- (d) the adoptive child is not a child or step-child of the employee or the employee's partner, unless that child had not been in the custody and care of the employee or the employee's partner for a significant period of time.

72.2 Adoption leave is available from one month prior to the date of placement of a child.

72.3 Adoption leave must be taken as a single, unbroken period.

72.4 An employee is unable to access personal leave while on paid adoption leave.

72.5 In order to provide more flexible provisions for adoption leave, employees have the option to spread the payment for adoption leave over a period of up to 32 weeks at a rate of half normal salary. The 16 weeks of adoption leave counts as service for all purposes. Any adoption leave in excess of 16 weeks does not count as service for any purpose.

72.6 Where an employee returns to work after a period of Adoption Leave, the employee will be assigned to the duties previously performed or to alternative duties appropriate to the employee's skills and classification.

72.7 An employee returning to duty from adoption leave will have the right to access part-time work in accordance with the part-time provisions in this Agreement.

### **73. Supporting partner leave**

73.1 An employee who has at least 12 months continuous service with IBA, and whose partner gives birth to or adopts a child, is entitled to two (2) weeks paid Supporting Parent Leave, immediately following the birth or adoption of the child.

73.2 An employee must provide documentary evidence of the birth or adoption of the child when applying for supporting partner leave.

73.3 Supporting partner leave counts as service for all purposes.

### **74. Unpaid Parental Leave**

74.1 An employee who has at least 12 months continuous service, and who has responsibility for their child, is entitled to up to 52 weeks unpaid parental leave.

74.2 Unpaid parental leave can commence at any time during the first 12 months following the birth or adoption a child.

74.3 The Chief Executive Officer may extend an employee's unpaid parental leave for up to a further 52 weeks in a continuous period, provided the employee requests the further period of unpaid leave in writing at least 4 weeks prior to the expiration of the initial period of unpaid parental leave.

74.4 The Chief Executive Officer may refuse a request for an extension of a period of unpaid Parental Leave on reasonable business grounds.

74.5 Unpaid parental leave does not count as service for any purpose.

74.6 An employee may take paid leave, such as Annual Leave or Personal Leave in conjunction with unpaid parental leave;

74.7 This provision does not apply to employees covered by the Maternity Leave Act to the extent that that Act is more beneficial.

74.8 This provision applies to an employee who has a parental role in relation to his grandchild or grandchildren.

### **75. Long Service Leave**

75.1 The entitlement to Long Service Leave is provided for under the Long Service Leave (*Commonwealth Employees*) Act 1976.

75.2 Periods of Long Service Leave cannot be broken by a period or periods of Annual Leave without approval or except as provided for under legislation

(e.g. during periods of unpaid maternity leave). Long service leave taken before and after the Christmas closedown will be considered one continuous period of leave.

- 75.3 Where an employee is unfit for work due to personal illness or injury while on Long Service Leave for at least one day and the illness or injury is supported by a medical certificate or other medical evidence acceptable to the Chief Executive Officer, the period of the illness may be taken as Personal Leave and the corresponding period of Long Service Leave re-credited to the employee.
- 75.4 The minimum period of Long Service Leave that will be approved is seven calendar days (at full or half pay).

## **76. Indigenous Community Volunteer Leave**

- 76.1 Indigenous Business Australia supports Aboriginal and Torres Strait Islander communities and organisations in their efforts to achieve self-management and self-sufficiency and in efforts to advance the commercial and economic interests of Aboriginals and Torres Strait Islanders.
- 76.2 The Chief Executive Officer may approve a request from an employee to take one (1) day of Indigenous Community Volunteer Leave in each year, to undertake voluntary activities for an Aboriginal or Torres Strait Islander organisation or for an organisation whose activities benefit the Aboriginal and Torres Strait Islander community or individual Aboriginal or Torres Strait Islander people or families.
- 76.3 Indigenous Community Volunteer Leave may be approved for any reason considered by the Chief Executive Officer to be appropriate and subject to operational requirements and any conditions which may be set by the Chief Executive Officer.

## **77. Other Leave**

- 77.1 In accordance with the National Employment Standards (NES), employees are entitled to be absent from work to engage in eligible community service activity.
- 77.2 Other forms of leave (Other Leave) with pay may be approved at the discretion of the Chief Executive Office, including (without limitation) in the following circumstances:
- (a) compulsory elements of the defence force reserves;
  - (b) participation in major international sporting events;
  - (c) participation in or attendance at NAIDOC week activities – maximum of one day per year; or
  - (d) in recognition of extraordinary circumstances such as involvement in state of emergency situations such as bushfires, floods, cyclones and earthquakes.

- 77.3 Other Leave without pay may be approved at the discretion of the Chief Executive Office, including (without limitation) in the following circumstances:
- (a) for cultural or religious reasons;
  - (b) for full-time study to complete an undergraduate or post graduate qualification; or
  - (c) to accompany a partner on a posting in the public interest.
- 77.4 In exercising a discretion under clause 77.2 or 77.3, the Chief Executive Officer may approve paid or unpaid Other Leave for any reason considered by the Chief Executive Officer to be appropriate and subject to operational requirements and any conditions which may be set by the Chief Executive Officer.
- 77.5 Other Leave without pay will not count as service for any purpose unless approved to count for service for specific purposes by the Chief Executive Officer.
- 77.6 Where an employee does not resume duty with IBA at the end of a period of Other Leave, whether paid or unpaid, the leave will not count as service for any purpose.

## **78. Public Holidays**

- 78.1 Employees will be entitled to the following 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 Queen's birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
  - (g) Christmas Day (25 December);
  - (h) Boxing Day (26 December);
  - (i) An additional day within the Christmas/New Year period according to the following table:

<b>Christmas Day Falls On</b>	<b>Additional Day</b>
Sunday	Wednesday 28 December
Monday	Wednesday 27 December
Tuesday	Thursday 27 December

Wednesday	Friday 27 December
Thursday	Monday 29 December
Friday	Tuesday 29 December
Saturday	Wednesday 29 December

- (j) Any other day, or part-day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part-day, or a kind of day or partday, that is excluded by the Fair Work regulations from counting as a public holiday.

78.2 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. The Chief Executive Officer and an employee may agree on the substitution of a day or part day that would otherwise be a public holiday.

78.3 An employee who is absent on a public holiday is entitled to be paid for the part or full day absence as if that day or part-day was not a public holiday, except where that person would not normally have worked on that day.

78.4 Where a public holiday falls during a period when an employee is absent on leave (other than annual or personal leave) there is no entitlement to receive payment as a public holiday. Payment for that day would be in accordance with the entitlement for that form of leave (e.g. if on long service leave on half pay, payment is on half pay) in accordance with the table below:

Rate of pay Employee receives the day before a public holiday	Rate of pay Employee receives the day after a public holiday	Rate of payment for public holiday/closedown
Full pay	Full pay	Full pay
Full pay	Half pay	Full pay
Full pay	Unpaid	Full pay
Half pay	Full pay	Full pay
Half pay	Half pay	Full pay where leave is annual leave half pay. Half pay where leave is long service leave or maternity/adoption leave half pay.
Half pay	Unpaid	Full pay where leave is annual leave half pay. Half pay where leave is

		long service leave or maternity/adoption leave half pay.
Unpaid	Full pay	Full pay
Unpaid	Half pay	Full pay where leave is annual leave half pay. Half pay where leave is long service leave or maternity/adoption leave half pay.
Unpaid	Unpaid	Unpaid

## **79. Unauthorised absences**

79.1 Where an employee is absent from duty without approval, in the absence of a reasonable explanation, it will be regarded as a breach of the Code of Conduct and action may be taken as a result of the breach. In addition, the absence will be without pay and will not count as service for any purpose. Other benefits provided under this Agreement, including the Flextime Scheme, will cease to be available to the employee until he resumes duty or is granted leave.

## **PART H TRAVEL**

### **80. Air Travel**

- 80.1 All domestic air travel will be by economy class.
- 80.2 All international air travel will be by business class where available.
- 80.3 Employees are required to book and travel using the best available fare.

### **81. Accommodation**

- 81.1 Where an employee is required to be absent from home overnight due to IBA requirements, the employee will have reasonable accommodation costs paid or, where payment by IBA is not practicable, reimbursed.
- 81.2 Where an employee elects not to stay in commercial accommodation, he will be paid an allowance of \$60 per night.
- 81.3 For the purposes of clause 81.2, commercial accommodation is any establishment which is able to supply a tax invoice in respect of accommodation.

### **82. Meals and incidentals**

- 82.1 This Section applies where an employee is required to be absent from home overnight due to IBA requirements and commercial accommodation is available in that locality. For these purposes, commercial accommodation is defined as an establishment that is able to issue a tax invoice.
- 82.2 Where clause 82 applies, the employee will be paid a meals and incidentals allowance as determined by the Chief Executive Officer.
- 82.3 Meals and Incidentals Allowance payable to an employee will be calculated from:
  - (a) 60 minutes before transport departs the employee's normal location to 30 minutes after transport arrives at the employee's normal location; and
  - (b) will be adjusted by removing the relevant meals components for any meal that was, or will be, provided or paid for by IBA.

### **83. Camping Allowance**

- 83.1 This Section applies where an employee is required to be absent from home overnight due to IBA requirements and commercial accommodation is not available in that locality. For these purposes, commercial accommodation is defined the same as for Section 81.
- 83.2 Where Clause 83.1 applies, meals and incidentals allowance will be paid at a rate determined by the Chief Executive Officer.

## **84. Travel Allowance**

84.1 Where the Chief Executive Officer considers that it is more appropriate and convenient for an employee to make his own accommodation arrangements, the Chief Executive Officer will pay a Travel Allowance at a rate determined by the Chief Executive Officer.

## **85. Overseas conditions**

85.1 Employees will be reimbursed reasonable costs for accommodation, meals and incidentals while on approved travel outside of Australia.

85.2 The Chief Executive Officer will determine reasonable costs for accommodation, meals and incidentals taking account of information from the country and the experience of other relevant agencies such as the Department of Immigration and Citizenship.

85.3 IBA may provide an employee with an advance to cover accommodation, meals and incidentals. In these instances, the employee is to prepare an acquittal and where necessary, reimburse IBA any excess advance payment.

## **PART I                    ALLOWANCES**

### **86. Motor Vehicle Allowance**

- 86.1 A Motor Vehicle Allowance is payable where an employee is required by the Chief Executive Officer to use his private vehicle for work related purposes.
- 86.2 The rate of motor vehicle allowance will be determined by the Chief Executive Officer from time to time;
- 86.3 The Chief Executive Officer may agree to an employee using his own private vehicle for work related travel in place of air travel. Where this is agreed, the employee will be paid a motor vehicle allowance up to a maximum of the cost of the cheapest available airfare to that location plus estimated ground transport costs.

### **87. First Aid Officer/Health and Safety Representative Allowance**

- 87.1 Where an employee possesses a current First Aid Certificate and is appointed by the Chief Executive Officer as a First Aid Officer for IBA, or is appointed a Health and Safety Representative he will receive an Allowance of \$25 per fortnight.

### **88. On Call Allowance**

- 88.1 Where the Chief Executive Officer requires an employee to be on call outside of his normal duty and to be available for work, the Chief Executive Officer may pay the employee an On Call Allowance as determined by the Chief Executive Officer.
- 88.2 Where an employee is at the IBA Level 1 to IBA Level 5, he may decline to be on call where he does not consider the On Call Allowance to be sufficient compensation.

## **PART J            REMOTE LOCALITY CONDITIONS**

### **89. Remote Locality Allowance**

89.1 Where an employee's permanent work location is:

- (a) Broome,
- (b) Mt Isa, or
- (c) any other locality determined to be remote by the Chief Executive Officer.

He will be paid a Remote Locality Allowance as determined by the Chief Executive Officer.

89.2 An employee who was being paid a Remote Locality Allowance by IBA immediately before being covered by this Agreement will continue to receive the Allowance at the same rate while permanently located in the designated Remote Locality, subject to any changes that may be due to a change in whether the employee has or does not have dependants as defined by clause 89.3.

89.3 For the purposes of this Section, a person is a dependant of the employee if he:

- (a) is the employee's partner, child or grandchild of the employee or his partner;
- (b) resides with the employee;
- (c) is financially dependant on the employee; and
- (d) earns less per annum than 60% of the salary payable to an IBA Level 1 employee at the bottom of the range under this Agreement.

### **90. Compassionate assistance**

90.1 Where an employee's permanent or temporary work location is Broome, Mt Isa or any other locality determined by IBA to be a remote locality, return airfares will be paid or reimbursed by IBA in the following instances:

- (a) where the employee, or a dependant of the employee, requires medical or dental treatment that is not available in his locality – where it is a dependant of the employee under the age of 18 who requires treatment and it is necessary for the dependant to be accompanied by an adult, the reimbursement entitlement will be in respect of the dependant and the employee or his partner who accompanies the dependant;
- (b) where a member of the employee's family, including extended family, is critically ill or injured and is located in another locality – one airfare each for the employee and his partner to that locality; or

- (c) where a member of the employee's family, including extended family, has died and is located in another locality in Australia – one airfare each for the employee and his partner to that locality.
- (d) For the purposes of clause 90.1(b), "critically ill or injured" means that there is a substantial risk that the person may not survive the illness or injury.

## **91. Staff Housing**

91.1 Where an employee's permanent work location is in a remote locality, IBA may elect to provide him or her with accommodation that is owned by the Commonwealth or IBA, subject to the employee paying a contribution of 10% of base salary towards the accommodation.

## **PART K RELOCATION ASSISTANCE**

### **92. Eligibility**

92.1 Employees are entitled to relocation assistance in the following circumstances:

- (a) an employee is transferred by IBA to another locality and the transfer was not initiated by the employee;
- (b) an employee is promoted by IBA to a higher level position in another locality; or
- (c) the Chief Executive Officer considers that it is appropriate in the circumstances.

92.2 Notwithstanding clause 92.1, where an employee ceases employment with IBA as a result of a breach of IBA's Code of Conduct, he is not entitled to any relocation assistance.

### **93. Assistance to move to a locality**

93.1 Where an employee is eligible for assistance to move to a locality, the Chief Executive Officer will determine the nature and extent of the assistance to be provided which may include:

- (a) a pre-relocation visit by the employee and his dependants in order to arrange accommodation and education;
- (b) temporary accommodation costs for a period while the employee finds permanent accommodation;
- (c) reimbursement of some or all costs that are directly the result of the employee's relocation.

### **94. Assistance to relocate on resignation or termination of employment**

94.1 The Chief Executive Officer will determine the nature and extent of any relocation assistance to be provided to an employee on resignation or termination of employment, subject to:

- (a) any agreement between the Chief Executive Officer and the employee, or any previous commitment made by the Chief Executive Officer to the employee; and
- (b) the termination of employment not being a result of a breach of the IBA Code of Conduct.

### **95. Assistance on temporary transfer**

95.1 Any period in which an employee is required to work temporarily in another locality for a period of less than 26 weeks is regarded as a temporary transfer.

- 95.2 The employee is entitled to normal meals and incidentals and agreed accommodation costs until midnight on the 21st day and then:
- (a) payment of reasonable short term accommodation costs for the time required to arrange long term accommodation to a maximum of 21 days;
  - (b) a meals and incidentals allowance up to the time the employee has secured long term accommodation, with a maximum of the first 21 days;
  - (c) reasonable travel costs for the employee and his dependants to move to and return from the locality on completion of the temporary transfer;
  - (d) reimbursement of any reasonable additional costs incurred by the employee that are a direct result of the temporary transfer, net of additional income that may be earned by the employee through rental and other income; and
  - (e) where the employee is not accompanied by all of his dependants, one return airfare to his normal locality once every six months.

## **PART L                    STUDIES ASSISTANCE**

### **96. Principles**

- 96.1 IBA encourages employees to undertake continuing education that will enhance their personal skills and contribute to overall performance.
- 96.2 The Chief Executive Officer may agree to provide an employee with studies assistance for external study initiated by the employee where the Chief Executive Officer considers that the study will provide benefits to IBA. Study assistance may include all or some of the following:
- (a) financial assistance;
  - (b) paid leave; and/or
  - (c) a return of service obligation.
- 96.3 Maximum amounts and the nature of any studies assistance provided to the employee will be as determined by the Chief Executive Officer.

## **PART M            REDUNDANCY**

### **97. General**

97.1 This Section only applies to an employee where he is a continuing non-probationary employee.

97.2 Subject to Clause 98, the Chief Executive Officer may terminate the employment of an employee as an excess employee where:

- (a) IBA no longer needs the person's job to be done by anyone because of changes in the operational requirements of the business, or
- (b) The employee is substantively at a level where there are a greater number of employees than is necessary for the efficient and economical working of IBA; or
- (c) The services of the employee can no longer be effectively used because of technological or other changes in the work methods of IBA; or
- (d) The employee's duties are to be performed at a different locality and the employee is not willing or able to transfer to the different locality; and
- (e) Despite reasonable efforts, IBA has been unable to redeploy the employee to another suitable position.

### **98. Consultation**

98.1 Where the Chief Executive Officer considers there is likely to be a need to identify one or more employees as excess, he will, as soon as practicable, advise the employees of the situation in writing, and offer to hold discussions with those employees, to consider:

- (a) actions that might be taken to reduce the likelihood of the employees becoming excess;
- (b) the proposed timeframe for IBA to make a decision concerning the affected employees' position/s; and
- (c) redeployment opportunities for the employees, within IBA or an associated entity.

98.2 An employee may choose to be represented in any such discussions.

98.3 This consultation period will extend for at least a 4 week period, but may be reduced with the written agreement of the employee.

### **99. Selection of employees as excess**

99.1 Where IBA needs to select one or more excess employee to be retrenched, the Chief Executive Officer will determine which employee or employees will be declared excess taking into account the cost to IBA and the relative merit of the employees.

## 100. Redeployment

100.1 Where the Chief Executive Officer decides an employee is excess to IBA's requirements, he will:

- (a) advise the employee in writing of the decision;
- (b) make reasonable efforts to redeploy the employee to another suitable position, including a suitable position at a lower classification, for a period of not less than 8 weeks ("**the redeployment period**"); and
- (c) ensure the employee is provided, as soon as practicable, with information on the entitlements they would be eligible to receive if terminated on grounds of being excess, including superannuation options and taxation treatment of entitlements.

100.2 The Chief Executive Officer may request an employee not to attend work during the redeployment period.

100.3 During the redeployment period, IBA will assist an employee who is excess to IBA's requirements by:

- (a) providing the employee with professional career counselling, resume and job seeking services through an IBA appointed accredited external provider, or through their preferred provider to a similar cost;
- (b) providing reasonable paid time off to attend employment interviews from the date that the employee has been declared excess;
- (c) reimbursing reasonable expenses for consultations with a qualified financial adviser of the employees choice up to a maximum of \$600, (or such other amount as the Chief Executive Officer considers reasonable given the fair market value of these services at the relevant time and location of the employee); and
- (d) providing access to a confidential, external counselling service (through the Employee Assistance Program) as provided for under Clause 105.

100.4 During the redeployment period the Chief Executive Officer may invite an excess employee to elect for retrenchment with a redundancy benefit and the employee will have 4 weeks in which to notify the Chief Executive Officer of his or her decision (the consideration period). Where the employee elects for retrenchment the Chief Executive Officer may decide to retrench the employee but will not give notice of termination before the end of the consideration period without the agreement of the employee.

100.5 If the Chief Executive Officer and the employee mutually agree to terminate the employee's employment at the beginning of, or within, the redeployment period, the employee will receive payment in lieu of the unexpired portion of the redeployment period.

## **101. Notice of termination**

- 101.1 Where an employee cannot be redeployed and the Chief Executive Officer terminates the employment of the employee on excess grounds, the Chief Executive Officer will give written notice of termination of 4 weeks (or 5 weeks for an employee over 45 with at least 5 years of continuous service) (“**the notice period**”).
- 101.2 Where an employee's employment is terminated at the beginning of, or within, the notice period, the employee will receive payment in lieu of the unexpired portion of the notice period.

## **102. Severance entitlements**

- 102.1 An employee whose employment is terminated by the Chief Executive Officer on the grounds that he /she is an excess employee is entitled to payment of a redundancy benefit of an amount 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, or the minimum redundancy benefit to which the employee is entitled under the National Employment Standards (NES), whichever is greater.
- 102.2 The minimum redundancy benefit payable under this clause will be an amount equivalent to 4 weeks' salary and the maximum redundancy benefit payable under this clause will be an amount equivalent to 48 weeks' salary.
- 102.3 For the purposes of clause 102.1:
- (a) the redundancy benefit will be calculated on a pro rata basis for any period where an employee has worked part-time hours during his period of service and the employee has less than 24 years full-time service;
  - (b) the following categories of service will be taken into account in calculating an employee's period of continuous service:
    - (i) service with IBA; and
    - (ii) Government service as defined in section 10 of the Long Service Leave Act 1976;
    - (iii) Service with the Australian Defence Forces;
    - (iv) Commonwealth service immediately preceding deemed resignation under the repealed section 49 of the *Public Service Act 1922*; or
    - (v) Service with another organisation where an employee was transferred from IBA to that organisation with a transfer of function, or an employee engaged by that organisation on work within a function is appointed as a result of the transfer of that function to IBA, and such service is recognised for long service leave purposes.

- (c) the period of continuous service of an employee:
  - (i) for a person employed prior to the Commencement Date, is determined by reference to section 12 of the *Long Service Leave (Commonwealth Employees) Act 1976*; and
  - (ii) for a person employed after the Commencement Date, is determined by reference to Division 11 of the *Fair Work Act 2009*.

102.4 Any period of prior service of an employee which ceased by way of redundancy, retirement on the ground of invalidity, inefficiency or loss of qualifications, forfeiture of office, dismissal, termination of probationary appointment or temporary engagement for reasons of unsatisfactory service, or voluntary retirement at or above minimum retirement age applicable to the employee or with the payment of an employer-financed retirement benefit will not count as service for redundancy pay purposes.

102.5 For the purposes of this Section, an employee's salary will be the higher of:

- (a) the employee's salary at his permanent classification level; or
- (b) the salary payable at a higher classification level where the employee has been temporarily performing work and has been paid at that higher classification level for a period of at least 12 months immediately preceding the date on which the Chief Executive Officer gave the employee notice of his termination,

and will include any other allowances in the nature of salary which are paid during periods of Annual Leave and on a regular basis, but excluding any allowances which are of a reimbursement nature.

### **103.Reduction in classification**

103.1 Following the redeployment period, the Chief Executive Officer may, with 4 weeks' notice, reduce an employee's classification level as an alternative to termination of employment as an excess employee.

103.2 Where the Chief Executive Officer reduces the classification level of an employee under clause 103.1 the employee will be entitled to income maintenance payments to maintain his salary at the previous classification level for a period that is equivalent to the number of weeks pay the employee would have received as a severance payment.

## **PART N            OTHER CONDITIONS**

### **104.Home based work**

104.1 The Chief Executive Officer may approve home based work arrangements for an employee where the employee's work is suitable for home based work and the home environment is safe and secure.

### **105.Employee Assistance Program**

105.1 IBA will make available to employees, an appropriate service to provide confidential, professional counselling to help resolve work related and personal problems. Each employee will be entitled to up to four free consultations for each 12 month period.

## **PART O            TERMINATION OF EMPLOYMENT**

### **106. Resignation**

- 106.1 Employees are required to give reasonable notice of termination of employment.
- 106.2 Reasonable notice for employees below IBA Level 6 is two weeks and for employees at or above IBA Level 6 is four weeks. These periods may be shortened or waived by the Chief Executive Officer.

### **107. Termination by IBA**

- 107.1 Nothing in this Agreement prevents the Chief Executive Officer from terminating the employment of an employee for serious misconduct, without further notice or payment in lieu, in accordance with the Fair Work Act.
- 107.2 No employee will, without the consent of the employee, be terminated on invalidity grounds before his available personal leave credits have been used.
- 107.3 Other than in cases of serious misconduct, the Chief Executive Officer will provide employees with the notice periods specified in the Fair Work Act on termination of employment. The Chief Executive Officer may pay an employee in lieu of the required notice period.

### **108. Termination payments**

- 108.1 Where an employee ceases employment with IBA, he will receive payment in lieu of unused Annual Leave credits. This payment will be based on the employee's final rate of salary including any allowances that would have continued to be payable during a period of Annual Leave.
- 108.2 With the consent of the employee, IBA may recover all or part of any debt or overpayment owed to IBA by an employee at termination of his employment out of monies otherwise payable to the employee and then pay the employee the balance remaining after recovery of the debt or overpayment.

### **109. Payment on death**

- 109.1 Where an employee dies, or is assumed by the Chief Executive Officer to have died, the Chief Executive Officer will authorise the payment of the amount to which the former employee would have been entitled had the employee resigned.
- 109.2 Payment of an amount authorised by the Chief Executive Officer under clause 108.1 shall be made to the executor of the former employee's estate, the administrator of the former employee's estate, the public trustee or such other person as the law requires in the jurisdiction pertaining to the former employee.

## **110. Right of Return for Election Candidates**

110.1 The Chief Executive Officer will allow an employee to return to work with IBA where:

- (a) he resigned as a continuing employee to contest an election;
- (b) the resignation took effect no earlier than 6 months before the closing date for nominations;
- (c) he was a candidate in the election but failed to be elected;
- (d) he makes application to the Chief Executive Officer within 2 months of the declaration of an undisputed election, or, for a disputed election within 2 months after the dispute has been determined or the dispute is withdrawn or lapses.

110.2 The period between the resignation of the employee to contest an election and the re-engagement of the employee is taken to be a period of service for the purposes of accrual of Personal Leave, Annual Leave and Long Service Leave.

## **111. Review of decisions to terminate employment**

111.1 The sole and exhaustive rights and remedies of employees in relation to termination of employment are those that the employee enjoys under:

- (a) the Fair Work Act
- (b) other Commonwealth laws (including the Constitution); and
- (c) at common law.

Termination of, or a decision to terminate employment, cannot be reviewed under the dispute avoidance and settlement procedures under this Agreement.

## APPENDIX 1 - BASE SALARY RATES

Classification Description	Pay point		Base salary prior to commencement of Agreement	Base salary from commencement of the Agreement 2%	Base salary from 1 July 2012 2%	Base salary from 1 July 2013 2.5%	Base salary from 1 July 2014 2.5%
IBA Level 1	Min	1	\$42,907	\$43,765	\$44,640	\$45,756	\$46,900
		2	\$45,855	\$46,772	\$47,708	\$48,900	\$50,123
		3	\$49,300	\$50,286	\$51,292	\$52,574	\$53,888
	Max	4	\$52,098	\$53,140	\$54,203	\$55,558	\$56,947
IBA Level 2	Min	1	\$53,484	\$54,554	\$55,645	\$57,036	\$58,462
		2	\$54,864	\$55,961	\$57,080	\$58,507	\$59,970
		3	\$56,241	\$57,366	\$58,513	\$59,976	\$61,476
	Max	4	\$57,750	\$58,905	\$60,083	\$61,585	\$63,125
IBA Level 3	Min	1	\$59,606	\$60,799	\$62,015	\$63,565	\$65,154
		2	\$61,499	\$62,729	\$63,984	\$65,583	\$67,223
		3	\$63,094	\$64,356	\$65,643	\$67,284	\$68,967
	Max	4	\$64,766	\$66,061	\$67,382	\$69,067	\$70,793
IBA Level 4	Min	1	\$66,541	\$67,872	\$69,230	\$70,960	\$72,734
		2	\$68,636	\$70,009	\$71,409	\$73,194	\$75,024
	Max	3	\$70,558	\$71,969	\$73,408	\$75,244	\$77,125
IBA Level 5	Min	1	\$74,445	\$75,934	\$77,453	\$79,389	\$81,374
		2	\$76,529	\$78,060	\$79,621	\$81,612	\$83,652
		3	\$79,384	\$80,972	\$82,591	\$84,656	\$86,772
	4	\$82,537	\$84,188	\$85,872	\$88,019	\$90,219	
IBA Level 6	Min	1	\$93,582	\$95,454	\$97,363	\$99,797	\$102,292
		2	\$96,476	\$98,406	\$100,374	\$102,883	\$105,455
		3	\$99,334	\$101,321	\$103,347	\$105,931	\$108,579
	Max	4	\$103,893	\$105,971	\$108,090	\$110,793	\$113,563
IBA Level 7	Min	1	\$113,047	\$115,308	\$117,614	\$120,555	\$123,569
		2	\$119,263	\$121,648	\$124,081	\$127,183	\$130,363
		3	\$123,716	\$126,190	\$128,714	\$131,932	\$135,230
		4	\$128,170	\$130,733	\$133,348	\$136,681	\$140,098
	Max	5	\$132,454	\$135,103	\$137,805	\$141,250	\$144,782

**Includes leave loading**

## APPENDIX 3 DEFINITIONS

Term	Definition
AIRC	Australian Industrial Relations Commission
ATSIC	the Aboriginal and Torres Strait Islander Commission
ATSIS	the Aboriginal and Torres Strait Islander Services
Agreement	Australian Workplace Agreement made under Part 8 of the Workplace Relations Act.
Award	Any award (as defined in sub-section 4 (1) of the Act) which relates to any employee covered by this Agreement and any variations thereto and any new award in full or part replacement thereof
Child	Includes the natural child, adopted child, foster child, step child or grandchild where the employee has primary caring responsibilities.
Employee	Means a person employed by IBA under the <i>Aboriginal and Torres Strait Islander Act 2005</i> .
Employer	Indigenous Business Australia
Family	a person who: <ul style="list-style-type: none"> <li>(a) is related by blood or marriage;</li> <li>(b) stands in a bona fide domestic or household relationship with the employee without discrimination as to sexual preference;</li> <li>(c) is a child or an adopted child of the employee;</li> <li>(d) is a child or an adopted child of the person who stands in a bona fide domestic or household relationship with the employee.</li> </ul>
Chief Executive Officer	The Chief Executive Officer of IBA or where that position no longer exists, another person or position nominated by the employer.
IBA	Indigenous Business Australia established under the <i>Aboriginal and Torres Strait Islander Act 2005 (Cth)</i>
Medical certificate	has the same meaning as in the Fair Work Act 2009.
Partner	the spouse of an employee or a person who lives in a bona fide domestic relationship with the employee or a

	person who formerly lived with the employee in a bona fide domestic relationship.
Remote locality	A locality determined to be a remote locality by the Chief Executive Officer
Working days	Days on which IBA employees are required to work other than public holidays
Workplace Delegate	An employee of IBA who holds an elected representative role under the rules of an employee organisation.

## APPENDIX 4

### Supported Wage System

#### General

111.2 This Appendix defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this Agreement. In the context of this Appendix, the following definitions will apply:

- (a) "*Supported Wage System*" means the Commonwealth Government System to promote employment for people who cannot work at full award wages because of a disability;
- (b) "*Accredited Assessor*" means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System;
- (c) "*Disability Support Pension*" means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme;
- (d) "*Assessment instrument*" means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

#### Eligibility criteria

111.3 Employees covered by this Appendix will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this Agreement, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a Disability Support Pension.

111.4 Clause 111.3 does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers' compensation legislation or any provision of this Agreement relating to the rehabilitation of employees who are injured in the course of their current employment.

111.5 The provisions of this Appendix do not apply to employers in respect of their facility, program, undertaking service or the like which receives funding under the Disability Services Act 1986 and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of, or are eligible for, a disability support pension, except with

respect to an organisation which has received recognition under s.10 or under s.12A of the Act, or if a part only has received recognition, that part.

### **Supported wage rates**

111.6 Employees to whom this clause applies shall be paid the applicable percentage of the minimum rate of pay prescribed by this Agreement for the class of work which the person is performing according to the following schedule, provided that the minimum amount payable shall be not less than than that determined by Fair Work Australia or its successor:

Assessed capacity	% of prescribed Agreement rate
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

111.7 Where a person's assessed capacity is 10%, he shall receive a high degree of assistance and support.

### **Assessment of capacity**

111.8 For the purpose of establishing the percentage of the Agreement rate to be paid to an employee under this Agreement, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument by either:

- (a) the IBA and, where he chooses, a representative of the employee in consultation with the employee; or
- (b) if requested by the IBA, the employee and an accredited Assessor from a panel determined by the IBA in consultation with the employee and, where he chooses, a representative of the employee.

### **Lodgement of assessment instrument**

111.9 All assessment instruments under the conditions of this Appendix, including the appropriate percentage of the Agreement wage to be paid to the employee, shall be lodged by the IBA with the Registrar of the Australian Industrial Relations Commission.

111.10 All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where the employee requests, the instrument shall be provided to a representative of the employee and will take effect unless an objection is notified to the Registrar within 10 working days.

### **Review of assessment**

The assessment of the applicable percentage should be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.

### **Other terms and conditions of employment**

Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the provisions of this Appendix will be entitled to the same terms and conditions of employment as all other workers covered by this Agreement paid on a pro rata basis.

### **Workplace adjustment**

Where IBA employs a person under the provisions of this Appendix it shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other employees in the area.

### **Trial period**

In order for an adequate assessment of the employee's capacity to be made, the IBA may employ a person under the provisions of this Appendix for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.

During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined.

The amount payable to the employee during the trial period shall be \$69 per week. The Chief Executive Officer may increase this minimum in accordance with variations in the Department of Family and Community Services income test free area for earnings.

Work trials should include induction or training as appropriate to the job being trialled.

Where IBA and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under clause 111.8.