

[2018] FWCA 7604

The attached document replaces the document previously issued with the above code on 14 December 2018.

The title of the Agreement in the preamble of the Decision has been amended to remove the words “Application for approval of the”

Associate to Commissioner Cribb

Dated 14 December 2018





## DECISION

*Fair Work Act 2009*  
s.185—Enterprise agreement

**Emergency Services Telecommunications Authority T/A ESTA 000**  
(AG2018/5083)

### **EMERGENCY SERVICES TELECOMMUNICATIONS AUTHORITY ADMINISTRATIVE AND SUPPORT STAFF ENTERPRISE AGREEMENT 2017**

Telecommunications services

COMMISSIONER CRIBB

MELBOURNE, 14 DECEMBER 2018

*Application for approval of the Emergency Services Telecommunications Authority  
Administrative and Support Staff Enterprise Agreement 2017.*

[1] An application has been made for approval of an enterprise agreement known as the *Emergency Services Telecommunications Authority Administrative and Support Staff Enterprise Agreement 2017* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Emergency Services Telecommunications Authority T/A ESTA 000. The agreement is a single-enterprise agreement.

[2] I am satisfied that each of the requirements of ss.186, 187 and 188 as are relevant to this application for approval have been met.

[3] The Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) of the Act I note that the Agreement covers the organisation.

[4] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 21 December 2018. The nominal expiry date of the Agreement is 30 June 2021.



**Emergency Services Telecommunications Authority  
Administrative and Support Staff  
Enterprise Agreement 2017**



**1. TITLE**

This Agreement shall be known as the Emergency Services Telecommunications Authority Administrative and Support Staff Enterprise Agreement 2017.

**2. ARRANGEMENT**

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### 3. PARTIES BOUND

3.1 This Agreement shall cover:

- the Emergency Services Telecommunications Authority (**ESTA**); and
- Employees of ESTA as defined in clause 5.

3.2 In accordance with section 183 of the *Fair Work Act 2009* (Cth) (**FW Act**), the Agreement will also cover a union that was a bargaining representative for the Agreement, provided that the Fair Work Commission (**FWC**) in its decision to approve this Agreement notes that the Agreement covers that union.

3.3 No Employee shall be worse off as a result of the application of this Agreement.

### 4. DATE AND PERIOD OF OPERATION

4.1 This Agreement shall come into operation seven days after it is approved by the FWC and will have a nominal expiry date of 30 June 2021.

4.2 The parties to this Agreement commit to commencing negotiations for an ensuing agreement at least six months prior to the nominal expiry date of this Agreement.

### 5. DEFINITIONS

**“Agreement”** means the Emergency Services Telecommunications Authority Administrative and Support Staff Enterprise Agreement 2017 and any Schedules attached to it.

**“Award”** means the *Victorian State Government Agencies Award 2015*.

**“Base Rate of Pay”** means the rate of pay payable to an Employee for their ordinary hours of work, but not including:

- loadings (including casual loading);
- monetary allowances;
- overtime or shift penalties; or
- any other separately identifiable amounts.

**“Centre”** means a communications facility from which ESTA operates emergency communications services.

**“Continuous Shift Worker”** means an Employee engaged on a continuous shift roster that operates 24 hours per day through seven (7) days per week and regularly includes work on Saturday and/or Sunday and Public Holidays.

**“Employee”** means a person employed by ESTA who is covered by a classification under Schedule A of this Agreement, and who is neither an Executive nor an employee employed under the *Emergency Services Telecommunications Authority Operational Employees Enterprise Agreement 2015* (as may be amended, replaced or terminated from time to time).

**“Employer”** means Emergency Services Telecommunications Authority.

**“Executive”** means a person employed by ESTA under an arrangement governed by the Government Sector Executive Remuneration Panel (**GSERP**).



**“Immediate Family”** means:

- a) a spouse (including a de facto spouse and same sex partner) of the Employee; and
- b) a child or an adult child (including an adopted child, a stepchild or an ex-nuptial child), parent (including step parent), full time guardian, grandparent, grandchild or sibling of the Employee, or of the Employee’s spouse.

**“On-call”** means where ESTA has directed an Employee to be available to perform work outside the Employee’s Ordinary Hours. On-call duty is not counted towards Ordinary Hours under this Agreement unless otherwise stated.

**“Ordinary Hours”** means the rostered hours usually worked by an employee, inclusive of all categories of leave but excluding Overtime.

**“Shift Worker”** means an Employee whose Ordinary Hours extend beyond 7:00pm on Monday to Friday and regularly includes work on Saturday and/or Sunday; Employees with variable rosters and Continuous Shift Workers.

**“Union”** means the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia.

## **6. EQUAL EMPLOYMENT OPPORTUNITY / HARASSMENT**

- 6.1 ESTA is committed to the principles of equal opportunity in employment and their actions in this regard will be governed by the spirit and the intent of the relevant Federal and State legislation. ESTA is also committed to increasing the skill and competency levels of all Employees and to providing equal opportunity for promotion and access to career path progression.
- 6.2 ESTA will not tolerate discriminatory behaviour, harassment or bullying and appropriate action will be taken if they are found to occur. Comprehensive policies and procedures are in place and will be maintained to address these issues and provide appropriate protection for Employees.

## **7. OCCUPATIONAL HEALTH AND SAFETY**

- 7.1 ESTA will train all Employees in safe working practices to ensure they understand their rights and responsibilities to protect their own health and safety and to avoid adversely affecting the health and safety of any other person through any act or omission at work.
- 7.2 ESTA will ensure that all Occupational Health and Safety (OH&S) Representatives are properly trained (and retrained as appropriate) to enable them to fully perform all their roles and responsibilities as an OH&S Representative under the *Occupational Health and Safety Act 2004* (Victoria), as amended or replaced from time to time. The trainer and the training course must be appropriately accredited and may be provided by an organisation covered by this Agreement or an organisation that they are affiliated to.
- 7.3 ESTA will appoint a person to assume the responsibilities of OH&S Officer for ESTA and implementation of ESTA’s OH&S Policies and Procedures.
- 7.4 Each ESTA Centre shall establish and maintain an OH&S Committee, with at least half of the members being Employees, (and, so far as practicable, health and safety representatives or deputy

health and safety representatives). The Committee shall meet at least quarterly and be responsible for periodical OH&S audits of the Centres and reports to management. After consultation with local management, an OH&S Representative may invite a relevant Union official to attend the meeting for the purpose of discussing specific safety issues that have not been resolved at the workplace.

## **8. LOCATION**

- 8.1 Each Employee will be based at a specific Centre(s) (i.e. their normal work location(s)). Employees may be required to travel or transfer between Centres to the extent needed to effectively carry out the responsibilities of their employment. Such a requirement will not be applied unreasonably, and will have regard to the Employee's personal circumstances. Any travel or transfer will be by mutual agreement as far as possible. No Employee will be required to transfer permanently to or from the Ballarat Centre without their agreement.
- 8.2 Additional travel expenses will be reimbursed to Employees requested to attend a location that is not their normal work location.
- 8.3 The amount paid for motor vehicle expenses will be based on the Australian Taxation Office (ATO) schedule and will be calculated on the additional distance the Employee is required to travel over and above their normal travel between home and work.
- 8.4 Accommodation and meal expenses will, subject to prior approval of the travel, be reimbursed as provided for in ESTA policy and within the limits of the ATO schedule.
- 8.5 Travel expenses will not be paid where an Employee has accepted a permanent transfer to another Centre, or where the Employee has voluntarily offered / requested to work temporarily at another Centre.

## **9. PROBATION**

- 9.1 All new permanent Employees of ESTA will be subject to a probationary period of 6 months. Confirmation of continuing employment beyond the end of the probationary period will be provided before the expiry of the probationary period and will be contingent upon satisfactory performance, satisfactory behaviour and meeting any necessary security clearance or other specified employment pre-requisites.
- 9.2 Employees will be monitored, mentored and assisted as necessary in relation to their performance and behaviour during the probationary period with the view to ensuring they successfully meet all the requirements for continued employment.
- 9.3 An Employee's employment may be terminated by ESTA or the Employee at any time during the probationary period on one weeks' notice or payment in lieu of notice (or a combination of both).

## **10. TYPES OF EMPLOYMENT**

- 10.1 ESTA acknowledges the positive impact that secure employment has on employees and the provision of quality services to the Victorian community. ESTA will give preference to direct and permanent engagement of Employees over labour hire, contractors, and Casual Employees, whenever reasonably practicable.

### **Full-time Employees**

10.2 A Full-time Employee is engaged for 38 hours per week, subject to a Flexible Work Arrangement in clause 12.

### **Part-time Employees**

10.3 A Part-time Employee is engaged for less than 38 hours per week.

10.4 ESTA and a Part-Time Employee will agree on a regular pattern of work, including:

- (a) the hours worked each day (including starting and finishing time);
- (b) the days of the week the Employee will work; and
- (c) a minimum daily engagement of four consecutive hours.

10.5 The regular pattern of work, as agreed under clause 10.4, will be provided to the Employee in writing at the time the Employee becomes a Part-Time Employee, and may be varied at any time by mutual agreement in writing.

10.6 Part-time Employees are paid at the ordinary hourly rate paid to a Full-time Employee for each hour worked.

10.7 Pay rates will be based on the relevant classification and skill-level for the duties performed.

### **Casual Employees**

10.8 A Casual Employee is engaged to work irregular and/or intermittent hours and is paid on an hourly basis.

10.9 A Casual Employee is paid at the ordinary hourly rate paid to a Full-time Employee, plus a loading of 25% for each hour worked.

10.10 Casual Employees are not entitled to paid leave entitlements.

10.11 Pay rates will be based on the relevant classification and skill-level for the duties performed.

## **11. HOURS OF WORK**

11.1 In order to be able to provide for ESTA's operational requirements, some Employees shall work on a roster as prepared by the responsible ESTA representative. This may involve day, afternoon, night and/or weekend work, unless otherwise specified in existing individual arrangements or agreed between the Employee and ESTA.

11.2 Where ESTA seeks to change an Employee's, or group of Employees', regular roster or Ordinary Hours, prior to making any such changes, ESTA will:

- (a) provide information to affected Employee/s and their representative about the change;
- (b) invite the Employee/s and their representative to give their views about the impact of the change; and
- (c) consider any views given by the Employee/s or their representative about the impact of the change with a view to reaching agreement in relation to the change, as far as practicable.

- 11.3 Changes to an Employee's regular roster or Ordinary Hours should not generally be made without at least four weeks' notice.
- 11.4 Where ESTA initiates a temporary change of shift for a Shift Worker (e.g. change to a night shift, weekend shift, public holiday shift or to a rostered day off), and that change takes place within five days from the date of notification of the change, ESTA will pay the Employee one hour overtime per day (time and one half) until the five day notice period has elapsed or provide time in lieu (on the basis of an hour for each hour that would have been paid as overtime).
- 11.5 The daily rostered hours for a Full-time Employee will generally be a minimum of 7.6 hours and a maximum of 12 hours.
- 11.6 Ordinary Hours for non-Shift Workers will be worked on Monday to Friday between 0700 and 1900 hours.
- 11.7 An unpaid meal break of at least 30 minutes, and no more than 60 minutes, must be taken after five hours of work.

## **12. FLEXIBLE WORKING ARRANGEMENTS**

- 12.1 Employees, other than Casual Employees, may request a Flexible Working Arrangement (FWA), which may include a request for:
- (a) work from home;
  - (b) compressed hours;
  - (c) a 19 day month; or
  - (d) 9 day fortnight.
- 12.2 A request made under clause 12.1 is subject to the following:
- (a) all requests for an FWA must be made in writing to the Employee's manager, setting out:
    - (i) the proposed arrangement;
    - (ii) why the Employee is seeking the FWA;
    - (iii) the effect the proposed FWA may have on the Employee's department and/or team and how any potential adverse effects could be addressed;
  - (b) such requests will be assessed in accordance with ESTA's flexible working arrangements guidelines;
  - (c) a written response will be provided within 21 days, stating whether or not the request is granted (which may be on a trial basis for an agreed period) or refused and, if refused, the reason for the refusal.
- 12.3 A request for an FWA may only be refused where there are reasonable business grounds, which includes but is not limited to ESTA's operational requirements.
- 12.4 If an Employee does not agree with ESTA's decision not to grant the Employee's FWA request, the dispute resolution procedure under this Agreement may be invoked. Where this occurs, no change to working arrangements will be implemented until the dispute procedure is finalised.
- 12.5 An FWA may be terminated in the following circumstances:
- (a) at any time by mutual agreement;
  - (b) immediately after a trial-period, if ESTA determines that, on reasonable business grounds, the FWA cannot continue;
  - (c) on four weeks' written notice by the Employee;

- (d) on four week's written notice by ESTA, which sets out the reasonable business grounds supporting the termination of the FWA; or
- (e) immediately upon the Employee's transfer to a different role/position or change of employment status.

### **13. DUTIES**

13.1 Employees will undertake those duties as outlined in individual job/position descriptions together with any other reasonable duties which may be assigned to them from time to time which are within the scope of their training and competence and which comply with any statutory obligations applicable to the position.

13.2 In addition, Employees shall:

- (a) exercise such powers, authority and discretion in relation to the business of ESTA as may from time to time be delegated to them;
- (b) in the discharge of their duties and the exercise of their powers, authority and discretion, conform to, observe and comply with the directions, restrictions and regulation of ESTA, made or given from time to time;
- (c) comply with all legal requirements, statutory or otherwise pertaining to their position and responsibilities;
- (d) at all times comply with all lawful orders and instructions given to them by ESTA or an authorised delegate of ESTA; and
- (e) faithfully serve ESTA and at all times use their best endeavours to promote the interest of ESTA.

### **14. HIGHER DUTIES**

14.1 Where an Employee temporarily performs the duties of a higher classified position for a continuous period of two weeks or more (or one week or more for positions where day to day operations are the usual prime responsibility of the higher position (including Assistant Centre Manager, Payroll Manager, Service Desk Manager), that Employee will be paid at a higher rate, up to the rate determined for that higher position. The payment and rate of payment will depend on:

- (a) the duties being performed and their value; and
- (b) the duration of the temporary performance.

### **15. PAYMENT OF WAGES**

15.1 Wages including all ordinary time earnings, allowances, shift penalties and Overtime shall be paid fortnightly into Employee nominated accounts not later than Tuesday following the end of the pay period (other than in circumstances outside the control of ESTA).

### **16. EXCLUSIVITY OF EMPLOYMENT**

16.1 For the duration of employment with ESTA, Employees, other than Casual Employees, will not undertake any other employment, office, or remunerative work, honorary or voluntary activity, which, could reasonably be considered to in any way impinge upon, detract from, interfere with or otherwise restrict their ability to effectively and efficiently carry out their ESTA duties and responsibilities.

- 16.2 Prior to commencing any activity referred to in sub-clause 16.116.1, an Employee must advise ESTA of their intention to do so and obtain ESTA's written agreement that the proposed activity does not offend sub-clause 16.1. Approval will not be unreasonably withheld.
- 16.3 Employees shall not, for the duration of their employment, set themselves up or engage in private business or undertake other employment in direct or indirect competition with ESTA, or in any other way engage in any business or employment, which may lead to a conflict of interest with ESTA.

## **17. CONFIDENTIAL INFORMATION**

- 17.1 Information other than that generally published and available in the public domain regarding ESTA's business, operations and systems, financial affairs and structures (**Confidential Information**) is of value to ESTA and is of a restricted and confidential nature. Employees will not use or disclose any Confidential Information to any other person, firm or corporation without the previous consent in writing of ESTA.
- 17.2 Any intellectual property invented or created by an Employee as a result of their employment with ESTA shall remain the property of ESTA unless otherwise agreed in writing between ESTA and the Employee.

## **18. EMPLOYEE DEVELOPMENT**

- 18.1 ESTA is committed to the maintenance of comprehensive Performance, Development and Review programme. A key component of that program is the identification of an Employee's development requirements in relation to their current position and any potential short or long term moves, the organisation of the identified development and the assessment of its effectiveness. Training may also be approved outside that formal process where special or unexpected needs arise.
- 18.2 ESTA's support for continuing education is available in accordance with ESTA's "Training, Education and Development" policy. This is subject to the course being approved by ESTA as relevant to the Employee's career development within ESTA.

## **19. PERFORMANCE AND DEVELOPMENT REVIEW**

- 19.1 The performance criteria agreed to by an Employee and ESTA shall be specified in the relevant Position Description and may be varied by agreement between the Employee and ESTA.
- 19.2 The performance of an Employee shall be subject to review by ESTA at least once every 12 months as part of the Performance, Development and Review process.
- 19.3 ESTA shall give the Employee at least 7 days' notice of the date when a performance review is to be conducted and the review shall be concluded within 2 months from that date.
- 19.4 Within one month of the conclusion of a performance review, or as soon as is practicable thereafter, ESTA shall prepare and send to the Employee a statement which sets out:
- (a) ESTA's conclusions about the Employee's performance during the period which is the subject of the performance review;
  - (b) any directions or recommendations made by ESTA to the Employee in relation to the Employee's future performance of the duties of the position; and

- (c) any proposal by ESTA to vary the performance criteria as a consequence of the performance review.

## 20. REMUNERATION

20.1 The annual salaries for Employees will be increased, as follows:

6 February 2018	5 January 2019	4 January 2020	2 January 2021
3.4%	3.2%	3.0%	3.0%

20.2 The annual salary ranges (excluding superannuation) for Employees employed under this Agreement will be as follows:

From 6 February 2018

	From	To
Band 7	\$151,701	\$179,388
Band 6	\$135,447	\$167,955
Band 5	\$119,193	\$151,701
Band 4	\$102,940	\$135,447
Band 3	\$86,686	\$119,193
Band 2	\$70,433	\$102,940
Band 1	\$54,179	\$86,686

From the pay period commencing on 5 January 2019

	From	To
Band 7	\$156,555	\$185,129
Band 6	\$139,782	\$173,329
Band 5	\$123,007	\$156,555
Band 4	\$106,234	\$139,782
Band 3	\$89,460	\$123,007
Band 2	\$72,687	\$106,234
Band 1	\$55,912	\$89,460

From the pay period commencing on 4 January 2020

	From	To
Band 7	\$161,252	\$190,682
Band 6	\$143,975	\$178,529
Band 5	\$126,698	\$161,252
Band 4	\$109,421	\$143,975
Band 3	\$92,144	\$126,698
Band 2	\$74,867	\$109,421
Band 1	\$57,590	\$92,144

From the pay period commencing on 2 January 2021

	From	To
Band 7	\$166,089	\$196,403
Band 6	\$148,294	\$183,885
Band 5	\$130,499	\$166,089

Band 4	\$112,704	\$148,294
Band 3	\$94,908	\$130,499
Band 2	\$77,113	\$112,704
Band 1	\$59,318	\$94,908

20.3 The payment of individual salaries is subject to the Employee at all times being ready, willing and able to perform and performing their duties, in accordance with the provisions of clause 13.

20.4 An Employee may enter into a salary sacrifice arrangement, subject to ESTA's policies and procedures, which may include:

- Motor Vehicle (Novated Lease);
- Employee Superannuation contributions.

A minimum of fifty percent (50%) of an employee's Remuneration Package must be taken as monetary remuneration except in exceptional circumstances as agreed by ESTA.

20.5 A one off sign on bonus up to a maximum of \$1,500 (exclusive of superannuation) is to be paid to Employees as follows:

- (a) for Full-time Employees who were employed by ESTA in the support office as at 1 July 2017 - \$1,500;
- (b) for Part-time Employees who were employed by ESTA in the support office as at 1 July 2017 – a pro rata payment based on their Ordinary Hours worked in the 3 months prior to 1 July 2017 as a proportion of Full-time hours;
- (c) for Full-time Employees who commenced in the support office after 1 July 2017 – a payment proportional to their completed continuous service in the support office since 1 July 2017 and the operative date of the Agreement; and
- (d) for Part-Time Employees who commenced in the support office after 1 July 2017 - a pro rata payment based on their Ordinary Hours worked in the support office in the 3 months prior to the operative date of the Agreement as a proportion of Full-Time hours and proportional to their completed continuous service.

## 21. SHIFT PENALTIES (SHIFT WORKERS)

21.1 A Shift Worker will be paid the following penalties in addition to their Base Rate of Pay:

SHIFT	LOADING
Monday to Friday (all ordinary hours outside 7:00am to 7:00pm)	25%
Saturday (all ordinary hours)	50%
Sunday (all ordinary hours)	100%
Public holidays (all ordinary hours)	150%

21.2 Clause 21.1 does not apply to Employees engaged as an Assistant Centre Manager (including by way of secondment).

## 22. OVERTIME

22.1 Overtime is payable for time worked (when approved by the Employee's Manager):

- (a) outside an Employee's daily rostered hours; or
- (b) for Full-time and Part-time Employees, in excess of 38 Ordinary Hours per week.
- (c) for Full-time and Part-Time Employees, other than Shift Workers, hours worked outside the range of Ordinary Hours prescribed in clause 11.6.



- 22.2 An Employee may be required to work a reasonable amount of overtime. An Employee may refuse to work overtime in circumstances where the working of such overtime would result in the Employee working unreasonable hours, having regard to:
- (a) any risk to Employee health and safety;
  - (b) the Employee's personal circumstances, including family responsibilities;
  - (c) the needs of the workplace;
  - (d) the notice (if any) of the Overtime given by ESTA and by the Employee of his/her intention to refuse it; and
  - (e) any other relevant matter.
- 22.3 Overtime worked on any day except a Sunday or Public Holiday or Alternative Public Holiday, is paid at the rate of time and a half of the Base Rate of Pay for the first two hours and double the Base Rate of Pay time thereafter, and shall be calculated on a daily basis.
- 22.4 Overtime worked on a Sunday will be paid at double the Base Rate of Pay.
- 22.5 Overtime worked on a Public Holiday or Alternative Public Holiday will be paid at triple the Base Rate of Pay.
- 22.6 An Employee recalled to work after leaving work shall be paid a minimum of four (4) hours at applicable Overtime rates. Provided that an Employee who requested to commence work early, shall be paid Overtime only for the hours worked prior to the normal commencement.
- 22.7 An Employee may be granted time off normal rostered duty in lieu of Overtime payment, subject to the following:
- (a) the accrued time in lieu must be approved, accrued and recorded in accordance with ESTA's policy and procedure;
  - (b) the time off granted will be no more than the actual time worked;
  - (c) an Employee may bank a maximum of 76 hours in total; and
  - (d) the time off must be taken at a time agreed between the Employee and the relevant manager, and must take into consideration operational requirements;
  - (e) the granting of the time off will not be unreasonably refused.
- 22.8 Upon termination of employment, an Employee will be paid out any time in lieu accrued under clause 22.7 at the Employee's Base Rate of Pay.
- 22.9 A non-Shift Worker who works Overtime will:
- (a) be required to have a break of 10 hours between the completion of the Overtime and the resumption of Ordinary Hours; or
  - (b) if the Overtime is completed after 3am, and they have attended the ESTA workplace, not be required to attend work the next day, or be required to make up hours.

### **23. MEAL ALLOWANCE**

- 23.1 A meal allowance is payable to an Employee required to work unplanned (i.e. without at least 24 hours' notice) Overtime for at least two (2) hours beyond the end of their normal or Overtime work, provided the total hours worked, inclusive of Overtime, is not less than ten (10).
- 23.2 The meal allowance payable for each instance will be as follows:
- (a) On commencement of the Agreement - \$22.25.
  - (b) From the pay period commencing on 5 January 2019 - \$22.96.
  - (c) From the pay period commencing on 4 January 2020 - \$23.65.

- (d) From the pay period commencing on 2 January 2021 - \$24.36.

**24. ON-CALL ALLOWANCE**

24.1 ESTA may require an Employee to be On-Call to perform work outside their Ordinary Hours of duty.

24.2 ESTA will establish, in consultation with the relevant Employee/s, an On-call roster.

24.3 An Employee may request to be excluded from an On-Call roster where their On-Call responsibilities may result in the Employee working hours which are unreasonable having regard to:

- (a) any risk to the Employee’s health and safety;
- (b) the Employee’s personal circumstances including family responsibilities;
- (c) the needs of the workplace; and
- (d) any other relevant matter.

Such a request will not be unreasonably refused.

24.4 An Employee On-Call:

- (a) must be able to be contacted immediately by an agreed means of communication;
- (b) must be able to travel to their usual place or places of work within a reasonable time; and
- (c) must be fit for duty.

24.5 An Employee that is required to be On-Call, will be paid the following allowance:

	On commencement of Agreement	From the pay period commencing on 5 January 2019	From the pay period commencing on 4 January 2020	From the pay period commencing on 2 January 2021
Per Night (Monday to Friday)	\$30.08	\$31.04	\$31.97	\$32.93
Per Day/Night (Weekends and Public Holidays)	\$60.75	\$62.69	\$64.57	\$66.51

24.6 The allowance under sub-clause 24.5 will constitute total compensation for any intermittent duty in connection with On-Call performed for up to a total of one hour’s duration (whether performed continuously or in separate periods during the On-Call period).

24.7 Work performed in excess of one hour (whether performed continuously or in separate periods during the On-Call period) where the Employee does not attend the ESTA workplace will be paid as overtime, however the minimum overtime payment prescribed in clause 22.6 will not apply.

24.8 Where the Employee is required to attend the ESTA workplace, the overtime provisions in clause 22 will apply for the period of attendance at the ESTA workplace.

**25. REST BREAKS**

- 25.1 Where, as a temporary arrangement in special circumstances, a non-Shift Worker is requested to and does perform work outside the hours specified in clause 11.6, which is not in excess of their Ordinary Hours (i.e. 38 hours per week), they will:
- (a) be required to have a break of 10 hours between the completion of Ordinary Hours preceding that work and the commencement of that work; and
  - (b) be required to have a break of 10 hours between the completion of that work and the resumption of Ordinary Hours; or
  - (c) if that work is completed after 3am, not be required to attend work the next day, or make up hours.
- 25.2 There will not be any deduction from an Employee's pay where an Employee works less than their weekly ordinary hours as a result of the application of the breaks specified in clause 25.1.
- 25.3 The overtime provisions of clause 21 will be applied where that work, together with any necessary rest break, is in excess of their ordinary hours (i.e. 38 hours per week).
- 25.4 Where ESTA initiates a change as specified in clause 25.1 and that change takes place within 5 days from the date of notification of the change, ESTA will pay the Employee one hour overtime per day (time and one half) until the five day notice period has elapsed, or provide time in lieu (on the basis of an hour for each hour that would have been paid as overtime).
- 25.5 Where a Shift Worker is required to work a shift that ends after 3am, the Employee will not be required to attend a shift scheduled to commence that same day, and will not suffer any loss of pay as a result and will not be required to make up hours.

## **26. ANNUAL LEAVE**

- 26.1 Annual leave shall accrue at the rate of 4 weeks per annum. For Continuous Shift Workers, annual leave shall accrue at the rate of 5 weeks per annum.
- 26.2 Annual leave shall be taken at a mutually agreed time, as far as practicable, subject to the following:
- (a) annual leave cannot be taken in the first three (3) months of employment, unless authorised by the relevant Manager;
  - (b) annual leave entitlements must be taken within 12 months of the full entitlement falling due, unless special circumstances exist and approval to defer is granted by the relevant Manager;
  - (c) the time at which annual leave is taken shall be fair and equitable to all Employees and shall take into consideration ESTA's operational requirements.
- 26.3 Any accrued but untaken annual leave will be paid out on termination of employment.
- 26.4 Annual leave is paid at the Employee's Base Rate of Pay.
- 26.5 ESTA and an Employee may agree to the Employee cashing out a particular amount of the Employee's paid annual leave, subject to the following:
- (a) each cashing out of a particular amount of accrued paid leave must be by a separate agreement between ESTA and the Employee, which must:
    - (i) be in writing and retained as an employee record;
    - (ii) state the amount of accrued annual leave to be cashed out (which must be a minimum of one week) and the payment to be made to the Employee;
    - (iii) state the date on which the payment is to be made; and
    - (iv) be signed by ESTA and the Employee.

- (b) The Employee must be paid at least the full amount that would have been payable to the Employee had the Employee taken the leave at the time that it is cashed out (including annual leave loading).
- (c) Paid annual leave must not be cashed out if the cashing out would result in the Employee's remaining accrued entitlement to paid annual leave being less than four weeks.
- (d) The Employee must have taken at least two weeks' annual leave in the 12-month period immediately prior to making a request to cash out annual leave, to ensure they have had a break from work.

26.6 Where an Employee has an excessive leave accrual, ESTA may give a written direction to the Employee to take a period or periods of paid annual leave, provided that the direction must not:

- (a) result in the Employee's remaining accrued entitlement to paid annual leave at any time being less than six weeks (taking into account all other paid annual leave that has been agreed);
- (b) require the Employee to take any period of leave of less than one week or greater than four weeks;
- (c) require the Employee to take any period of leave commencing less than eight weeks after the day the direction is given to the Employee;
- (d) require the Employee to take any period of leave commencing more than 12 months after the day the direction is given to the Employee; or
- (e) be inconsistent with any leave arrangement agreed between ESTA and the Employee.

26.7 For the purpose of sub-clause 26.6, an Employee is taken to have an excessive leave accrual if the Employee:

- (a) is not a Shift Worker and has accrued more than eight weeks' paid annual leave; or
- (b) is a Shift Worker and has accrued more than 10 weeks' paid annual leave.

## **27. ANNUAL LEAVE LOADING**

27.1 A 17.5% annual leave loading is payable in respect of all annual leave that accrues following the commencement of this Agreement.

27.2 The loading is payable proportionately with each period of leave taken.

27.3 Employees who cease their employment will receive a pro rata payment in lieu in accordance with their payment for annual leave not taken.

## **28. LONG SERVICE LEAVE**

28.1 An Employee is entitled to Long Service Leave on completing 7 years continuous employment with ESTA (and ECV and Intergraph BEST (Vic) Pty Ltd).

28.2 Where an Employee's employment is ended for any reason, and the Employee has completed at least 5 but less than 7 years continuous service with ESTA, ECV and Intergraph BEST (Vic) Pty Ltd, the Employee is entitled to payment of long service leave in respect of that service.

28.3 Long Service Leave shall accrue as follows:

- (a) for service prior to 1 October 2003, long service leave shall be in accordance with the *Long Service Leave Act 1992* (Vic) (as amended) (i.e. at the rate of 13 weeks leave on ordinary pay

on completing 15 years continuous employment with ESTA (and ECV and Intergraph BEST (Vic) Pty Ltd).

- (b) for service after 1 October 2003, long service leave will accrue at the rate of 13 weeks leave on ordinary pay on completing 10 years continuous employment with ESTA (and ECV and Intergraph BEST (Vic) Pty Ltd). Please refer to the table below outlining examples of the rate of the accrual post 1 October 2003 service.

<b>Length of Service</b>	<b>Amount of Long Service Leave</b>
5 years	6.5 weeks
6 years	7.8 weeks
7 years	9.1 weeks
8 years	10.4 weeks
9 years	11.7 weeks
10 years	13 weeks
15 years	19.5 weeks
20 years	26 weeks

- 28.4 For the purposes of this Agreement, ordinary pay means the pay that an employee is entitled to receive on the day on which the employee starts long service leave, calculated on the employee's normal weekly hours at the employee's ordinary time rate of pay.
- 28.5 If an ordinary time rate of pay is not fixed for an employee's work under this Agreement, the employee's ordinary time rate of pay is the greatest of the following—
- (a) the average weekly rate earned by the employee in the 52 weeks immediately before the employee starts long service leave;
  - (b) the average weekly rate earned by the employee in the 260 weeks immediately before the employee starts long service leave; or
  - (c) the average weekly rate earned by the employee during the employee's period of continuous employment with the employer immediately before the employee starts long service leave.
- 28.6 Continuity of service for the purpose of calculating Long Service Leave will not be broken by the employee taking
- (a) annual leave;
  - (b) long service leave;
  - (c) paid or unpaid parental leave (other than in the case of a casual or seasonal employee);
  - (d) in the case of a casual or seasonal employee, paid or unpaid parental leave that is not longer than 104 weeks;
  - (e) carer's leave;
  - (f) leave on account of illness or injury; or
  - (g) any other form of leave provided for by this Agreement or an Employee's employment agreement.
- 28.7 Casual Employees will be entitled to long service leave based on their period of continuous service provided they meet the conditions set out in section 12 of the *Long Service Leave Act 2018* (Vic).
- 28.8 Long service leave does not include any public holiday or annual leave occurring during the period when the long service leave is taken.
- 28.9 An Employee, by agreement with ESTA, may take double the period of leave at half the rate of pay. The agreement shall have regard to the needs of the Employee and ESTA's operational requirements.

28.10 For those Employees engaged by ESTA after the commencement of this Agreement, ESTA will recognise the Employee's service within the Victorian Public Service for long service leave purposes only, provided that:

- (a) there is a break of no more than 6 months between ceasing work within the Victorian Public Service and commencing employment with ESTA; and
- (b) the Employee will request funding to an amount equivalent to the accrued long service leave accrued to be transferred by the Employee's previous Victorian Public Service employer for accrued long service leave. If this does not occur, ESTA will recognise the prior service for the purposes of qualifying for long service leave, but will only recognise service from the commencement of their employment with ESTA for the purposes of calculating the Employee's long service leave entitlement.

## **29. PARENTAL LEAVE**

29.1 Employees are entitled to parental leave in accordance with the parental leave provisions of the National Employment Standards (NES) of the FW Act and this clause. For the avoidance of doubt, if there is any inconsistency between the NES and this clause to the detriment of an Employee, the NES will prevail.

29.2 Paid and unpaid parental leave encompasses birth related leave, concurrent parental leave, adoption (including permanent care) leave, subject to the following eligibility criteria:

- (a) Unpaid parental leave is available to all Full-time and Part-time Employees and eligible Casual Employees who have been employed for a 12 month period or more immediately preceding the expected birth date or placement of the child; and
- (b) Paid parental leave is available to all Full-time and Part-time Employees and eligible Casual Employees who have been employed for a 12 month period or more immediately preceding the commencement of the leave.

29.3 An eligible Casual Employee means a Casual Employee employed on a regular and systematic basis for several periods of employment or on a regular and systematic basis for an ongoing period of employment during a period of at least 12 months and who has, but for the pregnancy or decision to adopt, a reasonable expectation of ongoing employment.

29.4 Parental leave is unpaid (including Public Holidays), except as detailed in sub clauses 29.7 and 29.9 and is available for a period of up to 52 weeks for eligible Employees in one unbroken period. Personal leave is not available and no annual or personal leave entitlements accrue during the period of unpaid parental leave.

29.5 Employees may take annual leave, long service leave, or accrued time in lieu, concurrently with parental leave, (such leave does not extend the period of unpaid parental leave).

29.6 The maximum entitlement to unpaid parental leave is reduced by any parental leave taken by the Employee's spouse and may only be taken concurrently in accordance with the NES.

29.7 An Employee eligible for paid parental leave in accordance with clause 29.2, is entitled to paid leave associated with the birth or placement of a child (for whom the Employee will be the primary carer) of 14 weeks on full pay, or 28 weeks on half pay, at the discretion of the Employee.

29.8 Parental leave must start:

- (a) if the leave is birth-related leave, no later than the date of birth of the child (but may start up

to 6 weeks before the expected date of birth of the child or earlier, if ESTA and the Employee so agree); or

(b) if the leave is adoption-related leave, on the day of placement of the child.

29.9 An Employee eligible for paid parental leave in accordance with clause 29.2, whose spouse or partner is the primary carer for the child and is on birth related parental leave, will be paid concurrent parental leave for one (1) week at the Employee's Base Rate of Pay that applies at the time the Employee commences concurrent parental leave. This leave may be taken as provided for in the NES.

29.10 Payment of paid parental leave will be based on the Employee's Base Rate of Pay at the time the Employee commences parental leave.

29.11 An Employee returning from parental leave is entitled to the same position, and the same salary, held by them immediately before going on parental leave. If such a position is not available, they will be placed in a position as nearly comparable in status to that of their former position.

29.12 An Employee may request ESTA to:

(a) extend the period of unpaid parental leave by a further continuous period of leave not exceeding 12 months; and/or

(b) return from a period of parental leave on a part-time basis until the child reaches school age.

Subject to the exceptions provided for in the FW Act, ESTA must agree to the requested extension of the parental leave.

29.13 Other entitlements relating to parental leave will be in accordance with the FW Act including:

(a) unpaid special maternity leave;

(b) transfer to a safe job;

(c) paid no safe job leave;

(d) unpaid no safe job leave.

29.14 ESTA must make available details of parental leave entitlements under the NES on its intranet.

### **30. COMPASSIONATE LEAVE**

30.1 An employee (other than a Casual Employee) shall be entitled to a maximum of four days / shifts paid leave on each occasion a member of the Employee's Immediate Family or a member of the Employee's household:

(a) contracts or develops a personal injury that poses a serious threat to his or her life;

(b) sustains a personal injury that poses a serious threat to his or her life; or

(c) dies.

30.2 If requested by ESTA, the Employee must provide a medical certificate, statutory declaration or death notice as evidence that the leave is taken for the specified purpose.

30.3 The days / shifts may be taken as a consecutive period or four separate days/shifts and, on the occasion of a death, must coincide with the death and/or the funeral.

30.4 At the discretion of the Executive Director of People & Culture:

(a) compassionate leave may be granted for family members who do not fall within the definition of Immediate Family; and/or

(b) leave without pay may be granted in special circumstances.

30.5 Compassionate leave is paid at the Employee's Base Rate of Pay.

30.6 Casual Employees are only entitled to compassionate leave without pay.

### **31. PERSONAL/CARER'S LEAVE**

31.1 An Employee (other than a Casual Employee) is entitled to 125.4 hours personal/carer's leave per year (pro rata for Part-time Employees) on the following basis:

- (a) personal/carer's leave will accrue progressively based on the Employee's Ordinary Hours;
- (b) personal/carer's leave may be taken for part of a single day/shift;
- (c) unused personal/carer's leave shall be cumulative;
- (d) accrued but untaken personal/carer's leave is not paid out on termination of employment.

31.2 Personal/carer's leave is paid at the Employee's Base Rate of Pay.

31.3 If an Employee:

- (a) was employed prior to the commencement of this Agreement; and
- (b) has been credited with a full yearly entitlement of personal/carer's leave during the 12 months immediately prior to the commencement of this Agreement;

the Employee's personal/carer's leave balance will be adjusted to reflect their personal/carer's leave accrual based on Ordinary Hours actually worked.

31.4 An Employee who is covered by this Agreement by virtue of their secondment from ESTA's operations to support office for a period less than 6 months, will continue to accrue personal/carer's leave in accordance with the enterprise agreement that applies to the Employee's substantive role.

31.5 An Employee's entitlement to paid and unpaid personal/carer's leave is subject to:

31.5.1 notifying the Employee's Manager of the absence as soon as reasonably practicable; and

31.5.2 providing satisfactory evidence to support the taking of the leave, as follows:

- (i) within any 12 month period, no evidence is required in respect of 34.2 hours of personal/carer's leave (this is not cumulative);
- (ii) all other personal/carer's leave absences must be supported by a medical certificate from a duly qualified medical practitioner (i.e. Doctor of Medicine, Dentist, Podiatrist, Optometrist, Psychologist, Physiotherapist or Chiropractor) or a Statutory Declaration.

#### **Personal Leave**

31.6 An Employee may take paid personal leave because he or she is not fit for work because of a personal illness or personal injury affecting the Employee.

31.7 ESTA will provide a dedicated area where an Employee who is ill can rest in privacy and comfort in accordance with relevant Work Health and Safety legislation.

#### **Carer's Leave**

31.8 An Employee may take carer's leave to provide care or support to a member of the Employee's Immediate Family, or a member of the Employee's household who requires care or support because of:



- (a) a personal illness, or personal injury, affecting the member; or
- (b) an unexpected emergency affecting the member.

31.9 An Employee shall not take carer's leave under this clause where another person has taken leave to care for the same person.

31.10 Carer's leave may be taken for part of a single shift/day.

31.11 For Casual Employees, carer's leave is unpaid leave.

## **32. PERSONAL LEAVE DONATION**

32.1 An Employee may request to donate up to 48 hours of their accrued but untaken personal leave to a nominated ESTA employee who is suffering from a serious personal illness or injury, provided that the donating Employee retains a minimum balance of 96 hours personal leave (pro-rata for Part-time Employees), and subject to the following:

- (a) Employees may only donate personal leave to a particular nominated employee once every 12 months (the 12 month period starts from the commencement date of the Agreement);
- (b) a minimum of 7.6 hours personal leave must be donated;
- (c) Employees can donate personal leave to multiple employees in the 12 month period, up to a maximum of 48 hours (per donation);
- (d) Employees that have given notice of resignation or have been given notice of termination are not permitted to donate personal leave; and
- (e) the employee receiving the donated leave must have exhausted their own personal leave balance and consideration must also be given to whether the receiving employee has a balance of any other leave available (e.g. annual leave, long service leave, time in lieu).

32.2 Any request under clause 32.1 must be made in writing and is subject to written approval of the donating Employee's Manager (such approval will not be unreasonably withheld).

## **33. FAMILY VIOLENCE LEAVE**

33.1 General Principle

- (a) ESTA recognises that Employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. Therefore, ESTA is committed to providing support to Employees that experience Family Violence.
- (b) Leave for Family Violence purposes is available to Employees who are experiencing Family Violence to allow them to be absent from the workplace to attend counselling appointments, legal proceedings and other activities related to, and as a consequence of, Family Violence.

33.2 Definition of Family Violence

Family violence includes physical, sexual, financial, verbal or emotional abuse by a family member as defined by the *Family Violence Protection Act 2008* (Vic) (as may be amended from time to time).

33.3 Eligibility

- (a) Leave for Family Violence purposes is available to all Employees with the exception of Casual Employees.

- (b) Casual Employees are entitled to access leave without pay for Family Violence purposes.

### 33.4 General Measures

- (a) Evidence of Family Violence may be required and can be in the form of an agreed document issued by the Police Service, a Court, a registered health practitioner, a Family Violence Support Service, district nurse, maternal and health care nurse, Lawyer, or a statutory declaration.
- (b) All personal information concerning Family Violence will be kept confidential in line with ESTA's policies and relevant legislation. No information will be kept on an Employee's personnel file without their express written permission.
- (c) No adverse action will be taken against an Employee if their attendance or performance at work suffers as a result of experiencing Family Violence.
- (d) ESTA will commit to introducing contact/s within the workplace who will be trained in Family Violence and associated privacy issues. ESTA will advertise the name of any Family Violence contacts within the workplace.
- (e) An Employee experiencing Family Violence may raise the issue with their immediate supervisor, Family Violence contacts, union delegate or a People & Culture representative. The immediate supervisor may seek advice from People & Culture if the Employee chooses not to see the People & Culture or Family Violence contact.
- (f) Where requested by an Employee, the People & Culture contact will liaise with the Employee's manager on the Employee's behalf, and will make a recommendation on the most appropriate form of support to provide in accordance with clauses 33.5 and 33.6.
- (g) The Employer will develop guidelines to supplement this clause which details the appropriate action to be taken in the event that an Employee reports Family Violence.

### 33.5 Leave

- (a) An Employee experiencing Family Violence will have access to 20 days per year of paid special leave for medical appointments, legal proceedings and other activities related to Family Violence (this leave is not cumulative but if the leave is exhausted consideration will be given to providing additional leave). This leave will be in addition to existing leave entitlements and may be taken as consecutive or single days or as a fraction of a day and can be taken without prior approval.
- (b) An Employee who supports a person experiencing Family Violence may utilise their personal/carer's leave entitlement to accompany that person to court, to hospital, or to care for children. ESTA may require evidence consistent with clause 33.4(a) from an Employee seeking to use their personal/carer's leave entitlement under this sub-clause.

### 33.6 Individual Support

- 33.6.1 In order to provide support to an Employee experiencing Family Violence and to provide a safe work environment to all Employees, ESTA will approve any reasonable request from an Employee experiencing Family Violence for:
  - (i) temporary or ongoing changes to their span of hours or pattern of hours and/or shift patterns;
  - (ii) temporary or ongoing job redesign or changes to duties;
  - (iii) temporary or ongoing relocation to suitable employment;
  - (iv) a change to the Employee's telephone number or email address to avoid harassing contact;
  - (v) any other appropriate measure including those available under existing provisions for family friendly and flexible work arrangements.

- 33.6.2 Any changes to an Employee's role will be reviewed at agreed periods. When an Employee is no longer experiencing Family Violence, the terms and conditions of employment will revert back to the terms and conditions applicable to the Employee's substantive position (unless otherwise agreed).
- 33.6.3 An Employee experiencing Family Violence will be offered access to the Employee Assistance Program (EAP) and/or other available local Employee support resources. The EAP shall include professionals trained specifically in Family Violence.
- 33.6.4 An Employee that discloses that they are experiencing Family Violence will be given information regarding current support services.
- 33.6.5 An Employee providing support to an Immediate Family Member who is experiencing Family Violence, upon request, will be considered for a Flexible Working Arrangement.

#### **34. PUBLIC HOLIDAYS**

34.1 Public Holiday means any of the following:

- (a) 1 January (New Year's Day);
- (b) 26 January (Australia Day);
- (c) Labour Day;
- (d) Good Friday;
- (e) Easter Saturday;
- (f) Easter Monday;
- (g) 25 April (Anzac Day);
- (h) Queen's Birthday;
- (i) Melbourne Cup Day (or alternative day for country based employees);
- (j) 25 December (Christmas Day);
- (k) 26 December (Boxing Day);
- (l) any other day or part day declared or prescribed by or under a law of a Victoria to be observed generally within Victoria, or a region of Victoria, as public holiday, other than a day or part day that is excluded by the Fair Work Regulations from counting as a public holiday.

34.2 If, under a law of Victoria, a day or part day is substituted for a day or part day that would otherwise be a public holiday under clause 34.1, then the substitute day or part day is to be observed as the public holiday, subject to the following:

- (a) where Christmas Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on 27 December;
- (b) where Boxing Day is a Saturday or Sunday, an additional holiday shall be observed on 28 December;
- (c) where New Year's Day is a Saturday or Sunday, an additional holiday shall be observed on the next Monday;
- (d) where Australia Day is a Saturday or a Sunday, a holiday in lieu shall be observed on the next Monday.

34.3 A Full-time or Part-time Employee that would ordinarily work on the day on which a Public Holiday falls but is not required to work on that day, will be entitled to that day off work paid at the Base Rate of Pay for the number of ordinary hours the Employee would have worked but for the Public Holiday.

- 34.4 To determine whether an Employee would have ordinarily worked on the Public Holiday, reference will be made to the Employee's ordinary roster cycle, and not temporary changes (e.g. to cover personal or annual leave, or agreed shift swaps).
- 34.5 For pay and overtime payment purposes, individual Employees may, with the specific approval of their Manager, substitute another day of religious significance for Good Friday, Easter Saturday, Easter Monday and / or Christmas Day.
- 34.6 Where an Employee works Ordinary Hours on a Public Holiday, they will be entitled to triple the Base Rate of Pay.

### **35. SUPERANNUATION**

- 35.1 ESTA must make employer contributions to the superannuation fund designated by the Employee in accordance with the relevant Commonwealth Government superannuation legislation (provided the fund designated by the employee can receive funds by electronic funds transfer).
- 35.2 An Employee may elect to contribute to their superannuation fund by way of pre-tax salary sacrifice in accordance with and within the limits of superannuation and taxation legislation and regulations.

### **36. JOB SHARING**

There is agreement in principle to the concept of job sharing, provided it is by mutual agreement and arrangement on a case by case basis under conditions agreed with the Head of the People and Culture Department. Provided further, that any such agreed arrangement is cost neutral as far as practicable to ESTA for the shared position.

### **37. ACCIDENT PAY**

- 37.1 Where an Employee is injured and compensation is paid under Victorian worker's compensation legislation, ESTA shall pay the Employee accident makeup pay, which is the difference between the Employee's actual compensation payment and the Employee's ordinary rate of pay (which excludes overtime, penalties, loadings and allowances) at the date of injury.
- 37.2 The maximum period of payment of accident makeup pay is fifty-two (52) weeks. If the Employee has more than one period of incapacity arising from the same injury, the maximum aggregate payment for those periods is 52 weeks.

### **38. INDUSTRIAL TRAINING LEAVE**

- 38.1 An Employee Representative nominated in accordance with clause 48 must be granted up to a maximum of five (5) days in any one calendar year to attend an industrial/workplace relations training course.
- 38.2 Further periods of leave may only be granted by the Executive Director, People & Culture.
- 38.3 Leave granted pursuant to this clause, including any related additional leave, will be subject to the workplace requirements, but will not be unreasonably refused.
- 38.4 If the full quantum of training leave prescribed in sub clause 38.1 is not utilised in the calendar year

as specified, it may be utilised in part or in total in the following year.

### **39. UNIFORM**

- 39.1 Employees who primarily perform duties on the operations floor and/or reception are required, whilst on duty, to dress in the ESTA uniform, where provided.
- 39.2 All Employees must display on their person their photo identification as provided by ESTA.

### **40. DRUGS AND ALCOHOL**

- 40.1 It is a condition of employment that Employees shall not be on ESTA premises or be involved in any operation of the business while in any way influenced by illicit drugs or any other substances which may impair their performance.
- 40.2 If working in a Centre or working on activities which involve interfacing with members of the public or Emergency Services Organisations or working on activities directly impacting on the current provision of emergency communications services, an Employee must not have a blood alcohol level exceeding zero.

### **41. ESTA POLICIES, PROCEDURES AND PROTOCOLS**

- 41.1 ESTA shall ensure that all relevant policies, procedures and protocols are communicated in writing to Employees and will be available on the intranet.
- 41.2 Employees shall familiarise themselves with and abide by ESTA policies and procedures. However, such policies and procedures (including those expressly referred to in this Agreement), do not form a term of this Agreement.

### **42. CONSULTATIVE COMMITTEE**

- 42.1 A Consultative Committee of the Union and ESTA's representatives will meet as a formal means of consulting regarding significant matters which impact, or may impact on Employees.
- 42.2 The Consultative Committee shall consist of:
  - (a) three representatives of management;
  - (b) three Employee Union representatives; and
  - (c) one Union official.
- 42.3 The Consultative Committee shall meet at least twice per year.
- 42.4 An Employee participating in consultation as a Union representative will be released from work to attend.

### **43. WORKPLACE REFORM**

- 43.1 Where ESTA intends to carry out a substantial change in its operations, including:
  - (a) a material change to the manner in which work is organised and/or where work is performed; and/or

- (b) the introduction of new or upgraded equipment; and/or
- (c) the need for new skills and/or responsibilities and/or retraining or redeployment; and/or
- (d) substantial variations to shift rosters, total working hours, total number of working days, reduction in the number of employees;

the Employees affected and their Union or other representative will be advised in writing as soon as practicable.

- 43.2 Thereafter, appropriate consultation (including on termination and change), will occur between the parties. ESTA must give genuine consideration to all matters raised by Employees and/or their representatives/Union and give due consideration to any alternative proposals before making any decisions regarding the changes.
- 43.3 ESTA will respond to any alternative proposals in writing providing reasons for their rejection or acceptance of the proposal or part thereof.
- 43.4 Where, after consultation, the proposed change/s is/are to be implemented, ESTA will provide all the training and assistance necessary to assist the Employee/s to meet their performance objectives in the changed environment.

#### **44. SETTLEMENT OF DISPUTES**

- 44.1 Any dispute or grievance:
  - (a) about matter/s pertaining to the Employer/Employee relationship; and/or
  - (b) a matter arising under this Agreement; and/or
  - (c) about the NES;

except termination of employment, shall be dealt with in the following manner:

##### **Step 1**

The dispute or grievance must first be discussed by the affected Employee(s) with his or her Manager.

##### **Step 2**

If not settled at Step 1, the Employee(s) may then request a representative, who may be a Union representative, to be present and the dispute or grievance shall be discussed with the relevant Department Head.

##### **Step 3**

If the dispute or grievance still remains unresolved after Step 2, it shall be referred to the Head of the People and Culture, or such appropriate ESTA representative as shall be appointed by the Head of the People and Culture.

- 44.2 If after following steps in sub-clause 44.1, the dispute remains unresolved, it may be referred to the FWC for conciliation, and where necessary, arbitration to determine the matter. The decision of the FWC must be accepted by the parties subject to any appeal available.
- 44.3 Employee(s) shall be entitled to have a representative, who may be a Union representative, present at any or all steps in this procedure.
- 44.4 The steps in sub-clause 44.1, as far as reasonably practicable, will take place within 14 calendar days.

- 44.5 During the disputes resolution process, both ESTA and the Employee(s) who raised the dispute or grievance shall co-operate to ensure that these procedures are carried out expeditiously.
- 44.6 Until the dispute or grievance is determined, work shall continue normally in accordance with the existing work practices before the dispute or grievance arose.
- 44.7 No party shall be prejudiced as to the final settlement by the continuance of work in accordance with this procedure.
- 44.8 Resolution of occupational health and safety issues under this clause are subject to the relevant state occupational health and safety legislation and are not subject to sub-clause 44.6.

#### **45. TERMINATION**

- 45.1 Subject to clause 9.3, an Employee's employment may be terminated by either ESTA or an Employee on the giving of four (4) weeks' written notice, or, at ESTA's discretion, payment in lieu of notice for all or part of the notice period.
- 45.2 Where ESTA provides notice of termination, the period of notice is increased by one week if the Employee is over 45 years of age and has completed more than five years' continuous service.
- 45.3 At the date of termination of employment, the Employee must return to ESTA:
- (a) all Confidential Information;
  - (b) those parts of all notes and other records based on or incorporating Confidential Information;
  - (c) all ESTA's property in the Employee's possession or control, including uniform items and equipment.
- 45.4 There is no requirement for ESTA to provide notice of termination of employment if:
- (a) the Employee is a Casual Employee;
  - (b) the Employee is employed on a temporary contract, fixed term or fixed task basis; or
  - (c) the employment is terminated on the grounds of serious misconduct (as defined in the *Fair Work Regulations 2009* (Cth)).

#### **46. TRANSMISSION OF BUSINESS**

- 46.1 If, during or after this Agreement, the business (including a part of the business) is transmitted from the employer ("transmitter") to another employer ("transmittee"), (whether such transmission is immediate or not) and an employee, who at the time of such transmission is an employee of the transmitter in that business, becomes an employee of the transmittee:
- (a) the continuity of service of the employment of the employee will be deemed not to have been broken by reason of such transmission (for all purposes, including redundancy); and
  - (b) the period of employment that the employee has had with the transmitter, or any prior transmitter, will be deemed to be service of the employee with the transmittee (for all purposes, including the calculation of redundancy payments).

#### **47. RIGHT OF ENTRY**

- 47.1 For the purposes of ensuring compliance with this Agreement and the FW Act, an official of a Union who has been issued with an entry permit by the FWC pursuant to section 512 of the FW Act will be permitted access to the workplace provided he/she complies with the provisions set out in Part

3-4 of the FW Act.

47.2 A permit holder may only enter the workplace for the purposes permitted by and in compliance with the provisions of Part 3-4 of the FW Act.

47.3 Subject to clauses 47.1 and 47.2 a permit holder may enter the premises and shall adhere to the principles that he/she must not intentionally hinder or obstruct any person, or otherwise act in an improper manner.

#### **48. EMPLOYEE REPRESENTATIVE**

48.1 Employees may, by majority vote, appoint an Employee as an Employee Representative. ESTA must be notified of any appointed Employee Representative.

48.2 The relevant Union may, in accordance with their Rules, appoint an Employee as an Employee Representative. ESTA must be notified in writing of any appointed Employee Representative.

48.3 Subject to clause 48.4 an Employee Representative appointed in accordance with this clause will be granted the necessary access to the workplace and paid time during working hours to exercise their functions as customarily observed in the organization, including advice, assistance, support, representation to Employees on local, industrial and employment issues, including disputes and grievances.

48.4 An Employee Representative can only exercise their functions under clause 48.3 if they have:

- (a) received prior approval of their Manager; and
- (b) notified their Manager of any expected absences from their usual workplace.

48.5 An Employee Representative can only exercise their functions under clause 48.3 at another section or place of work if they have notified the Manager of that section or place of work of the:

- (a) general purpose of such visit; and
- (b) estimated duration of their visit.

48.6 The approval referred to in clause 48.4(a) will not be unreasonably withheld.

48.7 The Employee Representative must also inform the /Manager of their departure upon concluding their visit.

#### **49. DISCIPLINE**

49.1 A dispute about a disciplinary matter will be dealt with under clause 44 "Settlement of Disputes".

49.2 Formal warnings which are more than 12 months old will not be relied on in future disciplinary actions other than in relation to repeated behaviours.

#### **50. FLEXIBILITY**

50.1 ESTA and an Employee may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:

- 50.1.1 the agreement deals with one or more of the following matters:
  - (i) arrangements about when work is performed;
  - (ii) overtime rates;



- (iii) penalty rates;
  - (iv) allowances;
  - (v) leave loading; and
- 49.1.2 the arrangement meets the genuine needs of ESTA and the Employee in relation to one or more of the matters referred to in paragraph (a); and
- 49.1.3 the arrangement is genuinely agreed to by ESTA and the Employee.
- 49.2 The terms of an individual flexibility arrangement must:
  - (a) be about permitted matters under section 172 of the FW Act; and
  - (b) not be unlawful under section 194 of the FW Act; and
  - (c) result in the Employee being better off overall than the Employee would be if no arrangement was made.
- 49.3 Any individual flexibility arrangement that is entered into must:
  - (a) be in writing; and
  - (b) include the name of the Employer and the Employee;
  - (c) be signed by both parties, as well as a parent or guardian if the Employee is under 18 years of age;
  - (d) include details of:
    - (i) the terms of the Agreement that will be varied by the arrangement;
    - (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 the Employee's employment as a result of the arrangement; and
  - (e) state the date on which the arrangement commences.
- 49.4 The Employee will be provided with a copy of the flexibility arrangement within 14 days after it is agreed to.
- 49.5 Either party may terminate an individual flexibility arrangement:
  - (a) by giving no more than 28 days' written notice to the other party to the agreement; or
  - (b) at any time in writing, if both parties agree.

## **51. NO EXTRA CLAIMS**

The Employees, the Employer and a Union covered by this Agreement agree that they will not, for the period from the date of commencement of this Agreement until its nominal expiry date, make claims for the making of an enterprise agreement under the FW Act, whether in relation to matters dealt with in this Agreement or otherwise.

## SCHEDULE A - CLASSIFICATIONS

All Position Descriptions will be assessed against the MERCER methodology within 12 months of the commencement of the Agreement, and may be reviewed upon request. The assessment assigns a banding between 1-7 as per schedule A.

All Position Descriptions will be made available on the intranet and may be updated accordingly.

<b>Band 1</b>
<p><b><u>Role Profile</u></b> Positions at this level are typically administrative in nature. The primary focus of Band 1 roles is to complete regular and routine administration and/or processing type work that is governed by established procedures.</p>
<p><b><u>Features</u></b></p> <ul style="list-style-type: none"><li>• Positions are typically operational and administrative in nature.</li><li>• Although the work may not be closely supervised on a daily basis, there are existing processes and procedures to govern most aspects of the work. The roles would be expected to escalate any circumstances that are not covered by existing processes and procedures for decision making.</li><li>• Work at this level may require the collection and collation of information related to workflows and preparation of correspondence following a process.</li><li>• Communication required at this level is to identify needs and convey factual information and may include contacts outside the immediate work area including the public.</li></ul>
<p><b><u>Knowledge, Skills and Experience Requirements</u></b></p> <ul style="list-style-type: none"><li>• Knowledge is required through secondary education combined with work experience.</li><li>• Customer service, time management and intermediate MS Office skills.</li></ul>
<p><b><u>Indicative Roles</u></b></p> <ul style="list-style-type: none"><li>• Administration Officer</li><li>• Receptionist</li></ul>
<b>Band 2</b>
<p><b><u>Role Profile</u></b> Positions at this level perform secretarial, operational, technical or administrative work in a standard and/or routine way to meet clearly defined objectives. Examples include scheduling activities, providing technical/procedural assistance, gathering information, assessing content and processing.</p>
<p><b><u>Features</u></b></p> <ul style="list-style-type: none"><li>• Positions require specific technical and/or subject matter knowledge of an organisational function.</li><li>• Tasks can vary in complexity and include a range of analytical, diagnostic and problem solving activities of readily retrievable information. Whilst the work is routine in nature, a Band 2 role performs numerous tasks and defined procedures.</li><li>• Problem solving in accordance with procedures is required by applying basic principles, making system modifications and contributing ideas for suggestion for process improvements.</li><li>• Work is autonomous but receives detailed direction on unusual or difficult aspects of work.</li><li>• Communication required at this level is to identify needs and convey factual information and may include contacts outside the immediate work area including the public.</li></ul>

### **Knowledge, Skills and Experience Requirements**

- Knowledge is required through secondary education combined with work experience. For some positions in Band 2, technical qualifications are required.
- Problem solving, customer service, time management and intermediate MS Office skills
- Ability to work autonomously and prioritise work with a strong attention to detail.

### **Indicative Roles**

- Executive Assistant
- Payroll Officer
- Service Desk Analyst

## **Band 3**

### **Role Profile**

Positions at this level require knowledge and experience in a relevant discipline or technical area to work across a range of tasks within an organisational function. Roles require the application of specialist training or significant work experience and/or vocational training.

### **Features**

- Positions are required to utilise and apply education, training and/or industry standards to their work.
- Work involves selecting and applying established principles, techniques and methods.
- Authority is delegated to make decisions, however the information required in making each decision is readily accessible and less complex in nature, and general guidelines apply.
- Responsible for reviewing and providing improvements to established procedures.
- Has control over prioritisation of work and the way tasks are done. Limited supervision and guidance is required; instructions cover the broader aspects of the work to be delivered rather than specific task instructions in Bands 1 and 2.
- Some roles at this level are required to communicate within their team, to managers across the organisation and external stakeholders in order to discuss technical matters, issues within the business, scheduling or to encourage participation in certain activities or projects.

### **Knowledge, Skills and Experience Requirements**

- New graduates with some work experience or demonstrated capability to apply advanced technical skills through an advanced Certificate, Diploma, vocational training or work experience.
- Problem solving, written communication skills and strong attention to detail.
- Ability to prioritise and work autonomously.

### **Indicative Roles**

- Management Accountant
- Real Time Analyst
- Quality Improvement Officer

## **Band 4**

### **Role Profile**

Positions at this level provide specialist advice within their discipline and/or manage a service or work teams. Positions are typically entry level professional or management positions that require the application of specialist training or significant work experience and/or vocational training. Positions at this level have responsibility in managing specific portfolios and providing project management support on projects within their work area.

### **Features**

- Manages and integrates a diverse and/or unrelated range of tasks within an activity or activities
- Roles are responsible for work outputs of a team or for providing specialist advice.
- Positions review and provide improvement to, and/or develop procedures and/or guidelines.
- Most situations are governed by established policy or procedure, however judgement is often required when making decisions in the absence of procedures or where precedents are not clear
- Manages human, physical or financial resources to ensure successful delivery of services.
- Is singularly accountable for the delivery of the work they complete.
- Provides direction, leadership and on-the-job training to develop individual and team performance.
- May be required to provide technical and procedural training to others with their content area.
- Communication with others using influencing skills to resolve problems on specific matters.

### **Knowledge, Skills and Experience Requirements**

- Requires demonstrated experience and competence in appropriate area of work responsibility to apply established technical, professional, administrative or commercial disciplines.
- Degree qualified with some relevant experience, or less formal education with substantial experience, or on-the-job training with some experience and relevant skills.
- Ability to instruct, train and manage other staff.
- Skills in problem solving, written and influencing communication skills.
- The ability to prioritise individually and in a team setting.

### **Indicative Roles**

- Centre Support Manager
- Learning & Development Delivery Lead
- Network Engineer

## **Band 5**

### **Role Profile**

Experienced specialists providing advice in a specific discipline, or leaders of a team or service. Positions at this level are typically professional or management positions that require the application of specialist training or significant work experience and/or vocational training, or experienced professionals. Positions at this level have the responsibility of supervision, reviewing work, assigning work and are accountable for the advice, integrity and outputs provided.

### **Features**

- Manages a work unit or program, and the integration of activities within a function.
- Recommends and implements changes that improve the efficiency or effectiveness of processes.
- Problem resolution that requires an analytical approach within the scope of organisational policy and provides sound recommendations which influences decision making.
- Exercises decision making using a self-initiated proactive approach.
- Accountable for operational performance, delegation and resource allocation.
- Develops policies and contributes to long-term plans and operating procedures.
- Manages human, physical or financial resources to ensure the successful delivery of services or the completion of a project.
- Provides direction, leadership and on-the-job training to drive individual and team performance.
- Communication with others using advanced influencing skills to resolve problems.

### **Knowledge, Skills and Experience Requirements**

- Demonstrated experience and competence in appropriate area of work responsibility.
- Degree qualified with some experience, or less formal education with substantial experience.
- Demonstrated ability to develop and understand business plans and strategies, commercial and financial practices and how ESTA is structured and operates.
- Ability to instruct, train and manage other staff.
- Problem identification, problem solving and influencing skills.
- Advanced written and communication skills.

### **Indicative Roles**

- Assistant Centre Manager
- Manager Learning & Development
- Manager Financial Operations

## **Band 6**

### **Role Profile**

Positions at this level are typically experienced management positions that are recognised specialists in a professional discipline. Positions implement change within their portfolio for methods or processes without executive approval.

### **Band 6 Features**

- Responsible for a complex specialised portfolio that requires specialist knowledge and expertise.
- Policy modifications that are made at this level impact a broad or entire organisational group.
- Frequent problem resolution occurs and demands the consideration of a variety of influences.
- Provides sound advice and recommendations which influence the decisions made by others, including supervisors and peers, in the monitoring, development and delivery of programs.
- Specialised in a sub-discipline and provides advice to others that initiates new developments in policy or program delivery.
- Communication is highly influential drawing on technical expertise to resolve problems and assisting in development of strategies and plans for approval by a senior manager or executive.

### **Knowledge, Skills and Experience Requirements**

- Tertiary qualified with extensive work experience.
- Considered and an expert in their discipline.
- Ability to instruct, train and manage other staff.
- Problem identification, resolution and influencing skills.
- Advanced written and communication skills.
- Stakeholder management skills.

### **Indicative Roles**

- Manager Workplace Relations
- Manager Commercial Services
- Infrastructure Networks Manager

## **Band 7**

### **Role Profile**

Positions are senior managers or positions that are highly specialised in a particular discipline and lead their division. Typically they require substantial experience and professional credibility in order to drive and implement change within their function.

### **Band 7 Features**

- Positions at this level are responsible for the management of a function or specific technical area that requires specialist knowledge and training in a particular discipline.
- Development of policies and long-term plans.
- Strong leadership and motivational skills are required to influence others to aid in problem solving.
- Well-developed interpersonal and communication skills for issue resolution.
- Manages a range of stakeholders across a diverse range of work.
- Accountable for operational performance, delegation, resource allocation and forward planning of a work unit or project.
- Active participation in decision making processes by developing and implementing strategies and plans for more complex issues.
- Problem resolution requires an innovative approach and draws on the ability to analyse multiple solutions.
- Provides strategic expert advice to a variety of stakeholders.
- Resolves a range of system, standards and budget parameter problems through to new and frequently arising problems.
- A significant budget is managed at this level.

### **Knowledge, Skills and Experience Requirements**

- Tertiary degree and extensive work experience paired with specialised knowledge and in some cases a post graduate qualification.
- Considered an expert in their discipline.
- Highly advanced people management skills.
- Ability to understand the business as a whole and the role their function plays in delivering strategic outcomes .
- Strategic thinking skills, stakeholder management, problem identification and resolution skills

### **Indicative Roles**

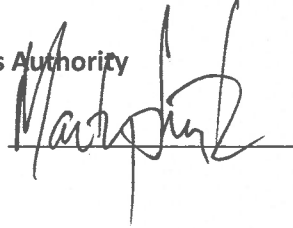
- Manager Budget & Reporting
- Services Manager ITS Operations
- Manager, Managed Services

**SIGNATURES OF THE PARTIES:**

**Signed on behalf of Emergency Services Telecommunications Authority**

Marty Smyth, Chief Executive Officer

(signature)



33 Lakeside Drive, Burwood East VIC 3151

DATED this 5<sup>th</sup> day of September 2018

**Signed on behalf of the Communication Workers Union of Australia**

Sue Riley, Secretary

(signature)



Victorian Trades Hall, Building 2, Level 3, Cnr Victoria and Lygon Streets, Carlton South VIC 3053

DATED this 10th day of September 2018

