

Northern Territory Public Sector Teachers and Assistant Teachers 2017—2021 Enterprise Agreement

Explanatory Notes

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Part 1—Application and Operation of the Agreement

Clause 1: Title

This changes the name of the enterprise agreement to the Northern Territory Public Sector Teachers and Assistant Teachers 2017—2021 Enterprise Agreement. The name change recognises the fact that prison educators are no longer employed in the NTPS. It also recognises the award that underpins the agreement through its reference to Assistant Teachers

Clause 2: Coverage

The original clause 2 (Arrangement) has been deleted. This now forms the table of contents at the start of the enterprise agreement and does not occupy a clause number of its own. This means that

the clauses that follow have different numbers. For example the new clause 3 (definitions) was clause 4 in the Northern Territory Public Sector Teachers and Educators 2014—2017 Enterprise Agreement and so on. From this point forward the changed numbering of the clauses will not be mentioned, but any substantial changes in the renumbered clauses will be noted.

Clause 3: Definitions

This clause has been updated. It has removed

- references to the Department of Corrections; and
- prison educators.

It now includes definitions for:

- assistant teacher;
- classroom teacher;
- compulsory transferee;
- continuity of service;
- dependents;
- non-term time (school vacation)
- national employment standards (NES);
- office-based conditions;
- one-years post training experience;
- relief teacher;
- school-based conditions;
- stand down;
- senior teacher
- teachers;
- teaching capacity; and
- TRG (or the publication *Teacher Responsibilities: A Guide for Teachers and School Leaders in NT Government Schools*, 2012, as varied from time to time).

Clause 4: Period of Operation

This clause provides that the enterprise agreement will come into operation on the commencement date, which is seven days after it is approved by the Fair Work Commission (FWC). This is a standard, statutory provision. It also provides that the enterprise agreement will have a nominal expiry date of 11 October 2021.

Clause 5: Operation of Schedules

This clause contains only a minimal change. It has been updated to reference the Northern Territory Public Sector Modern Enterprise Award [MA000151 PR582044].

Clause 6: Variation of the Public Sector Employment and Management Act

This clause is unchanged.

Clause 7: No Extra Claims

This clause is unchanged.

Clause 8: Negotiations for a Replacement Agreement

The content of this clause is unchanged; however, it has been relocated from clause 11 to clause 8.

Clause 9: Objectives of the Agreement

This clause has some minor word changes, such as removal of references to prison educators.

Clause 10: Commitment of the Parties

This clause has some minor word changes, such as removal of references to prison educators.

Clause 11: Productivity and Efficiency

This clause has a minor change in that it references the Northern Territory Public Sector Teacher and Educator 2014—2017 Enterprise Agreement.

Clause 12: Dispute Settlement Procedures

The current agreement has been amended to make it clearer for employees that utilising s59 is in order to have the decision reviewed. The new Agreement also introduces a mechanism for employees to resolve disputes in relation to:

- By-laws issued under the *Public Sector Employment and Management Act*;
- Employment Instruction 1 (Filling of Vacancies) in relation to the permanency project, which is referenced in clause 15 of the enterprise agreement; and
- the application of the *Teacher Responsibilities: A Guide for Teachers and School Leaders in NT Government Schools*.

A savings clause has been included in the new Agreement which sets out how unresolved disputes at the commencement of the new Enterprise Agreement will continue to be dealt with and provides additional protections which enable the current provisions to be maintained while a dispute is being resolved.

Part 2—Procedural Matters

Clause 13: Consultative Committees

This clause has been significantly changed. It:

- refers to the Public Sector Consultative Council;
- provides for the establishment of an Education Consultative Committee; and
- enables principals or managers of workplaces with 10 or more employees to establish workplace consultative committees, either on their own initiative or upon request from an employee.

The purpose of these workplace consultative committees is to provide a forum to assist principals or managers to develop an effective resolution of workplace issues in a collaborative manner.

Clause 14: Management of Change

The clause ensures compliance with the Fair Work Act and also clearly sets out that consultation on major change will occur prior to a CEO making a final decision.

Clause 15: Security of Employment

The main change in this clause is a reference to the permanency project, which has the objective of reducing the number of fixed period teachers working in Northern Territory Government schools.

In particular, it states that the Chief Executive Officer should:

- carefully consider the status of an employee, who has been employed in the same position where:
 - the total period of continued employment is 12 months;
 - higher duty payments have been authorised in excess of two years; or
 - casual employment has been utilised on a regular and systematic basis in excess of 12 months;
- when considering the status of the employee, the Chief Executive Officer should also consider amongst other things, the reasons for fixed period employment, higher duties or casual employment and whether that type of employment is appropriate in the circumstances.

It also enables the Chief Executive Officer to ask the Commissioner for Public Employment to consider directly appointing or promoting the employee utilising the powers of the Commissioner contained in the *Public Sector Employment and Management Act*.

Clause 16: Teacher Transfer Framework

This is a new provision. It recognises the fact that an employee may elect to be considered for a transfer between schools through three pathways:

- school to school;
- compassionate; and
- guaranteed teacher transfer (in accordance with the guaranteed rights of transfer for remote teachers as set out in clause 31.1(c)).

The clause also notes that the Department of Education is responsible for the management and implementation of policies and procedures related to the application of the teacher transfer framework.

However, it also provides for the Department of Education to consult with the Australian Education Union Northern Territory Branch about significant changes to the policies and procedures associated with the administration of the teacher transfer framework.

Clause 17: Variation to Working Arrangements for Groups of Employees

There has been no change to this clause.

Clause 18: Individual Flexible Working Arrangements

This is a mandatory term in enterprise agreements as required in section 202 of the *Fair Work Act 2009* (Cth).

The clause has been tailored to the particular circumstances of the teaching workforce by removal of a provision relating time in lieu of overtime.

Otherwise, there has been no change to this clause.

Clause 19: Union Rights

This is a common clause in Northern Territory Public Sector enterprise agreements. However, it has been modified to reflect the terminology used by the AEU NT, rather than the more generic expressions in the common clause.

The key change in this clause relates to sub-branch representatives' rights and obligations. In particular, it requires:

- the role of union workplace representatives and other elected union representatives to be respected and facilitated;
- acknowledgement of the right of an employee to be represented by a union representative in a dispute or significant workplace matter;
- the Department of Education and union workplace representatives to deal with each other in good faith;
- adherence to a set of principles, such as:
 - workplace representatives being able to perform their roles without any discrimination in their employment;
 - the ability for workplace representatives to represent their members in the workplace;
 - workplace representatives having access to paid time to consult with employees;
 - reasonable access to agency facilities (including telephone, facsimile, photocopying, internet, email facilities and meeting rooms) for the purpose of work as a union sub-branch representative;
 - providing union representatives with the opportunity to inform staff about union membership;
 - being able to represent employees at an industrial tribunal;
 - maintaining the confidentiality of departmental information as well as information about NTPS employees;
 - all parties behaving in a professional, productive and ethical manner;
 - workplace representative being expected to carry out their normal duties (i.e. teaching etc.); and
 - the ability for union officials to 'walk around' a workplace to hold individual discussions, contingent on the nature of the work being undertaken.

Part 3—General Employment Conditions

Clause 20: Classifications, Salaries and Allowances

This clause provides for the following salary increases:

- 2.5% effective from the first pay period to commence on or after 11 October 2017;
- 2.5% effective from the first pay period to commence on or after 11 October 2018;
- 2.5% effective from the first pay period to commence on or after 11 October 2019; and
- 2.5% effective from the first pay period to commence on or after 11 October 2020.

The following provisions have been removed from this clause:

- references to specialist teachers; and

- reference to the creation of a fifth incremental point for Assistant Teachers (because this occurred under the Northern Territory Public Sector Teacher and Educator 2014—2017 Enterprise Agreement).

The clause also provides for the adjustment of expense-related and income-related allowances.

Clause 21: Increments

There are minor technical changes in this clause, such as cross-references to other clauses and references to prison educators.

Clause 22: Highly Accomplished and Lead Teacher

This clause has been significantly re-drafted. It now:

- refers to the national process of accreditation of Highly Accomplished and Lead Teachers, including the purposes of the certification process;
- provides for Highly Accomplished and Lead Teachers to be paid allowances on a fortnightly basis;
- sets out the expectations of Highly Accomplished and Lead Teachers; and
- provides for the request for extensions from certifying authorities or cessation of the allowances upon cessation of certification.

Clause 23: Special Allowances

This clause provides for the payment of the following allowances at rates specified in Schedule 7 of the enterprise agreement:

- teachers in special schools;
- teachers of special classes;
- teachers in charge (of a one-teacher school with primary classes); and
- teachers in charge of pre-schools.

The clause also sets out the eligibility for these allowances, as follows:

- **Teacher in a special school** includes teachers and senior teachers performing full-time duties at one of the schools listed in Table 1 – Special Schools - clause **Error! Reference source not found.** in Schedule 7;
- **Teacher in a special school** includes teachers and senior teachers performing other than full-time duties for at least one day per week at one of the schools listed in clause 23 provided that the person will be eligible for an allowance on a pro rata basis;
- **Teacher of special classes** includes teachers and senior teachers performing full-time duties in classes for the deaf, for the blind, within a gaol or remand centres and for designated handicapped children provided that 50% of the children are unable to be integrated for the majority of the time;
- **Principal of an area school** includes a senior teacher designated as a Principal of an area school providing both primary and secondary education, provided that such a school has an enrolment of at least 50 secondary pupils; and
- **Teacher in-charge of a pre-school with two or more teachers** is a teacher performing duties as a senior teacher, which can include a semi-autonomous pre-school where two or more teachers are stationed, provided that neither of the latter teachers is classified as a senior teacher;

- **Teacher in charge in a pre-school with one teacher** is a teacher performing duties as a teacher in charge in a pre-school where one teacher is stationed provided that person is not classified as a senior teacher.

Further, through a note, the clause explains the interaction of the teacher in a special school allowances with the teacher of special classes allowance, which has caused confusion in the past. An employee in receipt of one type of allowance cannot receive the other type of allowance.

Also the clause provides for the 50 percent increase in the allowances for pre-school teachers in charge. The increase recognises the increased administrative workloads of pre-school teachers in charge. However, it also provides for a review of these workloads being undertaken during the life of the enterprise agreement.

Clause 24: Higher Duties Allowance

This clause provides for the payment of higher duties allowances. In particular, it provides that:

- for the payment of the allowance for single days for those employees who perform duties of a higher classification that is not higher than the maximum attainable annual salary paid to an Administrative Officer 6; or
- for the payment of an allowance upon the completion of six days of higher duties for an employee performing the duties of a higher classification with a higher maximum salary than the maximum attainable annual salary paid to an Administrative Officer 6.

Currently, the maximum annual salary for an Administrative Officer 6 is \$96,145.

The clause also sets out how higher duties allowances will operate. It includes matters such as:

- a definition of higher duties;
- being covered by the conditions of employment that apply to the position being covered by the employee temporarily performing the higher duties;
- compliance with any mandatory conditions attached to the position;
- partial payment of higher duties allowance;
- payment of higher duties whilst on leave; and
- payment of higher duties whilst temporarily performing the duties of an Executive Contract Principal (including a no detriment provision).

Clause 25: Special Travel Allowance

This clause has been moved from Schedule 1 in the Northern Territory Public Sector Teacher and Educator 2014—2017 Enterprise Agreement into the main body of the enterprise agreement.

Clause 26: Northern Territory Allowance

This clause preserves the Northern Territory Allowance for those employees who received it on the day prior to the commencement date of the enterprise agreement, subject to satisfying the annual review requirements.

Clause 27: First Aid Allowance

There has been no change to this clause.

Clause 28: Remote Incentive Allowance

There have been minor grammatical corrections to this clause. There have not been any changes to its provisions.

Clause 29: Remote Retention Payment

There have been minor technical corrections, but no substantial change to this clause.

Clause 30: End of Half-Semester Travel

This clause has been moved from Schedule 1 of the Northern Territory Public Sector Teacher and Educator 2014—2017 Enterprise Agreement. Apart from this, there have been no changes to the provision.

Clause 31: Remote Localities—Additional Provisions

The relief teacher provisions in this clause in the Northern Territory Public Sector Teacher and Educator 2014—2017 Enterprise Agreement have been moved into the relief teacher provisions. Apart from this, there have been no changes to the clause.

Clause 32: Special Study Leave Program

This is a new clause that sets out the operations of the special study leave program, which is referenced in clause 31 above.

It replicates the special study leave provisions that are set out in the Remote Locality Provisions Determination (currently Determination 8 of 2015).

Further it provides that the Department will be responsible for the management and implementation of policy and procedures related to the program, but also provides that the Department will consult with the AEU NT about significant changes to policies and procedures associated with its administration.

Clause 33: Salary Sacrifice

There are no substantial changes to this clause.

Clause 34: Fixed Period Employment—Classroom Teacher

The sub-clause dealing with offers of ongoing (permanent) employment has been deleted because this is dealt with more comprehensively in the security of employment clause (see clause 15).

Clause 35: Probation

There are no substantial changes to this clause.

Clause 36: Parental Leave

As with the common clauses across the NTPS, there are substantial improvements in this clause, specifically:

- primary caregiver parental leave;
- extension of the application of parental leave to surrogacy arrangements; and
- superannuation contributions during a period of parental leave (extended from six to 12 months).

Clause 37: Personal Leave

This clause has an improvement. It now provides for full-time, fixed period employees being able to use five days of paid personal leave on commencement of employment, rather than two days.

Clause 38: Recreation Leave

There are no substantial changes to this clause.

Clause 39: Recreation Leave Loading

There are no substantial changes to this clause.

Clause 40: Long Service Leave

There are no substantial changes to this clause. It refers to By-law 8 of the *Public Sector Employment and Management Act*, which regulates long service leave in the NTPS.

Clause 41: Emergency Leave

This clause refers to By-law 15 of the *Public Sector Employment and Management Act*, which regulates emergency leave in the NTPS.

Clause 42: Compassionate Leave

There are no substantial changes to this clause.

Clause 43: Use of Emergency Leave in Conjunction with Compassionate Leave

There are no substantial changes to this clause.

Clause 44: Domestic and Family Violence

This is a new clause and constitutes an improvement as it sets out options for employees who are experiencing domestic and family violence, including access to miscellaneous leave under By-law 18 of the *Public Sector Employment and Management Act*. It is consistent with similar clauses in other NTPS enterprise agreements.

Clause 45: Cultural and Ceremonial Leave

This is a new clause and an improvement. It is consistent with similar clauses in other NTPS enterprise agreements.

Clause 46: Work Life Balance

There are no substantial changes in this clause.

Clause 47: Staff Performance, Planning and Review

This is a new clause. It sets out the protocols relating to staff performance, planning and review. It is an improvement on the Northern Territory Public Sector Teacher and Educator 2014—2017 Enterprise Agreement.

Clause 48: Professional Learning and Training

There are no substantial changes in this clause. It covers matters such as:

- arrangements for the end and beginnings of school years; and
- professional development days.

Clause 49: Learning Organisation

There are no substantial changes in this clause.

Clause 50: Non-contact time

While there are no substantial changes in this clause, it has been amended to provide greater clarity around the existing provisions for non-contact time. Specifically, it provides that Classroom Teachers of primary and pre-school-aged students with a full-time teaching load will have a minimum of three hours non-contact time per week; similarly, this also applies to Classroom Teachers with a full teaching load in:

- special schools and their annexes;
- intensive English units;
- gifted units;
- special education units; and
- special and specific purpose units and classes.

The clause also provides that the non-contact time for Classroom Teachers of secondary aged students in colleges, high schools and area schools is 5 hours and 20 minutes.

The clause also provides for pro-rata access to non-contact time for part-time Classroom Teachers.

The clause also clarifies that part-time Classroom Teachers employed to facilitate the provision of non-contact time for other Classroom Teachers are not entitled to non-contact time.

Further, the clause provides that non-contact time for Senior Teachers in school promotion positions is allocated pro-rata to their teaching loads.

Clause 51: Class Sizes

The only change in this clause is removal of the first sub-clause that deals with the staffing formula.

Clause 52: Teacher Responsibilities

This clause has been changed to provide for a review of the document *Teacher Responsibilities—A Guide for Teachers and School Leaders in NT Government Schools* during the life of the enterprise agreement.

Clause 53: Workloads

Changes to the definitions section that provide for singular expressions to be read as referring to plural expressions and vice versa mean that this clause can be used by individuals or groups of teachers.

The clause also provides for office-based teachers to raise workload issues with their relevant manager or director, however called.

Clause 54: Redeployment and Redundancy

There are no substantial changes to this clause.

Clause 55: Leave Airfares and Cashing up of Leave Airfares

This clause incorporates provisions from Schedule 1 as well as the original Cashing up Airfares on a Common Date provision in the Northern Territory Public Sector Teacher and Educator 2014—2017 Enterprise Agreement.

Clause 56: Superannuation

There are no substantial changes to this clause.

Clause 57: Recovery of Overpayments on Cessation of Employment

The changes to this clause remove the provisions for the recovery of relocation costs or costs associated with cleaning and repairs to rental accommodation, to ensure compliance with the *Fair Work Act 2009* (Cth).

Clause 58: Preventing Inappropriate Workplace Behaviour and Bullying in the Workplace

There are no substantial changes to this clause.

Part 4—Miscellaneous Provisions

Clause 59: Christmas Closedown

There are no substantial changes to this clause.

Clause 60: Leave to Attend Industrial Relations Business

This clause has been relocated from Schedule 1 of the Northern Territory Public Sector Teacher and Educator 2014—2017 Enterprise Agreement.

Clause 61: Release for Jury Duty

This clause refers to By-law 20 of the *Public Sector Employment and Management Act*, which provides for release for jury duty.

Clause 62: Release to Attend as a Witness

This clause refers to By-law 21 of the *Public Sector Employment and Management Act*, which provides for release to attend as a witness.

Clause 63: Loss or Damage to Clothing or Personal Effects

This clause refers to By-law 22 of the *Public Sector Employment and Management Act*, which provides for compensation for the loss or damage to clothing under certain circumstances.

Clause 64: Public Holidays

This clause moves the provision for public holidays from Schedule 1 of the Northern Territory Public Sector Teacher and Educator 2014—2017 Enterprise Agreement to the main body of the Agreement.

Surviving and Thriving Workshops (clause 59 in the Northern Territory Public Sector Teacher and Educator 2014—2017 Enterprise Agreement)

This provision has been deleted.

Clause 65: Relief Teacher Provisions

This clause incorporates some of the remote locality provisions that applied to relief teachers, such as:

- travel from an urban centre to a remote locality and
- a kilometre allowance for the return distance between the Coolalinga traffic junction on the Stuart Highway and the Middle Point, Berry Springs, Humpty Doo and Taminimin Schools.

Further, the clause also sets out that employment as a relief teacher will count towards salary level placement and long service leave when employed as a teacher on an ongoing or fixed period basis; and for 195 days of relief teaching being the equivalent of one year of full-time teaching; and one day of relief teaching equating to six hours.

Clause 66: Flexible School Year—Identified Schools

There are no substantial changes in this clause.

Clause 67: Electricity Subsidy Borroloola

There are no substantial changes in this clause.

Clause 68: Remote Access to Satellite Television or Internet Services

There are no substantial changes to this clause.

Clause 69: Centralian College

This is a new clause. It provides for two changes:

- it removes the Centralian College flexibility allowance with effect from the commencement date of the enterprise agreement; and
- it translates the Centralian College specific classifications of Senior College Teacher and Senior College Administrator into the equivalent Classroom Teacher and Senior Teacher classifications.

Further the clause mitigates the effect of the removal of the flexibility allowance by providing a one-off payment equal to the value of the allowance for six months.

The allowance was originally established to compensate Centralian College employees for working an extended day, which is no longer required.

Clause 70: Reviews

This clause provides for two reviews that will be undertaken during the life of the enterprise agreement:

- a clarification of the roles and responsibilities of Assistant Teachers; and
- a review of the roles of principals.

Schedule 1: Northern Territory Public Sector Teacher and Assistant Teacher Provisions

This is a simplified version of Schedule 1 of the Northern Territory Public Sector Teacher and Educator 2014—2017 Enterprise Agreement.

It has removed all the allowances and placed them in the body of the enterprise agreement. What remains are classification descriptors and position standards for Assistant Teachers and Classroom Teachers.

Matters that are now within the body of the enterprise agreement are:

- relief teacher provisions;
- special allowances;
- higher duties allowance;
- Northern Territory Allowance;
- Special Travel Allowance;
- End of Half Semester Travel;
- Leave Airfare Allowance;
- Personal Emergency Leave;
- Leave to Attend Industrial Relations Business
- Public Holidays

The tables of schools in Part 2 of Schedule 1 of the Northern Territory Public Sector Teacher and Educator 2014—2017 Enterprise Agreement can now be found in Schedule 7 (Classifications, Salaries, Allowances and Tables).

Schedule 2: Northern Territory Public Sector Redeployment and Redundancy Provisions

This schedule sets out the Northern Territory Public Sector redeployment and redundancy provisions

There are no substantial changes in this schedule.

Schedule 3: Education Consultative Committee

This is a significantly simplified version of Schedule 3 of the Northern Territory Public Sector Teacher and Educator 2014—2017 Enterprise Agreement. It removes much of the prescriptive detail relating to the Education Consultative Committee, which is created in clause 13 of the enterprise agreement.

It sets out the principles that will apply to the operation of the committee, such as its role, its terms of reference and meetings.

Schedule 4: Procedure for the Identification and Placement of Teachers due to Displacement

There are no substantial changes in this schedule.

Schedule 5: Rapid Incremental Progression for Beginning Teachers

There are no substantial changes in this schedule.

Schedule 6: Work Life Balance Initiatives

There are no substantial changes in this schedule.

Schedule 7: Classifications, Salaries, Allowances and Tables

This schedule contains the update salaries and allowances. It also sets out tables of schools and locations that apply to certain remote locality conditions.