

The Agreement Explained

The proposed new *South Australian Public Sector Wages Parity Enterprise Agreement: Weekly Paid 2022* (2022 Agreement):

- was negotiated pursuant to the *Fair Work Act 1994* (SA) (FW Act) and is subject to approval by the South Australia Employment Tribunal (SAET);
- will replace the *South Australian Public Sector Wages Parity Enterprise Agreement: Weekly Paid 2017* (2017 Agreement);
- will cover the general weekly paid group of South Australian public sector employees; and
- will take effect from the date it is approved by the SAET and will nominally expire three years from that date.

If a majority of employees covered by the proposed agreement who vote during the ballot vote in favour of this proposed agreement (i.e. vote 'Yes'), an application will be made to the SAET for the proposed agreement to be approved. The proposed agreement only has effect when it is approved by the SAET.

This Agreement Explained document:

- explains the effect of the terms of the proposed agreement that differ from the 2017 Agreement;
- identifies the procedures in the proposed agreement for preventing and settling industrial disputes;
- indicates whether any term of the proposed agreement will exclude any term/s of any industrial instrument/s that currently apply to employees; and
- informs employees of their rights to be represented in relation to proceedings for approval of the proposed 2022 Agreement.

Further Information

Both the current and proposed 2022 agreement can be found at <https://www.treasury.sa.gov.au/Our-services/industrial-relations/enterprise-bargaining/South-Australian-Public-Sector-Enterprise-Agreement-Weekly-Paid>, or by contacting the Human Resources Section in your agency. The relevant awards can be found on the SAET website at: www.saet.sa.gov.au.

Clause 1. Enterprise Agreement

It is proposed that the agreement be titled the *South Australian Public Sector Wages Parity Enterprise Agreement: Weekly Paid 2022* and that it nominally expire 3 years from the date of approval by SAET.

Clause 2. Objects and Commitments

This clause continues to provide support for achieving government and agency objectives, workforce consultation, flexibility, mobility, development and performance.

Clause 3. Interpretation

This clause is to the same effect as the current agreement in that it provides that the agreement is to be read and interpreted in conjunction with relevant industrial awards and agreements. Obsolete references have been removed and the definitions have been updated.

Clause 4. Parties Bound

This clause differs from the current clause. A reference to the Chief Executive of the Department of the Premier and Cabinet (CE, DPC) has been changed to a reference to the Chief Executive of the Department of Treasury and Finance (CE, DTF). The names of agencies and attached offices have also been amended or updated, and includes at 4.2 the following other agencies:

- Regional Landscape Boards;
- Department for Child Protection; and
- Department for Innovation and Skills.

The common names of the agencies have been included, which should be taken to include a reference to the employing authority under the applicable legislation concerning the named entity.

Clause 5 Other Enterprise Agreements

This clause is the same as the current clause.

Clause 6. No Extra Claims

This clause is the same as the current clause.

Clause 7. Negotiation of a New Agreement

The clause differs from the current clause. Negotiations will commence six months prior to the nominal expiry of the 2022 agreement. The current clause specifies a particular date.

Clause 8. Performance Improvement

This clause is the same as the current clause.

Clause 9. Variations

This clause is to the same effect as the current clause. It differs in that a reference to the CE, DPC has been changed to a reference to the CE, DTF.

Clause 10. Consultative Processes

This clause is to the same effect as the current clause. It differs in that it includes a reference to proposed workforce composition changes.

A reference to the Commissioner for Public Sector Employment (CPSE) has also been changed to a reference to the CE, DTF.

Clause 11. Grievance and dispute avoidance procedures

This clause is the same as the current clause.

Clause 12. Wage Adjustments

This clause provides for annual wage increases of \$21.00/week from the first full pay period (ffpp) on or after 1 July 2021, \$21.50/week 1 July 2022 (ffpp), \$22.00/week 1 July 2023 (ffpp) and \$22.50/week 1 July 2024 (ffpp), with some adjustments to wage structures.

The clause also refers to two specified dates on which a "one-off payment" of \$500- (gross) becomes payable to an eligible employee. The first specified date is the date of SAET approval. The second specified date is 1 July 2022.

Each "one-off payment" is subject to conditions and criteria.

To be eligible, an employee (including a casual employee) must, as at the specified date applicable to the "one-off payment," be bound by the 2022 Agreement; employed in an agency; and either worked, or was on paid leave, in the pay period that ends immediately preceding (i.e. the last full pay period before) the applicable specified date.

For casual employees to be eligible, they must have worked in the pay period that ends immediately preceding (i.e. the last full pay period before) the applicable specified date for the "one-off payment". Therefore a casual employee who does not work in the pay period applicable to the specified date will not be entitled to the "one-off payment".

The "one-off payment" does not count for any other purpose whatsoever. It will be paid as soon as reasonably practicable after the applicable specified date, and the first "one-off payment" will be paid, to eligible employees, in the 2021/22 financial year. In no circumstances whatsoever can an eligible employee be paid more than the amount of a "one-off payment" applicable to a specified date, irrespective that the employee may be employed in more than one capacity or at more than one agency. An employee can be eligible for each "one-off payment".

Further detail about methodology and eligibility applicable to each "one-off payment" is included in the "Fact Sheet: One-off Payment," which is to be read and applied in giving effect to the clause.

Clause 13. Salary Packaging Arrangements

This clause is the same as the current clause.

Clause 14. Incremental Progression

This clause is the same as the current clause.

Clause 15. Security of Employment

This clause is largely the same as the current clause. It differs in that the operation of sub-clause 15.3 is conditional on the outcome of legal and appeal processes. A note included with that sub-clause expressly provides that the parties agree and accept that the operation of sub-clause 15.3 depends on, and will be guided by, the ultimate outcome of legal and appeal proceedings.

Clause 16. Redeployment, Retraining and Redundancy

This clause refers to the redeployment, retraining and redundancy terms and conditions in Appendix 1, which have been retained in a revised form, including transitional arrangements.

Clause 17. Paid Meal Breaks – Disability Services Officers

This clause is the same as the current clause.

Clause 18. Other Conditions of Employment

This clause is the same as the current clause.

Clause 19. Conditions of Employment for Health Ancillary Award Employees

This clause is the same as the current clause.

Clause 20. First Aid Allowance

This clause is the same as the current clause.

Clause 21. Senior First Aid Certificate – Department of Human Services

This clause is to the same effect as the current clause. It has been amended to refer to the Department of Human Services.

Clause 22. Multi-Site Allowance

The allowance has been increased as specified in the proposed agreement.

Clause 23. Ngerin Allowance

The allowances have been increased as specified in the proposed agreement.

Clause 24. National Disability Insurance Scheme (NDIS)

This clause is to the same effect as the current clause. The name of the department has changed from the Department for Communities and Social Inclusion (DCSI) to the Department of Human Services (DHS).

Clause 25. Enforcement

This clause is the same as the current clause.

Clause 26. Minimum Hours of Engagement

This clause is the same as the current clause.

Clause 27. Public Holidays

This clause is the same as the current clause.

Clause 28. On-Call/Recall

The allowances have been increased as specified in the proposed agreement.

Clause 29. Night Shift Penalty

This clause is the same as the current clause.

Clause 30. TOIL Entitlements

This clause is the same as the current clause.

Clause 31. Licensing for performing high risk work

This clause is the same as the current clause.

Clause 32. Reclassification Date

This clause is the same as the current clause.

Clause 33. Employee Engagement

This clause is the same as the current clause.

Clause 34. Recognition of Union Delegates

This clause is to the same effect as the current clause. References to the CE, DPC and to the Office for the Public Sector have been changed to references to the CE, DTF.

Clause 35. Right of Entry

This clause is the same as the current clause.

Clause 36. Employee Association/Union Worksite Visits

This clause is the same as the current clause.

Clause 37. Orientation and Induction Programmes

This clause is the same as the current clause.

Clause 38. Union Fees

This clause is the same as the current clause.

Clause 39. Reviews

Reviews that are obsolete have been deleted, namely, sub-clauses 39.3; 39.4 and 39.5.

Clause 40. Conversion to Permanency or Permanent Hours

This clause is the same as the current clause.

Clause 41. Staff shortages, vacancies and allocating additional hours

This clause is to the same effect as the current clause. The name of the department has changed from the Department for Communities and Social Inclusion (DCSI) to the Department of Human Services (DHS) and a reference to the Office for the Public Sector has been changed to the CE, DTF.

Clause 42. Other leave arrangements

This clause is the same as the current clause.

Clause 43. Annual leave

This clause is the same as the current clause.

Clause 44. Special leave

This clause is to the same effect as the current clause. References to provisions within Commissioner's Determination 3.1 have been updated.

Clause 45. Retention leave

This clause is the same as the current clause.

Clause 46. Trade Union Training Leave

This clause is the same as the current clause.

Clause 47. Personal Leave – Injury and Sickness

This clause is the same as the current clause.

Clause 48. Domestic/Relationship violence leave

This clause is the same as the current clause.

Clause 49. Worklife Flexibility

This clause is to the same effect as the current clause. It differs in that sub-clause 49.10 has been changed to remove an obsolete reference to 1 January 2013.

Clause 50. Workplace Flexibility

This clause is to the same effect as the current clause. It differs in that a reference to the CPSE has been changed to a reference to the CE, DTF.

Clause 51. Training and Development

This clause is to the same effect as the current clause. It differs in that a reference to a CPSE Guideline has been updated.

Clause 52. Work Health and Safety

This clause is the same as the current clause.

Clause 53. Injury and Income Protection

This clause differs from the current clause in that it refers only to employees covered by the *South Australian Government Printing Interim Award*, as that Award is the only applicable Award that does not contain provisions in regard to additional injury and income protection.

The amendment is not intended to change an existing entitlement but rather acknowledge that injury and income protection provisions are provided for within the applicable Awards, except the *South Australian Government Printing Interim Award*.

Clause 54. Signatories

The signatories have been updated to reflect the CE, DTF (as the declared employer of public employees) and the relevant employee associations under the FW Act.

Appendix 1: Redeployment, Retraining and Redundancy

This appendix has been revised. It retains current time periods and case management arrangements concerning employees declared as excess (or redundant).

It continues to provide for a lump sum payment of \$15,000 for early acceptance of a voluntary separation payment as detailed in the *Department of Treasury and Finance – Voluntary Separation Packages (VSPs) as at “update July 2018”*.

Consultation obligations are included in the revised Appendix 1, to apply prior to an employee being declared as excess or redundant and it does not include previous obligations on the statutory role of the Commissioner for Public Sector Employment (CPSE).

Definitions have been inserted for “declared excess”, “excess employee”, “redundant employee” and “VSP”.

Appendix 1 uses the expression “excess” to refer both to “excess” and “redundant” employees. In practice they may be used interchangeably.

The term “redundant” means an employee whose employment is not subject to section 54(1)(a), *Public Sector Act 2009*, whose duties, position or job is determined or declared as redundant by the agency in which they are employed. The term “excess” is applicable to an employee whose employment is subject to section 54(1)(a), *Public Sector Act 2009* who is determined or declared as excess to the requirements of the agency in which they are employed.

A transition clause has also been included however if a declaration, notification or redeployment process applicable to an employee who comes within the transition clause ceases, or that employee ceases to be a redeployee, then the transition clause will have no further effect in relation to that employee.

Appendix 2: Parity Wages

This appendix continues to include a series of Schedules that detail classifications, wages and rates (where applicable) that currently apply and the new annual wages and rates with increases of \$21.00/week from the first full pay period (ffpp) on or after 1 July 2021, \$21.50/week

1 July 2022 (ffpp), \$22.00/week 1 July 2023 (ffpp) and \$22.50/week 1 July 2024 (ffpp), with some adjustments to wage structures.

Part-time employee wages are pro rata full-time wages.

Appendix 3: Provisions applicable to specific occupational groups

Appendix 3.1 Department of Primary Industries and Regions

This appendix is the same as the current appendix.

Appendix 3.2 Child Care Workers in TAFE SA

This appendix is to the same effect as the current appendix. It differs in that a correction has been made to a clause reference and obsolete references have been updated or removed.

Appendix 3.3 Government House Weekly Paid Employees

This appendix is to the same effect as the current appendix. It differs in that an obsolete casual loading has been removed.

Appendix 3.4 Ministerial Chauffeurs

The appendix is to the same effect as the current appendix. It differs in that references to historic/obsolete rates have been removed.

A reference to the Office of the Commissioner for Public Sector Employment (OCPSE) has also been changed to a reference to the CE, DTF and “*in liaison with Premier and Cabinet*” has been substituted with “*in liaison with the applicable agency*”.

Appendix 3.5 Shared Services Principles

This appendix is to the same effect as the current appendix. References to Commissioner’s Standard 2 (obsolete) have been updated.

Appendix 4: Workplace Flexibility Agreements

Appendix 4.1 Department of Environment and Natural Resources and Regional Landscape Boards

This appendix is to the same effect as the current appendix. It has been amended to include the Regional Landscape Boards and the name of the department has changed from the Department of Environment and Natural Resources (DENR) to the Department of Environment and Water (DEW).

Obsolete document names or legislation have been updated to reflect current titles.

Appendix 5 Award Matters

This appendix is the same as the current appendix.

Appendix 6: Work Level Definitions

This appendix is to the same effect as the current appendix. Definitions and appointment requirements have been updated and classification criteria for Disability Services Officer levels 4 and 5 are now included.

The following clauses, appendices or schedules in the 2017 Agreement are no longer required and/or are obsolete:

Sub-clauses 39.3; 39.4 and 39.5 refer to reviews that are obsolete and have therefore been deleted.

Employee Rights to Representation

A “Notice of Intention to Negotiate an Agreement under the *Fair Work Act 1994*” was issued on 23 January 2020 and distributed to employees. That Notice advised about:

- when the first meeting to negotiate the proposed Agreement would be, and where;
- which employees are to be covered by the enterprise agreement;

- your rights to be represented in relation to the negotiation of, and approval for, the proposed agreement; and
- how and where you were able to access a copy of your Award.

Intention to Apply for Approval of the proposed agreement

If the proposed *South Australian Public Sector Wages Parity Enterprise Agreement: Weekly Paid 2022* is supported by a majority of employees who vote in the ballot, an application will be made to the SAET to have the new enterprise agreement approved pursuant to the FW Act.

Operative Dates

Except where otherwise indicated, the operative dates of new provisions contained in the proposed agreement will be the date of approval by the SAET.

Interpretation: A reference to a payment to be made will be taken to being subject to the payment being effected within a reasonably practicable time after an agreement is approved by SAET or a payment is due, and first priority will be given to implementation of the first "one-off payment" prior to changed salary rates or giving effect to other payment/s.

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