



Australian Government

Office of the Australian Building and
Construction Commissioner

**OFFICE OF THE AUSTRALIAN
BUILDING AND CONSTRUCTION
COMMISSIONER**

COLLECTIVE AGREEMENT 2008 – 2010

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SECTION 1 - Definitions

- 1 The following words have these meanings in this Agreement unless the contrary intention appears.

ABCC	the Office of the Australian Building and Construction Commissioner
AFPC	the Australian Fair Pay Commission
Agreement	the Office of the Australian Building and Construction Commissioner Collective Agreement 2008-2010
APS	the Australian Public Service
Commissioner	the person performing the functions of the ABC Commissioner, and holding those powers provided to Agency heads under the PS Act. The Commissioner may delegate his or her powers under this Agreement. A reference to Commissioner should be read as a reference to the delegate where appropriate
Employee	an employee of the Office of the Australian Building and Construction Commissioner, whether ongoing or non-ongoing, full time or part time, or irregular/intermittent who is engaged under the <i>Public Service Act 1999</i>
Office of the Australian Building and Construction Commissioner	the statutory agency established by the <i>Building and Construction Industry Improvement Act 2005</i>
Salary	the employee's base rate of pay, excluding superannuation
The PS Act	the <i>Public Service Act 1999</i>
The WR Regulations	the Workplace Relations Regulations 2006
The WR Act	the <i>Workplace Relations Act 1996</i>

SECTION 2 - Scope of the Agreement

Title of Agreement

- 2 This Agreement will be known as the Australian Building and Construction Commissioner Employee Collective Agreement 2008-2010.

Parties

- 3 The parties to this Agreement are the Australian Building and Construction Commissioner and all eligible employees engaged under the PS Act, other than members of the Senior Executive Service, or those who are party to Australian Workplace Agreements.

Duration of Agreement

- 4 This Agreement will come into operation seven days after the Workplace Authority Director has issued a notice indicating that it meets the no-disadvantage test. The nominal expiry date will be 1 October 2010.

Duties and Obligations

- 5 An employee will undertake the duties assigned by their manager from time to time. The employee will comply with lawful instructions given in connection with the Commissioner's duties.
- 6 Any direction issued by the Commissioner under this clause is to be consistent with the Commissioner's responsibilities to provide a safe and healthy working environment.

Delegation

- 7 Subject to the PS Act, the Commissioner may delegate any or all of his or her powers and functions under this agreement.

No extra claims

- 8 The Parties to this Agreement will not pursue any extra claims that affect an employee's terms and conditions of employment, whether or not those terms and conditions relate to a matter that is expressly covered by this Agreement, for the duration of this Agreement.

Variation of Agreement

- 9 The Parties can agree in writing to vary this Agreement in a manner consistent with the WR Act at any stage of its operation. The variation to the Agreement will come into operation from the date the variation is lodged with the Workplace Authority.

Related Legislation and Guides

- 10 Other Commonwealth laws concerned with employment, including but not limited to the PS Act, the WR Act, the *Long Service Leave (Commonwealth Employees) Act 1976*, the *Maternity Leave (Commonwealth Employees) Act 1973*, the *Superannuation Act 1976*, the *Superannuation Act 1990*, the *Superannuation Act 2005*, the *Superannuation Benefits (Supervisory Mechanisms) Act 1990*, the *Superannuation Productivity Benefit Act 1988*, the *Safety Rehabilitation and Compensation Act 1988*; the *Occupational Health and Safety (Commonwealth Employment) Act 1991*, and the *Public Employment (Consequential and Transitional) Amendment Act 1999* continue to apply according to their terms.
- 11 Guides/guidelines/policies and procedures (guides) prescribe conditions for working at the ABCC. They are not incorporated into and do not form part of this Agreement. Employees are encouraged to familiarise themselves with these guides, which may be varied. If there is any inconsistency between the guides and the terms of this Agreement, the terms of the Agreement prevail.

Communication

- 12 The ABCC uses a variety of mechanisms to communicate and consult with employees to ensure that they are informed of issues in the workplace. The two key mechanisms for communication and consultation are:
 - a. Executive, Group and Team level meetings; and
 - b. the Intranet for direct communication with all employees and for employee feedback.

SECTION 3 - Performance Arrangements

- 13 An employee will enter into a performance arrangement with their immediate manager in accordance with the ABCC's [Performance Agreement Scheme](#) as varied from time to time. The performance arrangement will cover the period from the beginning to the end of each financial year.
- 14 The performance arrangement will identify the employee's developmental needs as agreed with the employee's immediate manager. The ABCC aims to provide access to training and development opportunities consistent with these needs.
- 15 An employee will be eligible for an annual performance bonus of up to 20% of their annual salary. The employee's performance will be assessed in accordance with five performance ratings; Outstanding Performance, High Performance, Good Consistent Performance, Needs Development and Unsatisfactory.
- 16 An employee who commences employment prior to 1 April and remains in employment at the ABCC on 30 June is entitled to a pro-rata bonus. There is no entitlement to a pro-rata bonus for an employee whose employment with the ABCC terminates before 30 June unless approved by the Commissioner.
- 17 Information on the administration of underperformance issues is contained in the ABCC's [Managing Underperformance Guide](#). The procedures for dealing with underperformance may result in termination of employment or some other action, including a reduction in classification.

Learning and development

- 18 The performance arrangements make provision for the identification of learning and development needs and the planning of learning activities to meet those needs. Each employee, in consultation with his or her manager, will identify their learning and development needs and specific learning options.
- 19 All employees will have access to opportunities for improving their performance and preparing for future career goals through participation in relevant learning and development activities.

SECTION 4 - Salary and Classifications

- 20 The ABCC is committed to remunerating its employees so as to attract, retain and reward valuable staff. Salaries are set by the Commissioner to ensure that the ABCC's rates and arrangements place it in a competitive position in the market.
- 21 An employee will receive a salary within the range set out for their band in Schedule A. The salary will reflect the skills and experience of the employee. Salary is payable fortnightly in arrears.

- 22 The salary increases provided for in this Agreement are in recognition of employees ongoing commitment and contribution to achieving the ABCC's organisational objectives. A component of these salary increases will be dependent on the ABCC achieving satisfactory organisational performance reflecting the links between individual and organisational performance.
- 23 An employee will receive an annual increase of at least 3.5% subject to satisfactory performance. Any additional increases will be approved by the Commissioner and will be linked to improved performance and productivity. Salary reviews will occur on either the anniversary of the employee's commencement date or the anniversary of the employee's last salary review, whichever is the most recent.
- 24 The Commissioner may supplement an employee's salary and benefits at any time with additional monetary or other benefits.
- 25 Where an employee is absent from work without approval, all pay and other benefits provided under this agreement will cease to be available until the employee resumes work or is granted leave.
- 26 Advancement within the ABCC broadband structure will be assessed in accordance with the [ABCC Broadband Guide](#) and [Competencies](#). Upon advancement, a new salary will be set in line with salaries and classifications defined in Schedule A.
- 27 The Commissioner may vary an employee's salary and benefits provided under this agreement where an employee's classification has been reduced under section 23 of the PS Act.
- 28 Where an employee temporarily or permanently reduces to a lower classification, the Commissioner will determine the new salary having regard to the experience, qualifications and skills of the employee, previous salary, and the circumstances of the reduction.
- 29 Where an employee dies or is presumed to have died on a particular date, the Commissioner may authorise payment, to be made to the dependants or partner or the legal representative of the employee, of the amount that would have been paid if the employee had ceased employment by resignation or retirement.

Remuneration Packaging

- 30 Information on the administration of flexible salary packaging is contained in the ABCC's *Guidelines on Salary Packaging*.

Monetary allowances

- 31 If an employee possesses a current first aid certificate and is designated by the Commissioner to undertake first aid responsibilities within the ABCC, they will be paid an allowance of \$20 per fortnight.
- 32 Temporary Performance Loading is paid to an employee who is temporarily performing duties at a higher level. It is not payable for periods of less than three consecutive months. Further information on the administration of Temporary Performance Loading is contained in the ABCC's [Temporary Performance Loading Guide](#).

SECTION 5 – Employment categories and hours of work

- 33 An employee will be engaged on one of the following employment categories:
- 34 **Full-time**- A full-time employee is an employee whose hours of work are 75 per fortnight, with a notional standard day for all leave purposes to be 7.5 hours.
- 35 **Part-time** - A part-time employee is an employee whose hours of work are less than 75 per fortnight. Part-time hours of work may be varied to best meet the needs of the parties,

subject to mutual agreement between the Commissioner and the employee. A part-time employee will be eligible to receive those allowances of a reimbursement nature in full, and will be eligible on a pro rata basis for all other full-time employee entitlements prescribed in this Agreement.

- 36 **Casual** - A casual employee is an employee who is engaged on an hourly basis and who may terminate employment or be discharged at any time without notice. A casual employee is one engaged to perform irregular, seasonal and on-call work, and to work without the expectation of continuous work.

A casual loading of 20 percent in lieu of paid leave and severance entitlements is applied to the ordinary rate of pay.

A casual employee will be engaged to work on an hourly basis at any time and on any day of the week, up to a maximum of 75 hours per fortnight. Casual employees will be engaged for a minimum of three hours and a maximum of 10 hours of work per day.

- 37 **Fixed-term** - A fixed term employee is an employee who is hired for a fixed period of time, to complete a specific project or task, or to replace another employee on leave. A fixed term employee is entitled to all the benefits of this Agreement on a pro-rata basis.

Working Arrangements

- 38 The ABCC will ensure that flexible working arrangements are used to provide a balance between work and personal lives, identify opportunities for improved productivity, and minimise the need for employees, including executive level employees, to work hours in excess of their normal hours.
- 39 Information on the administration of working arrangements, including attendance for duty, is contained in the ABCC's [Working Arrangements and Public Holidays Guide](#).
- 40 An employee may, with the agreement of their manager, access regular part-time work or work from home on either a regular or temporary basis. Further information on the administration of part time work or working from home is contained in the ABCC's [Part Time Work Guide](#) and [Working From Home Guide](#). Remuneration and other benefits will be calculated on a pro rata basis if an employee works part-time.

SECTION 6 - Leave Provisions

- 41 An employee is entitled to paid annual leave which:
- shall accrue at 20 working days per annum, accruing daily and credited monthly;
 - shall be taken subject to the approval of the employee's immediate manager and approval will not be unreasonably withheld;
 - may be cashed out subject to the ABCC's [Annual Leave Guide](#) and subject to a maximum of 10 days worth per annum; and
 - is payable on termination of employment, consistent with the terms of the agreement.

If an employee's annual leave accumulates to more than 40 days of annual leave the Commissioner may direct an employee to take up to 25% of their accumulated leave.

- 42 An ongoing employee can elect to purchase one, two, three, four, five or six weeks additional leave per year. Further information on the administration of purchased leave is contained in the ABCC's [Annual Leave Guide](#) – purchased leave counts as service for all purposes.
- 43 Personal leave is available to employees, including:

- a. paid personal/carer's leave, which shall accrue at 18 working days per annum, accruing daily and credited monthly. Unused personal leave will accumulate, but will not be paid out on separation. Further information on the administration of personal leave is contained in the ABCC's [Personal Leave Guide](#); and
 - b. unpaid carer's leave and paid compassionate leave in accordance with Division 5 of Part 7 of the WR Act.
- 44 An employee can access maternity leave in accordance with the *Maternity Leave (Commonwealth Employees) Act 1973* or Division 6 of Part 7 of the WR Act. Any employee who has at least 12 months continuous service may be entitled to paid maternity leave of 12 weeks.
- 45 The ABCC also funds an additional two weeks paid maternity leave.
- 46 Paid paternity leave of five working days is available to ABCC employees in accordance with the ABCC's *Maternity and Parental Leave Guide*.
- 47 To enable an employee to care for a new born or newly adopted child, he or she will be entitled to other leave without pay for parental purposes. Either parent may take up to 52 weeks parental leave during the 66 week period following the birth or adoption of a child. Any leave taken without pay will not count as service for any purpose but long service leave.
- 48 Information on the administration of maternity, paternity and adoption leave arrangements are set out in the ABCC's [Maternity and Parental Leave Guide](#).
- 49 An employee is entitled to other paid or unpaid leave, which may be granted at the discretion of an employee's immediate manager. Further information on the administration of paid or unpaid leave is contained in the ABCC's [Other Leave Guide](#).
- 50 Information on the administration of public holidays is contained in the ABCC's [Working Arrangements and Public Holiday Guide](#).
- 51 An employee will be provided with paid time off for the afternoon of the working day immediately prior to Christmas Day and for the days between Christmas and New Year's Day which would otherwise be working days. In the exceptional cases where an employee is required to work on these days, they will be provided with an equivalent period of time off in lieu to be taken within 4 weeks or at an alternative time agreed with the employee's immediate manager.
- 52 Leave with or without pay will be granted to enable employees to fulfil Defence Reserve or full time Australian Defence Force obligations, including enlistment. Paid leave under this clause counts as service for all purposes. Unpaid leave up to 12 months counts as service for all purposes, with the exception of annual leave.
- 53 Leave with or without pay will also be granted to community service volunteers for emergency services duties. Paid leave under this clause counts as service for all purposes. Unpaid leave up to 30 days counts as service for all purposes, with the exception of annual leave..
- 54 Employees who are war veterans will accrue two separate credits of paid war service sick leave:
 - a. Special credit – nine weeks war service sick leave credited on commencement with the APS following eligible military service.
 - b. Annual credit – three weeks annual credit on commencement and again following each 12 months of service. Unused credits accumulate up to a maximum credit balance of nine weeks. This credit cannot be accessed until the special credit has been exhausted.

- 55 Further information on the administration of war sick leave entitlements is contained in the ABCC's [Other Leave Guide](#).

Portability of accrued paid leave entitlements

- 56 Where an employee joins the ABCC from an employer staffed under the PS Act, the *Parliamentary Service Act 1999* or from the ACT Government Service, accrued annual leave and personal/carers leave will be transferred, provided there is no break in continuity of service. Further information on the administration of portability of accrued paid leave entitlements is contained in the ABCC [Exit and Separations Guidelines](#).

SECTION 7 - Superannuation

- 57 The ABCC will comply with the requirements of all applicable superannuation legislation and related instruments, including but not limited to the *Superannuation Guarantee (Administration) Act 1992*.
- 58 The ABCC's default superannuation fund for superannuation purposes is the Public Sector Superannuation accumulation plan.
- 59 An eligible employee will be provided a Super Choice Form on commencement or on written request. If an employee does not select a valid Super Choice Fund, they will have their employer superannuation paid into the ABCC's default superannuation fund.

SECTION 8 - Redeployment and Redundancy

- 60 The Commissioner will arrange for discussions to be held with an employee or, where the employee requests, with the employee's representative, to consider measures that could be taken to resolve an excess staff situation, including redeployment opportunities at or below the employee's substantive level.
- 61 This section only applies to an ongoing employee who is not on probation.

Excess employee

- 62 An employee is deemed 'excess' when:
- the employee works in a group or team comprising a greater number than is necessary for the efficient and economical working of the ABCC; or
 - due to technological or other changes in the work methods of the ABCC, or structural or other changes in the nature, extent or organisation of the functions of the ABCC, the services of the employee cannot be effectively used; or
 - the duties usually performed by the employee are to be performed at a different locality and the employee is not willing to perform those duties at the new locality, and the Commissioner has determined that the employee is excess to the ABCC's requirements

Notification of Potentially Excess Status

- 63 The Commissioner will advise an employee if they are likely to become excess at the earliest practicable time.

Voluntary Redundancy

- 64 Where the ABCC offers an employee a voluntary redundancy, the employee will have a consideration period within which to accept the offer. Employees will be provided with a two month consideration period from the commencement of the discussion period as identified in clause 60.
- 65 Within the two-month period, the employee will be provided with information on the amount of severance pay, pay in lieu of notice, paid up leave credits, accumulated superannuation

contributions; options open to them concerning superannuation; and the amount of agreed financial assistance available so the employee may seek independent financial advice up to the value of \$1,000 and career counselling up to the value of \$1,000.

- 66 The two-month consideration period can be reduced by agreement between the employee and the Commissioner as long as the employee has received the advice outlined in Sub clause 63. Unless the employee agrees to reduce the two-month period, notice of termination will not occur before the end of that two-month period.

Redundancy Payments

- 67 Where the two-month consideration period is reduced, an employee will be paid for the unexpired portion of the two-month period as at the date of termination. The employee will also receive payment in lieu of the relevant period of notice provided for in Sub clause 66.
- 68 An employee who accepts an offer of voluntary redundancy and whose employment is terminated under section 29 of the PS Act on the grounds that he/she is excess to requirements will be paid a sum equal to two weeks salary for each completed year of service; plus a pro rata payment for completed months of service since the last completed year of service, with a minimum payment of 4 weeks and a maximum of 48 weeks salary.
- 69 If an employee accepts the offer, the Commissioner will give them the required notice of termination of 4 weeks (or 5 weeks for an employee over 45 with at least 5 years of continuous service) or a lesser period agreed with the employee. If the employee separates within the notice period, they will be paid for the unexpired portion of the notice period.

Calculating Redundancy Payments

- 70 Redundancy payments will be calculated on:
- a. an employee's salary on the date of termination; and
 - b. allowances in the nature of salary which are paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.
- 71 The redundancy payment will be calculated on a pro rata basis for any period where an employee has worked part-time hours during their period of service and have less than 24 years full time service.
- 72 Subject to sub clauses 71, 72 and 73 service for severance pay purposes means:
- a. service in the ABCC;
 - b. Government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
 - c. service with the Commonwealth (other than service with a joint Commonwealth-State body corporate in which the Commonwealth does not have a controlling interest) which is recognised for long service leave purposes;
 - d. service with the Australian Defence Forces;
 - e. APS service immediately preceding deemed resignation (as defined), if the service has not previously been recognised for severance pay purposes; and
 - f. service in another organisation where an employee was transferred from the APS to that organisation with a transfer of function or an employee engaged by that organisation on work within a function is appointed as a result of the transfer of that function to the APS and such service is recognised for long service leave purposes.
- 73 Periods of service that will not count as service for redundancy pay purposes are any

- a. termination under s29 of the PS Act;
 - b. redundancy; retirement on ground of invalidity; inefficiency or loss of qualifications; forfeiture of office; dismissal or termination of probationary appointment for reasons of unsatisfactory service; prior to the commencement of the PS Act; or
 - c. voluntary retirement at or above the minimum retiring age applicable to the employee, or with the payment of a redundancy benefit or similar payment, or an employer financed superannuation benefit.
- 74 For earlier periods of service to count there must be no breaks between the periods of service, except where the break in service is less than 1 month and occurs where an offer of employment with the new employer was made and accepted by an employee before ceasing employment with the preceding employer.
- 75 Absences from work, which do not count as service for any purpose, will not count as service for redundancy pay purposes.

Involuntary Redundancy

- 76 An employee will not have their employment terminated involuntarily if they have not been invited to elect for voluntary redundancy or if their election to be made redundant voluntarily has been refused.
- 77 If an employee does not accept voluntary redundancy, they will not be terminated under section 29 of the PS Act without agreement for a period of 7 months.

Retention Period

- 78 A retention period of seven months commences on the day after the expiration of the consideration period.
- 79 The Commissioner may, with the employee's agreement, terminate their employment and pay the balance of the retention period as a lump sum.
- 80 During the retention period managers:
- a. will assist with attempts to find alternative employment; and/or
 - b. may, on request, provide assistance in meeting reasonable travel costs and incidental expenses incurred in seeking alternative employment where these are not met by the prospective employer;
 - c. may, after giving 4 weeks notice to an employee, reduce their classification as a means of securing alternative employment. If this occurs prior to the end of the retention period, an employee will continue to be paid at their previous level for the balance of the retention period
- 81 The retention period will not be extended by any periods of paid or unpaid leave. The Commissioner may consider extending a retention period where medical evidence indicates an employee is substantially incapacitated and is considered to be unfit for work by a medical practitioner nominated by the ABCC. It would only be in exceptional circumstances that the retention period would be extended beyond an additional 2 months.
- 82 An employee will be given 4 weeks notice (or 5 weeks notice for an employee over 45 with at least 5 years of continuous service) of termination to be served (as far as practicable) concurrently with the retention period.

SECTION 9 - Other employment matters

Domestic and Overseas travel

- 83 An employee will be provided with an ABCC travel card which may be used to charge reasonable expenses in relation to accommodation and meal costs incurred while travelling on official business both within Australia and overseas. Further information on the administration of the ABCC Travel card is contained in the ABCC [Travel Policy - Finance Direction 15](#).

Resolving Workplace Issues

- 84 The parties to the dispute must genuinely attempt to resolve the dispute at the workplace level.
- 85 If there is any issue arising between an employee and the ABCC under this agreement, an attempt will be made to resolve it using the model dispute resolution procedure set out in Division 2 of Part 13 of the WR Act.

Relocation Assistance

- 86 If an employee is required by the Commissioner to move to a different geographical location for official business purposes they will be reimbursed reasonable relocation and accommodation expenses. Further information on the administration of relocation assistance is contained in the ABCC's [Relocation Assistance Guide](#).

Loss and damage

- 87 The Commissioner may approve reimbursement for loss or damage to clothing or personal effects which occurred in the course of an employee's work.

Encouragement of workplace diversity

- 88 The ABCC values fairness, equity and diversity. Respect and diversity are integral parts of the workplace. The ABCC is committed to preventing and eliminating discrimination on the basis of race, colour, sex, sexual preference, age, disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

Occupational Health and Safety

- 89 The ABCC will promote and maintain the health, safety and wellbeing of employees consistent with the *Occupational Health and Safety (Commonwealth Employment) Act 1991* by:
- a. protecting the health and safety of all employees, contractors, visitors and other persons at or near our workplaces;
 - b. implementing prevention strategies to prevent accidents and ill health caused by working conditions; and
 - c. ensuring employees are in an occupational environment designed to satisfy their needs for health, safety and well-being at work.
- 90 This will be achieved through consultation and cooperation with employees and by providing employees with necessary information, instruction, training and supervision.

Schedule A - Rates of pay

An employee will be paid the rate of pay for their appropriate classification as outlined in the table below. An employee will be paid fortnightly in arrears.

An employee's eligibility to receive their annual increase will not be affected by being at the top of their designated salary range.

The Commissioner will review the rates set out below annually and vary the salary ranges according to market conditions.

ABCC Broadband 3 (All Groups)

ABCC Band	Salaries	APS Classification
Band 3	\$114,000	
3.2	\$92,000	EL 2
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3.1	\$95,000	EL 1
	\$80,000	

ABCC Broadband 2

Operations, Corporate & Administration (Band)

Band 2	\$79,000	
2.3	\$67,000	APS 6
	\$68,000	
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2.2	\$59,000	APS 5
	\$60,000	
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2.1	\$52,000	APS 4
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Band 1	\$53,000	
1.3	\$47,000	APS 3
	\$47,000	
<hr style="border-top: 1px dashed black;"/>		
1.2	\$41,000	APS 2
	\$41,000	
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1.1	\$36,000	APS 1

Government Lawyer (GL Band)

GL Band 2	\$79,000	
2.4	\$67,000	APS 6
	\$68,000	
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2.3	\$59,000	APS 5
	\$60,000	
<hr style="border-top: 1px dashed black;"/>		
2.2	\$52,000	APS 4
	\$53,000	
<hr style="border-top: 1px dashed black;"/>		
2.1	\$47,000	APS 3
<hr style="border-top: 1px dashed black;"/>		
GL Band 1	\$47,000	
1.2	\$41,000	APS 2
	\$41,000	
<hr style="border-top: 1px dashed black;"/>		
1.1	\$36,000	APS 1

Latest review – 8 August 2009

Signatures of the parties

This employee collective agreement is made under the *Workplace Relations Act 1996*, between;

The Australian Building and Construction Commissioner

And

All eligible employees engaged under the *Public Service Act 1999*, other than members of the Senior Executive Service, or those who are party to an Australian Workplace Agreement.

Date:/...../20.....

For the employer

Name in full (printed):
Signature:
Position/Authority to sign:.....
Employer Address:
Date:

Witnessed By:

Name in full (printed):
Signature:
Witness Address:
Date:

For the employees (employee representative)

Name in full (printed):
Signature:
Position/Authority to sign:.....
Employee Address:
Date:

Witnessed By:

Name in full (printed):
Signature:
Witness Address:

Date:

Date of effect –7/08/08