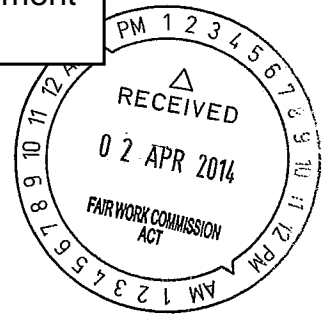


Note - the model consultation term is taken to be a term of this agreement and can be found at the end of the agreement.



Airservices Australia  
(Air Traffic Control Line Manager)  
Enterprise Agreement 2014 – 2017.

## **1. TITLE**

- 1.1. This agreement will be known as the *Airservices Australia (Air Traffic Control Line Manager) Enterprise Agreement 2014 – 2017*, (the “**Agreement**”).

## **2. COMMENCEMENT AND OPERATION**

- 2.1. In accordance with the Act this Agreement begins to operate seven days after approval by the Fair Work Commission (FWC).
- 2.2. The nominal expiry date of this Agreement shall be 1 July 2017.

## **3. APPLICATION AND PARTIES BOUND**

- 3.1. This Agreement is between:

3.1.1. Airservices;

3.1.2. The Union; and

3.1.3. All employees who are employed by Airservices in the position of Air Traffic Control (ATC) Line Manager (“**ALM**”), other than those employees who are employed in that position and to whom an Australian Workplace Agreement (AWA) applies in respect of that position.

- 3.2 The employment conditions of employees in ALM positions who are currently employed in accordance with an AWA will not be subject to this Agreement until such time as both parties have agreed to terminate the AWA or, upon the passing of the nominal expiry date of the AWA, one party unilaterally terminates the AWA with the approval of the FWC.

- 3.3 The clauses of this agreement will be applied so that they do not reduce the benefits to an employee of the provisions of the National Employment Standards.

## **4. RELATIONSHIP TO THE AWARD**

- 4.1. This Agreement is comprehensive and operates to the exclusion of the Airservices Award 2000, or any Modern Award that replaces it.

## **5. NO EXTRA CLAIMS**

- 5.1. This Agreement constitutes a comprehensive agreement in settlement of all matters for its duration.
- 5.2. For the life of this Agreement, there will be no further claims by any party to this Agreement, except where consistent with the terms of this Agreement.

## **6. AIRSERVICES POLICIES AND PROCEDURES**

- 6.1. Airservices' policies and procedures pertaining to employment matters do not form part of this Agreement. To the extent that there is any inconsistency between any such policy and/or procedure, the terms of this Agreement prevail.

## **7. CONSULTATION ON CHANGES**

- 7.1. Airservices will consult ALMs, the Union and any employee representatives about the introduction of changes that have an impact on the employment of ALMs covered by this Agreement before a final decision is made to adopt a particular proposal and implement the change. Changes that will be regarded as having an impact on ALMs covered by this Agreement will include, but will not be limited to, changes of a structural or technological nature, changes in the deployment or methods of operation of ALMs covered by this agreement and any changes that are likely to lead to the redundancy of positions held by ALMs covered by this Agreement.
- 7.2. The purpose of that consultation will be to give ALMs, and any employee representatives a genuine opportunity to express the views of ALMs about changes that are under consideration and have those views taken into account, and to allow them to contribute to proposals for the introduction of the change before a final decision is made to adopt a particular proposal and implement the change. Thorough and reasonable consideration will be given to proposals and options put forward and responses will be provided.
- 7.3. Airservices, ALMs, the Union and any other employee representative will endeavour to reach agreement on issues raised in the course of consultation.
- 7.4. The consultation will include the provision by Airservices of all relevant information regarding the change which is under consideration. If Airservices does not wish to provide particular information that is relevant because it maintains that it is confidential or commercially sensitive or does not wish to provide such information except on certain terms, it will indicate this and discussions will take place about that matter. If, despite discussions about the matter, the matter remains unresolved, the dispute can be dealt through the dispute settlement process that is set out in this Agreement.
- 7.5. Information that is provided by Airservices to ALMs, the Union and any other employee representatives under these provisions will be used only for the purposes for which it is provided unless Airservices expressly consents in writing to its use for another purpose.
- 7.6. Once a final decision is made by Airservices to implement a particular change of the kind described in clause 7.1, it will also inform ALMs, the Union and any other employee representatives of that decision and consult about steps to mitigate any adverse effects on ALMs.

## **8. RESOLVING WORKPLACE CONCERNS/DISPUTE SETTLEMENT**

8.1. In the event of a dispute between Airservices and an ALM or ALMs whose employment is subject to this Agreement about a matter arising under this Agreement, or relating to the National Employment Standards, the procedure to be followed to resolve the matter will be as follows:

8.1.1. The parties to the dispute first shall genuinely attempt to resolve the dispute at the workplace level. This will involve the relevant ALM or ALMs meeting and conferring about the matter with their manager. All relevant information regarding the matter will be exchanged before, during, or on conclusion of such meeting/s;

8.1.2. If the matter is not resolved at such meeting(s), or the nature of the matter is such that it is appropriate to raise it immediately with more senior levels of management, then discussions will occur with senior management as soon as practicable.

8.1.3. At any time during this process an ALM or ALMs may choose to be represented by the Union or another employee.

8.1.4. If the matter cannot be resolved by following the process outlined above, then any of the parties to the dispute may apply to the FWC to have the dispute subject to a process of mediation, conciliation, or such other alternative dispute resolution process which the parties to the dispute agree is appropriate and which the FWC can conduct under the Act.

8.1.5. Any dispute referred to the FWC under this clause shall be dealt with by a member agreed by the parties to the dispute at the time or, in default of an agreement, by a member nominated by the FWC.

8.1.6. If conciliation (or such other alternative dispute resolution process as has been conducted by agreement of the parties) is not successful in resolving the dispute, or if the parties agree that they wish the FWC to settle the dispute without recourse to mediation, conciliation or another alternative dispute resolution process, the FWC can arbitrate the dispute and finally determine the matter. In the case of arbitration, the determination of the FWC will bind the parties, subject to either party exercising any right of appeal.

8.1.7. Unless otherwise agreed by the parties to the dispute, the powers that the FWC can exercise under this clause are those powers available to it under the Act as at the time that this agreement commences to operate.

8.1.8. While a concern or dispute is being dealt with, work will continue as normal being the status quo unless there is a reasonable concern about an imminent risk to the health or safety of the employee concerned.

## **9. GENERAL DUTIES**

- 9.1. An ALM shall comply with lawful and reasonable instructions given to them by Airservices.

## **10. WORK PERFORMANCE**

- 10.1. An ALM and their manager will set the outcomes that the ALM is expected to achieve and review performance in accordance with the Work Performance System (WPS).
- 10.2. The purpose of the WPS is to provide a framework for managers and team members to improve work performance by:
- (a) ensuring that expectations are understood;
  - (b) identifying training needs and providing appropriate opportunities;
  - (c) providing feedback and coaching against expectations; and
  - (d) providing fair and consistent assessments of performance.

## **11. NATURE OF EMPLOYMENT**

- 11.1. ALM employment will be full-time employment unless there is agreement to employment on a part-time basis.
- 11.2. An ALM appointed on a part-time basis will be entitled to the benefits and subject to the obligations of a full time ALM, except that salary and any other benefits that are customarily determined by reference to an employee's part-time status, such as pay and leave, will be determined on a pro-rata basis.

## **12. TRANSFER OF EMPLOYMENT LOCATION**

- 12.1. An ALM may be asked to transfer to the position of an ALM at another location and will be advised of the salary and other pertinent conditions that will apply on transfer to the new location. If an ALM consents to a transfer, any adjustment to the ALM's annual salary and any other pertinent conditions will take effect from the date the ALM commences duty at the new location. Reasonable transfer costs to the new location will be met by Airservices.

## **13. HOURS OF WORK**

- 13.1. It is expected that ALMs will have the ability to manage their own time to meet the needs of the business. .
- 13.2. Nothing in this clause will operate in such a way that reduces protections provided for under the National Employment Standards.
- 13.3. The ordinary full time hours of work of an ALM will be 38 hours per week averaged over each acquitted roster period. Roster acquittal periods will not extend beyond 26 weeks in duration.
- 13.4. An ALM may be required to work rostered shifts, and these shifts may be worked under 7 day/day shift arrangement or 24 hour/7 day shift arrangement.

- 13.5. The ordinary hours of work of ALMs will be organised and managed in such a way that ALMs will be afforded regular breaks from work, consecutive days free from work and adequate breaks between shifts of work.
- 13.6. An ALM working within an operational environment will be required to work hours that are compliant with the Fatigue Risk Management System at all times. Except in abnormal circumstances, the length of a shift shall not be more than ten (10) hours. Time off between shifts shall not be less than ten (10) hours. Where abnormal circumstances necessitate, variations to these arrangements, operational work will not be performed by the ALM without a risk assessment of fatigue occurring.
- 13.7. It is acknowledged that given the management role of the ALM positions, ALMs may be required to perform additional hours beyond their ordinary hours of work. Requests to work additional hours will be reasonable and will balance the needs of the organisation and the needs of the ALM.
- 13.8. Additional hours work involving operational activities will only be required to provide relief for absences of ALMs or when performing a business continuity management role.
- 13.9. Where additional hours are worked in accordance with clause 13.8, an ALM will be credited with Time Off In Lieu (TOIL) on an hour for hour basis. Wherever possible, TOIL will be provided at a time mutually agreeable to the ALM and the ALMs manager, consistent with business requirements. Ideally, TOIL will be taken consecutively with a period of Recreation Leave, or as release from duty of a non-operational shift.
- 13.10. TOIL may not be cashed out or exchanged for any additional payments.
- 13.11. Performance of additional hours work of a non-operational kind, shall be limited where possible to days of rostered work.
- 13.12. An ALM will only be eligible to receive TOIL for additional hours performed as prescribed in clause 13.8. As a manager, an ALM is expected to work reasonable additional non operational hours to fulfil the requirements of the role.

#### **14. LOSS OF LICENCE INSURANCE**

- 14.1. Airservices will procure the issue of, and pay the premium on a policy of insurance that provides insurance cover to an ALM in the event that during the period that they are employed as an ALM they cease to hold an air traffic control licence as a result of their inability to satisfy the medical requirements of the licence.

#### **15. REIMBURSEMENT OF EXPENSES**

- 15.1. Airservices will reimburse an ALM for all reasonable out of pocket expenses incurred in the performance of their duties, upon substantiation of such

expenses. Airservices may provide an ALM with a travel card, and/or arrange their work related travel and accommodation.

- 15.2. In exceptional circumstances, Airservices may agree to pay an ALM other travel payments.

## **16. INDEMNITY**

- 16.1. Airservices will indemnify and release ALMs against all claims and demands made against them by any person (including by Airservices, employees of Airservices, customers of Airservices and legal personal representatives) where the claim or demand is made as a result of injury or loss to a person or property as a result of the ALM's negligence or alleged negligence in performing an ALM's duties in the course of employment except where such injury or loss was caused wilfully by the ALM or was caused by gross dereliction of duty on the part of the ALM.
- 16.2. Under the indemnity provided by this clause, Airservices will provide legal counsel and defend an ALM and an ALM's estate in any legal action arising in connection with the performance of an ALM's duties, and indemnify an ALM and hold an ALM harmless from any judgment resulting from such legal actions.
- 16.3. In a case where an ALM considers that they do not want to take advantage of the legal representation provided under clause 16.2, but rather wants to receive separate legal advice and/or representation, Airservices will give consideration, having regard to the circumstances of the case overall, to the payment of legal costs incurred in respect of that legal advice or representation or part thereof.
- 16.4. After consideration of Airservices' operational requirements, Airservices will release an ALM from duty without loss of pay to act as a witness for a time sufficient to prepare and for appearances before:
- (a) A Coroner's inquest;
  - (b) Royal Commission; or
  - (c) Any other inquiry where it is alleged an ALM or ALMs were negligent in performing their duties in the course of their employment.

## **17. SALARY**

- 17.1. An ALM will be paid an annual salary. The annual salary shall be an amount not less than \$195,000 at the commencement of this agreement and not less than \$205,000 from 1 July 2015. The annual salary for a particular ALM will be determined by Airservices having regard to its assessment of the skills, knowledge and experience of the particular ALM and the complexity of the ALM function they will perform at the location concerned.
- 17.2. Each employee who is offered employment in an ALM position will be informed in writing of the annual salary to which they will be entitled in the ALM position offered.

- 17.3. The annual salary includes payment for additional hours an ALM is required to work and for the circumstance that they will work on rotational shifts including 7 day/day shift roster arrangements and/or 24 hour/7day shift roster arrangements. There will be no entitlement to any other payments for work such as loadings, penalties, allowances or other like payments.

*Note: Time Off In Lieu provisions in Clause 13 may also apply for additional hours worked.*

- 17.4. A salary review will be conducted in July of each year or as soon as practicable thereafter.

The salary review and determination of any increase will be directly related to; the ALM's performance (as assessed against the ALM's Work Performance Agreement), and the annual percentage market movement for ALM's.

The annual percentage market movement will apply to all ALM's and will be determined having regard to:

- a) The percentage market movement for Airservices managers; and
- b) The annual percentage increase applicable to ATC's.

- 17.5. Applying a five point rating scale, an ALM's salary will be increased in accordance with table 1.1 below. Dependent on the WPS score allocated to the employee, the salary of an ALM will be modified by multiplying the annual percentage market movement for ALMs determined by Airservices for the performance cycle by the factor prescribed in Table 1.1.

**Table 1.1**

<b>WPS Score</b>	<b>Performance Descriptor</b>	<b>Movement Factor</b>
1	Did not meet expected requirements	0.00
2	Below the expected standard and meets some of the requirements	0.75
3	At the expected standard and meets all the requirements	1.00
4	Above the standard and exceeds most of the requirements	1.15
5	Exceeds all requirements and performing well above the standard	1.25

ALMs will be provided with the following in writing:

- a) The annual percentage market movement for ALM's;
- b) the ALM's performance rating (as assessed against the ALM's Work Performance Agreement),



- c) the movement factor in accordance with Table 1.1: and
- d) the applicable annual salary thereafter.

- 17.6. Salary reviews as prescribed in clause 17.4 will be applied to the 2013-2014 Work Performance Cycle and annually thereafter.
- 17.7. Any adjustments to salary will be backdated to 1 July of the year concerned.
- 17.8. The cash component of salary will be paid fortnightly by electronic transfer into a bank account nominated by the ALM.

## **18. SALARY SACRIFICE**

- 18.1. With Airservices' agreement, an ALM may convert part of their salary to a non-cash benefit, or, subject to compliance with legislative requirements or restrictions and our consent, all of their salary for superannuation purposes only.
- 18.2. An ALM seeking to make a salary sacrifice arrangement as described in clause 18.1 is responsible for seeking their own advice in relation to the taxation, legal or other consequences of such an arrangement.

## **19. SUPERANNUATION PURPOSES SALARY**

- 19.1. For ALMs who are members of the Commonwealth Superannuation Scheme or the Defined Benefits AvSuper Scheme there will be a 'Superannuation Purposes Salary' ('SPS'). This salary will be the amount of the ALM's annual salary plus 9% of that amount.
- 19.2. The SPS of an ALM who is a member of the Commonwealth Superannuation Scheme or the Defined Benefits AvSuper Scheme will be:
  - 19.2.1. The salary which Airservices will regard and notify as the salary for making calculations of the ALM's superannuation benefits under the Commonwealth Superannuation Scheme or the Defined Benefits AvSuper Scheme;
  - 19.2.2. The salary by reference to which any entitlements to payment in lieu of notice is calculated;
  - 19.2.3. The salary by reference to which any entitlement to a redundancy entitlement under the agreement is calculated; and
  - 19.2.4. In respect of any ALM who has an existing entitlement to an Early Retirement Benefit, the salary by reference to which the Early Retirement Benefit Amount (if applicable) is calculated.

## **20. SUPERANNUATION**

- 20.1. Subject to clauses 19 and 20.4, if an ALM is a member of AvSuper's Defined Benefit Division, the Commonwealth Superannuation Scheme (CSS), or the

Public Sector Superannuation Scheme (PSS), their superannuation arrangements will continue in accordance with the relevant Trust Deed or legislation.

- 20.2. Unless an ALM has selected another eligible choice fund, and that fund becomes their chosen fund in accordance with clause 20.4, the fund into which Airservices will make compulsory employer contributions at the level prescribed in this clause will be:
- (a) The Accumulation Division of AvSuper if the ALM was already an employee who is a member of that fund at the time this Agreement began to operate.
  - (b) The Accumulation Division of AvSuper if the ALM becomes an employee after this Agreement begins to operate.
- 20.3. The level of employer contributions that Airservices will make to the Accumulation Division of AvSuper or the eligible choice fund an ALM has chosen in accordance with clause 20.4 will be the higher of:
- (a) 12.75% of the annual salary at the commencement of this agreement, increasing to;
    - (i) 13.00% payable from 1 June 2014;
    - (ii) 13.50% payable from 1 June 2015;
    - (iii) 14.00% payable from 1 June 2016.
  - (b) the applicable minimum employer superannuation contribution under the *Superannuation Guarantee (Administration) Act 1992 (Cth)*.
- 20.4. Despite anything to the contrary in this clause, unless an ALM is a member of the CSS, they may select another eligible choice fund to be a chosen fund for them in accordance with the Choice of Fund Rules.
- 20.5. However, an eligible choice fund selected by an ALM will only become their chosen fund (and, as a result, Airservices will only be required to contribute to it for an ALM) if:
- (a) it is an eligible choice fund at the time the ALM selects it;
  - (b) Airservices can make contributions to it on behalf of the ALM at the time they select it without the need for Airservices to do anything more (for example, without having to apply to participate in the fund); and
  - (c) it becomes a chosen fund of the ALM within the meaning of the Choice of Fund Rules.
- 20.6. In this clause:
- “**Choice of Fund Rules**” means Part 3A of the Superannuation Guarantee (Administration) Act 1992 (Cth);
  - “**chosen fund**” has the meaning given to it in the Choice of Fund Rules;
  - “**eligible choice fund**” has the meaning given to it in the Choice of Fund Rules.

## **21. LEAVE ENTITLEMENTS**

### **21.1 Recreation Leave**

- 21.1.1 The amount of an ALM's entitlement to recreation leave (including the rate at which it accrues) depends on whether they work on a 7 day/day roster arrangement or on a 24 hour/7 day roster.
- 21.1.2 In respect of any periods during which an ALM works on a 7 day/day roster arrangement, they will accrue recreation leave at the annual rate of five (5) weeks. The ALM will be credited with 15.83 hours per month.
- 21.1.3 In respect of any periods during which an ALM works on a 24 hour/7 day roster arrangement, they will accrue recreation leave at the annual rate of six (6) weeks. The ALM will be credited with 19 hours per month.
- 21.1.4 In all other cases an ALM will accrue four (4) weeks recreation leave for each year of service. In those cases, the ALM will be credited with 12.66 hours per month.
- 21.1.5 An ALM's entitlement to recreation leave accrues progressively throughout the year, and accumulates from year to year. Recreation leave is credited to employees monthly.
- 21.1.6 Recreation leave will be paid at annual salary rate of the ALM concerned.
- 21.1.7 Recreation leave will be taken at agreed times or at such other times as directed by Airservices in accordance with the Act. Airservices may direct an ALM to take recreation leave in the following circumstances:
  - (a) During any shutdown of any part of the business (such as, for example, the Christmas/New Year period); or
  - (b) Where the ALM has accrued in excess of two (2) years annual credit of recreation leave and the amount of leave that Airservices directs the ALM to take is equal to or less than 25% of the recreation leave balance at the time the direction is to take effect.
- 21.1.8 Although recreation leave is cumulative, an ALM should endeavour to take their recreation leave entitlement in the year of accrual. An ALM should notify their manager of any intention to carry over accrued recreation leave from year to year.
- 21.1.7 Any recreation leave accrued but not taken will be paid to an ALM when their employment ends.
- 21.1.8 In each 12 month period from the commencement of this Agreement, an ALM may apply in writing to cash out up to two (2) weeks (76

hours) of the ALM's accrued recreation leave entitlement, subject to the remaining balance being at least four (4) weeks. If Airservices agrees to cash out an amount of recreation leave in accordance with this clause, the payment will be at the salary payable to the ALM if the leave had been taken. Each cashing out of a particular amount of annual leave must be by a separate agreement in writing between the ALM and Airservices.

## 21.2 Personal/Carer's Leave

### 21.2.1 *Personal/carer's leave*

Personal/carer's leave covers leave required because of:

- (a) Personal illness, injury; or
- (b) The need to provide care or support to a member of the ALM's immediate family or household because of their personal illness or injury or an unexpected emergency affecting them.

### 21.2.3 *Paid personal/carer's leave*

- (a) An ALM may access 15 working days paid personal/carer's leave per year which will accrue progressively and will be credited to them at the rate of 1.25 days for each completed month of service.
- (b) A personal leave balance will be calculated by Airservices in respect of each ALM who is employed on the date of commencement of this Agreement. Each ALM in this category will be given a personal leave balance of no less than 15 days.
- (c) An ALM must advise Airservices as early as possible if they are unable to attend work. The ALM may be required to produce satisfactory proof that the reason for their absence falls within personal/carer's leave.
- (d) Any personal leave accrued by an ALM and not taken will accumulate from year to year but will not be payable on termination. If an ALM is an existing ongoing employee, any existing personal leave credit will be carried over.
- (e) Leave credits and debits will be maintained in hours and minutes.
- (f) If an ALM has a genuine illness that results in an absence from the workplace of more than 28 calendar days, Airservices will extend paid personal leave to that ALM provided that the absence is supported by a medical certificate from a DAME and the ALM has exhausted their personal leave balance.

### 21.2.4 *Unpaid Carer's leave*

- (a) An ALM is entitled to two (2) days unpaid carer's leave for each occasion a member of their immediate family or household requires their care and support because of their personal illness or injury or an unexpected emergency affecting them, provided the ALM's paid personal/carer's leave is exhausted.
- (b) An ALM must advise us as soon as possible of their need to take unpaid carer's leave. An ALM may be required to produce

satisfactory proof that the reason for their absence falls within carer's leave.

## 21.3 Other Leave

### 21.3.1 *Compassionate leave*

- (a) An ALM is entitled to three (3) days of paid leave for each occasion when a member of their immediate family or household has a personal illness or injury that poses a serious threat to his or her life, or dies.
- (b) An ALM may be required to produce satisfactory proof of the illness, injury or death to which the leave relates. Additional days of paid leave may be taken; subject to Airservices' approval, from the ALM's other leave entitlements.
- (c) Compassionate leave is non-cumulative and is not payable on termination.

### 21.3.2 *Public Holidays*

- (a) An ALM is entitled, without loss of pay, to the following public holidays or substituted day as gazetted in each State:
  - (i) New Year's Day;
  - (ii) Australia Day;
  - (iii) Good Friday and the following Saturday and Monday
  - (iv) Anzac Day;
  - (v) Queen's birthday;
  - (vi) Labour day or Eight hours' day;
  - (vii) Christmas Day (actual day for shift working employees);
  - (viii) Boxing Day (actual day for shift working employees);
  - (ix) An additional day normally in conjunction with Christmas/New Year holidays. For shift working employees, this additional day will be provided on 27 December; and
  - (x) Any State or Territory public holiday, not specified in this clause, where the day is declared under State or Territory law and is observed by the whole (or relevant part) of the community in the State or Territory.
- (b) If an ALM is required to work on a public holiday, they are entitled to another day off in lieu.
- (c) If an ALM works on a 7 day/day roster arrangement or 24 hour/7 day roster and is rostered off on a public holiday (i.e. not observing the public holiday by being released from duty), they are entitled to another day off in lieu.

### 21.3.3 *Long Service Leave*

- (a) The entitlement of an ALM to long service leave is governed by the *Long Service Leave (Commonwealth Employees) Act 1976*.
- (b) The minimum period of long service leave that Airservices will grant is fifteen (15) calendar days.

- (c) Long service leave will be taken at agreed times or at such other times as directed by Airservices, provided that Airservices gives the ALM three (3) months' notice.

#### 21.3.4 *Parental Leave*

- (a) An ALM is entitled to unpaid parental leave in accordance with the Act.
- (b) Provided an ALM has at least twelve (12) months continuous service with Airservices, they will be entitled to fourteen (14) weeks' paid maternity leave.
- (c) Provided an ALM has at least twelve (12) months continuous service with us, they will be entitled to fourteen (14) weeks' paid adoption leave, if the ALM is the primary caregiver of an adopted child under five (5) years old who is not a child or step-child of the ALM or the ALM's partner.
- (d) If the ALM has at least twelve (12) months continuous service and the ALM's partner gives birth or adopts a child, the ALM will be entitled to one (1) week paid supporting partner leave within three (3) weeks of the birth/adoption of the child or in exceptional circumstances at an alternative time agreed with the ALM's manager.
- (e) If the ALM has at least twelve (12) months continuous service, the ALM, either the mother or the father, may take up to fifty two (52) weeks unpaid parental leave. Unpaid parental leave can be taken in conjunction with other leave (i.e. annual leave, long service leave) within sixty-six (66) weeks of birth or adoption. The period during which an employee is absent on unpaid parental leave does not count as service for any purpose.
- (f) An employee may be entitled to request additional unpaid parental leave in accordance with the National Employment Standards.
- (g) The parental leave entitlement of an ALM is not payable on termination.

#### 21.3.5 *Jury Service Leave*

- (a) An ALM will be granted paid leave for any time they are necessarily prevented from attending work as a result of being required to perform jury duty.
- (b) An ALM will continue to receive the salary the ALM would have normally received when on jury service leave.
- (c) Any payment received from the court for jury service must be disbursed to Airservices. An ALM may retain any reimbursements made for travel and meal costs.
- (d) Airservices may require proof of the ALM's attendance for jury service.

#### 21.3.6 *Community/Emergency Service Leave*

- (a) An ALM is entitled to unpaid community service leave in accordance with the Act. This will include leave for regular training, all emergency services responses, reasonable recovery time and ceremonial duties.

- (b) If an ALM is a member of an emergency organisation (for example, the State Emergency Service or Country Fire Service) they are entitled, subject to Airservices' approval, to one (1) week's paid leave per annum in order to attend emergency situations.
- (c) An ALM must advise Airservices as soon as possible of their need to take emergency service leave.
- (d) Airservices may require proof of the ALM's membership of the emergency organisation.
- (e) While an ALM is on emergency service leave, they will continue to receive their normal salary.
- (f) The paid emergency leave of an ALM is non-cumulative and is not payable on termination.

#### 21.3.7 Defence Service Leave

- (a) An ALM will be granted leave for any time they are required to undertake Defence service.
- (b) Airservices may require proof of attendance by an ALM and, whenever possible, an ALM should provide at least three (3) months' notice from the Australian Defence Force of a requirement to undertake Defence service.
- (c) While an ALM is on Defence Service Leave, they will continue to receive their normal salary for up to four (4) weeks to undertake Defence service and two (2) weeks for attendance at recruit/initial employment training.
- (d) The paid Defence Service leave entitlement of an ALM will accrue and may be taken over a two (2) year period but is not payable on termination.
- (e) Other leave for Defence service will be unpaid.
- (f) Defence service leave, whether paid or unpaid, will count for service for all purposes, except for unpaid leave in excess of six (6) months which will not count for recreation leave purposes.

#### 21.3.8 Other leave

Airservices may grant you further leave if Airservices considers it is reasonable to do so in the circumstances of the particular case.

## 22. REDEPLOYMENT UPON CESSATION AS ALM

- 22.1. An ALM may give written notice to Airservices that they want to relinquish the ALM position and instead perform the role of an Air Traffic Controller ('ATC') or another position that may be available to be filled by them. In that event, subject to the ALM undertaking any required training successfully and satisfying any applicable regulatory requirements, Airservices will re-deploy them to an ATC position at a level that is as nearly as practicable commensurate with their experience and qualifications as an ATC or the other position (provided Airservices decides in its discretion that they can be appointed to that other position).
- 22.2. Subject to training requirements, the redeployment will occur within 3 months of the giving of the written notice by the ALM, unless it is otherwise

agreed with the ALM or significant operational or safety considerations make it impractical.

22.3. If an ALM is to be re-deployed to an ATC position they will be entitled to salary maintenance for a period as follows:

- (a) if the ALM has twenty (20) or more years' service as an employee of Airservices or is over forty five (45) years of age – thirteen (13) months from the date that they commence in the ATC (or other) position; and
- (b) all other employees – seven (7) months from the date that they commence in the ATC (or other) position.

22.4. If at any time during the operation of this agreement, Airservices decides that an ALM is not performing the ALM role to a satisfactory level and the ALM has been given an appropriate opportunity under Airservices' policy governing behaviour and performance to improve to the required standard, Airservices may redeploy the ALM to an ATC position at a level that is as nearly as practicable commensurate with their experience and qualifications as an ATC or to another position that is agreed with the ALM. (This provision shall not prejudice the exercise of any right that an ALM has to dispute a decision that they are not performing satisfactorily in the ALM position.). In that event the salary maintenance provisions contained in clause 22.3 will apply.

## **23. FITNESS FOR CONTINUED DUTY**

23.1. Early intervention is important if an ALM is absent from work and an ALM's health may be impaired. Should an ALM experience a health problem that may impair an ALM's capacity to perform an employee's duties in the long term, Airservices' objective will be to take positive and appropriate action to address that matter.

23.2. Where an ALM's absence is directly related to medical factors, any action Airservices takes will be based on the advice of a DAME.

23.3. If it appears that an ALM's health could be substantially impaired, other than temporarily, or an ALM's ability to perform their duties appears to be substantially affected by health issues, Airservices may refer the ALM to a DAME. This power of reference is only to be made by a Service Delivery Line Manager, or an equivalent manager, with the approval of the Executive General Manager, ATC. Where an ALM has been referred to and attends a DAME, Airservices will provide an ALM with written details of the findings of the medical examination, any recommendations provided by the DAME, and advice of any action Airservices proposes as a result.

23.4. An ALM will be given the opportunity to respond to any action proposed to be taken and may provide a written response to Airservices within 14 days.

23.5. Once it has received DAME advice, Airservices may take action that is appropriate to the circumstances of the case. This can include:

- (a) Return of the ALM to the ALM's current position and duties;
- (b) Redeployment the ALM at the same level in a different position;
- (c) Redeployment of the ALM to a lower level position with the ALM's consent. It may also redeploy the ALM to a lower level position without the ALM's consent provided it consults with the ALM about that matter; or



- 
- (d) Termination of an ALM's employment with Airservices.

## **24. PERFORMANCE, CONDUCT AND TERMINATION**

### **24.1. *Summary dismissal***

Airservices may terminate the employment of an ALM with immediate effect (in our absolute discretion, with or without a separation payment) if an ALM:

- (a) Commits any act of serious misconduct or behave in any other way that shows that they are no longer prepared to work in accordance with their obligations under this Agreement;
- (b) Is convicted of any offence involving fraud or dishonesty or any other serious offence which is punishable by imprisonment (whether you are imprisoned or not);
- (c) Is absent from Airservices' business without approval (unless such absence is for bona fide reasons and does not exceed 5 working days or is otherwise authorised); or
- (d) Engages in any other conduct which would justify summary dismissal at common law.

24.2. In relation to performance and conduct issues that do not fall within the scope of clause 24.1, the following is accepted by the parties:

- (a) The primary focus of managing an employee whose performance and/or conduct is unsatisfactory should be to constructively assist the employee to improve their performance and/or conduct to a satisfactory level within a reasonable time, giving such feedback and assistance as is appropriate, without the need to have recourse to a formal process.
- (b) There will be occasions when it is appropriate for a formal disciplinary process to take place as a first step, that is, where the conduct of the employee is reasonably regarded as seriously unsatisfactory.
- (c) Airservices will observe the principles of procedural fairness and natural justice. Without detracting from the meaning of that expression at law, this means:
  - (i) An employee will be promptly advised of any matter of concern about their performance or conduct and any circumstance that may lead to termination of their employment;
  - (ii) The employee will be given time and the opportunity to seek access to a representative of their choice to advise them in relation to these circumstances;
  - (iii) The employee will be given the opportunity to be heard, including the opportunity to be represented in these matters if they so desire; and
  - (iv) Airservices will be unbiased in the consideration of the employee's views and will genuinely consider the matters put by the employee or by their representative.

24.3. In order to address unsatisfactory conduct or performance and subject to the operation of clauses 24.1-24.2, Airservices can take any of the following courses of action:

- (a) It can require the employee to undergo remedial training and/or counselling as appropriate to the circumstances of the case;

- (b) It can give the employee a written warning appropriate to the circumstances of the case;
- (c) It can set conditions with which the employee needs to comply;
- (d) It can reduce the employee in classification for a period of time or indefinitely;
- (e) It can terminate the employee's employment on notice in accordance with clause 24.4; and/or
- (f) It can take such other step appropriate to the circumstances of the case.

#### *24.4. Termination on notice*

Subject to the operation of clause 24.2, either Airservices or an ALM may terminate employment of an ALM at any time by giving three (3) months written notice to the other party. However, before Airservices makes a decision to exercise its entitlement under this clause, it will give consideration to whether it is appropriate for it to redeploy the ALM under clause 22.4. Airservices may substitute pay in lieu of any part of or all of any period of notice of termination.

#### *24.5. Relief from duty during notice period*

During any period of notice of termination, at Airservices' sole discretion, it:

- (a) May require an ALM to perform only such duties as it may determine or not to perform any duties at all; and
- (b) May require an ALM not to have any contact with any other employees, customers or business associates other than normal social contact; and
- (c) May exclude an ALM from all or any part of its premises.

#### *24.6. Entitlements upon termination*

On termination of employment, an ALM will be entitled to receive:

- (a) The remuneration payable to them up to and including the date of termination;
- (b) Pay in lieu of any accrued recreation leave to which they are entitled up to and including the date of termination; and
- (c) Pay in lieu of any long service leave to which they are entitled up to and including the date of termination.

#### *24.7. Redundancy Benefit*

If the employment of an ALM is terminated by Airservices by reason of redundancy, and an ALM has not received an offer of suitable alternative employment, they will be entitled to receive, in addition to notice or payment in lieu to which they are entitled under clause 24.4, payment of one month's salary for each completed year of service with Airservices or any of its predecessors to a maximum of six (6) months' salary. Any payment made under this clause 24.7 includes any redundancy payment to which the employee is entitled under the National Employment Standards.

24.8. In this clause the expression:

**“Redundancy”** refers to the circumstance where Airservices has made a definite decision that it no longer requires the job that an ALM has been performing to be performed by anyone.

**“Offer of suitable alternative employment”** means an offer of employment (received by the ALM no less than one month before the date of the termination of their employment in the position that has or is becoming redundant):

- (a) with Airservices or an entity or organisation that is a successor to the business of Airservices, on the same or comparable terms to the terms of employment that are applicable under this Agreement; or
- (b) with another employer where the offer of employment has been procured by Airservices, the offered employment commences within a month of the termination of the employment of the ALM with Airservices, and where the remuneration package and responsibilities associated with the offered employment are comparable with those applicable to the ALM under their existing terms and the employment is located at the same geographical location or another geographical location within reasonable commuting distance of the home of the ALM or their work location under this Agreement.

**24.9. *Right to Set Off***

Any overpayment of an entitlement to an ALM under this Agreement is repayable as soon as practicable (provided it is reasonable to require such repayment), subject to reasonable arrangements being agreed between the ALM and Airservices. Airservices may, with the ALM's written authorisation, deduct the amount (or part of the amount) of any overpayment of an entitlement made to an ALM by Airservices which has not been repaid prior to termination.

**24.10. *Return of Property***

Upon termination of employment of an ALM, an ALM will immediately return to Airservices all its property, including but not limited to keys, pass cards, files, memoranda, notes, records, computer records and programs which are in the possession or control of the ALM and in the case of documents or other information will not retain any copies or parts thereof.

**25. EMPLOYEES WHO ARE ENTITLED TO BENEFIT OF EARLY RETIREMENT PROVISIONS UNDER PREVIOUS INDUSTRIAL INSTRUMENTS: SPECIAL PROVISIONS**

25.1 The purpose of this clause is:

- To recognise and continue the legal entitlement of certain employees (called in this clause an 'ERB employee') to the benefit of Early Retirement Benefit provisions as contained in clause 19 of the

*Airservices Australia Award 2000* (and its predecessors) according to those provisions; and

- To confer an entitlement during the operation of this agreement on an ERB employee to convert their existing benefit entitlement into an alternative benefit if they so wish.

25.2 For the purposes of this Clause:

**Age in years** of the employee on retirement will be calculated in accordance with the provisions of section 6 of the *Superannuation Act 1976*.

**ERB employee** means an employee:

- (a) who was employed by Airservices on 1 July 1998 in one of the classifications referred to in Table 19A of clause 19 of the *Airservices Australia Award 2000*; and
- (b) who has not made an election under the provisions of clause 8.6 of the *Airservices Australia Enterprise Agreement 1998-2001* (or pursuant to any other right to do so given to them by Airservices) to convert the benefit of their ERB entitlement to another form of benefit.

**Final annual rate of salary** has the same meaning as in the *Superannuation Act 1976*.

**Relevant licensing authority** means the person who, in accordance with the Civil Aviation Regulations as in force from time to time, is empowered to licence a person to be an Air Traffic Controller.

**Relevant period of air traffic control service** means the period, or the sum of the periods, during which the employee was employed in Air Traffic Controller or Flight Service Officer or Air Traffic Control Manager but does not include any period of service occurring before the employee was granted an Air Traffic Controller or Flight Service Officer licence by the relevant licensing authority or graduated from an Air Traffic Controller or Flight Service Officer course conducted by, or on behalf of, the relevant licensing authority, or any period of service before the employee last became an employee, or periods of leave without pay which have been determined not to count as service.

25.3 Subject to the provisions of clause 25.4, an ERB employee:

- (a) who immediately before their retirement is employed in a classification referred to in Table 19A of clause 19 of the *Airservices Australia Award 2000* or an equivalent operational classification; and
- (b) who retires from Airservices after attaining the age of 50 years, and before or upon attaining the age of 60 years, and who at the date of retirement has had a relevant period of air traffic control service exceeding 10 years,

will be entitled to be paid an amount equal to the product of A, B and C where:

'A' is the final annual rate of salary of the ERB employee,

'B' is the factor specified in Table below opposite the age in years of the ERB employee on retirement, and

'C' is the number of years of service the ERB employee has completed in the relevant period of flight service or air traffic control service.

**Table**

**Factors Applicable To Early Cessation Payment**

Age in years of the ERB employee on retirement	Factor
50 – 55 years	0.037
56 years	0.033
57 years	0.029
58 years	0.025
59 years	0.021
60 years	0.017

- 25.4 An employee will not be entitled to payment, if Airservices is satisfied, having regard only to operational requirements, that the retirement of an employee is not in the interest of Airservices.
- 25.5 Approval under these provisions is deemed to be satisfied where the employee gives six (6) months' written notice of the retirement date. Applications with less than six (6) months' notice will continue to be considered.
- 25.6 Where the retirement request directly results from substantive organisational changes or changes to operations introduced by Airservices which affect an employee, applications with a minimum period of two (2) months' notice will be considered.
- 25.7 A date of retirement, once notified to Airservices, shall not be delayed by more than three (3) months without our approval.
- 25.8 An ERB employee shall have during the operation of this Agreement a right to elect to convert their entitlement to the Early Retirement Benefit into an alternative form of benefit in its place according to the following:

**Category of ERB Employee (at date of election)**

**Alternative Benefit**

Employees under age 50 years	Fortnightly
payments	
Employees age 50-60 years	Lump sum

- 25.9 The process for making an election and the calculation of the fortnightly payments and lump sums of the alternative benefit shall be as specified by the Airservices procedure that governs that matter.

## **26. FLEXIBILITY ARRANGEMENTS**

- 26.1 This provision permits the making of Individual Flexibility Arrangements under which Airservices and an individual ALM agree to vary the effect of certain terms of this Agreement to meet the genuine needs of the individual employee and Airservices.
- 26.2 An Individual Flexibility Arrangement may vary the effect of terms in this Agreement that deal with arrangements about when work is performed.
- 26.3 An Individual Flexibility Arrangement must:
- (a) be made genuinely without coercion or duress;
  - (b) result in the employee being better off overall in relation to the employee's terms and conditions of employment than the employee would be if no Individual Flexibility Arrangement were agreed.
- 26.4 An employee may choose to be represented by the Union or other person in discussions on a proposed Individual Flexibility Arrangement. Union representation does not mean the consent of the Union is required for the making of an Individual Flexibility Arrangement.
- 26.5 An Individual Flexibility Arrangement must also be in writing, name the parties to the agreement, be signed by Airservices and the individual employee (and, if the employee is under 18 years of age, the employee's parent or guardian) and specify:
- (a) the particular terms of this Agreement the effect of which Airservices and the individual employee have agreed to vary;
  - (b) the nature of the varied arrangements agreed and how they will operate;
  - (c) how the agreement results in the employee being better off overall in relation to the employee's terms and conditions of employment than the employee would be if the Individual Flexibility Arrangement were not made; and
  - (d) the date on which the Individual Flexibility Arrangement commences.
- 26.6 Airservices must give the individual employee a copy of the agreement within 14 days and keep the agreement as a time and wages record.
- 26.7 An Individual Flexibility Arrangement may be terminated:
- (a) by Airservices or the employee giving 28 days notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
  - (b) at any time, by written agreement between Airservices and the employee.
- 26.8 Disputes in relation to the application of this clause or in relation to the operation of an Individual Flexibility Arrangement may be dealt with under clause 8, Resolving Workplace Concerns/Dispute Settlement.

## 27. DEFINITIONS

In this Agreement, unless otherwise stated or the context otherwise indicates:

**"Act"** means the *Fair Work Act 2009* as amended from time to time.

**"Agreement"** means this agreement.

**"FWC"**, means the Fair Work Commission or any successor body that is conferred with the same or similar functions.

**"Airservices"** means Airservices Australia.

**"Award"**, means the Airservices Australia Award 2000 or any Award, which replaces or supersedes that Award.

**"DAME"** means a Designated Aviation Medical Examiner.

**"Domestic partner"**, means someone who lives with an employee in a domestic partnership and includes an employee's spouse or de facto partner.

**"Former domestic partner"**, means someone who lived with an employee in a domestic partnership, and includes an employee's former spouse or former de facto partner.

**"Immediate Family"** means:

- (a) An ALM's domestic partner (including an ALM's former domestic partner);
- (b) An ALM's child or adult child (including an adopted child, a step child or an ex-nuptial child), parent, grandparent, grandchild or sibling of an ALM or of an ALM's domestic partner or former domestic partner; and
- (c) A person related to an ALM by Aboriginal and/or Torres Strait Islander kinship structures.

**"Union"**, means The Civil Air Operations Officers' Association of Australia

SIGNED FOR AND ON BEHALF of )  
Airservices Australia )


  
Name: Margaret Staib

Position: Chief Executive Officer

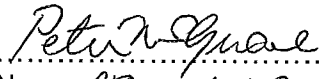
Address: 25 Constitution Ave  
Canberra 2600

Dated: 31/3/14

in the presence of:

  
Name: Linda Glover

SIGNED FOR AND ON BEHALF of )  
Civil Air Operations Officers' Association of Australia )


  
Name: PETER MCGUANE

Position: EXECUTIVE SECRETARY

214 GRAYMAN ST  
Address: PORT MELBOURNE

Dated: 14/4/14

in the presence of:

  
Name: LISA HEAP



## Schedule 2.3 Model consultation term

(regulation 2.09)

### Model consultation term

- (1) This term applies if the employer:
  - (a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
  - (b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

#### *Major change*

- (2) For a major change referred to in paragraph (1)(a):
  - (a) the employer must notify the relevant employees of the decision to introduce the major change; and
  - (b) subclauses (3) to (9) apply.
- (3) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- (4) If:
  - (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
  - (b) the employee or employees advise the employer of the identity of the representative;the employer must recognise the representative.
- (5) As soon as practicable after making its decision, the employer must:
  - (a) discuss with the relevant employees:
    - (i) the introduction of the change; and
    - (ii) the effect the change is likely to have on the employees; and
    - (iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and
  - (b) for the purposes of the discussion—provide, in writing, to the relevant employees:
    - (i) all relevant information about the change including the nature of the change proposed; and
    - (ii) information about the expected effects of the change on the employees; and
    - (iii) any other matters likely to affect the employees.
- (6) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- (7) The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- (8) If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph (2)(a) and subclauses (3) and (5) are taken not to apply.
- (9) In this term, a major change is ***likely to have a significant effect on employees*** if it results in:
  - (a) the termination of the employment of employees; or

- (b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
- (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
- (d) the alteration of hours of work; or
- (e) the need to retrain employees; or
- (f) the need to relocate employees to another workplace; or
- (g) the restructuring of jobs.

*Change to regular roster or ordinary hours of work*

- (10) For a change referred to in paragraph (1)(b):
  - (a) the employer must notify the relevant employees of the proposed change; and
  - (b) subclauses (11) to (15) apply.
- (11) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- (12) If:
  - (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
  - (b) the employee or employees advise the employer of the identity of the representative;
 the employer must recognise the representative.
- (13) As soon as practicable after proposing to introduce the change, the employer must:
  - (a) discuss with the relevant employees the introduction of the change; and
  - (b) for the purposes of the discussion—provide to the relevant employees:
    - (i) all relevant information about the change, including the nature of the change; and
    - (ii) information about what the employer reasonably believes will be the effects of the change on the employees; and
    - (iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and
  - (c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- (14) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- (15) The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.
- (16) In this term:

***relevant employees*** means the employees who may be affected by a change referred to in subclause (1).