



# DECISION

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

**Aged Care Quality and Safety Commission**  
(AG2019/4868)

## **AGED CARE QUALITY AND SAFETY COMMISSION ENTERPRISE AGREEMENT 2019-2022**

Commonwealth employment

DEPUTY PRESIDENT MASSON

MELBOURNE, 31 DECEMBER 2019

*Application for approval of the Aged Care Quality and Safety Commission Enterprise Agreement 2019-2022.*

[1] An application has been made for approval of an enterprise agreement known as the *Aged Care Quality and Safety Commission Enterprise Agreement 2019-2022* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Aged Care Quality and Safety Commission. The Agreement is a single enterprise agreement.

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

[3] The Australian Nursing and Midwifery Federation (ANMF) and the Community and Public Sector Union (CPSU) being bargaining representatives for the Agreement, have given notice under s.183 of the Act that they want the Agreement to cover them. In accordance with s.201(2) I note that the Agreement covers the organisations.

[4] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 7 January 2020. The nominal expiry date of the Agreement is 30 December 2022.



DEPUTY PRESIDENT

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**Aged Care Quality and Safety  
Commission Enterprise Agreement  
2019-2022**



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## **PART A – GENERAL**

### **AGREEMENT TITLE**

- 1) This enterprise agreement is made under section 172 of the *Fair Work Act 2009* (FW Act) and will be known as the 'Aged Care Quality and Safety Commission Enterprise Agreement 2019-2022' (the Agreement).

### **COVERAGE**

- 2) This Agreement covers:
  - a) the Aged Care Quality and Safety Commissioner, on behalf of the Commonwealth, and
  - b) all non-Senior Executive Service (SES) and their equivalent Commission employees.
- 3) Subject to a decision of the Fair Work Commission following notice in accordance with section 183 of the FW Act, the following employee organisations are covered:
  - a) the Community and Public Sector Union (CPSU)
  - b) the Australian Nursing and Midwifery Federation (ANMF)

### **COMMENCEMENT AND DURATION**

- 4) For the purposes of clauses 5, 6 and 11-14:
  - a) Commencement Date means the date the Agreement commences operation;
  - b) Effective Date means the day which is 12 weeks from the date the Agreement was made in accordance with section 182 of the FW Act.
- 5) This Agreement will commence operation seven days after the date it is approved by the Fair Work Commission and nominally expire three years from the Commencement Date.
- 6) If the Commencement Date occurs after the Effective Date, then, in the first available pay period after the Commencement Date, the Commission will make a salary adjustment payment, applicable to salary only, calculated on the basis that the salary rates payable under the Agreement on the Commencement Date applied from the Effective Date.

### **COMMISSIONER'S DELEGATION**

- 7) The Commissioner may in writing delegate to, or authorise any person to perform, any of the Commissioner's powers or functions under the Agreement, including the power of delegation, and may do so subject to conditions.

### **POLICIES**

- 8) Any authorised policies or procedures referred to in this Agreement are not incorporated into, and do not form part of, this Agreement. If there is any inconsistency between the terms of this Agreement and the policies and procedures, the terms of this Agreement will prevail.

## NATIONAL EMPLOYMENT STANDARDS (NES)

- 9) Nothing in this Agreement reduces the entitlement available to an employee under the National Employment Standards (NES).

## PART B – DEFINITIONS

- 10) In this Agreement, unless a contrary intention is clear, the following definitions apply:

<b>APS</b>	Means the Australian Public Service.
<b>APS Award</b>	Means the <i>Australian Public Service Enterprise Award 2015</i> .
<b>APS Employee</b>	Has the same meaning as in the <i>Public Service Act 1999</i> .
<b>Commission</b>	Means the Aged Care Quality and Safety Commission.
<b>Commissioner</b>	Means the Commissioner of the Aged Care Quality and Safety Commission, or a delegate, or a person authorised by the Commissioner.
<b>Commonwealth Nursing Officer</b>	Is an employee who is a Registered Nurse employed in a role where it is a mandatory requirement of the role to maintain professional registration with the Nursing and Midwifery Board of Australia
<b>Dependant</b>	Means in relation to an employee: a) the employee's partner; or b) a child or parent of the employee, or of the partner of the employee, being a child or parent who ordinarily resides with the employee and who is wholly or substantially dependent upon the employee.
<b>Employee</b>	Means an employee engaged by the Commission on a non-ongoing or ongoing basis under section 22 of the PS Act.
<b>Family</b>	Means a person who: a) is a spouse of the employee; b) is a child including an adult child, adopted child, stepchild, or foster child of the employee; c) is a parent, grandparent, grandchild or sibling of the employee, or the employee's spouse; d) the Commissioner is satisfied has a strong affinity with the employee; e) is a member of the employee's household; or f) for Aboriginal and Torres Strait Islander employees, is a person related to the employee through traditional kinship;  and includes a person of the opposite or same sex to the employee.
<b>Foster child</b>	Means a child for whom the employee has assumed long-term responsibility arising from the placement of the child by a permanent or long-term (minimum 6 months) fostering arrangement: a) by a person or an organisation with statutory responsibility for the placement of the child; and b) where the child is expected to stay with the employee.
<b>FW Act</b>	Means the <i>Fair Work Act 2009</i>
<b>HDA</b>	Means Higher Duties Allowance, the temporary payment of an allowance where an employee is temporarily assigned duties at a higher classification than their current classification.

<b>Health/Medical Practitioner</b>	Means a person registered or licensed as a Health/Medical Practitioner under Australian law.
<b>LSL Act</b>	Means the <i>Long Service Leave Act (Commonwealth Employees) 1976</i>
<b>Manager</b>	Means an employee who has operational and/or supervisory responsibility for another employee or a team of employees.
<b>ML Act</b>	Means the <i>Maternity Leave (Commonwealth Employees) Act 1973</i>
<b>Movement or Move</b>	Means assignment of duties of an employee, whether on a temporary/non-ongoing or ongoing basis, either within the Commission or from/to another agency. Previously referred to as 'transfer'.
<b>Parliamentary Service</b>	Refers to employment under the <i>Parliamentary Service Act 1999</i> .
<b>Part-time employee</b>	A part-time employee is one who regularly works less than full-time ordinary hours, by agreement.
<b>PDS</b>	Means the Commission's Performance Development Scheme.
<b>Promotion</b>	Means the ongoing assignment of duties at a higher classification (excluding HDA) than the employee's current classification, as defined in the <i>Australian Public Service Commissioner's Directions 2016</i> .
<b>PS Act</b>	Means the <i>Public Service Act 1999</i> .
<b>Representative</b>	Means a person or organisation chosen by an employee, or a group of employees, to speak for and/or represent them.
<b>Salary advancement</b>	Means movement through increments within a salary range for a classification, subject to meeting any necessary requirements. These increases are salary for the purposes of superannuation.
<b>Salary increase</b>	Means a general increase to the base salary paid to an employee. These increases are salary for the purposes of determining salary for superannuation purposes.
<b>School-aged</b>	Means the age at which the child is required by the law of the State or Territory in which the child lives to attend school.
<b>Spouse</b>	Means in relation to an employee: a) the husband or wife of the employee; b) the former husband or wife of the employee; c) a person who is in a recognised de facto relationship with the employee; d) the former de facto of the employee; or e) the partner of the employee; and includes a person of the opposite or same sex to the employee.
<b>Support person</b>	Means a person selected by the employee to provide support during a discussion the employee has with the employee's manager.
<b>Voluntary retrenchment</b>	Means voluntary termination of an excess employee's APS employment, also known as 'voluntary retirement' or 'voluntary redundancy'.



## **PART C – REMUNERATION AND CLASSIFICATIONS**

### **SALARY RATES**

#### **Salary upon commencement of this Agreement**

- 11) Employees who, prior to the commencement of this Agreement, were on a pay-point within the salary range of their applicable classification band will receive salary increases in accordance with clause 14.
- 12) Employees who, prior to the commencement of this Agreement, had a salary which was above the top pay point for their classification, but is within the salary rates on commencement of this agreement, will receive an increase of their salary to the top pay point of the commencement salary rates for their classification band. Subsequent pay increases will be in accordance with clause 14b and c.
- 13) Employees whose salary remains above the top pay point for their classification in the salary rates, subsequent to commencement of this Agreement, will receive a 2% salary increase on commencement. After receiving this salary increase this group of employees will retain their salary until their actual salary falls within the pay-point range for their APS classification, at which point their salary will be increased to the next higher pay-point within the salary rates. Their salary will then increase in accordance with clause 14.

#### **Salary increases**

- 14) Salary rates will increase with effect on:
  - a) The Commencement Date or the Effective Date as defined in clause 4 (whichever is earlier) – increase of 2%
  - b) 12 months after date of commencement of the Agreement – increase of 2%
  - c) 24 months after date of commencement of the Agreement – increase of 2%

#### **Salary rates**

- 15) Salary rates during the life of the Agreement are specified in Appendix A.

#### **Junior wage rates**

- 16) Employees who are younger than 21 years of age and who are employed as an APS 1 or Cadet (practical training) will be paid the following percentages of the minimum APS1 salary range:
  - a) Under 18 years     60%
  - b) At 18 years         70%
  - c) At 19 years         81%
  - d) At 20 years         91%

#### **Part-time employees**

- 17) Remuneration, apart from expense related allowances or reimbursements, for part-time employees will be calculated as a pro-rata of the appropriate salary table indicated at Appendix A, based on the proportion of hours worked in comparison to full-time hours.

## Irregular or intermittent employee loading

- 18) A non-ongoing employee engaged for duties that are irregular or intermittent in nature will be paid for the actual hours worked, based on the appropriate salary rate as indicated at Appendix A plus a 25 per cent loading in lieu of all paid leave and accruals (excluding long service leave) and public holidays on which they do not work. This loading is not paid for overtime.

## SUPPORTED WAGE SYSTEM

- 19) Information on supported wage rates and related arrangements is at Appendix C.

## PAYMENT RELATED MATTERS

- 20) Employees will be paid fortnightly in arrears, based on the following formula:

$$\text{Fortnightly pay} = \frac{\text{annual salary} \times 12}{313}$$

- 21) Payment will be made by electronic funds transfer (EFT) into a financial institution of the employee's choice.
- 22) Where an employee is overpaid an amount of salary or other benefits including allowances, the overpayment will be recovered in accordance with the requirements of the FW Act. These provisions do not operate to limit the right of the Commission to recover a debt from monies that are, or become, payable to an employee under this Agreement.

## SALARY ADVANCEMENT WITHIN CLASSIFICATIONS

- 23) Salary advancement within all classification levels will occur from the beginning of the first full pay period commencing on or after 1 August each year subject to the following:
- a) completing the requirements of the PDS unless there is reasonable cause not to have done so; and
  - b) achieving a satisfactory performance or better at the end of the PDS planning cycle; and
  - c) for ongoing employees, having performed duties within the Commission at their substantive level or above (i.e. higher duties), for an aggregate of three months or more within the PDS planning cycle; or
  - d) for non-ongoing employees, other than employees employed for irregular/intermittent duties, having been engaged at the same classification to perform the same duties continuously for six months during the PDS planning cycle; and
  - e) not being ineligible for salary advancement due to relevant administrative actions, including a sanction under section 15 of the PS Act; or
  - f) any additional advancement provisions applying to specific groups of employees as outlined in clauses 24-31

## Junior employees

- 24) The provisions of clause 23 do not apply to employees who are under 21 years of age and employed at the APS 1 level. These employees are paid age-rate salaries and will be advanced to the next salary point on their birthday, except where they are paid the adult salary rate following automatic advancement upon successful completion of a course of study or training.

## **SALARY ADVANCEMENT WITHIN BROADBANDS**

### **Entry Level Broadband employees**

- 25) Entry Level employees are required to undertake a program/course of training determined by the Commissioner.
- 26) On satisfactory completion of the program/course of training the employees will be advanced through the soft barriers within the Entry Level broadband as set out in their Letter of Offer.
- 27) Advancement is not automatic and is subject to:
- a) sufficient work being available at the higher classification level; and
  - b) the employee having gained the necessary skill and proficiencies to perform the more complex work; and
  - c) satisfactory performance.

### **Legal 1 Broadband employees**

- 28) Legal 1 employees will have the following additional provisions for salary advancement.
- a) Advancement within the broadband is not automatic and is subject to:
    - i. sufficient work being available at the higher classification level; and
    - ii. the employee having gained the necessary skill and proficiencies to perform the more complex work; and
    - iii. satisfactory performance.
  - b) Receipt of a performance rating, as specified in column 1 of the table below, or in an alternative rating scale determined by the Commissioner, will result in advancement by the corresponding number of increments specified in column 2.
  - c) Advancement from the fifth to sixth pay point will not occur unless:
    - i. in the opinion of the Commissioner, the level of work allocated for the position is classified as higher level work; and
    - ii. the employee has performed work at the higher level for a minimum period of six months, and attained a performance rating of 'fully effective', 'superior' or 'outstanding' shown in the table below, or in an alternative rating scale determined by the Commissioner.
  - d) Unless otherwise approved by the Commissioner, Legal 1 employees will not advance beyond the sixth increment point until they have completed 12 months service at the sixth increment point.

<b>Column 1</b>	<b>Column 2</b>
<b>Performance rating</b>	<b>Rate of advancement</b>
Outstanding	Advancement by three increments

Superior	Advancement by two increments
Fully effective	Advancement by one increment
Partially effective	No advancement
Unsatisfactory	No advancement

### APS Quality Assessor/Senior Quality Assessor Broadband employees

- 29) Movement between classification levels within a broadband applies to ongoing employees only.
- 30) Movement to a higher APS classification level within a broadband is not automatic and can only occur when:
- a) there is work available at the higher level in accordance with the work level standards for the classification; and
  - b) the employee's performance is being consistently assessed as meeting or exceeding performance agreement metrics for both key business deliverables and observable work behaviours; and
  - c) the employee demonstrates to the employer's satisfaction a potential to undertake the higher level work and if appropriate has the necessary qualifications, skills and/or experience.

### Public Affairs 1

- 31) Advancement within the broadband is not automatic and is subject to:
- a) sufficient work being available at the higher classification level; and
  - b) the employee having gained the necessary skill and proficiencies to perform the more complex work; and
  - c) satisfactory performance.

## SALARY PAYABLE ON ENGAGEMENT, PROMOTION AND MOVEMENT

- 32) Unless otherwise determined by the Commissioner (having regard to experience, qualifications and skills) where a person is:
- a) promoted or engaged, salary will be payable at the minimum increment point of the relevant salary range;
  - b) moved at level on an ongoing or temporary movement basis from another APS agency; and:
    - i. the employee's salary is above the top increment point of the relevant range as stated at Appendix A, the Commissioner may maintain that salary until it is absorbed by pay increases at that classification level, at which time the employee will move to the next increment point above their current salary, subject to a satisfactory or better rating; or
    - ii. the employee's salary is below the top increment point of the relevant range as stated at Appendix A, but not aligned with an increment point in the range, the employee's salary will be paid at the next highest increment point in that range.

### Entry Pay Point for Entry Level Broadband

- 33) Entry pay points will be assessed having specific regard to the participant’s qualifications, work experience, skills and abilities and the program the employee is undertaking.

### Legal 1 – Determination of salary

- 34) On promotion, advancement, movement or engagement to a Legal 1, an employee will be paid at the minimum increment point unless:
- a) the Commissioner determines otherwise; or
  - b) on engagement the employee has been admitted as a practitioner of the High Court or the Supreme Court of a State or Territory; and
    - i. the employee has served under articles of clerkship for a period of not less than one year; or
    - ii. before being so admitted, the employee successfully completed a course of training in the Legal Workshop conducted by the Faculty of Law at the Australian National University or a comparable course in Australia; or
    - iii. the employee has gained experience which, in the opinion of the Commissioner, is equivalent to the experience of a person who has satisfied (i) or (ii).

### Salary on work placements

- 35) Where the Commissioner decides to provide work placements (for example, junior doctors through the Royal Australian College of General Practitioners training program), the Commissioner will determine the appropriate rate of remuneration in accordance with Appendix A for those employees. In addition to determining remuneration levels, the Commissioner may also determine payment rates for additional costs including travel, living away from home allowance and other employment-related allowances.

## CLASSIFICATIONS AND LOCAL TITLES

- 36) Employees undertaking duties recognised by the Commissioner as requiring possession of mandatory qualifications, specialist skills and/or professional registration will have specific titles recognised under the *Public Service Classification Rules 2000*, or local titles.

<p><b>Specific Classifications include:</b>          Graduate          Cadets          Trainees          Medical Officer</p>	<p><b>Local Titles include:</b>          Entry Level          Legal          Public Affairs          Commonwealth Nursing Officer (CNO)          Surveyor / Assessor</p>
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## BROADBANDING

- 37) Employees with the following local titles are broadbanded across the APS classification structure as follows:

Local title	Broadband
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Legal 1	APS4, 5, 6, Executive Level 1
Public Affairs 1	APS4, 5
Entry Level	APS1, 2, 3, 4
Quality Assessor/Senior Quality Assessor	APS5,6

### Entry Level Broadband

- 38) The following local titles are included in the Entry Level Broadband:
- a) Trainees (T);
  - b) Indigenous Australian Government Development Program (IAGDP) participants (I);
  - c) Indigenous Apprenticeship Program (A);
  - d) Graduates (G).
- 39) Under this Agreement the Commissioner may include other entry level local titles to this broadband.

## SUPERANNUATION

### Employer Superannuation Contributions

- 40) An employee will receive compulsory employer superannuation contributions as required by the applicable legislation and fund requirements. The salary for superannuation purposes for PSSap members will be calculated based on the employee's ordinary time earnings (OTE).

### Superannuation choice

- 41) Where an employee has chosen an accumulation superannuation fund, other than PSSap, the employer contribution will be 15.4% of the OTE. This will not be reduced by any other contributions made through salary sacrifice arrangements or during period of paid parental leave (however described). This clause does not apply where a superannuation fund cannot accept employer superannuation contributions (e.g. unable to accept contributions for people aged over 75).
- 42) For the purposes of this agreement, OTE is the salary paid for an employee's regular hours of work, not including overtime. It includes over-award payments, shift allowances, commissions and paid leave up to the maximum contributions base for the quarter. For the purpose of this Agreement, where salary sacrifice arrangements are in place or the employee is on paid maternity, adoption or foster leave, employer contributions will be paid as if those arrangements had not been entered into.
- 43) Employer superannuation contributions will not be paid on behalf of employees during periods of unpaid leave not to count as service, unless otherwise required under legislation.
- 44) The Commissioner may choose to limit superannuation choice to complying superannuation funds that allow an employee and/or employer contributions to be paid through fortnightly electronic funds transfer using a file generated by the Commission's payroll system.

## Treatment of allowances

- 45) A table indicating the treatment of allowances for superannuation purposes is at Appendix B.

## SALARY PACKAGING

- 46) Employees may access salary packaging, and may package up to one hundred per cent of salary. Where an employee takes up the option of salary packaging, the employee's salary for purposes of superannuation, severance and termination payments, and any other purposes, will be determined as if the salary packaging arrangement had not occurred.
- 47) Any fringe benefits tax incurred by individual employees as a result of salary packaging arrangements will be met by the individual employee on a salary sacrifice basis.

## **PART D – EMPLOYMENT CONDITIONS AND ALLOWANCES**

### **GENERAL**

- 48) Information on the recognition (for particular purposes) of allowances provided for in this Agreement is at Appendix B.

### **REMOTE LOCALITY CONDITIONS**

- 49) Remote locality assistance will vary depending on the grading of each individual remote locality. An employee residing in a locality which falls into Grade 1, 2, 3 or 4 of the Australian Standard Geographical Classification Remoteness Structure as set out in clause 12.2 of the APS Award will be entitled to the remote localities conditions specified in clause 12 of the APS Award.

### **INFLUENZA VACCINATIONS**

- 50) The Commissioner will, on an annual basis, make appropriate arrangements for the provision of influenza vaccinations to all employees at no cost.

### **OFFICIAL TRAVEL**

- 51) The Commission will meet reasonable costs, as determined by the Commissioner, for employees absent overnight or for part of the day on official travel, including travelling, accommodation, meal and other incidental expenses.
- 52) Where a period of official travel exceeds three continuous weeks, the Commissioner will determine a package of assistance to meet any additional costs incurred as a result of the employee being temporarily relocated.

Further information can be found in the Travelling on Official Business policy

### **Illness while travelling**

- 53) Where an employee falls ill or is injured while travelling on official business and subsequently takes leave, the Commissioner will approve payment of return journey costs to the employee.

### **Recognition of travel time**

- 54) Where an employee classified as an APS 1-6 (and their equivalents) is required to undertake official travel, the time spent travelling within the bandwidth, excluding the usual time taken for the employee to travel to and from the employee's regular place of work, will be recorded as work hours.
- 55) Travel outside the bandwidth undertaken by APS 1-6 (and their equivalents) will be claimed as travel time in lieu at single time rates.

### **Motor vehicle allowance**

- 56) Motor vehicle allowance (MVA) is payable where the Commissioner approves an employee to use a private or personally-hired vehicle for official purposes.



- 57) Where an employee seeks, and is approved to use, a private vehicle instead of the most efficient means of travel as determined by the Commissioner, the amount of MVA paid to the employee will not exceed the cost of the most efficient means of travel.

## **RELOCATION ASSISTANCE**

### **Access for existing employees**

- 58) Where the Commission initiates a permanent relocation (including movement or promotion) of an employee, or the relocation is in the interest of the Commission, the Commissioner will reimburse reasonable relocation costs for:
- a) transport and removal;
  - b) costs associated with the sale and purchase of the employee's normal place of residence;
  - c) costs incurred in avoiding serious disruption to the final two (2) years of the employee's child's secondary education (Years 11 and 12);
  - d) temporary accommodation in the new location.

### **Requested move**

- 59) Relocation or non-ongoing movement at the request of the employee will only attract relocation assistance at the discretion of the Commissioner.

### **Access for new employees**

- 60) Relocation assistance for reasonable costs may be negotiated on engagement, as agreed by the Commissioner, for:
- a) transport and removal costs; and
  - b) temporary accommodation in the new location.

## **COMMUNITY LANGUAGE ALLOWANCE**

- 61) An employee who is required to undertake translating or interpreting responsibilities may, with the Commissioner's approval, receive payment of a community language allowance.

## **RESTRICTION ALLOWANCE**

- 62) Where the Commissioner requires an employee to be contactable and available to work for a specified period outside employee's ordinary hours of work, the employee will be paid a restriction allowance as follows.
- a) An employee restricted for a period of seven calendar days will receive an allowance of \$307 per week.
  - b) An employee restricted for a period of less than seven calendar days will receive a proportional rate based on the number of hours restricted outside the employee's ordinary hours of work.
  - c) An employee restricted on a weekend roster arrangement will receive an allowance of \$53 for each day of the weekend they are restricted. Proportional rates will not apply for rostered weekend restriction periods.
  - d) An employee restricted for any period that includes a public holiday will receive payment of \$53 in addition to salary for each public holiday the employee is restricted.

- e) An employee restricted on the three working days of annual closedown between Christmas Day and New Year's Day will receive payment of \$53, in addition to salary, for each day of annual closedown the employee is restricted.

**Ineligible employees**

- 63) Executive Level employees (and their equivalents) are generally ineligible to receive restriction allowance payments. In exceptional circumstances, the Commissioner may approve restriction allowance payments for these employees.

**Place of work**

- 64) A restricted employee who is required to perform overtime may be required to work at the employee's usual workplace or at another designated place, including the employee's home.

**Non-payment**

- 65) Payment of restriction allowance will not be made to an employee who does not remain contactable and available to perform extra duty outside the employee's ordinary hours of duty.

**Overtime**

- 66) Where an employee is restricted under the provisions of clause 62 and is required to perform overtime, but is not required to be recalled to work, overtime payment will be made subject to a one-hour minimum payment.
- 67) Where an employee restricted under the provisions of clause 62 is recalled to duty at a place of work, overtime payment will be made, subject to a three-hour minimum payment.
- 68) Overtime provisions are outlined in Part E.

**OVERTIME MEAL BREAK ALLOWANCE**

- 69) Where an employee is directed to work overtime for a continuous period of at least one hour outside the bandwidth which extends over a meal period, they will be paid a meal allowance of \$28.00 where a meal break is taken during a meal period. For the purposes of this clause a meal period is:

Monday to Friday:	6.30 am-7.00 am 7.00 pm-7.30 pm
Saturday, Sunday and Public Holidays:	6.30 am-7.00 am 12.30 pm-1.30 pm 7.00 pm-7.30 pm

- 70) Where overtime is worked for long periods and does not coincide with designated meal periods, the Commissioner has the discretion to authorise payment of a meal allowance.

## **LOSS OF, OR DAMAGE TO, CLOTHING OR PERSONAL EFFECTS**

- 71) Where an employee incurs loss of, or damage to, clothing or personal effects, and the loss or damage can be reasonably associated with the employee's performance of the employee's duties, the Commissioner may authorise reimbursement of costs for repairs or replacement of the personal effects.

## **WORKPLACE RESPONSIBILITY ALLOWANCE**

- 72) The Workplace Responsibility Allowance will be paid to an employee undertaking the designated Workplace Responsibility Roles of First Aid Officer, Emergency Warden, Harassment Contact Officer (HCO) and Health and Safety Representative (HSR). An employee will not undertake more than one Workplace Responsibility at a time unless approved to do so by the Commissioner.
- 73) Payment of the Workplace Responsibility Allowance will be made to an employee who is elected or appointed to a Workplace Responsibility Role and has successfully undertaken relevant training or obtained any required qualification.
- 74) A weekly Workplace Responsibility Allowance of \$10.60 will be paid to an employee appointed by the Commissioner to be an Emergency Warden or HCO, and to an employee elected as a HSR.
- 75) A weekly Workplace Responsibility Allowance of \$15.35 will be paid to an employee holding the minimum accreditation standard of the Senior First Aid Certificate (Level 2 or equivalent) and has continuing expertise commensurate with that training, who is appointed by the Commissioner to be a First Aid Officer.

## **EYESIGHT TESTING AND EYEWEAR REIMBURSEMENT**

- 76) Eligible employees may request access to subsidised eyesight testing at two-yearly intervals, unless the employee provides medical evidence indicating that further testing is necessary. Eligible employees are those employees who, as an integral part of their duties, are required to:
- a) operate screen based equipment; and/or
  - b) undertake specialised work tasks which require particular visual acuity not normally required for general tasks (e.g. microscopy).
- 77) The Commissioner will reimburse (where not otherwise reimbursed under Medicare or private health insurance arrangements), once every two years, the following amounts for eyewear prescribed specifically for use with screen-based equipment.
- a) Up to \$100 for single vision spectacles; and
  - b) Up to \$165 for bi-focal, multi-focal or tri-focal spectacles.
- 78) The Commissioner may approve different testing requirements, intervals and reimbursement levels for employees undertaking tasks requiring particular visual acuity (other than screen-based work) (e.g. for microscopy work).

## **PART E – HOURS OF WORK AND FLEXIBILITY**

### **HOURS OF WORK**

- 79) All employees have a mutual responsibility for managing their working hours and patterns, including leave planning, flextime arrangements, and minimising additional hours where possible. The provisions below are designed to be sufficiently flexible for employees to meet business requirements and balance their personal needs.
- 80) An employee and their Manager will work together to manage hours of work to ensure that an employee is not working excessive hours without the opportunity to take time off either as flextime (for APS1-6 and their equivalents) or in the case of Executive Level employees (and their equivalents), as Executive Level time off.
- 81) All employees have access to flexible working hours. For APS1-6 (and their equivalents), these flexible working hours will be accessed through the flextime scheme.
- 82) For the purposes of calculating pay, attendance and flextime, ordinary hours of work for full-time employees is 150 hours over the four-week settlement period commencing on a payday Thursday. This equates to an average of 7 hours and 30 minutes per day.

### **Standard Day**

- 83) The Standard Day is used for the purposes of determining a full-time employee's hourly rate of pay, overtime entitlements, the accrual and deduction of leave and calculation of hours over the flextime period.
- 84) The Standard Day for full-time employees is 7 hours and 30 minutes worked from 8.30am to 12.30pm and 1.30pm to 5.00pm Monday to Friday.
- 85) An employee's attendance pattern will be a Standard Day where:
- a) essential operational requirements and the availability of work require that hours worked are temporarily varied, including reversion to a standard day, or
  - b) an employee's attendance is unsatisfactory or that the employee is misusing flextime.

### **Hours of work of part-time employees**

- 86) For part-time employees, ordinary hours are those agreed in the employee's part-time work agreement within the provisions of clauses 136 and 137. The pattern of hours for a part-time work agreement will provide for no less than three hours per day (or an alternative period agreed by the Commissioner and the employee) and will be continuous on any one day.

### **Working patterns**

- 87) The pattern of hours by which an employee meets their ordinary hours of duty will be determined in consultation with the employee, and with regard to the operational needs of the Commission. An employee will not:
- a) be required to work more than 10 hours ordinary time on any day; or

b) normally be required to commence work on any day without having at least 10 hours minimum break from the previous day's work, without specific approval from their manager.

88) Where this does occur, the overtime and time in lieu provisions at clauses 111 to 123 and/or meal allowance provisions at clauses 69 and 70 may apply.

89) Regardless of the bandwidth, APS employees are required to break for at least 30 minutes after five hours of continuous work.

### **Insufficient work and flextime**

90) Working extended hours is subject to work availability and manager approval. A manager may require an employee not to work hours in excess of their ordinary hours where there is insufficient available productive work to warrant working the extended hours.

### **Bandwidth**

91) The bandwidth of hours in which an employee will work their ordinary hours is 7.00 am to 7.00 pm, Monday to Friday.

### **Work outside bandwidth**

92) Where an employee requests to work their ordinary hours outside the bandwidth e.g. on a Saturday or Sunday, the employee may do so, subject to operational requirements and with the agreement of their manager. Any hours worked on this basis will be considered ordinary hours and will not attract overtime. Variation of the bandwidth hours can be on a regular, temporary or intermittent basis.

### **After hours use of taxis**

93) A Manager may approve the use of taxis by an employee for after hours work, as part of their overall WHS responsibility.

### **Recording attendance**

94) All employees are required to record their working hours.

## **FLEXTIME SCHEME**

### **APS1-6 (and their equivalents)**

95) APS1-6 employees (and their equivalents) accumulate flextime for duty performed in excess of their ordinary hours of work (over the settlement period), that does not attract overtime.

96) Subject to the agreement of their manager, an employee may:

- a) vary their pattern of attendance from time to time in order to meet personal needs;
- b) take flextime as a part or whole day absence.

### **Excess flex credits**

- 97) Where an employee's flex credit exceeds 20 hours at the end of a settlement period, the employee and their manager will put a plan in place to reduce the flex credits.

### **Cash out of credits exceeding 30 hours**

- 98) At the end of a settlement period, an employee's manager may approve flex credits exceeding 30 hours to be cashed out at ordinary time rates where, due to organisational requirements, the manager cannot envisage an opportunity for the employee to use those credits in the next settlement period.

### **Cash out of credits exceeding 37.50 hours**

- 99) At the request of the employee, flex credits exceeding 37.50 hours can be cashed out.

### **Flex debit balance**

- 100) Employees may carry over a maximum of 10 hours flex debit accumulated in any settlement period into the next settlement period. If the maximum debit is exceeded at the end of a settlement period and is not reduced to the maximum allowable (or lower) over the next settlement period, the amount by which the maximum is exceeded shall be treated as leave without pay and an appropriate deduction made from the employee's salary in accordance with the Accountable Authority Instructions.

### **Flex balances at cessation**

- 101) Prior to cessation of employment, the employee's manager should provide opportunities to enable the employee to balance any flex credits or debits. Employees should also take all reasonable steps to balance their flex debit or credit. Where flex credits are outstanding at the cessation of employment with the Commission, the flex credit will be paid to the employee at ordinary time rates. Where flex debits are outstanding at the cessation, these will be recovered as part of the termination payment, in accordance with the Accountable Authority Instructions.

### **ADDITIONAL HOURS**

- 102) In accordance with the FW Act, an employee may refuse to work additional hours (extra hours or directed overtime) where such additional hours are unreasonable. Such refusal will not prejudice the employee's employment. For the purposes of this clause, additional hours are those in excess of:
- a) 37.50 hours per week for a full-time employee; or
  - b) the agreed ordinary hours of work per week for a part-time employee.

### **EXECUTIVE LEVEL TIME OFF**

- 103) The Commission recognises the focus on the achievement of outcomes by Executive Level employees (and their equivalents) as senior professionals of the Commission. The achievement of organisational outcomes may involve considerable work effort, variable work hours and on occasions a requirement to work over and above normal working hours. The Commission recognises these efforts and contributions.

- 104) Executive Level employees and their managers will work together to manage workloads and working hours, including making arrangements as to when any Executive Level time off will be taken.
- 105) Where operational needs require an Executive Level employee to work additional hours in excess of their ordinary hours for a sustained period, including a critical incident response, the employee and their manager will agree and document arrangements for time off to recognise the additional effort.
- 106) To minimise any negative impact on an employee's health and wellbeing, Executive Level time off should be taken as soon as practical, subject to operational requirements.
- 107) Time off for Executive Level employees is available on an hour for hour basis for official domestic travel only. All other Executive Level time off will not be on an hour for hour basis.
- 108) Regardless of the bandwidth, Executive Level employees are required to break for at least 30 minutes after five hours of continuous work.

### **Time off for official travel**

- 109) Executive Level employees will only receive Executive Level time off on an hour-for-hour basis for time spent on official domestic travel outside of the Standard Day, excluding the usual time taken for the employee to travel to and from their regular place of work. Existing local travel arrangements for international travel will continue to apply.
- 110) To minimise any negative impact on an Executive Level employee's personal commitments, wherever possible the Commission encourages employees to travel within the bandwidth.

## **OVERTIME**

### **APS1-6 (and their equivalents)**

- 111) APS1-6 level employees (and their equivalents) are eligible for an overtime payment where they are directed by the Commissioner to:
- a) perform work outside the bandwidth (inclusive of weekends and public holidays);
  - or
  - b) work in excess of 9.5 hours on any one day (Monday to Friday inclusive), whichever occurs first.

### **Executive Level (and their equivalents)**

- 112) Executive Level employees (and their equivalents) are not generally entitled to payment for overtime. However, the Commissioner may approve overtime for Executive Level employees in exceptional circumstances. Otherwise, the time off provisions in clauses 103 to 108 will apply.

## Part-time employees

- 113) Part-time employees at the APS1-6 level (and their equivalents) are eligible for overtime for work performed at the direction of the Commissioner, which is:
- a) not continuous with the employee's agreed or specified hours of work, and/or
  - b) beyond the total ordinary hours of work over the settlement period specified in the employee's part-time work agreement.
- 114) Subject to clause 113, a part-time employee will be eligible for overtime for work performed in excess of the agreed hours of duty over the settlement period, unless they elect to receive those additional hours as Time in Lieu under clause 116.

## Travel not to count

- 115) Time spent travelling to or from work will not count as part of an overtime attendance.

## Time in lieu (TIL)

- 116) If an employee chooses, the Commissioner may allow the employee to take TIL as a form of recompense for overtime as an alternative to overtime payment, subject to the provisions of this clause.

## Calculation

- 117) Where overtime is worked, the rate of payment (or TIL, if the employee elects) is calculated at the following rates:
- a) Monday to Friday: time-and-a-half
  - b) Saturday (first three hours): time-and-a-half
  - c) Saturday (after three hours): double time
  - d) Sunday: double-time.

## Public holidays

- 118) An employee who is directed to work overtime on a public holiday which falls on a weekday, will be paid overtime at double-time for duty outside of a Standard Day (for full-time employees) or the agreed pattern of hours (for part-time employees). This rate also applies to Easter Saturday if it is not declared or prescribed as a public holiday. For duty within a Standard Day (or agreed pattern of hours for part-time employees), overtime will be paid at single-time as employees are already being paid for the public holiday.

## Annual Closedown

- 119) Employees who are required to perform overtime during the annual closedown will be paid overtime calculated at time-and-a-half for duty outside of a Standard Day (for full-time employees) or the agreed pattern of hours (for part-time employees).

## Non-continuous duty

- 120) Where a period of overtime is not continuous with ordinary duty, the minimum overtime payment is three hours at the relevant rate. Where the period of overtime is greater than three hours, payment will be made for the actual period worked at the relevant rate.



## Continuous duty

121) Overtime is considered to be continuous with ordinary duty when an employee does not have a break, other than a meal break, between the periods of ordinary duty and overtime.

## Multiple attendance

122) Where more than one attendance is required, the minimum overtime payment provision will not operate to increase an employee's overtime payment beyond that which they would have received had they remained on duty from the commencing time of duty on one attendance, to the ceasing time of duty on a subsequent attendance.

## Family care assistance

123) Where an employee is required by the Commission to be away from home outside the employee's Standard Day, and the employee incurs reasonable additional costs for family care arrangements, the employee will be reimbursed those reasonable additional costs.

## Public holidays

124) Public holidays will be observed in accordance with the National Employment Standards (NES) and the FW Act.

125) The following days are public holidays under the NES:

- a) 1 January (New Year's Day)
- b) 26 January (Australia Day)
- c) Good Friday
- d) Easter Monday
- e) 25 April (Anzac Day)
- f) Queen's birthday holiday (the day on which it is celebrated in a State or Territory or a region of a State or Territory)
- g) 25 December (Christmas Day)
- h) 26 December (Boxing Day)
- i) any other day or part-day declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory (or a region of the State or Territory) as a public holiday.

126) The Commissioner and an employee may agree on the substitution of a day or part-day that would otherwise be a public holiday, having regard to operational requirements.

127) An employee, who is absent on a day or part-day that is a Public Holiday in the place where the employee is based for work purposes, is entitled to be paid for the part or full day absence as if that day or part-day was not a Public Holiday, except where the Employee would not normally have worked on that day.

128) Where a Public Holiday falls during a period when an employee is absent on leave (other than annual or paid personal/carer's Leave) there is no entitlement to receive payment as a Public Holiday. Payment for that day would be in accordance with the

entitlement for that form of leave (e.g. if on long service leave on half pay, payment is at half pay).

## **ANNUAL CLOSEDOWN AND EARLY STAND DOWN**

- 129) The Commission will be closed for normal business and employees will not be required to perform normal duty on the working days between Christmas Day and New Year's Day. Eligible employees will be paid for closedown. Pay eligibility for annual closedown will be treated in the same manner as public holidays in determining the appropriate rate of salary payment to apply on those days.
- 130) Where an employee is absent on leave, payment for the Christmas closedown provision will be in accordance with the entitlement for that form of leave (e.g. if on long service leave on half-pay, payment is at half-pay).
- 131) There will be no deduction from annual or personal/carers leave credits for the annual closedown days.
- 132) The Commission will be closed for normal business and employees will not be required to perform duty from 3.00 pm on the working day prior to Christmas Day and the working day prior to Good Friday. Eligible employees will be paid for early stand down. Payment eligibility will be treated in the same manner as a normal working day.

### **Part-time employees**

- 133) Part-time employees normally not working on the days of the week on which annual closedown and early stand down occur, will not be entitled to alternative time off duty.

## **WORKING FROM HOME**

- 134) The Commissioner may agree to a request by an employee to work from home on a regular, temporary or intermittent basis.

## **REVIEW OF WORKLOADS**

- 135) Managers and employees are committed to working together to manage employee workloads. Where an employee has concerns about their workload, they may request that their manager review their workload and any associated issues.

Further information on workload review is available in the Workload Review policy

## **PART-TIME WORK**

### **Hours of work**

- 136) Remuneration, with the exception of allowances and reimbursements of an expense nature, are calculated on a pro rata basis. Leave for part time employees is provided in accordance with relevant legislation and this Agreement. Payment of salary when an employee takes leave will be reflective of the ordinary part-time hours worked except during long service leave where salary will be calculated in accordance with the *Long Service Leave Act (Commonwealth Employees) 1976* (LSL Act).

## Variation in hours

137) A part-time employee may not vary their hours for a period of one week or less. Changes in hours for these periods should be accommodated using flextime or alternative arrangements as agreed with their manager. Details of the operation of the flextime provisions for part-time employees are provided at clauses 95 to 101.

## FLEXIBLE WORK ARRANGEMENTS

138) Access to flexible work arrangements will be in accordance with the NES and the FW Act.

139) The Commission will make every reasonable effort to accommodate requests for part-time work from employees returning from maternity, adoption, fostering or parental leave for the period up until the child's second birthday, or in the case of adoption and eligible fostering, the second anniversary of the placement.

140) Reasons for non-approval must be provided in writing to the employee, including reasons relating to operational requirements.

141) Flexible work arrangements will be subject to an annual review.

## Individual Flexibility Arrangements

142) The Commissioner and an employee covered by this enterprise agreement may agree to make an individual flexibility arrangement (IFA) to vary the effect of terms of the Agreement if:

- a) the IFA deals with one or more of the following matters:
  - i. when work is performed,
  - ii. overtime rates,
  - iii. penalty rates,
  - iv. allowances,
  - v. remuneration, and/or
  - vi. leave,
- b) the IFA is genuinely agreed between the employee and the Commissioner

143) The Commissioner must ensure that the terms of the IFA:

- a) are about permitted matters under section 172 of the FW Act, and
- b) are not unlawful terms under section 194 of the FW Act, and
- c) result in the employee being better off overall than the employee would be if no arrangement was made.

144) The Commissioner must ensure that the IFA:

- a) is in writing, and
- b) includes the name of the employer and employee, and
- c) is signed by the Commissioner and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee, and
- d) includes details of:
  - i. the terms of IFA, and
  - ii. how the IFA will vary the effect of the terms, and
  - iii. how the employee will be better off overall in relation to the terms and conditions of their employment as a result of the IFA, and

e) states the day on which the IFA commences and, where applicable, when the arrangement ceases.

145) The Commissioner must give the employee a copy of the IFA within 14 days of the agreement being made.

146) The Commissioner or employee may terminate the IFA:

- a) by giving no more than 28 days written notice to the other party to the IFA, or
- b) if the Commissioner and employee agree in writing at any time.

## **PART F – LEAVE**

### **GENERAL CONDITIONS**

147) All accrued leave entitlements will be expressed and deducted in hours and minutes unless otherwise required by the legislation.

#### **Use of non-discretionary leave that is required to be granted in accordance with legislation or this Agreement during annual, long service or purchased leave.**

148) An employee who meets the requirements for non-discretionary leave that is required to be granted in accordance with legislation or this Agreement while on annual, long service or purchased leave, and who produce satisfactory evidence, may apply for that leave. Annual, long service and/or purchased leave will be re-credited to the extent of the period of alternative leave granted. Such non-discretionary leave includes, but may not be limited to, personal/carer's leave, compassionate/bereavement leave, community service leave, Defence reservists' leave, maternity/parental leave or Defence service sick leave.

#### **Public holidays during leave**

149) Payment for public holidays which fall during a period of leave will be paid in accordance with the NES and the FW Act.

#### **Donating blood**

150) The Commission recognises the importance of and supports employees in donating blood. Employees donating blood during working hours are not required to complete a leave application or to utilise flextime.

#### **Recall to duty**

151) Where an employee is recalled from approved leave or that approved leave is cancelled, the Commissioner will approve reasonable reimbursement toward travel expenses which have been incurred, incidental expenses or family care costs not otherwise recoverable under insurance or from another source, provided that the employee took reasonable precautions, as determined by the Commissioner, to avoid such expenses.

#### **School holiday family care subsidy**

152) Where an employee with school children has leave refused, has approved leave cancelled or is required to return from leave early because of Commission business requirements during school holidays, the Commissioner will reimburse up to \$22 per child per day of the amount paid by the employee for each school child attending approved or registered care.

153) In the circumstances described above, where the employee can demonstrate that they would otherwise have taken personal responsibility for caring for other family members during school holidays, the Commissioner may reimburse some, or all, of the amount paid by the employee for that family care.

154) The reimbursement will be net of any government subsidy available to the employee.

## **PORTABILITY OF LEAVE**

155) Where an ongoing APS employee moves (including on promotion or for an agreed period) from another agency, the employee's unused accrued annual leave and personal/carer's leave (however described) will be transferred, provided there is no break in continuity of service.

156) Where an employee is engaged as either an ongoing or non-ongoing APS employee immediately following a period of employment under the *Parliamentary Service Act 1999* or the ACT Government Service, the employee's unused accrued annual leave and personal/carers leave (however described) will be recognised.

### **Former non-ongoing employees**

157) Where a person is engaged as an ongoing employee, and immediately prior to the engagement the person was employed as a non-ongoing APS employee, the Commissioner, at the employee's request, may recognise any accrued annual leave and personal/carer's leave (however described), provided there is no break in continuity of service. Any recognised annual leave excludes any accrued leave paid out on separation.

## **ANNUAL LEAVE**

### **Entitlement**

158) Full-time employees are entitled to the equivalent of four weeks per year of service. Part-time employees accrue annual leave on a pro-rata basis for ordinary hours worked. Annual leave will accrue daily.

159) Employees working in a remote locality may have additional annual leave.

### **Effect of leave without pay**

160) Where 'leave without pay not to count as service' has been granted in the accrual period, annual leave will be adjusted on the day of accrual as follows.

- a) Where aggregated absences for periods totalling 30 calendar days or less, the annual leave accrual is not affected.
- b) Where aggregated full day absences total more than 30 calendar days, the total period of leave without pay is deducted from the number of calendar days to count as service.
- c) Where leave without pay covers an entire calendar year, no annual leave credit accrues for that year.

### **Annual leave at half-pay**

161) Employees may take annual leave at half-pay. The minimum absence of leave on half-pay is two working days, with further absences in multiples of two days. Where annual leave is taken at half-pay, credits will be deducted from the employee's annual leave balance on the basis that two days of annual leave at half-pay is equivalent to one day of annual leave at full-pay.

## Direction to Take Annual Leave

162) The Commissioner may require an employee who has more than two years' annual leave credit to take annual leave. The employee must take annual leave if required to do so. If, following a discussion between the employee and the Commissioner, they are unable to agree on the timing of the leave to be taken, the Commissioner may specify when the leave is to be taken as long as the employee is provided with at least four weeks' notice. The employee may be required to be on leave (and to be absent from the workplace) for 10 consecutive working days (pro-rated for part time employees).

## Voluntary cash out of annual leave

163) The Commissioner may approve an application by an employee to cash out a portion of the employee's accrued annual leave credits. To be eligible to cash out annual leave, employees must:

- a) Have taken at least 15 days, or an equivalent pro rata amount for part-time employees, in the 12 months preceding the request to cash out leave; and
- b) Have a remaining balance of at least 4 weeks, or an equivalent pro rata amount for part-time employees, annual leave credit if the application is approved.

164) The employee will be paid the full amount that would have been paid had the employee taken the entitlement as leave.

165) Each cashing out of a particular amount of Annual Leave must be by a separate agreement in writing with the Commission.

166) The maximum amount of annual leave that may be cashed out in a 12 month period is 15 days.

## Payment of annual leave on termination

167) Any unused accrued annual leave will be subject to payment to the employee when the employee's APS employment is terminated. Payment will be calculated using the employee's final rate of salary, including allowances that would have been included in the employee's pay during a period of annual leave.

168) For employees in remote localities, district allowance will be included in the calculation only for the component of the annual leave credit that accrued in the remote locality.

## PERSONAL/CARER'S LEAVE

169) On engagement, an ongoing employee will be credited with personal/carer's leave of 18 days or the part-time equivalent. A further 18 days or the part-time equivalent will accrue on completion of each year of service thereafter, without limit.

## Accrual and credits - non-ongoing employees

170) Full-time non-ongoing employees, other than irregular/intermittent employees, are entitled to 18 days paid personal/carer's leave for each year of service or the part-time equivalent, accruing daily.

## Deferral of accrual

- 171) Where 'leave without pay not to count as service' has been granted in the accrual year, personal/carer's leave accrual will be deferred as follows.
- a) Where aggregated full day absences total 30 calendar days or less, the accrual is not affected.
  - b) Where aggregated full day absences total more than 30 calendar days, the accrual date will be deferred by one calendar month for each 30 calendar day period.

## Unpaid carer's leave – irregular/intermittent employees

- 172) Irregular/intermittent employees are entitled to two days unpaid personal leave for caring purposes for each permissible occasion, subject to notifying the employee's manager and providing satisfactory evidence.

## Advice to manager

- 173) An employee, where practicable, must personally advise the employee's manager of the employee's absence or the employee's intention to be absent as soon as possible. Where the employee's manager is not contactable, advising another employee in the employee's work team will suffice.

## Use of personal/carer's leave

- 174) Personal/carer's leave gives employees access to paid leave, subject to available credits, when they are absent for the following reasons:
- a) where the employee is not fit for work because of a personal illness or injury affecting the employee;
  - b) to provide care or support to a member of the employee's family or the employee's household, who requires care or support because of a personal illness or personal injury, affecting the member;
  - c) where a member of the employee's family or the employee's household is affected by an unexpected emergency;
  - d) for compelling personal reasons of an unexpected, urgent and unpredictable nature; or
  - e) to attend preventative health consultations for the employee and/or those in the employee's care.
- 175) Personal Leave must not be used for the purposes of d) and/or e) above if it would be detrimental to an employee in any respect, when compared to the National Employment Standards under the FW Act.

## Satisfactory evidence requirements

- 176) For periods of personal/carer's leave, employees should provide evidence to their manager that would satisfy a reasonable person that the leave was taken for a reason set out in clause 174.
- 177) An employee must provide satisfactory evidence to support applications for personal/carer's leave for more than three consecutive days.



178) If an employee takes 10 days personal/carer's leave without satisfactory evidence in a period of twelve months, then the employee must provide satisfactory evidence for any further applications for personal/carer's leave of any duration for the balance of the period of 12 months, unless otherwise determined by the Commissioner.

179) For the purpose of this clause, the 12 month period commences on the date determined to be the employee's anniversary for the purpose of accruing personal/carer's leave.

180) Satisfactory evidence must be provided within 24 hours of the employee's return to work or another period that is reasonable in the circumstances.

### **Conversion to half-pay**

181) The Commissioner may approve the conversion of personal/carer's leave to half-pay for an employee for a specified absence of not less than two days. Where personal/carer's leave is taken at half-pay, credits will be deducted from the employee's personal/carer's leave balance on the basis that two days of personal/carer's leave at half-pay is equivalent to one day of personal/carer's leave at full-pay. Converting personal/carer's leave to half-pay does not increase the 10 days of personal/carer's leave without satisfactory evidence requirement in clauses 178-180.

### **Unpaid personal/carer's leave**

182) Where paid personal/carer's leave credits are exhausted, an employee may apply for personal/carer's leave without pay. Continuous unpaid personal leave to a total of 26 weeks will count as service for all purposes. Any further continuous periods of unpaid personal/carer's leave will not count as service, unless otherwise required by legislation such as unpaid leave taken for illness counting for the purposes of the LSL Act

### **Reappointment after invalidity retirement**

183) If an employee's APS employment is terminated on the grounds of invalidity, and the employee is subsequently re-engaged as a result of action taken under the relevant superannuation legislation, the employee is entitled to be credited with personal/carer's leave equal to the balance of the employee's personal/carer's leave at the time of termination.

184) An employee is unable to access personal/carer's leave while on paid parental leave.

### **Payment on termination**

185) Unused personal/carer's leave will not be paid out on termination of employment.

### **MISCELLANEOUS LEAVE**

186) Miscellaneous leave may be granted by the Commissioner, having regard to the operational needs of the Commission, including for purposes that the Commissioner considers to be in the interests of the Commission.

187) Leave may be granted:

- a) for the period requested or for another period,

- b) with or without pay, and
- c) subject to conditions.

188) Where exceptional circumstances affect an employee, the Commissioner will consider granting paid leave. These circumstances may include, but are not limited to, emergency situations such as bushfires, floods, cyclones and earthquakes, and staff affected by family and domestic violence.

Further information is available in the Commission's Leave Policy.

### **Not to count as service**

189) Miscellaneous leave without pay will not count for service for any purpose, except as required by legislation, with the following exceptions. Miscellaneous leave without pay approved for these purposes will count for service for personal/carer's leave and may also count for long service leave where the Delegate determines that it will count as service for this purpose:

- a) leave for personal and development training in the interests of the Commission; and
- b) leave for non APS employment in the interests of the Commission.

### **Support for Staff Experiencing Family and Domestic Violence**

190) The Commission is committed to providing a supportive, flexible and safe workplace for employees who are affected by family and domestic violence.

191) Leave is available to employees experiencing family and domestic violence, or to provide support to a member of their family who is experiencing family and domestic violence. For the purposes of clauses 190 to 196 family and domestic violence has the same meaning as 'family violence' in the *Family Law Act 1975*. Employees can apply for paid or unpaid miscellaneous leave or utilise personal/carer's leave to cover absences including, but not limited to:

- a) illness or injury resulting from family and domestic violence;
- b) providing care or support to a family or household member who is ill or injured as a result of family and domestic violence;
- c) providing care or support to a family or household member who is affected by an unexpected emergency as a result of family and domestic violence;
- d) attending appropriate medical and/or counselling appointments relating to family and domestic violence;
- e) obtaining legal advice relating to family and domestic violence;
- f) attending court hearings relating to family and domestic violence;
- g) attending police appointments relating to family and domestic violence;
- h) attending to urgent issues arising through property damage that is a consequence of family and domestic violence;
- i) accessing alternative accommodation as a consequence of family and domestic violence;
- j) attending to personal affairs such as arranging new bank accounts as a consequence of family and domestic violence;
- k) arranging alternative childcare or schooling for children as a consequence of family and domestic violence.

- 192) Non-ongoing employees with irregular or intermittent duties are entitled to access leave without pay for family and domestic violence purposes.
- 193) Documentary evidence may be required by the Commission for absences related to family and domestic violence. Where documentary evidence is required, the supervisor and employee will discuss and agree on options. Acceptable documentary evidence includes a medical certificate, statutory declaration or document issued by the police, courts or legal representative.
- 194) Where an employee experiencing family and domestic violence does not feel comfortable discussing their absence with their manager, they may contact the Human Resources team who can authorise the absence. A person acting on behalf of an employee may also contact the employee's manager or Human Resources to advise them of an absence under this clause.
- 195) Other support that is available to an employee experiencing family and domestic violence including flexible work arrangements are included in the Commission's Leave Policy.
- 196) These provisions apply in addition to any entitlements available under the NES.

## **LEAVE FOR ABORIGINAL AND TORRES STRAIT ISLANDER EMPLOYEES**

- 197) The Commission recognises the obligations placed on Aboriginal and Torres Strait Islander employees to participate in ceremonial activities and other cultural obligations. To allow employees to meet obligations and participate in activities, the following leave provisions are provided:
- a) two days leave with pay each year to participate in NAIDOC Week activities or other cultural or ceremonial events; and
  - b) three months unpaid leave each year to fulfil cultural obligations. This leave will not count as service for any purpose.

## **UNAUTHORISED ABSENCES**

- 198) Periods of unauthorised absence do not count as service for any purpose. Where an employee is absent from duty without approval, all pay and other benefits provided under this Agreement (e.g. flextime) will cease to be available until the employee resumes duty or is granted leave. Where flextime no longer applies, the employee will revert to the Standard Day.

## **DEFENCE SERVICE SICK LEAVE**

- 199) Eligible employees will generally be granted defence service sick leave while unfit for duty because of a defence-caused condition. A defence-caused condition means an injury or disease of an employee that has been accepted by the Department of Veterans' Affairs to be war-caused or Defence-caused within the meaning of relevant legislation. Eligible employees will accrue a credit of nine weeks on commencement in the APS and an annual credit of three weeks for each year of APS service. Unused credits will accumulate to a maximum of nine weeks.

## **COMPASSIONATE LEAVE**

- 200) Employees, other than irregular/intermittent employees, will be granted three days paid compassionate leave on each occasion that a member of the employee's family, or the employee's household:
- a) contracts or develops a personal illness that poses a serious threat to life; or
  - b) sustains a personal injury that poses a serious threat to life; or
  - c) dies.
- 201) The employee may take the period of leave as a single period of three days or any separate period on which the employee's manager and employee agree.
- 202) The employee's manager may require the employee to provide evidence of the illness, injury or death in support of the request for leave.
- 203) An irregular/intermittent employee is entitled to unpaid compassionate leave of up to two days per occurrence and is not eligible for paid bereavement leave under clause 204.

## **BEREAVEMENT LEAVE**

- 204) The employee's manager will grant three days leave with pay to an employee other than an irregular/intermittent employee on the occasion of the death of a member of the employee's family or household, close friend, partner or a person who was clearly dependent on the employee for care, support and attention. Any further periods of leave for this purpose may be granted as miscellaneous leave with pay on a case by case basis.

## **PURCHASED LEAVE**

- 205) To assist employees in balancing work and life responsibilities, the Commission provides a scheme where additional leave may be purchased. Purchasing additional leave is not intended to be used to establish a different work pattern such as a regular reduction in weekly or fortnightly hours.
- 206) Where a manager agrees that an employee may participate in the purchased leave scheme, the employee may purchase from one to eight weeks purchased leave per year. Purchased leave shall generally be taken in multiple days.
- 207) Purchased leave will count for service for all purposes. The employee's salary for superannuation purposes continues to be their salary as if they had not purchased leave.

## **EXTENDED PURCHASED LEAVE**

- 208) When an employee has accrued a period of three years of continuous employment with the Commission, they may apply for access to extended purchased leave. A period of up to twelve months absence on extended purchased leave will be available following a further two years of continuous employment with the Commission (during which time the employee will accrue the leave).

209) For employees moving to the Commission through a determination made by the Australian Public Service Commissioner under paragraph 72(1)(a) of the PS Act, 'continuous employment' includes continuous service with the losing agency.

210) Extended purchased leave will not count as service for any purpose.

## **LEAVE FOR ADF RESERVE AND CONTINUOUS FULL TIME SERVICE OR CADET FORCE OBLIGATIONS**

211) An employee will be granted leave (with or without pay) to enable the employee to fulfil Australian Defence Force (ADF) Reserve and Continuous Full Time Service (CFTS) or Cadet Force obligations.

212) An employee is entitled to leave with pay, of up to four weeks during each financial year, and an additional two weeks paid leave in the first year of ADF Reserve Service, for the purpose of fulfilling service in the ADF Reserve.

213) With the exception of the additional two weeks in the first year of service, leave can be accumulated and taken over a period of two years.

214) An employee who is an officer or instructor of cadets in a Cadet Force may be granted paid leave of up to three weeks each financial year to perform duties as an officer or instructor of Cadets. For these purposes 'Cadet Force' means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.

215) Defence Reserve leave counts as service for all purposes, except for unpaid leave to undertake CFTS. Unpaid leave for the purpose of CFTS counts as service for all purposes except Annual leave accrual.

## **COMMUNITY SERVICE LEAVE**

216) An eligible community service activity includes:

- a) jury service (including attendance for the purpose of jury selection) that is required by or under a law of the Commonwealth or a State or Territory; or
- b) carrying out a volunteer emergency management activity (within the meaning of section 109 (2) of the FW Act).

217) In relation to jury service, the Commissioner will approve paid community service volunteer leave to enable an employee to attend court appearances as a juror. In this event, the employee will continue to receive their normal salary subject to any payments of a salary nature made to the employee by the court for jury service being signed over to the Commission.

218) An employee who engages in an eligible community service activity is entitled to paid leave if:

- a) the period consists of one or more of the following:
  - i. time when the employee engages in the activity;
  - ii. reasonable travelling time associated with the activity;
  - iii. reasonable rest time immediately following the activity;
- b) where the activity is emergency management, the absence is due to:
  - i. regular training;

- ii. all emergency service responses;
  - iii. reasonable rest time immediately following the activity; and
  - iv. attendance at ceremonial duties.
- c) unless the activity is jury service – the employee’s absence is reasonable in all the circumstances.

219) The Commissioner may provide leave to an employee who is participating in a major international sporting event.

## **LONG SERVICE LEAVE**

220) Long service leave will accrue and be available to eligible employees in accordance with the LSL Act. Absences must be taken for a minimum of seven consecutive calendar days at full-pay or 14 consecutive calendar days at half-pay. The granting of such leave is subject to operational requirements.

221) Long service leave cannot be broken with any other leave, including absences on flex leave, Christmas close down or public holidays except as provided for by the personal/carer’s leave provisions of this Agreement.

## **PARENTAL LEAVE**

### **Maternity leave**

222) Maternity leave is available to an employee for her absence from the workplace on the birth of her child/children.

223) Employees covered by this Agreement will be entitled to maternity leave under the terms of the *Maternity Leave (Commonwealth Employees) Act 1973* (ML Act), including up to 12 weeks paid maternity leave for eligible employees. The first 12 weeks of maternity leave, whether paid or unpaid will, in accordance with the ML Act, count as service.

224) An employee who is eligible for paid maternity leave under the ML Act will also receive an additional two weeks paid leave to be taken immediately following the period of paid maternity leave provided for under the ML Act.

225) At the employee’s request, the Commissioner will approve spreading the payment for up to 12 weeks’ paid leave under the ML Act and the additional two weeks’ paid leave under clause 224 over a maximum period of 28 continuous weeks at a rate no less than half normal pay. Where payment is spread over a period of up to 28 weeks, any additional leave period beyond the first 14 weeks will not count as service for any purpose.

### **Special maternity leave**

226) Where an employee who has at least 12 months continuous service with the APS experiences a pregnancy-related illness, or if her pregnancy ends within 28 weeks of the expected birth, she will be granted paid personal leave for any period of leave supported by a medical certificate. If personal leave credits are exhausted, the remainder of leave will be unpaid in accordance with section 80 of the FW Act. Unpaid special maternity leave will count as service for all purposes.

227) Special maternity leave will operate in conjunction with entitlements under the ML Act.

### **Adoption or foster leave**

228) An employee who has, or will have, a responsibility for the care of an adoptive or foster child is entitled to up to 12 months' parental leave. For primary caregivers to an adoptive or foster child, up to 14 weeks will be provided at full pay, providing that the employee has 12 months' continuous qualifying service. This leave must commence no more than two weeks prior to, or 12 months after, the placement of the child for adoption or foster.

229) For the purposes of adoption and foster leave, the child must be under the age of 16 and must not be a child or step-child of the employee or the employee's partner unless that child had not been in the custody and care of the employee or the employee's partner for six months or more, or a greater period if determined by the Commissioner.

230) An employee is not entitled to both adoption and fostering leave for the same child.

231) The Commissioner may approve spreading the period of paid leave over a maximum period of 28 continuous weeks at a rate no less than half normal pay. Where an employee elects to spread payment, a maximum of 14 weeks will count as service for all purposes.

232) The provisions of clauses 228 to 231 also apply to a child who is subject to a permanent care order made by an Australian court or under Australian legislation.

233) For the purposes of this clause, 'continuous qualifying service' has the same meaning as 'eligible service' as defined in the ML Act for the purposes of qualifying for paid maternity leave.

### **Pre-adoption leave**

234) Employees in the process of adopting or fostering of a child may take up to two days paid leave to attend any interviews or examinations required to obtain adoption or foster care approval.

### **Additional unpaid parental leave**

235) An employee who takes maternity, adoption or foster care leave of up to 12 months may request an extension of unpaid parental leave of up to 12 months. Such a request will not be unreasonably refused.

236) Taking unpaid parental leave does not prevent an eligible employee from accessing other types of paid leave (other than paid personal/carer's leave, compassionate/bereavement leave and community service leave) in accordance with the FW Act. If the employee does so, the taking of the other paid leave does not break the continuity of the period of unpaid parental leave.

237) Unpaid parental leave does not count as service for any purpose.

### **Parental (partner) leave**

- 238) Within 12 months of the birth, fostering or adoption of a child, an employee who is the child's non-primary care giver and stands in a domestic or household relationship with the child is entitled to be granted four weeks paid parental leave and unpaid parental (partner) leave up to a total absence of 52 weeks.
- 239) An employee is not entitled to this leave if they are otherwise entitled to paid leave under the ML Act or paid leave under clauses 224 or 228 of this Agreement.
- 240) The Commissioner may approve leave for a non-primary care giver not residing with the child.
- 241) The Commissioner may approve spreading the period of paid leave over a maximum period of eight continuous weeks at a rate no less than half normal pay. Leave that extends beyond four weeks does not count as service for any purpose.

### **Return to work after parental leave**

- 242) On ending parental, maternity, adoption or foster leave, an employee is entitled to recommence the employee's previous duties in accordance with the relevant provisions of the FW Act.



## **PART G – WORKFORCE PLANNING AND MANAGEMENT**

### **ASSIGNMENT OF DUTIES**

#### **Salary on reduction**

243) Where an employee is temporarily assigned duties at a lower work classification level, the employee will be paid at a level nominated by the Commissioner, having regard to the experience, qualifications and skills of the employee. Where applicable, such a determination will specify the period for which the adjusted level will apply. This clause does not apply to decisions made by the Commissioner in relation to breaches of the Code of Conduct or underperformance.

#### **Higher duties allowance recommendation**

244) To be recommended for payment of Higher Duties Allowance (HDA), an employee must have at least achieved a satisfactory performance standard in the employee's substantive position or above, under the most recent PDS assessment (i.e. the mid- or end-of-cycle review), or where the manager otherwise certifies that the employee should fill the position, including for developmental purposes.

245) Legal Officers must have performed at greater than a satisfactory standard.

#### **Period of higher duties attracting payment**

246) Where an employee performs higher duties for a continuous period of more than five working days, HDA is payable from the first day of the period of acting.

247) For the purpose of clause 246, 'continuous' means periods of higher duties unbroken by working days at substantive level; or a broken pattern of higher duties consisting of more than 5 working days as approved by the Commissioner.

#### **Level of payment**

248) Where an employee is to be paid HDA, the employee will be paid at the increment point determined by the Commissioner, recognising that there is an opportunity for the employee to be paid above the minimum increment point within the salary range of the higher position. The increment point attained through salary advancement in previous periods of higher duties at that classification level will be at least maintained.

#### **Payment for partial performance**

249) Where the full duties of the position are not being undertaken, the employee and the Commissioner may agree to payment at a point in a classification below that of the higher duties position.

#### **Public holidays or leave**

250) An employee on HDA who is granted paid leave or who observes a public holiday will continue to receive HDA payment, having regard to the provisions of this section, during the employee's absence. HDA will not be paid beyond the date on which the employee would have ceased the period of acting had the employee not been absent.

Where the period of leave is paid at less than full-pay, payment of HDA will be made on a pro-rata basis.

## **TERMINATION OF EMPLOYMENT**

### **Right of review**

- 251) The sole and exhaustive rights and remedies of an employee in relation to termination of employment are those that the employee has under:
- a) Parts 3-1 and 3-2 of the FW Act;
  - b) other Commonwealth laws; and
  - c) common law.
- 252) Termination of, or a decision to terminate, employment cannot be reviewed under the review of actions framework or dispute resolution procedure outlined in this Agreement.
- 253) Nothing in this Agreement prevents the Commissioner from terminating the employment of an employee for serious misconduct, without further notice or payment in lieu, in accordance with the FW Act subject to compliance with the procedures established by the Commissioner for determining whether an employee has breached the Code of Conduct under section 13 of the PS Act.

### **Separation from the Australian Public Service**

- 254) Where an employee resigns on a public holiday, they will be deemed to have resigned on the last working day prior to the public holiday.

### **Death of an employee**

- 255) Where an employee dies whilst in employment, or the Commissioner has directed that an employee is presumed to have died on a particular date whilst in employment, the Commissioner will, subject to legal requirements, authorise the payment of the amount to which the former employee would have been entitled had he or she ceased employment by resignation or retirement. Long service leave credits will be paid out in accordance with the LSL Act.

## **PART H - REDEPLOYMENT, REDUCTION AND RETRENCHMENT (RRR)**

### **EXCESS EMPLOYEES**

#### **Definition**

256) An employee is 'excess' when:

- a) they are included in a group of employees in the Commission, comprising a greater number than is necessary for the efficient and economical working of the Commission;
- b) due to technological or other changes in the work methods of the Commission, or structural or other changes in the nature, extent or organisation of the functions of the Commission, the services of the employee cannot be effectively used; or
- c) 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 provisions of this clause may apply to that employee.

#### **Eligible employee**

257) The provisions of this Part do not apply to non-ongoing employees, employees who are on probation or employees who are still within the minimum employment period as defined in the FW Act.

#### **Commissioner's powers**

258) The powers of the Commissioner with regard to excess employees allow the Commissioner to:

- a) assign duties to an employee within the Commission and determine the place at which the duties are performed;
- b) consider options for redeployment of the employee to another APS agency;
- c) reduce the classification level of an employee on the grounds that the employee is excess to the requirements of the Commission at the higher classification level;
- d) terminate the employment of an ongoing employee on the grounds that the employee is excess to the requirements of the Commission.

#### **Timely advice**

259) When the Commissioner is aware that an employee is likely to become excess, the Commissioner will advise the employee at the earliest practicable time.

260) The Commissioner will hold discussions with the potentially excess employee to consider:

- a) redeployment opportunities for the employee concerned; and
- b) whether voluntary retrenchment might be appropriate.

#### **Referral to employee - initial consultation**

261) Where an employee is identified as potentially excess, the Commissioner will hold an initial consultation with the employee and/or the employee's representative.

- 262) During this initial consultation period of one month, unless the employee agrees to a lesser period, the Commissioner will not:
- a) invite the employee to accept an offer of voluntary retrenchment, or
  - b) advise that employee in writing that they are excess.
- 263) The Commissioner may, prior to the conclusion of these discussions, invite employees who are not potentially excess to express an interest in voluntary retrenchment, where those retrenchments would permit the redeployment of employees who are potentially excess. The Commissioner will not advise an employee they are excess until the discussions referred to in clause 260 have occurred.

## **VOLUNTARY RETRENCHMENT**

- 264) Where the Commissioner invites an excess employee to elect to accept voluntary retrenchment, the employee will have one month to accept or reject the invitation. The Commissioner will not give notice of termination under section 29 of the PS Act on the grounds that the employee is excess to requirements, before the end of that period or until such election is received (where the election is received before the end of that period).

### **Information to employee**

- 265) At the time of inviting the employee to make an election, the Commissioner will provide the employee the following information:
- a) the amounts of severance pay, payment in lieu of notice, and likely payment in lieu of leave credits;
  - b) the amount of accumulated superannuation contributions;
  - c) the options open to the employee concerning superannuation; and
  - d) the taxation rules applying to the various payments.

### **Financial assistance**

- 266) Employees considering voluntary retrenchment also have access to financial assistance up to a total maximum of \$475 (inclusive of GST) for financial counselling, and a further \$475 (inclusive of GST) for career counselling where such career counselling is not otherwise provided through the Commission's external Employee Assistance Program.

### **Period of notice**

- 267) Where an employee accepts an offer of voluntary retrenchment and the Commissioner approves the employee's termination under section 29 of the PS Act, the Commissioner will give the employee a period of notice of four weeks, or five weeks for an employee over 45 years of age with at least five years of continuous service (as determined under clause 273).

### **Payment in lieu of notice**

- 268) Where an employee retires or is retrenched at the beginning of, or within, the notice period, he or she will receive payment in lieu of notice for the unexpired portion of the notice period.

## SEVERANCE BENEFIT

- 269) Where an employee accepts an offer of voluntary retrenchment and the Commissioner terminates the employee's employment under section 29 of the PS Act, the employee is entitled to be paid a severance benefit of 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, subject to any minimum amount the employee is entitled to under the FW Act and NES.
- 270) The minimum sum payable will be four weeks' salary and the maximum will be 48 weeks' salary.
- 271) The redundancy benefit will be calculated on a pro-rata basis for any period where an employee has worked part-time hours during the employee's period of service and the employee has less than 24 years full-time service, subject to any minimum amount the employee is entitled to under the NES.

### Earlier periods of service

- 272) 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 one month and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer; or
  - the earlier period of service was with the APS and ceased because the employee was deemed to have resigned from the APS on marriage under the then section 49 (as repealed in 1966) of the repealed *Public Service Act 1922*.

### Service for severance benefits purposes

- 273) Having regard to clause 272, and subject to clauses 269 to 271 and clause 276, service for severance benefit purposes means:
- service in the Commission;
  - government service as defined in section 10 of the LSL Act;
  - service with the Commonwealth (other than service with a Joint Commonwealth/State body or a body corporate in which the Commonwealth does not have a controlling interest) which is recognised for long service leave purposes;
  - service with the Australian Defence Forces;
  - APS service immediately preceding deemed resignation under the then section 49 (as repealed in 1966) of the repealed *Public Service Act 1922*, if the service has not previously been recognised for redundancy pay purposes; and
  - 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.

### Service not to count

- 274) Having regard to clause 273, any period of service which ceased:

- a) through termination on the following grounds, or on a ground equivalent to any of the following grounds:
    - i. the employee lacks, or has lost, an essential qualification for performing the employee's duties; or
    - ii. non-performance, or unsatisfactory performance, of duties; or
    - iii. inability to perform duties because of physical or mental incapacity; or
    - iv. failure to satisfactorily complete an entry level training course; or
    - v. failure to meet a condition imposed under subsection 22(6) of the PS Act or
    - vi. a breach of the Code of Conduct; or
  - b) on a ground equivalent to a ground listed in subclause 274(a) above under the repealed *Public Service Act 1922*; or
  - c) through voluntary retrenchment at or above the minimum retiring age applicable to the employee; or
  - d) with the payment of a redundancy benefit or similar payment or an employer-financed retirement benefit;
- will not count as service for severance benefit purposes.

275) Absences from work which do not count as service for any purpose will not count as service for severance benefit purposes.

### Part-time service

276) The severance benefit will be calculated on a pro-rata basis for any period where an employee has worked part-time hours during the employee's period of service and the employee has less than 24 years full-time service.

### Severance benefit - rate of payment

- 277) For the purpose of calculating any payment under this clause, salary will include:
- a) the employee's salary; or
  - b) the salary of the higher position, where the employee has performed duties at the higher level for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of retrenchment; and
  - c) other 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.

## INVOLUNTARY RETRENCHMENT

### Retention periods

- 278) Where an excess employee has not accepted an offer of voluntary retrenchment, unless they agrees otherwise, the excess employee will not be involuntarily terminated by the Commissioner under section 29 of the PS Act until the following retention periods have elapsed:
- a) 56 weeks where an employee has 20 or more years of service or is over 45 years of age; or
  - b) 30 weeks for other employees.

279) If an employee is entitled to a redundancy payment under the NES, the retention period at clauses 278(a) and 278(b) above, is reduced by a period equivalent to the employee's entitlement under the NES.

### **Retention period commencement**

280) The retention period will commence on the earlier of the following:

- a) the day the employee is advised in writing by the Commissioner that the employee is an excess employee; or
- b) one month after the day on which the Commissioner invites the employee to elect to be voluntarily retrenched.

### **Redeployment attempts**

281) During a retention period the Commissioner will continue to provide appropriate training and take all reasonable steps to find alternative employment for the excess employee, including consideration of options such as redeployment and reduction of classification.

### **Extension of retention period due to illness**

282) The retention period as provided for in this Agreement will be extended by periods of leave for personal illness or injury, where supported by satisfactory medical evidence.

### **Travel expenses incurred**

283) The excess employee may request assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment where these expenses are not met by a prospective employer.

### **Retirement during retention period**

284) Where the Commissioner believes there is insufficient productive work available for an excess employee during the retention period, the Commissioner may terminate the employee's employment under section 29 of the PS Act, and pay a lump sum comprising:

- a) the balance of the retention period (as shortened for the NES) under clauses 278 and 279 and this payment will be taken to include the payment in lieu of notice of termination of employment; plus
- b) the employee's NES entitlement to redundancy pay.

### **Must receive offer of voluntary retrenchment**

285) An excess employee will not be retrenched involuntarily where the employee:

- a) has not been invited to elect to be voluntarily retrenched; or
- b) has elected to be voluntarily retrenched but the Commissioner has refused to approve it.

### **Notice period**

286) An excess employee will be given four weeks' notice (or five weeks' notice for an employee over 45 years of age with at least five - years of continuous service, as determined under clause 273) where it is proposed that the employee will be involuntarily terminated under section 29 of the PS Act.

## **Reduction in classification**

287) During a retention period, the Commissioner:

- a) will continue to take reasonable steps to find alternative employment for the excess employee; and/or
- b) may, with four weeks' notice, reduce the excess employee's classification as a means of securing alternative employment for the excess employee.

## **Income maintenance as a result of reduction in classification**

288) Where an excess employee is reduced in classification before the end of the appropriate retention period, the employee will continue to be paid at the employee's previous level for the balance of the retention period with the exception of reductions in line with section 15 of the PS Act.



## **PART I – PEOPLE MANAGEMENT**

### **PERFORMANCE MANAGEMENT**

- 289) All employees are to participate in the Commission's PDS and have a formal annual PDS agreement in place. The agreement will outline specific key performance requirements, related performance indicators and required workplace behaviours.
- 290) The PDS provides the basis for individual salary advancement through salary ranges for the employee's current classification.
- 291) The principles of the PDS include:
- a) employees and managers have a joint responsibility to actively participate in, and contribute to, the PDS development and assessment process;
  - b) all stages of the PDS process should be discussed and agreed by the employee and their manager;
  - c) the PDS will operate in accordance with the Commission's workplace diversity programs; and
  - d) there should be no surprises for employees in regard to a manager's performance expectations or appraisal of their performance, with feedback regarding an employee's performance part of ongoing activities, including the opportunity for informal upwards feedback.

#### **Four week improvement period**

- 292) An employee will be provided a minimum of four weeks, prior to the end of cycle assessment, to improve the employee's performance where it is below the performance standards.

#### **Formal assessment points**

- 293) The PDS has two formal assessment points:
- a) one at the mid-cycle in February; and
  - b) one at the end of the cycle in July.

### **MANAGING UNDERPERFORMANCE**

#### **Performance standards**

- 294) Employees are expected, as a minimum, to maintain a satisfactory performance standard under the PDS.

#### **Principles**

- 295) In addressing underperformance, the framework is designed to:
- a) be timely and effective;
  - b) restore performance of the employee to the required standard;
  - c) have regard to the individual circumstances of the employee, including any health issues;
  - d) have regard to natural justice and procedural fairness;
  - e) include learning and development as the focus for improving performance;

- f) have active performance management as an integral part of the workplace culture; and
- g) require performance measures and standards to be clearly defined.

### **Application of the framework**

- 296) The framework does not apply to:
- a) an employee during a period of probation; or
  - b) a non-ongoing employee.

## **CONTINUING PROFESSIONAL DEVELOPMENT**

### **Professional appointments with mandatory qualifications**

- 297) The Commission will provide to an employee who the Commission requires to hold mandatory qualifications:
- a) on application, pay the fees associated with maintaining the professional membership; and
  - b) on application, meet the reasonable costs of continuing professional development; or
  - c) access to relevant training.

- 298) Where an employee has received a Professional Development Allowance (PDA), that PDA must be used entirely before an application under clauses 297(a) or 297(b) is made.

### **Study Leave for professionals appointed to roles where their qualification is not a mandatory requirement of the role**

- 299) The Commission will provide a staff member with 7.5 hours of leave per year to undertake Continuing Professional Development in the following circumstances:
- d) it is beneficial to the Commission that a staff member maintains their professional status/registration; and
  - e) maintaining this professional status/registration requires more than 10 hours per year of Continuing Professional Development.

### **Commonwealth Nursing Officers (CNOs)**

- 300) To assist with maintaining professional registration standards and undertaking their professional roles, CNOs will receive a PDA of \$2226 per annum paid fortnightly. Treatment of this allowance for particular purposes is at Appendix B.

### **Medical Officers – professional development**

- 301) Medical Officers are eligible to receive a PDA of \$4750 each financial year on a reimbursement basis, to assist in attaining and maintaining work-relevant agreed skills and knowledge.
- 302) Part-time Medical Officers will have access to the full amount of PDA. The allowance will be available pro-rata for Medical Officers commencing service part way through a financial year.

303) The allowance rate may be increased by the Commissioner in circumstances where it is agreed that the standard amount is insufficient to meet relevant and approved professional development.

304) As part of the PDS process, Medical Officers will identify their learning and development needs as agreed with their manager. Where Medical Officers attend training or courses identified on their Individual Development Plan, they will be considered to be on duty and no leave application is required.

305) In addition, attendance at conferences and seminars may be granted by the Commissioner where it is directly relevant to the Medical Officer's current role, and having regard to any necessary medical registration or medical college requirements and operational requirements. In these circumstances, the absence will be treated the same as for attendance at approved training or courses.

### **Right to medical practice through outside employment**

306) Where approved, Medical Officers may engage in outside medical practice to a maximum of half-a-day per week (averaged over a 12 month period) during normal working hours, with no adjustment to salary.

307) Medical Officers may access up to an additional four half-days per month during normal working hours for outside medical practice subject to operational requirements and the agreement of the manager. This additional time will be taken as leave without pay or 'made up' at another time.

308) Access to outside medical practice will be pro-rata for part-time Medical Officers.

### **Learning and Development**

309) The Commission is committed to providing training and other learning and development opportunities for staff. The Commission recognises the importance of building individual and organisational capability to support the Commission to achieve outcomes.

310) Learning and development needs are identified and prioritised through the Commission's workforce planning process at the organisational level including:

- a) core capabilities common to all staff such as writing skills, cultural competency
- b) supporting capabilities that are related to different job functions and roles undertaken by Commission staff such as decision making
- c) technical skills that may be required for specific job roles such as ICT support or clinical skills
- d) continuing professional development.

311) All Commission employees are required to develop an individual learning and development plan as part of their Performance and Development Agreement.

Further information can be found in the Commission's Performance and Development Framework.

## **STUDYBANK**

312) The Commissioner may provide leave to an employee to undertake formal courses of study at tertiary and higher education institutions and other vocational education courses, where the study is agreed as part of an employee's PDS.

## **MATURE-AGED EMPLOYEES FINANCIAL ASSISTANCE**

313) To assist with retirement planning, employees aged 54 years and over who are approaching or genuinely considering retirement, and who have not previously received this assistance from the Commission, may access financial assistance in the form of a one off reimbursement payment up to a total maximum of \$500 (inclusive of GST) to obtain financial advice from a registered financial advisor.

## **EMPLOYEE ASSISTANCE PROGRAM (EAP)**

314) The Commissioner will provide employees and their families with access to confidential, professional counselling to assist with work or personal issues through provision of an external EAP.

## **PART J – CONSULTATION AND DISPUTE RESOLUTION**

### **EMPLOYEE/WORKPLACE PARTICIPATION**

#### **Employee representation**

- 315) Employees may be assisted, accompanied and represented by another person, including an employee representative, in processes relating to unsatisfactory performance, excess status, and in the dispute resolution procedures outlined below. The role of employee representatives, including union delegates and other non-union employee representatives, is to be respected and facilitated.
- 316) Employees will inform their immediate manager and/or relevant level of management prior to any discussions where they choose to be represented.

#### **Staff Participation Forum (SPF)**

- 317) The SPF will operate as the peak employee consultation body within the Commission. The terms of reference of the SPF will be agreed in consultation with employees.
- 318) The Commission will consult with, and take into account the views of, the SPF on issues relating to the implementation and operation of this Agreement, that is, issues affecting the employment conditions of employees. The Commission will allow a reasonable period for the SPF to consider any such issues.
- 319) The Commission will consult with employees, through the SPF, about proposed changes to workplace policies before a final decision is made.
- 320) The Commissioner will provide relevant information to the employees or their representatives in a timely manner.

#### **Consultation on major change**

- 321) This term applies if the Commissioner:
- a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to the Commission that is likely to have a significant effect on employees; or
  - b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.
- 322) For a major change referred to in clause 321(a):
- a) the Commissioner must notify the relevant employees of the decision to introduce the major change; and
  - b) clauses 323 to 329 apply.
- 323) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- 324) If:
- a) relevant employees appoint a representative for the purposes of consultation; and

b) the employees advise the Commissioner of the identity of the representative; the Commissioner must recognise the representative.

325) As soon as practicable after making the decision, the Commissioner 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 Commissioner 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.

326) However, the Commissioner is not required to disclose confidential or commercially-sensitive information to the relevant employees.

327) The Commissioner must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

328) If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the Commission, the requirements set out in clause 323(a) and clauses 324 and 326 are taken not to apply.

329) 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 Commission'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**

330) For a change referred to in clause 321(b):

- a) the Commissioner must notify the relevant employees of the decision to introduce major change; and
- b) clauses 331 to 336 apply.

331) The relevant employees may appoint a representative for the purposes of the procedures in this term.

332) If:

- a) relevant employees appoint a representative for the purposes of consultation; and
  - b) the employees advise the Commissioner of the identity of the representative;
- the Commissioner must recognise the representative.

333) As soon as practicable after proposing to introduce the change, the Commissioner 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 Commissioner reasonably believes will be the effects of the change on the employees; and
  - iii. information about any other matters that the Commissioner 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).

334) However, the Commissioner is not required to disclose confidential or commercially-sensitive information to the relevant employees.

335) The Commissioner must give prompt and genuine consideration to matters raised about the change by the relevant employees.

336) In this term relevant employees means the employees who may be affected by a change referred to in clause 321.

## **DISPUTE RESOLUTION PROCEDURES**

337) If there is a dispute between an employee and the Commission relating to:

- a) a matter arising under this Agreement; or
- b) the NES;

this term sets out procedures to settle the dispute.

338) An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.

339) In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.

340) If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the Fair Work Commission.

341) The Fair Work Commission may deal with the dispute in two stages:

- a) the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and

- b) if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
  - i. arbitrate the dispute; and
  - ii. make a determination that is binding on the parties.

Note: If Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the FW Act.

A decision that Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Division 3 of Part 5.1 of the FW Act. Therefore, an appeal may be made against the decision.

- 342) While the parties are trying to resolve the dispute using the procedures in this term:
- a) an employee must continue to perform their work as they would normally unless the employee has a reasonable concern about an imminent risk to their health or safety; and
  - b) an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
    - i. the work is not safe; or
    - ii. applicable work health and safety legislation would not permit the work to be performed; or
    - iii. the work is not appropriate for the employee to perform; or
    - iv. there are other reasonable grounds for the employee to refuse to comply with the direction.

- 343) The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this term.



## APPENDIX A – SALARY TABLES

### APS LEVELS SALARY STRUCTURE

Classification	Before Lodgement	Commencement of Agreement	12 months after commencement	24 months after commencement
<b>Executive Level 2 (EL2)</b>	\$141,965	\$144,804	\$147,700	\$150,654
	\$135,150	\$137,853	\$140,610	\$143,422
	\$130,783	\$133,399	\$136,067	\$138,788
	\$119,908	\$122,306	\$124,752	\$127,247
<b>Executive Level 1 (EL1)</b>	\$114,624	\$116,916	\$119,254	\$121,639
	\$110,088	\$112,290	\$114,536	\$116,827
	\$104,876	\$106,974	\$109,113	\$111,295
	\$100,502	\$102,512	\$104,562	\$106,653
<b>APS6</b>	\$92,265	\$94,110	\$95,992	\$97,912
	\$90,244	\$92,049	\$93,890	\$95,768
	\$85,751	\$87,466	\$89,215	\$90,999
	\$81,784	\$83,420	\$85,088	\$86,790
<b>APS5</b>	\$79,008	\$80,588	\$82,200	\$83,844
	\$75,044	\$76,545	\$78,076	\$79,638
	\$73,057	\$74,518	\$76,008	\$77,528
<b>APS4</b>	\$72,019	\$73,459	\$74,928	\$76,427
	\$70,035	\$71,436	\$72,865	\$74,322
	\$68,160	\$69,523	\$70,913	\$72,331
<b>APS3</b>	\$66,683	\$68,017	\$69,377	\$70,765
	\$63,659	\$64,932	\$66,231	\$67,556
	\$61,864	\$63,101	\$64,363	\$65,650
	\$60,161	\$61,364	\$62,591	\$63,843
<b>APS2</b>	\$56,810	\$57,946	\$59,105	\$60,287
	\$55,231	\$56,336	\$57,463	\$58,612
	\$53,621	\$54,693	\$55,787	\$56,903
	\$52,059	\$53,100	\$54,162	\$55,245
<b>APS1 (adult)</b>	\$50,025	\$51,026	\$52,047	\$53,088
	\$47,698	\$48,652	\$49,625	\$50,618
	\$46,118	\$47,040	\$47,981	\$48,941
	\$44,543	\$45,434	\$46,343	\$47,270
<b>(at 20 years)</b>	\$40,535	\$41,346	\$42,173	\$43,016
<b>(at 19 years)</b>	\$36,081	\$36,803	\$37,539	\$38,290
<b>(at 18 years)</b>	\$31,180	\$31,804	\$32,440	\$33,089
<b>(under 18 years)</b>	\$26,727	\$27,262	\$27,807	\$28,363

## ENTRY LEVEL BROADBAND

Local Title	Classification	Before Lodgement	Commencement of Agreement	12 months after commencement	24 months after commencement
Entry Level (T, I, A, or G)	APS4	\$72,019	\$73,459.00	\$74,928.00	\$76,427.00
		\$70,035	\$71,436.00	\$72,865.00	\$74,322.00
		\$68,160	\$69,523.00	\$70,913.00	\$72,331.00
<i>Soft barrier</i>					
Entry Level (T, I, A, or G)	APS3	\$66,683	\$68,017.00	\$69,377.00	\$70,765.00
		\$63,659	\$64,932.00	\$66,231.00	\$67,556.00
		\$61,864	\$63,101.00	\$64,363.00	\$65,650.00
		\$60,161	\$61,364.00	\$62,591.00	\$63,843.00
<i>Soft barrier</i>					
Entry Level (T, I, A, or G)	APS2	\$56,810	\$57,946.00	\$59,105.00	\$60,287.00
		\$55,231	\$56,336.00	\$57,463.00	\$58,612.00
		\$53,621	\$54,693.00	\$55,787.00	\$56,903.00
		\$52,059	\$53,100.00	\$54,162.00	\$55,245.00
<i>Soft barrier</i>					
Entry Level (T, I, A, or G)	APS1 (adult)	\$50,025	\$51,026.00	\$52,047.00	\$53,088.00
		\$47,698	\$48,652.00	\$49,625.00	\$50,618.00
		\$46,118	\$47,040.00	\$47,981.00	\$48,941.00
		\$44,543	\$45,434.00	\$46,343.00	\$47,270.00
	(at 20 years)	\$40,535	\$41,346.00	\$42,173.00	\$43,016.00
	(at 19 years)	\$36,081	\$36,803.00	\$37,539.00	\$38,290.00
	(at 18 years)	\$31,180	\$31,804.00	\$32,440.00	\$33,089.00
	(under 18 years)	\$26,727	\$27,262.00	\$27,807.00	\$28,363.00

- Trainees = T
- Indigenous Australian Government Development Program (IAGDP) participants = (I)
- Indigenous Apprenticeship Program = (A)
- Graduates = (G)

## PROFESSIONAL 1 SALARY STRUCTURE

Local title	Classification	Before Lodgement	Commencement of Agreement	12 months after commencement	24 months after commencement
Professional 1	APS5	\$79,008	\$80,588	\$82,200	\$83,844
	APS5	\$75,044	\$76,545	\$78,076	\$79,638
	APS4	\$70,036	\$71,437	\$72,866	\$74,323
	APS4 #	\$68,161	\$69,524	\$70,914	\$72,332
	APS3 ##	\$63,659	\$64,932	\$66,231	\$67,556
	APS3	\$61,864	\$63,101	\$64,363	\$65,650

# salary on commencement for a 4-year degree (or higher)

## salary on commencement for a 3-year degree

## MEDICAL OFFICER SALARY STRUCTURE

Classification	Before Lodgement	Commencement of Agreement	12 months after commencement	24 months after commencement
Medical Officer Class 4	\$170,527	\$173,938	\$177,417	\$180,965
	\$160,960	\$164,179	\$167,463	\$170,812
	\$154,925	\$158,024	\$161,184	\$164,408
Medical Officer Class 3	\$148,744	\$151,719	\$154,753	\$157,848
	\$142,065	\$144,906	\$147,804	\$150,760
Medical Officer Class 2	\$133,871	\$136,548	\$139,279	\$142,065
	\$127,055	\$129,596	\$132,188	\$134,832
Medical Officer Class 1	\$116,107	\$118,429	\$120,798	\$123,214
	\$105,181	\$107,285	\$109,431	\$111,620
	\$97,730	\$99,685	\$101,679	\$103,713
	\$90,215	\$92,019	\$93,859	\$95,736

## LEGAL SALARY STRUCTURE

Local title	Classification	Before Lodgement	Commencement of Agreement	12 months after commencement	24 months after commencement
Legal 2	EL2	\$146,935	\$149,874	\$152,871	\$155,929
		\$140,557	\$143,368	\$146,236	\$149,160
		\$136,014	\$138,734	\$141,509	\$144,339
Legal 1	EL1	\$124,368	\$126,855	\$129,392	\$131,980
		\$114,492	\$116,782	\$119,117	\$121,500
		\$104,876	\$106,974	\$109,113	\$111,295
	APS6	\$90,244	\$92,049	\$93,890	\$95,768
		\$85,751	\$87,466	\$89,215	\$91,000
		\$81,784	\$83,420	\$85,088	\$86,790
	APS5	\$75,697	\$77,211	\$78,755	\$80,330
	APS4	\$70,965	\$72,384	\$73,832	\$75,309

## PUBLIC AFFAIRS OFFICER SALARY STRUCTURE

Local Title	Classification	Before Lodgement	Commencement of Agreement	12 months after commencement	24 months after commencement
Senior Public Affairs 2	EL2	\$147,645	\$150,598	\$153,610	\$156,682
		\$141,906	\$144,744	\$147,639	\$150,592
Senior Public Affairs 1	EL2	\$135,150	\$137,853	\$140,610	\$143,422
Public Affairs 3	EL1	\$123,221	\$125,685	\$128,199	\$130,763
		\$117,244	\$119,589	\$121,981	\$124,421
		\$110,118	\$112,320	\$114,566	\$116,857
Public Affairs 2	APS6	\$92,360	\$94,207	\$96,091	\$98,013
		\$85,751	\$87,466	\$89,215	\$90,999
		\$81,784	\$83,420	\$85,088	\$86,790
Public Affairs 1	APS5±	\$79,008	\$80,588	\$82,200	\$83,844
		\$75,044	\$76,545	\$78,076	\$79,638
	APS4	\$72,019	\$73,459	\$74,928	\$76,427
	APS4*	\$68,161	\$69,524	\$70,914	\$72,332

\*This level is generally reserved for employees with less than two years' experience.

## ASSESSOR/SENIOR ASSESSOR BROADBAND SALARY STRUCTURE\*

Local Title	Classification	Before Lodgement	Commencement of Agreement	12 months after commencement	24 months after commencement
Senior Quality Surveyor	APS6	\$92,426	\$94,275	\$96,161	\$98,084
		\$87,262	\$89,007	\$90,787	\$92,603
		\$81,961	\$83,600	\$85,272	\$86,977
<i>Soft barrier</i>					
Quality Surveyor	APS5	\$79,194	\$80,778	\$82,394	\$84,042
		\$75,243	\$76,748	\$78,283	\$79,849
		\$73,262	\$74,727	\$76,222	\$77,746

\*Also known as Surveyor/Senior Surveyor

## APPENDIX B – RECOGNITION OF ALLOWANCES FOR PARTICULAR PURPOSES

	Counts as salary for superannuation purposes (CSS and PSSdb only. Members of other superannuation funds refer to clauses 40 to 42)	Counts towards salary for calculation of overtime salary	Payable during long service leave	Payable during annual leave	Reduced pro-rata during period of half-pay leave (if payable during leave)	Included in income maintenance for excess employees	Included in salary for calculation of retrenchment severance payments	Included in salary for payment in lieu of notice of termination of employment	Payment in lieu of long service leave	Payment in lieu of annual leave
Higher duties allowance	@	✓	*	*	✓	*	*	*	#	^
CNO Professional Development Allowance	✓	X	✓	✓	✓	✓	✓	✓	✓	✓
Medical Officer Professional Development Allowance	X	X	X	X	X	X	X	X	X	X
Workplace Responsibility Allowance	✓	X	✓	X	X	X	X	✓	X	X
Restriction Allowance	@	X	X	X	X	*	X	*	X	X
District Allowance	X	X	*	*	✓	✓	✓	✓	^	*
Community Language Allowance	✓	X	*	*	✓	✓	✓	✓	✓	X

#	Yes, if in receipt of allowance for a continuous period of greater than 12 months
✓	Yes
^	Yes, if in receipt of allowance on last day of service
X	No
@	Yes, subject to a qualifying period in accordance with the Superannuation (CSS/PSS) Salary Regulations 1978, unless indicated otherwise in this Agreement
*	Yes, subject to certain conditions

## APPENDIX C – SUPPORTED WAGE SYSTEM (SWS)

**C.1 This schedule defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this Agreement.**

**C.2 In this schedule:**

**Approved assessor** means a person accredited by the management unit established by the Commonwealth under the SWS to perform assessments of an individual's productive capacity within the SWS.

**Assessment instrument** means the tool provided for under the SWS that records the assessment of the productive capacity of the person to be employed under the SWS.

**Disability Support Pension** means the Commonwealth Government pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991 (Cth)*, as amended from time to time, or any successor to that scheme.

**Relevant minimum wage** means the minimum wage prescribed in this Agreement for the class of work for which an employee is engaged.

**Supported Wage System (SWS)** means the Commonwealth Government system to promote employment for people who cannot work at full wages because of a disability, as documented in the SWS Handbook. The Handbook is available from the JobAccess website ([www.jobaccess.gov.au](http://www.jobaccess.gov.au)).

**SWS wage assessment agreement** means the document in the form required by the Department of Employment that records the employee's productive capacity and agreed wage rate.

### **C.3 Eligibility criteria**

C.3.1 Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class for which the employee is engaged under this Agreement, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.

C.3.2 The schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this Agreement relating to the rehabilitation of employees who are injured in the course of their employment.

### **C.4 Supported wage rates**

C.4.1 Employees to whom this clause applies shall be paid the applicable percentage of the relevant minimum wage according to the following schedule:

Assessed capacity	% of prescribed rate
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%

70%	70%
80%	80%
90%	90%

C.4.2 Provided that the minimum amount payable must be not less than the minimum weekly wage specified in the current National Minimum Wage Order for an employee to whom Special National Minimum Wage 2 applies.

C.4.3 Where an employee's assessed capacity is 10 per cent; they must receive a high degree of assistance and support.

**C.5 Assessment of capacity**

C.5.1 For the purposes of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the SWS by an approved assessor, having consulted the employer and the employee, and if the employee so desires, a union which the employee is eligible to join.

C.5.2 Assessment made under this schedule must be documented in a SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the FW Act.

**C.6 Lodgement of SWS wage assessment agreement**

C.6.1 All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.

C.6.2 All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union, which has an interest in the agreement, is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

**C.7 Review of assessment**

The assessment of the applicable percentage should be subject to annual review or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.

**C.8 Other terms and conditions of employment**

Where an assessment has been made, the applicable percentage will apply to the relevant wage rate only.

Employees covered by the provisions of the schedule will be entitled to the same terms and conditions of employment as all other workers covered by this Agreement paid on a pro-rata basis.

**C.9 Workplace adjustment**

An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve redesign of job duties, working time arrangements and work organisation in consultation with other workers in the area.

## **C.10 Trial Period**

C.10.1 In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a Trial Period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

C.10.2 During that Trial Period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.

C.10.3 The minimum amount payable to the employee during the Trial Period must be no less than the minimum weekly wage specified in the current National Minimum Wage Order for an employee to whom Special National Minimum Wage 2 applies.

C.10.4 Work trials should include induction or training as appropriate to the job being trialled.

C.10.5 Where the employer and employee wish to establish a continuing employment relationship following the completion of the Trial Period, a further contract of employment will be entered into based on the outcome of assessment under clause C.5.



**FORMAL ACCEPTANCE OF THE AGREEMENT AND SIGNATORIES**

This agreement is made and approved under section 172 of the *Fair Work Act 2009*.

Employer:

Signed:



Janet Anderson  
Commissioner  
Aged Care Quality and Safety Commission  
Level 9, 111 Philip Street  
Parramatta NSW 2150

Bargaining representatives:

Signed:



Brooke Muscat-Bentley  
Deputy National Secretary  
Community and Public Sector Union  
Level 1, 40 Brisbane Avenue  
Barton ACT 2600

Signed:



Annie Butler  
Federal Secretary  
Australian Nursing & Midwifery Federation  
Unit 3, 28 Eyre Street  
Kingston ACT 2604