



DECISION

Fair Work Act 2009

s.185 - Application for approval of a single-enterprise agreement

Aged Care Quality And Safety Commission
(AG2024/778)

AGED CARE QUALITY AND SAFETY COMMISSION ENTERPRISE AGREEMENT 2024-2027

Aged care industry

COMMISSIONER PLATT

ADELAIDE, 11 APRIL 2024

Application for approval of the Aged Care Quality and Safety Commission Enterprise Agreement 2024-2027

[1] An application has been made for approval of an enterprise agreement known as the *Aged Care Quality and Safety Commission Enterprise Agreement 2024-2027* (the Agreement) pursuant to s.185 of the *Fair Work Act 2009* (the Act) by the Commonwealth Of Australia As Represented By Aged Care Quality And Safety Commission (the Applicant). The agreement is a single enterprise agreement.

[2] The matter was allocated to my Chambers on 22 March 2024.

[3] On 26 March 2024, I conducted a telephone conference with the parties to seek clarification about aspects of the Agreement and invited the Applicant to address these matters including through the provision of an undertaking.

[4] The Agreement contains a number of changes which when considered in isolation, are less advantageous than the Award. These include increased ordinary hours, an expanded spread of hours and some penalty rates. I note that the Agreement also confers benefits of universal application including paid leave between Christmas and New Year and increased Superannuation Contributions. I have not considered additional benefits which were conditional in their application and/or difficult to quantify in monetary terms. I find that the universal improvements offset the disadvantages referred to.

[5] The Applicant has submitted an undertaking in the required form dated 27 March 2024, a copy of which is attached to this Agreement. The undertaking deals with the following topics:

- The definition of a shift worker has been inserted and will also be for the purposes of the National Employment Standards (NES).

- A Part-time minimum engagement has been inserted, consistent with the *Australian Public Service Enterprise Award 2015*.
- The requirement to prescribe the agreed part time hours of working including the start and finish times so as to determine when overtime is payable has been inserted, consistent with the *Australian Public Service Enterprise Award 2015*.
- For BOOT issues relating to Higher Duties, the Applicant has implemented a reconciliation process in line with *Shop, Distributive and Allied Association v Beechworth Bakery Employee Co Pty Ltd T/A Beechworth Bakery*.ⁱ

[6] A copy of the undertaking has been provided to the bargaining representatives and I have sought their views in accordance with s.190(4) of the Act. The bargaining representatives did not express any view on the undertaking.

[7] The undertaking appears to meet the requirements of s.190(3) of the Act and I have accepted it. As a result, the undertakings are taken to be a term of the Agreement.

[8] The Community and Public Sector Union and Australian Nursing and Midwifery Federation 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) of the Act I note that the Agreement covers these organisations.

[9] I am satisfied that each of the requirements of ss.186, 187, 188 and 190 of the Act as are relevant to this application for approval have been met.

[10] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 7 days after the date of approval of the Agreement. The nominal expiry date is 28 February 2027.



COMMISSIONER

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ⁱ [2017] FWCFB 1664.

Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of this agreement.

Aged Care Quality and Safety Commission Enterprise Agreement

March 2024-27



Australian Government

Aged Care Quality and Safety Commission

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Section 1: Technical matters

Title

1. This Enterprise Agreement is made under section 172 of the Fair Work Act 2009 and will be known as the 'Aged Care Quality and Safety Commission Enterprise Agreement 2024-2027'.

Parties to the Agreement

2. This Agreement covers:
 - 2.1 the Commissioner, for and on behalf of the Commonwealth of Australia as the employer;
 - 2.2 all employees in the Commission employed under the PS Act other than:
 - 2.2.1 Senior Executive Service employees or equivalent;
 - 2.2.2 Other Commission-specific cohorts not covered by the Agreement, where relevant and according to the scope specified in the Notice of Employee Representational Rights; and
 - 2.3 subject to notice being given in accordance with section 183 of the FW Act, the following employee organisation/s which were a bargaining representative for this Agreement:
 - 2.3.1 Community and Public Sector Union (CPSU)
 - 2.3.2 Australian Nursing and Midwifery Federation (ANMF)

Operation of the Agreement

3. This Agreement will commence operation seven days after approval by the Fair Work Commission.
4. This Agreement will nominally expire on 28 February 2027.

Delegations

5. The Commissioner may delegate to or authorise any person to perform any or all of the Commissioner's powers or functions under this Agreement, including the power of delegation, and may do so subject to conditions.



National Employment Standards (NES) precedence

6. The terms of this Agreement are intended to apply in a manner that does not derogate from the NES. The NES will continue to apply to the extent that any term of this Agreement is detrimental to an employee of the Commission in any respect when compared with the NES.

Closed comprehensive agreement

7. This Agreement states the terms and conditions of employment of employees covered by this Agreement, other than terms and conditions applying under relevant Commonwealth laws.
8. This Agreement will be supported by policies and guidelines, as implemented and varied from time to time.
9. Policies and guidelines are not incorporated into and do not form part of this Agreement. To the extent that there is any inconsistency between policies and guidelines and the terms of this Agreement, the terms of this Agreement will prevail.

Individual flexibility arrangements

10. The Commission and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:
 - 10.1 the Agreement deals with one or more of the following matters:
 - 10.1.1 arrangements about when work is performed;
 - 10.1.2 overtime rates;
 - 10.1.3 penalty rates;
 - 10.1.4 allowances;
 - 10.1.5 remuneration; and
 - 10.1.6 leave and leave loading; and
 - 10.2 the arrangement meets the genuine needs of the Commission and employee in relation to one or more of the matters mentioned in clause 10.1; and
 - 10.3 the arrangement is genuinely agreed to by the Commission and employee.
11. The Commission must ensure that the terms of the individual flexibility arrangement:
 - 11.1 are about permitted matters under section 172 of the FW Act;
 - 11.2 are not unlawful terms under section 194 of the FW Act; and



- 11.3 result in the employee being better off overall than the employee would be if no arrangement was made.
12. The Commission must ensure that the individual flexibility arrangement:
 - 12.1 is in writing;
 - 12.2 includes the name of the Commission and employee;
 - 12.3 is signed by the Commission and employee and, if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
 - 12.4 includes details of:
 - 12.4.1 the terms of the Enterprise Agreement that will be varied by the arrangement;
 - 12.4.2 how the arrangement will vary the effect of the terms;
 - 12.4.3 how the employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and
 - 12.5 states the day on which the arrangement commences.
13. The Commission must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
14. The Commission or employee may terminate the individual flexibility arrangement:
 - 14.1 by giving no more than 28 days written notice to the other party to the arrangement; or
 - 14.2 if the Commission and employee agree in writing – at any time.
15. The Commission and employee are to review the individual flexibility arrangement at least every 12 months.



Definitions

16. The following definitions apply to this Agreement:

Agency Head means the Commissioner of Aged Care Quality and Safety Commission or the Commissioner's delegate.

Agreement means the Aged Care Quality and Safety Commission Enterprise Agreement.

APS means the Australian Public Service.

APS agency means an agency whose employees are employed under the PS Act, including an agency as defined in section 7 of the PS Act whose employees are employed under that Act.

APS award means the Australian Public Service Enterprise Award 2015.

APS consultative committee means the committee established by the APS Commissioner to consider matters pertaining to the (APS) employment relationship and of interest to the APS as a whole.

APS employee has the same meaning as in the *Public Service Act 1999*.

Australian Defence Force Cadets means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.

Bandwidth means the span of hours during which an employee can perform ordinary hours.

Broadband refers to the allocation of more than one approved classification by the Commissioner to a group of duties involving work value applying to more than one classification under sub-rule 9(4) of the *Public Service Classification Rules 2000*. A broadband encompasses the full range of work value of the classifications contained within it.

Casual employee (irregular or intermittent employee) means an employee engaged under section 22(2)(c) of the PS Act who:

- a. is a casual employee as defined by the FW Act; and
- b. works on an irregular or intermittent basis.

Child means a biological child, adopted child, foster child, stepchild, or ward.

Classification or classification level means the approved classifications as set out in rule 5 of the Public Service Classification Rules 2000.

Commission means the Aged Care Quality and Safety Commission.



Commissioner means the Commissioner of the Aged Care Quality and Safety Commission, or a delegate, or a person authorised by the Commissioner.

Commonwealth Nursing Officer 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.

De facto partner means a person who, regardless of gender, is living in a common household with the employee in a bona fide, domestic, interdependent partnership, although not legally married to the employee. This includes a former de facto partner.

Delegate means someone to whom a power or function has been delegated.

Dependant means the employee's spouse or de facto partner, a child, parent or aged relative of the employee or the employee's spouse or de facto partner, who ordinarily lives with the employee and who is substantially dependent on the employee. Dependant also includes a child of the employee who does not ordinarily live with the employee but for whom the employee provides substantial financial support.

Employee means an employee of the Commonwealth engaged under section 22(2) of the PS Act who is covered by this Agreement (whether full-time, part-time or casual, ongoing or non-ongoing).

Employee representative means a person (whether an employee or not) elected or chosen by an employee, or elected or chosen by a group of employees in a workplace, to represent the individual and/or collective views of those employees in relation to a matter under this Agreement.

Family means:

- a. a spouse, former spouse, de facto partner or former de facto partner of the employee;
- b. a child, parent, grandparent, grandchild, or sibling of the employee;
- c. a child, parent, grandparent, grandchild, or sibling of a spouse, former spouse, de facto partner or former de facto partner of the employee;
- d. a member of the employee's household;
- e. a person with whom the employee has a relationship of traditional kinship where there is a relationship or obligation, under customs and traditions of the community or group to which the employee belongs; or



- f. a person who the Commissioner is satisfied has a strong affinity with the employee.

Family and domestic violence has the same meaning as in section 106B (2) of the FW Act and as 'family violence' in the Family Law Act 1975.

Foster child 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.

Full-time employee means an employee employed to work an average of the Commission's standard working hours: 37 hours and 30 minutes per week or the Commission's retained standard full-time hours in accordance with this Agreement.

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

HDA means Higher Duties Allowance, the temporary payment of an allowance where an employee is temporarily assigned duties at a higher classification than their substantive classification.

LSL Act means the *Long Service Leave Act (Commonwealth Employees) 1976*.

Manager means an employee's direct manager who is usually the person to whom an employee reports to on a day-to-day basis for work related matters, and may include a person referred to as a supervisor.

ML Act means the *Maternity Leave (Commonwealth Employees) Act 1973* as amended from time to time and any successor legislation.

Movement or Move 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'.

NES means the National Employment Standards at Part 2-2 of the FW Act.

Non-ongoing employee means an employee engaged under section 22(2)(b) of the PS Act for a specified term or for the duration of a specified task, and consistent with the FW Act.

Ongoing employee means an employee engaged under section 22(2)(a) of the PS Act.



Ordinary hours, duty or work means an employee's usual hours worked in accordance with this Agreement and does not include additional hours.

OTE has the same meaning as defined in the Superannuation Guarantee (Administration) Act 1992 (Cth).

Parliamentary service means employment under the *Parliamentary Service Act 1999*.

Partner means a spouse (including a former spouse) or de facto partner (including a former de facto partner).

Part-time employee means an employee whose ordinary hours are less than Commission's standard working hours: 37 hours and 30 minutes per week or the Commission's retained standard full-time working hours in accordance with this Agreement.

PDA means the Commission's Performance Development Agreement.

PDF means the Commission's Performance Development Framework.

PIP means the Commission's Performance Improvement Plan.

Primary caregiver for the purposes of the parental leave clause means a pregnant employee with an entitlement under the ML Act, or an employee other than a casual employee who has primary care responsibility for a child who is born to them or who is adopted or in long-term foster care as per the clauses on adoption and long-term foster care in this Agreement.

Promotion means the ongoing assignment of duties at a higher classification (excluding HDA) than the employee's current substantive classification, as defined in the Australian Public Service Commissioner's Directions 2022.

PS Act means the *Public Service Act 1999* as amended from time to time.

Registered health practitioner means a person who is registered or licenced as a health practitioner (or a health practitioner of a particular type) under a law of a State or Territory.

Relevant employee means an affected employee.

Representative means a person or organisation chosen by an employee, or a group of employees, to speak for and/or represent them.

Salary advancement means movement through increments within a salary range for a classification, subject to meeting any necessary requirements.

Salary increase means a general increase to the base salary paid to an employee.



School-aged 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.

Secondary caregiver for the purposes of the parental leave clause means an employee, other than a pregnant employee or casual employee, who has secondary care responsibility for a child who is born to them, or for a child who is adopted or in long-term foster care as per the clauses on adoption and long-term foster care in this Agreement.

SPF means Staff Participation Forum.

Spouse 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.

Support person means a person, chosen by an employee, to provide support for the employee in employment matters or during discussions the employee has with their manager.

Voluntary retrenchment means voluntary termination of an excess employee's APS employment, also known as 'voluntary retirement' or 'voluntary redundancy'.



Section 2: Remuneration

Salary

17. Salary rates will be as set out in Attachment A – Base salaries of this Agreement.
18. The base salary rates in Attachment A – Base salaries include the following increases:
 - 18.1 4.0 per cent from the first full pay period on or after 1 March 2024;
 - 18.2 3.8 per cent from the first full pay period on or after 1 March 2025; and
 - 18.3 3.4 per cent from the first full pay period on or after 1 March 2026.
19. In recognition of a common alignment date of the first full pay period on or after 1 March each year, the base salary rates in Attachment A – Base salaries were calculated based on base salary rates as 31 August 2023.
20. 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 clauses 18.2 and 18.3.
21. 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 14 March 2024 or the commencement of the agreement, which is the later. 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 18.
22. 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 Attachment A, based on the proportion of hours worked in comparison to full-time hours.



Payment of salary

23. Employees will be paid fortnightly in arrears by electronic funds transfer into a financial institution account of the employee's choice, based on their annual salary using the following formula:

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

Note: This formula is designed to achieve a consistent fortnightly pay rate without significant variability year-to-year. It reflects that the calendar year is not neatly divisible into 26 fortnightly periods. There are 313 fortnightly pay cycles within a 12-year period.

Salary setting

24. Where an employee is engaged, moves to or is promoted in the Commission, the employee's salary will be paid at the minimum of the salary range of the relevant classification, unless the Commissioner determines a higher salary within the relevant salary range under these salary setting clauses.
25. The Commissioner may determine the payment of salary at a higher value within the relevant salary range of the relevant classification and the date of effect at any time.
26. In determining a salary under these salary setting clauses, the Commissioner will have regard to relevant factors including the employee's experience, qualifications and skills.
27. Where an employee commences ongoing employment in the Commission immediately following a period of non-ongoing employment in the Commission for a specified term or task, the Commissioner will determine the payment of the employee's salary within the relevant salary range of the relevant classification which recognises the employee's prior service as a non-ongoing employee in the Commission.
28. Where an employee commences ongoing employment in the Commission immediately following a period of casual employment in the Commission, the Commissioner will determine the payment of salary within the relevant salary range of the relevant classification which recognises the employee's prior service as a casual employee in the Commission.
29. Where an APS employee moves to the Commission at level from another APS agency, and their salary is **above** the maximum of the salary range for their classification, the Commissioner will maintain the employee's salary at that level, until it is absorbed into the salary range for that classification.



30. Where an APS employee moves to the Commission at level from another APS agency, and their salary is **below** the maximum of the salary range for the classification, and 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.
31. Where the Commissioner determines that an employee's salary has been incorrectly set, the Commissioner may determine the correct salary and the date of effect.

Entry Pay Point for Entry Level Broadband

32. Entry pay points will be assessed having specific regard to the employee's qualifications, work experience, skills and abilities and the program the employee is undertaking.

Legal 1 – Determination of salary

33. On promotion, advancement, movement or engagement to a Legal 1, an employee will be paid at the minimum increment point unless:
 - 33.1 the Commissioner determines otherwise; or
 - 33.2 on engagement the employee has been admitted as a practitioner of the High Court or the Supreme Court of a State or Territory; and
 - 33.2.1 the employee has served under articles of clerkship for a period of not less than one year; or
 - 33.2.2 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
 - 33.2.3 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

34. 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 Attachment 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.

Salary on reduction

35. 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.

Incremental advancement

36. Consistent eligibility rules for salary progression will include:

- 36.1 a satisfactory performance rating during the employee's most recent performance review;
- 36.2 three months of aggregate eligible service in the Commission at or above the relevant classification level during the most recent annual performance management cycle. If an employee has less than 3 months of aggregate eligible service, the Commissioner may exercise their discretion to determine a higher salary under the salary setting clause in the Commission's Agreement;
- 36.3 completing the requirements of the PDF unless there is reasonable cause not to have done so;
- 36.4 not being ineligible for salary advancement due to relevant administrative actions, including a sanction under section 15 of the PS Act; and
- 36.5 any additional advancement provisions applying to specific groups of employees as outlined in clauses 37 to 48.

37. Eligible service for salary progression will include:

- 37.1 periods of paid leave and unpaid parental leave;
- 37.2 periods of unpaid leave that count as service; and
- 37.3 service while employed on a non-ongoing basis.

38. During a period of unpaid parental leave employees will be eligible to advance a maximum of one increment, regardless of the length of unpaid parental leave.

39. Employees who are acting at a higher classification, and satisfy other eligibility criteria, will be eligible for salary progression at both their substantive and acting classifications.

40. Salary progression while acting at a higher classification, will be retained for future acting duties at, or promotion to, that classification regardless of elapsed time.

41. Casual employees will not be eligible for incremental advancement.



Entry Level Broadband employees

42. Entry Level Broadband employees are required to undertake a program/course of training determined by the Commissioner.
43. 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.
44. Advancement is not automatic and is subject to:
 - 44.1 sufficient work being available at the higher classification level; and
 - 44.2 the employee having gained the necessary skill and proficiencies to perform the more complex work; and
 - 44.3 satisfactory performance.

Legal 1 Broadband employees

45. Legal 1 employees will have the following provisions for salary advancement.
 - 45.1 Advancement within the broadband is not automatic and is subject to:
 - 45.1.1 sufficient work being available at the higher classification level; and
 - 45.1.2 the employee having gained the necessary skill and proficiencies to perform the more complex work; and
 - 45.1.3 satisfactory performance.
 - 45.2 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.
 - 45.3 Advancement from the fifth to sixth pay point will not occur unless:
 - 45.3.1 in the opinion of the Commissioner, the level of work allocated for the position is classified as higher level work; and
 - 45.3.2 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.
 - 45.4 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.



| Column 1 Performance rating | Column 2 Rate of advancement |
|--------------------------------|---------------------------------|
| 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

46. Movement between classification levels within a broadband applies to ongoing employees only.
47. Movement to a higher APS classification level within a broadband is not automatic and can only occur when:
- 47.1 there is work available at the higher level in accordance with the work level standards for the classification; and
 - 47.2 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
 - 47.3 the employee demonstrates to the Commissioner's satisfaction a potential to undertake the higher level work and if appropriate has the necessary qualifications, skills and/or experience.

Public Affairs 1

48. Advancement within the broadband is not automatic and is subject to:
- 48.1 sufficient work being available at the higher classification level; and
 - 48.2 the employee having gained the necessary skill and proficiencies to perform the more complex work; and
 - 48.3 satisfactory performance.

Salary Packaging

49. 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, redundancy and termination payments, and any other purposes, will be determined as if the salary packaging arrangement had not occurred.



50. Any fringe benefits tax incurred by employees as a result of salary packaging arrangements will be met by the individual employee on a salary sacrifice basis.

Superannuation

51. The Commission will make compulsory employer contributions as required by the applicable legislation and fund requirements.
52. Employer superannuation contributions will be paid on behalf of employees during periods of paid leave that count as service.
53. The Commission will make employer superannuation contributions to any eligible superannuation fund, provided that it accepts payment by fortnightly electronic funds transfer (EFT) using a file generated by the Commission's payroll system.

Method for calculating superannuation salary

54. The Commission will provide an employer contribution of 15.4 per cent of the employee's Ordinary Time Earnings (OTE) for employees in the Public Sector Superannuation Accumulation Plan (PSSap) and employees in other accumulation funds.
55. Employer contributions will be made for all employees covered by this Agreement.
56. Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements.
57. A table indicating the treatment of allowances for superannuation purposes is at Attachment C.

Overpayments

58. An overpayment occurs if the Commissioner (or the Commission) provides an employee with an amount of money to which the employee was not entitled (including but not limited to salary, entitlements, allowances, travel payment and/or other amount payable under this Agreement).
59. Where the Commissioner considers that an overpayment has occurred, the Commissioner will provide the employee with notice in writing. The notice will provide details of the overpayment.
60. If an employee disagrees that there has been an overpayment including the amount of the overpayment, they will advise the Commissioner in writing within 28 calendar days of receiving the notice. In this event, no further action will be taken until the employee's response has been reviewed.



61. If after considering the employee's response (if any), the Commissioner confirms that an overpayment has occurred, the overpayment will be treated as a debt to the Commonwealth that must be repaid to the Commission in full by the employee.
62. The Commissioner and the employee will discuss a suitable recovery arrangement. A recovery arrangement will take into account the nature and amount of the debt, the employee's circumstances and any potential hardship to the employee. The arrangement will be documented in writing.
63. The Commission and employee may agree to make a deduction from final monies where there is an outstanding payment upon cessation of employment.
64. Interest will not be charged on overpayments.
65. Nothing in clauses 58 to 64 prevents:
 - 65.1 the Commission from pursuing recovery of the debt in accordance with an Accountable Authority Instruction issued under the Public Governance, Performance and Accountability Act 2013;
 - 65.2 the Commission from pursuing recovery of the debt through other available legal avenues; or
 - 65.3 the employee or the Commission from seeking approval to waive the debt under the Public Governance, Performance and Accountability Act 2013.

Supported wage system

66. An employee may be paid a percentage of the relevant pay rate for their classification in line with their assessed capacity to do the work if they:
 - 66.1 have a disability;
 - 66.2 meet the criteria for a Disability Support Pension; and
 - 66.3 are unable to perform duties to the capacity required.
67. Specific conditions relating to the supported wage system are detailed in Attachment B – Supported Wage System.



Section 3: Allowances and reimbursements

68. Information on the recognition (for particular purposes) of allowances provided for in this Agreement is at Attachment C.

Higher duties allowance

69. Where a role needs to be filled for more than 5 working days, HDA will be paid to any employee temporarily occupying the role acting at a classification level higher than their substantive classification level.
70. HDA will be equal to the difference between the employee's current salary and the salary that would be payable if they were promoted to the higher classification level, or a higher amount determined by the Commissioner.
71. Where an employee is found to be eligible for salary progression at their acting classification level they will receive an appropriate increase in the rate of HDA. The employee's salary level will be retained for all future periods of acting regardless of elapsed time.
72. Where an employee is assigned only part of the higher duties, the Commissioner will determine the amount of allowance payable.
73. HDA will be payable while an employee is acting at a higher classification level as part of a job sharing arrangement where the duration of the arrangement is more than 5 working days.
74. The Commissioner may shorten the qualifying period for HDA on a case-by-case basis.

Public holidays or leave

75. 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.

Allowances and reimbursements

Loss of, or damage to, clothing or personal effects

76. 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.

Eyesight testing and eyewear reimbursement

77. 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:
 - 77.1 operate screen based equipment; and/or
 - 77.2 undertake specialised work tasks which require particular visual acuity not normally required for general tasks (e.g., microscopy).
78. 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.
 - 78.1 Up to \$117 for single vision spectacles; and
 - 78.2 Up to \$193 for bi-focal, multi-focal or tri-focal spectacles.
79. 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).

Motor vehicle allowance

80. Motor vehicle allowance (MVA) is payable where the Commissioner approves an employee to use a private or personally hired vehicle for official purposes.
81. Employees must typically use the most efficient means of transport when undertaking approved work-related travel.
82. Employees may seek approval to use a private vehicle or privately hired vehicle instead of the most efficient means of transport, as determined by the Commissioner. When considering efficiency, time, cost, geographical location and impact on the employee should be considered.
83. Where approval is given to use a private vehicle, the amount of MVA reimbursed to the employee will not exceed the cost of the most efficient means of travel.



Workplace responsibility allowances

84. A workplace responsibility allowance will be paid where an employee is appointed or elected by eligible peers to one of the following roles:
- 84.1 First Aid Officer;
 - 84.2 Health and Safety Representative;
 - 84.3 Emergency Warden;
 - 84.4 Harassment Contact Officer;
 - 84.5 Mental Health First Aid Officer; and
 - 84.6 Senior First Aid Officer (separate higher allowance See Attachment C).
85. An employee is not to receive more than one workplace responsibility allowance unless approved by the Commissioner due to operational requirements.
86. The rate will be:

| Rate from commencement of the Agreement | Rate from 13 March 2025 | Rate from 12 March 2026 |
|---|-------------------------|-------------------------|
| \$30.51 per fortnight | \$31.67 per fortnight | \$32.75 per fortnight |

87. As a salary-related allowance, this value will continue to be increased in line with headline wage increases. These increases are incorporated in the rates in the table above.
88. The full allowance is payable regardless of flexible work and part-time arrangements.
89. An employee's physical availability to undertake the role will be considered when appointing and reappointing employees to these roles. This is noting that not all workplace responsibility roles will necessarily require a physical presence in the workplace for the role to be successfully undertaken, such as Harassment Contact Officers, Mental First Aid Officers and Health and Safety Representatives depending on work group arrangements.
90. Casual employees who are eligible to receive a workplace responsibility allowance will be paid the full amount (noting the minimum rate), as varied from time to time provided they engage in work during any given pay cycle, irrespective of the frequency and duration of the work undertaken.



Community language allowance

91. A community language allowance will be paid where the Commissioner determines that an employee is regularly required to use their ability to communicate in Braille or a language other than English (including First Nations languages and AUSLAN) in the course of their work, and the employee meets the required level of competency set by the Commissioner. Further information is included in policy.
92. The allowance is paid in accordance with the employee's level of competency:

Table 1: Community language allowance rates

| Rate | Standard | Rate from commencement of the Agreement | Rate from 13 March 2025 | Rate from 12 March 2026 |
|------|--|---|-------------------------|-------------------------|
| 1 | An employee who has adequate language skills, as determined by an individual or body approved by the Commissioner, for simple communication. | \$1,435 per annum | \$1,490 per annum | \$1,541 per annum |
| 2 | An employee who is certified by the National Accreditation Authority for Translators and Interpreters (NAATI) as a Translator or Interpreter at any level; or is assessed to be at the equivalent level by an individual or body approved by the Commissioner. | \$2,870 per annum | \$2,979 per annum | \$3,080 per annum |

93. The allowance is calculated annually and paid fortnightly.
94. The full allowance is payable regardless of flexible work and part-time arrangements.
95. The allowance is payable during periods of paid leave.



96. The allowance counts as salary for superannuation purposes and for calculating retirement and redundancy entitlements.

School holiday family care subsidy

97. 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 \$26 per child per day of the amount paid by the employee for each school child attending approved or registered care.
98. 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.
99. The reimbursement will be net of any government subsidy available to the employee.



Section 4: Classifications and broadbands

Graduates

Classifications and local titles

100. Employees undertaking duties recognised by the Commissioner as requiring a mandatory qualification will have specific classifications aligned with the *Public Service Classification Rules 2000*, or local titles.

Broadbanding

101. Employees with the following local titles are broadbanded across the APS classification structure as follows:

| Local title | Broadband |
|---|-------------------------------|
| Legal 1 | APS4, 5, 6, Executive Level 1 |
| Public Affairs 1 | APS4, 5 |
| Entry Level (Commission Graduates, Trainees and Cadets) | APS1, 2, 3, 4 |
| Quality Assessor/Senior Quality Assessor | APS5,6 |

Entry Level Broadband

102. The following local titles are included in the Entry Level Broadband:

- 102.1 Commission Trainees (T);
- 102.2 Indigenous Australian Government Development Program (IAGDP) participants (I);
- 102.3 Indigenous Apprenticeship Program (A);
- 102.4 Commission Graduates (G).

103. Under this Agreement the Commissioner may include other entry level local titles to this broadband.

Work Level Standards

104. The APS Work Level Standards continue to operate and describe the work at each of the classification levels in this Agreement, consistent with the *Public Service Classification Rules 2000*, made in accordance with section 23 of the PS Act.



Section 5: Working hours and arrangements.

Job security

Commitment to ongoing employment and rebuilding APS capacity

105. The APS is a career-based public service. In its engagement decisions, the Commission recognises that the usual basis for engagement is as an ongoing APS employee.

Reporting

106. Where a consultative committee is in place, the Commission will report to the Commission consultative committee on an annual basis, or more frequently if agreed, on the number, duration, classification and location of ongoing, non-ongoing and casual employees engaged by the Commission.

Pathways to permanency

107. The Commission and the APS will comply with the casual conversion provision(s) of the FW Act. In addition, the Commission recognises that a proactive approach, including regularly reviewing casual and non-ongoing arrangements, is both a fair and efficient approach to supporting ongoing employment as the usual form of employment.

Casual (irregular or intermittent) employment

108. A casual (irregular or intermittent) employee is defined in the definitions section.

109. A decision to expand the use of casual employees is subject to clauses 105 to 107 of this Agreement.

110. The Commission will regularly review the working arrangements of casual employees to assess if they are genuinely performing irregular or intermittent duties, and report de-identified outcomes to the consultative committee, where one is in place.

111. Remuneration for casual employees is on an hourly basis. A casual employee will receive a 25 per cent loading on the base hourly rate of their classification as set out in this Agreement.

112. The casual loading is paid in lieu of payment for public holidays not worked, notice of termination of employment, redundancy benefits and all paid leave entitlements, other than leave required by legislation including long service leave in accordance with the Long Service Leave (Commonwealth Employees) Act 1976 and leave for family and domestic violence support.



- 113. A casual employee will be engaged for a minimum of 3 hours per engagement or shall be paid for a minimum of 3 hours at the appropriate casual rate.
- 114. A casual employee who is eligible for a Workplace Responsibility Allowance will be paid the full amount.

Non-ongoing employment

- 115. A non-ongoing employee is defined in the definitions section.
- 116. Non-ongoing employees will generally have the same terms and conditions of employment as ongoing employees under this Agreement's terms, except:
 - 116.1 personal/carer's leave accrual at clauses 258 to 260;
 - 116.2 redundancy provisions at clauses 513 to 545 subject to clause 117.
- 117. If the non-ongoing employee's contract is not permitted by section 333E of the FW Act, then the redundancy provisions at clauses 513 to 545 will apply.
- 118. If the redundancy provisions apply to an employee under clause 117, the Commission must adhere to the consultation requirements at clauses 456 to 462.

Working hours

Hours of work

- 119. 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.
- 120. 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 EL TOIL.
- 121. 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. In addition to flextime, all employees may be able to access flexible working hours via the flexible working arrangement provisions.
- 122. 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

123. 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.
124. 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
125. Unless a flexible working arrangement or Individual Flexibility Arrangement is in place, an employee's attendance pattern will be a Standard Day where:
- 125.1 essential operational requirements and the availability of work require that hours worked are temporarily varied, including reversion to a Standard Day; or
 - 125.2 an employee's attendance is unsatisfactory or that the employee is misusing flextime.

Hours of work of part-time employees

126. For part-time employees, ordinary hours are those agreed in the employee's part-time work agreement within the provisions of clauses 208 to 210. 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

127. Unless a flexible working arrangement is in place or an Individual Flexibility Arrangement is in place, an employee who does not perform hours matching the Standard Day will not:
- 127.1 be required to work more than 10 hours ordinary time on any day; or
 - 127.2 normally be required to commence work on any day without having at least 10 hours break from the previous day's work.
128. In circumstances where clauses 127.1 and 127.2 are not met, the overtime meal break allowance provisions at clauses 174 to 176 and/or overtime and TOIL provisions at clauses 162 to 172 will apply.
129. All employees are required to break for at least 30 minutes after five hours of continuous work.

Insufficient work and flextime

130. 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

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

Work outside bandwidth

132. 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 transportation

133. Managers may approve payment for the use of transportation for an employee for after hours work, to ensure the safety of the employee as part of their overall WHS responsibility.

Recording attendance

134. APS1-6 employees are required to record and regularly submit their actual working hours for approval using the approved system within the prescribed time consistent with policy.

Flextime for APS 1-6 classifications

135. APS1-6 employees (and their equivalents) accumulate flextime for duty performed in excess of their ordinary hours of work (over the settlement period defined in clause 122, that does not attract overtime).
136. Subject to genuine joint discussion and agreement of their manager, an employee may:
- 136.1 vary their pattern of attendance from time to time in order to build flextime to meet personal needs; or
 - 136.2 take flextime, by prior agreement, as a part or whole day absence.

Excess flextime credits

137. Employees and their direct managers have a joint responsibility to take positive steps to manage flextime balances. Where an employee's flextime credit exceeds 20 hours at the end of a settlement period, the employee and their manager will have genuine discussions to identify flextime needs and will put a plan in place to reduce the excess flextime credits.

Cash out of credits exceeding 30 hours

138. At the end of a settlement period, an employee's manager may approve flextime credits in excess of 30 hours to be cashed out at ordinary time rates where, due to operational requirements, the employee cannot reduce the flextime credits below 30 hours in the next settlement period.



Cash out of credits exceeding 37.50 hours

139. Where flextime credits exceed 37.50 hours a manager shall not unreasonably refuse an employee's request to cash out the flextime credits in excess of 37.5 hours.

Flextime debit balance

140. Employees may carry over up to 10 hours flextime debit (maximum flextime debit) into the next settlement period. Where an employee's flextime debit remains in excess of the maximum flextime debit at the end of the following settlement period the Commissioner may reduce any debit over 10 hours, at the time of reduction, to the maximum flextime debit by applying Miscellaneous Leave without pay that counts as service. An appropriate deduction may be made from the employee's salary in accordance with the Accountable Authority Instructions.

Flextime balances at cessation

141. Prior to cessation of employment, employees and their managers will take all reasonable steps to achieve a zero flextime balance at cessation.

141.1 The employee's manager will provide opportunities to enable the employee to balance any flextime credit or debit.

141.2 Any flextime credit or debit outstanding at the cessation of employment with the Commission, will:

141.2.1 in the case of a credit, be paid to the employee at ordinary time rates;

141.2.2 in the case of a debit, an amount will be deducted from the employee's termination payment; or

141.2.3 recovered, in accordance with the Accountable Authority Instructions.

Additional hours

142. 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:

142.1 37.50 hours per week for a full-time employee; or

142.2 the agreed ordinary hours of work per week for a part-time employee.

Executive Level Time Off in Lieu (EL TOIL)

143. 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.

144. Executive level (EL) employees are sometimes required to work reasonable additional hours. Consistent with the NES, employees may refuse to work unreasonable additional hours.
145. EL employees seeking to access time off in lieu (TOIL) are required to keep records of their working hours using a method determined by the Commission.
146. A manager is to grant TOIL in recognition of reasonable additional hours worked. TOIL granted to employees can be taken as whole or part days.
147. The working arrangements for an EL employee should be agreed through discussion between the manager and the EL employee. The discussion should include consideration of the work requirements that will safely get the job done and reasonably allow the employee to balance their work and personal life.
148. An EL employee's working arrangements and actual hours worked should be discussed on at least a quarterly basis between the EL employee and their manager.
149. The pattern of hours is to be flexible enough to accommodate short-term peaks and troughs in workload, and include expected reasonable additional hours. The agreed pattern of hours is to be recorded.
150. Requests from EL employees to access flexible time off which are consistent with their agreed working arrangements are to be supported, subject to operational requirements.
151. 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.
152. Regardless of the bandwidth, Executive Level employees are required to break for at least 30 minutes after five hours of continuous work.
153. To minimise any negative impact on an employee's health and wellbeing, EL TOIL should be taken as soon as practical, subject to operational requirements.

TOIL for official travel

154. Executive Level employees will receive EL TOIL 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 home to their regular place of work. For the purposes of



this clause, where an employee would normally work from home on the day of travel, the calculation of travel time will commence at the time of leaving home. Existing local travel arrangements for international travel will continue to apply.

155. To minimise any negative impact on an Executive Level employee's personal commitment, wherever possible the Commission encourages employees to travel within the bandwidth.

Overtime and restriction

156. Where the Commissioner requires an employee to be contactable and remain available to work for a specified period outside the employee's ordinary hours of work, the employee will be paid a restriction allowance as follows, regardless of whether they are required to perform work or not.

- 156.1 An employee restricted for a period of seven calendar days will receive an allowance of \$328.64 per week.
- 156.2 An employee restricted for a period of less than seven calendar days will receive an allowance of \$42.85 for each weekday they are restricted.
- 156.3 An employee restricted on a weekend roster arrangement will receive an allowance of \$57.20 for each day of the weekend they are restricted.
- 156.4 An employee restricted on a public holiday will receive payment of \$57.20 in addition to salary for each public holiday the employee is restricted.
- 156.5 An employee restricted who is subsequently required to perform any duties while restricted will be eligible to receive a restriction allowance and shall be paid the applicable overtime rate.

Ineligible employees

157. 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

158. 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.

Performing duties whilst restricted

159. Where an employee is restricted under the provisions of clause 156 and is required to perform duties (e.g., attend to emails or telephone calls), but is not required to attend a



work location, the employee will receive a restriction allowance and shall be paid overtime subject to a one-hour minimum payment.

160. Where an employee restricted under the provisions of clause 156 is recalled to duty at a place of work (other than at home), the employee will receive a restriction allowance and shall be paid overtime, subject to a three-hour minimum payment.

Non-payment

161. 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.

Executive Level (and their equivalents)

162. 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 143 to 155 will apply.

APS1-6 (and their equivalents)

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

Part-time employees

164. 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:
- 164.1 not continuous with the employee's agreed or specified hours of work; and/or
 - 164.2 beyond the total ordinary hours of work over the settlement period specified in the employee's part-time work agreement.
165. Subject to clause 164, 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 TOIL under clause 167.

Travel not to count

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



Time off in lieu (TOIL)

167. At the employee's request, the Commissioner may allow the employee to take TOIL as a form of recompense for overtime as an alternative to overtime payment, subject to the provisions of this Agreement.

Overtime rates

168. Where approved or required overtime is worked, the rate of payment (or TOIL, if the employee elects) is calculated at the following rates:

- 168.1 Monday to Friday: time-and-a-half;
- 168.2 Saturday (first three hours): time-and-a-half;
- 168.3 Saturday (after three hours): double time;
- 168.4 Sunday: double-time (for all hours);
- 168.5 Public Holidays: double-time-and-a-half (for all hours).

169. An employee who is directed to work overtime on a public holiday which falls on a weekday, will be paid overtime at double-time-and-a-half for all hours (for fulltime employees) or the agreed pattern of hours (for part-time employees). If Easter Saturday is not declared or described as a public holiday, Saturday overtime rates apply as per clause 168.

Non-continuous duty

170. 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

171. 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

172. Where more than one attendance is required, the minimum overtime payment provision will only operate on the first attendance. Subsequent attendances will be based on the start of the first attendance to the end of the last attendance on an hourly basis. Examples include:

- 172.1 Employee starts duty at 9:00 am, ceases at 10:00 am, recommences at 11:00 am, and works to 11:30 am.
 - Payment is for 3 hours.
- 172.2 Employee starts duty at 9:00 am, ceases at 10:00 am, then recommences at 11:00 am and works to 12:30pm.



- Payment would be for 3.5 hours (shift measured from first commencement).

172.3 Employee starts at 9:00 am, ceases at 10:00 am, then recommences at 12:30 pm and works to 1:30pm.

- Payment would be 4.5 hours (shift measured from first commencement).

172.4 Employee starts at 9:00 am, ceases at 10:00 am, recommences at 12:30 pm and works until 2:30 pm.

- Payment would be 5 hours (shift measured from first commencement, less a 30 minute meal break as per clause 129).

Family care assistance

173. 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.

Overtime meal break allowance

174. Where an employee works approved or required overtime for a continuous period of at least one hour outside the bandwidth which extends over a meal period, they will be paid an overtime meal break allowance of \$30.00 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 |

175. Where overtime is worked for periods greater than 5 hours and does not coincide with designated meal periods the employee will take a paid 30-minute meal break and be paid an overtime meal break allowance.

176. Where an employee is working from home when directed to work overtime, the overtime meal break allowance will be applicable.

Essential services during end of year and early stand down periods

177. Employees who are required to perform overtime during the essential services period will be paid overtime calculated as per clauses 168 and 169. Public holidays and non-working days (not including weekends) during the essential services period will be paid double-time-and-a-half for all hours (for full-time employees) or the agreed pattern of hours (for part-time employees).



Flexible working arrangements

178. Access to flexible work arrangements will be in accordance with the NES, the FW Act and this Agreement.
179. The Commission, employees and their union recognise:
- 179.1 the importance of an appropriate balance between employees' personal and working lives, and the role flexible working arrangements can play in helping to achieve this balance;
 - 179.2 access to flexible work can support strategies to improve diversity in employment and leadership in the APS;
 - 179.3 access to flexible work supports APS capability, and can assist in attracting and retaining the employees needed to deliver for the Australian community, including employees located at a wider range of locations;
 - 179.4 that flexibility applies to all roles in the Commission, and different types of flexible working arrangements may be suitable for different types of roles or circumstances; and
 - 179.5 requests for flexible working arrangements are to be considered on a case-by-case basis, with a bias towards approving requests.
180. The Commission is committed to engaging with employees and their union to build a culture that supports flexible working arrangements across the Commission at all levels. This may include developing and implementing strategies through a Commission consultative committee.
181. Flexible working arrangements include, but are not limited to, changes in hours of work, changes in patterns of work, changes in location of work and requests for part-time work for employees for any reason including returning from parental, adoption or fostering leave.

Requesting formal flexible working arrangements

182. The following provisions do not diminish an employee's entitlement under the NES.
183. An employee may make a request for a formal flexible working arrangement.
184. The request must:
- 184.1 be in writing;
 - 184.2 set out details of the change sought (including the type of arrangement sought and the proposed period the arrangement will operate for); and



- 184.3 set out the reasons for the change, noting the reasons for the change may relate to the circumstances set out at section 65(1A) of the FW Act.
185. The Commissioner must provide a written response to a request within 21 days of receiving the request.
186. The response must:
- 186.1 state that the Commissioner approves the request and provide the relevant detail in clause 187 or
 - 186.2 if following discussion between the Commission and the employee, the Commission and the employee agree to a change to the employee's working arrangements that differs from that set out in the request – set out the agreed change; or
 - 186.3 state that the Commissioner refuses the request and include the following matters:
 - 186.3.1 details of the reasons for the refusal; and
 - 186.3.2 set out the Commission's particular business grounds for refusing the request, explain how those grounds apply to the request; and
 - 186.3.3 either:
 - 186.3.3.1 set out the changes (other than the requested change) in the employee's working arrangements that would accommodate, to any extent, the employee's circumstances outlined in the request and that the Commission would be willing to make; or
 - 186.3.3.2 state that there are no such changes; and
 - 186.3.4 state that a decision to refuse the request, or failure to provide a written response within 21 days is subject to the dispute resolution procedures of the Enterprise Agreement, and if the employee is an eligible employee under the FW Act, the dispute resolution procedures outlined in sections 65B and 65C of the FW Act.
187. Where the Commissioner approves the request, this will form an arrangement between the Commission and the employee. Each arrangement must be in writing and set out:
- 187.1 any security and work health and safety requirements;
 - 187.2 a review date (subject to clause 191); and
 - 187.3 the cost of establishment (if any).



188. The Commissioner may refuse to approve the request only if:
- 188.1 the Commission has discussed the request with the employee; and
 - 188.2 the Commission has genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for refusal); and
 - 188.3 the Commission and the employee have not reached such an agreement; and
 - 188.4 the Commission has had regard to the consequences of the refusal for the employee; and
 - 188.5 the refusal is on reasonable business grounds.
189. Reasonable business grounds include, but are not limited to:
- 189.1 the new working arrangements requested would be too costly for the Commission;
 - 189.2 there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested;
 - 189.3 it would be impractical to change the working arrangements of other employees, or to recruit new employees, to accommodate the new working arrangements requested;
 - 189.4 the new working arrangements requested would be likely to result in a significant loss in efficiency or productivity;
 - 189.5 the new working arrangements requested would be likely to have a significant negative impact on customer service; and
 - 189.6 it would not be possible to accommodate the working arrangements without significant changes to security requirements, or where work health and safety risks cannot be mitigated.
190. For First Nations employees, the Commission must consider connection to country and cultural obligations in responding to requests for altering the location of work.
191. Approved flexible working arrangements will be reviewed by the Commission and the employee after 12 months, or a shorter period, if agreed by the employee. This is to ensure the effectiveness of the arrangement.



Varying, pausing or terminating flexible working arrangements

192. An employee may request to vary an approved flexible working arrangement in accordance with clause 183. An employee may request to pause or terminate an approved flexible working arrangement.
193. The Commissioner may vary, pause or terminate an approved flexible working arrangement on reasonable business grounds, subject to clause 195.
194. The Commission must provide reasonable notice if varying, pausing or terminating a flexible working arrangement without the agreement of the employee, having regard to the circumstances of the employee. Exceptions to this requirement are urgent and critical operational circumstances or an employee's demonstrated and repeated failure to comply with the agreed arrangements.
195. Prior to the Commissioner varying, pausing or terminating the arrangement under clause 193 the Commission must have:
 - 195.1 discussed with the employee their intention to vary, pause or terminate the arrangement with the employee;
 - 195.2 genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for alteration);
 - 195.3 had regard to the consequences of the variation, pause or termination for the employee;
 - 195.4 ensured the variation, pause or termination is on reasonable business grounds; and
 - 195.5 informed the employee in writing of the variation, pause or termination to the approved flexible working arrangement, including details set out in clause 187.

Working from home

196. The Commissioner may agree to a request by an employee to work from home on a regular, temporary or intermittent basis.
197. The Commission will not impose caps on groups of employees on the time that may be approved to work from home or remotely, with each request to be considered on its merits.
198. The Commission may provide equipment necessary for, or reimbursement, for all or part of the costs associated with establishing a working from home arrangement.
199. An employee working from home is covered by the same employment conditions as an employee working at an office site under this Agreement.



- 200. The Commission will provide employees with guidance on working from home safely.
- 201. Employees will not be required by the Commission to work from home unless it is lawful and reasonable to do so. This may include where circumstances prevent attendance at an office during a pandemic or natural disaster. In these situations, the Commission will consider the circumstances of the employees and options to achieve work outcomes safely.

Ad-hoc arrangements

- 202. Employees may request ad-hoc flexible working arrangements. Ad-hoc arrangements are generally one-off or short-term arrangements for circumstances that are not ongoing.
- 203. Employees should, where practicable, make the request in writing and provide as much notice as possible.
- 204. Requests for ad-hoc arrangements are not subject to the request and approval processes detailed in clauses 182 to 191.
- 205. The Commission should consider ad-hoc requests on a case-by-case basis, with a bias to approving ad-hoc requests, having regard to the employee's circumstances and reasonable business grounds.
- 206. Where a regular pattern of requests for ad-hoc arrangements from an employee emerges, the Commission should consider whether it is appropriate to seek to formalise the arrangement with the employee.

Altering span of hours

- 207. An employee may request to work an alternative regular span of hours (bandwidth hours). If approved by the Commissioner, hours worked on this basis will be treated as regular working hours and will not attract overtime payments. The Commission will not request or require that any employee alter their regular span of hours (bandwidth hours) under these provisions.

Part-time work

- 208. Employees engaged on a full-time basis will not be compelled to convert to part-time employment.
- 209. Employees engaged on a part-time basis will not be compelled to convert to full-time employment.
- 210. 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 135 to 142.

Essential Services During End of Year and Early Stand Down Periods

- 211. On the last working day before Christmas and Good Friday, the Commission will be closed for normal business. Employees are required to work 5.5 hours and be paid for 7.5 hours. On a Standard Day, employees will finish work no later than 3pm. Part-time employees may work less than 5.5 hours in line with their pattern of work. Payment eligibility will be treated in the same manner as a normal working day.
- 212. The Commission will be closed for normal business and employees will not be required to perform normal duty on the non-public holiday working days between Christmas and New Year's Day.
- 213. Where employees volunteer or are required to meet essential services and regulatory obligations, staffing will be at the minimum required level.
- 214. Employees who are on-call during this period will be paid a restriction allowance as per clause 156.
- 215. Where an employee is required to work weekdays (including public holidays) during this period, they will receive public holiday rates (double time and a half). Payment for work on weekends during this period will be at the standard Saturday and Sunday rates.
- 216. Where an employee is absent on leave, payment for the essential services period 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).
- 217. There will be no deduction from annual or personal/carers leave credits for the essential service period days.

Part-time employees

- 218. Part-time employees normally not working on the days of the week on which essential service period and early stand down occur, will not be entitled to alternative time off duty.

Public holidays

- 219. Employees are entitled to the following holidays each year as observed at their normal work location in accordance with the FW Act:

219.1 1 January (New Year's Day);



- 219.2 26 January (Australia Day);
 - 219.3 Good Friday and the following Monday;
 - 219.4 25 April (Anzac Day);
 - 219.5 the King's birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
 - 219.6 25 December (Christmas Day);
 - 219.7 26 December (Boxing Day); and
 - 219.8 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, other than a day or part day, or a kind of day or part day, that is excluded by the Fair Work Regulations 2009 from counting as a public holiday.
220. If a public holiday falls on a Saturday or Sunday, and if under a State or Territory law, a day or part day is substituted for one of the public holidays listed above, then the substituted day or part day is the public holiday.
221. 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.
222. The Commissioner and an employee may agree to substitute a cultural or religious day of significance to the employee for any day that is a prescribed holiday. If the employee cannot work on the prescribed holiday, the employee will be required to work make-up time at times to be agreed. This substitution does not impact or reduce an employee's entitlement to First Nations ceremonial leave, NAIDOC leave or cultural leave.
223. Where an employee substitutes a public holiday for another day, they will not be paid penalty rates for working their normal hours on the public holiday.
224. Where a public holiday falls during a period when an employee is absent on leave (other than annual leave, paid personal/carer's leave or defence service sick leave) there is no entitlement to receive payment as a public holiday. Payment for that day 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.)
225. If under a law of a State or Territory every Sunday is declared or prescribed by or under that law to be a public holiday, there is no entitlement to receive payment as a public holiday if the employee would have worked, or does perform work, on that day. In these



circumstances, payment will only be made at the public holiday rate if the employee performs work on that day, and the Sunday would otherwise be a public holiday under clause 219.

226. Where a full-time employee, including but not limited to employees on compressed hours, has a regular planned day off which would fall on a public holiday, the Commissioner may allow the employee to change their planned day off so that it does not fall on a public holiday. If it is not possible to change their planned day off, the employee will be credited an equivalent amount of time to their regular hours for the day in flextime credits or EL TOIL in recognition of their planned day off.
227. 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.

Working outside your state or region on a public holiday

228. An employee is entitled to the public holidays that fall where they are based for work, not where they are working on the day of the public holiday.

Usual location of work

229. The employee's standard place of work will be the designated office location identified in the employee's letter of offer or other engagement documentation. If no designated office location was specified on engagement, the Commissioner may specify a designated office location by advising the employee in writing.
230. The Commission and employee may agree to vary the employee's designated office location on a temporary or permanent basis based on any flexible working arrangements.



Section 6: Leave

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

Annual leave

232. Annual leave allows an employee to be paid while having time off from work. Also known as recreational leave or holiday leave (however described). Employees (other than casual employees) are entitled to 4 weeks (20 days) paid annual leave per year of service, accruing daily, credited at least monthly. Annual leave for part-time employees accrues on a pro-rata basis.
233. Annual leave may be taken at half pay. However, unless approved by the Commissioner (or delegate), it may not be taken at half pay where the employee has an excessive leave balance.
234. 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.
235. Excess leave will be managed in accordance with Commission's Enterprise Agreement and policy.
236. Where annual leave is cancelled or the employee is recalled to duty, the employee will be reimbursed travel costs, incidental expenses or family care costs not recoverable from insurance or other sources. Evidence of costs may be required.
237. Employees working in a remote locality may have additional annual leave.

Effect of leave without pay

238. Where 'leave without pay not to count as service' has been granted in the previous twelve months, annual leave will be adjusted on the day of accrual as follows:
- 238.1 Where aggregated absences for periods totalling 30 calendar days or less, the annual leave accrual is not affected; or
 - 238.2 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; and



238.3 Where leave without pay covers an entire calendar year, no annual leave credit accrues for that year.

Direction to take annual leave

239. 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

240. 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:

240.1 Have utilised a minimum of 15 days of annual leave, or an equivalent pro rata amount for part-time employees, in the 12 months preceding the request to cash out leave; and

240.2 Have a remaining annual leave balance of at least 4 weeks, or an equivalent pro rata amount for part-time employees, following the application being approved.

241. In exceptional circumstances, and at the request of the employee, the Commissioner may agree to an alternate cash out arrangement.

242. The amount paid will be taxed in accordance with applicable taxation laws. However, where possible, the employee will be paid the full amount that would have been paid had the employee taken the entitlement as leave.

243. Each cashing out of a particular amount of annual leave must be by a separate agreement in writing with the Commission.

244. 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

245. 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.



246. At the time of termination, employees eligible for district allowance due to working in remote locations, will receive the district allowance included in the calculation of annual leave to be paid out. The amount of annual leave with the remote location allowance included to be paid out, is to be no greater than that which would have accrued while working in the remote location.

Purchased leave

247. 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.
248. Purchased leave scheme allows an employee to accumulate leave through fortnightly deductions from their gross salary to self-fund an approved amount of what would otherwise be unpaid leave. The deductions are made over a maximum period of 12 months from the date on which the arrangement commences.
249. Purchased leave will count for service for all purposes. The employee's salary for superannuation purposes is the amount of salary they receive taking into account the reduction to their salary resulting from any purchased leave. This does not apply to employees on Fortnightly Contribution Salary (FCS) which has different rules.
250. 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. This will be pro-rated for part-time employees. Purchased leave will be taken in multiple days.
251. If an employee is on purchased leave on either side of a public holiday, that public holiday is paid for by the Commission and is not deducted from their purchased leave balance.
252. Credits of purchased leave will be maintained separately from annual leave.

Extended purchased leave

253. 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).
254. 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.



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

Personal/carer's leave

Entitlement to personal/carer's leave

256. 18 days paid leave per annum (pro-rata for part-time employees).

257. Leave at half pay may be approved by the Commissioner.

Accrual of personal/carer's leave

258. For a non-ongoing employee, the personal/carer's leave will be credited upon the employee's commencement with the Commission. This will be 18 days leave pro-rated based on the employee's initial contract period, and is capped at 18 days. After the initial contract period or 12 months, whichever is shorter, or where the employee has an existing entitlement to personal/carer's leave, leave will accrue daily, credited monthly.

259. A casual employee may be absent without pay when not fit for work due to personal illness or injury. A casual employee may access 2 days unpaid carer's leave per occasion, consistent with the NES.

260. Subject to clause 261, on commencement with the APS, an ongoing employee will be credited with 18 days (135 hours) of personal/carers leave, or the part-time equivalent. After 12 months, a further 18 days (135 hours), or the part-time equivalent, will accrue daily and be credited monthly in arrears on the first day of each month thereafter, without limit.

Transitional arrangements

261. Ongoing employees who, immediately prior to the commencement of this Agreement, were covered by the Aged Care and Safety Commission Enterprise Agreement 2019-2022, will continue to accrue 18 days (135 hours) of personal/carers leave, or the part-time equivalent, on completion of each 12 month period of service.

262. Employees covered by clause 261 will transition to the personal/carers leave accrual and crediting provisions specified in clause 260 by 1 January 2026.

263. Where an employee:

263.1 has, or cares for someone with, a chronic condition or other ongoing illness; or

263.2 is recovering from surgery; or

263.3 is pregnant; or

263.4 is returning from parental leave or has a child commencing day care;



and, as a result of the transition to daily accrual of personal/carer's leave, does not have sufficient credit to cover an absence for which they would otherwise be able to take personal/carer's leave, the Commissioner will advance the employee's accrual up to the 12 month anniversary when their leave would otherwise be credited.

Usage

264. Personal/carer's leave to be used:

- 264.1 due to personal illness or injury;
- 264.2 to attend appointments, including preventative health consultations, with a registered health practitioner;
- 264.3 to manage a chronic condition;
- 264.4 for compelling personal reasons of an unexpected, urgent and unpredictable nature; and/or
- 264.5 to provide care or support for a family member (including a household member) or a person they have caring responsibilities for; because:
 - 264.5.1 of a personal illness or injury affecting the person;
 - 264.5.2 of an unexpected emergency affecting the other person;
 - 264.5.3 to attend preventative health consultations with the other person.

Carers

265. A person that an employee has caring responsibilities for may include a person who needs care because they:

- 265.1 have a medical condition, including when they are in hospital;
- 265.2 have a mental illness;
- 265.3 have a disability;
- 265.4 are frail or aged; and/or
- 265.5 are a child, not limited to a child of the employee.

Evidence

266. Evidence may be requested after:

- 266.1 more than 3 consecutive days; or
- 266.2 more than 10 days without evidence in a calendar year.



267. Acceptable evidence includes:

- 267.1 a certificate from a registered health practitioner;
- 267.2 a statutory declaration; or
- 267.3 another form of evidence approved by the Commissioner.

268. A certificate from a registered health practitioner may be used as evidence of a chronic condition for up to 12 months for both personal and carer's leave.

Satisfactory evidence requirements

269. Where a manager has requested satisfactory evidence it 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

270. 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 (2) days and for longer periods where the number of days taken is an even number of 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 has no impact to the ten (10) days of personal/carer's leave without satisfactory evidence that may be requested in clauses 275 to 278, a day of personal leave at half pay will still count as a full day for the purposes of clauses 275 to 278.

Advice to manager

271. 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

272. Personal Leave must not be used for the purposes in clauses 264.2 and 264.4 above if it would be detrimental to an employee in any respect, when compared to the National Employment Standards under the FW Act.

Unpaid personal/carer's leave

273. Where paid personal/carer's leave credits are exhausted, an employee may apply for personal/carer's leave without pay. Continuous unpaid personal/carer's 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

274. 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.

Payment on termination

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

Deferral of accrual

276. 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.

276.1 Where aggregated full day absences total 30 calendar days or less, the accrual is not affected.

276.2 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.

Portability of leave

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

278. Where an employee is engaged in the Commission immediately following a period of ongoing employment in the Parliamentary Service or the ACT Government Service, the employee's unused accrued annual leave and personal/carer's leave will be recognised unless the employee received payment in lieu of those entitlements on cessation of employment.

279. Where an employee is engaged as an ongoing employee in the Commission, and immediately prior to the engagement the person was employed as a non-ongoing APS employee (whether in the Commission or another agency), at the employee's request, any unused accrued annual leave (excluding accrued leave paid out on separation) and personal/carer's leave will be recognised.



280. Where an employee is engaged as a non-ongoing APS employee, and immediately prior to the engagement the person was employed as a non-ongoing APS employee (whether in the Commission or another agency) at the employee's request, any unused accrued annual leave (excluding accrued leave paid out on termination of employment) and personal/carer's leave will be recognised.
281. Where an employee is engaged as an ongoing employee in the Commission, and immediately prior to the engagement the person was employed by a Commonwealth employer (other than in the Parliamentary Services which are covered in clause 2), the Commissioner will recognise any unused accrued personal/carer's leave at the employee's request. The Commissioner will advise the employee of their ability to make this request.
282. Where an employee is engaged as an ongoing employee in the Commission, and immediately prior to the engagement the person was employed by a State or Territory Government, the Commissioner may recognise any unused accrued personal/carer's leave, provided there is not a break in continuity of service.
283. For the purposes of clauses 277 to 282, an employee with a break in service of less than 2 months is considered to have continuity of service.

Re-crediting of leave

284. When an employee is on:

- 284.1 annual leave;
- 284.2 purchased leave;
- 284.3 defence reservist leave;
- 284.4 First Nations ceremonial leave;
- 284.5 NAIDOC leave;
- 284.6 cultural leave; or
- 284.7 long service leave; and

becomes eligible for, under legislation or this Agreement:

- 284.8 personal/carer's leave;
- 284.9 compassionate or bereavement leave;
- 284.10 jury duty;
- 284.11 emergency services leave;



284.12 defence reservists leave;

284.13 defence service sick leave;

284.14 leave to attend to family and domestic violence circumstances; or

284.15 parental leave, premature birth leave, stillbirth leave or pregnancy loss leave;

the affected period of leave will be re-credited.

285. When an employee is on personal/carer's leave and becomes eligible for parental leave, premature birth leave, stillbirth leave or pregnancy loss leave, the affected period of leave will be re-credited.

286. Re-crediting is subject to appropriate evidence of eligibility for the substituted leave.

Long service leave

287. An employee is eligible for long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

288. The minimum period for which long service leave will be granted is 7 calendar days (whether taken at full or half pay). Long service leave cannot be broken with other periods of leave, except as otherwise provided by legislation or provided for in the re-crediting of leave clause at clauses 284 to 286 of this Agreement.

Miscellaneous leave

289. 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.

290. Leave may be granted:

290.1 for the period requested or for another period;

290.2 with or without pay; and

290.3 subject to conditions.

291. Miscellaneous leave will only be provided to casual employees for the purposes of providing access to paid family and domestic violence leave or otherwise as required or provided for by government directive.

292. Where leave without pay counts as service, that service is in accordance with the *Long Service Leave (Commonwealth Employee) Act 1976*.



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

Not to count as service

294. Except as required by legislation, miscellaneous leave without pay will only count for service for personal/carer's leave:

294.1 where leave for personal and development training is in the interests of the Commission;

294.2 where leave for non-APS employment in the interests of the Commission; and

294.3 as a result of reducing flextime as per clause 140.

295. Leave in clauses 294.1 and 294.2 above may also count as service for long service leave where the Delegate determines that it will count as service for this purpose.

Cultural, ceremonial and NAIDOC leave

NAIDOC leave

296. The Commission recognises the obligations placed on Aboriginal and Torres Strait Islander (First Nations) employees to participate in ceremonial activities and other cultural obligations.

297. First Nations employees may access up to two days of paid leave per calendar year to participate in NAIDOC week activities.

298. NAIDOC leave can be taken in part days.

First Nations ceremonial leave

299. First Nations employees may access up to 6 days of paid leave over 2 calendar years to participate in significant activities associated with their culture or to fulfil ceremonial obligations.

300. The Commissioner may approve additional leave for cultural or ceremonial purposes as miscellaneous leave, with or without pay. 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, three months unpaid leave each year will be provided to fulfil cultural obligations. This leave will not count as service for any purpose.

301. First Nations ceremonial Leave can be taken as part days.

302. First Nations ceremonial leave is in addition to compassionate and bereavement leave.



Cultural leave

303. The Commissioner may grant up to 3 days of paid leave per calendar year for the purpose of attending significant religious or cultural obligations associated with the employees' particular faith or culture.
304. The Commissioner may approve additional leave for cultural purposes as miscellaneous leave, with or without pay.
305. Cultural leave can be taken as part days.
306. For the avoidance of doubt, this leave does not cover cultural purposes or obligations which are eligible for paid leave under clauses 299 to 302.

Parental leave

307. A primary caregiver, secondary caregiver and ML Act is defined in the definitions section.
308. An employee who is a primary caregiver or secondary caregiver is entitled to parental leave up until 24 months from the date of the child's birth or placement (parental leave period). For the avoidance of doubt, this is inclusive of all legislated leave entitlements. The parental leave period does not extend non-ongoing employment where the employment period remaining is less than 24 months. An employee is only eligible for parental leave with pay as either a primary caregiver or a secondary caregiver for the particular parental leave period, and cannot switch roles for the purpose of accessing additional paid leave.
309. For the pregnant employee, the parental leave period starts on commencement of maternity leave as per ML Act requirements, and ceases 24 months from the date of birth. Medical certification requirements for the pregnant employee will be as required by the ML Act.

Return to work after parental leave

310. 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.
311. Conditions in this Agreement will continue to apply in circumstances where successor legislation to the ML Act does not provide parental leave conditions included in this Agreement.

Payment during parental leave

312. An employee is entitled to parental leave with pay as per clauses 314 and 316 below within the parental leave period. Any further parental leave during the parental leave period is without pay. Unused paid parental leave remaining at the end of the employee's parental leave period will lapse. An employee may choose to use their accrued paid leave



entitlements in accordance with usage and eligibility requirements in this Agreement during the parental leave period that would otherwise be without pay.

313. Employees newly engaged in the Commission or who have moved to the Commission from another APS agency are eligible for the paid parental leave in clauses 314 and 316 where such paid leave had not already been provided by another APS agency or Commonwealth employer in the 24 months since the child's date of birth or placement. If the paid leave used by the employee with the previous Commonwealth employer or APS agency is less than the limits specified in clauses 314 and 316, the balance is available to the employee.
314. An employee who is a primary caregiver is entitled to parental leave with pay during the parental leave period to a maximum of 18 weeks as provided in Table 1 [Primary caregivers – circumstances for paid parental leave] below.

Table 1: Primary caregivers - circumstances for paid parental leave.

| Paid leave entitlement under the ML Act | Additional parental leave with pay under this Agreement for the primary caregiver |
|---|--|
| 12 weeks' paid maternity leave, including any reduced paid maternity leave period due to ML Act qualifying period rules | Paid leave to bring the total period of paid parental leave to 18 weeks |
| No ML Act eligibility or coverage | 18 weeks |

315. An employee who is a secondary caregiver is entitled to parental leave with pay during the parental leave period as provided in Table 2 [Secondary caregivers – circumstances for paid parental leave] below.

Table 2: Secondary caregivers - circumstances for paid parental leave.

| Period which coincides with the parental leave period for the secondary caregiver | Parental Leave with pay under this Agreement |
|--|---|
| Date of commencement of this Agreement to 28 February 2025 | 8 weeks, or top up to 8 weeks where a lesser period of parental leave has already been provided |



| Period which coincides with the parental leave period for the secondary caregiver | Parental Leave with pay under this Agreement |
|---|---|
| 1 March 2025 to 28 February 2026 | 11 weeks, or top up to 11 weeks where a lesser period of parental leave has already been provided |
| 1 March 2026 to 27 February 2027 | 14 weeks, or top up to 14 weeks where a lesser period of parental leave has already been provided |
| On and from 28 February 2027 | 18 weeks, or top up to 18 weeks where a lesser period of parental leave has already been provided |

316. The Commissioner may approve leave for a non-primary care giver not residing with the child.
317. Flexibility: Parental leave with pay, whether provided as maternity leave under the ML Act or under this Agreement, can be accessed flexibly during the parental leave period and does not have to be taken in a single block. For the avoidance of doubt, parental leave can be used to replicate a part-time work arrangement, and can be taken concurrently with another parent in relation to the same child.
318. Rate of payment: during paid parental leave is the same as for an absence on personal/carer's leave and based on the employee's weekly hours at the time of the absence.
319. Half-pay option: The payment of any paid parental leave may be spread over a maximum period of 36 weeks at the rate of, no less than, half the normal rate of salary. All paid parental leave counts as service for all purposes, where permitted by legislation.

Additional unpaid parental leave

320. 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.
321. Unpaid parental leave does not count as service for any purpose.



Adoption and long-term foster care

322. An employee who is a primary caregiver or secondary caregiver is entitled to parental leave in accordance with this Agreement for adoption or long-term foster care, provided that the child:
- 322.1 is under 16 as at the day (or expected day) of placement;
 - 322.2 has not lived continuously with the employee for a period of six months, or a greater period if determined by the Commissioner, as at the day (or expected day) of placement; and
 - 322.3 is not (otherwise than because of the adoption) a child of the employee or the employee's spouse or de facto 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.
323. Documentary evidence of approval for adoption or enduring parental responsibilities under formal fostering arrangements must be submitted when applying for parental leave for adoption or long-term foster carer purposes.
324. The provisions of clauses 322 and 323 also apply to a child who is subject to a permanent care order made by an Australian court or under Australian legislation.

Pre-adoption leave

325. 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.

Stillbirth

326. Parents of a stillborn child remain eligible for parental leave, except for paid leave for the secondary caregiver which is two weeks.
327. A stillborn child is a child:
- 327.1 who weighs at least 400 g at delivery or whose period of gestation was 20 weeks or more; and
 - 327.2 who has not breathed since delivery; and
 - 327.3 whose heart has not beaten since delivery.

Pregnancy loss leave

328. A pregnant employee who experiences, or an employee whose spouse or partner experiences, pregnancy loss is entitled to one weeks' paid leave. Pregnancy loss is a



miscarriage or other loss of pregnancy that occurs between 12 and 20 weeks' gestation that is not a stillbirth.

329. Pregnancy loss leave is in addition to entitlements to compassionate leave for miscarriage provided under the FW Act and this Agreement.

Premature birth leave

330. In circumstances of a live birth before 37 weeks' gestation a pregnant employee, or an employee whose spouse or partner has given birth prematurely, is entitled to paid premature birth leave from the date of the child's birth up to just before 37 weeks' gestation. Parental leave with pay is then available from what would have been 37 weeks' gestation in accordance with Parental leave in this Agreement, noting the parental leave period commences on the child's date of birth.

Transitional provisions

331. Employees eligible for paid leave under the ML Act are required under legislation to use their paid maternity leave first. In this circumstance, the employee may postpone their paid premature birth leave otherwise payable under clause 330 until after the legislated paid maternity leave is used.

Special maternity leave

332. Where an employee who has at least 12 months continuous service with the APS experiences a pregnancy-related illness, or if their pregnancy ends within 28 weeks of the expected birth, they 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. The provisions in this clause are in addition to 'stillbirth' and 'pregnancy loss' leave referred to in clauses 329 to 329.
333. Special maternity leave will operate in conjunction with entitlements under the ML Act.

Compassionate leave

334. Employees will be eligible for 3 days' paid compassionate leave on each occasion when:
- 334.1 a member of their family (including a member of their household) or someone they have a close personal relationship with contracts, develops or sustains a life-threatening illness or injury; or
 - 334.2 the employee or their partner has a miscarriage.
335. An employee may be asked to provide evidence to support their absences on compassionate leave.



- 336. Compassionate leave for an occasion may be taken as 3 consecutive days or in separate periods totalling 3 days. This can include part days.
- 337. For casual employees, compassionate leave is unpaid.
- 338. Any further periods of leave for this purpose may be granted as miscellaneous leave with pay on a case-by-case basis.

Bereavement leave

- 339. Employees will be eligible for 3 days' paid bereavement leave on each occasion when:
 - 339.1 a member of their family (including a member of their household) or someone they had a close personal relationship with dies; or
 - 339.2 a child is stillborn, where the child was a member of their family (including a member of their household).
- 340. An employee may be asked to provide evidence to support their absences on bereavement leave.
- 341. Bereavement leave for an occasion may be taken as 3 consecutive days or in separate periods totalling 3 days. This can include part days.
- 342. For casual employees, bereavement leave is unpaid.
- 343. Any further periods of leave for this purpose may be granted as miscellaneous leave with pay on a case-by-case basis.

Emergency response leave

- 344. In line with section 108 of the FW Act, an employee who engages in an eligible community service activity is entitled to emergency response leave to volunteer for emergency management duties for:
 - 344.1 the time engaged in the activity;
 - 344.2 reasonable travelling time;
 - 344.3 reasonable recovery time; and
 - 344.4 regular training for the activity.
- 345. Full-time and part-time employees will be able to access 20 working days of paid emergency response leave at their full rate of per year if required. The Commissioner may provide additional emergency response leave with pay.



- 346. For the purposes of this clause, full rate of pay is to be as if the employee was at work.
- 347. Paid leave may be refused where the employee's role is essential to the Commission's response to the emergency.
- 348. An employee must provide evidence that the organisation requests their services. Employees can provide evidence before or as soon as practical after their emergency service activity.
- 349. The Commissioner will approve reasonable paid or unpaid leave for ceremonial duties and training.
- 350. Emergency response leave, with or without pay, will count as service.

Jury duty

- 351. Employees who are required by a court to attend either for jury selection, or to act as a juror, will be released from duty for the required period, without the need to apply for leave.
- 352. Full and part-time employees will be released from duty on their full rate of pay. Payment for casuals will be as per the relevant state legislation.
 - 352.1 For the purposes of this clause, full rate of pay is to be as if the employee was at work.
- 353. The employee is required to inform their manager before they are released from duty and provide evidence of the need to attend.
- 354. If the employee receives a payment from the court for attendance (which are not expense related such as allowances and reimbursements), they must repay that amount to the Commission for the period of absence. This will be administered in accordance with the overpayments clause.

Defence reservist leave

- 355. The Commissioner will give an employee leave with or without pay to undertake:
 - 355.1 Australian Defence Force (ADF) Reserve and continuous full-time service (CFTS); and
 - 355.2 Australian Defence Force Cadet obligations.
- 356. An employee who is a Defence Reservist can take leave with pay for:
 - 356.1 up to 4 weeks (20 days) in each financial year (pro-rata for part-time employees); and



- 356.2 an extra 2 weeks (10 days) in the first year of ADF Reserve service (pro-rata for part-time employees).
357. Leave can be built up and taken over 2 consecutive years. This includes the extra 2 weeks in the first year of service.
358. An employee who is an Australian Defence Force Cadet officer or instructor can get paid leave up to 3 weeks in each financial year to perform their duties. Australian Defence Force Cadets means:
- 358.1 Australian Navy Cadets;
 - 358.2 Australian Army Cadets; and
 - 358.3 Australian Air Force Cadets.
359. In addition to the entitlement at clause 355, paid leave may be granted to an employee to attend an interview or medical examination in connection with the enlistment of the employee in a Reserve Force of the Defence Force.
360. Paid defence reservist leave counts for service.
361. Unpaid defence reservist leave for six months or less, counts as service for all purposes. This includes periods of CFTS.
362. Unpaid defence reservist leave taken over six months, including for CFTS, counts as service , except for annual leave.
363. An employee will not need to pay their tax free ADF Reserve salary to the Commission for any reason.

Defence service sick leave

364. An employee is eligible for defence service sick leave credits when the Department of Veterans Affairs (DVA) has certified that an employee's medical condition is as a result of either:
- 364.1 warlike service; or
 - 364.2 non-warlike service.
365. An eligible employee can get 2 types of credits:
- 365.1 an initial credit of 9 weeks' (45 days) defence service sick leave will apply as of the later below option:
 - 365.1.1 they start employment with the APS; or



365.1.2 DVA certifies the condition; and

365.2 an annual credit of 3 weeks' (15 days) defence service sick leave.

- 366. An employee can use their defence service sick leave when a recognised medical practitioner provides a certificate that says they were away due to their DVA certified medical condition.
- 367. Unused annual credits can be built up to 9 weeks.
- 368. An employee cannot use annual credits until the initial credit is exhausted.
- 369. Defence service sick leave is paid and counts as service for all purposes.

Leave to attend proceedings

- 370. An employee giving evidence before a Court, Tribunal or Royal Commission on behalf of the Commonwealth or a Commonwealth party in the course of their duties, will be considered on duty.
- 371. An employee who is not covered under clause 370 and is required to give evidence to, appear before or attend to instruct a representative at a Court, Tribunal or Royal Commission in relation to their duties will be released from duty without loss of pay. This includes in proceedings relating to a dispute between the employee and the Commission.
- 372. An employee may otherwise be granted paid or unpaid miscellaneous leave by the Commissioner if required to give evidence to a Court, Tribunal or Royal Commission for any other reason. Where approval for unpaid leave is given, the employee may elect to use accrued annual leave, flextime leave or time off in lieu.
- 373. The Commissioner may refuse to release an employee from duty having regard to business requirements and whether the employee's attendance is necessary for the Court, Tribunal or Royal Commission hearing.

Unauthorised absences

- 374. 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. This clause is subject to the application of the flexible working arrangement provisions, where applicable.



Study assistance

Studybank

375. 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 PDA.



Section 7: Employee support and workplace culture

Blood donation

376. An employee can take reasonable time away from duty during their ordinary work hours to donate blood, plasma or platelets. It includes reasonable travel time and employers will consider employees on duty.
377. The employee must inform their manager in advance of when they will be away from work before donating blood, plasma or platelets.

Vaccinations

378. The Commission will offer annual influenza vaccinations to all employees at no cost.
379. Where the Commission requires an employee performing a role to be vaccinated for a particular condition, this vaccination will be offered at no expense to the employee.

Employee Assistance Program

380. Employees, their partners, and their dependants/children will have access to a confidential, professional counselling service to assist employees to manage personal and work issues. This service will be provided at no cost to employees by the Commission and will be accessible on paid time.

Respect at work

381. The Commission values a safe, respectful and inclusive workplace free from physical and psychological harm, harassment, discrimination and bullying. The Commission recognises that preventing sexual harassment, sex discrimination, sex-based harassment and victimisation in the workplace is a priority.
382. The Commission recognises that approaches to prevent sexual harassment, sex discrimination, sex-based harassment and victimisation in the workplace should be holistic and consistent with the Australian Human Rights Commission's guidance, including the Good Practice Indicators Framework for Preventing and Responding to Workplace Sexual Harassment.



Consultation

383. The Commission will consult with employees and their unions in developing, reviewing and evaluating approaches to prevent sexual harassment, sex discrimination, sex-based harassment and victimisation in the workplace.

Family and domestic violence support

384. The Commission will provide support for employees affected by family and domestic violence, depending on the employee's circumstances.

385. The Commission recognises that a holistic approach should be taken to support the employee, appropriate for the employee's individual circumstances.

386. Family and domestic violence support, including paid leave, are available to all employees covered by this Agreement.

387. An employee experiencing family and domestic violence is able to access paid miscellaneous leave. Reasons an employee experiencing family and domestic violence may access this leave include, but are not limited to:

- 387.1 illness or injury affecting the employee resulting from family and domestic violence;
- 387.2 providing care or support to a family member (including a household member) who is also experiencing family and domestic violence, and is ill or injured as a result of family and domestic violence;
- 387.3 providing care or support to a family member (including a household member) who is also experiencing family and domestic violence, and is affected by an unexpected emergency as a result of family and domestic violence;
- 387.4 making arrangements for the employee's safety, or the safety of a close relative;
- 387.5 accessing alternative accommodation;
- 387.6 accessing police services;
- 387.7 attending court hearings;
- 387.8 attending counselling;
- 387.9 attending appointments with medical, financial or legal professionals;
- 387.10 attending to personal affairs as a consequence of family and domestic violence;
- 387.11 attending to urgent issues arising through property damage that is a consequence of family and domestic violence; and



- 387.12 arranging alternative childcare or schooling for children as a consequence of family and domestic violence.
388. This entitlement exists in addition to an employee's existing leave entitlements and may be taken as consecutive days, single days or part days and will count as service for all purposes.
389. Given the emergency context in which leave may need to be accessed, employees can proceed to take the leave and seek approval at a later date, as soon as practicable.
390. These family and domestic violence support clauses do not reduce an employee's entitlement to family and domestic violence leave under the NES.
391. Paid miscellaneous leave available under this clause is paid for ongoing and non-ongoing employees at their full rate as if they were at work.
392. Casual employees will be provided with family and domestic violence leave through Miscellaneous Leave.
393. Paid leave for casual employees under this clause is paid at their full pay rate for the hours they were rostered to work in the period they took leave.
394. Evidence may be requested to support the Commission in approving leave. In most cases, this will not be required. Where it is required, this will be discussed with the employee and a statutory declaration is the only form of evidence the Commission will require, unless the employee chooses to provide another form of evidence.
395. An employee may also choose to provide other forms of evidence, including a medical certificate, or document issued by the Police Service, a Court, a Doctor, district Nurse, a Family Violence Support Service or Lawyer.
396. Where an employee experiencing family and domestic violence does not feel comfortable discussing their absence with their manager, they may contact the People & Culture team who can authorise the absence. A person acting on behalf of an employee may also contact the employee's manager or People & Culture to advise them of an absence under this clause.
397. The Commission will take all reasonable measures to treat information relating to family and domestic violence confidentially. The Commission will adopt a 'needs to know' approach regarding communication of an employee's experience of family and domestic violence, subject to steps the Commission may need to take to ensure the safety of the employee, other employees or persons, or mandatory reporting requirements.
398. Where the Commission needs to disclose confidential information for purposes identified in clause 397 where it is possible the Commission will seek the employee's consent and take



practical steps to minimise any associated safety risks for the employee and/or privacy breaches.

399. The Commission will not store or include information on the employee's payslip in relation to the employee's experience of family and domestic violence; any leave accessed for the purposes of family and domestic violence; or support(s) provided by the employer, unless otherwise required by legislation.
400. Other available support may include, but is not limited to, flexible working arrangements, additional access to EAP, changes to their span of hours or pattern of hours and/or shift patterns and/or location of work where reasonably practicable.
401. The Commission will acknowledge and take into account an employee's experience of family and domestic violence if an employee's attendance or performance at work is affected.
402. Further information about leave and other support available to employees affected by family and domestic violence may be found in policy.

Integrity in the APS

403. The Commission understands that procedural fairness is essential in building and maintaining trust with APS employees, and that it requires fair and impartial processes for employees affected by APS-wide or Commission decisions.
404. Employees are to give advice that is frank, honest, timely and based on the best available evidence. This includes scientific and engineering advice based on evidence-based facts guided by the best available science and data. Employees will not be disadvantaged or discriminated against because they have given advice in accordance with their expertise or professional qualifications and in accordance with the APS Code of Conduct in the PS Act.
405. Employees can, during their ordinary work hours, take time to:
 - 405.1 access an APS-wide ethics advisory service or another similar service provided by a professional association such as a law society or in the Commission; and
 - 405.2 attend Commission mandated training about integrity.

First Nations cultural competency training

406. The Commissioner will take reasonable steps to ensure all substantive, ongoing EL2 employees employed at the commencement of this Agreement or any new substantive, ongoing EL2 employees who commence within the first 6 months of this Agreement will complete relevant First Nations cultural competency training within 12 months of the commencement of the Agreement.



407. Any new substantive, ongoing EL2 employee who commences after 6 months of the commencement of this Agreement will be required to complete a relevant First Nations cultural competency training course within 6 months of their engagement or promotion.

Lactation and breastfeeding support

408. Reasonable paid time during work hours will be provided for lactation breaks for breastfeeding, expressing milk and other associated activities.
409. The Commission will provide access to appropriate facilities for the purpose of breastfeeding or expressing milk, subject to clause 410. In considering whether a space is appropriate, the Commission should consider whether:
- 409.1 there is access to refrigeration;
 - 409.2 the space is lockable; and
 - 409.3 there are facilities needed for expressing, such as appropriate seating.
410. Where it is not practicable for a Commission site to have a designated space, a flexible approach will be taken so that the employee can access the support required.
411. The Commission will facilitate discussion between individual employees and their managers about accommodating the employee's lactation needs and practical arrangements to meet these needs.
412. The manager and employee shall discuss any flexible working arrangements that may be needed to support lactation. This may include consideration of arrangements such as working from home and/or remote working or varying work hours on an ad-hoc or regular basis. Wherever possible, requests by an employee will be accommodated, noting these needs may be changed over time.
413. Further information is available in policy.

Disaster support

414. Where an official disaster or emergency is declared and this prevents an employee from reasonably attending work, or where it impacts their household or home, the Commissioner will consider flexible working arrangements to assist the employee to perform their work.
415. Where flexible working arrangements are not appropriate, the Commissioner may grant paid miscellaneous leave to an employee with regard to the scale and nature of the emergency. Circumstances where paid miscellaneous leave may be provided includes but is not limited to bushfires, floods, cyclones and earthquakes. This leave counts as service and may be approved retrospectively.



416. In considering what period of leave is appropriate, the Commissioner will take into account the safety of the employee, their family (including their household) and advice from local, State and Commonwealth authorities.



Section 8: Performance and development

Performance management

417. All employees are to participate in the Commission's PDF and have a formal annual PDA in place. The Agreement will outline specific key performance requirements, related performance indicators and required workplace behaviours.
418. The PDA will be relied upon when determining individual salary advancement through salary ranges for the employee's current classification.
419. The principles of the PDF include:
- 419.1 employees and managers have a joint responsibility to actively participate in, and contribute to, the PDF development and assessment process;
 - 419.2 all stages of the PDF process should be discussed and agreed by the employee and their manager;
 - 419.3 the PDF will operate in accordance with the Commission's workplace diversity programs; and
 - 419.4 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

420. Where an employee's performance is identified as below the expected performance standards, the employee will be made aware of the underperformance and provided with a minimum of four weeks in which to improve the performance prior to end of the cycle assessment.

Formal assessment points

421. The PDF has two formal assessment points:
- 421.1 one at the mid-cycle in February; and
 - 421.2 one at the end of the cycle in July.

Performance standards

422. Employees are expected to maintain a satisfactory performance standard under the PDF as a minimum. Where an employee is not maintaining a satisfactory performance standard under the PDF, clause 420 shall apply. Where an employee continues to not meet the



required standard under the PDF, the employee shall not advance through the classification levels and will not be eligible for HDA. Ongoing failure to maintain a satisfactory performance standard under the PDF could result in the employee being placed on a PIP.

Principles

423. In addressing underperformance, the framework is designed to:

- 423.1 be timely and effective;
- 423.2 restore performance of the employee to the required standard;
- 423.3 have regard to the individual circumstances of the employee, including any health issues;
- 423.4 have regard to natural justice and procedural fairness;
- 423.5 include learning and development as the focus for improving performance;
- 423.6 have active performance management as an integral part of the workplace culture; and
- 423.7 require performance measures and standards to be clearly defined.

Application of the framework

424. The performance framework does not apply to an employee during a period of probation.

Workloads

- 425. The Commission recognises the importance of employees balancing their work and personal life. While it is acknowledged that at times it may be necessary for some extra hours being worked by some employees, this should be regarded as the exception rather than the rule.
- 426. When determining workloads for an employee or group of employees, the Commission will consider the need for employees to strike a balance between their work and personal life.
- 427. Where an employee or group of employees raise that they have experienced significant workload pressures over a prolonged period of time, the Commission and employee/s together must review the employees' workloads and priorities, and determine appropriate strategies to manage the impact on the employee or group of employees.

Learning and development

428. 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.



429. Learning and development needs are identified and prioritised through the Commission's workforce planning process at the organisational level including:
- 429.1 core capabilities common to all staff such as writing skills, cultural competency;
 - 429.2 supporting capabilities that are related to different job functions and roles undertaken by Commission staff such as decision making;
 - 429.3 technical skills that may be required for specific job roles such as ICT support or clinical skills;
 - 429.4 continuing professional development.
430. All Commission employees who have completed probation are required to develop an individual learning and development plan as part of their PDA.
431. The Commission will support employees to undertake external training that is relevant to their role. This includes, but is not limited to, training that can lead to certification and training provided by the APSC. Where an employee's role has specific powers under the Act, appropriate training as to the use of those powers will be provided.
432. Further information can be found in the Commission's Performance and Development Framework.

Professional qualifications

Professional appointments with mandatory qualifications

433. The Commission will provide to an employee who the Commission requires to hold mandatory qualifications:
- 433.1 on application, pay the fees associated with maintaining the professional membership;
 - 433.2 on application, meet the reasonable costs of continuing professional development;
 - 433.3 access to relevant training; and
 - 433.4 access to study leave as per clause 375.
434. Where an employee has received a professional development allowance, it must be exhausted before an application under clauses 433.1 or 433.2 is made.



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

435. Where it is identified as beneficial to the Commission that an employee maintains their professional status/registration and to do so requires more than 10 hours per year of continuing professional development, the Commission will provide the employee with 7.5 hours of leave per year to undertake continuing professional development.

Commonwealth Nursing Officers (CNOs)

436. Recognising the importance of the professional roles that CNOs undertake for the Commission, an annual professional development allowance of \$2,384.72 shall be paid fortnightly to assist CNOs with maintaining professional registration standards. Attachment C details when the allowance will and will not apply for salary purposes.

Medical officers – professional development

437. Medical officers are eligible to receive a professional development allowance of \$5711 each financial year on a reimbursement basis, to assist in attaining and maintaining work-relevant agreed skills and knowledge.
438. Part-time medical officers will have access to the full amount of professional development allowance. This reimbursable amount will be available pro-rata for medical officers commencing service part way through a financial year.
439. The professional development allowance for medical officers may be increased by the Commissioner in circumstances where it is agreed that the standard amount is insufficient to meet necessary relevant and approved professional development. Where a medical officer has already received a reimbursement for professional development allowance by another employer, they may not have this amount reimbursed twice.
440. Where medical officers attend training or courses that have been identified and agreed with their manager as part of their professional development within the professional development process, they will be considered to be on duty and are not required to submit leave applications.
441. 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

442. 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.
443. 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.
444. Access to outside medical practice will be pro-rata for part-time medical officers.

Mature-Aged employees financial assistance

445. 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 \$584 (inclusive of GST) to obtain financial advice from a registered financial advisor.



Section 9: Travel and location-based conditions

Travel

446. 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.
447. Where a period of official travel exceeds three continuous weeks and the employee has incurred additional costs as a result of being temporarily relocated, the Commissioner will determine a package of assistance to meet additional costs.

Illness while travelling

448. 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

449. Employees classified as APS 1-6 (and their equivalents) required to undertake approved travel **within** the bandwidth, will record time spent travelling as work hours excluding the usual time taken for the employee to travel to and from the employee's residence and usual workplace. For employees who regularly work from home, travel time for work hour purposes will commence when leaving home.
450. Employees classified as APS 1-6 (and their equivalents) required to undertake approved travel **outside** the bandwidth, shall claim this time as travel TOIL at single time rates i.e., one hour of travel outside of the bandwidth equals one hour of time in lieu.

Relocation assistance

451. Where an APS employee is required to relocate at the request of the Commission (such as a promotion), the employee will be provided with financial relocation assistance. Employees who relocate on a temporary basis to take up higher duties are entitled to removal expenses if they relocate for a period of 13 weeks or more.
452. Where an employee is required to relocate on engagement with the Commission, the employee will be provided with financial relocation assistance.
453. Reasonable expenses associated with the relocation include:



- 453.1 the cost of transport of the employee, their dependents and partner by the most economical means;
 - 453.2 removal expenses, namely the reimbursement of reasonable incurred costs of the removal of furniture and household effects of the employee, dependants and partner;
 - 453.3 the reimbursement of the cost of the insurance premium based on a reasonable replacement value;
 - 453.4 the reasonably incurred expenses in kennelling and transport of pets, up to the amount specified in the APS Award;
 - 453.5 costs associated with the sale and purchase of the employee's normal place of residence;
 - 453.6 costs incurred in avoiding serious disruption to the final two (2) years of the employee's child's secondary education (Years 11 and 12); and
 - 453.7 temporary accommodation in the new location.
454. Additional relocation assistance, including where relocation or temporary movement is at the request of the employee, may be considered at the discretion of the Commissioner.

Remote localities

455. 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.



Section 10: Consultation, representation and dispute resolution

Consultation

456. Genuine and effective consultation with employees and the relevant union(s), taking into account the diverse needs of employees, fosters a positive and inclusive workplace, enabling the views of employees to be considered.
457. The Commission recognises:
- 457.1 the importance of inclusive and respectful consultative arrangements;
 - 457.2 employees and the relevant union(s) should have a genuine opportunity to influence decisions;
 - 457.3 the nature and extent of consultation will vary depending on the proposed change and the likely impact on employees. Consultation on Commission policies may occur over at least 2 weeks, whereas a major change is likely to require a more extensive consultation process;
 - 457.4 consultation with employees and relevant unions(s) on workplace matters that significantly affect or materially impact them is sound management practice; and
 - 457.5 the benefits of employee and union involvement and the right of employees to be represented by their union.
458. Genuine and effective consultation involves:
- 458.1 providing employees and the relevant union(s) with a genuine opportunity to influence the decision prior to a decision being made;
 - 458.2 providing all relevant information to employees and the relevant union(s) in a timely manner to support consideration of the issues;
 - 458.3 considering feedback from employees and the relevant union(s) in the decision-making process; and
 - 458.4 advising employees and the relevant union(s) of the outcome of the process, including how their feedback was considered in the decision-making process.

When consultation is required

459. Consultation is required in relation to:



- 459.1 changes to work practices which materially alter how an employee carries out their work;
 - 459.2 changes to or the introduction of policies or guidelines relevant to workplace matters (unless the changes are minor or procedural);
 - 459.3 major change that is likely to have a significant effect on employees;
 - 459.4 implementation of decisions that significantly affect employees;
 - 459.5 changes to employees' regular roster or ordinary hours of work (subject to any other relevant provisions in this Agreement); and
 - 459.6 other workplace matters that are likely to significantly or materially impact employees.
460. The Commission, employees and the relevant union(s) recognise that consultation prior to a decision may not be practicable where a decision is made by Government or is required due to matters beyond the reasonable control of the Commission. In these circumstances, consultation regarding the implementation of the decision will occur as early as is reasonably practicable.
461. 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.
462. Employees will inform their immediate manager and/or relevant level of management prior to any discussions where they choose to be represented.

Provisions for consultation on major change and introduction of a change to regular roster or ordinary hours of work of employees

463. This clause applies if the Commission:
- 463.1 proposes to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
 - 463.2 proposes to introduce a change to the regular roster or ordinary hours of work of employees.



Representation

464. Employees may appoint a representative for the purposes of the procedures in this clause. A representative for the purpose of this clause may be a union representative.
465. The Commission must recognise the representative if:
- 465.1 a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - 465.2 the employee or employees advise the employer of the identity of the representative.

Major change

466. In this clause, a major change is likely to have a significant effect on employees if it results in, for example:
- 466.1 the termination of the employment of employees; or
 - 466.2 major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
 - 466.3 the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - 466.4 the alteration of hours of work; or
 - 466.5 the need to retrain employees; or
 - 466.6 the need to relocate employees to another workplace; or
 - 466.7 the restructuring of jobs.
467. The following additional consultation requirements in clause 468 to 474 apply to a proposal to introduce a major change referred to in clause 459.3.
468. Consultation with employees and the relevant union(s) and/or recognised representatives will occur prior to a decision being made, subject to clause 460.
469. Where practicable, a Commission change manager or a primary point of contact will be appointed and their details provided to employees and the relevant union(s) and/or their recognised representatives.
470. The Commission must notify employees and relevant union(s) and/or recognised representatives of the proposal to introduce the major change as soon as practicable.



471. As soon as practicable after proposing the change, or notifying of the change in circumstances described at clause 460 the Commission must:
- 471.1 discuss with affected employees and relevant union(s) and/or other recognised representatives:
 - 471.1.1 the proposed change;
 - 471.1.2 the effect the proposed change is likely to have on the employees; and
 - 471.1.3 proposed measures to avert or mitigate the adverse effect of the proposed change on the employees; and
 - 471.2 for the purposes of the discussion – provide, in writing, to employees and the relevant union(s) and/or other recognised representatives:
 - 471.2.1 all relevant information about the proposed change, including the nature of the change proposed; and
 - 471.2.2 information about the expected effects of the proposed change on the employees; and
 - 471.2.3 any other matters likely to affect the employees.
472. The Commission must give prompt and genuine consideration to matters raised about the major change by employees and the relevant union(s) and/or other recognised representatives.
473. However, the Commission is not required to disclose confidential or commercially sensitive information to employees and the relevant union(s) and/or other recognised representatives.
474. If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Commission, the requirements set out in clause 468 to 472 are taken not to apply.

Change to regular roster or ordinary hours of work

475. The following additional consultation requirements in clause 468 to 472 apply to a proposal to introduce a change referred to in clause 459.3.
476. The Commission must notify affected employees and the relevant union(s) and/or other recognised representatives of the proposed change.
477. As soon as practicable after proposing to introduce the change, the Commission must:



- 477.1 discuss with employees and the relevant union(s) and/or other recognised representatives:
 - 477.1.1 the proposed introduction of the change; and
 - 477.2 for the purposes of the discussion – provide to the employees and relevant union(s) and/or other recognised representatives:
 - 477.2.1 all relevant information about the proposed change, including the nature of the proposed change; and
 - 477.2.2 information about what the employer reasonably believes will be the effects of the proposed change on the employees; and
 - 477.2.3 information about any other matters that the employer reasonably believes are likely to affect the employees; and
 - 477.3 invite employees and the relevant union(s) and/or other recognised representatives to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities). However, the Commission is not required to disclose confidential or commercially sensitive information to the relevant employees and the relevant union(s) and/or other recognised representatives.
478. The Commission must give prompt and genuine consideration to matters raised about the proposed change by the employees and the relevant union(s) and/or other recognised representatives.

Interaction with emergency management activities

479. Nothing in this term restricts or limits the ability of a designated emergency management body to undertake activities provided at section 195A(1) of the FW Act.

Agency consultative committee

480. The Commissioner may establish a Commission consultative committee to discuss relevant workplace matters.
481. Commission consultative committees will operate subject to an agreed terms of reference and structure for the term of the Agreement. Representation on the committee will be in accordance with the terms of reference.
482. 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.
483. 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.

484. The Commission will consult with employees, through the SPF, about proposed changes to workplace policies before a final decision is made.
485. The Commissioner will provide relevant information to the employees or their representatives in a timely manner.

APS consultative committee

486. The Commissioner will support the operation of the APS consultative committee to the extent possible. This includes providing information requested by the Australian Public Service Commission to support the operation of the APS consultative committee, subject to legislative requirements.

Dispute resolution

487. If a dispute relates to:
- 487.1 a matter arising under the Agreement; or
 - 487.2 the NES;
- this term sets out procedures to settle the dispute.
488. An employee or union who is covered by this Agreement may initiate and/or be a party to a dispute under this term.
489. An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term. Representatives will be recognised and dealt with in good faith.
490. Parties to the dispute must attempt to resolve the dispute at the workplace level, by discussion between the employee or employees and relevant managers. Parties to the dispute will notify higher level managers to assist in the resolution of the dispute. Parties will give genuine consideration to proposals to resolve the dispute.
491. If a dispute about a matter arising under this Agreement is unable to be resolved at the workplace level, and all appropriate steps under clause 490 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
492. The Fair Work Commission may deal with the dispute in 2 stages:
- 492.1 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



492.2 if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:

492.2.1 arbitrate the dispute; and

492.2.2 make a determination that is binding on the parties.

Note: If the Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Act. A decision that the Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

493. While the parties are attempting to resolve the dispute using the procedures in this term:

493.1 an employee must continue to perform their work as they would normally in accordance with established custom and practice at the Commission that existed immediately prior to the dispute arising unless they have a reasonable concern about an imminent risk to their health or safety; and

493.2 subject to clause 493.1 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:

493.2.1 the work is not safe; or

493.2.2 applicable work health and safety legislation would not permit the work to be performed; or

493.2.3 the work is not appropriate for the employee to perform; or

493.2.4 there are other reasonable grounds for the employee to refuse to comply with the direction.

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

495. Any disputes arising under the Aged Care Quality and Safety Commission Enterprise Agreement 2019-2022 or the National Employment Standards that were formally notified under clauses 325 to 331 of that Agreement before the commencement of this Agreement, that remain unresolved at the date of commencement of this Agreement, will be progressed under the dispute resolution procedures in this Agreement.

Leave of absence to attend proceedings

496. Where the provisions of clauses 487 to 492 have been complied with, and to assist in the resolution of the matter, the employee, and/or the union delegate or other employee



representative referred to in clause 488 or employee required to provide evidence, will be granted paid time to attend dispute resolution processes and proceedings in the Fair Work Commission arising from referral of the matter in clause 491.

Delegates' rights

497. Union delegates play an important and legitimate role in the workplace. This includes representing their members and supporting employee access to union officials and providing employee views to the Commission.

498. The role of union delegates is to be respected and supported.

499. The Commission and union delegates will work together respectfully and collaboratively.

Supporting the role of union delegates

500. The Commission respects the role of union delegates to:

500.1 provide information, consult with and seek feedback from employees in the workplace on workplace matters;

500.2 consult with other delegates and union officials, and get advice and assistance from union officials;

500.3 represent the interests of members to the employer and industrial tribunals; and

500.4 represent members at relevant union forums, consultative committees or bargaining.

501. The Commission and union delegates recognise that undertaking the role of a union delegate is not the primary purpose of an employee's engagement, and must work with and not unreasonably impact their regular duties. Honorary officials may request additional time and facilities from time to time.

502. Union delegates will be provided with reasonable paid time during their normal working hours to perform their union delegate role. The paid time provided should not result in disruption to critical services or operational requirements.

503. To support the role of union delegates, the Commission will, subject to legislative and operational requirements, including privacy and security requirements:

503.1 provide union delegates with reasonable access to Commission facilities and resources, including for paid or unpaid meetings between employees and their unions and to communicate with union officials;



- 503.2 advise union delegates and other union officials of the Commission facilities and resources available for their use, which may include telephone, photocopying, internet, and email;
 - 503.3 allow reasonable official union communication appropriate to the Commission from union delegates with employees, including through email, intranet pages and notice boards. This may include providing a link to a union website for employees to access union information. Any assistance in facilitating email communications does not include the Commission vetoing reasonable communications;
 - 503.4 provide access to new employees as part of induction; and
 - 503.5 provide reasonable access to union delegates to attend appropriate paid time training in workplace relations matters, during normal working hours.
504. Where APS employees are elected as officials of a trade union or professional association, they are not required to seek permission from the workplace or Commission before speaking publicly in that capacity, subject to the APS Code of Conduct and legislative requirements.



Section 11: Separation and retention

Termination of employment

Right of review

505. The sole and exhaustive rights and remedies of an employee in relation to termination of employment are those that the employee has under:
- 505.1 parts 3-1, 3-2 and section 773 of the FW Act;
 - 505.2 other Commonwealth laws; and
 - 505.3 common law.
506. 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.
507. 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.

Resignation

508. An employee may resign from their employment by giving the Commissioner at least 14 calendar days' notice.
509. At the instigation of the Commissioner, the resignation may take effect at an earlier date within the notice period. In such cases, the employee will receive paid compensation in lieu of the notice period which is not worked.
510. The Commissioner has the discretion to agree to a shorter period of notice or waive the requirement to give notice.
511. 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.

Payment on death of an employee

512. When an employee dies, or the Commissioner has directed that an employee is presumed to have died on a particular date, subject to any legal requirements, the Commissioner must authorise payments to the partner, dependants or legal representative of the former employee, the amount to which the former employee would have been entitled had they



ceased employment through resignation or retirement, or where legislation provides specifically for amounts calculated based on the death of the employee, those amounts. If payment has not been made within a year of the former employee's death, it should be made to their legal representative.

Excess employees

Definition

513. An employee is 'excess' when:

- 513.1 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;
- 513.2 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
- 513.3 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

514. 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

515. The powers of the Commissioner with regard to excess employees allow the Commissioner to:

- 515.1 assign duties to an employee within the Commission and determine the place at which the duties are performed;
- 515.2 consider options for redeployment of the employee to another APS agency;
- 515.3 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;
- 515.4 terminate the employment of an ongoing employee on the grounds that the employee is excess to the requirements of the Commission.



Timely advice

516. When the Commissioner is aware that an employee is likely to become excess, the Commissioner will advise the employee at the earliest practicable time.
517. The Commissioner will hold discussions with the potentially excess employee to consider:
- 517.1 redeployment opportunities for the employee concerned, where relevant skills and knowledge may be utilised. An agreed trial period would be considered in this circumstance; and
 - 517.2 whether voluntary retrenchment might be appropriate.

Referral to employee - initial consultation

518. Where an employee is identified as potentially excess, the Commissioner will hold an initial consultation with the employee and/or the employee's representative.
519. During this initial consultation period of one month, unless the employee agrees to a lesser period, the Commissioner will not:
- 519.1 invite the employee to accept an offer of voluntary retrenchment, or
 - 519.2 advise that employee in writing that they are excess.
520. 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 518 have occurred.

Voluntary retrenchment

521. 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

522. At the time of inviting the employee to make an election, the Commissioner will provide the employee the following information:
- 522.1 the amounts of redundancy pay, payment in lieu of notice, and likely payment in lieu of leave credits;



- 522.2 the amount of accumulated superannuation contributions;
- 522.3 the options open to the employee concerning superannuation; and
- 522.4 the taxation rules applying to the various payments.

Financial assistance

523. Employees considering voluntary retrenchment also have access to financial assistance up to a total maximum of \$555.04 (inclusive of GST) for financial counselling, and a further \$555.04 (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

524. 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 530).

Payment in lieu of notice

525. Where an employee retires or is retrenched at the beginning of, or during the notice period, the employee will receive payment in lieu of notice for the remaining portion of the notice period.

Redundancy benefit

526. Where an employee accepts an offer of voluntary retrenchment and the Commissioner terminates the employee under section 29 of the PS Act, the employee is entitled to be paid a redundancy (also known as severance) benefit equivalent to two weeks' salary for each completed year of service and an equivalent pro-rata payment for completed months of service since the last completed year of service. Where redundancy payments are prescribed in the FW Act or NES, the employee shall be paid whichever redundancy provision is the most favourable to the employee.
527. Under clause 526, regardless of an employee's length of service, the:
- 527.1 minimum amount an employee may receive as a redundancy benefit is a payment equivalent to four (4) weeks' salary; and
 - 527.2 maximum amount an employee may receive as a redundancy benefit is capped at a payment equivalent to forty-eight (48) weeks' salary.
528. The amounts mentioned in clauses 527.1 and 527.2 do not include accrued leave entitlements and notice period.



Earlier periods of service

529. For earlier periods of service to count towards service under clause 526, there must be no breaks between the periods of service, except where:

529.1 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

529.2 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 redundancy benefits purposes

530. Having regard to clause 529, and subject to clauses 529 to 529, service for redundancy benefit purposes means:

530.1 service in the Commission;

530.2 government service as defined in section 10 of the LSL Act;

530.3 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;

530.4 service with the Australian Defence Forces;

530.5 APS service immediately preceding deemed resignation under the then section 49 (as repealed in 1966) of the repealed PS Act Public Service Act 1922, if the service has not previously been recognised for redundancy pay purposes; and

530.6 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

531. Having regard to clause 530, any period of service which ceased:

531.1 through termination on the following grounds, or on a ground equivalent to any of the following grounds:

531.1.1 the employee lacks, or has lost, an essential qualification for performing the employee's duties; or



- 531.1.2 non-performance, or unsatisfactory performance, of duties; or
- 531.1.3 inability to perform duties because of physical or mental incapacity; or
- 531.1.4 failure to satisfactorily complete an entry level training course; or
- 531.1.5 failure to meet a condition imposed under subsection 22(6) of the PS Act; or
- 531.1.6 a breach of the Code of Conduct; or

531.2 on a ground equivalent to a ground listed in clause 531.1 above under the repealed Public Service Act 1922; or

531.3 through voluntary retrenchment at or above the minimum retiring age applicable to the employee; or

531.4 with the payment of a redundancy benefit or similar payment or an employer financed retirement benefit;

531.5 will not count as service for redundancy benefit purposes.

532. Absences from work which do not count as service for any purpose will not count as service for redundancy benefit purposes.

Part-time service

533. 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.

Redundancy benefit - rate of payment

534. For the purpose of calculating any payment under this clause, salary will include:

- 534.1 the employee's salary; or
- 534.2 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
- 534.3 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

535. Where an excess employee has not accepted an offer of voluntary retrenchment, unless they agree 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:

535.1 56 weeks where an employee has 20 or more years of service or is over 45 years of age; or

535.2 30 weeks for other employees.

536. If an employee is entitled to a redundancy payment under the NES, the retention period at clauses 535.1 and 535.2 above, is reduced by a period equivalent to the employee's entitlement under the NES.

Retention period commencement

537. The retention period will commence on the earlier of the following:

537.1 the day the employee is advised in writing by the Commissioner that the employee is an excess employee; or

537.2 one month after the day on which the Commissioner invites the employee to elect to be voluntarily retrenched.

Redeployment attempts

538. 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

539. 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

540. 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

541. 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:

541.1 the balance of the retention period (as shortened for the NES) under clauses 535 and 536 and this payment will be taken to include the payment in lieu of notice of termination of employment; plus

541.2 the employee's NES entitlement to redundancy pay.

Must receive offer of voluntary retrenchment

542. An excess employee will not be retrenched involuntarily where the employee:

542.1 has not been invited to elect to be voluntarily retrenched; or

542.2 has elected to be voluntarily retrenched but the Commissioner has refused to approve it.

Notice period

543. 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 530) where it is proposed that the employee will be involuntarily terminated under section 29 of the PS Act.

Reduction in classification

544. During a retention period, the Commissioner:

544.1 will continue to take reasonable steps to find alternative employment for the excess employee; and/or

544.2 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

545. 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.



Attachment A – Base salaries

APS LEVELS SALARY STRUCTURE

| Classification | Salary Levels | As at 31 August 2023 | From the later of commencement of the Agreement or 14 March 2024 | From 13 March 2025 | From 12 March 2026 |
|-------------------|---------------|----------------------|--|--------------------|--------------------|
| Executive Level 2 | EL2.4 | \$155,174 | \$161,381 | \$167,513 | \$173,208 |
| | EL2.3 | \$147,725 | \$153,634 | \$159,472 | \$164,894 |
| | EL2.2 | \$142,952 | \$148,670 | \$154,319 | \$159,566 |
| | EL2.1 | \$131,064 | \$136,307 | \$141,487 | \$146,298 |
| | | | | | |
| Executive Level 1 | EL1.4 | \$125,288 | \$130,300 | \$135,251 | \$139,850 |
| | EL1.3 | \$120,332 | \$125,145 | \$129,901 | \$134,318 |
| | EL1.2 | \$114,634 | \$119,219 | \$123,749 | \$127,956 |
| | EL1.1 | \$109,853 | \$114,247 | \$118,588 | \$122,620 |
| | | | | | |
| APS6 | APS6.4 | \$100,849 | \$104,883 | \$108,869 | \$112,571 |
| | APS6.3 | \$98,641 | \$102,587 | \$106,485 | \$110,105 |
| | APS6.2 | \$93,729 | \$97,478 | \$101,182 | \$104,622 |
| | APS6.1 | \$89,394 | \$92,970 | \$96,503 | \$99,784 |
| | | | | | |
| APS5 | APS5.4 | | | | \$96,829 |
| | APS5.3 | \$86,359 | \$89,813 | \$93,226 | \$96,396 |
| | APS5.2 | \$82,027 | \$85,308 | \$88,550 | \$91,561 |
| | APS5.1 | \$79,854 | \$83,048 | \$86,204 | \$89,135 |
| | | | | | |
| APS4 | APS4.3 | \$78,720 | \$81,869 | \$84,980 | \$87,869 |
| | APS4.2 | \$76,552 | \$79,614 | \$82,639 | \$85,449 |
| | APS4.1 | \$74,501 | \$77,481 | \$80,425 | \$83,159 |
| | | | | | |



| | | | | | |
|--|-----------------|----------|----------|----------|----------|
| APS3 | APS3.4 | \$72,888 | \$75,804 | \$78,685 | \$81,360 |
| | APS3.3 | \$69,583 | \$72,366 | \$75,116 | \$77,670 |
| | APS3.2 | \$67,620 | \$70,325 | \$72,997 | \$75,479 |
| | APS3.1 | \$65,758 | \$68,388 | \$70,987 | \$73,401 |
| | | | | | |
| APS2 | APS2.4 | \$62,096 | \$64,580 | \$67,034 | \$69,313 |
| | APS2.3 | \$60,370 | \$62,785 | \$65,171 | \$67,387 |
| | APS2.2 | \$58,610 | \$60,954 | \$63,270 | \$65,421 |
| | APS2.1 | \$56,902 | \$59,178 | \$61,427 | \$63,516 |
| | | | | | |
| APS1 | APS1.4 | \$54,681 | \$56,868 | \$59,029 | \$61,036 |
| | APS1.3 | \$52,137 | \$54,222 | \$56,282 | \$58,196 |
| | APS1.2 | \$50,409 | \$52,425 | \$54,516 | \$57,497 |
| | APS1.1 # | \$48,688 | \$52,037 | | |
| # The Fair Work Commission increased the minimum award pay rates by 3.75% effective from 1 July 2024 | | | | | |

ENTRY LEVEL BROADBAND

| Local Title | Classification | As at 31 August 2023 | From the later of commencement of the Agreement or 14 March 2024 | From 13 March 2025 | From 12 March 2026 |
|-----------------------------------|----------------|----------------------|--|--------------------|--------------------|
| Entry Level (T, I, A or G) | APS4.3 | \$78,720 | \$81,869 | \$84,980 | \$87,869 |
| | APS4.2 | \$76,552 | \$79,614 | \$82,639 | \$85,449 |
| | APS4.1 | \$74,501 | \$77,481 | \$80,425 | \$83,159 |
| | APS3.4 | \$72,888 | \$75,804 | \$78,685 | \$81,360 |
| | | | | | |
| Entry Level (T, I, A or G) | APS3.3 | \$69,583 | \$72,366 | \$75,116 | \$77,670 |
| | APS3.2 | \$67,620 | \$70,325 | \$72,997 | \$75,479 |
| | APS3.1 | \$65,758 | \$68,388 | \$70,987 | \$73,401 |
| | | | | | |
| Entry Level (T, I, A or G) | APS2.4 | \$62,096 | \$64,580 | \$67,034 | \$69,313 |
| | APS2.3 | \$60,370 | \$62,785 | \$65,171 | \$67,387 |
| | APS2.2 | \$58,610 | \$60,954 | \$63,270 | \$65,421 |



| | | | | | |
|---|-----------------|----------|----------|----------|----------|
| | APS2.1 | \$56,902 | \$59,178 | \$61,427 | \$63,516 |
| | | | | | |
| Entry Level (T, I, A or G) | APS1.4 | \$54,681 | \$56,868 | \$59,029 | \$61,036 |
| | APS1.3 | \$52,137 | \$54,222 | \$56,282 | \$58,196 |
| | APS1.2 | \$50,409 | \$52,425 | \$54,516 | \$57,497 |
| | APS1.1 # | \$48,688 | \$52,037 | | |
| * Trainees = (T) * Indigenous Australian Government Development Program (IAGDP) participants = (I) * Indigenous Apprenticeship Program = (A) * Graduates = (G) # The Fair Work Commission increased the minimum award pay rates by 3.75% effective from 1 July 2024 | | | | | |

PROFESSIONAL 1 SALARY STRUCTURE

| Local Title | Classification | As at 31 August 2023 | From the later of commencement of the Agreement or 14 March 2024 | From 13 March 2025 | From 12 March 2026 |
|---|------------------|----------------------|--|--------------------|--------------------|
| Professional 1 | APS5.2 | \$86,359 | \$89,813 | \$93,226 | \$96,396 |
| | APS5.1 | \$82,027 | \$85,308 | \$88,550 | \$91,561 |
| | APS4.2 | \$76,553 | \$79,615 | \$82,640 | \$85,450 |
| | APS4.1 # | \$74,502 | \$77,482 | \$80,426 | \$83,160 |
| | APS3.2 | \$69,583 | \$72,366 | \$75,116 | \$77,670 |
| | APS3.1 ## | \$67,620 | \$70,325 | \$72,997 | \$75,479 |
| # salary on commencement for a 4-year degree (or higher) ## salary on commencement for a 3-year degree | | | | | |



MEDICAL OFFICER SALARY STRUCTURE

| Local Title | Classification | As at 31 August 2023 | From the later of commencement of the Agreement or 14 March 2024 | From 13 March 2025 | From 12 March 2026 |
|-------------------------|----------------|----------------------|--|--------------------|--------------------|
| Medical Officer Class 4 | MO4.3 | \$186,394 | \$193,850 | \$201,216 | \$208,057 |
| | MO4.2 | \$175,936 | \$182,973 | \$189,926 | \$196,383 |
| | MO4.1 | \$169,340 | \$176,114 | \$182,806 | \$189,021 |
| | | | | | |
| Medical Officer Class 3 | MO3.2 | \$162,583 | \$169,086 | \$175,511 | \$181,478 |
| | MO3.1 | \$155,283 | \$161,494 | \$167,631 | \$173,330 |
| | | | | | |
| Medical Officer Class 2 | MO2.2 | \$146,327 | \$152,180 | \$157,963 | \$163,334 |
| | MO2.1 | \$138,877 | \$144,432 | \$149,920 | \$155,017 |
| | | | | | |
| Medical Officer Class 1 | MO1.4 | \$126,910 | \$131,986 | \$137,001 | \$141,659 |
| | MO1.3 | \$114,969 | \$119,568 | \$124,112 | \$128,332 |
| | MO1.2 | \$106,824 | \$111,097 | \$115,319 | \$119,240 |
| | MO1.1 | \$98,608 | \$102,552 | \$106,449 | \$110,068 |



LEGAL SALARY STRUCTURE

| Local Title | Classification | As at 31 August 2023 | From the later of commencement of the Agreement or 14 March 2024 | From 13 March 2025 | From 12 March 2026 |
|-------------|----------------|----------------------|--|--------------------|--------------------|
| Legal 2 | EL2.3 | \$160,607 | \$167,031 | \$173,378 | \$179,273 |
| | EL2.2 | \$153,635 | \$159,780 | \$165,852 | \$171,491 |
| | EL2.1 | \$148,669 | \$154,616 | \$160,491 | \$165,948 |
| | | | | | |
| Legal 1 | EL1.3 | \$135,939 | \$141,377 | \$146,749 | \$151,738 |
| | EL1.2 | \$125,145 | \$130,151 | \$135,097 | \$139,690 |
| | EL1.1 | \$114,634 | \$119,219 | \$123,749 | \$127,956 |
| | APS6.3 | \$98,641 | \$102,587 | \$106,485 | \$110,105 |
| | APS6.2 | \$93,730 | \$97,479 | \$101,183 | \$104,623 |
| | APS6.1 | \$89,394 | \$92,970 | \$96,503 | \$99,784 |
| | APS5.1 | \$82,740 | \$86,050 | \$89,320 | \$92,357 |
| | APS4.1 | \$77,568 | \$80,671 | \$83,736 | \$86,583 |

PUBLIC AFFAIRS OFFICER SALARY STRUCTURE

| Local Title | Classification | As at 31 August 2023 | From the later of commencement of the Agreement or 14 March 2024 | From 13 March 2025 | From 12 March 2026 |
|-------------------------|----------------|----------------------|--|--------------------|--------------------|
| Senior Public Affairs 2 | EL2.2 | \$161,382 | \$167,837 | \$174,215 | \$180,138 |
| | EL2.1 | \$155,110 | \$161,314 | \$167,444 | \$173,137 |
| | | | | | |



| | | | | | |
|---|---------|-----------|-----------|-----------|-----------|
| Senior Public Affairs 1 | EL2.1 | \$147,725 | \$153,634 | \$159,472 | \$164,894 |
| | | | | | |
| Public Affairs 3 | EL1.3 | \$134,686 | \$140,073 | \$145,396 | \$150,339 |
| | EL1.2 | \$128,154 | \$133,280 | \$138,345 | \$143,049 |
| | EL1.1 | \$120,363 | \$125,178 | \$129,935 | \$134,353 |
| | | | | | |
| Public Affairs 2 | APS6.3 | \$100,953 | \$104,991 | \$108,981 | \$112,686 |
| | APS6.2 | \$93,729 | \$97,478 | \$101,182 | \$104,622 |
| | APS6.1 | \$89,394 | \$92,970 | \$96,503 | \$99,784 |
| | | | | | |
| Public Affairs 1 | APS5.2 | \$86,359 | \$89,813 | \$93,226 | \$96,396 |
| | APS5.1 | \$82,027 | \$85,308 | \$88,550 | \$91,561 |
| | APS4.2 | \$78,720 | \$81,869 | \$84,980 | \$87,869 |
| | APS4.1* | \$74,502 | \$77,482 | \$80,426 | \$83,160 |
| *This level is generally reserved for employees with less than two years' experience. | | | | | |

ASSESSOR/SENIOR ASSESSOR BROADBAND SALARY STRUCTURE

| Local Title | Classification | As at 31 August 2023 | From the later of commencement of the Agreement or 14 March 2024 | From 13 March 2025 | From 12 March 2026 |
|-------------------------|----------------|----------------------|--|--------------------|--------------------|
| Senior Quality Assessor | APS6.3 | \$101,027 | \$105,068 | \$109,061 | \$112,769 |
| | APS6.2 | \$95,381 | \$99,196 | \$102,965 | \$106,466 |
| | APS6.1 | \$89,586 | \$93,169 | \$96,709 | \$99,997 |
| | | | | | |
| Quality Assessor | APS5.3 | \$86,563 | \$90,026 | \$93,447 | \$96,624 |
| | APS5.2 | \$82,244 | \$85,534 | \$88,784 | \$91,803 |
| | APS5.1 | \$80,078 | \$83,281 | \$86,446 | \$89,385 |



Attachment B – Supported Wage System

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

Definitions

2. In this schedule:

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

Assessment instrument means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system.

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 Agreement wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the JobAccess website (www.jobaccess.gov.au).

SWS wage assessment Agreement means the document in the form required by the Department of Social Services that records the employee's productive capacity and agreed wage rate.

Eligibility criteria

3. 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.
4. 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.



Supported wage rates

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

Table 2 Applicable percentage of relevant minimum wage paid to applicable employees

| Assessed capacity | Percentage of Agreement rate |
|-------------------|------------------------------|
| 10 per cent | 10 per cent |
| 20 per cent | 20 per cent |
| 30 per cent | 30 per cent |
| 40 per cent | 40 per cent |
| 50 per cent | 50 per cent |
| 60 per cent | 60 per cent |
| 70 per cent | 70 per cent |
| 80 per cent | 80 per cent |
| 90 per cent | 90 per cent |

6. Provided that the minimum amount payable to an employees to whom the SWS applies is not less than the amount prescribed in the National Minimum Wage Order. Note: The minimum amount payable is reviewed every year in July.
7. Where an employee's assessed capacity is 10 per cent, they must receive a high degree of assistance and support.

Assessment of capacity

8. 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 Supported Wage System 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.
9. 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.



Lodgement of SWS wage assessment Agreement

10. 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.
11. 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.

Review of assessment

12. 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.

Other terms and conditions of employment

13. 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.

Workplace adjustment

14. 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.

Trial period

15. 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.
16. 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.
17. The minimum amount payable to the employee during the Trial Period must be no less than the current weekly rate, as determined by the Fair Work Commission.



18. Work trials should include induction or training as appropriate to the job being trialled.
19. 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 Attachment B clause 8 and 9.



Attachment C – Recognition of Allowances for Particular Purposes

| | Counts as salary for superannuation purposes (CSS and PSSdb only. Members of other superannuation funds refer to clauses 54 to 56) | 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 |
| OT Meal Break Allowance | X | X | X | X | X | X | X | X | 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 | | | | | | | | | |



SALARY BASED ALLOWANCES

| Name of the Allowance | As at 31 August 2023 | 14-Mar-24 | 13-Mar-25 | 12-Mar-26 |
|---|--|--|--|--|
| Change method | Headline pay increase | 4.0% | 3.8% | 3.4% |
| CNO Professional Development | \$2,293 per year | \$2,384.72 per year | \$2,475.34 per year | \$2,559.50 per year |
| Workplace Responsibility Emergency Warden Harassment Contact Officer Health & Safety Representative Mental Health First Aider Workplace Responsibility Senior First Aid | \$21.84 per fortnight \$31.62 per fortnight | \$30.51 per fortnight \$32.88 per fortnight | \$31.67 per fortnight \$34.13 per fortnight | \$32.75 per fortnight \$35.29 per fortnight |
| Restriction (weekly) (7 day period) | \$316 per week | \$328.64 per week | \$341.13 per week | \$352.73 per week |
| Restriction (daily) (WE & PH) | \$55 per day | \$57.20 per day | \$59.37 per day | \$61.39 per day |
| Restriction (daily) (Weekdays) | \$41.20 per day | \$42.85 per day | \$44.48 per day | \$45.99 per day |
| Community Language Allowance | N/A | Refer to clause 92 | Refer to clause 92 | Refer to clause 92 |

EXPENSE BASED ALLOWANCES

| Name of the Allowance | As at 31 August 2023 | 14-Mar-24 | 13-Mar-25 | 12-Mar-26 |
|---|---|---|-----------|-----------|
| Change method | Economic indicator CPI | Cumulative increase 2019-2023 | | |
| MO Professional Development | \$4,893 cap per year | \$5,711 cap per year | N/A | N/A |
| Eye testing & eyewear | \$100 single vision cap per 2 years \$165 bi-focal multi-focal tri-focal cap per 2 years | **\$117 single vision cap per 2 years **\$193 bi-focal multi-focal tri-focal cap per 2 years | N/A | N/A |
| Mature-aged employee financial assistance | \$500 once off | **\$584 once off | N/A | N/A |
| Voluntary retrenchment financial assistance | \$475 (inc GST) financial counselling \$475 (inc GST) career counselling | **\$554 (inc GST) financial counselling **\$554 (inc GST) career counselling | N/A | N/A |
| School holiday family care subsidy | \$22 per child per day | ***\$26 per child per day | N/A | N/A |
| Overtime Meal Break | \$28.84 per meal | \$30 per meal | N/A | N/A |

** indicates the cumulative CPI increase due to no increase since 2019/20



FORMAL ACCEPTANCE OF THE AGREEMENT AND SIGNATORIES

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

Employer:

Signed: J. M. Anderson
Janet Anderson
Commissioner
Aged Care Quality and Safety Commission
Level 9, 111 Phillip Street
PARAMATTA NSW 2150

Bargaining representatives:

Signed: Beth Vincent-Pietsch
Beth Vincent-Pietsch
Deputy Secretary
Community and Public Sector Union (CPSU)
Level 4/224 Bunda St
CANBERRA ACT 2601

Signed: Annie Butler
Annie Butler
Federal Secretary
Australian Nursing & Midwifery Federation (ANMF)
Level 1, 365 Queen Street
MELBOURNE VIC 3000

THE FAIR WORK COMMISSION

FWC Matter No.: AG2024/778

Applicant:

Commonwealth of Australia represented by the Aged Care Quality and Safety Commission

Section 185 – Application for approval of a single enterprise agreement

Undertaking – Section 190

I, Janet Anderson, Commissioner, have the authority given to me by the Commonwealth of Australia represented by the Aged Care Quality and Safety Commission, to give the following undertakings with respect to the Aged Care Quality and Safety Commission Enterprise Agreement 2024-2027 ("the Agreement"):

Shiftworkers

1. Undertake to recognise the definition of a shift worker as an employee who is rostered to perform ordinary hours of work outside the period 7.00am to 7.00pm Monday to Friday, and/or on Saturdays, Sundays or Public Holidays for an ongoing or fixed period.
2. Undertake that shiftworkers will be entitled to an additional half a day paid annual leave for each Sunday rostered, up to a maximum of 5 days per year in accordance with the Australian Public Service Enterprise Award 2015. A rostered overtime shift of three hours or more which commences or ceases on a Sunday will count in the calculation.

Part time employment

3. For the purposes of clause 126 of the Agreement, the part-time work agreement setting out an employee's agreed part time hours will be issued before the part-time arrangement commences and will include:
 - a) the ordinary hours the employee will work each week; and
 - b) the pattern of hours to be worked, including starting and finishing times for employees other than shift workers, on each or any day of the week, within the bandwidth. The pattern of hours will provide for no less than three hours per day, or an alternative period agreed.
 - c) If a part time employee is directed to work hours in addition to the ordinary hours prescribed in the part time work agreement, they will be entitled to overtime for such additional hours at the rates contained in clause 168 of the Agreement. An employee will not be entitled to both overtime and flextime for the same time worked.

Higher Duties

4. If, during a four-week settlement period, an APS employee temporarily occupies a role acting at a higher classification level for which they are not entitled to receive higher duties allowance, the Aged Care Quality and Safety Commission will:
 - a) at the end of that settlement period, conduct a reconciliation between the amount the employee would have been entitled to be paid under the Australian Public Service

- Enterprise Award 2015 (APS Award) and the amount they are entitled to under the Agreement for that period; and
- b) if there is any shortfall between the amount the employee is entitled to be paid under the Agreement and the amount that would have been paid to the employee under the APS Award, pay the employee the amount of that shortfall plus \$5.00 in the next pay period

These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

J. M. Anderson

Commissioner
Aged Care Quality and Safety Commission
27 March 2023