



# DECISION

*Fair Work Act 2009*

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

## **National Capital Authority**

(AG2024/754)

## **NATIONAL CAPITAL AUTHORITY ENTERPRISE AGREEMENT 2024-2027**

Commonwealth employment

DEPUTY PRESIDENT MASSON

MELBOURNE, 27 MARCH 2024

*Application for approval of the National Capital Authority Enterprise Agreement 2024-2027*

[1] An application has been made for approval of an enterprise agreement known as the *National Capital Authority Enterprise Agreement 2024-2027* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by the National Capital Authority. The Agreement is a single enterprise agreement.

[2] The *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Cth) (Amending Act) made a number of changes to enterprise agreement approval processes in Part 2-4 of the *Fair Work Act*, that commenced operation on 6 June 2023. The notification time for the Agreement under s.173(2) was 27 February 2023 and the Agreement was made on 29 February 2024. Accordingly, both the genuine agreement and the better off overall test requirements are those applying on and from 6 June 2023.

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

[4] The CPSU, being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) I note that the Agreement covers the organisation.

[5] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 3 April 2024. The nominal expiry date of the Agreement is 28 February 2027.



DEPUTY PRESIDENT

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**Australian Government**  
**National Capital Authority**

# **National Capital Authority**

## **Enterprise Agreement 2024-2027**

# Formal acceptance of Agreement 2024-2027 and signatories

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## Employer

Signed for, and on behalf of, the Commonwealth by the National Capital Authority:

Signed: 

Full Name: Hamid Heydarian

Role: Acting Chief Executive

Agency: National Capital Authority

Address: Treasury Building, King Edward Terrace, Parkes, ACT 2600, Australia

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## Agency Negotiator

Signed for, and on behalf of, the National Capital Authority as an Agency Negotiator:

Signed: 

Full Name: Mandy Ryan

Role: Acting Director, Corporate Services - Agency Negotiator

Agency: National Capital Authority

Address: Treasury Building, King Edward Terrace, Parkes, ACT 2600, Australia

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## Bargaining Representative

Signed for, and on behalf of, the Community and Public Sector Union as a Bargaining Representative:

Signed: 

Full Name: Andrew Smith

Role: Union Organiser - Bargaining Representative

Agency: Community and Public Sector Union

Address: Lvl 4/224 Bunda Street, Canberra City ACT 2601, Australia

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## Bargaining Representative

Signed for, and on behalf of, the National Capital Authority as a Bargaining Representative:

Signed: 

Full Name: Sujie Song

Role: Director, Estate Management - Bargaining Representative

Agency: National Capital Authority

Address: Treasury Building, King Edward Terrace, Parkes, ACT 2600, Australia

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## Bargaining Representative

Signed for, and on behalf of, the National Capital Authority as a Bargaining Representative:

Signed: 

Full Name: Bianca Bautista

Role: Director, Legal & Commercial Services - Bargaining Representative

Agency: National Capital Authority

Address: Treasury Building, King Edward Terrace, Parkes, ACT 2600, Australia

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# Section 1: Technical matters

## 1 Title

- 1.1 This agreement will be known as the *National Capital Authority Enterprise Agreement 2024 - 2027*.

## 2 Parties to the agreement

- 2.1 This agreement covers:
- a) the Chief Executive, for and on behalf of the Commonwealth of Australia as the employer; and
  - b) all employees in the NCA employed under the PS Act other than:
    - i) Senior Executive Service employees or equivalent;
- 2.2 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:
- a) Community and Public Sector Union.

## 3 Operation of the agreement

- 3.1 This agreement will commence operation seven days after approval by the Fair Work Commission.
- 3.2 This agreement will nominally expire on 28 February 2027.

## 4 Delegations

- 4.1 The Chief Executive may delegate to or authorise any person to perform any or all of the Chief Executive's powers or functions under this agreement, including the power of delegation, and may do so subject to conditions.

## 5 National Employment Standards (NES) precedence

- 5.1 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 NCA in any respect when compared with the NES.

## 6 Closed comprehensive agreement

- 6.1 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.
- 6.2 This agreement will be supported by policies and guidelines, as implemented, and varied from time to time.
- 6.3 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.



## **7 Individual flexibility arrangements**

- 7.1 The NCA 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:
- a) the agreement deals with one or more of the following matters:
    - i) arrangements about when work is performed;
    - ii) overtime rates;
    - iii) penalty rates;
    - iv) allowances;
    - v) remuneration; and
    - vi) leave and leave loading; and
  - b) the arrangement meets the genuine needs of the NCA and employee in relation to one or more of the matters mentioned in clause 7.1(a) and
  - c) the arrangement is genuinely agreed to by the NCA and employee.
- 7.2 The NCA must ensure that the terms of the individual flexibility arrangement:
- a) are about permitted matters under section 172 of the FW Act;
  - b) are not unlawful terms under section 194 of the FW Act; and
  - c) result in the employee being better off overall than the employee would be if no arrangement was made.
- 7.3 The NCA must ensure that the individual flexibility arrangement:
- a) is in writing;
  - b) includes the name of the NCA and employee;
  - c) is signed by the NCA and employee and, if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
  - d) includes details of:
    - i) the terms of the enterprise agreement that will be varied by the arrangement;
    - ii) how the arrangement will vary the effect of the terms;
    - iii) 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
  - e) states the day on which the arrangement commences.
- 7.4 The NCA must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 7.5 The NCA or employee may terminate the individual flexibility arrangement:
- a) by giving no more than 28 days written notice to the other party to the arrangement; or
  - b) if the NCA and employee agree in writing – at any time.
- 7.6 The NCA and employee are to review the individual flexibility arrangement at least every 12 months.

## 8 Definitions

8.1 The following definitions apply to this agreement:

- a) **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.
- b) **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.
- c) **Agency Head** means the Chief Executive of NCA or the Chief Executive's delegate.
- d) **Agreement** means the *National Capital Authority Enterprise Agreement 2024-2027*.
- e) **APS** means the Australian Public Service.
- f) **Australian Defence Force Cadets** means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.
- g) **Bandwidth** means the span of hours during which an employee can perform ordinary hours. The bandwidth hours are 7.00am to 7.00pm, Monday to Friday.
- h) **Base Salary** means the annual rate of pay of a full-time employee under this Agreement, in accordance with the salary rates at Attachment A, and not including any loadings, overtime or penalty rates, monetary allowances or other separately identifiable monetary amounts.
- i) **Broadband** refers to the allocation of more than one approved classification by the Chief Executive 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.
- j) **Casual employee (irregular or intermittent employee)** means an employee engaged under section 22(2)(c) of the PS Act who:
  - i) is a casual employee as defined by the FW Act; and
  - ii) works on an irregular or intermittent basis.
- k) **Classification** or classification level means the approved classifications as set out in rule 5 of the *Public Service Classification Rules 2000*.
- l) **Child** means a biological child, adopted child, foster child, stepchild, or ward.
- m) **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.
- n) **Delegate** means someone to whom a power or function has been delegated.
- o) **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.
- p) **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).

- q) **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.
- r) **Family** means:
- i) a spouse, former spouse, de facto partner, or former de facto partner of the employee;
  - ii) a child, parent, grandparent, grandchild, or sibling of the employee;
  - iii) a child, parent, grandparent, grandchild, or sibling of a spouse, former spouse, de facto partner, or former de facto partner of the employee;
  - iv) a member of the employee's household; or
  - v) 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.
- s) **Family and domestic violence** has the same meaning as in section 106B (2) of the FW Act.
- t) **Full-time employee** means an employee employed to work an average of 37 hours and 30 minutes per week in accordance with this agreement.
- u) **FW Act** means the *Fair Work Act 2009* as amended from time to time.
- v) **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.
- w) **ML Act** means the *Maternity Leave (Commonwealth Employees) Act 1973* as amended from time to time and any successor legislation.
- x) **NCA** means National Capital Authority.
- y) **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.
- z) **NES** means the National Employment Standards at Part 2-2 of the FW Act.
- aa) **Normal Work Location** means the employee's location of work:
- i) stated in the employee's letter of offer;
  - ii) agreed with the employee, in accordance with clause 9.2 of this agreement;  
or
  - iii) the place where an employee's duties are to be performed, as determined in accordance with the s 25 of the PS Act.,
- bb) **Ongoing employee** means an employee engaged under section 22(2)(a) of the PS Act.
- cc) **Ordinary hours, duty or work** means an employee's usual hours worked in accordance with this agreement and does not include additional hours.
- dd) **Parliamentary service** means employment under the *Parliamentary Service Act 1999*.
- ee) **Partner** means a spouse, former spouse, de facto partner, or former de facto partner.

- ff) **Part-time employee** means an employee whose ordinary hours are less than 75 hours over a two (2) week period.
- gg) **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.
- hh) **PS Act** means the *Public Service Act 1999* as amended from time to time.
- ii) **Relevant employee** means an affected employee.
- jj) **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.
- kk) **Standard day** – the standard day for a full-time employee is 8.30am to 5.00pm, Monday to Friday, with a 1-hour unpaid meal break between 12.00 midday and 2.00pm as determined by the employee’s supervisor. The standard day for part-time employees is stated in their part-time work agreements.
- ll) **Unauthorised absence** means where an employee is absent from work without approval (for example, without the express approval of their supervisor, or not in accordance with a term of this agreement).

## 9 Normal location of work

- 9.1 Subject to other clauses in this agreement, an employee must perform their duties at their Normal Work Location.
- 9.2 The Chief Executive and an employee may agree to vary the employee's Normal Work Location, either on a temporary or permanent basis.
- 9.3 Nothing in this clause prevents the Chief Executive from determining the place or places at which an employee's the duties are to be performed under section 25 of the PS Act.

## Section 2: Remuneration

### 10 Salary

- 10.1 Salary rates will be as set out in Attachment A – Base salaries of this agreement.
- 10.2 The base salary rates in Attachment A – Base salaries include the following increases:
- a) 4.0 per cent from the first full pay period on or after 1 March 2024 (the 14 March 2024);
  - b) 3.8 per cent from the first full pay period on or after 1 March 2025 (the 13 March 2025); and
  - c) 3.4 per cent from the first full pay period on or after 1 March 2026 (the 12 March 2026).
- 10.3 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 at 31 August 2023.

### 11 Payment of salary

- 11.1 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.

### 12 Salary setting

- 12.1 Where an employee is engaged, moves to, or is promoted in the NCA, the employee’s salary will be paid at the minimum of the salary range of the relevant classification, unless the Chief Executive determines a higher salary within the relevant salary range under these salary setting clauses.
- 12.2 The Chief Executive 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.
- 12.3 In determining a salary under these provisions, the Chief Executive will have regard to a relevant factors including the employee’s experience, qualifications, and skills.
- 12.4 Where an employee commences ongoing employment in the NCA immediately following a period of non-ongoing employment in the NCA, the Chief Executive will determine 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 NCA.
- 12.5 Where an employee commences ongoing employment in the agency immediately following a period of casual employment in the NCA, the Chief Executive will determine the employee’s salary within the relevant salary range of the relevant classification which recognises the employee’s prior service as a casual employee in the NCA.

- 12.6 Where an APS employee moves to the NCA at level from another APS agency, and their salary is above the maximum of the salary range for their classification, the Chief Executive will maintain the employee's salary at that level, until it is absorbed into the salary range for that classification.
- 12.7 Where the Chief Executive determines that an employee's salary has been incorrectly set, the Chief Executive may determine the correct salary and the date of effect.

*Salary on Temporary Assignment to the NCA from another APS agency*

- 12.8 Where an employee from another APS agency is temporarily assigned duties in the NCA, they will be paid at the salary point determined by the Chief Executive, after considering whether any salary maintenance should apply in accordance with clause 12.6.

*Salary on Reduction to a Lower Classification*

- 12.9 Where an employee agrees, in writing, to temporarily perform duties at a lower classification level, the Chief Executive may determine in writing that the employee will be paid a rate of salary applicable to that lower classification level.
- 12.10 Where the Chief Executive and an employee agree to the employee performing duties at a lower classification on an ongoing basis, the Chief Executive will determine the new salary point within that classification having regard to:
- a) the reasons for the re-assignment;
  - b) the length of time the employee has been working at the higher classification;
  - c) the experience, qualifications, and skills of the employee;
  - d) work level standards; and
  - e) the nature of the duties which are to be assigned to the employee.

### **13 Incremental (pay point) advancement**

- 13.1 On 1 July each year, an employee, other than employees who are already paid at the highest pay point of their current APS classification, will advance to the next pay point if the employee:
- a) has performed eligible service in NCA at that classification level or above for at least six months, or a shorter period as determined by the Chief Executive; and
  - b) achieves a performance rating of 'Fully Effective' or higher during the employee's most recent performance review.
- 13.2 Eligible service for pay point advancement will include:
- a) periods of paid leave and unpaid parental leave;
  - b) periods of unpaid leave that count as service; and
  - c) service while employed on a non-ongoing basis.
- 13.3 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.
- 13.4 Employees who are acting at a higher classification, and satisfy eligibility criteria at clause 13.1, will be eligible for pay point advancement at both their substantive and acting classifications.
- 13.5 Pay point advancement while acting at a higher classification, will be retained for future acting duties at, or promotion to, that classification regardless of elapsed time.
- 13.6 Casual employees will not be eligible for pay point advancement.

- 13.7 Where an employee receives an overall rating of 2 – “Requires Development” or 1 – “Unsatisfactory” in their end of year performance assessment, the employee will be ineligible for pay point advancement until such time as their performance is rated at least as 3 – “Fully Effective”. In this case, increases will not be backdated.

## **14 Superannuation**

- 14.1 The NCA will make compulsory employer contributions as required by the applicable legislation and fund requirements.
- 14.2 Employer superannuation contributions will be paid on behalf of employees during periods of paid leave that count as service.
- 14.3 The NCA 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 NCA payroll system.

### *Method for calculating superannuation salary*

- 14.4 The NCA will provide an employer contribution of 15.4 per cent of the employee’s Fortnightly Contribution Salary (FCS) for employees in the Public Sector Superannuation Accumulation Plan (PSSap) and Ordinary Time Earnings (OTE) or employees in other accumulation funds.
- 14.5 Employer contributions will be made for all employees covered by this agreement.
- 14.6 Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements.

### *Payment during unpaid parental leave*

- 14.7 Employer contributions will be paid on periods of unpaid parental leave in accordance with the requirements of the PSSap fund where the employee is a member of the PSSap, and up to a maximum of 52 weeks where the employee is a member of an accumulation fund other than PSSap.

## **15 Salary packaging**

- 15.1 Employees may access salary packaging and may package up to one hundred per cent of salary.
- 15.2 Employees are encouraged to seek independent financial advice prior to entering a salary sacrificing arrangement.
- 15.3 Where an employee elects to access salary packaging, the employee’s salary for the purposes of superannuation, severance and termination payments, and any other purposes, will be determined as if the salary packaging arrangement had not occurred.
- 15.4 Any fringe benefits tax incurred in relation to an individual employee because their salary packaging arrangement will be met by the individual employee.

## **16 Overpayments**

- 16.1 An overpayment occurs if the Chief Executive (or the NCA) 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).
- 16.2 Where the Chief Executive considers that an overpayment has occurred, the Chief Executive will provide the employee with notice in writing. The notice will provide details of the overpayment.
- 16.3 If an employee disagrees that there has been an overpayment including the amount of the overpayment, they will advise the Chief Executive 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.

- 16.4 If after considering the employee's response (if any), the Chief Executive confirms that an overpayment has occurred, the overpayment will be treated as a debt to the Commonwealth that must be repaid to the agency in full by the employee.
- 16.5 The Chief Executive 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.
- 16.6 The NCA and employee may agree to make a deduction from final monies where there is an outstanding payment upon cessation of employment.
- 16.7 Interest will not be charged on overpayments.
- 16.8 Nothing in clauses 16.1 to 16.7 prevents:
  - a) the NCA from pursuing recovery of the debt in accordance with an Accountable Authority Instruction issued under the *Public Governance, Performance and Accountability Act 2013*;
  - b) the NCA from pursuing recovery of the debt through other available legal avenues;  
or
  - c) the employee or the NCA from seeking approval to waive the debt under the *Public Governance, Performance and Accountability Act 2013*.

## **17 Supported wage system**

- 17.1 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:
  - a) have a disability;
  - b) meet the criteria for a Disability Support Pension; and
  - c) are unable to perform duties to the capacity required.
- 17.2 Specific conditions relating to the supported wage system are detailed in Attachment B – Supported Wage System.



## Section 3: Allowances and reimbursements

### 18 Higher duties allowance

- 18.1 Where a role needs to be filled for 2 or more working weeks, higher duties allowance will be paid to any employee temporarily occupying the role acting at a classification level higher than their substantive classification level.
- 18.2 Higher duties allowance 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 Chief Executive.
- 18.3 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 higher duties allowance. The employee's salary level will be retained for all future periods of acting regardless of elapsed time.
- 18.4 Where an employee is assigned only part of the higher duties, the Chief Executive will determine the amount of allowance payable.
- 18.5 Higher duties allowance 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 at least 2 working weeks.
- 18.6 The Chief Executive may shorten the qualifying period for higher duties allowance on a case-by-case basis.

### 19 Healthy Lifestyle Allowance

- 19.1 The NCA is committed to providing eligible employees with assistance in maintaining a healthy lifestyle.
- 19.2 The NCA will provide for the reimbursement of expenditure up to \$299 per employee in each of the fringe benefit taxation years (i.e., 1 April to 31 March) covered by this agreement, to assist with meeting the cost of healthy lifestyle activities including but not limited to, health and wellbeing programs, gym membership and/or health and fitness equipment.
- 19.3 The reimbursement is payable provided that the employee submits evidence of the expenditure, and that the expenditure is related to the employee. The reimbursement is not payable for any part of the expenditure that has been reimbursed by a health insurance fund or other organisation.
- 19.4 To be eligible to receive the health-related allowance an employee must have been employed with the NCA for a period of at least 6 months consecutively preceding the expenditure, which is claimed, not including any periods of unpaid leave or unauthorised absences.
- 19.5 The reimbursement will be paid to the employee's nominated bank account through electronic funds transfer and is not subject to tax instalment deductions.

### 20 Motor Vehicle

- 20.1 Where the Chief Executive considers that it will result in greater efficiency or involve less expense, the Chief Executive may authorise an employee, who has agreed to do so, to use a private car owned or hired by the employee at their own expense for official purposes.

- 20.2 Where so authorised, the employee will be entitled to a Motor Vehicle Allowance equivalent to the cents per kilometre determined by the Commissioner of Taxation as applicable to car expense deductions for the relevant income tax year.
- 20.3 Motor Vehicle Allowance is paid through the payroll system and is not subject to tax instalment deductions unless more than 5,000 kilometres per year is claimed. This allowance is normally paid after a Motor Vehicle Allowance Claim Form has been received by the Human Resources Team.

## 21 On-Call Duty and Allowances

- 21.1 On-Call Allowance is only available to APS Level 1-6 employees.
- 21.2 Where the Chief Executive determines that on-call duties cannot be sufficiently managed by the EL cohort available at any given time, the Chief Executive may direct an employee to be contactable and available for on-call duty for a specified period outside of their ordinary hours of work. In this circumstance, the relevant employee will be eligible for an on-call allowance to a maximum amount per calendar week calculated in accordance with the table below (or pro-rata daily amount) and, where the employee is required to attend and work in accordance with this clause, overtime (in accordance with clause 36).
- 21.3 The maximum on-call allowance payable per calendar week will be:

Rate from commencement of the agreement	Rate from 13 March 2025	Rate from 12 March 2026
\$520	\$539.76	\$558.11

- 21.4 Further information in relation to on-call duty and allowances can be found in the NCA On-Call Duty and Allowances Policy.

## 22 Workplace responsibility allowances

- 22.1 A workplace responsibility allowance will be paid to an employee who is either appointed by NCA or elected by eligible peers to one of the following roles:
  - a) First Aid Officer;
  - b) Health and Safety Representative;
  - c) Emergency Warden;
  - d) Harassment Contact Officer; and
  - e) Mental Health First Aid Officer.
- 22.2 An employee is not to receive more than one workplace responsibility allowance unless approved by the Chief Executive due to operational requirements.
- 22.3 An employee's physical availability to undertake the role will be considered by NCA 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 Officer, Mental First Aid Officers and Health and Safety Representatives depending on work group arrangements.

22.4 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

22.5 As a salary-related allowance, the rates in clause 22.4 will continue to be increased in line with headline salary increases. These increases are incorporated in the rates in the table above.

22.6 The full allowance, being the rate in clause 22.4 (as varied from time to time), is payable regardless of flexible work, part-time and casual arrangements, provided the employee engages in work during any given pay cycle, irrespective of the frequency and duration of the work undertaken.

## 23 Community language allowance

23.1 A community language allowance will be paid where the Chief Executive 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 Chief Executive. Further information is included in policy.

23.2 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 Chief Executive, 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 Chief Executive.	\$2,870 per annum	\$2,979 per annum	\$3,080 per annum

23.3 The allowance is calculated annually and paid fortnightly.

23.4 The full allowance is payable regardless of flexible work and part-time arrangements.

23.5 The allowance is payable during periods of paid leave.

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

## Section 4: Classifications and broadbands

### 24 Work Level Standards

- 24.1 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

### 25 General

- 25.1 Employees and supervisors must work together to manage employees' working hours to ensure:
- a) employees are compensated for the hours they are required to work;
  - b) work priorities are assessed and managed to ensure that additional hours are only worked where other options are not reasonable or practical; and
  - c) employees' working hours and flex credits are managed to ensure that flex credits are accumulated during periods of peak workload and reduced at other times.
- 25.2 The provisions in this Agreement allow supervisors to place limits on the hours an employee works and the authority to require an employee to take flex leave. Supervisors also have a responsibility to ensure that employees are not required to undertake uncompensated work.
- 25.3 APS Level 1-6 employees are required to keep records of their working hours, attendance, leave, and break periods using a method determined by the NCA.

### 26 Job security

#### *Commitment to ongoing employment and rebuilding APS capacity*

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

#### *Reporting*

- 26.2 Where a consultative committee is in place, the NCA will report to the NCA 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 NCA.

#### *Pathways to permanency*

- 26.3 The NCA and the APS will comply with the casual conversion provision(s) of the FW Act. In addition, the NCA 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.

### 27 Ongoing employee

- 27.1 A ongoing employee is defined in the definitions section.

## **28 Non-ongoing employment**

- 28.1 A non-ongoing employee is defined in the definitions section.
- 28.2 Non-ongoing employees will generally have the same terms and conditions of employment as ongoing employees under this agreement's terms, except:
- a) Purchasing leave at clause 40;
  - b) personal/carer's leave accrual at clause 43; and
  - c) redundancy provisions at clause 90, subject to clause 28.3.
- 28.3 If the non-ongoing employee's contract is not permitted by section 333E of the FW Act, then the redundancy provisions at clause 90 will apply.
- 28.4 If the redundancy provisions apply to an employee under clause 28.3, the agency must adhere to the consultation requirements at clause 80 and, where applicable, the consultation provisions in clause 90.

## **29 Full-time employee**

- 29.1 Full-time employee is defined in the definitions section.

## **30 Part-time Work**

- 30.1 Part-time employee is defined in the definitions section.
- 30.2 Employees engaged on a full-time basis will not be compelled to convert to part-time employment.
- 30.3 Employees engaged on a part-time basis will not be compelled to convert to full-time employment.
- 30.4 Further information in relation to part-time work can be found in the NCA Part-Time Work Guidelines.

## **31 Casual (irregular or intermittent) employment**

- 31.1 A casual (irregular or intermittent) employee is defined in the definitions section.
- 31.2 A decision to expand the use of casual employees is subject to clause 80 of this agreement.
- 31.3 The NCA 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.
- 31.4 The working hours of casual employees will be based on the NCA's requirements and may be changed with one hour's notice.
- 31.5 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.
- 31.6 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.

- 31.7 The following penalty rates apply to casual employees who are required to work on weekends, public holidays or on the working days between Christmas and New Year, in addition to their base salary and applicable casual loading:
- a) Saturdays (other than public holiday) – 50 per cent;
  - b) Sundays – 100 per cent;
  - c) Public holidays – 150 per cent; and
  - d) working days between Christmas and New Year – 150 per cent.
- 31.8 The penalty payments at clause 31.7 are based on the employee's hourly rate of pay including the 25 per cent loading.
- 31.9 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.
- 31.10 A casual employee who is eligible for a Workplace Responsibility Allowance will be paid the full amount.

## **32 Working hours**

### *Ordinary Hours of Work*

- 32.1 The ordinary hours of work are the basis for calculation of employees' annual salary, leave credits, and flextime credits or debits.
- 32.2 Where employees work full-time, the ordinary hours of work are 7 hours, 30 minutes per day, Monday to Friday.
- 32.3 Where employees work part-time the ordinary hours of work are stated in their part-time work agreements.
- 32.4 A part-time employee must work a minimum of 3 hours on each day they work.

### *Additional hours*

- 32.5 Employees may be required to work reasonable additional hours in accordance with the terms of the NES and this agreement, including clause 33.
- 32.6 Where a part-time employee is required and agrees to work additional hours within the bandwidth, the rate of payment will be at their ordinary hourly rate. Where these additional hours fall outside the bandwidth, or where the total number of hours worked in a fortnight exceeds the ordinary hours of work hours for a fulltime employee, the rate of payment for a part-time employee will be consistent with the overtime rates set out in clause 36.

### *Working Outdoors*

- 32.7 An employee who works predominantly outdoors may elect to work their ordinary hours of work outside the bandwidth with the agreement of their supervisor.
- 32.8 The hours worked under clause 32.7 will not attract penalty or overtime payments.
- 32.9 The NCA will provide sunscreen for its employees at all office workplaces and a sun protection hat to any employee who undertakes any work outdoors.

### *Breaks*

- 32.10 Employees must not work more than 5 hours without at least an unpaid break.

### 33 Flex for APS 1-6 classifications

- 33.1 The flextime provisions stated in this clause and in the flextime, guidelines apply to all APS Level 1-6 employees other than those who:
- a) are required to work fixed daily hours; or
  - b) are casual employees.
- 33.2 Where an employee and their supervisor agree the employee can have a flex day and the supervisor subsequently directs the employee to attend work on the previously approved flex day the employee is permitted to be above the maximum flex credit at the end of the settlement period.
- 33.3 Where an employee is or will be above the maximum flex credit at the end of the settlement period under subclause 33.2, the supervisor and employee will discuss and confirm in writing when sufficient flex leave will be taken to reduce the employee's flex credits below the maximum flex credit by the end of the next settlement period, otherwise the flex credit beyond the maximum flex credit will be removed.
- 33.4 Further information in relation to the operation of flextime can be found in the NCA Flextime Guidelines.

#### *Definitions and concepts*

- 33.5 The following definitions and concepts apply to the NCA's flextime system:
- a) **settlement period** – a 2-week period aligned with pay periods in each financial year used to reconcile employees' working hours under the flextime system.
  - b) **core hours** – the hours during which an employee must work under the flextime system unless they are on approved leave. Unless otherwise agreed between the employee and their supervisor, the core hours for full-time employees are 9.30am to 12.00 midday and 2.00pm to 4.00pm, Monday to Friday. The core hours for part-time employees are stated in their part-time work agreements.
  - c) **flex credit** – a tally of the working hours an employee has worked more than their ordinary hours of work.
  - d) **maximum flex credit** – 20 hours for full-time employees and a pro rata amount for part-time employees.
  - e) **flex debit** – a tally of the working hours an employee has worked that are less than their ordinary hours of work.
  - f) **maximum flex debit** – 7 hours 30 minutes for full-time employees and a pro rata amount for part-time employees.
  - g) **flex leave** – any approved absence during core hours that is not a form of leave covered under this agreement.

### 34 Fixed Daily Hours

- 34.1 Employees may be required to work fixed daily hours for operational reasons.
- 34.2 Fixed daily hours do not apply to casual employees. Where employees work fixed daily hours their starting and finishing times and meal breaks will be determined by their supervisor.
- 34.3 Fixed daily hours must be within 7.00am to 7.00pm, Monday to Sunday.
- 34.4 Employees working fixed daily hours may have their working hours set out in a roster. Where a roster is used, it must be prepared at least 7 calendar days in advance.

- 34.5 The total number of hours included in a roster for an employee must be equal to the employee's ordinary hours of work.
- 34.6 Changes to a roster may be made by an employee's supervisor:
- a) at any time up to 7 calendar days in advance;
  - b) within 7 calendar days with the employee's agreement; or
  - c) within 7 calendar days without the employee's agreement where the supervisor is unable to provide 7 calendar days' notice because of the illness or the unanticipated absence of another employee.
- 34.7 A full-time ongoing employee normally only rostered to work their ordinary hours of work on a weekday, will not be rostered to work on a weekend without their agreement.

*Fixed daily hours credits*

- 34.8 An employee may accumulate fixed daily hours credits where their supervisor:
- a) requires the employee to start up to 1 hour earlier than their rostered start time or finish up to 2 hours after their rostered finish time, but not later than 7.00pm; or
  - b) agrees with the employee's request to start up to 1 hour earlier than their rostered start time or finish up to 2 hours after their rostered finish time, but not later than 7.00pm.
- 34.9 The maximum fixed daily hours credit that an employee may accumulate at any time is 10 hours.
- 34.10 Where an employee has a fixed daily hours credit, their rostered hours may be reduced by the amount of the credit, or part thereof, without loss of pay and the credit reduced accordingly.
- 34.11 Where an employee has reached the maximum fixed daily hours credit, their rostered hours for the next available roster must be reduced by a sufficient amount to reduce their credit to below the maximum.

*Penalty payments – employees working fixed daily hours*

- 34.12 The following penalty payments apply to employees working fixed daily hours who are required to work on weekends, public holidays or on the working days between Christmas and New Year:
- a) Saturdays (other than public holiday) – 50 per cent;
  - b) Sundays – 100 per cent;
  - c) Public holidays – 150 per cent; and
  - d) working days between Christmas and New Year – 50 per cent.
- 34.13 An employee must be paid for a minimum of 4 hours where required to work on a public holiday.

## **35 Executive Level Time Off in Lieu (EL TOIL)**

- 35.1 Executive level (EL) employees are sometimes required to work reasonable additional hours. Consistent with the NES, employees may refuse to work unreasonable additional hours.
- 35.2 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 NCA.
- 35.3 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.



- 35.4 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.
- 35.5 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.
- 35.6 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.
- 35.7 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.

## **36 Overtime**

- 36.1 Overtime provisions only apply to employees at the APS Level 1 to Level 6.
- 36.2 An employee working under the flextime system is entitled to overtime payments where their supervisor requires the employee to work:
- a) outside the bandwidth hours;
  - b) in excess of 10 hours in a day; or
  - c) in excess of their ordinary hours of work where the employee has more than the maximum flex credits.
- 36.3 An employee working under fixed daily hours is entitled to overtime where their supervisor requires the employee to work:
- a) outside the bandwidth hours;
  - b) in excess of 10 hours in a day; or
  - c) more than 1 hour earlier than their rostered starting time or 2 hours longer than their rostered finishing time for that day.
- 36.4 Where an employee is required to work overtime and they do not have more than the maximum flex credits, their supervisor may require the employee to work additional hours under the flextime system during bandwidth hours.
- 36.5 Overtime is paid at the following rates:
- a) Monday to Saturday – time and a half;
  - b) Sunday – double time; and
  - c) Public holidays – double time and a half.
- 36.6 An employee who has a flex debit may elect to receive their overtime entitlements as time off in lieu to reduce or eliminate their flex debit.
- 36.7 An employee and their supervisor may agree to the employee taking overtime entitlements as time off in lieu. Agreement to time off in lieu must include agreement in writing on when the time off will be taken.
- 36.8 Time off in lieu agreed to under clauses 36.6 and 36.7 shall accrue at overtime rates in accordance with clause 36.5.

### *Meal allowance*

- 36.9 Employees are entitled to a meal allowance where required to work more than 2 hours of overtime on a working day, or 4 hours overtime on a non-working day. The applicable allowance rate payable will be that determined by the Australian Taxation Office as a reasonable amount.
- 36.10 Employees are entitled to a second meal allowance where required to work 9 hours overtime.
- 36.11 To be eligible for payment of the meal allowance under clause 36.9 and 36.10, employees must take an unpaid meal break of at least 30 minutes duration.

### *Emergency duty*

- 36.12 Emergency duty is where an employee is required by the Chief Executive to attend work on a non-working day without being provided with notice of the requirement prior to last finishing work.
- 36.13 Where the employee works emergency duty, they must be paid overtime rates for all work undertaken plus reasonable travel time to and from work, subject to a minimum payment for 2 hours.

### *Rest break*

- 36.14 An employee must have a break of at least 8 hours plus reasonable travelling time between finishing work on any day and next starting work.

## **37 Flexible working arrangements**

- 37.1 The NCA, employees and their union recognise:
- a) 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;
  - b) access to flexible work can support strategies to improve diversity in employment and leadership in the APS;
  - c) 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;
  - d) that flexibility applies to all roles in the NCA, and different types of flexible working arrangements may be suitable for different types of roles or circumstances; and
  - e) requests for flexible working arrangements are to be considered on a case-by-case basis, with a bias towards approving requests.
- 37.2 The NCA is committed to engaging with employees and their union to build a culture that supports flexible working arrangements across the NCA at all levels. This may include developing and implementing strategies through an NCA consultative committee.
- 37.3 Flexible working arrangements include, but are not limited to, changes in hours of work, changes in patterns of work and changes in location of work.

*Requesting formal flexible working arrangements*

- 37.4 The following provisions do not diminish an employee's entitlement under the NES.
- 37.5 An employee may make a request for a formal flexible working arrangement.
- 37.6 The request must:
- a) be in writing;
  - b) set out details of the change sought (including the type of arrangement sought and the proposed period the arrangement will operate for); and
  - c) 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.
- 37.7 The Chief Executive must provide a written response to a request within 21 days of receiving the request.
- 37.8 The response must:
- a) state that the Chief Executive approves the request and provide the relevant detail in clause 37.9; or
  - b) if following discussion between the NCA and the employee, the agency 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
  - c) state that the Chief Executive refuses the request and include the following matters:
    - i) details of the reasons for the refusal; and
    - ii) set out the NCA's particular business grounds for refusing the request, explain how those grounds apply to the request; and
    - iii) either:
      - a. 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 agency would be willing to make; or
      - b. state that there are no such changes; and
    - iv) 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.
- 37.9 Where the Chief Executive approves the request, this will form an arrangement between the agency and the employee. Each arrangement must be in writing and set out:
- a) any security and work health and safety requirements;
  - b) a review date (subject to clause 37.13; and
  - c) the cost of establishment (if any).
- 37.10 The Chief Executive may refuse to approve the request only if:
- a) the NCA has discussed the request with the employee; and

- b) the NCA 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
- c) the NCA and the employee have not reached such an agreement; and
- d) the NCA has had regard to the consequences of the refusal for the employee; and
- e) the refusal is on reasonable business grounds.

37.11 Reasonable business grounds include, but are not limited to:

- a) the new working arrangements requested would be too costly for the NCA;
- b) there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested;
- c) it would be impractical to change the working arrangements of other employees, or to recruit new employees, to accommodate the new working arrangements requested;
- d) the new working arrangements requested would be likely to result in a significant loss in efficiency or productivity;
- e) the new working arrangements requested would be likely to have a significant negative impact on customer service; and
- f) 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.

37.12 For First Nations employees, the NCA must consider connection to country and cultural obligations in responding to requests for altering the location of work.

37.13 Approved flexible working arrangements will be reviewed by the NCA 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*

37.14 An employee may request to vary an approved flexible working arrangement in accordance with clause 37.6. An employee may request to pause or terminate an approved flexible working arrangement.

37.15 The Chief Executive may vary, pause, or terminate an approved flexible working arrangement on reasonable business grounds, subject to clause 37.17.

37.16 The agency 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.

37.17 Prior to the Chief Executive varying, pausing or terminating the arrangement under clause 37.15, the NCA must have:

- a) discussed with the employee their intention to vary, pause or terminate the arrangement with the employee;
- b) 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);

- c) had regard to the consequences of the variation, pause or termination for the employee;
- d) ensured the variation, pause or termination is on reasonable business grounds; and
- e) informed the employee in writing of the variation, pause or termination to the approved flexible working arrangement, including details set out in clause 37.8(c).

#### *Working from home*

- 37.18 The Chief Executive may approve an application for home-based work on either a formal flexible working arrangement under clauses 35.4 to 35.17, or an ad hoc basis in accordance with clauses 35.25 to 35.29.
- 37.19 The NCA 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.
- 37.20 The NCA may provide equipment necessary for, or reimbursement, for all or part of the costs associated with establishing a working from home arrangement, up to a maximum of \$3,000 for an individual employee during the lifetime of this NCA Enterprise Agreement 2024-2026. Reimbursement is payable provided that the employee submits evidence of the expenditure and meets any security and work health and safety requirements.
- 37.21 An employee working from home is covered by the same employment conditions as an employee working at an office site under this agreement.
- 37.22 The NCA will provide employees with guidance on working from home safely.
- 37.23 Employees will not be required by the NCA 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 NCA will consider the circumstances of the employees and options to achieve work outcomes safely.
- 37.24 Further information may be found in the NCA's Home-Based Work Guidelines.

#### *Ad-hoc arrangements*

- 37.25 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.
- 37.26 Employees should, where practicable, make the request in writing and provide as much notice as possible.
- 37.27 Requests for ad-hoc arrangements are not subject to the request and approval processes detailed in clauses 37.4 to 37.13.
- 37.28 The NCA 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.
- 37.29 Where a regular pattern of requests for ad-hoc arrangements from an employee emerges, the NCA should consider whether it is appropriate to seek to formalise the arrangement with the employee.

#### *Altering span of hours*

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

## **38 Christmas Closedown**

- 38.1 The NCA will close its normal operations from close of business on the last working day before Christmas, with business resuming on the first working day after New Year's Day.
- 38.2 Employees will be provided with time off for the working days between Christmas and New Year's Day and will be paid in accordance with their ordinary hours of work. Where an employee is absent on leave, payment for the Christmas closedown provision will be in accordance with the entitlement for that form of leave (for example, if on long service leave half pay, payment is on half pay).
- 38.3 There will be no deduction from annual or personal leave credits for the closedown days.
- 38.4 Where an APS Level 1-6 employee is directed to and attends work during the Christmas Closedown, the employee will be entitled to the double overtime rate applicable for the days designated as Christmas Closedown.

## **39 Public holidays**

- 39.1 Employees are entitled to the following holidays each year as observed at their normal work location in accordance with the FW Act:
- a) 1 January (New Year's Day);
  - b) 26 January (Australia Day);
  - c) Good Friday and the following Monday;
  - d) 25 April (Anzac Day);
  - e) 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);
  - f) 25 December (Christmas Day);
  - g) 26 December (Boxing Day); and
  - h) 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.
- 39.2 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.
- 39.3 The Chief Executive 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.
- 39.4 The Chief Executive 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.
- 39.5 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.
- 39.6 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 (for example, if on long service leave on half pay, payment is at half pay.)

- 39.7 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 clauses 39.1(a)-(h).
- 39.8 An employee, who is absent on a day or part day that is a public holiday in their normal work location, 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 that person would not normally have worked on that day.
- 39.9 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 Chief Executive 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 flex credits or EL TOIL in recognition of their planned day off.

## Section 6: Leave

### 40 General

40.1 All existing accrued annual leave and personal/carer's leave credits of current NCA employees will be recognised under this agreement.

### 41 Annual leave

#### *Annual leave credits*

41.1 A full-time employee is entitled to 4 weeks, or 20 working days, paid annual leave for each completed year of service (other than service as a casual employee with NCA).

41.2 An employee's entitlement to paid annual leave accrues daily during a year of service according to the employee's ordinary hours of work, is credited as least monthly and accumulates from year to year. This is reflected in the payroll system at any time.

41.3 Where an employee works part-time, the employee's annual leave entitlement will accrue on a pro-rata basis according to the approved part-time hours.

41.4 For the purposes of the entitlement in clauses 41.1 and 41.2, the average number of weekly ordinary hours of duty is reduced for any unauthorised absences that occurred during the fortnight.

41.5 For the purposes of the entitlement in clauses 41.1 and 41.2, where the employee is absent on approved worker's compensation leave, the average number of weekly ordinary hours of work:

- a) for the first 45 weeks is calculated as though the employee is still at work; and
- b) after the first 45 weeks, is the actual number of hours worked.

41.6 Where an employee has taken more than 30 calendar days of unpaid leave not counting as service during the calendar year, their annual leave credits are reduced according to the following formula:

$$\text{Reduction in annual leave credits} = \frac{4.0 \times A \times B}{365} \text{ hours}$$

Where:

A = the average weekly ordinary hours of work for the calendar year to date

B = the number of calendar days of unpaid leave not to count as service that have been taken during the calendar year and have not yet been used to reduce annual leave credits

41.7 There will be no deduction from an employee's annual leave credits for any public holiday which falls within a period of annual leave.

41.8 If, when an employee's employment with NCA ends, the employee:

- a) has untaken annual leave credits; and
- b) the annual leave credits are not otherwise being transferred to another employing entity;

the employee will be paid the amount that would have been payable to them had they taken the period of leave.



### *Taking of annual leave*

- 41.9 The taking of annual leave is subject to the approval of the Chief Executive who will not unreasonably refuse a request for leave. In authorising leave the Chief Executive will consider:
- a) the significance of any operational implications of the leave; and
  - b) the employee's personal circumstances and preferences.
- 41.10 An employee may apply to take annual leave at half pay, doubling the duration of that annual leave. An employee with 'excess annual leave credits' (that is, more than 40 working days' credit will not receive approval to utilise annual leave at half pay until their annual leave credit is at or below 40 working days.
- 41.11 Employees are encouraged to take at least 10 working days annual leave in each year of service, or a pro rata amount for part-time employees.
- 41.12 An employee may request annual leave where they:
- a) are unfit for work due to illness;
  - b) do not have any paid personal leave credits; and
  - c) have available annual leave credits.
- 41.13 Annual leave will not be approved within a period of long service leave.

### *Cashing out of annual leave*

- 41.14 An employee may, with the approval of the Chief Executive, cash out a portion of the employee's annual leave credit on one occasion each financial year, provided:
- a) the employee has taken at least 10 working days annual leave (pro rata for part-time employees) in the 12 months immediately preceding the request to cash out leave; and
  - b) following the cashing out of leave, the employee retains a balance of at least twenty (20) working days annual leave (pro-rata for part-time employees).
- 41.15 Each cashing out of a particular amount of paid annual leave under clause 41.14 must be by a separate agreement in writing with the Chief Executive. The employee will be paid the full amount that would have been paid to the employee had the employee taken the leave that is cashed out.

### *Excess annual leave credits*

- 41.16 Any annual leave credits in excess of 40 working days are called 'excess annual leave credits'.
- 41.17 Where an employee has excess annual leave credits on 30 June in each year, they will be directed by the Chief Executive to take the excess annual leave credits commencing no later than the first working day after 14 July in that year.
- 41.18 The Chief Executive may choose not to direct the employee to take the excess leave credits under clause 41.17 until the end of December in that year where:
- a) the employee has special circumstances that the Chief Executive considers justify the deferral; or
  - b) there are operational requirements that would be significantly affected by the employee starting the leave in the middle of July.
- 41.19 The employee will not be directed to take more than one-quarter of their total annual leave credits at any one time.

### *Recall to duty/cancellation of annual leave*

- 41.20 Where an employee's annual leave is cancelled or the employee is recalled to duty while on annual leave, the Chief Executive will authorise reimbursement of reasonable travel costs and incidental expenses not otherwise recoverable under any insurance or other sources. The employee may be required to provide evidence of the costs incurred.

## **42 Purchased leave**

- 42.1 The Purchased Leave Scheme is available to ongoing employees and enables them to purchase up to twenty (20) working days additional leave per year through salary deductions averaged over the whole year.
- 42.2 Further information in relation to purchased leave can be found in the NCA Purchased Leave Guidelines.

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

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

- 43.1 Subject to clauses 43.3 and 43.4, full-time employees:
- a) accrue paid personal/carer's leave progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year; and
  - b) accrue personal/carer's leave daily, at a rate equivalent to 1.5 working days per month of service, credited on the day of the month which matches the date of the anniversary of their commencement with the APS (the credit date).
- 43.2 Where an employee works part-time, personal/carer's leave credits will be calculated on a pro-rata basis based on the employee's working hours at the credit date.
- 43.3 For employees (excluding casual employees) commencing employment in the APS on or after the commencement date of this Agreement:
- a) on commencement and for the first 12 months, the employee will be credited with:
    - i) if the employee is a full-time employee, 18 days of paid personal/carer's leave; or
    - ii) if the employee is a part-time employee, a pro-rata amount of the amount in clause 43.3(a)(i), according to the employee's ordinary hours of work on commencing employment with the APS; and
    - iii) if the employee is a non-ongoing employee, a pro-rata amount of the entitlement in clause 43.3(a)(i), calculated based on the employee's:
      - A. ordinary hours of work; and
      - B. initial period of non-ongoing employment with NCA, if the initial period is less than 12 months, provided that, immediately before commencing their initial period of employment as a non-ongoing employee with NCA, the employee does not have a previous period of service (as a full-time or part-time employee) that is recognised by NCA under clause 45; and
  - b) after the first 12 months of employment has ended, the employee will continue to accrue personal/carer's leave in accordance with clauses 43.1 and 43.2.

- 43.4 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.
- 43.5 Personal/carer's leave will not accrue where an employee takes unpaid leave that does not count as service or has an unauthorised absence. The accrual of personal/carer's leave will be pro rata to the days actually worked for the relevant credit period.
- 43.6 Untaken personal/carer's leave credits will not be paid out on cessation of employment.
- 43.7 Where an employee moves from employment as a non-ongoing employee in the NCA to employment as an ongoing employee without a break in service, their credit date for personal/carer's leave will remain their commencement date as a non-ongoing employee in the NCA.
- 43.8 Where the employee is absent on approved worker's compensation leave:
- a) the first 45 weeks shall be counted as continuous service for the purpose of accrual of personal leave credits; and
  - b) after the first 45 weeks, the accrual date for personal leave shall be delayed by the length of the absences on approved worker's compensation leave.
- 43.9 Where an employee is retired from the APS on the grounds of invalidity and is subsequently re-appointed as a result of action taken under section 75 of the *Superannuation Act 1976*, the employee is entitled to be credited with personal leave equal to the balance of their personal leave at the time of invalidity retirement.
- 43.10 The Chief Executive may allow an ongoing employee to anticipate personal/carer's leave credits where the employee has used all of their paid personal/carer's leave credits and would otherwise suffer financial hardship.
- 43.11 The Chief Executive may approve paid personal/carer's leave at half pay.
- 43.12 Where an employee has exhausted their entitlements to paid personal/carer's leave or does not have an entitlement to personal/carer's leave, the employee may take up to 2 days' unpaid carer's leave in accordance with section 102 of the FW Act.

*Use of personal/carer's leave*

- 43.13 The Chief Executive may grant an employee paid personal/carer's leave for the following purposes, subject to the employee having personal leave credits:
- a) because the employee is not fit for work because of a personal illness or a personal injury affecting the employee;
  - b) to attend appointments with a registered health practitioner;
  - c) to manage a chronic condition; or
  - d) to provide care or support to a member of the employee's immediate family or household, or a person they have caring responsibilities for, because of:
    - i) a personal illness or injury, affecting the other person; or
    - ii) an unexpected emergency affecting the other person.
- 43.14 A person that an employee has caring responsibilities for may include a person who needs care because they:
- a) have a medical condition, including when they are in hospital;
  - b) have a mental illness;
  - c) have a disability;

- d) are frail or aged; and/or
  - e) are a child, not limited to a child of the employee.
- 43.15 An employee must advise their supervisor of their intention to apply for personal/carer's leave as soon as possible.
- 43.16 An employee will not be entitled to paid personal/carer's leave while also entitled to paid leave under the *Maternity Leave (Commonwealth Employees) Act 1973*.
- 43.17 There is no limit to the maximum continuous amount of personal/carer's leave which may be granted, subject to:
- a) available credits;
  - b) evidence requirements; and
  - c) if required, the opinion of a medical practitioner nominated by the Chief Executive.
- 43.18 An employee will not, without the employee's consent, be retired on invalidity grounds before the employee's personal/carer's leave credits have been exhausted, unless otherwise provided for by legislation.

#### *Evidence requirements*

- 43.19 To use personal/carer's leave, an employee may be requested to provide acceptable evidence in the following circumstances:
- a) for leave in excess of 3 consecutive working days;
  - b) for leave in excess of 8 days without evidence in any calendar year.
- 43.20 Acceptable evidence includes:
- a) a certificate from a registered health practitioner; or
  - b) a statutory declaration made by the employee; and
  - c) another form of evidence approved by the Chief Executive.
- 43.21 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.

## **44 Portability of leave**

- 44.1 Where an employee moves into the NCA from another APS agency 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.
- 44.2 Where an employee is engaged in the NCA 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.
- 44.3 Where an employee is engaged as an ongoing employee in the NCA, and immediately prior to the engagement the person was employed as a non-ongoing APS employee (whether in the agency or another), 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.
- 44.4 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 agency or another) 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.

- 44.5 Where a person is engaged as an ongoing employee in the NCA, 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 44.2), the Chief Executive will offer to recognise any unused accrued personal/carer's leave at the employee's request. The Chief Executive will advise the employee of their ability to make this request.
- 44.6 Where an employee is engaged as an ongoing employee in the NCA, and immediately prior to the engagement the person was employed by a State or Territory Government, the Chief Executive may recognise any unused accrued personal/carer's leave, provided there is not a break in continuity of service.
- 44.7 For the purposes of clauses 44.1 to 44.6, an employee with a break in service of less than 2 months is considered to have continuity of service.

## **45 Re-crediting of leave**

45.1 When an employee is on:

- a) annual leave;
- b) purchased leave;
- c) defence reservist leave;
- d) First Nations ceremonial leave;
- e) NAIDOC leave;
- f) cultural leave; or
- g) long service leave; and

becomes eligible for, under legislation or this agreement:

- h) personal/carer's leave;
- i) compassionate or bereavement leave;
- j) jury duty;
- k) emergency services leave;
- l) leave to attend to family and domestic violence circumstances; or
- m) parental leave, premature birth leave, stillbirth leave or pregnancy loss leave;

the affected period of leave as referred to in (a)-(g) will be re-credited.

- 45.2 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.
- 45.3 Re-crediting is subject to appropriate evidence of eligibility for the substituted leave.

## **46 Long service leave**

- 46.1 An employee is eligible for long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.
- 46.2 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 clause 45 of this agreement.

## **47 Miscellaneous leave**

- 47.1 The Chief Executive may grant miscellaneous leave to an employee either with or without pay, in circumstances not provided for elsewhere in this agreement.
- 47.2 Casual employees may be provided paid miscellaneous leave for the purposes of family and domestic violence support and otherwise by Government directive.
- 47.3 Miscellaneous leave with pay counts as service for all purposes.
- 47.4 Miscellaneous leave without pay does not count as service for any purpose unless the Chief Executive approves the leave as counting as service or unless required to count as service for the purposes of legislation.
- 47.5 Further information can be found in the NCA's Miscellaneous Leave Policy.

## **48 Cultural, ceremonial and NAIDOC leave**

### *NAIDOC leave*

- 48.1 First Nations employees may access up to one day of paid leave per calendar year to participate in NAIDOC week activities.
- 48.2 NAIDOC leave can be taken in part days.

### *First Nations ceremonial leave*

- 48.3 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.
- 48.4 The Chief Executive may approve additional leave for cultural or ceremonial purposes as miscellaneous leave, with or without pay.
- 48.5 First Nations ceremonial Leave can be taken as part days.
- 48.6 First Nations ceremonial leave is in addition to compassionate and bereavement leave.

### *Cultural leave*

- 48.7 The Chief Executive 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.
- 48.8 The Chief Executive may approve additional leave for cultural purposes as miscellaneous leave, with or without pay.
- 48.9 Cultural leave can be taken as part days.
- 48.10 For the avoidance of doubt, this leave does not cover cultural purposes or obligations which are eligible for paid leave under clauses 48.3 to 48.6.

## **49 Parental leave**

- 49.1 A primary caregiver, secondary caregiver and ML Act is defined in the definitions section.
- 49.2 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.

- 49.3 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.
- 49.4 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*

- 49.5 An employee is entitled to parental leave with pay as per clauses 49.7 and 49.8 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.
- 49.6 Employees newly engaged in the agency or who have moved to the NCA from another APS agency are eligible for the paid parental leave in clauses 49.7 and 49.8 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 49.7 and 49.8 the balance is available to the employee.
- 49.7 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** below.

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

<b>Paid leave entitlement under the ML Act</b>	<b>Additional parental leave with pay under this agreement for the primary caregiver</b>
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

- 49.8 An employee who is a secondary caregiver is entitled to parental leave with pay during the parental leave period as provided in **Table 2** below.

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

<b>Period which coincides with the parental leave period for the secondary caregiver</b>	<b>Parental Leave with pay under this agreement</b>
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
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

Period which coincides with the parental leave period for the secondary caregiver	Parental Leave with pay under this agreement
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

49.9 **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.

49.10 **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.

49.11 **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.

#### *Adoption and long-term foster care*

49.12 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:

- a) is under 16 as at the day (or expected day) of placement;
- b) has not lived continuously with the employee for a period of six months or more as at the day (or expected day) of placement; and
- c) is not (otherwise than because of the adoption) a child of the employee or the employee's spouse or de facto partner.

49.13 Employees are entitled to take up to two (2) days of their paid parental leave entitlement under this agreement prior to the day of placement of the child the subject of adoption or long-term foster care.

49.14 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.

#### *Stillbirth*

49.15 Parents of a stillborn child remain eligible for parental leave, except for paid leave for the secondary caregiver which is two weeks.

49.16 A stillborn child is a child:

- a) who weighs at least 400 g at delivery or whose period of gestation was 20 weeks or more; and
- b) who has not breathed since delivery; and
- c) whose heart has not beaten since delivery.



### *Pregnancy loss leave*

- 49.17 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.
- 49.18 Pregnancy loss leave is in addition to entitlements to compassionate leave for miscarriage provided under the FW Act and this agreement.

### *Premature birth leave*

- 49.19 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*

- 49.20 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 49.19 until after the legislated paid maternity leave is used.

### *Part-time Work following a period of certain forms of parental leave*

- 49.21 An employee returning to work following a period of parental leave has, where applicable, the return-to-work guarantee and the right to request flexible working arrangements provided by (or the equivalent to those provided by) the FW Act.

## **50 Compassionate leave**

- 50.1 Employees will be eligible for 3 days' paid compassionate leave on each occasion when:
- a) 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
  - b) the employee or their partner has a miscarriage.
- 50.2 An employee may be asked to provide evidence to support their absences on compassionate leave.
- 50.3 Compassionate leave for an occasion may be taken as 3 consecutive days or in separate periods totalling 3 days. This can include part days.
- 50.4 For casual employees, compassionate leave is unpaid.

## **51 Bereavement leave**

- 51.1 Employees will be eligible for 3 days' paid bereavement leave on each occasion when:
- a) a member of their family (including a member of their household) or someone they had a close personal relationship with dies; or
  - b) a child is stillborn, where the child was a member of their family (including a member of their household).

- 51.2 Bereavement leave for an occasion granted may be taken as 3 consecutive days or in separate periods totalling 3 days. This can include part days.
- 51.3 The Chief Executive may grant an employee up to 2 additional days' bereavement leave to attend a funeral to be held at least 150 kilometres from the employee's Normal Work Location in connection with a particular permissible occasion for which the employee has been granted bereavement leave under clause 51.1.
- 51.4 An employee must take any additional bereavement leave granted in accordance with clause 51.3 in a single period (that is, as a single day or as 2 consecutive days). However, it may be taken as a separate period from any other bereavement leave taken in connection with the same permissible occasion in accordance with clause 51.1.
- 51.5 For casual employees, bereavement leave is unpaid.
- 51.6 An employee may be asked to provide evidence to support their absences on bereavement leave.

## **52 Sabbatical leave**

- 52.1 The Chief Executive may grant an employee sabbatical leave.
- 52.2 Sabbatical leave is a flexible arrangement, consisting of a four-year work period followed by a one-year sabbatical leave period, with salary spread over the five-year period at a rate of 80 per cent.
- 52.3 If the employee's employment is terminated during the five year period in clause 52.1, the employee will be reimbursed for any unused sabbatical leave (to the extent that the leave has been paid for by way of the reduced salary arrangement in clause 52.1).
- 52.4 Sabbatical leave does not count as service.

## **53 Emergency response leave**

- 53.1 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:
- a) the time engaged in the activity;
  - b) reasonable travelling time; and
  - c) reasonable recovery time.
- 53.2 Full-time and part-time employees will be able to access 20 working days of paid emergency response leave at their full rate of pay per year if required. The Chief Executive may provide additional emergency response leave with pay.
- a) For the purposes of this clause, full rate of pay is to be as if the employee was at work.
- 53.3 Paid leave may be refused where the employee's role is essential to the NCA's response to the emergency.
- 53.4 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.
- 53.5 The Chief Executive may approve reasonable paid or unpaid leave for ceremonial duties and training.
- 53.6 Emergency response leave, with or without pay, will count as service.

## **54 Jury duty**

- 54.1 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.
- 54.2 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.
- a) For the purposes of this clause, full rate of pay is to be as if the employee was at work.
- 54.3 The employee is required to inform their manager before they are released from duty and provide evidence of the need to attend.
- 54.4 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 NCA for the period of absence. This will be administered in accordance with the overpayments clause.

## **55 Defence reservist leave**

- 55.1 The Chief Executive will give an employee leave with or without pay to undertake:
- a) Australian Defence Force (ADF) Reserve and continuous full-time service (CFTS); and
- b) Australian Defence Force Cadet obligations.
- 55.2 An employee who is a Defence Reservist can take leave with pay for:
- a) up to 4 weeks (20 days) in each financial year (pro-rata for part-time employees); and
- b) an extra 2 weeks (10 days) in the first year of ADF Reserve service (pro-rata for part-time employees).
- 55.3 Leave can be built up and taken over 2 consecutive years. This includes the extra 2 weeks in the first year of service.
- 55.4 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:
- a) Australian Navy Cadets;
- b) Australian Army Cadets; and
- c) Australian Air Force Cadets.
- 55.5 In addition to the entitlement at clause 55.4, 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.
- 55.6 Paid defence reservist leave counts for service.
- 55.7 Unpaid defence reservist leave for 6 months or less counts as service for all purposes. This includes periods of CFTS.
- 55.8 Unpaid leave taken over 6 months counts as service, except for annual leave.
- 55.9 An employee will not need to pay their tax free ADF Reserve salary to their agency for any reason.
- 55.10 Eligible employees may also apply for annual leave, long service leave, leave without pay, or they may use flextime or make up time for the purpose of fulfilling ADF Reserve, CFTS or Cadet Force obligations.

55.11 Employees are to notify supervisors at the earliest opportunity once the dates for ADF Reserve, CFTS or Cadet Force activities are known and/or changed.

## **56 Defence service sick leave**

56.1 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:

- a) warlike service; or
- b) non-warlike service.

56.2 An eligible employee can get 2 types of credits:

- a) an initial credit of 9 weeks (45 days) defence service sick leave will apply as of the later below option:
  - i) they start employment with the APS; or
  - ii) DVA certifies the condition; and
- b) an annual credit of 3 weeks (15 days) defence service sick leave or pro-rata for part-time employees.

56.3 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.

56.4 Unused annual credits can be built up to 9 weeks.

56.5 An employee cannot use annual credits until the initial credit is exhausted.

56.6 Defence service sick leave is paid and counts as service for all purposes.

## **57 Leave to attend proceedings**

57.1 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.

57.2 An employee who is not covered under clause 57.1 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 NCA.

57.3 An employee may otherwise be granted paid or unpaid miscellaneous leave by the Chief Executive 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, flex leave or time off in lieu.

57.4 The Chief Executive 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.

## **58 Unauthorised absences**

58.1 An unauthorised absence will not count as service for any purpose under this agreement, including remuneration and leave accrual.

- 58.2 During an employee's unauthorised absence other benefits provided under this agreement, including access to flextime, will also cease to be available to the employee until they resume work or are granted leave.
- 58.3 Any amounts paid to an employee in respect of an unauthorised absence are overpayments and the NCA will seek to recover those amounts pursuant to clause 16.

## Section 7: Employee support and workplace culture

### 59 Blood donation

- 59.1 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.
- 59.2 The employee must inform their manager in advance of when they will be away from work before donating blood, plasma, or platelets.

### 60 Vaccinations

- 60.1 The NCA will offer annual influenza vaccinations to all employees at no cost and on a voluntary basis.
- 60.2 Where the NCA requires an employee performing a role to be vaccinated for a particular condition, this vaccination will be offered at no expense to the employee.
- 60.3 The influenza vaccinations will be provided on a day or days nominated by the NCA.

### 61 Employee Assistance Program

- 61.1 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 NCA and will be accessible on paid time.

### 62 Diversity

- 62.1 The NCA is committed to promoting equity in employment and strategies as necessary, to increase the recruitment, retention, and career development of Aboriginal or Torres Strait Islander employees, employees with disabilities and employees from non-English speaking backgrounds.

### 63 Respect at work

#### *Principles*

- 63.1 The NCA values a safe, respectful, and inclusive workplace free from physical and psychological harm, harassment, discrimination, and bullying. The NCA recognises that preventing sexual harassment, sex discrimination, sex-based harassment and victimisation in the workplace is a priority.
- 63.2 The NCA 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*

- 63.3 The agency 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.

## **64 Family and domestic violence support**

- 64.1 The NCA will provide support for employees affected by family and domestic violence, depending on the employee's circumstances.
- 64.2 The NCA recognises that a holistic approach should be taken to support the employee, appropriate for the employee's individual circumstances.
- 64.3 Family and domestic violence support, including paid leave, are available to all employees covered by this agreement.
- 64.4 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:
- a) illness or injury affecting the employee resulting from family and domestic violence;
  - b) 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;
  - c) 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;
  - d) making arrangements for the employee's safety, or the safety of a close relative;
  - e) accessing alternative accommodation;
  - f) accessing police services;
  - g) attending court hearings;
  - h) attending counselling; and
  - i) attending appointments with medical, financial, or legal professionals.
- 64.5 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.
- 64.6 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.
- 64.7 These family and domestic violence support clauses do not reduce an employee's entitlement to family and domestic violence leave under the NES.
- 64.8 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.
- 64.9 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.
- 64.10 Evidence may be requested to support the NCA 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 NCA will require, unless the employee chooses to provide another form of evidence.
- 64.11 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.
- 64.12 The NCA will take all reasonable measures to treat information relating to family and domestic violence confidentially. The NCA will adopt a 'needs to know' approach regarding

communication of an employee's experience of family and domestic violence, subject to steps the NCA may need to take to ensure the safety of the employee, other employees or persons, or mandatory reporting requirements.

- 64.13 Where the NCA needs to disclose confidential information for purposes identified in clause 64.12, where it is possible the NCA will seek the employee's consent and take practical steps to minimise any associated safety risks for the employee and/or privacy breaches.
- 64.14 The NCA 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.
- 64.15 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.
- 64.16 The NCA 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.
- 64.17 Further information about leave and other support available to employees affected by family and domestic violence may be found in policy.

## **65 Integrity in the APS**

- 65.1 The NCA 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 NCA decisions.
- 65.2 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.
- 65.3 Employees can, during their ordinary work hours, take time to:
  - a) access an APS-wide ethics advisory service or another similar service provided by a professional association such as a law society or in the agency; and
  - b) attend NCA mandated training about integrity.

## **66 First Nations cultural competency training**

- 66.1 The Chief Executive 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.
- 66.2 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.

## **67 Lactation and breastfeeding support**

- 67.1 Reasonable paid time during work hours will be provided for lactation breaks for breastfeeding, expressing milk and other associated activities.



- 67.2 The NCA will provide access to appropriate facilities for the purpose of breastfeeding or expressing milk, subject to clause 67.3. In considering whether a space is appropriate, an agency should consider whether:
- a) there is access to refrigeration;
  - b) the space is lockable; and
  - c) there are facilities needed for expressing, such as appropriate seating.
- 67.3 Where it is not practicable for an NCA site to have a designated space, a flexible approach will be taken so that the employee can access the support required.
- 67.4 The NCA will facilitate discussion between individual employees and their managers about accommodating the employee's lactation needs and practical arrangements to meet these needs.
- 67.5 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.
- 67.6 Further information is available in policy.

## **68 Extra Family Care Costs**

- 68.1 The Chief Executive will authorise reimbursement of reasonable expenses arising from additional family care arrangements made necessary where an employee is:
- a) required to travel away from their Normal Work Location on official business; or
  - b) directed to work additional hours or to attend a conference or learning and development course outside the standard bandwidth or outside their ordinary hours of duty.
- 68.2 To be entitled to any payments under clause 68.1., the employee must make reasonable efforts to minimise the cost of the additional family care arrangements.

## **69 Eyesight Testing**

- 69.1 Eyesight testing may be requested by employees who are engaged in:
- a) tasks involving screen-based equipment (SBE); and/or
  - b) specialised work tasks that require particular visual acuity not normally required for general tasks (for example, microscopy).
- 69.2 Employees are entitled to eyesight testing every two (2) years unless symptoms occur which indicate that more frequent testing is necessary. Employees applying for testing more frequently than two (2) yearly intervals should support their application with medical evidence.
- 69.3 The NCA will meet the reasonable net costs of screening and full vision examination by an optometrist, including ophthalmologist fees (where necessary), and will meet the reasonable net costs of the initial examination, and the review examination (if required).
- 69.4 Where an employee is prescribed spectacles or contact lenses for use on SBE and/or for specialised work tasks that require particular visual acuity not normally required for general tasks (for example, microscopy), reimbursement will be made at up to the following amounts:

- a) single vision – \$207.00; and
- b) multifocal (including bifocal, trifocal and progressive) – \$300.

69.5 Employees are responsible for costs associated with normal visual requirements, and for any costs in excess of the amounts specified in clause 69.4. Costs met (for testing and spectacles etc) will be net of any Medicare or health insurance benefits that may apply.

## **70 Disaster support**

- 70.1 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 Chief Executive will consider flexible working arrangements to assist the employee to perform their work.
- 70.2 Where flexible working arrangements are not appropriate, the Chief Executive may grant paid miscellaneous leave to an employee with regard to the scale and nature of the emergency. This leave counts as service and may be approved retrospectively.
- 70.3 In considering what period of leave is appropriate, the Chief Executive 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

## 71 Performance management

### *General*

71.1 The NCA's Performance Management and Appraisal Scheme encourages a culture of high performance. The parties to this Agreement recognise the importance of the performance management system in:

- a) aligning individual performance to business outcomes;
- b) effectively delivering outputs; and
- c) targeting efforts to achieve the best results with the resources available.

71.2 Performance agreements will set out individual work responsibilities and provide the basis for discussing work performance. While assessment will operate on an annual cycle with a formal mid-cycle discussion of performance, the manager or employee may initiate a discussion of work performance at any time.

### *Objectives*

71.3 The objectives of the Performance Management and Appraisal Scheme are to:

- a) ensure employees are aware of the standards of behaviour, performance levels and outcomes required of them;
- b) provide a structured way of providing employees with feedback on their level of achievement;
- c) ensure employee's individual development plans are targeting priority learning and development needs;
- d) link pay to performance;
- e) recognise employee's achievements; and
- f) identify and deal with underperformance.

### *Principles*

71.4 The following principles underpin the Performance Management and Appraisal Scheme:

- a) all ongoing employees will participate in the Scheme;
- b) all non-ongoing employees engaged for a fixed-term or for the duration of a specified task where the period of the engagement is in excess of six (6) months will participate in the Scheme;
- c) a casual employee is not required to participate in the Scheme;
- d) pay point advancement is linked to performance;
- e) the performance assessment cycle is from 1 July to 30 June each year;
- f) feedback should be provided on an ongoing basis throughout the cycle;
- g) a mid-cycle review of performance will occur in January which will include a discussion on progress with the employee's Learning and Development Plan;
- h) at the mid-cycle review the employee will be provided with an indicative rating of their overall performance;
- i) there will be a formal end of cycle assessment;

- j) assistance will be provided to enable managers and employees to effectively participate;
- k) an appropriate means of review will be available for employees to seek review of assessments; and
- l) mechanisms will be included to monitor and ensure compliance.

#### *Assessment Ratings*

71.5 An employee's performance will be assessed using the following 4-point rating scale:

- a) Rating 4 – Exemplary Performance;
- b) Rating 3 – Fully Effective Performance;
- c) Rating 2 – Requires Development;
- d) Rating 1 – Unsatisfactory Performance.

71.6 For further information regarding the assessment ratings referred to in subclause H4.1, see the Performance Management and Appraisal Scheme Guidelines.

71.7 The links between end of financial year overall assessment ratings and Pay Point Advancement are detailed in clause 13.

#### *Managing Unsatisfactory Performance*

71.8 The NCA is committed to addressing underperformance promptly and fairly.

71.9 An employee's performance throughout the performance cycle will be assessed through the Performance Management and Appraisal Scheme.

71.10 Performance agreements will set out performance expectations and individual work responsibilities and provide the basis for discussing work performance.

71.11 Managing unsatisfactory performance will be based on the following principles:

- a. As soon as unsatisfactory performance is identified (i.e., at any time during the performance cycle), and informal resolution has been unsuccessful;
- b. The employee will be notified in writing about the unsatisfactory performance and how it does not meet the required performance standard;
- c. the employee's manager, or another person nominated by the Chief Executive, will assess, and prepare a report on the employee's performance over a period determined by the Chief Executive;
- d. The assessment report will be considered by the relevant senior manager and a recommendation made to the Chief Executive on what action is to be taken (including termination of employment, demotion, or re-assignment of duties); and
- e. Procedural fairness will apply at each step of the process.

71.12 For further information, please refer to the NCA's Performance Management and Appraisal Scheme.

#### *Managing Breaches of the Code of Conduct*

71.13 Breaches of the Code of Conduct will be dealt with under procedures established in accordance with the PS Act.

## **72 Workloads**

- 72.1 The NCA 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.
- 72.2 When determining workloads for an employee or group of employees, the NCA will consider the need for employees to strike a balance between their work and personal life.
- 72.3 Where an employee or group of employees raise that they have experienced significant workload pressures over a prolonged period of time, the NCA 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.

## **73 Study assistance**

- 73.1 Assistance will be considered for employees who wish to undertake studies to obtain entry into a tertiary institution, a degree, diploma, associate diploma, or any other recognised qualification that is considered directly beneficial to the NCA.
- 73.2 Approval to participate in the study support scheme will be subject to the Chief Executive being satisfied the employee has the capacity to effectively balance their proposed study load and agreed work responsibilities.
- 73.3 The Chief Executive may approve the following types of assistance:
  - a) Paid or unpaid leave of up to eight (8) hours per week during a semester to travel to and attend classes, undertake examinations or for other study purposes;
  - b) Paid or unpaid leave for compulsory residential components of external courses; and/or
  - c) up to \$1,500 per calendar year reimbursement of compulsory fees other than FEE-HELP fees.
- 73.4 Where an employee is provided with financial assistance under clause 73.3, the financial assistance will only be paid when the employee successfully completes the year's study and achieves a minimum of a pass grade.
- 73.5 Where an employee has approved paid leave for study purposes, they will be able to access that leave unless there are significant operational needs that require the employee's attendance during the period of leave.
- 73.6 Further information can be found in the NCA's Study Assistance Policy.

## **74 Learning and development**

- 74.1 The NCA will provide employees with access to a range of relevant learning and development opportunities that may include on-and off-the-job training, work placements within and outside the NCA (job rotation or temporary transfers), temporary performance at higher levels or undertaking corporate projects.
- 74.2 Participation in NCA approved learning and development programs will be in paid time.

## **75 Professional qualifications**

- 75.1 The NCA will reimburse or pay for the reasonable costs of an employee's membership of professional associations, accreditation and/or registration fees, including required maintenance, where the NCA considers it is necessary for the employee to perform their role.

## Section 9: Travel and location-based conditions

### 76 Domestic and International Travel

#### *Accommodation*

- 76.1 An employee who is required to be away overnight from the Normal Work Location on official business will have the costs of hotel/motel accommodation (inclusive of government taxes and charges) met up to a maximum amount per night. The applicable allowance rate payable per night will be that determined by the Australian Taxation Office as a reasonable amount for the locality visited.
- 76.2 The Chief Executive may, by prior written approval, approve reimbursement of any reasonable additional accommodation costs.
- 76.3 Employees are required to take advantage of special government discount rates for accommodation and/or other commercial suppliers who are able to obtain accommodation at lower than the advertised room rate when booking overnight accommodation.

#### *Reimbursement of Travel Expenses*

- 76.4 An employee who is required to be away from the ACT region (i.e., more 50 kms from the ACT) on official business will be reimbursed for expenditure as determined by the Australian Taxation Office as a reasonable amount for the locality visited for the employee as follows:
- a) incidental expenses;
  - b) breakfast where the employee is away from 6.00am to 8.00am;
  - c) lunch where the employee is away from 12.00 midday to 2.00pm; and
  - d) dinner where the employee is away from 6.00pm to 8.00pm.

### 77 Class of Travel

- 77.1 Where an employee is required to travel by air on official business the usual class of travel shall be economy class unless the Chief Executive approves a higher class of fare.

### 78 Recognition of Travel Time

- 78.1 Where an employee undertakes travel on official business, the travel time will be recognised as work time.
- 78.2 Travel time will not be paid as overtime.

### 79 Relocation assistance

- 79.1 Where an existing employee is required to relocate at the request of the NCA (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.
- 79.2 Where an employee is required to relocate on engagement with the NCA, the employee will be provided with financial relocation assistance.

79.3 Reasonable expenses associated with the relocation include:

- a) the cost of transport of the employee, their dependents and partner by the most economical means;
- b) removal expenses, namely the reimbursement of reasonable incurred costs of the removal of furniture and household effects of the employee, dependants, and partner;
- c) the reimbursement of the cost of the insurance premium based on a reasonable replacement value; and
- d) the reasonably incurred expenses in kennelling and transport of pets, up to the amount specified in the APS Award.

79.4 Additional relocation assistance may be considered by the Chief Executive's discretion.

# Section 10: Consultation, representation, and dispute resolution

## 80 Consultation

### *Principles*

- 80.1 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.
- 80.2 The NCA recognises:
- a) the importance of inclusive and respectful consultative arrangements;
  - b) employees and the relevant union(s) should have a genuine opportunity to influence decisions;
  - c) the nature and extent of consultation will vary depending on the proposed change and the likely impact on employees. Consultation on agency policies may occur over at least 2 weeks, whereas a major change is likely to require a more extensive consultation process;
  - d) consultation with employees and relevant unions(s) on workplace matters that significantly affect or materially impact them is sound management practice; and
  - e) the benefits of employee and union involvement and the right of employees to be represented by their union.
- 80.3 Genuine and effective consultation involves:
- a) providing employees and the relevant union(s) with a genuine opportunity to influence the decision prior to a decision being made;
  - b) providing all relevant information to employees and the relevant union(s) in a timely manner to support consideration of the issues;
  - c) considering feedback from employees and the relevant union(s) in the decision-making process; and
  - d) 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*

- 80.4 Consultation is required in relation to:
- a) changes to work practices which materially alter how an employee carries out their work;
  - b) changes to or the introduction of policies or guidelines relevant to workplace matters (unless the changes are minor or procedural);
  - c) major change that is likely to have a significant effect on employees;
  - d) implementation of decisions that significantly affect employees;
  - e) changes to employees' regular roster or ordinary hours of work (subject to any other relevant provisions in this agreement); and
  - f) other workplace matters that are likely to significantly or materially impact employees.



80.5 The NCA, 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 agency. In these circumstances, consultation regarding the implementation of the decision will occur as early as is reasonably practicable.

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

80.6 This clause applies if the NCA:

- a) 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
- b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

*Representation*

80.7 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.

80.8 The NCA must recognise the representative if:

- a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- b) the employee or employees advise the employer of the identity of the representative.

*Major change*

80.9 In this clause, a major change is **likely to have a significant effect on employees** if it results in, for example:

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

80.10 The following additional consultation requirements in clauses 80.11 to 80.17 apply to a proposal to introduce a major change referred to in clause 80.9.

80.11 Consultation with employees and the relevant union(s) and/or recognised representatives will occur prior to a decision being made, subject to clause 80.5.

80.12 Where practicable, an NCA 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.

80.13 The NCA must notify employees and relevant union(s) and/or recognised representatives of the proposal to introduce the major change as soon as practicable.

80.14 As soon as practicable after proposing the change, or notifying of the change in circumstances described at clause 80.5, the NCA must:

- a) discuss with affected employees and relevant union(s) and/or other recognised representatives:
  - i) the proposed change:
  - ii) the effect the proposed change is likely to have on the employees; and
  - iii) proposed measures to avert or mitigate the adverse effect of the proposed change on the employees; and
- b) for the purposes of the discussion – provide, in writing, to employees and the relevant union(s) and/or other recognised representatives:
  - i) all relevant information about the proposed change, including the nature of the change proposed; and
  - ii) information about the expected effects of the proposed change on the employees; and
  - iii) any other matters likely to affect the employees.

80.15 The NCA 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.

80.16 However, the NCA is not required to disclose confidential or commercially sensitive information to employees and the relevant union(s) and/or other recognised representatives.

80.17 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 NCA, the requirements set out in clauses 80.11 to 80.15 are taken not to apply.

*Change to regular roster or ordinary hours of work*

80.18 The following additional consultation requirements in clauses 80.19 to 80.21 apply to a proposal to introduce a change referred to in clause 80.4(e).

80.19 The NCA must notify affected employees and the relevant union(s) and/or other recognised representatives of the proposed change.

80.20 As soon as practicable after proposing to introduce the change, the NCA must:

- a) discuss with employees and the relevant union(s) and/or other recognised representatives:
  - i) the proposed introduction of the change; and
- b) for the purposes of the discussion – provide to the employees and relevant union(s) and/or other recognised representatives:
  - i) all relevant information about the proposed change, including the nature of the proposed change; and
  - ii) information about what the employer reasonably believes will be the effects of the proposed change on the employees; and
  - iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and
- c) invite 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 NCA is not required to disclose confidential or commercially sensitive information to the relevant employees and the relevant union(s) and/or other recognised representatives.

- 80.21 The NCA 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*

- 80.22 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.

## **81 Agency consultative committee**

- 81.1 The Chief Executive may establish an agency consultative committee to discuss relevant workplace matters.
- 81.2 NCA 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.

## **82 APS consultative committee**

- 82.1 The Chief Executive 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.

## **83 Dispute resolution**

- 83.1 If a dispute relates to:
- a) a matter arising under the agreement; or
  - b) the NES;
- this term sets out procedures to settle the dispute.
- 83.2 An employee or union who is covered by this agreement may initiate and/or be a party to a dispute under this term.
- 83.3 The NCA and 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. All parties and their representatives must act in good faith in the resolution of disputes.
- 83.4 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 or endeavour to resolve the dispute through alternative dispute resolution methods. Parties will give genuine consideration to proposals to resolve the dispute.
- 83.5 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 83.4 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
- 83.6 The Fair Work Commission may deal with the dispute in 2 stages:
- a) the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
  - b) if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:

- i) arbitrate the dispute; and
- ii) make a determination that is binding on the parties.

*Note: If 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.*

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

- a) an employee must continue to perform their work as they would normally in accordance with established custom and practice at the NCA that existed immediately prior to the dispute arising unless they have a reasonable concern about an imminent risk to their health or safety; and
- b) subject to 83.7(a), an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
  - i) the work is not safe; or
  - ii) applicable work health and safety legislation would not permit the work to be performed; or
  - iii) the work is not appropriate for the employee to perform; or
  - iv) there are other reasonable grounds for the employee to refuse to comply with the direction.

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

83.9 Any disputes arising under the *National Capital Authority Enterprise Agreement 2018-2021* or the NES that were formally notified under clause L2 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*

83.10 Where the provisions of clauses 83.1 to 83.5 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 83.2, 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 83.5.

## **84 Internal Review of Employment Actions**

84.1 For the purposes of this clause, 'action' includes a refusal or failure to act.

84.2 Disputes arising in relation to employment actions within the NCA that are not disputes about the matters referred to in clause 81.1 (which are to be managed in accordance with clause 81) or disputes about termination of employment (which are addressed in clause 83) should be resolved, as far as possible, at the workplace by:

- a) promptly addressing issues as they arise with appropriate personnel;
- b) discussing issues in an open and honest way but without disclosing confidential or personal information unless that is required;

- c) seeking to resolve issues wherever possible without recourse to more formal mechanisms available under section 33 of the PS Act and Part 4 of the *Public Service Regulations 2023*; and
- d) ensuring procedural fairness applies to internal review processes.

## **85 Review of Decisions to Terminate Employment**

- 85.1 The sole and exhaustive rights and remedies of an employee in relation to termination of employment are those that the employee has under:
- a) Part 3.2 of Chapter 3 and Part 6.4 of Chapter 6 the FW Act;
  - b) other Commonwealth laws (including the Constitution and *Administrative Decisions (Judicial Review) Act 1977*); and
  - c) at common law.
- 85.2 Termination of, or a decision to terminate employment, cannot be reviewed under the procedures for preventing and settling disputes or the Internal Review of Employment Actions provisions in this Agreement.
- 85.3 Nothing in this Agreement prevents the Chief Executive from terminating the employment of an employee for serious misconduct, without further payment or payment in lieu, in accordance with section 123(1)(b) the FW Act, subject to compliance with the procedures established by the Chief Executive for determining whether the employee has breached the Code of Conduct under section 15 of the PS Act.

## **86 Delegates' rights**

- 86.1 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 agency.
- 86.2 The role of union delegates is to be respected and supported.
- 86.3 The NCA and union delegates will work together respectfully and collaboratively.
- Supporting the role of union delegates*
- 86.4 The NCA respects the role of union delegates to:
- a) provide information, consult with, and seek feedback from employees in the workplace-on-workplace matters;
  - b) consult with other delegates and union officials, and get advice and assistance from union officials;
  - c) represent the interests of members to the employer and industrial tribunals; and
  - d) represent members at relevant union forums, consultative committees or bargaining.
- 86.5 The NCA 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.
- 86.6 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.

- 86.7 To support the role of union delegates, the NCA will, subject to legislative and operational requirements, including privacy and security requirements:
- a) provide union delegates with reasonable access to agency facilities and resources, including for paid or unpaid meetings between employees and their unions and to communicate with union officials;
  - b) advise union delegates and other union officials of the agency facilities and resources available for their use, which may include telephone, photocopying, internet, and email;
  - c) allow reasonable official union communication appropriate to the agency 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 an agency vetoing reasonable communications;
  - d) provide access to new employees as part of induction; and
  - e) provide reasonable access to union delegates to attend appropriate paid time training in workplace relations matters, during normal working hours.
- 86.8 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 NCA before speaking publicly in that capacity, subject to the APS Code of Conduct and legislative requirements.

## Section 11: Separation and retention

### 87 Resignation

- 87.1 An employee may resign from their employment by giving the Chief Executive at least 14 calendar days' notice.
- 87.2 At the instigation of the Chief Executive, 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.
- 87.3 The Chief Executive has the discretion to agree to a shorter period of notice or waive the requirement to give notice.

### 88 Payment on Separation

- 88.1 Payment in lieu of unused annual and long service leave credits (where applicable) will be made to an employee on separation from the APS unless their new employer allows the employee to transfer accrued leave credits.
- 88.2 Where an employee ceases employment with the NCA they are not entitled to a payout of any accumulated flextime credit but are entitled to a payout of any fixed daily hours credit.

### 89 Payment on death of an employee

- 89.1 When an employee dies, or the Chief Executive has directed that an employee is presumed to have died on a particular date, subject to any legal requirements, the Chief Executive 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.

### 90 Redeployment, retraining, redundancy

#### *Excess Employees*

- 90.1 The provisions of this part will apply to excess employees.
- 90.2 These provisions do not apply to:
- a) ongoing employees who are on probation; or
  - b) non-ongoing employees
  - c) where fifteen (15) or more employees are likely to be declared excess, the Chief Executive will comply with the provisions of the relevant sections of the Fair Work Act.
- 90.3 An employee may be an excess employee if:
- a) the employee is in a classification of employees employed by the NCA which has a greater number of employees than is necessary for the efficient and economical operations of the NCA;

- b) the services of the employee cannot be used effectively because of technological or other changes in work methods or changes in the nature, extent, or organisation of the NCA's functions; or
- c) where the duties usually performed by the employee are to be performed in a different locality, the employee is not willing to perform duties at the locality, and the Chief Executive has determined that these provisions will apply to that employee.

90.4 For the purposes of clause 90.3, "different locality" means a location other than within the Australian Capital Territory.

#### *Consultation*

90.5 When the Chief Executive believes an employee may become excess, the Chief Executive will hold discussions with the employee to advise him or her of the reasons why they may become excess and to consider:

- a) measures that could be taken to resolve the situation, including redeployment opportunities for the employee at or below their classification;
- b) referral to a service provider approved by the Chief Executive to provide career planning and other appropriate assistance; and
- c) whether voluntary retrenchment may be appropriate.

90.6 Where the employee nominates a representative, the Chief Executive will hold the discussions with the employee's representative.

90.7 The Chief Executive may, prior to the conclusion of these discussions, invite other employees who are not excess to express an interest in voluntary retrenchment, where their voluntary retrenchment would permit redeployment of employees who are in a redundancy situation.

90.8 The Chief Executive may:

- a) having held discussions referred to in clause 90.5; and
- b) unless the employee consents to a shorter period, not less than 4 weeks after advising the employee in accordance with clause 90.5 that they are likely to become excess,

advise the employee in writing that they are an excess employee.

#### *Voluntary Retrenchment*

90.9 Where an employee is advised that they are an excess employee in accordance with sub-clause 90.8, the Chief Executive may invite the employee to accept voluntary retrenchment.

90.10 Where the Chief Executive invites an excess employee to accept voluntary retrenchment, the employee will have 4 weeks in which to accept the offer.

90.11 Where the employee accepts the offer the Chief Executive will consider whether to proceed with the approval of the voluntary retrenchment but will not give notice of termination under section 29 of the PS Act on the grounds that the employee is excess to the requirements of the NCA before the end of the 4 weeks without the employee's agreement.

90.12 As soon as possible, within the 4 referred to in clause 90.10, an excess employee who is invited to accept voluntary retrenchment must be given information on:

- a) the amount of severance pay, pay in lieu of notice and unused leave credits;
- b) applicable superannuation balances, payments, and options; and
- c) information on taxation rules that may apply to the various payments.



90.13 The Chief Executive will reimburse an excess employee invited to accept voluntary retrenchment up to a total of \$1,151.00 for approved financial and taxation advice.

90.14 Only one offer of voluntary retrenchment will be made to an excess employee.

#### *Period of Notice*

90.15 Where the excess employee accepts voluntary retrenchment, the Chief Executive or Commissioner may retrench the employee by giving the required notice of termination under section 29 of the PS Act. The period of notice will be 4 weeks or 5 weeks for an employee over 45 years of age with at least 5 years of continuous service.

90.16 Where an employee's employment is terminated at the beginning of, or within, the notice period, they will receive payment in the way of salary in lieu of notice for the unexpired portion of the notice period.

#### *Severance Benefit*

90.17 An employee whose employment is terminated under section 29 of the PS Act on the grounds that the employee is excess to the requirements of the NCA following their agreement to be voluntarily retrenched is entitled to be paid a severance benefit calculated in accordance with Attachment 3.

#### *Accelerated Separation Option and Additional Payment*

90.18 Where the Chief Executive invites an excess employee to accept voluntary retrenchment, the Chief Executive may also invite him or her to accept accelerated separation.

90.19 This option provides, in addition to the severance benefit, payment of a maximum of 4 weeks' salary in lieu of the consideration period referred to in clause 90.10 where the excess employee agrees to termination of employment, and the employment is terminated within 14 days of receiving the offer of voluntary retrenchment.

90.20 Any payment to which the employee is entitled will be equal to the balance of the 4-week period referred to in clause 90.10.

#### *Involuntary Retrenchment*

90.21 Subject to clauses 90.24 to 90.32, the Chief Executive, under section 29 of the PS Act may terminate the employment of an excess employee who has not agreed to voluntary retrenchment and has not been redeployed on an ongoing basis.

90.22 The Chief Executive will not terminate the employment of an excess employee if they have not been invited to accept an offer of voluntary retrenchment or has elected to accept an offer of voluntary retrenchment, but the Chief Executive has refused to approve it.

90.23 Where an excess employee does not accept an offer of voluntary retrenchment or the accelerated separation option within 4 weeks of the offer being made, the following arrangements will apply.

#### *Redeployment*

90.24 An excess employee will be entitled to a period of retention in which they will have access to the services of a provider approved by the Chief Executive to the value of \$2,302.00 in order to assist them to be redeployed. The employee is also entitled to funding for approved financial and taxation advice up to a total value of \$1,151.00 less any amount already paid in accordance with clause 90.13.

90.25 The Chief Executive will take all reasonable steps, consistent with the NCA's interests in efficient administration, to assign the excess employee new duties within the NCA at their substantive classification.

90.26 After taking reasonable steps to find the excess employee alternative employment at the same classification, the Chief Executive may, with 4 weeks' notice, allocate the excess employee to a lower classification position.

90.27 Where an employee is reduced in classification before the end of the retention period, they will receive income maintenance payments for the remainder of the retention period.

#### *Retention Period*

90.28 Unless the employee agrees, an excess employee will not be involuntarily retrenched until the following retention periods have elapsed:

- a) 13 months where they have 20 or more years of service or are over 45 years of age;  
or
- b) 7 months for all other cases.

90.29 The retention period will commence on the day that the Chief Executive advises the employee in writing, in accordance with clause 90.8, that they are an excess employee.

90.30 The retention period will be extended by any periods of approved personal leave taken during the retention period.

90.31 Consistent with the NES, the above retention periods will be reduced by the relevant redundancy pay entitlement under the NES applicable to the employee as at the expiration of the retention period.

90.32 Where:

- a) an excess employee has been receiving redeployment assistance from a service provider for 2 months;
- b) the service provider advises that there is no reasonable prospect of redeployment in the APS; and
- c) the Chief Executive is satisfied that there is insufficient productive work available for the excess employee during the remainder of their retention period,

the Chief Executive may, with the agreement of the employee, terminate their employment under section 29 of the PS Act and pay the balance of the retention period (adjusted for the NES under clause 90.30) as a lump sum. This payment will be taken to include the payment in lieu of notice of termination of employment. An employee whose employment is terminated in these circumstances will also be entitled to a redundancy payment in accordance with their NES entitlement. This payment will be taken to include the payment in lieu of notice of termination.

#### *Assistance*

90.33 An excess employee will be given assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment (where such expenses are not met by the prospective employer) and will be given reasonable time off work to attend job interviews.

# Attachment A – Base salaries

Table 1: Base Salaries

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Classification	Salary levels	As at 31 August 2023	From the later of commencement of the agreement or 14 March 2024 4.0%	From 13 March 2025 3.8%	From 12 March 2026 3.4%
Executive Level 2	EL2.7	\$159,328	\$165,701	\$171,998	\$177,846
	EL2.6	\$151,859	\$157,933	\$163,934	\$169,508
	EL2.5	\$144,391	\$150,167	\$155,873	\$161,173
	EL2.4	\$138,886	\$144,441	\$149,930	\$155,028
	EL2.3	\$136,560	\$142,022	\$147,419	\$152,431
	EL2.2	\$132,142	\$137,428	\$142,650	\$147,500
	EL2.1	\$124,046	\$129,008	\$133,910	\$140,675
Executive Level 1	EL1.6	<i>Not active</i>	<i>Not active</i>	\$125,832	\$132,713
	EL1.5	\$115,762	\$120,392	\$124,967	\$130,110
	EL1.4	\$113,272	\$117,803	\$122,280	\$129,216
	EL1.3	\$112,027	\$116,508	\$120,935	\$126,438
	EL1.2	\$109,124	\$113,489	\$117,802	\$125,047
	EL1.1	\$105,092	\$110,115	\$115,443	\$121,755
APS Level 6	APS6.6	<i>Not active</i>	<i>Not active</i>	<i>Not active</i>	\$111,701
	APS6.5	\$99,579	\$103,562	\$107,497	\$111,152
	APS6.4	\$94,601	\$98,385	\$102,124	\$105,596
	APS6.3	\$90,551	\$94,173	\$97,752	\$101,076
	APS6.2	\$87,178	\$90,665	\$94,563	\$99,734
	APS6.1	\$83,007	\$90,199	<i>Not active</i>	<i>Not active</i>
APS Level 5	APS5.5	<i>Not active</i>	<i>Not active</i>	\$91,809	\$96,829
	APS5.4	<i>Not active</i>	\$87,572	\$90,900	\$93,991
	APS5.3	\$80,285	\$83,496	\$86,669	\$89,616
	APS5.2	\$77,394	\$80,490	\$84,228	\$88,834
	APS5.1	\$75,271	\$80,341	<i>Not active</i>	<i>Not active</i>
APS Level 4	APS4.6	<i>Not active</i>	<i>Not active</i>	\$81,775	\$86,246
	APS4.5	\$74,063	\$78,001	\$80,965	\$83,718
	APS4.4	\$73,184	\$76,111	\$79,003	\$81,689
	APS4.3	\$71,051	\$73,893	\$76,701	\$79,309
	APS4.2	\$69,273	\$72,044	\$75,022	\$79,125
	APS4.1	\$67,519	\$71,560	<i>Not active</i>	<i>Not active</i>
APS Level 3	APS3.6	<i>Not active</i>	<i>Not active</i>	\$72,837	\$76,820
	APS3.5	\$65,972	\$69,476	\$72,116	\$74,568
	APS3.4	\$65,268	\$67,879	\$70,458	\$72,854
	APS3.3	\$63,368	\$65,903	\$68,407	\$70,733
	APS3.2	\$61,769	\$64,240	\$66,823	\$70,477
	APS3.1	\$60,236	\$63,740	<i>Not active</i>	<i>Not active</i>
APS Level 2	APS2.7	<i>Not active</i>	<i>Not active</i>	<i>Not active</i>	\$68,425
	APS2.6	<i>Not active</i>	\$61,883	\$64,877	\$67,083
	APS2.5	\$58,878	\$61,233	\$63,987	\$65,721
	APS2.4	\$57,164	\$59,451	\$63,560	\$63,808
	APS2.3	\$55,769	\$58,097	\$61,710	\$62,775
	APS2.2	\$54,358	\$56,774	\$59,521	<i>Not active</i>
	APS2.1	\$52,962	<i>Not active</i>	<i>Not active</i>	<i>Not active</i>
APS Level 1	APS1.5	<i>Not active</i>	\$55,120	\$57,787	\$60,946
	APS1.4	\$50,340	\$53,560	\$56,151	\$59,222
	APS1.3	\$48,862	\$52,000	\$54,516	\$57,497
	APS1.2	\$48,862	<i>Not active</i>	<i>Not active</i>	<i>Not active</i>
	APS1.1	\$48,862	<i>Not active</i>	<i>Not active</i>	<i>Not active</i>

# 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](http://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 clause 8 and 9 (*Assessment of capacity*).

# Attachment C – Calculation of Severance Benefit

## *Severance Benefit*

1. An excess employee who accepts a voluntarily retrenchment and whose employment is terminated by the Chief Executive under section 29 of the PS Act on the grounds that they are excess to the requirements of the NCA is entitled to be paid a sum equal to two weeks' salary for each completed year of continuous service plus a pro-rata payment for completed months of service since the last completed year of service, subject to any minimum amount the employee is entitled to under the National Employment Standards.
2. The minimum sum payable will be 4 weeks' salary and the maximum will be 48 weeks' salary.
3. The severance benefit will be calculated on a pro rata basis for any period where an employee has worked part-time hours during their period of service and has less than 24 years' full-time service.

## *Service for Severance Pay Purposes*

4. Service for severance pay purposes means:
  - a) service in the NCA;
  - b) 'Government service' as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
  - c) service with the Commonwealth (other than with a Joint Commonwealth-State body corporate) in which the Commonwealth has a controlling interest which is recognised for long service leave purposes;
  - d) service with the Australian Defence Forces;
  - e) APS service immediately preceding deemed resignation under repealed section 49 of the *Public Service Act 1922*, if the service has not previously been recognised for severance pay purposes; and
  - f) service in another organisation where:
    - i) an employee moved from the APS to that organisation with a transfer of function; or
    - ii) an employee engaged by that organisation on work within a function is engaged in the APS because of the transfer of that function to the APS; and
    - iii) such service is recognised for long service leave purposes.
5. For earlier periods of service to count there must be no breaks between the periods of service, except where:
  - a) the break in service is less than 1 month and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer; or
  - b) 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 repealed section 49 of the *Public Service Act 1922*.

## *Service that does not count for Severance Pay Purposes*

6. Any period of service that ceased:
  - a) through termination on the following grounds:

- i) the employee lacks, or has lost, an essential qualification for performing their duties;
  - ii) non-performance, or unsatisfactory performance, of duties;
  - iii) inability to perform duties because of physical or mental incapacity;
  - iv) failure to satisfactorily complete an entry level training course;
  - v) failure to meet a condition imposed under section 22(6) of the PS Act; or
  - vi) a breach of the APS Code of Conduct; or
- b) on a ground equivalent to a ground listed in clause 6(a) above under the repealed *Public Service Act 1922*; or
  - c) through voluntary retirement at or above the minimum retiring age applicable to the employee; or
  - d) with the payment of a redundancy benefit or similar payment or an employer financed retirement benefit will not count as service for severance pay purposes.
7. Absences from work which do not count as service for long service leave purposes will not count as service for severance pay purposes.

*Rate of Payment*

8. For the purpose of calculating any payment under clause 1, salary will include:
- a) the employee's salary at their substantive work value level; or
  - b) the salary of the higher work value level, where the employee has been working 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 retirement; and
  - c) other allowances in the nature of salary which are paid during periods of recreation 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.