

**NATIONAL CAPITAL AUTHORITY
ENTERPRISE AGREEMENT 2018 – 2021**

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PART A FORMAL ACCEPTANCE OF THE AGREEMENT AND SIGNATORIES

A1 Employer

Signed  Dated: 20 / 12 / 2017

Andrew Smith
Acting Chief Executive
National Capital Authority
Treasury Building, King Edward Terrace, Parkes ACT 2600

A2 Bargaining Representative

Signed  Dated: 19 / 12 / 2017

Beth Vincent-Fietsch, Deputy Secretary
Signed for and on behalf of the Community and Public Sector Union (CPSU) as
a bargaining representative
Level 1, 40 Brisbane Avenue, Barton ACT 2600

A3 Bargaining Representative

Signed  Dated: 20 / 12 / 2017

Michelle Jeffrey
Bargaining Representative
c/- National Capital Authority
Treasury Building, King Edward Terrace, Parkes ACT 2600

A4 Bargaining Representative

Signed  Dated: 20 / 12 / 2017

Anna Wong
Bargaining Representative
c/- National Capital Authority
Treasury Building, King Edward Terrace, Parkes ACT 2600

PART B TECHNICAL AND GENERAL ISSUES

B1 Type of Agreement

B1.1 This is an Enterprise Agreement under section 172 of the *Fair Work Act 2009*.

B2 Title

B2.1 This Agreement shall be known as the *National Capital Authority Enterprise Agreement 2018-2021*.

B3 Objectives

B3.1 The objectives of this Agreement are to set out the terms and conditions of employment for NCA employees covered by the Agreement.

B4 Parties Covered by the Agreement

B4.1 In accordance with section 53 of the *Fair Work Act*, this Agreement covers:

- (a) the Chief Executive of the National Capital Authority, for and on behalf of the Commonwealth of Australia as the employer; and
- (b) all employees of the NCA not excluded by sub-clause B5.2.

B5 Coverage

B5.1 Subject to sub-clause B5.2, this Agreement covers all NCA employees engaged under the *Public Service Act 1999*.

B5.2 For this Agreement employees of the NCA do not include:

- employees substantively performing duties in the Senior Executive Service;
- an employee who is a party to an Individual Agreement-Based Transitional Instrument (formerly known Australian Workplace Agreement) made before the date of this Agreement; or
- an employee whose salary is not paid or funded by the NCA.

B6 Commencement and Duration

B6.1 This Agreement will commence operation seven (7) calendar days after approval by Fair Work Commission (the commencement date).

B6.2 This Agreement nominally expires three (3) years after the commencement date.

B7 Delegation

B7.1 The Chief Executive may, in writing, delegate any of the Chief Executive's powers or functions under this Agreement (other than under this clause).

B8 Policies, guidelines and further information

B8.1 Any policies, guidelines or further information referred to in this Agreement are not incorporated into and do not form part of this Agreement. Policies, guidelines and further information are in place to support the operation of this Agreement and may be varied from time to time.

B8.2 If there is any inconsistency between the policies, guidelines, further information, and the express terms of this Agreement, the express terms of the Agreement will prevail to the extent of any inconsistency.

PART C REMUNERATION

C1 Annual Productivity Salary Increase

C1.1 In recognition of their commitment to this Agreement and associated productivity initiatives, employees will, subject to clause C2, receive a productivity salary increase on commencement of the Agreement, on the day following twelve (12) months from commencement, and on the day following eighteen (18) months from commencement.

C1.2 The rate of productivity salary increases are:

- On commencement of the Agreement 3.0%
- Twelve (12) months from commencement 2.0%
- Eighteen (18) months from commencement 1.0%

C1.3 There is no qualifying period in relation to an employee's eligibility to receive a productivity salary increase.

C2 Salary Rates and Pay Points

C2.1 The salary ranges and pay points applying from the commencement of this Agreement are specified in Appendix 1.

C2.2 On commencement of this Agreement, an employee will move to the pay point equivalent to their current pay point as specified in Appendix 1.

C2.3 Clause C3 and the NCA's Performance Management and Appraisal Scheme include rules about eligibility for Pay Point Advancement from 1 July each year, including the qualifying period.

C3 Pay Point Advancement

C3.1 An employee will advance by one pay point at his or her substantive classification from 1 July each year where the employee:

- (a) is not already at the top pay point for his or her substantive classification;
- (b) received an overall rating of at least 3 – "Fully Effective" in his or her end of year Performance Assessment in accordance with the Performance Management and Appraisal Scheme; and

- (c) has been attending the workplace (ie not on leave of any type) at the same pay point or a higher pay point for at least nine (9) months during the 12 months immediately preceding 1 July.

C3.2 An employee on temporary assignment at a higher classification at 30 June will advance by one pay point within that higher classification from 1 July each year where the employee:

- (a) is not already at the top pay point for that higher classification;
- (b) received an overall rating of at least 3 – “Fully Effective” in his or her end of year Performance Assessment in accordance with the Performance Management and Appraisal Scheme; and
- (c) has been attending the workplace (ie not on leave of any type) at the same pay point or a higher pay point for at least nine (9) months during the 12 months immediately preceding 1 July.

C3.3 Where an employee receives an overall rating of 2 – “Requires Development” or 1 – “Unsatisfactory” in his or her end of year performance assessment, the employee will be ineligible for Pay Point Advancement until such time as his or her performance is rated at least as 3 – “Fully Effective”. In this case, increases will not be backdated.

C3.4 Notwithstanding the provisions of this clause, the Chief Executive may advance an employee at any time by one or more pay points where the Chief Executive considers the employee’s performance has been of a standard that justifies the Pay Point Advancement or accelerated advancement.

C4 Individual Flexibility Arrangements

C4.1 The Chief Executive and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of this Agreement if:

- (a) the arrangement deals with one (1) or more of the following matters:
 - (i) arrangements about when work is performed;
 - (ii) overtime rates;
 - (iii) penalty rates;
 - (iv) allowances;
 - (v) remuneration; and/or
 - (vi) leave; and
- (b) the arrangement meets the genuine needs of the NCA and employee in relation to one (1) or more of the matters mentioned in C4.1(a); and
- (c) the arrangement is genuinely agreed to by the Chief Executive and the employee.

C4.2 The Chief Executive must ensure that the terms of the individual flexibility arrangement:

- (a) are about permitted matters under section 172 of the *Fair Work Act 2009*;
- (b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
- (c) result in the employee being better off overall than the employee would be if no arrangement was made.

C4.3 The Chief Executive 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 Chief Executive and employee (and if the employee is under 18 years of age, signed by a parent or guardian of the employee);
- (d) includes details of:
 - (i) the terms of this Agreement that will be varied by the arrangement;
 - (ii) how the arrangement will vary the effect of those terms; and
 - (iii) how the employee will be better off overall in relation to those terms and conditions of his or her employment as a result of the arrangement; and
- (e) states the day on which the arrangement commences and, where applicable, when the arrangement ceases.

C4.4 The Chief Executive must give the employee a copy of the individual flexibility arrangement within fourteen (14) calendar days after it is agreed to.

C4.5 The Chief Executive or the employee may terminate the individual flexibility arrangement:

- (a) by giving no more than twenty-eight (28) calendar days written notice to the other party to the arrangement; or
- (b) if the Chief Executive and employee agree in writing — at any time.

C5 Supported Salary for Employees with a Disability

C5.1 The Chief Executive may engage a person with a disability that meets the impairment criteria for the Disability Support Pension (DSP), and pay a supported salary determined in accordance with the procedures specified in Appendix 3.

C6 Salary on Commencement or Promotion

C6.1 Salary on commencement with the NCA or on promotion to a higher classification will usually be at the first pay point for that classification.

C6.2 Notwithstanding sub-clause C6.1, the Chief Executive may authorise a higher initial pay point having regard to the employee's experience, qualifications, skills, work level standards, the nature of the duties to be assigned to the employee, or his or her previous salary.

C6.3 Where, at the time of commencement, an employee's salary is set at an incorrect salary point within the applicable salary range, the Chief Executive may determine in writing the payment of the employee's salary at the correct salary point.

C6.4 At the discretion of the Chief Executive, an employee moving to the NCA whose salary in their previous agency (current salary) exceeds the current maximum salary of the relevant classification under this Agreement, may have their current salary maintained until such time as their salary is absorbed by NCA salary increases.

C7 Salary on Temporary Assignment within the NCA

C7.1 Where an employee is temporarily assigned new duties with a higher classification for a continuous period of more than ten (10) working days, or a shorter period, which is then extended beyond ten (10) working days, his or her salary will be adjusted for the period as determined by the Chief Executive having regard to:

- (a) the salary payable to the employee in respect of the duties they performed before the new duties were assigned or they were moved;
- (b) the base salary for the higher classification;
- (c) the experience, qualifications and skills of the employee;
- (d) work level standards;
- (e) the nature of the duties which are to be assigned to the employee; and
- (f) the proportion of new duties with a higher classification compared to the duties at the current classification.

C7.2 Where the initial period is continuous for more than ten (10) working days, payment will commence immediately. Where a shorter period is extended to beyond ten (10) working days, payment will be made once the period exceeds ten (10) working days and will be backdated to the date of commencement of the temporary assignment.

C7.3 For the purposes of sub-clause C7.1 the minimum salary point determined by the Chief Executive must be from a range in a higher classification.

C7.4 Where an employee is required to work temporarily in a Senior Executive Service (SES) role, an appropriate salary and other benefits will be determined by the Chief Executive for the period of temporary assignment.

C8 Salary on Temporary Assignment to the NCA from another APS Agency

C8.1 Where an employee from another APS agency is temporarily assigned duties in the NCA he or she will be paid at the salary point determined by the Chief Executive after considering whether any salary maintenance should apply in accordance with sub-clause C6.4.

C9 Salary on Reduction to a Lower Classification

C9.1 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.

C9.2 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.

C10 Payment of Salary

C10.1 Employees will be paid fortnightly using the following formula:

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

C10.2 Each employee's fortnightly salary will be paid in arrears by electronic funds transfer into an Australian financial institution account nominated by the employee allowing for reasonable disbursements or deductions at the request of the employee.

C11 Rate of salary – Irregular or Intermittent employees

C11.1 Irregular or intermittent non-ongoing employees shall be paid a 20 per cent loading on their salary in lieu of public holidays not worked and all paid leave entitlements except long service leave.

C11.2 An employee paid a 20 per cent loading in accordance with sub-clause C11.1 shall be regarded as a casual employee for the purposes of the Fair Work Act and is not entitled to any payment in relation to any form of leave except long service leave under this Agreement.

C11.3 An employee paid a 20 per cent loading in accordance with sub-clause C11.1 is not entitled to any payment for public holidays not worked or for the Christmas close-down period unless they attend work.

C11.4 APS Level 1 irregular or intermittent employees will be paid at the higher rate of the following rates, as varied from time to time:

- (a) the rate applicable pursuant to clauses 6.5(c) and 10.3, and Schedules A6, of the *Australian Public Service Enterprise Award 2015*; or
- (b) the rate applicable pursuant to clause C11 and Appendix 1 of the Agreement.

C12 Rate of salary – Regular Part-time employment

C12.1 Unless agreed otherwise between the employee and the Chief Executive where an employee is employed for an agreed number of regular hours per week which is less than the ordinary hours of duty specified in this Agreement, the employee shall receive, on a pro rata basis, equivalent pay and conditions to those of a full-time employee. Long service leave for part-time service will be provided in accordance with the *Long Services Leave (Commonwealth Employees) Act 1976*.

C12.2 In relation to expense-related allowances, an employee to whom sub-clause C12.1 applies will receive entitlements specified in the relevant clauses of this Agreement.

C13 Salary Packaging

C13.1 Employees may access salary packaging and may package up to one hundred per cent of salary.

C13.2 Employees are encouraged to seek independent financial advice prior to entering into a salary sacrificing arrangement.

C13.3 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.

C13.4 Any fringe benefits tax incurred in relation to an individual employee as a result of his or her salary packaging arrangement will be met by the individual employee.

C14 Employer Superannuation Contributions

C14.1 The NCA will make compulsory employer contributions as required by the applicable legislation and fund requirements.

C14.2 Employer contributions to PSSap and other accumulation schemes will be at the rate of 15.4% calculated on the employee's fortnightly contribution salary [or ordinary time earnings]. Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements. This clause does not apply where a superannuation fund cannot accept employer superannuation contributions.

C14.3 Employer superannuation contributions will not be paid on behalf of employees during periods of unpaid leave that do not count as service, unless otherwise required under legislation.

C14.4 The Chief Executive may choose to limit superannuation choice to complying superannuation funds that allow employee and/or employer contributions to be paid through fortnightly electronic funds transfer using a file generated by the NCA's payroll system.

PART D ALLOWANCES AND TRAVEL EXPENSES

D1 Role Allowances

D1.1 An employee who is designated by the Chief Executive to undertake any of the following roles:

- (a) fire warden;
- (b) first aid officer;
- (c) health and safety representative under the *Occupational Health and Safety (Commonwealth Employment) Act 1991*; or
- (d) harassment contact officer,

will be paid an allowance of \$25 per pay period, pro rata to salary in each pay period.

D1.2 An allowance is paid through the payroll system and is subject to tax instalment deductions and will count for superannuation purposes in accordance with applicable fund rules. Allowances (other than Meal Allowance or expense-related allowances) will be paid on a pro-rata basis for part-time employees.

D2 Healthy Lifestyle Allowance

D2.1 The NCA is committed to providing eligible employees with assistance in maintaining a healthy lifestyle.

D2.2 The NCA will provide for the reimbursement of expenditure up to \$275 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.

D2.3 For the 2017-18 fringe benefit taxation year, the expenditure of up to \$275 in sub-clause E6.2 will be reduced by any previous re-imbursement paid to the employee in the 2017-18 fringe benefit taxation year as a Health Related Allowance under sub-clause E6.2 of the *National Capital Authority Enterprise Agreement 2011-2014*.

D2.4 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.

D2.5 To be eligible to receive the health related allowance an employee must have been employed with the NCA for a period of at least six (6) months consecutively preceding the expenditure which is claimed, not including any periods of unpaid leave or unauthorised absences.

D2.6 The re-imbursement will be paid to the employee's nominated bank account through electronic funds transfer and is not subject to tax instalment deductions.

D3 Motor Vehicle

D3.1 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 his or her own expense for official purposes. An employee is entitled to be reimbursed an amount equal to the relevant airfare or mileage allowance, whichever is the lesser amount.

D3.2 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.

D3.3 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.

D4 On-Call Duty and Allowances

D4.1 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 his or her ordinary hours of work. In this circumstance, the relevant employee will be eligible for an on-call allowance to a maximum of \$500 per calendar week (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 E8).

D4.2 The On-Call Allowance is only available to APS1-6 employees.

D4.3 Further information in relation to on-call duty and allowances can be found in the NCA On-Call Duty and Allowances Policy.

D5 Domestic Travel

Accommodation

D5.1 An employee who is required to be away overnight from the ACT region (ie more than 50kms from the ACT) on official business will have the costs of hotel/motel accommodation (inclusive of government taxes and charges) met up to a maximum of \$170 per night. The Chief Executive may, by prior written approval, approve reimbursement of any reasonable additional accommodation costs.

D5.2 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

D5.3 An employee who is required to be away from the ACT region (ie more 50 kms from the ACT) on official business will be reimbursed for expenditure for the employee as follows:

- (a) up to \$15 for incidental expenses;
- (b) up to \$30 for breakfast where the employee is away from 6.00am to 8.00am;
- (c) up to \$30 for lunch where the employee is away from 12.00 midday to 2.00pm; and
- (d) up to \$40 for dinner where the employee is away from 6.00pm to 8.00pm.

D6 Class of Travel

D6.1 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.

D7 Recognition of Travel Time

D7.1 Where an employee undertakes travel on official business, the travel time will be recognised as work time.

D7.2 Travel time will not be paid as overtime.

D8 Relocation Assistance

D8.1 The Chief Executive will determine the extent of any financial assistance offered to a person to relocate to work for the NCA upon:

- (a) engagement on an ongoing basis;
- (b) promotion or movement on an ongoing basis; or
- (c) temporary assignment which exceeds or is expected to exceed 12 months (or in some circumstances, a shorter period where the Chief Executive considers it appropriate).

PART E FLEXIBLE WORK ENVIRONMENT

E1 General

E1.1 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.

E1.2 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.

Recording Attendance

E1.3 Employees are required to record their daily attendance as advised by the NCA from time to time.

E2 Ordinary Hours of Work

E2.1 The ordinary hours of work are the basis for calculation of employees' annual salary, leave credits, and flextime credits or debits.

E2.2 Where employees work full-time, the ordinary hours of work are 7 hours 30 minutes per day, Monday to Friday.

E2.3 Where employees work part-time the ordinary hours of work are stated in their part-time work agreements.

E2.4 Employees may be required to work reasonable additional hours.

E2.5 Employees must not work more than five (5) hours without at least a 30 minute meal break.

E3 Working Outdoors

E3.1 An employee who works predominantly outdoors may elect to work his or her ordinary hours of work outside the flex bandwidth hours of 7.00am to 7.00pm, with the agreement of his or her supervisor.

E3.2 The hours worked under sub-clause E3.1 will not attract penalty or overtime payments.

E3.3 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.

E4 Flextime

E4.1 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) work on an irregular or intermittent basis.

E4.2 Where an employee and his or her 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.

E4.3 Where an employee is or will be above the maximum flex credit at the end of the settlement period under sub-clause E4.2, 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.

E4.4 Further information in relation to the operation of flextime can be found in the NCA Flextime Guidelines.

Definitions and concepts

E4.5 The following definitions and concepts apply to the NCA's flextime system:

- (a) **bandwidth** – the hours within which an employee may work his or her ordinary hours under the flextime system. The bandwidth hours are 7.00am to 7.00pm, Monday to Friday.
- (b) **settlement period** – a two (2) week period aligned with pay periods in each financial year used to reconcile employees' working hours under the flextime system.
- (c) **core hours** – the hours during which an employee must work under the flextime system unless he or she is on approved leave. Unless otherwise agreed between the employee and his or her 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 is stated in their part-time work agreements.
- (d) **flex credit** – a tally of the working hours an employee has worked in excess of his or her ordinary hours of work.
- (e) **maximum flex credit** – twenty (20) hours for full-time employees and a pro rata amount for part-time employees.
- (f) **flex debit** – a tally of the working hours an employee has worked that are less than his or her ordinary hours of work.
- (g) **maximum flex debit** – seven (7) hours thirty (30) minutes for full-time employees and a pro rata amount for part-time employees.

- (h) **flex leave** – any approved absence during core hours that is not a form of leave covered under Part F of this Agreement.
- (i) **standard day** – the standard day for a full-time employee is 8.30am to 5.00pm, Monday to Friday, with a one (1) hour lunch 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.

E5 Fixed Daily Hours

- E5.1 Employees may be required to work fixed daily hours for operational reasons.
- E5.2 Fixed daily hours do not apply to employees who work on an irregular or intermittent basis.
- E5.3 Where employees work fixed daily hours their starting and finishing times and meal breaks will be determined by their supervisor.
- E5.4 Fixed daily hours must be within 7.00am to 7.00pm, Monday to Sunday.
- E5.5 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 seven (7) calendar days in advance.
- E5.6 The average number of hours included in a roster must be equal to the employee's ordinary hours of work.
- E5.7 Changes to a roster may be made by an employee's supervisor:
 - (a) at any time up to seven (7) calendar days in advance;
 - (b) within seven (7) calendar days with the employee's agreement; or
 - (c) within seven (7) calendar days without the employee's agreement where the supervisor is unable to provide seven (7) calendar days' notice because of the illness or the unanticipated absence of another employee.
- E5.8 A full-time ongoing employee normally only rostered to work his or her ordinary hours of work on a weekday, will not be rostered to work on a weekend without his or her agreement.

Fixed daily hours credits

- E5.9 An employee may accumulate fixed daily hours credits where his or her supervisor:
 - (a) requires the employee to start up to one (1) hour earlier than his or her rostered start time or finish up to two (2) hours after his or her rostered finish time, but not later than 7.00pm; or
 - (b) agrees with the employee's request to start up to one (1) hour earlier than his or her rostered start time or finish up to (2) two hours after his or her rostered finish time, but not later than 7.00pm
- E5.10 The maximum fixed daily hours credit is 10 hours.

E5.11 Where an employee has a fixed daily hours credit, his or her rostered hours may be reduced by the amount of the credit, or part thereof, without loss of pay and the credit reduced accordingly.

E5.12 Where an employee has reached the maximum fixed daily hours credit, his or her rostered hours for the next available roster must be reduced by a sufficient amount to reduce his or her credit to below the maximum.

Penalty payments – employees working fixed daily hours

E5.13 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.

E5.14 An employee must be paid for a minimum of four (4) hours where required to work on a public holiday.

E6 Executive Level Employees' Working Hours

E6.1 An Executive Level employee may agree their actual hours of work with their supervisor, subject to operational requirements and in particular:

- (a) the employee's supervisor may require the employee to start work by no later than a nominated time or finish no earlier than a nominated time;
- (b) the employee must be at work on every weekday unless he or she is part-time, on an approved form of leave, or his or her supervisor has agreed to the employee having time off in recognition of additional hours the employee has worked; and
- (c) the employee works an average of no less than the employee's ordinary hours of duty.

E6.2 Executive Level employees may be required to work reasonable additional hours in order to achieve required outcomes. There will be no additional pay or overtime for any such additional hours.

E6.3 Where an Executive Level employee undertakes significant productive effort which involves working in excess of ordinary hours for sustained periods the supervisor, having regard to operational requirements, will grant reasonable Time-off in Lieu (TOIL) to recognise the additional effort by the employee, noting that TOIL is not recompensed on an hour for hour basis. Such absences do not need to be covered by official leave.

E7 Irregular or Intermittent Employees

- E7.1 Where an employee works on an irregular or intermittent basis, his or her working hours will be based on the NCA's requirements and may be changed with one (1) hour's notice.
- E7.2 The following penalty rates apply to employees working on an irregular or intermittent basis 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 – 150 per cent.
- E7.3 The penalty payments are based on the employee's hourly rate of pay including the 20 per cent loading.
- E7.4 The minimum period of engagement for an employee working on an irregular or intermittent basis will be three (3) hours.
- E7.5 An employee working on an irregular or intermittent basis will be entitled to unpaid carer's leave and unpaid compassionate leave in accordance with the conditions set out in the Fair Work Act, and long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

E8 Overtime

- E8.1 Overtime provisions only apply to employees at the APS Level 1 to Level 6.
- E8.2 An employee working under the flextime system is entitled to overtime payments where his or her 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 his or her ordinary hours of work where the employee has more than the maximum flex credits.
- E8.3 An employee working under fixed daily hours is entitled to overtime where his or her supervisor requires the employee to work:
- (a) outside the bandwidth hours;
 - (b) in excess of 10 hours in a day; or
 - (c) more than one (1) hour earlier than his or her rostered starting time or two (2) hours longer than his or her rostered finishing time for that day.
- E8.4 Where an employee is required to work overtime and he or she does not have more than the maximum flex credits, his or her supervisor may require the employee to work additional hours under the flextime system during bandwidth hours.
- E8.5 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.

E8.6 An employee who has a flex debit may elect to receive his or her overtime entitlements as time off in lieu to reduce or eliminate his or her flex debit.

E8.7 An employee and his or her 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.

E8.8 Time off in lieu agreed to under sub-clauses E8.6 and E8.7 shall accrue at overtime rates in accordance with sub-clause E8.5.

Meal allowance

E8.9 Employees are entitled to a meal allowance of \$30 where required to work more than two (2) hours of overtime on a working day, or four (4) hours overtime on a non-working day.

E8.10 Employees are entitled to a second meal allowance where required to work nine (9) hours overtime.

E8.11 To be eligible for payment of the meal allowance under sub-clause E8.9 and E8.10, employees must take an unpaid meal break of at least 30 minutes duration.

Emergency duty

E8.12 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.

E8.13 Where the employee works emergency duty, he or she must be paid overtime rates for all work undertaken plus reasonable travel time to and from work, subject to a minimum payment for two (2) hours.

Rest break

E8.14 An employee must have a break of at least eight (8) hours plus reasonable travelling time between finishing work on any day and next starting work.

E9 Part-time Work

E9.1 A part-time employee is an employee whose ordinary hours of work are less than 150 hours over a four (4) week period.

E9.2 Remuneration, leave and other conditions, including allowances (with the exception of expense-related allowances or reimbursements such as meal or motor vehicle allowance), will be calculated on a pro-rata basis.

E9.3 A part-time employee must work a minimum of three (3) hours on each day he or she works.

E9.4 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 standard hours for a full-time employee, a part-time employee shall be entitled to payment at the overtime rates set out in sub-clause E8.5.

E9.5 Further information in relation to part-time work can be found in the NCA Part-Time Work Guidelines.

PART F LEAVE

F1 General

F1.1 All existing accrued annual leave and personal leave credits of current NCA employees will be recognised and converted to annual leave and personal leave under this Agreement.

F2 Portability of Accrued Leave Entitlements

F2.1 Where an employee moves (including on promotion or for an agreed period) from another agency where they were an ongoing APS employee, the employee's unused accrued annual leave and personal/carer's leave (however described) will be transferred, provided there is no break in continuity of service.

F2.2 Where an employee is engaged as either an ongoing or non-ongoing APS employee 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 (however described) will be recognised.

F2.3 For the purposes of this clause:

- (a) 'APS employee' has the same meaning as the *Public Service Act 1999*; and
- (b) 'Parliamentary Service' refers to employment under the *Parliamentary Service Act 1999*.

F2.4 These accrued leave entitlements will be converted into the NCA's leave categories as appropriate, with access to the credits being in accordance with this Agreement.

F3 Annual Leave

Annual leave credits

F3.1 A full-time employee is entitled to twenty (20) working days paid annual leave for each completed year of service.

F3.2 An employee's entitlement to paid annual leave accrues progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year. This is reflected in the payroll system at any time.

F3.3 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.

F3.4 For the purposes of the entitlement in sub-clauses F3.1 and F3.2, the average number of weekly ordinary hours of duty is reduced for any unauthorised absences that occurred during the fortnight.

F3.5 For the purposes of the entitlement in sub-clauses F3.1 and F3.2 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.

F3.6 Where an employee has taken more than 30 calendar days of unpaid leave not counting as service during the calendar year, his or her annual leave credits are reduced according to the following formula:

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

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

F3.7 There will be no deduction from an employee's annual leave credits for any public holiday which falls within a period of annual leave.

Taking of annual leave

F3.8 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.

F3.9 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' i.e. more than forty (40) working days credit will not receive approval to utilise annual leave at half pay until their annual leave credit is at or below forty (40) working days.

F3.10 Employees are encouraged to take at least ten (10) working days annual leave in each year of service, or a pro rata amount for part-time employees.

F3.11 An employee may request annual leave where he or she:

- (a) is unfit for work due to illness;
- (b) does not have any paid personal leave credits; and
- (c) has available annual leave credits.

F3.12 Annual leave will not be approved within a period of long service leave.

Cashing out of annual leave

F3.13 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 ten (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).

F3.14 Each cashing out of a particular amount of paid annual leave under sub-clause F3.13 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

F3.15 Any annual leave credits in excess of forty (40) working days are called "excess annual leave credits".

F3.16 Where an employee has excess annual leave credits on 30 June in each year, he or she 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.

F3.17 The Chief Executive may choose not to direct the employee to take the excess leave credits under sub-clause F3.16 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.

F3.18 The employee will not be directed to take more than one-quarter ($\frac{1}{4}$) of his or her total annual leave credits at any one time.

F4 Purchased Leave (Employee funded leave)

F4.1 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.

F4.2 Further information in relation to purchased leave can be found in the NCA Purchased Leave Guidelines.

F5 Personal Leave

Personal leave credits

- F5.1 An employee's (excluding irregular and intermittent employees) paid personal leave accrues progressively during a year of service accordingly to the employee's ordinary hours of work, and accumulates from year to year.
- F5.2 An employee's (excluding irregular and intermittent employees) current personal leave entitlement will show in the payroll system as accruing at a rate of one and a half (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 accrual date).
- F5.3 Where an employee works part-time, personal leave credits will be calculated on a pro-rata basis based on the employee's working hours at the accrual date.
- F5.4 Where an employee takes unpaid leave not counting as service or has an unauthorised absence, the accrual of personal leave will be pro rata to working days for the relevant accrual period(s).
- F5.5 Personal leave will not be paid out on separation.
- F5.6 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, his or her accrual date for personal leave will remain their commencement date as a non-ongoing employee in the NCA.
- F5.7 The "personal leave year" is the 12 month period between anniversaries of commencement with the APS (the accrual date) used in relation to personal leave credits and documentary evidence requirements.
- F5.8 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.
- F5.9 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 his or her personal leave at the time of invalidity retirement.
- F5.10 The Chief Executive may allow an ongoing employee to anticipate personal leave credits where the employee has used all of his or her paid personal leave credits and would otherwise suffer financial hardship.
- F5.11 Where an employee has exhausted their entitlements to paid personal leave, or does not have an entitlement to personal leave, the employee may

take up to two (2) days unpaid carer's leave in accordance with section 102 of the Fair Work Act.

Use of personal leave

F5.12 The Chief Executive may grant an employee paid personal 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; or
- (b) to provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of:
 - (i) a personal illness or injury, affecting the member; or
 - (ii) an unexpected emergency affecting the member.

F5.13 If, during a period of annual leave or long service leave, an employee becomes eligible for personal leave, the Chief Executive may grant personal leave. This is subject to the employee producing satisfactory documentary evidence in accordance with clause F5.18 and having sufficient available personal leave credits. Annual leave or long service leave will be re-credited to the extent of other leave granted.

F5.14 An employee must advise his or her supervisor of his or her intention to apply for personal leave as soon as possible.

F5.15 An employee will not be entitled to paid personal leave while also entitled to paid leave under the *Maternity Leave (Commonwealth Employees) Act 1973*.

F5.16 There is no limit to the maximum continuous amount of personal leave which may be granted, subject to available credits, appropriate notice, documentary evidence requirements and, if required, the opinion of a medical practitioner nominated by the Chief Executive.

F5.17 An employee will not, without the employee's consent be retired on invalidity grounds before the employee's personal leave credits have been exhausted, unless otherwise provided for by legislation.

Documentary evidence

F5.18 To use personal leave, an employee must provide acceptable documentary evidence in the following circumstances:

- (a) for leave in excess of three (3) consecutive working days;
- (b) for leave in excess of five (5) days in any personal leave year.

F5.19 Notwithstanding sub-clause F5.18, the Chief Executive may require an employee to provide a medical certificate or other form of acceptable evidence for any period of personal leave as long as this does not require the employee to obtain a retrospective medical certificate.

F5.20 Acceptable forms of evidence are:

- (a) in the case of leave for personal illness or injury or caring purposes – a certificate from a registered health practitioner; or
- (b) where this is not reasonably practicable, a statutory declaration made by the employee.

F5.21 The requirements under sub-clause F5.18 may be waived if the Chief Executive considers there is no need for evidence to be provided.

F6 Compassionate Leave

F6.1 An APS employee, excluding a non-going APS employee who is engaged on an irregular or intermittent basis, is entitled to three (3) days paid compassionate leave on each of the following occasions:

- (a) for the purpose spending time with a member of an employee's immediate family or household who has contracted or develops a personal illness or sustained a personal injury that poses a serious threat to his or her life; or
- (b) after the death of a member of an employee's immediate family or household.

F6.2 An employee may take paid compassionate leave for a particular permissible occasion as a single continuous three (3) day period or any separate periods to which the employee and the Chief Executive agree.

F6.3 Up to two (2) additional days may be granted by the Chief Executive to attend a funeral to be held at least 150 kilometres from the Canberra GPO where the employee has been granted compassionate leave under this Agreement.

F6.4 The Chief Executive may require the employee to provide documentary evidence supporting the leave such as a death certificate or death notice, or a medical certificate in the case of illness or injury.

F7 War Service Sick Leave

F7.1 Employees with certain Defence Force Service may be entitled to additional sick leave in relation to war-caused medical conditions within the meaning of the *Veterans' Entitlement Act 1986* and the *Military Rehabilitation and Compensation Act 2004*.

F7.2 War service sick leave counts as service for all purposes.

F8 Maternity Leave

F8.1 Employees who are pregnant, or who have given birth, are covered by the provisions of the *Maternity Leave (Commonwealth Employees) Act 1973* (the Maternity Leave Act).

F8.2 Employees with an entitlement to paid leave under the Maternity Leave Act will receive an additional four (4) weeks of paid leave on full pay to be taken immediately following the period of paid maternity leave provided under the Maternity Leave Act.

F8.3 Where an employee is eligible for paid maternity leave, the Chief Executive may give approval in advance for the employee to have the payment for leave spread over a maximum of thirty-two (32) weeks at no less than half normal salary.

F8.4 Where payment is spread over a longer period, a maximum of sixteen (16) weeks will count as service. Maternity leave without pay, with the exception of any unpaid leave during the first twelve (12) weeks of the leave period, will not count as service for any purpose.

F8.5 Maternity leave is inclusive of public holidays and will not be extended because a public holiday (or Christmas closedown) falls during a period of paid or unpaid maternity leave.

F8.6 In addition to any entitlements for paid or unpaid leave under the Maternity Leave Act, employees may be able to access entitlements to leave without pay under Division 5 of Part 2-2 of the Fair Work Act.

F9 Adoption Leave

F9.1 An employee who adopts a child and who is the primary carer for that child, is entitled to up to sixteen (16) weeks paid adoption leave, provided the employee satisfies the same qualifying requirements as those required to receive paid leave in accordance with the Maternity Leave Act.

F9.2 Employees are entitled to adoption leave when the child:

- (a) is under the age of sixteen (16) years at the day of placement, or expected day of the placement of the child; and
- (b) has not, or will not have, lived continuously with the employee for a period of six (6) 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/partner.

F9.3 Documentary evidence of approval for adoption must be submitted when applying for adoption leave.

F9.4 Adoption leave commences from the time of placement of the child, and is taken in a single block, except for two (2) working days which may be taken as pre-adoption leave.

F9.5 Where an employee is eligible for paid adoption leave, the Chief Executive may give approval in advance for the employee to have the payment for leave spread over a maximum of thirty-two (32) weeks at no less than half normal pay.

F9.6 Where payment is spread over a longer period, a maximum of sixteen (16) weeks will count as service.

F9.7 In addition to any period of paid adoption leave that may be applicable under this clause F9, an employee may be entitled to a period of unpaid parental

leave associated with the placement of a child with the employee for adoption of up to 12 months in accordance with the Fair Work Act.

F9.8 Adoption leave without pay, with the exception of any unpaid leave during the first 12 weeks of the leave period, will not count as service for any purpose.

F9.9 Adoption leave is inclusive of public holidays and will not be extended because a public holiday (or Christmas closedown) falls during a period of paid or unpaid adoption leave.

F9.10 In addition to any entitlements set out in this clause F9, employees may be able to access entitlements to unpaid pre-adoption leave under section 85 of the Fair Work Act.

F10 Foster Carer's Leave

F10.1 An employee who permanently fosters a child and who is the primary carer for that child, is entitled to up to sixteen (16) weeks paid foster leave, provided the employee satisfies the same qualifying requirements as those required to receive paid leave in accordance with the Maternity Leave Act.

F10.2 Employees are entitled to foster carer's leave when the child:

- (a) is under the age of sixteen (16) years at the day of placement, or expected day of the placement of the child; and
- (b) has not, or will not have, lived continuously with the employee for a period of six (6) months or more as at the day (or expected day) of placement; and
- (c) is not a child of the employee or the employee's spouse/partner.

F10.3 Documentary evidence of approval for enduring parental responsibilities under formal fostering arrangements must be submitted when applying for foster carer's leave.

F10.4 Foster carer's leave commences from the time of placement of the child, and is taken in a single block, except for two (2) working days which may be taken as pre-foster carer leave.

F10.5 Where an employee is eligible for paid foster carer's leave, the Chief Executive may give approval in advance for the employee to have the payment for leave spread over a maximum of thirty-two (32) weeks at no less than half normal pay.

F10.6 Where payment is spread over a longer period, a maximum of sixteen (16) weeks will count as service.

F10.7 In addition to any period of paid foster carer's leave that may be applicable under this clause F10, an employee may be entitled to a period of unpaid foster carer's leave of up to thirty-six (36) weeks.

F10.8 Foster carer's leave without pay, with the exception of any unpaid leave during the first twelve (12) weeks of the leave period, will not count as service for any purpose.

F10.9 Foster carer's leave is inclusive of public holidays and will not be extended because a public holiday (or Christmas closedown) falls during a period of paid or unpaid foster carer's leave.

F11 Part-time Work following a period of Maternity Leave, Adoption Leave or Foster Carer's Leave

F11.1 An employee returning to work following a period of maternity leave, adoption leave or foster carer's leave has the return to work guarantee and the right to request flexible working arrangements provided by (or the equivalent to those provided by) the Fair Work Act.

F12 Parental Leave

F12.1 An employee whose partner gives birth to or adopts, or fosters a child, and who does not have an entitlement to paid leave under clauses F8, F9 or F10, is entitled to ten (10) working days of paid parental leave.

F12.2 This paid parental leave will count as service for all purposes.

F12.3 Where an employee is eligible for paid parental leave, the Chief Executive may give approval in advance for the employee to have the payment for leave spread over twenty (20) working days at half normal pay, in which case only ten (10) working days will count as service.

F12.4 Parental leave must be commenced within twelve (12) months of the date of the birth, adoption or permanent foster care placement of the child and is to be taken in a single leave block.

F12.5 In addition to any period of paid parental leave that may be applicable under this clause F12, an employee is entitled to unpaid parental leave to a total aggregate period of twelve (12) months. This unpaid leave will be administered in accordance with the National Employment Standards.

F12.6 Parental leave is inclusive of public holidays and will not be extended because a public holiday (or Christmas closedown) falls during a period of paid or unpaid parental leave.

F12.7 All periods of unpaid parental leave will not count as service for any purpose.

F13 Return to work after Maternity, Adoption, Foster Carer's and Parental Leave

F13.1 On ending maternity, adoption, foster carer's or parental leave, an employee is entitled to return to:

- (a) the employee's pre-maternity/adoption/foster carer's/parental leave duties; or
- (b) if those duties no longer exists – an available position for which the employee is qualified and suited at the same classification and pay as applied pre-maternity/adoption/foster carer's/parental leave. Where this is

not practical, other duties will be sought, with the redeployment, reduction and redundancy provisions of this Agreement applying to any placement.

F13.2 For the purposes of this clause, duties means those performed:

- (a) if the employee was moved to safe duties because of the pregnancy – immediately before the move;
- (b) if the employee began working part-time because of the pregnancy – immediately before the part-time employment began; or
- (c) otherwise – immediately before the employee commenced adoption/foster carer's/parental/maternity leave.

F14 Flexible work arrangements for parents

F14.1 An employee who is a parent, or has responsibility for the care of a child who is of school age or younger may request flexible working arrangements, including part-time hours. The employee is not eligible to make this request unless they have completed at least twelve (12) months of continuous service with the NCA (the Chief Executive may waive this requirement in exceptional circumstances).

F14.2 A casual employee engaged for irregular or intermittent duties may only request flexible work arrangements if the employee:

- (a) is a long term casual employee immediately before making the request; and
- (b) has reasonable expectation of continuing employment on a regular and systematic basis.

Note: 'long term casual employee' is defined at s.12 of the Fair Work Act

F14.3 A request made in accordance with sub-clause F14.1 must be in writing and set out details of the change sought and the reasons for the change. The Chief Executive will respond in writing to the request within twenty-one (21) calendar days and will only refuse on reasonable business grounds. Where the request is refused, the response will include reasons for the refusal.

F14.4 For the purposes of this clause:

- (a) 'service' means service that is recognised for redundancy pay purposes;
- (b) 'casual' means an employee engaged on an irregular or intermittent basis.

F15 Long Service Leave

F15.1 An employee is eligible for long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

F15.2 The minimum period during which long service leave can be taken is seven (7) calendar days at full pay (or fourteen (14) calendar days at half pay).

Long service leave cannot be broken with other periods of leave, except as otherwise provided by legislation.

F16 Defence Reserve Leave

- F16.1 An employee may be granted leave (with or without pay) to enable the employee to fulfil Australian Defence Force (ADF) Reserve and Continuous Full Time Service (CFTS) or Cadet Force obligations.
- F16.2 An employee is entitled to ADF Reserve leave with pay, for up to twenty (20) working days during each financial year for the purpose of fulfilling service in the ADF Reserve. These purposes include training and operational duty as required.
- F16.3 During the employee's first year of ADF Reserve service, a further ten (10) working days paid leave may be granted to facilitate participation in additional ADF Reserve training, including induction requirements.
- F16.4 With the exception of the additional ten (10) working days in the first year of service, leave can be accumulated and taken over a period of two years, to enable the employee to undertake training as a member of the ADF Reserves.
- F16.5 Employees are not required to pay their tax free ADF Reserve salary to the NCA in any circumstances.
- F16.6 Defence Reserve leave counts as service for all purposes, except for unpaid leave to undertake Continuous Full Time Service (CFTS). Unpaid leave for the purpose of CFTS counts as service for all purposes except annual leave.
- F16.7 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.
- F16.8 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.

F17 Community Service Leave

- F17.1 When eligible for leave under the FW Act, leave for participation in voluntary emergency management duties, including training, emergency service responses, reasonable recovery time, and ceremonial duties, will be granted and may at the discretion of the Chief Executive be with or without pay.
- F17.2 Leave approved under sub-clause F17.1 will include reasonable travelling time.
- F17.3 Employees will continue to be paid by the NCA for any period of jury service, but will be required to pay to the NCA any amount of jury service pay, but not expense monies, received by the employee.

F18 Discretionary Leave

- F18.1 The Chief Executive may grant leave to an employee, either with or without pay, in circumstances not provided for elsewhere in this Agreement. Further information can be found in the NCA's Discretionary Leave Policy.
- F18.2 Discretionary leave with pay counts as service for all purposes.
- F18.3 Discretionary 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.
- F18.4 Public Holidays
- F18.5 Employees will be entitled to public holidays prescribed by Commonwealth and ACT laws.
- F18.6 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.
- F18.7 An employee, who is absent on a day or part-day that is a public holiday in the place where the employee is based for work purposes, is entitled to be paid for the part or full day absence as if that day or part-day was not a public holiday, except where that person would not normally have worked on that day.
- F18.8 Where a public holiday falls during a period when an employee is absent on leave (other than annual or paid personal leave) there is no entitlement to receive payment as a public holiday. Payment for that day would be in accordance with the entitlement for that form of leave (e.g. if on long service leave on half pay, payment is on half pay).

F19 Christmas Closedown

- F19.1 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.
- F19.2 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 (e.g. if on long service leave half pay, payment is on half pay).
- F19.3 There will be no deduction from annual or personal leave credits for the closedown days.
- F19.4 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.

F20 Unauthorised Absences

F20.1 Where an employee is absent from work without approval, e.g. without the express approval of their supervisor, or not in accordance with a term of this Agreement, the absence will be treated as an 'unauthorised absence' and will not count as service for any purpose under this Agreement, including remuneration and leave accrual. Other benefits provided under this Agreement, including access to flextime will cease to be available to the employee until he or she resumes work or is granted leave. Any amounts paid to an employee in respect of an unauthorised absence are overpayments and the Agency will seek to recover those amounts.

PART G PERFORMANCE MANAGEMENT

G1 General

G1.1 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.

G1.2 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.

G2 Objectives

G2.1 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.

G3 Principles

G3.1 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 non-ongoing employee engaged for duties that are irregular or intermittent 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.

G4 Assessment Ratings

G4.1 An employee's performance will be assessed using the following four point rating scale:

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

G4.2 For further information regarding the assessment ratings referred to in sub-clause H4.1, see the Performance Management and Appraisal Scheme Guidelines.

G4.3 The links between end of financial year overall assessment ratings and Pay Point Advancement are detailed in clause C3.

G5 Managing Unsatisfactory Performance

G5.1 The NCA is committed to addressing underperformance promptly and fairly. An employee's performance throughout the performance cycle will be assessed through the Performance Management and Appraisal Scheme. Performance agreements will set out performance expectations and individual work responsibilities and provide the basis for discussing work performance. Managing unsatisfactory performance will be based on the following principles:

- (a) As soon as unsatisfactory performance is identified (ie 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);
- (e) Procedural fairness will apply at each step of the process.

G5.2 For further information, please refer to the NCA's Performance Management and Appraisal Scheme.

G6 Managing Breaches of the Code of Conduct

G6.1 Breaches of the Code of Conduct will be dealt with under procedures established in accordance with the Public Service Act.

PART H STUDY ASSISTANCE

H1.1 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.

H1.2 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 his or her proposed study load and agreed work responsibilities.

H1.3 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 \$1250 per calendar year reimbursement of compulsory fees other than HECS fees.

H1.4 Where an employee is provided with financial assistance under sub-clause H1.3 the financial assistance will only be paid when the employee successfully completes the year's study and achieves a minimum of a pass grade.

H1.5 Where an employee has approved paid leave for study purposes he or she will be able to access that leave unless there are significant operational needs that require the employee's attendance during the period of leave.

H1.6 Further information can be found in the NCA's Study Assistance Policy.

PART I WORKFORCE HEALTH AND MANAGEMENT

I1 Workplace Diversity and Harassment Free Workplace

- I1.1 The NCA is committed to adhering to the APS Values, Employment Principles and Code of Conduct, and supporting an inclusive, safe, fair, productive and successful workplace that is free from discrimination and harassment.
- I1.2 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.

I2 Extra Family Care Costs

- I2.1 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 the ACT 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 his or her ordinary hours of duty.
- I2.2 To be entitled to any payments under sub-clause I2.1, the employee must make reasonable efforts to minimise the cost of the additional family care arrangements.

I3 Employee Assistance Scheme

- I3.1 The NCA will provide access to a confidential, professional counselling service at no cost to employees and their families to help resolve both personal and work-related problems.

I4 Home-Based Work

- I4.1 The Chief Executive may approve an application for home-based work on either a regular or temporary basis. Further information may be found in the NCA's Home-Based Work Guidelines.
- I4.2 The Chief Executive can vary or discontinue a home-based work arrangement at any time, providing a minimum notice period of two (2) weeks will apply or such shorter period as may be agreed.
- I4.3 The NCA's Home-Based Work Guidelines set out arrangements to cover worker's compensation, workplace health and safety, security, liability and access for other persons employed by the NCA while working away from the office.
- I4.4 The NCA may fund the establishment of home-based work arrangements up to a maximum of \$3,000.

I5 Influenza Vaccinations

- I5.1 The NCA will arrange at its expense for employees to receive annual influenza vaccinations on a voluntary basis. The influenza vaccinations will be provided on a day or days nominated by the NCA.

I6 Eyesight Testing

- I6.1 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 (e.g. microscopy).
- I6.2 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.
- I6.3 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).
- I6.4 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 (e.g. Microscopy), reimbursement will be made at up to the following amounts:
- (a) single vision – \$180; and
 - (b) multifocal (including bifocal, trifocal and progressive) – \$300.
- I6.5 Employees are responsible for costs associated with normal visual requirements, and for any costs in excess of the amounts specified in the sub-clause I6.4. Costs met (for testing and spectacles etc) will be net of any Medicare or health insurance benefits that may apply.

PART J REDUNDANCY AND SEPARATION

J1 Excess Employees

J1.1 The provisions of this part will apply to excess employees.

J1.2 These provisions do not apply to:

- (a) ongoing employees who are on probation; or
- (b) non-ongoing employees.

J1.3 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.

J1.4 For the purposes of sub-clause J1.3 "different locality" means a location other than within the Australian Capital Territory.

Consultation

J1.5 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 he or she 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 his or her 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.

J1.6 Where the employee nominates a representative, the Chief Executive will hold the discussions with the employee's representative.

J1.7 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.

J1.8 The Chief Executive may:

- (a) having held discussions referred to in sub-clause J1.5; and
- (b) unless the employee consents to a shorter period, not less than 4 weeks after advising the employee in accordance with sub-clause J1.5 that they are likely to become excess,

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

Voluntary Retrenchment¹

J1.9 Where an employee is advised that he or she is an excess employee in accordance with sub-clause J1.8, the Chief Executive may invite the employee to accept voluntary retrenchment.

J1.10 Where the Chief Executive invites an excess employee to accept voluntary retrenchment, the employee will have four (4) weeks in which to accept the offer.

J1.11 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 Public Service Act on the grounds that the employee is excess to the requirements of the NCA before the end of the four (4) weeks without the employee's agreement.

J1.12 As soon as possible, within the four (4) weeks referred to in sub-clause J1.10, 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.

J1.13 The Chief Executive will reimburse an excess employee invited to accept voluntary retrenchment up to a total of \$1000 for approved financial and taxation advice.

J1.14 Only one (1) offer of voluntary retrenchment will be made to an excess employee.

Period of Notice

J1.15 Where the excess employee accepts voluntary retrenchment, the Chief Executive may retrench the employee by giving the required notice of termination under section 29 of the Public Service Act. The period of notice

¹ Where 15 or more employees are likely to be declared excess, the Chief Executive will comply with the provisions of sections 785 and 786 of the Fair Work Act.

will be four (4) weeks or five (5) weeks for an employee over forty-five (45) years of age with at least five (5) years of continuous service.

- J1.16 Where an employee's employment is terminated at the beginning of, or within, the notice period, he or she will receive payment in lieu of notice for the unexpired portion of the notice period.

Severance Benefit

- J1.17 An employee whose employment is terminated under section 29 of the Public Service Act on the grounds that the employee is excess to the requirements of the NCA following his or her agreement to be voluntarily retrenched is entitled to be paid a severance benefit calculated in accordance with Appendix 4.

Accelerated Separation Option and Additional Payment

- J1.18 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. This option provides, in addition to the severance benefit, payment of a maximum of four (4) weeks salary in lieu of the consideration period referred to in sub-clause J1.10 where the excess employee agrees to termination of employment, and the employment is terminated within fourteen (14) days of receiving the offer of voluntary retrenchment. Any payment to which the employee is entitled will be equal to the balance of the four (4) week period referred to in sub-clause J1.10.

Involuntary Retrenchment

- J1.19 Subject to sub-clauses J1.22 to J1.30, the Chief Executive, under section 29 of the Public Service 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.
- J1.20 The Chief Executive will not terminate the employment of an excess employee if he or she has 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.
- J1.21 Where an excess employee does not accept an offer of voluntary retrenchment or the accelerated separation option within four (4) weeks of the offer being made, the following arrangements will apply.

Redeployment

- J1.22 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 \$2000 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 \$1000 less any amount already paid in accordance with sub-clause J1.13.

J1.23 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 his or her substantive classification.

J1.24 After taking reasonable steps to find the excess employee alternative employment at the same classification, the Chief Executive may, with four (4) weeks' notice, allocate the excess employee to a lower classification position. Where an employee is reduced in classification before the end of the retention period, he or she will receive income maintenance payments for the remainder of the retention period.

Retention Period

J1.25 Unless the employee agrees, an excess employee will not be involuntarily retrenched until the following retention periods have elapsed:

- (a) thirteen (13) months where he or she has twenty (20) or more years of service or is over forty-five (45) years of age; or
- (b) seven (7) months for all other cases.

J1.26 The retention period will commence on the day that the Chief Executive advises the employee in writing, in accordance with sub-clause J1.8, that he or she is an excess employee.

J1.27 The retention period will be extended by any periods of approved personal leave taken during the retention period.

J1.28 Consistent with the National Employment Standards (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.

J1.29 Where:

- (a) an excess employee has been receiving redeployment assistance from a service provider for two (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 his or her employment under section 29 of the Public Service Act and pay the balance of the retention period (adjusted for the NES under sub-clause J1.28) 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

J1.30 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.

PART K SEPARATION

Notice of resignation or retirement

K1.1 All employees with the exception of irregular or intermittent employees are required to give the Chief Executive a minimum of four (4) weeks notice in writing of his or her intention to resign or retire from the APS, except where the Chief Executive agrees to a lesser period. A resignation can not take effect on a day that the employee would not normally be required to work.

Payment on Separation

K1.2 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 his or her new employer allows the employee to transfer accrued leave credits.

K1.3 Where an employee ceases employment with the NCA he or she is not entitled to a payout of any accumulated flextime credit but is entitled to a payout of any fixed daily hours credit.

Payment on death

K1.4 Where an employee dies, the NCA will authorise the payment of the amount which the former employee would have been entitled to had he or she resigned or retired. Long Service Leave credits will be paid out in accordance with the *Long Service Leave Act (Commonwealth Employees) 1976*.

K1.5 This payment is to be made to whichever is applicable of:

- (a) the executor of his or her estate;
- (b) the administrator of his or her estate;
- (c) the public trustee; or
- (d) such other person as the law requires;

K1.6 For the purposes of calculating entitlements under sub-clause K1.4, the date of effect of a deemed resignation shall be the date of death or the date the Chief Executive determines as the date the employee is presumed to have died.

Period of Notice

K1.7 Where the excess employee accepts voluntary retrenchment, the Commissioner may retrench the employee by giving the required notice of termination under section 29 of the Public Service Act on the grounds that the employee is excess to the requirements of the NCA. The period of notice will be four (4) weeks (or five (5) weeks for an employee over forty-five (45) with at least five (5) years of continuous service).

K1.8 Where an employee's employment is terminated at the beginning of, or within, the notice period, the employee will receive payment in lieu of

notice as set out in the Fair Work Act for the unexpired portion of the notice period.

K1.9 The Chief Executive may elect to pay an employee salary as compensation instead of the required period of notice.

Review of Decisions to Terminate Employment

K1.10 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 Fair Work Act;
- (b) other Commonwealth laws (including *The Constitution* and *Administrative Decisions (Judicial Review) Act 1977*); and
- (c) at common law.

K1.11 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.

K1.12 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 subsection 123(1)(b) the Fair Work 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 Public Service Act.

PART L WORKPLACE RELATIONS

L1 Consultation

L1.1 This term applies if the Chief Executive:

- (a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to the NCA 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.

L1.2 For a major change referred to in paragraph L1.1(a):

- (a) the Chief Executive must notify the relevant employees of the decision to introduce the major change; and
- (b) subclauses L1.3 to L1.9 apply.

L1.3 The relevant employees may appoint a representative for the purposes of the procedures in this clause.

L1.4 The Chief Executive 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 Chief Executive of the identity of the representative;

L1.5 As soon as practicable after making their decision, the Chief Executive or the Chief Executive's representative must:

- (a) discuss with the relevant employees:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the employees; and
 - (iii) measures the NCA is taking to avert or mitigate any potentially adverse effects of the change on the employees; and
- (b) for the purposes of the discussion, and subject to clause L1.6, provide to the relevant employees:
 - (i) all relevant information about the change including the nature of the change proposed; and
 - (ii) information about the expected effects of the change on the employees; and
 - (iii) any other matters likely to affect the employees.

L1.6 The Chief Executive or the Chief Executive's representative is not required to disclose personal, confidential or commercially sensitive information to the relevant employees.

L1.7 The Chief Executive must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

- L1.8 If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the NCA, the requirements set out in subclause paragraph L1.2(a) and clauses L1.3 and L1.5 are taken not to apply.
- L1.9 In this term, a major change is likely to have a significant effect on employees if it results in:
- (a) the termination of the employment of employees;
 - (b) major change to the composition, operation or size of the NCA's workforce or to the skills required of employees;
 - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure);
 - (d) the alteration of hours of work;
 - (e) the need to retrain employees;
 - (f) the need to relocate employees to another workplace; or
 - (g) the restructuring of jobs.
- L1.10 For a change referred to in paragraph L1.1(b):
- (a) the Chief Executive must notify the relevant employees of the proposed change; and
 - (b) subclauses L1.11 to L1.15 apply.
- L1.11 The relevant employees may appoint a representative for the purposes of the procedures in this term.
- L1.12 The Chief Executive 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 Chief Executive of the identity of the representative.
- L1.13 As soon as practicable after proposing to introduce the change, the Chief Executive or Chief Executive's representative must:
- (a) discuss with the relevant employees the introduction of the change; and
 - (b) for the purposes of the discussion, and subject to clause L1.14, provide to the relevant employees:
 - (i) all relevant information about the change, including the nature of the change;
 - (ii) information about what the Chief Executive reasonably believes will be the effects of the change on the employees; and
 - (iii) information about any other matters that the Chief Executive reasonably believes are likely to affect the employees; and
 - (c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

- L1.14 The Chief Executive or the Chief Executive's representative is not required to disclose personal, confidential or commercially sensitive information to the relevant employees.
- L1.15 The Chief Executive must give prompt and genuine consideration to matters raised about the change by the relevant employees.
- L1.16 In this clause, "relevant employees" means the employees who may be affected by a change referred to in subclause L1.1.

Authority Consultative Committee

- L1.17 The NCA will maintain an Authority Consultation Committee to facilitate consultation in the Authority. Further information can be found in the Authority Consultation Committee Policy.

L2 Resolution of Agreement Disputes

- L2.1 If a dispute relates to a matter under this Agreement, or the NES, the parties to the dispute must first attempt to resolve the matter at the workplace level by discussions between the employee or employees concerned and the relevant supervisor/manager.
- L2.2 If a resolution to the dispute has not been achieved after discussions have been held in accordance with clause L2.1, the parties to the dispute will endeavour to resolve the dispute in a timely manner either through discussions with more senior levels of management where appropriate or through alternative dispute resolution methods.
- L2.3 If discussions at the workplace level do not resolve the dispute, and all appropriate steps have been taken in accordance with clauses L2.1 and L2.2, a party to the dispute may refer the matter to the Fair Work Commission.
- L2.4 The Fair Work Commission may deal with the dispute in two stages:
- (a) the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
 - (b) if the Fair Work Commission is unable to resolve the dispute at the first stage, 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 Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Fair Work Act 2009. Therefore, an appeal may be made against the decision.

- L2.5 The NCA or an employee who is a party to the dispute may appoint another person, organisation or association to accompany and/or represent them for the purposes of this term.
- L2.6 All parties and their representatives must act in good faith in the resolution of disputes.

L2.7 While the parties are trying to resolve the dispute using the procedures in this term:

- (a) an employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
- (b) an employee must comply with a direction given by the Chief Executive to perform other available work at the same workplace, or at another workplace, unless:
 - (i) the work is not safe;
 - (ii) applicable work health and safety legislation would not permit the work to be performed;
 - (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.

L2.8 The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this term.

L3 Internal Review of Employment Actions

L3.1 All employees in the NCA recognise they have a mutual responsibility to work together co-operatively, and that any issue arising within the NCA 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 Public Service Act and Part 5 of the Public Service Regulations; and
- (d) ensuring procedural fairness applies to internal review processes.

APPENDIX 1 CLASSIFICATION AND SALARY LEVELS

Classification	Pay Points and salary prior to commencement	Salary from commencement	Salary from 12 months after commencement	Salary from 18 months after commencement
	Increase -	3%	2%	1%
Executive Level 2	\$140,669	\$144,889	\$147,787	\$149,265
	\$134,075	\$138,097	\$140,859	\$142,268
	\$127,481	\$131,305	\$133,932	\$135,271
	\$122,622	\$126,301	\$128,827	\$130,115
	\$120,569	\$124,186	\$126,670	\$127,936
	\$116,667	\$120,167	\$122,570	\$123,796
	\$109,519	\$112,805	\$115,061	\$116,211
Executive Level 1	\$102,205	\$105,271	\$107,377	\$108,450
	\$100,007	\$103,007	\$105,067	\$106,118
	\$98,908	\$101,875	\$103,913	\$104,952
	\$96,346	\$99,236	\$101,221	\$102,233
	\$92,785	\$95,569	\$97,480	\$98,455
APS Level 6	\$87,918	\$90,556	\$92,367	\$93,290
	\$83,522	\$86,028	\$87,748	\$88,626
	\$79,948	\$82,346	\$83,993	\$84,833
	\$76,970	\$79,279	\$80,865	\$81,673
	\$73,286	\$75,485	\$76,994	\$77,764
APS Level 5	\$70,884	\$73,011	\$74,471	\$75,215
	\$68,331	\$70,381	\$71,789	\$72,506
	\$66,456	\$68,450	\$69,819	\$70,517
APS Level 4	\$65,389	\$67,351	\$68,698	\$69,385
	\$64,613	\$66,551	\$67,882	\$68,561
	\$62,731	\$64,613	\$65,905	\$66,564
	\$61,161	\$62,996	\$64,256	\$64,898
	\$59,612	\$61,400	\$62,628	\$63,255
APS Level 3	\$58,246	\$59,993	\$61,193	\$61,805
	\$57,625	\$59,354	\$60,541	\$61,146
	\$55,947	\$57,625	\$58,778	\$59,366
	\$54,536	\$56,172	\$57,296	\$57,868
	\$53,183	\$54,778	\$55,874	\$56,433
APS Level 2	\$51,983	\$53,542	\$54,613	\$55,159
	\$50,470	\$51,984	\$53,024	\$53,554
	\$49,238	\$50,715	\$51,729	\$52,247
	\$47,992	\$49,432	\$50,420	\$50,925
	\$46,760	\$48,163	\$49,126	\$49,617
APS Level 1	\$44,445	\$45,778	\$46,694	\$47,161
	\$42,688	\$43,969	\$44,848	\$45,296
	\$41,565	\$42,812	\$43,668	\$44,105
	\$40,213	\$41,419	\$42,248	\$42,670

APPENDIX 2 INTERPRETATION AND DEFINITIONS

“Action” includes a refusal or failure to act.

“ACT” means the Australian Capital Territory.

“Agreement” means *National Capital Authority Enterprise Agreement 2017-2020*.

“APS” means Australian Public Service.

“APS Agency” means an agency within the meaning of the Public Service Act.

“Chief Executive” means the Chief Executive of the NCA.

“De facto partner” means:

- (a) means a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and
- (b) includes a former de facto partner of the employee.

“employee” means a NCA employee within the meaning of the Public Service Act covered by this Agreement (whether full-time or part-time) and includes employees on temporary placement in the NCA.

“Executive Level Officer” means an employee with a classification of Executive Level 1 or Executive Level 2 under the APS Classification Rules.

“Fair Work Act” means the *Fair Work Act 2009*.

“Fair Work Regulations” means the *Fair Work Regulations 2009*.

“family” for the purpose of sub-clause F6.1 means a person who:

- is related by blood, marriage or kinship to the employee;
- is in a genuine domestic or household relationship with the employee without discrimination as to sexual preference;
- is a de facto spouse, former spouse or former de facto spouse of the employee without discrimination as to sexual preference;
- is a child or adopted child of the employee; or
- is a child or an adopted child of the person who is in a genuine domestic or household relationship with the employee.

“immediate family” includes:

- (a) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
- (b) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee.

“Manager” means an employee undertaking the duties of Manager, Director, Senior Executive Service Officer (within the meaning of the Public Service Act) or Chief Executive.

“Maternity Leave Act” means the *Maternity Leave (Commonwealth Employees) Act 1973*.

“NCA” means National Capital Authority.

“NES” means the National Employment Standards.

“non-ongoing employee” means an APS employee who is not an ongoing APS employee.

“ongoing employee” means a person engaged as an ongoing APS employee.

“ordinary hours” means the hours of work an employee is paid for, excluding overtime hours.

“pay point advancement” means the movement to a higher pay point in a classification which may occur on an annual basis based on the employee’s rating at his or her annual Performance Assessment.

“Public Service Act” means the *Public Service Act 1999*.

“Supervisor” means an employee at any classification who has responsibility for overseeing, monitoring, managing or supervising the work of another employee.

APPENDIX 3 SUPPORTED SALARY FOR EMPLOYEES WITH A DISABILITY

Employment at Lower than Specified Salary Levels

A3.1 Consistent with the social justice objectives of the APS, employees who have a disability to the extent that they meet the impairment criteria for the Disability Support Pension may be employed under this Agreement and be paid a supported salary, appropriate to the APS classification in which employed, at a rate below the salary levels prescribed in this Agreement.

Definitions

A3.2 In this Appendix, the following definitions will apply:

- "Supported Wage System" means the Commonwealth Government system to promote employment for people who cannot work at full wages because of a disability.
- "Accredited 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.
- "Disability Support Pension" means the Commonwealth pension scheme to provide income security for persons with a disability as provided for under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme.
- "Assessment instrument" means the form 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.

Eligibility Criteria

A3.3 Subject to the following two paragraphs, employees covered by these provisions will be those who are unable to perform the range of duties to the standard required at the work value level 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.

A3.4 The provisions in this Appendix do not apply to:

- any existing employee who has a claim against the Commonwealth which is subject to the provisions of workers' compensation legislation relating to the rehabilitation of employees who are injured in the course of their current employment; or
- an employee in respect of whom funding has been provided under the *Disability Services Act 1986* for the dual role of service provider and sheltered employer.

Supported Salary Rates

A3.5 Employees to whom the provisions in this Appendix apply will be paid the applicable percentage of the relevant salary rate prescribed below for the work value they are performing as follows, provided that the amount payable will be not less than \$84.00 per week.

Supported Salary	Rates Percentages
Column 1	Column 2
Assessed capacity	% of prescribed salary rate
10% *	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

Assessment of Capacity

A3.6 For the purpose of establishing the percentage of the salary rate to be paid to an employee under the provisions of this Appendix, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument, by either:

- the Chief Executive, in consultation with the employee; or, if desired by any of these;
- the Chief Executive and an accredited assessor from a panel agreed by the employee.

* Where a person's assessed capacity is 10%, the employee will receive a high degree of assistance and support.

Lodgement of Assessment Instrument

A3.7 All assessment instruments, including the assessment of the percentage of the salary rate to be paid to the employee, will be lodged by the Chief Executive with Fair Work Commission.

A3.8 All assessment instruments will be agreed and signed by the employee and the Chief Executive.

Review of Assessment

A3.9 The assessment of the applicable percentage should be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review will be in accordance with the procedures for assessing capacity under the Supported Wage System.

Other Terms and Conditions of Employment

- A3.10 Where an assessment has been made, the applicable percentage will apply to the salary rate only. Employees covered by the provisions of this Appendix will be entitled to the same terms and conditions of employment as all other employees covered by this Agreement paid on a pro rata basis.

Workplace Adjustment

- A3.11 Where the Chief Executive employs a person under the provisions of this Appendix, reasonable steps to make changes in the workplace will be taken to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working arrangements and work organisation in consultation with other employees in the team.

Trial Period

- A3.12 In order for an adequate assessment of the employee's capacity to be made, the Chief Executive may employ a person under the provisions of this Appendix for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- A3.13 During that trial period the assessment of capacity will be undertaken and the proposed salary rate for a continuing employment relationship will be determined.
- A3.14 The amount payable to the employee during the trial period will be not less than \$84.00 per week, or such greater amount as determined by the Chief Executive.
- A3.15 Work trials should include induction or training as appropriate to the job being trialled.
- A3.16 Where the Chief Executive and the employee wish to establish a continuing employment relationship following the completion of the trial period, further employment arrangements will be based on the assessment outcome.

APPENDIX 4 CALCULATION OF SEVERANCE BENEFIT

Severance Benefit

- A4.1 An excess employee who accepts a voluntarily retrenchment and whose employment is terminated by the Chief Executive under section 29 of the Public Service Act on the grounds that he or she is 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.
- A4.2 The minimum sum payable will be four (4) weeks salary and the maximum will be 48 weeks salary.
- A4.3 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

- A4.4 Service for severance pay purposes means:
- service in the NCA;
 - Government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
 - 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;
 - service with the Australian Defence Forces;
 - 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
 - service in another organisation where:
 - an employee moved from the APS to that organisation with a transfer of function; or
 - an employee engaged by that organisation on work within a function is engaged in the APS as a result of the transfer of that function to the APS; and
 - such service is recognised for long service leave purposes.
- A4.5 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 one (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

A4.6 Any period of service that ceased:

- (a) through termination on the following grounds:
 - the employee lacks, or has lost, an essential qualification for performing his or her duties;
 - non-performance, or unsatisfactory performance, of duties;
 - inability to perform duties because of physical or mental incapacity;
 - failure to satisfactorily complete an entry level training course;
 - failure to meet a condition imposed under subsection 22(6) of the Public Service Act; or
 - a breach of the APS Code of Conduct; or
- (b) on a ground equivalent to a ground listed in sub-clause A4.6(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.

A4.7 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

A4.8 For the purpose of calculating any payment under clause A4.1 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.