

Workplace Gender Equality Agency Enterprise Agreement 2024-2027

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Section 1: Technical matters

Title

1. This agreement will be known as the '*Workplace Gender Equality Agency Enterprise Agreement 2024-2027*'.

Parties to the agreement

2. This agreement covers:
 - 2.1 the Chief Executive Officer, for and on behalf of the Commonwealth of Australia as the employer;
 - 2.2 all employees in the Agency employed under the PS Act other than:
 - 2.2.1 Senior Executive Service employees or equivalent; and
 - 2.3 subject to notice being given in accordance with section 183 of the FW Act, the following employee organisation/s which were a bargaining representative for this agreement:
 - 2.3.1 Community and Public Sector Union.

Operation of the agreement

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

Delegations

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

National Employment Standards (NES) precedence

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

Closed comprehensive agreement

7. This agreement states the terms and conditions of employment of employees covered by this agreement, other than terms and conditions applying under relevant Commonwealth laws.

8. This agreement will be supported by policies and guidelines, as implemented and varied from time to time.
9. Policies and guidelines are not incorporated into and do not form part of this agreement. To the extent that there is any inconsistency between policies and guidelines and the terms of this agreement, the terms of this agreement will prevail.

Individual flexibility arrangements

10. The Agency and an employee covered by this agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
 - 10.1 the agreement deals with one or more of the following matters:
 - 10.1.1 arrangements about when work is performed;
 - 10.1.2 overtime rates;
 - 10.1.3 penalty rates;
 - 10.1.4 allowances;
 - 10.1.5 remuneration; and
 - 10.1.6 leave and leave loading; and
 - 10.2 the arrangement meets the genuine needs of the Agency and employee in relation to one or more of the matters mentioned in clause 10.1 ; and
 - 10.3 the arrangement is genuinely agreed to by the Agency and employee.
11. The Agency must ensure that the terms of the individual flexibility arrangement:
 - 11.1 are about permitted matters under section 172 of the FW Act;
 - 11.2 are not unlawful terms under section 194 of the FW Act; and
 - 11.3 result in the employee being better off overall than the employee would be if no arrangement was made.
12. The Agency must ensure that the individual flexibility arrangement:
 - 12.1 is in writing;
 - 12.2 includes the name of the Agency and employee;
 - 12.3 is signed by the Agency and employee and, if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
 - 12.4 includes details of:
 - 12.4.1 the terms of the enterprise agreement that will be varied by the arrangement;
 - 12.4.2 how the arrangement will vary the effect of the terms;

- 12.4.3 how the employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and
 - 12.5 states the day on which the arrangement commences.
- 13. The Agency must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 14. The Agency or employee may terminate the individual flexibility arrangement:
 - 14.1 by giving no more than 28 days written notice to the other party to the arrangement; or
 - 14.2 if the Agency and employee agree in writing – at any time.
- 15. The Agency and employee are to review the individual flexibility arrangement at least every 12 months.

Definitions

- 16. The following definitions apply to this agreement:

Agency means the Workplace Gender Equality Agency

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

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

Agency Head means the Chief Executive Officer of the Workplace Gender Equality Agency or the Chief Executive Officer's delegate.

Agreement means the Workplace Gender Equality Agency Enterprise Agreement 2024-2027.

APS means the Australian Public Service.

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

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

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

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

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

Chief Executive Officer means the Chief Executive Officer of the Workplace Gender Equality Agency.

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

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

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

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

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

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

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

Excess employee; an employee is an excess employee if:

- a. they belong to a class of employees employed in the Agency whose services are no longer required for the efficient and economical working of the Agency,
- b. their services cannot be effectively used because of technological or other changes in work methods of the Agency or changes in the nature, extent or organisation of the functions of the Agency; or
- c. their work is to be performed in a different locality and they are not willing to relocate to that locality and the Chief Executive Officer has determined that this definition applies to the employee.

Family means:

- a. a spouse, former spouse, de facto partner or former de facto partner of the employee;
- b. a child, parent, grandparent, grandchild, or sibling of the employee;
- c. a child, parent, grandparent, grandchild, or sibling of a spouse, former spouse, de facto partner or former de facto partner of the employee;
- d. a member of the employee's household; or
- e. a person that the Chief Executive Officer is satisfied has a strong affinity with the employee; or

- f. a person with whom the employee has a relationship of traditional kinship where there is a relationship or obligation, under customs and traditions of the community or group to which the employee belongs.

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

Full-time employee means an employee employed to work an average of 37 hours and 30 minutes per week in accordance with this agreement.

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

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

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

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

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

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

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

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

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

Part-time employee means an employee whose ordinary hours are less than 37 hours and 30 minutes per week in accordance with this agreement.

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

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

Relevant employee means an affected employee.

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

WGEA means Workplace Gender Equality Agency.

Usual location of work

17. The employee's standard place of work will be the designated office location identified in the employee's letter of offer or other engagement documentation. If no designated office location was specified on engagement, the Chief Executive Officer may specify a designated office location by advising the employee in writing.
18. The Agency and employee may agree to vary the employee's designated office location on a temporary or permanent basis. The Agency and employee may agree to a different location of work for public holiday purposes and specify on engagement, or the Chief Executive Officer may specify which location's public holidays are to be observed by advising the employee in writing.

Section 2: Remuneration

Salary

19. Salary rates will be as set out in Attachment A – Base salaries of this agreement.
20. The base salary rates in Attachment A - Base Salaries include the following increases:
 - 20.1 4.0 per cent from the first full pay period on or after 1 March 2024 (the 14 March 2024);
 - 20.2 3.8 per cent from the first full pay period on or after 1 March 2025 (the 13 March 2025);
and
 - 20.3 3.4 per cent from the first full pay period on or after 1 March 2026 (the 12 March 2026).
21. In recognition of a common alignment date of the first full pay period on or after 1 March each year, the base salary rates in Attachment A – Base salaries, were calculated based on base salary rates as at 31 August 2023.

Payment of salary

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

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

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

23. The Chief Executive Officer may approve the pre-payment of salary to an employee where special circumstances exist.

Salary packaging

24. Employees may choose to sacrifice part of their salary from a menu of non-cash benefits consistent with Agency Salary Packaging guidelines. Participation in salary packaging will not affect salary for superannuation purposes or any other purpose.

Salary setting

25. Where an employee is engaged, moves to or is promoted in the Agency, the employee's salary will be paid at the minimum of the salary range of the relevant classification, unless the Chief Executive Officer determines a higher salary within the relevant salary range under these provisions.
26. The Chief Executive Officer may determine the payment of salary at a higher value within the relevant salary range of the relevant classification and the date of effect at any time.

27. In determining a salary under these provisions, the Chief Executive Officer will have regard to a range of factors (as relevant) including the employee's experience, qualifications and skills.
28. Where an employee commences ongoing employment in the Agency immediately following a period of non-ongoing employment in the Agency, the Chief Executive Officer will determine the employee's salary within the relevant salary range of the relevant classification which recognises the employee's prior service as a non-ongoing employee in the Agency.
29. Where an employee commences ongoing employment in the Agency immediately following a period of casual employment in the Agency, the Chief Executive Officer will determine the employee's salary within the relevant salary range of the relevant classification which recognises the employee's prior service as a casual employee in the Agency.
30. Where an APS employee moves to the Agency at level from another APS agency, and their salary is above the maximum of the salary range for their classification, the Chief Executive Officer will maintain the employee's salary at that level, until it is absorbed into the salary range for that classification.
31. Where the Chief Executive Officer determines that an employee's salary has been incorrectly set, the Chief Executive Officer may determine the correct salary and the date of effect.

Salary on reduction

32. Where an employee agrees, in writing, to temporarily perform work at a lower work value level, the Chief Executive Officer may determine [in writing] that the employee shall be paid a rate of salary applicable to the lower work value level.
33. Where an employee permanently reduces to a lower classification, the Chief Executive Officer will determine the salary having regard to the experience, qualifications and skills of the employee, previous salary, and the circumstances of the reduction.

Incremental advancement

Eligibility for performance based salary advancement and top of salary range payment

34. Progression through pay points within each classification level and the payment of a bonus will be based on the annual performance evaluation due at the end of February each year.
35. Employees not yet at the top point of their classification level will be advanced a minimum of one pay point if they are evaluated at a satisfactory level or higher, that is, 'consistently achieves' or 'consistently exceeds'.
36. Employees at the top pay point of their classification level will receive a 2.0% bonus payment calculated on their salary payable on 1 March each year if they are evaluated 'consistently achieves' or 'consistently exceeds'.
37. Salary advancement within a classification level is available to employees who, after commencing in, or being promoted to, a job in the Agency, have aggregate eligible service at that classification level pay point for a period of at least 3 months, as at the end of February each year and will take effect on 1 March each year unless otherwise requested by the employee and agreed by the Chief Executive Officer. If an employee has less than 3 months of

aggregate eligible service, the Chief Executive Officer may exercise their discretion to determine a higher salary under the salary setting clause 26.

38. The bonus payment outlined in clauses 34 and 36 is available to employees who, after commencing in, or being promoted to, a job in the Agency, have eligible aggregate service at the top pay point of the classification level for a period of at least 3 months, as at the end of February each year and will take effect 1 March each year unless otherwise requested by the employee and agreed by the Chief Executive Officer.
39. Eligible service for salary progression will include:
 - a. periods of paid leave and unpaid parental leave;
 - b. periods of unpaid leave that count as service; and
 - c. service while employed on a non-ongoing basis.
40. During a period of unpaid parental leave employees will be eligible to advance a maximum of one increment, regardless of the length of unpaid parental leave.
41. Employees who are acting at a higher classification will be eligible for salary progression at their acting classification if they:
 - a. have performed duties at that classification for a period of at least 6 months as at the end of February; and
 - b. have received a performance evaluation of 'consistently achieves' or 'consistently exceeds' at the end of the annual performance cycle in relation to their duties at that classification.
42. Salary progression while acting at a higher classification, will be retained for future acting duties at, or promotion to, that classification regardless of elapsed time.

Superannuation

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

Method for calculating superannuation salary

46. The Agency will provide an employer contribution of 15.4 per cent of the employee's Fortnightly Contribution Salary (FCS) for employees in the Public Sector Superannuation Accumulation Plan (PSSap) and employees in other accumulation superannuation funds.
47. Employer contributions will be made for all employees covered by this agreement.
48. Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements.

Payment during unpaid parental leave

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

Overpayments

49. An overpayment occurs if the Chief Executive Officer (or the Agency) provides an employee with an amount of money to which the employee was not entitled (including but not limited to salary, entitlements, allowances, travel payment and/or other amount payable under this agreement).
50. Where the Chief Executive Officer considers that an overpayment has occurred, the Chief Executive Officer will provide the employee with notice in writing. The notice will provide details of the overpayment.
51. If an employee disagrees that there has been an overpayment including the amount of the overpayment, they will advise the Chief Executive Officer in writing within 28 calendar days of receiving the notice. In this event, no further action will be taken until the employee's response has been reviewed.
52. If after considering the employee's response (if any), the Chief Executive Officer confirms that an overpayment has occurred, the overpayment will be treated as a debt to the Commonwealth that must be repaid to the Agency in full by the employee.
53. The Chief Executive Officer and the employee will discuss a suitable recovery arrangement. A recovery arrangement will take into account the nature and amount of the debt, the employee's circumstances and any potential hardship to the employee. The arrangement will be documented in writing.
54. The Agency and employee may agree to make a deduction from final monies where there is an outstanding payment upon cessation of employment.
55. Interest will not be charged on overpayments.
56. Nothing in clauses 49 to 55 prevents:
 - 56.1 The Agency from pursuing recovery of the debt in accordance with an Accountable Authority Instruction issued under the *Public Governance, Performance and Accountability Act 2013*;
 - 56.2 the Agency from pursuing recovery of the debt through other available legal avenues; or
 - 56.3 the employee or the Agency from seeking approval to waive the debt under the *Public Governance, Performance and Accountability Act 2013*.

Supported wage system

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

Section 3: Allowances and reimbursements

Higher duties allowance

59. Where a role needs to be filled for 2 or more working weeks, higher duties allowance will be paid to any employee temporarily occupying the role acting at a classification level higher than their substantive classification level.
60. Higher duties allowance will be equal to the difference between the employee's current salary and the salary that would be payable if they were promoted to the higher classification level, or a higher amount determined by the Chief Executive Officer.
61. Where an employee is found to be eligible for salary progression at their acting classification level they will receive an appropriate increase in the rate of higher duties allowance. The employee's salary level will be retained for all future periods of acting regardless of elapsed time.
62. Where an employee is assigned only part of the higher duties, the Chief Executive Officer will determine the amount of allowance payable.
63. Higher duties allowance will be payable while an employee is acting at a higher classification level as part of a job sharing arrangement where the duration of the arrangement is at least 2 working weeks.
64. The Chief Executive Officer may shorten the qualifying period for higher duties allowance on a case-by-case basis.

Travelling assistance

65. The Chief Executive Officer will approve payment of reasonable out of pocket expenses incurred by employees undertaking travel on official business. This includes the reasonable costs of accommodation, meals, incidentals and other expenses in accordance with the rates set out by the Australian Taxation Office.
66. Where a manager authorises an employee to use a private motor vehicle for official purposes, the employee will receive a Motor Vehicle Allowance in accordance with rates issued by the Australian Taxation Office.
67. Further information is available in the Agency's Travel Policy and Guidelines

Temporary relocation assistance

68. Where an employee is required to work in a different geographic location for a period of 3 weeks (i.e. 21 days) or less, they will be paid Travelling Allowance as set out clauses 65 to 67.
69. Where an employee is required to work in a different geographic location for a period in excess of 3 weeks from the day on which they commenced work at the new location, the Chief Executive Officer will determine a package of assistance to appropriately meet the additional costs incurred as a result of the employee being temporarily relocated.

70. Further information of the elements of assistance can be found in the Agency's Travel Policy and Guidelines.

Miscellaneous payments

71. The Chief Executive Officer may reimburse an employee for loss or damage to clothing or personal effects which occurred in the course of the employee's work.

Family care

72. Where the Agency requires employees to be away from home outside standard hours (including normal travel time) or work outside their regular hours, the Chief Executive Officer will approve reimbursement (net of government assistance) of the reasonable cost of additional family care arrangements on receipt of satisfactory evidence.
73. During the December/January school holiday period, the Agency will reimburse childcare costs up to \$38 per day for each child of an employee with childcare responsibilities who has requested leave, which is not approved because they are required to attend the Agency for operational reasons. The maximum payment that can be made is \$266 per week per employee.

Overtime meal allowance

74. Where an employee is required to work overtime for a continuous period to the completion of or beyond a meal period, an employee may claim reimbursement for a meal up to the reasonable amount rate set by the Australian Taxation Office .
75. A meal period means any of the following periods – 6.00am to 8.00am, 12.00pm to 2.00pm and 6.00pm to 8.00pm.

Workplace responsibility allowances

76. A workplace responsibility allowance will be paid where the Agency has appointed or elected an employee to one of the following roles:
- a) First Aid Officer;
 - b) Health and Safety Representative;
 - c) Emergency Warden;
 - d) Harassment Contact Officer; and
 - e) Mental Health First Aid Officer.
77. An employee is not to receive more than one workplace responsibility allowance unless approved by the Chief Executive Officer due to operational requirements.
78. An employee who is appointed as a first aid officer will be provided appropriate training and receive paid time off to undertake necessary First Aid training, including refresher training.
79. The rate will be:

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

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

Community language allowance

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

Table 1: Community language allowance rates

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

86. The allowance is calculated annually and paid fortnightly.
87. The full allowance is payable regardless of flexible work and part-time arrangements.
88. The allowance is payable during periods of paid leave.
89. The allowance counts as salary for superannuation purposes and for calculating retirement and redundancy entitlements.

Section 4: Classifications and broadbands

Classification structures

90. The Agency classification structure under the Agreement will consist of:
 - 90.1 Executive Level 1,
 - 90.2 Executive Level 2,
 - 90.3 APS 1-6, and
 - 90.4 Trainee APS (Administrative).

Trainee

91. The Chief Executive may engage a person as a Trainee APS (Administrative)
92. A Trainee APS (Administrative) Employee will be paid the minimum salary point of APS 1 or such other salary point as the Chief Executive Officer determines.
93. When the Chief Executive Office is satisfied that the course of training has been successfully completed, a Trainee APS (Administrative) Employee will be allocated a classification in accordance with the Classification Rules and the Chief Executive Officer will determine a salary within the applicable range.

Graduate

94. The Chief Executive Office may engage a person as a WGEA Graduate.
95. A WGEA Graduate Employee will be required to undertake a course of training determined by the Agency. While undertaking training, a Graduate Employee will be paid at a salary point within the APS 4 classification, as determined by the Chief Executive Officer.
96. When the Chief Executive Officer is satisfied that the course of training has been successfully completed, a WGEA Graduate Employee will be allocated a classification in accordance with the Classification Rules and the Chief Executive Officer will determine a salary within the applicable range.

Work Level Standards

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

Section 5: Working hours and arrangements

Job security

Commitment to ongoing employment and rebuilding APS capacity

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

Reporting

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

Pathways to permanency

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

Casual (irregular or intermittent) employment

101. A casual (irregular or intermittent) employee is defined in the definitions section.
102. A decision to expand the use of casual employees is subject to clauses 373 to 394 of this agreement.
103. The Agency will regularly review the working arrangements of casual employees to assess if they are genuinely performing irregular or intermittent duties, and report de-identified outcomes to the consultative committee, where one is in place.
104. Remuneration for casual employees is on an hourly basis. A casual employee will receive a 25 per cent loading on the base hourly rate of their classification as set out in this agreement.
105. The casual loading is paid in lieu of payment for public holidays not worked, notice of termination of employment, redundancy benefits and all paid leave entitlements, other than leave required by legislation including long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976* and leave for family and domestic violence support.
106. A casual employee will be engaged for a minimum of 3 hours per engagement or shall be paid for a minimum of 3 hours at the appropriate casual rate.
107. A casual employee who is eligible for a Workplace Responsibility Allowance will be paid the full amount.

Non-ongoing employment

- 108. A non-ongoing employee is defined in the definitions section.
- 109. Non-ongoing employees will generally have the same terms and conditions of employment as ongoing employees under this agreement's terms, except:
 - 109.1 personal/carer's leave accrual at clause 215; and
 - 109.2 redundancy provisions at clause 426, subject to clause 110.
- 110. If the non-ongoing employee's contract is not permitted by section 333E of the FW Act, then the redundancy provisions at clause 426 will apply.
- 111. If the redundancy provisions apply to an employee under clause 110, the Agency must adhere to the consultation requirements at clauses 373 to 394 and the consultation provision at clauses 429 to 433.

Working hours

- 112. An employee's Ordinary hours are 7 hours and 30 minutes per day, a total of 37 hours and 30 min per week. Standard hours of attendance are 9.00 am to 12.30 pm and 1.00 pm to 5.00pm
- 113. Part-time employees will work hours agreed in their part-time work agreement or designated for the job. A part-time employee and their manager may agree to vary to days and times that regular hours are worked.
- 114. Core time shall be 10.00 am to 12.00 noon and 2.00 pm to 4.00pm. All employees must attend for work during core time unless they have prior approval of their supervisor to be absent on flex or other leave.
- 115. An employee must not work more than 5 consecutive hours without an unpaid meal break of at least 30 minutes.
- 116. Any employee should not work more than 10 hours per day unless directed to do so.

Span of hours

- 117. The span of hours during which an employee may work Ordinary hours are 7.00 am to 7.00 pm Monday to Friday.
- 118. Where an employee specifically request to work outside this span of hours, the employee may do so with the agreement of their manager. Any hours worked on this basis will be considered Ordinary hours and not attract overtime rates.

Flex for APS 1-6 classifications

- 119. Flextime is a system of flexible working hours arrangements which enables full-time and part-time employees and managers to vary working hours, patterns and arrangements to provide maximum organisational flexibility with benefit to clients, employees and the Agency.

120. For the purposes of calculating flextime the working day will be 7 hours and 30 minutes or 150 hours (or pro-rata for part-time) per 4 week settlement period. The following flextime arrangements will apply:
- 120.1 An employee may generally only carry over a maximum flextime credit of one standard week (37.5 hours or pro-rata for part-time), at the end of a settlement period;
 - 120.2 An employee may take up to 5 days flex leave in one settlement period;
 - 120.3 In those exceptional circumstances where, at the conclusion of the settlement period, flex credits have not been reduced to below one standard week (37.5 hours or pro-rata for part-time) and it is agreed that there is limited opportunity for the employee to reduce their flex credit over the next settlement period or other agreed period, the Chief Executive Officer may approve that the employee cash out all of their flex credits at Ordinary time rates. An excess credit situation should not occur on a continuing basis;
 - 120.4 An employee may carry over a maximum of 10 hours flex debit accumulated in any one settlement period into the next settlement period. In circumstances where the maximum debit is exceeded at the end of the settlement period, the employee will endeavour to reduce the debit to the maximum allowable (or lower) over the next settlement period; and should this not occur, the amount by which the maximum debit is exceeded shall be treated as other leave without pay and an appropriate deduction made from the employee's pay.
121. An employee and their manager may agree on an alternative settlement period and pattern of hours, subject to hours of work averaging 7 hours 30 minutes per day.
122. Where an employee is required to work additional hours, and they are not otherwise entitled to overtime, their manager may authorise that they be provided with paid time off.
123. Where an employee's manager considers the employee's attendance is unsatisfactory or that the employee is misusing flex, the employee will be required to work Ordinary hours each day for a period specified by the manager. Ordinary hours are 9.00 am to 12.30 pm and 1.00 pm to 5.00 pm (for part-time employees, the agreed hours of duty). The employee and manager may agree to alternative times that do not vary the total number of hours worked.

Executive Level Time Off in Lieu (EL TOIL)

124. Executive level (EL) employees are sometimes required to work reasonable additional hours. Consistent with the NES, employees may refuse to work unreasonable additional hours.
125. EL employees seeking to access time off in lieu (TOIL) are required to keep records of their working hours using a method determined by the Agency.
126. A manager is to grant TOIL in recognition of reasonable additional hours worked. TOIL granted to employees can be taken as whole or part days.
127. The working arrangements for an EL employee should be agreed through discussion between the manager and the EL employee. The discussion should include consideration of the work requirements that will safely get the job done and reasonably allow the employee to balance their work and personal life.

128. An EL employee's working arrangements and actual hours worked should be discussed on at least a quarterly basis between the EL employee and their manager.
129. The pattern of hours is to be flexible enough to accommodate short-term peaks and troughs in workload, and include expected reasonable additional hours. The agreed pattern of hours is to be recorded.
130. Requests from EL employees to access flexible time off which are consistent with their agreed working arrangements are to be supported, subject to operational requirements.

Overtime and restriction

Overtime and Time Off in Lieu (TOIL)

131. Flextime will generally be used to meet operational requirements within the span of hours specified in clause 117. However, an employee may be directed to work reasonable additional hours to meet operational requirements. In such circumstances, the overtime rates set out in clauses 135 to 136 apply.
132. Overtime rates will apply to work performed at the direction of management, or with subsequent approval, by employees, other than Executive Level employees (or equivalent), that is outside the span of hours specified in clause 117 when 7 hours 30 minutes has already been worked in a day, on a public holiday, or in excess of 10 hours on any one day.
133. For part-time employees, other than Executive Level employees (or equivalent), overtime is payable for work performed at the direction of management which is not continuous with the employee's agreed or specified hours of work or is beyond the total hours of work over the settlement period specified in the employee's part-time work agreement or designated for the job.
134. Time Off in Lieu (TOIL) is the standard form of recompense for overtime. However, managers may, at the request of the employee and/or where it is impractical for the employee to take TOIL within 3 months of overtime having been worked, authorise the payment of overtime.
135. Where overtime is worked, TOIL or the payment for overtime will be calculated at the following rates:
 - 135.1 Monday to Saturday: Time and one half for the first three hours each day and double time thereafter.
 - 135.2 Sunday: Double time.
136. Where overtime is worked on a public holiday, TOIL is calculated at double time and a half for duty outside the Ordinary hours specified in clause 112. For duty within the Ordinary hours, TOIL will be calculated at time and a half additional to the single time payable for the public holiday.
137. Notwithstanding clauses 132 and 133, in exceptional circumstances the Chief Executive Officer may approve payment of overtime for an Executive Level employee.
138. Overtime Formula: the hourly rate for overtime payment will be calculated using the following formula:

- (i) Time and a half rate:
- $$\frac{\text{Annual Salary}}{313} \times \frac{6}{\text{prescribed weekly hours before overtime is payable}} \times \frac{3}{2}$$
- (ii) Double time rate:
- $$\frac{\text{Annual Salary}}{313} \times \frac{6}{\text{prescribed weekly hours before overtime is payable}} \times \frac{3}{1}$$
- (iii) Double time and a half rate:
- $$\frac{\text{Annual Salary}}{313} \times \frac{6}{\text{prescribed weekly hours before overtime is payable}} \times \frac{5}{2}$$

For the purpose of calculating the formula, prescribed weekly hours before overtime is payable will be 37.5.

Rest relief after overtime

139. Where an employee works overtime they will be entitled to an 8 hour break plus reasonable travelling time before recommencing work without incurring any loss of pay.
140. Where this break is not possible due to operational requirements, the employee will be paid double time until such times that an employee takes an 8 hour break.

Flexible working arrangements

141. The Agency, employees and their union recognise:
- 141.1 the importance of an appropriate balance between employees' personal and working lives, and the role flexible working arrangements can play in helping to achieve this balance;
 - 141.2 access to flexible work can support strategies to improve diversity in employment and leadership in the APS;
 - 141.3 access to flexible work supports APS capability, and can assist in attracting and retaining the employees needed to deliver for the Australian community, including employees located at a wider range of locations;
 - 141.4 that flexibility applies to all roles in the Agency, and different types of flexible working arrangements may be suitable for different types of roles or circumstances; and
 - 141.5 requests for flexible working arrangements are to be considered on a case-by-case basis, with a bias towards approving requests.
142. The Agency is committed to engaging with employees and their union to build a culture that supports flexible working arrangements across the Agency at all levels. This may include developing and implementing strategies through an Agency consultative committee.
143. Flexible working arrangements include, but are not limited to, changes in hours of work, changes in patterns of work and changes in location of work.

Requesting formal flexible working arrangements

144. The following provisions do not diminish an employee's entitlement under the NES.
145. An employee may make a request for a formal flexible working arrangement.
146. The request must:
- 146.1 be in writing;
 - 146.2 set out details of the change sought (including the type of arrangement sought and the proposed period the arrangement will operate for); and
 - 146.3 set out the reasons for the change, noting the reasons for the change may relate to the circumstances set out at section 65(1A) of the FW Act.
147. The Chief Executive Officer must provide a written response to a request within 21 days of receiving the request.
148. The response must:
- 148.1 state that the Chief Executive Officer approves the request and provide the relevant detail in clause 149; or
 - 148.2 if following discussion between the Agency and the employee, the Agency and the employee agree to a change to the employee's working arrangements that differs from that set out in the request – set out the agreed change; or
 - 148.3 state that the Chief Executive Officer refuses the request and include the following matters:
 - 148.3.1 details of the reasons for the refusal; and
 - 148.3.2 set out the Agency's particular business grounds for refusing the request, explain how those grounds apply to the request; and
 - 148.3.3 either:
 - 148.3.3.1 set out the changes (other than the requested change) in the employee's working arrangements that would accommodate, to any extent, the employee's circumstances outlined in the request and that the agency would be willing to make; or
 - 148.3.3.2 state that there are no such changes; and
 - 148.3.4 state that a decision to refuse the request, or failure to provide a written response within 21 days is subject to the dispute resolution procedures of the enterprise agreement, and if the employee is an eligible employee under the FW Act, the dispute resolution procedures outlined in sections 65B and 65C of the FW Act.
149. Where the Chief Executive Officer approves the request this will form an arrangement between the Agency and the employee. Each arrangement must be in writing and set out:
- 149.1 any security and work health and safety requirements;
 - 149.2 a review date (subject to clause 153); and

- 149.3 the cost of establishment (if any).
- 150. The Chief Executive Officer may refuse to approve the request only if:
 - 150.1 the Agency has discussed the request with the employee; and
 - 150.2 the Agency has genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for refusal); and
 - 150.3 the Agency and the employee have not reached such an agreement; and
 - 150.4 the Agency has had regard to the consequences of the refusal for the employee; and
 - 150.5 the refusal is on reasonable business grounds.
- 151. Reasonable business grounds include, but are not limited to:
 - 151.1 the new working arrangements requested would be too costly for the Agency;
 - 151.2 there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested;
 - 151.3 it would be impractical to change the working arrangements of other employees, or to recruit new employees, to accommodate the new working arrangements requested;
 - 151.4 the new working arrangements requested would be likely to result in a significant loss in efficiency or productivity;
 - 151.5 the new working arrangements requested would be likely to have a significant negative impact on customer service; and
 - 151.6 it would not be possible to accommodate the working arrangements without significant changes to security requirements, or where work health and safety risks cannot be mitigated.
- 152. For First Nations employees, the Agency must consider connection to country and cultural obligations in responding to requests for altering the location of work.
- 153. Approved flexible working arrangements will be reviewed by the Agency and the employee after 12 months, or a shorter period, if agreed by the employee. This is to ensure the effectiveness of the arrangement.

Varying, pausing or terminating flexible working arrangements

- 154. An employee may request to vary an approved flexible working arrangement in accordance with clause 146. An employee may request to pause or terminate an approved flexible working arrangement.
- 155. The Chief Executive Officer may vary, pause or terminate an approved flexible working arrangement on reasonable business grounds, subject to clause 157.
- 156. The Agency must provide reasonable notice if varying, pausing or terminating a flexible working arrangement without the agreement of the employee, having regard to the

circumstances of the employee. Exceptions to this requirement are urgent and critical operational circumstances or an employee's demonstrated and repeated failure to comply with the agreed arrangements.

157. Prior to the Chief Executive Officer varying, pausing or terminating the arrangement under clause 155, the Agency must have:
 - 157.1 discussed with the employee their intention to vary, pause or terminate the arrangement with the employee;
 - 157.2 genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for alteration);
 - 157.3 had regard to the consequences of the variation, pause or termination for the employee;
 - 157.4 ensured the variation, pause or termination is on reasonable business grounds; and
 - 157.5 informed the employee in writing of the variation, pause or termination to the approved flexible working arrangement, including details set out in clause 148.3.

Working from home

158. The Agency will not impose caps on groups of employees on the time that may be approved to work from home or remotely, with each request to be considered on its merits.
159. The Agency may provide equipment necessary for, or reimbursement, for all or part of the costs associated with establishing a working from home arrangement.
160. An employee working from home is covered by the same employment conditions as an employee working at an office site under this agreement.
161. The Agency will provide employees with guidance on working from home safely.
162. Employees will not be required by the Agency to work from home unless it is lawful and reasonable to do so. This may include where circumstances prevent attendance at an office during a pandemic or natural disaster. In these situations, the Agency will consider the circumstances of the employees and options to achieve work outcomes safely.

Ad-hoc arrangements

163. Employees may request ad-hoc flexible working arrangements. Ad-hoc arrangements are generally one-off or short-term arrangements for circumstances that are not ongoing.
164. Employees should, where practicable, make the request in writing and provide as much notice as possible.
165. Requests for ad-hoc arrangements are not subject to the request and approval processes detailed in clauses 144 to 153.
166. The Agency should consider ad-hoc requests on a case-by-case basis, with a bias to approving ad-hoc requests, having regard to the employee's circumstances and reasonable business grounds.

167. Where a regular pattern of requests for ad-hoc arrangements from an employee emerges, the Agency should consider whether it is appropriate to seek to formalise the arrangement with the employee.

Altering span of hours

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

Part-time work

169. A part-time employee is one whose regular Standard hours of work are less than 150 hours over a four-week period, i.e. less than an average of 37.5 hours per week. Ordinary hours of work for part-time employees, unless otherwise agreed between the employee and their manager, will be continuous and no less than 3 hours per day on any day worked by the employee.
170. Remuneration and other benefits for part-time employees will be calculated on a pro rata basis apart from those allowances of an expense related nature, where part-time employees will receive the same amount as full-time employees.
171. A part-time employee not working in a management initiated part-time job will revert to full time work at the conclusion of their part-time work agreement or earlier as agreed between the employee and the manager.
172. Employees engaged on a full-time basis will not be compelled to convert to part-time employment.
173. Employees engaged on a part-time basis will not be compelled to convert to full-time employment.

Christmas closedown

174. Employees will be provided with paid time off for the afternoon of the working day immediately prior to Christmas Day and for the days in between Christmas and New Year's Day (or equivalent) which would otherwise be working days. In the exceptional cases where employees are directed to work on these days by the Chief Executive Officer, they must be provided with the equivalent time off in lieu to be taken within 4 weeks or at an alternative time convenient to each employee and agreed with their manager.
175. In addition to the statutory public holidays set out in clause 176, employees will also observe an additional holiday each calendar year on the ordinary working day following the Boxing Day public holiday or its substitute. Conditions in relation to the additional holiday are those that apply to public holidays.

Public holidays

176. Employees are entitled to the following holidays each year as observed at their normal work location in accordance with the FW Act:
- 176.1 1 January (New Year's Day);
 - 176.2 26 January (Australia Day);
 - 176.3 Good Friday and the following Monday;
 - 176.4 25 April (Anzac Day);
 - 176.5 the King's birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
 - 176.6 25 December (Christmas Day);
 - 176.7 26 December (Boxing Day); and
 - 176.8 any other day, or part day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part day, or a kind of day or part day, that is excluded by the *Fair Work Regulations 2009* from counting as a public holiday.
177. If a public holiday falls on a Saturday or Sunday, and if under a State or Territory law, a day or part day is substituted for one of the public holidays listed above, then the substituted day or part day is the public holiday.
178. The Chief Executive Officer 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.
179. The Chief Executive Officer and an employee may agree to substitute a cultural or religious day of significance to the employee for any day that is a prescribed holiday. If the employee cannot work on the prescribed holiday, the employee will be required to work make-up time at times to be agreed. This substitution does not impact or reduce an employee's entitlement to First Nations ceremonial leave, NAIDOC leave or cultural leave.
180. Where an employee substitutes a public holiday for another day, they will not be paid penalty rates for working their normal hours on the public holiday.
181. Where a public holiday falls during a period when an employee is absent on leave (other than annual leave, paid personal/carer's leave, defence service sick leave or purchased leave) there is no entitlement to receive payment as a public holiday. Payment for that day will be in accordance with the entitlement for that form of leave (e.g. if on long service leave on half pay, payment is at half pay.)
182. If under a law of a State or Territory every Sunday is declared or prescribed by or under that law to be a public holiday, there is no entitlement to receive payment as a public holiday if the employee would have worked, or does perform work, on that day. In these circumstances, payment will only be made at the public holiday rate if the employee performs work on that day, and the Sunday would otherwise be a public holiday under clause 176.1 to 176.8 .

183. An employee, who is absent on a day or part day that is a public holiday in their normal work location, is entitled to be paid for the part or full day absence as if that day or part day was not a public holiday, except where that person would not normally have worked on that day.
184. Where a full-time employee, including but not limited to employees on compressed hours, has a regular planned day off which would fall on a public holiday, the Chief Executive Officer may allow the employee to change their planned day off so that it does not fall on a public holiday. If it is not possible to change their planned day off, the employee will be credited an equivalent amount of time to their regular hours for the day in flex credits or EL TOIL in recognition of their planned day off.

Section 6: Leave

Annual leave

185. An employee is entitled to 4 weeks (20 days) paid annual leave each calendar year, which accrues daily and is credited monthly.
- 185.1 Accrued entitlements may be taken at any time, subject to operational requirements and the approval of the manager;
 - 185.2 Annual leave may be taken at half pay. However, unless approved by the Chief Executive Officer, it may not be taken as half pay where the employee has an excessive leave balance.
 - 185.3 Annual leave counts as service for all purposes.
 - 185.4 Unused annual leave will accumulate.
186. Employees may cash out up to 10 days of their accrued annual leave entitlement once per calendar year. This cash out is subject to the:
- 186.1 employee having taken 10 days annual leave during the 12 month period immediately preceding the application;
 - 186.2 employee's remaining annual leave balance being equal to or greater than four weeks; and
 - 186.3 the approval of the Chief Executive Officer.
187. For each particular amount of annual leave the employee wishes to cash out, the employee and the Chief Executive Officer must make a separate written agreement.
188. The employee must be paid at least the full amount that would have been payable had the employee taken the leave to be foregone.
189. An employee who has not used annual leave within 2 years and 3 months of its accrual (or equivalent of 45 days):
- 189.1 may be directed by their manager or the Chief Executive Officer to take at least 10 days annual leave to reduce their credits below 35 days (however, an employee will not be directed to take more than $\frac{1}{4}$ of their annual leave credit);
 - 189.2 Employees who commence with, or return to, the Agency and who carry over 45 days (or equivalent of two years and three months entitlements) annual leave

credits or more, will have a 6 month period of grace from clause 189.1 during which they will be required to reduce their annual leave credits to below 35 days.

190. The Chief Executive Officer may agree that, in particular circumstances, an employee with 45 days leave credit will not be directed to take leave in accordance with clause 189.
191. Part time employees will accrue annual leave on a pro rata basis. Leave will be credited in respect of the average number of weekly hours worked over the accrual period.
192. Where an employee's annual leave is cancelled by their manager without reasonable notice or they are recalled to work from leave, reasonable travel costs, travelling time, incidental costs and any other unavoidable costs arising from the recall to duty will be reimbursed where they are not recoverable under any insurance or from any other source and all unused leave will be re-credited.
193. Where an employee ceases employment with the APS, the employee is to receive payment in lieu of unused annual leave accruals. Payment will be calculated using the employee's final rate of salary, including allowances that would have been paid during annual leave.

Purchased leave

194. Employees may purchase from 1 to 8 weeks additional leave per year, subject to approval. If approved by their manager, employees will have an amount deducted from their fortnightly salary.
195. Unless otherwise agreed, purchased leave not taken during the nominated 12 month period will automatically be reimbursed as salary.
196. Where an employee who has taken purchased leave either proceeds on extended leave or leaves the Agency before having paid the full amount, the amount outstanding must be repaid in full before the employee's departure.
197. Purchased leave counts as service for all purposes. The employee's salary for superannation purposes continues to be their full time salary.

Personal/carer's leave

198. An employee accrues 18 days Personal/carer's Leave annually, which is credited in accordance with their ongoing or non-ongoing status. Personal/carer's leave accrual is pro-rata for part-time employees.
199. Personal/carer's Leave at half pay may be approved by the Chief Executive Officer.
200. Personal/carer's Leave is cumulative but will not be paid out on separation. Personal/carer's Leave counts as service for all purposes.
201. Paid Personal/carer's Leave is to be used, with the approval of their manager, when an employee is absent:
 - 201.1 Due to personal illness or injury;
 - 201.2 To attend appointments with a registered health practitioner;

- 201.3 To manage a chronic condition; and/or
 - 201.4 To provide care or support to a family or household member or a person they have caring responsibilities for, who has a personal illness or injury or unexpected emergency; or
 - 201.5 As a result of special or exceptional circumstances.
202. A person that an employee has caring responsibilities for may include a person who needs care because they:
- 202.1 have a medical condition, including when they are in hospital;
 - 202.2 have a mental illness;
 - 202.3 have a disability;
 - 202.4 are frail or aged; and/or
 - 202.5 are a child, not limited to a child of the employee.
203. Unless otherwise agreed by the Chief Executive Officer, evidence may be requested after more than 3 consecutive days of Personal/carer's Leave.
204. Acceptable evidence includes:
- 204.1 a certificate from a registered health practitioner;
 - 204.2 a statutory declaration; and
 - 204.3 another form of evidence approved by the Chief Executive Officer.
205. A certificate from a registered health practitioner may be used as evidence of a chronic condition for up to 12 months for both personal and carer's leave.
206. There is no limit to the maximum continuous amount of Personal/carer's Leave which may be granted for absences, subject to available credits, medical certification or other evidence.
207. The Chief Executive Officer may allow an employee to advance 1 year's Personal/carer's Leave accrual where credits are exhausted.
208. An employee receiving worker's compensation for more than 45 weeks will accrue Personal/carer's Leave on an hours actually worked basis.
209. An employee who has exhausted their Personal/carer's Leave credits or an employee engaged on an intermittent or irregular basis who does not have Personal/carer's Leave credits may take up to 2 days unpaid carer's leave in accordance with Subdivision B of Division of Part 2 of the FW Act on each occasion that a member of the employee's family or household requires care or support because of personal illness or injury or an unexpected emergency affecting the member.
210. A casual employee may be absent without pay when not fit for work due to personal illness or injury.

Personal/carer's Leave Credits for Ongoing Employees

211. The full Personal/carer's Leave entitlement will be credited on commencement of employment in ongoing status and, until 30 June 2025 on each subsequent anniversary of their commencement. From 1 July 2025 Personal/carer's Leave entitlement for employees

after 12 months of commencement of employment in ongoing status will accrue daily, credited monthly.

212. Employees who become ongoing employees after a period of non-ongoing APS employment of less than 12 months will accrue 18 days Personal/carer's Leave credit on commencement less any Personal/carer's Leave with pay previously granted.

Personal/carer's Leave Credits for Non-Ongoing Employees

213. Non-ongoing employees (excluding non-ongoing employees engaged on an intermittent or irregular basis), will be entitled to 18 days Personal/carer's Leave per year and will be credited upon commencement with the Agency. This will be 18 days leave pro-rated based on the employee's initial contract period, and is capped at 18 days. After the initial contract period or 12 months, whichever is shorter, or where the employee has an existing entitlement to personal/carer's leave, leave will accrue daily, credited monthly.

214. Where an employee:

- 214.1 has, or cares for someone with, a chronic condition or other ongoing illness; or
- 214.2 is recovering from surgery; or
- 214.3 is pregnant; or
- 214.4 is returning from parental leave or has a child commencing day care;

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

Portability of leave

215. Where an employee moves into the Agency from another APS agency where they were an ongoing employee, the employee's unused accrued annual leave and personal/carer's leave will be transferred, provided there is no break in continuity of service.
216. Where an employee is engaged in the Agency immediately following a period of ongoing employment in the Parliamentary Service or the ACT Government Service, the employee's unused accrued annual leave and personal/carer's leave will be recognised unless the employee received payment in lieu of those entitlements on cessation of employment.
217. Where an employee is engaged as an ongoing employee in the Agency, and immediately prior to the engagement the person was employed as a non-ongoing APS employee (whether in the agency or another), at the employee's request, any unused accrued annual leave (excluding accrued leave paid out on separation) and personal/carer's leave will be recognised.
218. Where an employee is engaged as a non-ongoing APS employee, and immediately prior to the engagement the person was employed as a non-ongoing APS employee (whether in the agency or another) at the employee's request, any unused accrued annual leave (excluding accrued leave paid out on termination of employment) and personal/carer's leave will be recognised.

219. Where an employee is engaged as an ongoing employee in the Agency, and immediately prior to the engagement the person was employed by a Commonwealth employer (other than in the Parliamentary Services which are covered in clause 216), the Chief Executive Officer will recognise any unused accrued personal/carer's leave at the employee's request. The Chief Executive Officer will advise the employee of their ability to make this request.
220. Where an employee is engaged as an ongoing employee in the Agency, and immediately prior to the engagement the person was employed by a State or Territory Government, the Chief Executive Officer may recognise any unused accrued personal/carer's leave, provided there is not a break in continuity of service.
221. For the purposes of clauses 215 to 220, an employee with a break in service of less than 2 months is considered to have continuity of service.

Leave without pay

222. Unless the Chief Executive Officer determines otherwise, any continuous period of leave without pay greater than 30 calendar days will not count as service for Annual and Personal/carer's Leave purposes.
223. 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. Any amounts paid to an employee in respect of an unauthorised absence are overpayments and the Agency will seek to recover those amounts.

Re-crediting of leave

224. When an employee is on:
- 224.1 annual leave;
 - 224.2 purchased leave;
 - 224.3 defence reservist leave;
 - 224.4 First Nations ceremonial leave;
 - 224.5 NAIDOC leave;
 - 224.6 cultural leave; or
 - 224.7 long service leave; and
- becomes eligible for, under legislation or this agreement:
- 224.8 personal/carer's leave;
 - 224.9 compassionate or bereavement leave;
 - 224.10 jury duty;
 - 224.11 emergency services leave;

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

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

the affected period of leave will be re-credited.

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

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

Long service leave

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

228. The minimum period for which long service leave will be granted is 7 calendar days (whether taken at full or half pay). Long service leave cannot be broken with other periods of leave, except as otherwise provided by legislation or provided for in the re-crediting of leave clause 224 of this agreement.

Miscellaneous leave

229. The Chief Executive Officer, having regard to operational needs of the Agency, may grant miscellaneous leave with or without pay for a variety of reasons. The intention of miscellaneous leave is to provide flexibility to managers and employees.

230. Miscellaneous leave may be granted for the period requested or for another period with pay or without pay.

231. The Chief Executive Officer may determine under clause 229 that only a part of the period of leave will be with pay.

232. Miscellaneous leave may be granted to casual employees to provide for paid family and domestic violence leave and otherwise by Government directive.

Cultural, ceremonial and NAIDOC leave

NAIDOC leave

233. First Nations employees may access up to one day of paid leave per calendar year to participate in NAIDOC week activities.

234. NAIDOC leave can be taken in part days.

First Nations ceremonial leave

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

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

Cultural leave

- 239. The Chief Executive Officer may grant up to 3 days of paid leave per calendar year for the purpose of attending significant religious or cultural obligations associated with the employees' particular faith or culture.
- 240. The Chief Executive Officer may approve additional leave for cultural purposes as miscellaneous leave, with or without pay.
- 241. Cultural leave can be taken as part days.
- 242. For the avoidance of doubt, this leave does not cover cultural purposes or obligations which are eligible for paid leave under clause 235.

Parental leave

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

Payment during parental leave

- 247. An employee is entitled to parental leave with pay as per clauses 249 and 250 below within the parental leave period. Any further parental leave during the parental leave period is without pay. Unused paid parental leave remaining at the end of the employee's parental leave period will lapse. An employee may choose to use their accrued paid leave entitlements in accordance with usage and eligibility requirements in this agreement during the parental leave period that would otherwise be without pay.
- 248. Employees newly engaged in the Agency or who have moved to the Agency from another APS agency are eligible for the paid parental leave in clauses 249 and 250 where such paid leave had not already been provided by another APS agency or Commonwealth employer in the 24

months since the child’s date of birth or placement. If the paid leave used by the employee with the previous Commonwealth employer or APS agency is less than the limits specified in clauses 249 and 250, the balance is available to the employee.

249. An employee who is a primary caregiver is entitled to parental leave with pay during the parental leave period to a maximum of 18 weeks as provided in **Table 1 [Primary caregivers – circumstances for paid parental leave]** below.

Table 1: Primary caregivers - circumstances for paid parental leave

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

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

Table 2: Secondary caregivers - circumstances for paid parental leave

Period which coincides with the parental leave period for the secondary caregiver	Parental Leave with pay under this agreement
Date of commencement of this agreement to 28 February 2025	8 weeks, or top up to 8 weeks where a lesser period of parental leave has already been provided
1 March 2025 to 28 February 2026	11 weeks, or top up to 11 weeks where a lesser period of parental leave has already been provided
1 March 2026 to 27 February 2027	14 weeks, or top up to 14 weeks where a lesser period of parental leave has already been provided
On and from 28 February 2027	18 weeks, or top up to 18 weeks where a lesser period of parental leave has already been provided

251. **Flexibility:** Parental leave with pay, whether provided as maternity leave under the ML Act or under this agreement, can be accessed flexibly during the parental leave period and does not have to be taken in a single block. For the avoidance of doubt, parental leave can be used to replicate a part time work arrangement, and can be taken concurrently with another parent in relation to the same child.
252. **Rate of payment** during paid parental leave is the same as for an absence on personal/carer’s leave and based on the employee’s weekly hours at the time of the absence.

253. **Half-pay option:** The payment of any paid parental leave may be spread over a maximum period of 36 weeks at the rate of, no less than, half the normal rate of salary. All paid parental leave counts as service for all purposes, where permitted by legislation.

Adoption and long-term foster care

254. An employee who is a primary caregiver or secondary caregiver is entitled to parental leave in accordance with this agreement for adoption or long-term foster care, provided that the child:
- 254.1 is under 16 as at the day (or expected day) of placement;
 - 254.2 has not lived continuously with the employee for a period of six months or more as at the day (or expected day) of placement; and
 - 254.3 is not (otherwise than because of the adoption) a child of the employee or the employee's spouse or de facto partner.
255. Documentary evidence of approval for adoption or enduring parental responsibilities under formal fostering arrangements must be submitted when applying for parental leave for adoption or long-term foster carer purposes.

Stillbirth

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

Pregnancy loss leave

258. A pregnant employee who experiences, or an employee whose spouse or partner experiences, pregnancy loss is entitled to one week's paid leave. Pregnancy loss is a miscarriage or other loss of pregnancy that occurs between 12 and 20 weeks' gestation that is not a stillbirth.
259. Pregnancy loss leave is in addition to entitlements to compassionate leave for miscarriage provided under the FW Act and this agreement.

Premature birth leave

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

Transitional provisions

261. Employees eligible for paid leave under the ML Act are required under legislation to use their paid maternity leave first. In this circumstance, the employee may postpone their paid premature birth leave otherwise payable under clause 260 until after the legislated paid maternity leave is used.

Return to work after parental leave

262. On ending primary carer's leave and/ or parental leave, an employee is entitled to the return to work guarantee equivalent to that provided by s.84 of the FW Act.
263. Employees returning directly from parental leave or primary carers leave will be provided with access to regular part-time work upon application.

Compassionate leave

264. Employees will be eligible for 3 days paid compassionate leave on each occasion when:
- 264.1 a member of their family (including a member of their household) or someone they have a close personal relationship with contracts, develops or sustains a life-threatening illness or injury; or
 - 264.2 the employee or their partner has a miscarriage.
265. An employee may be asked to provide evidence to support their absences on compassionate leave.
266. Compassionate leave for an occasion may be taken as 3 consecutive days or in separate periods totalling 3 days. This can include part days.
267. For casual employees, compassionate leave is unpaid.

Bereavement leave

268. Employees will be eligible for 3 days paid bereavement leave on each occasion when:
- 268.1 a member of their family (including a member of their household) or someone they had a close personal relationship with dies; or
 - 268.2 a child is stillborn, where the child was a member of their family (including a member of their household).
269. An employee may be asked to provide evidence to support their absences on bereavement leave.
270. Bereavement leave for an occasion may be taken as 3 consecutive days or in separate periods totalling 3 days. This can include part days.
271. For casual employees, bereavement leave is unpaid.

Emergency response leave

272. In line with section 108 of the FW Act, an employee who engages in an eligible community service activity is entitled to emergency response leave to volunteer for emergency management duties for:
- 272.1 the time engaged in the activity;
 - 272.2 reasonable travelling time; and
 - 272.3 reasonable recovery time.
273. Full-time and part-time employees will be able to access 20 working days of paid emergency response leave at their full rate of pay per year if required. The Chief Executive Officer may provide additional emergency response leave with pay. For this purpose of this clause, the full rate of pay is to be as if the employee was at work.
274. Paid leave may be refused where the employee's role is essential to the Agency's response to the emergency.
- 274.1 For the purposes of this clause, full rate of pay is to be as if the employee was at work.
275. An employee must provide evidence that the organisation requests their services. Employees can provide evidence before or as soon as practical after their emergency service activity.
276. The Chief Executive Officer may approve reasonable paid or unpaid leave for ceremonial duties and training.
277. Emergency response leave, with or without pay, will count as service.

Jury duty

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

Volunteer leave

282. The Chief Executive Officer may grant up to 2 days leave with pay per year to an employee to perform volunteer work.

Defence reservist leave

283. The Chief Executive Officer will give an employee leave with or without pay to undertake:
- 283.1 Australian Defence Force (ADF) Reserve and continuous full-time service (CFTS); and
 - 283.2 Australian Defence Force Cadet obligations.
284. An employee who is a Defence Reservist can take leave with pay for:
- 284.1 up to 4 weeks (20 days) in each financial year (pro-rata for part-time employees); and
 - 284.2 an extra 2 weeks (10 days) in the first year of ADF Reserve service (pro-rata for part-time employees).
285. Leave can be built up and taken over 2 consecutive years. This includes the extra 2 weeks in the first year of service.
286. An employee who is an Australian Defence Force Cadet officer or instructor can get paid leave up to 3 weeks in each financial year to perform their duties. Australian Defence Force Cadets means:
- 286.1 Australian Navy Cadets;
 - 286.2 Australian Army Cadets; and
 - 286.3 Australian Air Force Cadets.
287. In addition to the entitlement at clause 284, paid leave may be granted to an employee to attend an interview or medical examination in connection with the enlistment of the employee in a Reserve Force of the Defence Force.
288. Paid defence reservist leave counts for service.
289. Unpaid defence reservist leave for 6 months or less counts as service for all purposes. This includes periods of CFTS.
290. Unpaid leave taken over 6 months counts as service, except for annual leave.
291. An employee will not need to pay their tax free ADF Reserve salary to their agency for any reason.

Defence service sick leave

292. An employee is eligible for defence service sick leave credits when the Department of Veterans Affairs (DVA) has certified that an employee's medical condition is as a result of either:

- 292.1 warlike service; or
 - 292.2 non-warlike service.
293. An eligible employee can get 2 types of credits:
- 293.1 an initial credit of 9 weeks (45 days) defence service sick leave will apply as of the later below option:
 - 293.1.1 they start employment with the APS; or
 - 293.1.2 DVA certifies the condition; and
 - 293.2 an annual credit of 3 weeks (15 days) defence service sick leave.
294. An employee can use their defence service sick leave when a recognised medical practitioner provides a certificate that says they were away due to their DVA certified medical condition.
295. Unused annual credits can be built up to 9 weeks.
296. An employee cannot use annual credits until the initial credit is exhausted.
297. Defence service sick leave is paid and counts as service for all purposes.

Leave to attend proceedings

298. An employee giving evidence before a Court, Tribunal or Royal Commission on behalf of the Commonwealth or a Commonwealth party in the course of their duties, will be considered on duty.
299. An employee who is not covered under clause 298, and is required to give evidence to, appear before or attend to instruct a representative at a Court, Tribunal or Royal Commission in relation to their duties will be released from duty without loss of pay. This includes in proceedings relating to a dispute between the employee and the Agency.
300. An employee may otherwise be granted paid or unpaid miscellaneous leave by the Chief Executive Officer if required to give evidence to a Court, Tribunal or Royal Commission for any other reason. Where approval for unpaid leave is given, the employee may elect to use accrued annual leave, flex leave or time off in lieu.
301. The Chief Executive Officer may refuse to release an employee from duty having regard to business requirements and whether the employee's attendance is necessary for the Court, Tribunal or Royal Commission hearing.

Section 7: Employee support and workplace culture

Blood donation

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

Vaccinations

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

Employee Assistance Program

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

Respect at work

Principles

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

Consultation

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

Family and domestic violence support

310. The Agency will provide support for employees affected by family and domestic violence, depending on the employee's circumstances.
311. The Agency recognises that a holistic approach should be taken to support the employee, appropriate for the employee's individual circumstances.
312. Family and domestic violence support, including paid leave, are available to all employees covered by this agreement.
313. An employee experiencing family and domestic violence is able to access paid miscellaneous leave. Reasons an employee experiencing family and domestic violence may access this leave include, but are not limited to:
 - 313.1 illness or injury affecting the employee resulting from family and domestic violence;
 - 313.2 providing care or support to a family member (including a household member) who is also experiencing family and domestic violence, and is ill or injured as a result of family and domestic violence;
 - 313.3 providing care or support to a family member (including a household member) who is also experiencing family and domestic violence, and is affected by an unexpected emergency as a result of family and domestic violence;
 - 313.4 making arrangements for the employee's safety, or the safety of a close relative;
 - 313.5 accessing alternative accommodation;
 - 313.6 accessing police services;
 - 313.7 attending court hearings;
 - 313.8 attending counselling; and
 - 313.9 attending appointments with medical, financial or legal professionals.
314. This entitlement exists in addition to an employee's existing leave entitlements and may be taken as consecutive days, single days or part days and will count as service for all purposes.
315. Given the emergency context in which leave may need to be accessed, employees can proceed to take the leave and seek approval at a later date, as soon as practicable.
316. These family and domestic violence support clauses do not reduce an employee's entitlement to family and domestic violence leave under the NES.
317. Paid miscellaneous leave available under this clause is paid for ongoing and non-ongoing employees at their full rate as if they were at work.
318. Paid leave for casual employees under this clause is paid at their full pay rate for the hours they were rostered to work in the period they took leave.
319. Evidence may be requested to support the Agency in approving leave. In most cases, this will not be required. Where it is required, this will be discussed with the employee and a statutory declaration is the only form of evidence the Agency will require, unless the employee chooses to provide another form of evidence.

- 320. An employee may also choose to provide other forms of evidence, including a medical certificate, or document issued by the Police Service, a Court, a Doctor, district Nurse, a Family Violence Support Service or Lawyer.
- 321. The Agency will take all reasonable measures to treat information relating to family and domestic violence confidentially. The Agency will adopt a 'needs to know' approach regarding communication of an employee's experience of family and domestic violence, subject to steps the Agency may need to take to ensure the safety of the employee, other employees or persons, or mandatory reporting requirements.
- 322. Where the Agency needs to disclose confidential information for purposes identified in clause 321, where it is possible the Agency will seek the employee's consent and take practical steps to minimise any associated safety risks for the employee and/or privacy breaches.
- 323. The Agency will not store or include information on the employee's payslip in relation to the employee's experience of family and domestic violence; any leave accessed for the purposes of family and domestic violence; or support(s) provided by the employer, unless otherwise required by legislation.
- 324. Other available support may include, but is not limited to, flexible working arrangements, additional access to EAP, changes to their span of hours or pattern of hours and/or shift patterns and/or location of work where reasonably practicable.
- 325. The Agency will acknowledge and take into account an employee's experience of family and domestic violence if an employee's attendance or performance at work is affected.
- 326. Further information about leave and other support available to employees affected by family and domestic violence may be found in policy.

Integrity in the APS

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

First Nations cultural competency training

- 330. The Chief Executive Officer will take reasonable steps to ensure all substantive, ongoing EL2 employees employed at the commencement of this agreement or any new substantive,

ongoing EL2 employees who commence within the first 6 months of this agreement will complete relevant First Nations cultural competency training within 12 months of the commencement of the agreement.

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

Diversity

332. The Agency is committed to promoting and supporting diversity in the workplace and recognises that our success depends upon our people, with their diverse views, abilities, skills, languages, cultures, perspectives and experiences. The Agency is an inclusive organisation that values fairness, equity and diversity consistent with the APS Values, Employment Principles and APS Code of Conduct. This commitment is demonstrated in leadership and management behaviours, strategies to remove barriers to employment and fostering a culture and environment which eliminates discrimination and harassment whilst celebrating individual differences.

Lactation and breastfeeding support

333. Reasonable paid time during work hours will be provided for lactation breaks for breastfeeding, expressing milk and other associated activities.
334. The Agency will provide access to appropriate facilities for the purpose of breastfeeding or expressing milk, subject to clause 335. In considering whether a space is appropriate, an agency should consider whether:
- 334.1 there is access to refrigeration;
 - 334.2 the space is lockable; and
 - 334.3 there are facilities needed for expressing, such as appropriate seating.
335. Where it is not practicable for an Agency site to have a designated space, a flexible approach will be taken so that the employee can access the support required.
336. The Agency will facilitate discussion between individual employees and their managers about accommodating the employee's lactation needs and practical arrangements to meet these needs.
337. The manager and employee shall discuss any flexible working arrangements that may be needed to support lactation. This may include consideration of arrangements such as working from home and/or remote working or varying work hours on an ad-hoc or regular basis. Wherever possible, requests by an employee will be accommodated, noting these needs may be changed over time.
338. Further information is available in policy.

Disaster support

339. Where an official disaster or emergency is declared and this prevents an employee from reasonably attending work, or where it impacts their household or home, the Chief Executive Officer will consider flexible working arrangements to assist the employee to perform their work.
340. Where flexible working arrangements are not appropriate, the Chief Executive Officer may grant paid miscellaneous leave to an employee with regard to the scale and nature of the emergency. This leave counts as service and may be approved retrospectively.
341. In considering what period of leave is appropriate, the Agency Head will take into account the safety of the employee, their family (including their household) and advice from local, State and Commonwealth authorities.

Section 8: Performance and development

Performance management framework

- 342. Employees, other than non-ongoing employees engaged for terms of less than 3 months, must develop an annual agreement with their manager outlining individual goals and development plans each year.
- 343. At the end of February each year, each employee will be assigned an overall evaluation of 'consistently exceeds', 'consistently achieves', 'mostly achieves' or 'unsatisfactory' by their manager for the previous 12 months.
- 344. Further information on performance management processes, including the responsibilities, rights and obligations of managers and employees in managing performance can be found in the Agency's Performance and Development Policy.

Learning and development

- 345. Each employee, in consultation with their manager, will identify and plan their training and development needs and specific learning options.
- 346. From time to time, the Chief Executive Officer may approve specific training and development programmes for employees designed to build essential Agency capabilities. The Chief Executive Officer may also approve additional funding for employees to participate in such programs.
- 347. Support and resources will be provided so that employees can access those learning activities that can provide the most effective outcomes. These may include on and off the job training, work placements and formal study.
- 348. The Chief Executive Officer may provide financial or other assistance to an employee to undertake formal courses of study at tertiary and higher education institutions and other vocational education courses where the study is agreed as part of an employee's learning and development agreement as part of the Performance Management Framework. Further information for employees undertaking studies is available in the Agency's Study Policy and Guidelines.

Managing under-performance

- 349. Underperformance issues will be addressed promptly and fairly, with discussion and feedback being the initial channel for resolving these issues.
- 350. The underperformance process will not to be used for disciplinary or invalidity reasons.
- 351. Further information can be found in the Agency's Managing Under-performance Policy.

Workloads

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

Study assistance

- 355. The Chief Executive Officer may approve an employee access to financial or other assistance to undertake accredited study relevant to WGEA and APS priorities.
- 356. Further information for employees undertaking studies is available in the Agency's Study Policy and Guidelines.

Professional qualifications

- 357. Employees will have professional memberships and/or accreditation fees paid where the Chief Executive Officer determines they are an essential requirement of their role, or it aligns with Agency priorities.

Section 9: Travel and location-based conditions

Travel

- 358. Managers may agree to reasonable compensatory time off in recognition of any additional time spent travelling outside normal working hours. Any such absences will be recorded for workers' compensation purposes.
- 359. Further information is available in the Agency's Travel Policy and Guidelines.

Excess travelling time

- 360. Where an APS employee is temporarily relocated and this involves excess travelling time (ETT) (as defined) of between 30 minutes and 5 hours in any one day, they will receive Flex for this excess travelling time. Executive level employees will be entitled to access the TOIL provisions of clauses 126 and 130 with the agreement of their manager.

Excess fares

- 361. An employee will be reimbursed excess fares where temporarily performing work at a place other than their usual place of work, when the cost of travel to and from the employee's temporary place of work is greater than the cost of travel to and from the employee's usual place of work. Excess fares are not reimbursed where the employee is receiving Travelling Allowance or has moved in anticipation of a permanent move.

Relocation assistance

- 362. Where an existing APS employee is required to relocate at the request of the Agency (such as a promotion), the employee will be provided with financial relocation assistance. Employees who relocate on a temporary basis to take up higher duties are entitled to removal expenses if they relocate for a period of 13 weeks or more.
- 363. Where an employee is required to relocate on engagement with the Agency, the employee will be provided with financial relocation assistance.
- 364. Reasonable expenses associated with the relocation include:
 - 364.1 the cost of transport of the employee, their dependents and partner by the most economical means;
 - 364.2 removal expenses, namely the reimbursement of reasonable incurred costs of the removal of furniture and household effects of the employee, dependants and partner;
 - 364.3 the reimbursement of the cost of the insurance premium based on a reasonable replacement value; and

- 364.4 the reasonably incurred expenses in kennelling and transport of pets, up to the amount specified in the APS Award.
- 365. Additional relocation assistance may be considered by Chief Executive Officer discretion.

Section 10: Consultation, representation and dispute resolution

Consultation

Principles

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

When consultation is required

369. Consultation is required in relation to:
- 369.1 changes to work practices which materially alter how an employee carries out their work;
 - 369.2 changes to or the introduction of policies or guidelines relevant to workplace matters (unless the changes are minor or procedural);

- 369.3 major change that is likely to have a significant effect on employees;
 - 369.4 implementation of decisions that significantly affect employees;
 - 369.5 changes to employees' regular roster or ordinary hours of work (subject to any other relevant provisions in this agreement); and
 - 369.6 other workplace matters that are likely to significantly or materially impact employees.
370. The Agency, employees and the relevant union(s) recognise that consultation prior to a decision may not be practicable where a decision is made by Government or is required due to matters beyond the reasonable control of the Agency. In these circumstances, consultation regarding the implementation of the decision will occur as early as is reasonably practicable.

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

371. Clauses 379 to 386 apply if the Agency:
- 371.1 proposes to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
 - 371.2 proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Representation

372. Employees may appoint a representative for the purposes of the procedures in this clause. A representative for the purpose of this clause may be a union representative.
373. The Agency must recognise the representative if:
- 373.1 a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - 373.2 the employee or employees advise the employer of the identity of the representative.

Major change

374. In this clause, a major change is **likely to have a significant effect on employees** if it results in, for example:
- 374.1 the termination of the employment of employees; or
 - 374.2 major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
 - 374.3 the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - 374.4 the alteration of hours of work; or
 - 374.5 the need to retrain employees; or

- 374.6 the need to relocate employees to another workplace; or
- 374.7 the restructuring of jobs.
- 375. The following additional consultation requirements in clause 376 to 382 apply to a proposal to introduce a major change referred to in clause 369.3.
- 376. Consultation with employees and the relevant union(s) and/or recognised representatives will occur prior to a decision being made, subject to clause 370.
- 377. Where practicable, an Agency change manager or a primary point of contact will be appointed and their details provided to employees and the relevant union(s) and/or their recognised representatives.
- 378. The Agency must notify employees and relevant union(s) and/or recognised representatives of the proposal to introduce the major change as soon as practicable.
- 379. As soon as practicable after proposing the change, or notifying of the change in circumstances described at clause 370, the Agency must:
 - 379.1 discuss with affected employees and relevant union(s) and/or other recognised representatives:
 - 379.1.1 the proposed change:
 - 379.1.2 the effect the proposed change is likely to have on the employees; and
 - 379.1.3 proposed measures to avert or mitigate the adverse effect of the proposed change on the employees; and
 - 379.2 for the purposes of the discussion – provide, in writing, to employees and the relevant union(s) and/or other recognised representatives:
 - 379.2.1 all relevant information about the proposed change, including the nature of the change proposed; and
 - 379.2.2 information about the expected effects of the proposed change on the employees; and
 - 379.2.3 any other matters likely to affect the employees.
- 380. The Agency must give prompt and genuine consideration to matters raised about the major change by employees and the relevant union(s) and/or other recognised representatives.
- 381. However, the Agency is not required to disclose confidential or commercially sensitive information to employees and the relevant union(s) and/or other recognised representatives.
- 382. 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 Agency, the requirements set out in clauses 376 to 380 are taken not to apply.

Change to regular roster or ordinary hours of work

- 383. The following additional consultation requirements in clause 384 to 387 apply to a proposal to introduce a change referred to in clause 369.5.

384. The Agency must notify affected employees and the relevant union(s) and/or other recognised representatives of the proposed change.
385. As soon as practicable after proposing to introduce the change, the Agency must:
- 385.1 discuss with employees and the relevant union(s) and/or other recognised representatives:
 - 385.1.1 the proposed introduction of the change; and
 - 385.2 for the purposes of the discussion – provide to the employees and relevant union(s) and/or other recognised representatives:
 - 385.2.1 all relevant information about the proposed change, including the nature of the proposed change; and
 - 385.2.2 information about what the employer reasonably believes will be the effects of the proposed change on the employees; and
 - 385.2.3 information about any other matters that the employer reasonably believes are likely to affect the employees; and
 - 385.3 invite employees and the relevant union(s) and/or other recognised representatives to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities). However, the Agency is not required to disclose confidential or commercially sensitive information to the relevant employees and the relevant union(s) and/or other recognised representatives.
386. The Agency must give prompt and genuine consideration to matters raised about the proposed change by the employees and the relevant union(s) and/or other recognised representatives.

Interaction with emergency management activities

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

Agency consultative committee

388. The Chief Executive Officer may establish an Agency consultative committee to discuss relevant workplace matters.
389. Agency consultative committees will operate subject to an agreed terms of reference and structure for the term of the agreement. Representation on the committee will be in accordance with the terms of reference.

APS consultative committee

390. The Chief Executive Officer will support the operation of the APS consultative committee to the extent possible. This includes providing information requested by the Australian Public

Service Commission to support the operation of the APS consultative committee, subject to legislative requirements.

Dispute resolution

Resolving workplace issues

- 391. Where grievances arise over decisions or action affecting an employee, every effort will be made to resolve the matter through discussion between the relevant manager and the employee concerned.
- 392. An employee may refer the matter to the Chief Executive Officer for resolution where:
 - 392.1 discussions with the relevant manager fail to resolve the matter, or
 - 392.2 where the matter relates to the behaviour of the manager and it would be inappropriate to discuss the matter at that level
- 393. Where an employee refers the matter to the Chief Executive Officer in accordance with clause 392:
 - 393.1 the employee and Chief Executive Officer may agree to appoint a mutually acceptable independent person from within or outside the Agency to assist in resolving the matter by mediation and/or to investigate the matter and make recommendations where necessary; and
 - 393.2 the Chief Executive Officer will advise the employee in writing of their decision in respect of the matter and the reasons for that decision, including the outcome of any investigation of the matter .

Resolution of Agreement disputes

- 394. If a dispute relates to:
 - 394.1 a matter arising under the agreement; or
 - 394.2 the National Employment Standards;this term sets out procedures to settle the dispute.
- 395. An employee or union who is covered by this agreement may initiate and/or be a party to a dispute under this term.
- 396. An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term. Representatives will be recognised and dealt with in good faith.
- 397. Parties to the dispute must attempt to resolve the dispute at the workplace level, by discussion between the employee or employees and relevant managers. Parties to the dispute will notify higher level managers to assist in the resolution of the dispute. Parties will give genuine consideration to proposals to resolve the dispute.
- 398. If a dispute about a matter arising under this agreement is unable to be resolved at the workplace level, and all appropriate steps under clause 397 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
- 399. The Fair Work Commission may deal with the dispute in 2 stages:

- 399.1 the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
- 399.2 if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
 - 399.2.1 arbitrate the dispute; and
 - 399.2.2 make a determination that is binding on the parties.

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

- 400. While the parties are attempting to resolve the dispute using the procedures in this term:
 - 400.1 an employee must continue to perform their work as they would normally in accordance with established custom and practice at the Agency that existed immediately prior to the dispute arising unless they have a reasonable concern about an imminent risk to their health or safety; and
 - 400.2 subject to 400.1, an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
 - 400.2.1 the work is not safe; or
 - 400.2.2 applicable work health and safety legislation would not permit the work to be performed; or
 - 400.2.3 the work is not appropriate for the employee to perform; or
 - 400.2.4 there are other reasonable grounds for the employee to refuse to comply with the direction.
- 401. The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this term.
- 402. Any disputes arising under the Workplace Gender Equality Agency (WGEA) Enterprise Agreement 2015-2018 or the National Employment Standards that were formally notified under clauses 197 to 203 of that agreement before the commencement of this agreement, that remain unresolved at the date of commencement of this agreement, will be progressed under the dispute resolution procedures in this agreement.

Leave of absence to attend proceedings

- 403. Where the provisions of clauses 394 to 399 have been complied with, and to assist in the resolution of the matter, the employee, and/or the union delegate or other employee representative referred to in clause 395, or employee required to provide evidence, will be granted paid time to attend dispute resolution processes and proceedings in the Fair Work Commission arising from referral of the matter in clause 398.

Delegates' rights

- 404. Union delegates play an important and legitimate role in the workplace. This includes representing their members and supporting employee access to union officials, and providing employee views to the Agency.
- 405. The role of union delegates is to be respected and supported.
- 406. The Agency and union delegates will work together respectfully and collaboratively.

Supporting the role of union delegates

- 407. The Agency respects the role of union delegates to:
 - 407.1 provide information, consult with and seek feedback from employees in the workplace on workplace matters;
 - 407.2 consult with other delegates and union officials, and get advice and assistance from union officials;
 - 407.3 represent the interests of members to the employer and industrial tribunals; and
 - 407.4 represent members at relevant union forums, consultative committees or bargaining.
- 408. The Agency and union delegates recognise that undertaking the role of a union delegate is not the primary purpose of an employee's engagement, and must work with and not unreasonably impact their regular duties. Honorary officials may request additional time and facilities from time to time.
- 409. Union delegates will be provided with reasonable paid time during their normal working hours to perform their union delegate role. The paid time provided should not result in disruption to critical services or operational requirements.
- 410. To support the role of union delegates, the Agency will, subject to legislative and operational requirements, including privacy and security requirements:
 - 410.1 provide union delegates with reasonable access to agency facilities and resources, including for paid or unpaid meetings between employees and their unions and to communicate with union officials;
 - 410.2 advise union delegates and other union officials of the agency facilities and resources available for their use, which may include telephone, photocopying, internet, and email;
 - 410.3 allow reasonable official union communication appropriate to the agency from union delegates with employees, including through email, intranet pages and notice boards. This may include providing a link to a union website for employees to access union information. Any assistance in facilitating email communications does not include an agency vetoing reasonable communications;
 - 410.4 provide access to new employees as part of induction; and
 - 410.5 provide reasonable access to union delegates to attend appropriate paid time training in workplace relations matters, during normal working hours.

411. Where APS employees are elected as officials of a trade union or professional association, they are not required to seek permission from the workplace or Agency before speaking publicly in that capacity, subject to the APS Code of Conduct and legislative requirements.

Section 11: Separation and retention

Resignation

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

Termination of employment

- 415. The sole and exhaustive rights and remedies of an employee in relation to termination of employment are those that the employee enjoys under:
 - 415.1 the FW Act;
 - 415.2 Other Commonwealth laws (and the Constitution); and
 - 415.3 common law.
- 416. Termination of, or a decision to terminate employment cannot be reviewed under clauses 391 to 402 of this Agreement.
- 417. The Chief Executive Officer will provide an employee with the required period of notice of termination of employment under the FW Act. The Chief Executive Officer may elect to give an employee payment in lieu of notice. However, nothing in this agreement prevents the Chief Executive Officer from terminating the employment of an employee for serious misconduct, without further notice or payment in lieu, in accordance with section 123 of the FW Act, subject to compliance with the procedures established by the Chief Executive Officer, under section 15 of the *Public Service Act 1999*, for determining whether an employee has breached the Code of Conduct.

Payment on death of an employee

- 418. When an employee dies, or the Chief Executive Officer has directed that an employee is presumed to have died on a particular date, subject to any legal requirements, the Chief Executive Officer must authorise payments to the partner, dependants or legal representative of the former employee, the amount to which the former employee would have been entitled had they ceased employment through resignation or retirement, or where legislation provides specifically for amounts calculated based on the death of the employee, those amounts. If payment has not been made within a year of the former employee's death, it should be made to their legal representative.

Redeployment, retraining, redundancy

419. This area provides a structured process for the management of potentially excess and excess employee situations.
420. These provisions only apply to ongoing APS employees in the Agency. These provisions do not apply to an ongoing employee who is serving a probationary period or a non-ongoing employee.
421. Throughout the process:
- 421.1 the Chief Executive Officer will take all reasonable steps, consistent with the efficient management of the Agency, to transfer a potentially excess or excess employee to a suitable vacancy at an equal classification level within the Agency or in another APS agency;
 - 421.2 potentially excess and excess employees will take all reasonable steps to identify and apply for suitable vacancies at an equal classification level; and
 - 421.3 an employee, or where the employee chooses their representative, may, consistent with clauses 422 and 423, raise issues concerning a redundancy situation directly with their manager.

Consultation process

422. Employees who are likely to become excess will be advised by the Chief Executive Officer at the earliest practicable time.
423. Discussions with the potentially excess employee or, where an employee requests, with the employee's representative, will be held to consider:
- a. measures which might be taken to reduce the incidence of an employee becoming excess;
 - b. redeployment opportunities for the employee concerned, including identifying whether the employee seeks redeployment; and
 - c. whether voluntary retrenchment might be appropriate and whether the employee(s) wants to be offered voluntary retrenchment.
424. The Chief Executive Officer may, prior to the conclusion of these discussions, invite employees who are not potentially excess to express interest in voluntary retrenchment, where those retrenchments would permit the redeployment of employees who are potentially excess.
425. The Chief Executive Officer will not advise an employee that they are excess until the discussions referred to in clauses 422 and 423 have occurred. The period of these discussions will not exceed one month.
426. Where 15 or more employees are likely to become excess, the Agency will comply with the relevant provisions of the *Fair Work Act 2009*. In circumstances where 15 or more employees are likely to become excess, the Chief Executive Officer will not invite employees to express interest in voluntary retrenchment or advise an employee that they are excess within one month of advising employees that they are likely to become excess.

Voluntary redundancy

427. Where the Chief Executive Officer invites an excess employee to do so, the employee will have one month to elect for voluntary redundancy. The Chief Executive Officer will not give notice of termination of employment under s 29 of the *Public Service Act* on the grounds that the employee is excess to the requirements of the Agency before the end of that period or until such election is received (in circumstances where the election is received before the end of that period).
428. Within that month the employee must be given information on:
- 428.1 the amount of their severance pay, pay in lieu of notice and paid up leave credits;
 - 428.2 the amount of their accumulated superannuation contributions;
 - 428.3 options open to them concerning superannuation;
 - 428.4 the taxation rules applying to the various payments; and
 - 428.5 the availability of financial assistance, on a reimbursement basis, towards obtaining independent financial advice (up to the value of \$500).
429. The information is provided for guidance purposes only, and is not an offer capable of forming a binding contract.

Period of notice

430. Where the employee agrees to be voluntarily retrenched, the Chief Executive Officer can terminate the employee's employment and upon approval will give the required notice of termination of employment under section 29 of the *Public Service Act 1999* on the grounds that the employee is excess to the requirements of the Agency. The period of notice will be 4 weeks (or 5 weeks for an employee over 45 with at least 5 years of continuous service).
431. Where an employee is terminated at the beginning of, or within, the notice period, the employee will receive payment in lieu of notice for the unexpired portion of the notice period.

Severance benefit

432. An employee who elects voluntary retrenchment and whose employment is terminated under section 29 of the *Public Service Act 1999* on the grounds that the employee is excess to the requirements of the Agency, is entitled to be paid a sum equal to 2 weeks salary for each completed year of service, plus a pro rata payment for completed months of service since the last completed year of service. For earlier periods of service to count there must be no breaks between the periods of service, except where:
- 432.1 the break is less than one month and occurred where an offer of employment in relation to the second period of service was made and accepted before the end of the first period of service (whether or not the period of service are with the same employer or agency);
 - 432.2 the earlier period of service was with the APS and ceased because the employee was deemed to have resigned from the APS on marriage under the repealed section 49 of the *Public Service Act 1922*.
433. Subject to any minimum entitlements the employee would be entitled to under the National Employment Standards (NES), the minimum sum payable will be 4 weeks' salary and the maximum will be 48 weeks' salary.

434. Where an employee has worked part-time hours during his or her period of service and the employee has less than 24 years full-time service, the 2 weeks per year of service that relates to the part-time service will be paid on pro-rata basis as follows:
- 434.1 current annual full-time equivalent salary (used for redundancy purposes), divided by full time hours, multiplied by the part-time hours for that part-time period worked.
435. Subject to clauses 436 and 437, service for severance pay purposes means:
- 435.1 service in the Agency;
 - 435.2 Government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
 - 435.3 service with the Commonwealth (other than service with a joint Commonwealth-State body corporate in which the Commonwealth does not have a controlling interest) which is recognised for long service leave purposes;
 - 435.4 service with the Australian Defence Forces;
 - 435.5 APS service immediately preceding deemed resignation (as defined), if the service has not previously been recognised for severance pay purposes; and
 - 435.6 service in another organisation where an employee was transferred from the APS to that organisation with a transfer of function or an employee engaged by that organisation on work within a function is appointed as a result of the transfer of that function to the APS and such service is recognised for long service leave purposes.
436. Any period of service which ceased:
- 436.1 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 1999*; or a breach of the Code of Conduct ; or
 - 436.2 on a ground equivalent to a ground listed in subparagraph 366.1 above under the appealed *Public Service Act 1922*; or
 - 436.3 through voluntary retirement at or above the minimum retiring age applicable to the employee; or
 - 436.4 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.
437. Absences from work which do not count as service for any purpose will not count as service for severance pay purposes.

Rate of payment – Severance benefit

438. For the purpose of calculating any payment under clause 432, salary will include:
- 438.1 the employee's salary; and
 - 438.2 the loading, where the employee has been receiving the loading for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of retirement; and
 - 438.3 other allowances in the nature of salary which are paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for

expenses incurred, or a payment for disabilities associated with the performance of duty.

Retention periods

439. Unless the employee agrees, an excess employee will not be terminated involuntarily until the following retention periods have elapsed:
- 439.1 13 months where an employee has 20 or more years of service or is over 45 years of age; or
 - 439.2 7 months for other employees.
440. However, the duration of the retention period will be reduced by the period equivalent to the employee's NES redundancy entitlement. For example, an employee who would otherwise be eligible for a retention period of 7 months and a NES redundancy payment equivalent to 12 weeks' salary, the employee's retention period will be 7 months minus 12 weeks.
441. The retention period will commence on the earlier of the following:
- 441.1 the day the employee is advised in writing by the Chief Executive Officer that they are an excess employee; or
 - 441.2 one month after the day on which the Chief Executive Officer invites the employee to elect to be retired.
442. During the retention period the Chief Executive Officer:
- 442.1 will continue to take reasonable steps to find alternative employment for the excess employee; and/or
 - 442.2 may, with 4 weeks' notice, reduce the excess employee's classification as a means of securing alternative employment for the excess employee. Where an excess employee is reduced in classification before the end of the appropriate retention period, the employee will continue to be paid at their previous level for the balance of the retention period.
443. The excess employee may request assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment where the costs are not met by the prospective employer.
444. The retention periods specified in clause 439 and the notice period specified in clause 441 will only be extended where the Chief Executive Officer is satisfied that an employee is substantially incapacitated and unfit for work, based on the opinion of a medical practitioner nominated by the Agency. Unless exceptional circumstances exist, a retention period will not be extended on these grounds beyond an additional 8 weeks.
445. Where the Chief Executive Officer believes there is insufficient productive work available or prospect of redeployment for an excess employee during the retention period, the Chief Executive Officer may, with the agreement of the employee, terminate the employee under section 29 of the *Public Service Act 1999* and pay the balance of the retention period as a lump sum.
446. An excess employee will not be terminated involuntarily if the employee has not been invited to elect to be voluntarily retrenched as per clause 427 or has elected to be voluntarily retrenched but the Chief Executive Officer refuses to approve it.

447. An excess employee will be given 4 weeks notice (or 5 weeks notice for an employee over 45 with at least 5 years of continuous service) where it is proposed that the employee be terminated involuntarily. This specified period of notice will as far as practicable be concurrent with the retention periods.

Attachment A – Base salaries

Classification	Salary levels	Salary rate as at 31 August 2023	From the later of commencement of the agreement or 14 March 2024	From 13 March 2025	From 12 March 2026
Executive Level 2	3	150,649	156,675	162,629	168,158
	2	144,182	149,949	155,647	160,939
	1	132,244	137,534	142,760	147,614
Executive Level 1	3	122,526	127,427	132,269	136,766
	2	117,836	122,549	127,206	131,531
	1	113,545	118,087	122,574	126,742
APS 6	3	100,288	104,300	108,263	111,944
	2	92,765	96,476	100,142	103,547
	1	87,791	91,303	94,773	99,734
APS 5	3	86,329	89,782	93,194	96,829
	2	84,006	87,366	90,686	93,769
	1	81,474	84,733	87,953	90,943
APS 4	3	78,921	82,078	85,197	88,094
	2	74,993	77,993	80,957	83,710
	1	72,714	75,623	78,497	81,166
APS 3	3	70,867	73,702	76,503	79,104
	2	67,375	70,070	72,733	75,206
	1	65,709	68,337	70,934	73,346
APS 2	3	63,635	66,180	68,695	71,031
	2	59,449	61,827	64,176	66,358
	1	57,738	60,048	62,330	64,449
APS 1	3	56,183	58,430	60,650	62,712
	2	52,638	54,744	56,824	58,756
	1	51,103	53,147	55,167	57,497

Attachment B – Supported Wage System

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

Definitions

- B.2. In this schedule:

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

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

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

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

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

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

Eligibility criteria

- B.3. Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class for which the employee is engaged under this agreement, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.
- B.4. The schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this agreement relating to the rehabilitation of employees who are injured in the course of their employment.

Supported wage rates

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

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

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

B.6. Provided that the minimum amount payable to an employees to whom the SWS applies is not less than the amount prescribed in the National Minimum Wage Order. Note: The minimum amount payable is reviewed every year in July.

B.7. Where an employee's assessed capacity is 10 per cent, they must receive a high degree of assistance and support.

Assessment of capacity

B.8. For the purposes of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and the employee, and if the employee so desires, a union which the employee is eligible to join.

B.9. Assessment made under this schedule must be documented in a SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the FW Act.

Lodgement of SWS wage assessment agreement

B.10. All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.

B.11. All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the agreement is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

Review of assessment

- B.12. The assessment of the applicable percentage should be subject to annual review or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.

Other terms and conditions of employment

- B.13. Where an assessment has been made, the applicable percentage will apply to the relevant wage rate only. Employees covered by the provisions of the schedule will be entitled to the same terms and conditions of employment as all other workers covered by this agreement paid on a pro-rata basis.

Workplace adjustment

- B.14. An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve redesign of job duties, working time arrangements and work organisation in consultation with other workers in the area.

Trial period

- B.15. In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a Trial Period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- B.16. During that Trial Period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
- B.17. The minimum amount payable to the employee during the Trial Period must be no less than the current weekly rate, as determined by the Fair Work Commission.
- B.18. Work trials should include induction or training as appropriate to the job being trialled.
- B.19. Where the employer and employee wish to establish a continuing employment relationship following the completion of the Trial Period, a further contract of employment will be entered into based on the outcome of assessment under clause B.8 and B.9.