

NATIONAL EMERGENCY MANAGEMENT AGENCY

Public Service Act 1999

**NEMA DETERMINATION 2022/01 (NON-SES EMPLOYEES)
PURSUANT TO SECTION 24(1)**

I, Justine Saunders APM, Coordinator-General of the National Emergency Management Agency (agency), make the following determination under section 24(1) of the *Public Service Act 1999*.

General

This Determination may be cited as NEMA Determination 2022/01 (Non-SES employees).

Application

This Determination provides terms and conditions of employment for non-SES and equivalent employees of the Agency (**Employees**).

Period of operation

This Determination applies to Employees on and from 01 September 2022.

This Determination will cease to apply to an Employee if:

- a) it is revoked;
- b) it is replaced by another determination that applies to the Employee; or
- c) an enterprise agreement that covers the Employee commences operation.

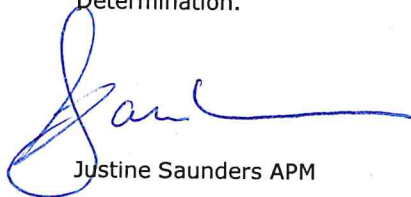
Terms and conditions.

Attachment A to this Determination sets out the terms and conditions of employment that will apply to Employees' employment with the Agency by force of this Determination.

This Determination is of no effect to the extent that it reduces the benefit to an Employee of any individual term or condition applicable to the Employee under the National Employment Standards (NES) or the Australian Public Service (APS) Enterprise Award.

Delegation

The Coordinator-General may delegate any of his or her powers and functions under this Determination.



Justine Saunders APM

Coordinator-General

National Emergency Management Agency

01 / 09 / 2022

ATTACHMENT A
TERMS AND CONDITIONS OF EMPLOYMENT

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SECTION 1 – TECHNICAL MATTERS

Policies and procedures

1. The Agency policies and procedures support the operation of this Determination. The Agency policies and procedures do not form part of this Determination and if there is any conflict, this Determination prevails.

Related legislation

2. Other Commonwealth laws concerned with employment include:
 - *Fair Work Act 2009;*
 - *Fair Work Regulations 2009;*
 - *Long Service Leave (Commonwealth Employees) Act 1976;*
 - *Maternity Leave (Commonwealth Employees) Act 1973;*
 - *Military Rehabilitation and Compensation Act 2014;*
 - *Parliamentary Service Act 1999;*
 - *Public Employment (Consequential and Transitional) Amendment Act 1999;*
 - *Safety, Rehabilitation and Compensation Act 1988;*
 - *Social Security Act 1991;*
 - *Superannuation Act 1976;*
 - *Superannuation Act 1990;*
 - *Superannuation Act 2005;*
 - *Superannuation Guarantee (Administration) Act 1992;*
 - *Superannuation Benefits (Supervisory Mechanisms) Act 1990;*
 - *Veterans' Entitlements Act 1986; and*
 - *Work Health and Safety Act 2011.*

SECTION 2 – CONSULTATION AND DISPUTE RESOLUTION

Major Change

3. Clauses 3 to 12 apply if:
 - the Agency has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and
 - the change is likely to have a significant effect on employees of the Agency.

4. The Agency will notify the relevant employees of the decision to introduce the major change.
5. The relevant employees may appoint a representative for the purposes of the procedures in clauses 3 to 12. If:
 - a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - the employee or employees advise the Agency of the identity of the representative, the Agency will recognise the representative.
6. As soon as practicable after making its decision, the Agency will discuss with the relevant employees:
 - the introduction of the change;
 - the effect the change is likely to have on the employees; and
 - measures the Agency is taking to avert or mitigate any adverse effect of the change on the employees.
7. For the purposes of the discussion the Agency will provide, in writing, to the relevant employees:
 - all relevant information about the change including the nature of the change proposed;
 - information about the expected effects of the change on the employees; and
 - any other matters likely to affect the employees.
8. The Agency is not required to disclose confidential or commercially sensitive information to the relevant employees.
9. The Agency will give prompt and genuine consideration to matters raised about the major change by the relevant employees.
10. If a term in this Determination provides for a major change to production, program, organisation, structure or technology in relation to the Agency, the requirements set out in clauses 4 to 7 are taken not to apply.
11. For the purposes of clauses 3 to 10, a major change is likely to have a significant effect on employees if it results in:
 - the termination of the employment of employees;
 - major change to the composition, operation or size of the Agency's workforce or to the skills required of employees;
 - the elimination or diminution of job opportunities (including opportunities for promotion or tenure);
 - the alteration of hours of work;
 - the need to retrain employees;

- the need to relocate employees to another workplace; or
 - the restructuring of jobs.
12. For the purposes of clauses 3 to 11, relevant employees means the employees who may be affected by the major change.

Change to regular roster or ordinary hours of work

13. Where the Agency proposes to introduce a change to the regular roster or ordinary hours of work of employees the Agency must notify the relevant employees of the proposed change and clauses 13 to 18 apply. The relevant employees may appoint a representative for the purposes of the procedures in clauses 13 to 18. If:
- a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - the employee or employees advise the Agency of the identity of the representative, the Agency will recognise the representative.
14. As soon as practicable after proposing to introduce the change, the Agency will discuss the introduction of the change with the relevant employees.
15. For the purposes of the discussion, the Agency will provide to the relevant employees:
- all relevant information about the change including the nature of the change proposed;
 - information about what the Agency reasonably believes will be the effects of the change on the employees; and
 - information about any other matter that the Agency reasonably believes is likely to affect the employees.
16. As soon as practicable after proposing to introduce the change, the Agency will invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
17. The Agency is not required to disclose confidential or commercially sensitive information to the relevant employees.
18. The Agency will give prompt and genuine consideration to the matters raised about the change by the relevant employees.
19. For the purposes of clauses 13 to 18, relevant employees means the employees who may be affected by the change referred to in clause 13.

Dispute resolution

20. If a dispute relates to:
- a matter arising under this Determination; or
 - the National Employment Standards,
- clauses 21 to 27 set out procedures to settle the dispute.

21. The Agency or an employee who is a party to the dispute may appoint another person, organisation or association to accompany and/or represent them for the purposes of clauses 20 to 27.
22. In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level through discussions between the employee or employees and relevant supervisors and/or management.
23. If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the Fair Work Commission (**FWC**).
24. The FWC may deal with the dispute in two (2) stages:
- the FWC will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
 - if the FWC is unable to resolve the dispute at the first stage, the FWC may then:
 - arbitrate the dispute; and
 - make a determination that is binding on the parties.
- Note: If the FWC arbitrates the dispute, it may also use the powers that are available to it under the Fair Work Act 2009.*
25. A decision that the FWC makes when arbitrating a dispute is a decision for the purpose of Division 3 of Part 5.1 of the *Fair Work Act 2009*. Therefore, an appeal may be made against the decision.
26. While the parties are trying to resolve the dispute using the procedures in clauses 21 to 27:
- an employee will continue to perform their work as they would normally unless they have a reasonable concern about an imminent risk to their health or safety; and
 - an employee will comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
 - the work is not safe;
 - applicable occupational health and safety legislation would not permit the work to be performed;
 - the work is not appropriate for the employee to perform; or
 - there are other reasonable grounds for the employee to refuse to comply with the direction.
27. The parties to the dispute agree to be bound by a decision made by the FWC in accordance with clauses 20 to 27.

Leave of absence to attend proceedings

28. Where the provisions of clause 22 and 23 have been complied with, and to assist in the resolution of the matter, an employee who is appointed to accompany or represent

another employee pursuant to clause 21 will be granted leave of absence to attend FWC proceedings arising from a referral of a dispute in accordance with clause 23 and will not suffer any loss of pay in respect of the absence.

Leave of absence to attend courses

29. To assist in the resolution of disputes in the Agency, an employee representative (as defined in clause 21), will be granted leave of absence to attend short courses conducted by a recognised training provider which are specifically directed towards effective dispute resolution. The grant of leave will be subject to the operating requirements of the Agency.
30. The specific training course will be agreed between the employer and the individual employee.
31. An employee representative granted leave of absence under clause 29 will not suffer any loss of pay.

SECTION 3 – PERFORMANCE AND CAPABILITY

Performance Management

32. The performance management process provides employees, supervisors and their managers, the opportunity to discuss and agree to key job responsibilities and deliverables, and to identify development requirements to perform their duties or for their own career development. All employees are required to participate in the performance management and development process.
33. The performance management process within the Agency will be based on the principles of equity, transparency, natural justice and procedural fairness and will be aimed at supporting and improving performance.
34. If an employee's performance is not effective they will be supported to improve their performance. Employees may elect to be represented in relation to an employee's performance.

Capability development

35. Employees and their managers are jointly responsible for identifying capability needs and opportunities that meet the personal development needs of the individual and the operational/business needs of the Agency.

Assistance for employees undertaking study

36. Employees who undertake accredited study relevant to the work of the Agency and/or the broader APS may be eligible for:
 - reimbursement of up to \$3,000 per financial year for approved course fees on successful completion of the approved course work; and/or
 - paid study leave of up to six (6) hours per week.

SECTION 4 – HOURS OF WORK AND FLEXIBLE WORKING ARRANGEMENTS

Flexible working arrangements

37. Employees may request flexible working arrangements such as compressed hours, working from home, part-time, or job sharing to enable them to balance their work and personal lives.
38. The Agency is committed to supporting and promoting flexible working arrangements. The Agency Head will consider requests for flexible working arrangements in the context of the employee's personal circumstances, operational requirements, providing fair workloads, and with the understanding that the employee's performance should be assessed on the outcomes that are achieved not how many hours are worked or where.
39. Without limiting an employee's ability to request flexible working arrangements under clauses 37 and 38, where certain circumstances outlined in the National Employment Standards apply to an employee, that employee can formally request flexible working arrangements because of those circumstances. More details are available in Division 4 of Part 2-2 of the *Fair Work Act 2009*.
40. Where the Agency Head approves an employee to work from home, or other flexible work arrangement, the Agency will meet reasonable costs of supplying and maintaining the agreed necessary equipment and materials.

Hours of work – non-shift workers

41. Full-time employees are required to work 7 hours and 36 minutes per day, being a total of 38 hours per week and 152 hours per four week settlement period. This time is made up of:
 - a. ordinary hours of work of 7 hours and 21 minutes per day, being a total of 36 hours and 45 minutes per week and 147 hours per four week settlement period; and
 - b. an additional 15 minutes per day, being a total of 75 additional minutes per week or 5 additional hours per settlement period. The employee's salary rate includes payment for this additional time, including any overtime payable under the APS Award. The additional time is treated as part of an employee's ordinary hours for all purposes under this Determination.
42. The default span of hours (bandwidth) during which an employee may work their ordinary hours is 8.00 am to 6.00 pm, Monday to Friday.
43. If the Agency Head agrees that an employee can perform part of their ordinary hours between 7.00 am and 8.00 am or 6.00 pm and 7.00 pm on a day, the employee's salary rate includes payment for the performance of work during those periods, including any overtime or shift penalties payable under the APS Award. The time worked in that period will be treated as part of the employee's ordinary hours of work for all purposes under the Determination.
44. An employee's ordinary hours are those hours and time, within the agreed bandwidth, that the employee works on a regular basis, as agreed by the employee's manager.
45. Standard attendance hours for full-time employees are 7 hours and 36 minutes from 8.30 am to 12.30 pm and 1.30 pm to 5.06 pm, Monday to Friday. Standard attendance hours will apply:
 - if an employee and their manager cannot agree on a pattern of hours; or
 - if an employee's manager reasonably considers that the employee's attendance is unsatisfactory.

Hours of work – shift workers

46. Shift workers are required to work ordinary hours of 7 hours and 36 minutes per day, being a total of 38 hours per week and 152 hours per four week settlement period averaged over a period of up to 28 days or the employee's roster cycle (whichever is longer). The ordinary hours must be worked continuously except for breaks.
47. Except at regular changeover of shifts, an employee must not be required to work more than one shift in each 24 hours.
48. Shift rosters must specify the commencing and finishing times of ordinary working hours of the respective shifts.
49. Shift workers can exchange shifts or rostered days off by mutual agreement, with the consent of the Agency Head, and provided that the arrangement does not give any employee an entitlement to an overtime payment.
50. Subject to the provisions of clause 13 to 18, changes to rostered hours of duty can be by mutual consent at any time or by amendment of the roster on seven days' notice.
51. In the absence of consent or seven days' notice, employees will be paid the appropriate overtime penalty rates for work outside the previously rostered hours of duty. Payment of penalty rates on this basis will be continued for each changed shift until employees have received seven days' notice of shift change.
52. The penalty rates in clause 69 are not payable where an agency is unable to give seven days' notice because of the sickness or unanticipated absence of another employee.
53. Where employees are entitled to a rostered day off, an employee and their manager may agree to alternative rostered days (including taking the time off as part days).

General provisions

54. An employee at or below the APS 6 level or equivalent must record their attendance in the Agency's timekeeping system.
55. Employees will not be required to work for more than ten (10) ordinary hours on any one (1) day, subject to arrangements being made for shift workers to work more than 10 hours per day in a manner consistent with the APS Award.
56. Employees will not be required to work more than five (5) consecutive hours without taking a break of at least 30 minutes.
57. The Agency Head will arrange for the provision of a meal or reimburse the employee for the cost of a meal where no meal is provided in the following instances:
 - a. where an employee who is entitled to receive overtime payments and who works overtime after the end of ordinary work for the day, to the completion of or beyond a meal period, without a break for a meal;
 - b. where an employee is required, after the completion of their ordinary hours of work for the day, to perform duty after a break for a meal which occurs after that completion and is not entitled to payment for that break;
 - c. where an employee is required to perform duty before the commencement of ordinary hours of work, who breaks for a meal and is not entitled to payment for that break; or

- d. where an employee is required to perform work on a Saturday, Sunday or Public Holiday, in addition to the employee's normal weekly hours of work, extending beyond a meal break and is not entitled to payment for that meal break.
58. Employees will be entitled to an eight (8) hour break plus reasonable travelling time before commencing work again. Where the Agency Head directs an employee to work outside their agreed bandwidth hours, and if the eight (8) hour break occurs during standard working hours, the employee will receive their normal salary during that period. Where the Agency Head directs an employee to work outside their agreed bandwidth hours and an eight (8) hour break is not possible due to operational requirements, the employee will be paid for subsequent periods of work at the overtime rate of double time until the employee has taken an eight (8) hour break.

APS level employees – flex time – non-shift workers

59. Employees at or below the APS 6 level or equivalent, including part-time employees, can access flex time.
60. When an employee works more than their standard hours within the bandwidth, they will accumulate a flex credit, and when an employee works less than their standard hours within the bandwidth, they will incur a flex debit.
61. Flex will be credited or debited on a one-for-one basis (i.e. one (1) hour worked in addition to the employee's ordinary hours will result in one (1) hour of flex credit).
62. An employee may carry a maximum flex debit of one day and a maximum flex credit of three days (based on the employee's ordinary hours of work) into the next settlement period. A settlement period is a four (4) week period.
63. An APS level employee who is required at the request of the Agency Head to undertake duties outside of the bandwidth will be eligible to receive overtime in accordance with clauses 64 to 77.

Overtime

64. An employee may be called for duty at any time subject to the hours being considered to be reasonable in accordance with section 62 of the *Fair Work Act 2009*. In accordance with section 62 of the *Fair Work Act 2009*, an employee may refuse to work additional hours if they are unreasonable. Overtime is to be worked by prior direction or, if circumstances do not permit prior direction, subsequent approval in writing.

Overtime – non shift workers

65. A full-time APS level employee will be entitled to overtime if the employee is directed to perform work:
- a. Monday to Friday, outside the bandwidth;
 - b. Monday to Friday, during the bandwidth but beyond the length of time the employee is ordinarily required to work on the day concerned; or
 - c. on a Saturday, Sunday or a holiday.
66. A part-time APS level employee will be entitled to overtime if the employee is directed to perform work:
- a. which is not continuous with the employee's ordinary hours of work;

- b. which is continuous with an employee's ordinary hours of work, and in whole or in part, falls outside the period 6.00 pm to 8.00 pm, where the employee also completes the ordinary hours of duty on that day;
 - c. which is continuous with an employee's ordinary hours of work, and falls wholly within the period 6.00 pm to 8.00 am and exceeds, in any one week, that employee's prescribed weekly ordinary hours of work.
67. A casual APS level employee will be entitled to overtime, but not casual loading, if the casual employee is directed to perform work:
- a. on Monday to Friday, outside the bandwidth;
 - b. on a Saturday, Sunday or a public holiday; or
 - c. in excess of 36.75 hours in a week.
68. Overtime will include payment for reasonable travelling time to and from work where the overtime is not continuous with an employee's ordinary duty. Overtime is not paid for other periods of travel, including official travel for business purposes.
69. Overtime will be paid on the following basis:

For overtime worked on	Overtime rate
Monday to Saturday – first 3 hours	150%
Monday to Saturday – after 3 hours	200%
Sunday – all day	200%
Public Holiday or Additional Holiday – all day	250%

Overtime – shift workers

70. Full time APS level shift workers will be entitled to overtime when their work:
- a. is performed on any day which is outside the normal rostered ordinary hours of duty on that day; or
 - b. is performed in excess of the weekly hours of ordinary duty, or an average of the weekly hours of ordinary duty over a cycle of shifts.
71. Part time APS level shift workers will be entitled to overtime when their work:
- a. is performed on any day beyond the normal rostered hours of duty on that day; and
 - b. is performed in excess of the employee's prescribed weekly ordinary hours.
72. Casual APS level shift worker will be entitled to overtime where their work is performed:
- a. on any day beyond the normal rostered hours of duty on that day; or

- b. in excess of 38 hours in a week or an average of 38 hours per week over a cycle of shifts.

73. Where a shift worker works overtime, they are entitled to the following overtime rates:

For overtime worked on	Overtime rate
Monday to Friday – first 3 hours	150%
Monday to Friday – after 3 hours	200%
Saturday and Sunday – all day	200%
Public Holiday or Additional Holiday – all day	250%

74. Where an casual shift worker employee works overtime the Agency must pay to the employee the higher of:

- a. the overtime rate outlined at clause 73.
- b. the irregular or intermittent penalty rate outlined at clause 94.

75. The emergency duty provisions outlined in this Determination will not apply to shift worker employees whose work for the day is varied by alteration of the commencement of the schedules shift to meet an emergency.

76. Overtime will include payment for reasonable travelling time to and from work where the overtime is not continuous with an employee's ordinary duty. Overtime is not paid for other periods of travel, including official travel for business purposes.

Minimum overpayment payments

77. For the purposes of the overtime provisions:

- a. subject to clauses 77b and 77c, where an eligible employee works less than one hour of overtime a minimum payment of one hour will be made. After the first hour, if less than a whole hour is worked, payment will be calculated at the nearest hour;
- b. a minimum payment of four (4) hours will apply when the employee is required to return to work after leaving their place of work;
- c. if employees are undertaking an emergency duty or a restriction duty, then they are entitled to the minimum payments set out in clauses 98 and 108;
- d. where more than one attendance is involved, the minimum overtime payment provision will not operate to increase an employee's overtime remuneration beyond the amount which would have been received had the employee remained on duty from the commencing time of duty on one attendance to the ceasing time of duty on a following attendance; and
- e. where an overtime attendance, not continuous with ordinary hours of work, involves duty both before and after midnight, the minimum payment provisions of this subclause will be satisfied when the total payment for the whole of the attendance equals or exceeds the minimum payment applicable to one day. Where a higher

overtime rate applies on one of the days, the minimum payment will be calculated at the higher rate.

Absence from duty instead of overtime

78. An employee may also reach an agreement with the Agency Head to be granted time off-in lieu instead of receiving an overtime payment.
79. Where time off in lieu of a payment has been agreed, and the employee has not been granted that time off within four weeks, or another agreed period, due to operational requirements, payment of the original entitlement will be made.
80. Where an employee performs a full day's duty on Sunday, in addition to their prescribed ordinary hours of work for the week, the employee will, wherever practicable, be granted a day off during the following week. Where this occurs, an employee who is eligible for the payment of overtime will be paid an additional one day's pay in lieu of overtime.

Executive Level employees: time off in lieu (TOIL), flexible hours and overtime

81. Executive Level employees are able to work flexible hours. This means that variations in attendance times and short-term absences including full days may be agreed in advance with the Agency Head.
82. To ensure that unreasonable hours are not being worked, the Agency Head should have regular discussions with Executive Level employees about workload requirements, working hours and work/life balance.
83. Where an Executive Level employee undertakes significant additional productive effort which involves working in excess of ordinary hours (which includes working in the office, from home or travel), the Agency Head and employee may agree arrangements for fair and reasonable time off in lieu (TOIL) to recognise the additional effort. TOIL should be taken as soon as practicable after the additional hours are worked, subject to operational requirements. Executive Level employees are not eligible for overtime payments except in exceptional circumstances as determined by the Agency Head.
84. As a general rule, time off in lieu should be discussed between a Manager and Executive Level employee where an employee is required to sustain a working pattern of greater than 8.5 hours during the normal working week, or works on a weekend, public holiday or closedown, at the request of the Manager.

Part-time employment and job sharing

85. A part-time employee is someone whose ordinary hours of work are fewer than a full-time employee's ordinary hours of work. Employees who job share will be classed as part-time. All part-time and job share working arrangements will be subject to agreement by the employee(s) and the Agency Head. A formal review to determine the suitability of continuing the part-time arrangement will be conducted on an annual basis between the employee and the Agency Head.
86. Remuneration and other employment conditions are calculated on a pro-rata basis for part-time employees. For reimbursable allowances/expenses, part-time employees receive the same amount as full-time employees.
87. All requests for part-time and job share arrangements will be considered on a case-by-case basis and in light of operational requirements.

88. A part-time employee will normally be required to work at least three hours on their nominated workdays, unless an alternative period is agreed between the Agency Head and the employee, and will be continuous on any day.
89. Before part-time duty commences, the Agency Head will issue a notice in writing to the employee which will specify:
- a. the prescribed weekly hours of duty; and
 - b. the pattern of hours to be worked including starting and finishing times for employees other than shift workers, on each or any day of the week, Monday to Friday, within the bandwidth.
90. Any variations to the arrangements will be agreed in writing.
91. A part-time employee will revert to full-time employment at the end of the agreed period, unless the employee renews the part-time arrangement with the approval of the Agency Head.
92. A part-time employee may revert to full-time at any time if the Agency Head agrees and full-time work is available.

Penalty rates for shift workers

93. Shift penalty payments will not be taken into account when calculating overtime or in calculating any allowance based on salary. Additionally, in the calculation of penalty rates, an employee's ordinary salary will be considered to include any higher duties allowances for the shift.
94. A shift worker will be entitled to be paid the following penalty rates for all ordinary hours worked by the shift worker during the below periods:

Ordinary hours worked		Penalty rate	Irregular or intermittent penalty payment
Ordinary hours – no penalty rate	See clause 46	Ordinary hourly rate (100%)	Ordinary hourly rate plus irregular or intermittent loading (120%)
Night	Where any part of the shift falls between 6:00 pm and 6:30 am and are worked for a period exceeding four weeks	115%	135%
Continuous Night	Where shifts fall wholly within the period 6:00 pm and 8:00 am and are working for a period exceeding four weeks	130%	150%

Saturday	All hours	150%	170%
Sunday	All hours	200%	220%
Public Holiday or Additional Holiday	All hours	250%	270%

95. The Saturday, Sunday, and Public Holiday or Additional Holiday penalty rates are in substitution for and not cumulative upon the Night or Continuous Night penalty rates.

Part time shift workers

96. Part-time shift workers will be entitled to the Continuous Night penalty rate only where:
- a. the employee's rostered ordinary duty involves working no fewer shifts each week, or fewer shifts a week on average over the shift cycle than an equivalent full-time employee; and
 - b. the shift worked by a part-time employee is part of a full-time shift and the full-time shift falls wholly within the hours of 6:00 pm and 8:00 am.

Averaging shift penalties

97. The Agency Head and affected employees may consider a proposal that shift penalties calculated under clause 94 be averaged over an agreed cycle.

Emergency duty

98. Where an APS level employee is called on duty to meet an emergency at a time when the employee would not ordinarily have been on duty, and no notice of such call was given to the employee prior to ceasing ordinary hours of work, the employee will be paid for such emergency duty at the rate of double time. The time for which payment will be made will include time necessarily spent in travelling to and from duty. The minimum payment will be two hours at double time.
99. Clause 98 does not apply to shift workers whose duty for the day is varied by alteration of the commencement of the scheduled shift to meet an emergency.

Restriction duty

100. An employee may be directed to be contactable and to be available to perform extra duty outside of the employee's ordinary hours of work, subject to payment under this clause.
101. Payment will be subject to the following conditions:
- a. except with the approval of the Agency Head, an EL level employee will not be eligible to receive payment;
 - b. the restriction situation will be imposed by the prior written direction of the Agency Head or will be subsequently approved in writing by the Agency Head where the circumstances did not permit prior direction; and
 - c. the provisions regarding Emergency Duty will not apply where an employee is recalled to duty while restricted.

102. Subject to the requirements in clause 101 being met, an employee who is required to remain contactable and available to perform extra duty outside an employee's ordinary hours of duty must be paid an allowance at the following rates:
 - a. at a rate of 7.5% of the employee's hourly rate of salary for each hour restricted Monday to Friday;
 - b. at a rate of 10% of the employee's hourly rate of salary for each hour restricted Saturday and Sunday; or
 - c. at a rate of 15% of the employee's hourly rate of salary for each hour restricted on public holidays or additional holidays.
103. An employee's salary for the purpose of calculation of the allowance under clause 102 must include higher duties allowance and any other allowances in the nature of salary, being an allowance applicable to the employee during a period of annual leave.
104. Where approval has been made for payment under clause 101a to an EL Level employee, the salary will be the pay rate payable to an APS Level 6 employee.
105. The allowance will be payable for each hour or part hour the employee is restricted outside the employee's ordinary hours of work.
106. Any part of a period of restriction for which the employee receives another payment will not be included for calculating payments under clause 102.
107. Where an employee who has been restricted is required to perform duty, but is not required to be recalled to work, overtime payment will be made, subject to a one hour minimum payment.
108. Where an employee who has been restricted outside the employee's ordinary hours of work is recalled to duty at a place of work, payment in accordance with the relevant overtime provisions will be made subject to a three hour minimum payment.
109. Notwithstanding these provisions, where an employee is placed in a restriction situation outside of the employee's ordinary hours of duty, the employee may be paid at an alternative rate having regard to the circumstances of the restriction situation.

SECTION 5 – LEAVE

Transfer of accrued leave (portability)

110. If an employee joins the Agency (including on promotion or for an agreed period) from an employer staffed under the *Public Service Act 1999*, the *Parliamentary Service Act 1999* or from the ACT Government Service, accrued annual leave and personal/carer's leave credits will be transferred, based on hours and minutes, provided there is no break in continuity of service greater than 30 calendar days. This clause also applies to employees transferred to the Agency as a result of a Machinery of Government change.
111. Any recognised leave excludes any accrued leave paid out on separation from the previous employer.
112. Use of these accrued leave credits and future entitlements is in accordance with this Determination.

Leave at half pay

113. When a paid leave entitlement is accessed at half pay (as applicable), half the amount of leave actually taken at half pay will be deducted from the employee's leave balance.

Annual leave

114. A full-time employee is entitled to four weeks' paid annual leave for each year of service. Annual leave:
- accrues daily;
 - accrues on a pro-rata basis for part-time employees; and
 - counts as service for all purposes.
115. A full time shift worker is also entitled to an additional half a day paid annual leave for each Sunday rostered, up to a maximum of five days a year. For the purposes of this clause, a rostered overtime shift of three (3) hours or more which commences or ceases on a Sunday will count in the calculation.
116. Part-time shift workers are also entitled to an additional half a day paid annual leave where the employee has a shift pattern involving the regular performance of rostered duty on Sundays and Public Holidays and involving not less than five shifts per week or an average of not less than the number of shifts per week of an equivalent full-time employee.
117. An employee may, with approval from the Agency Head (delegate), take some or all of their annual leave at half pay.

Payment of accrued leave

118. An employee on annual leave will, for the period of the annual leave, be paid at the employee's ordinary hourly rate.
119. A shift worker on approved annual leave will, for the period of the annual leave, receive shift penalty payments in relation to any shifts the employee would have worked if the employee was not on approved annual leave.

120. Where employment ceases, the employee will be entitled to payment in lieu of accrued annual leave. Payment in lieu will be calculated using the employee's final rate of salary, including allowances that would have been included during annual leave.
121. Where an employee dies, or the Agency Head has directed that an employee will be presumed to have died on a particular date, payment may be made to the dependants or partner or the legal personal representative of the former employee of an amount that would have been paid if the employee had otherwise ceased employment.

Purchased leave

122. Employees may apply to purchase up to eight (8) weeks' (40 days) additional leave within a 12 month period.

Christmas closedown

123. The Agency ceases normal operations from the close of business on the last working day before Christmas Day, recommencing on the first working day after New Year's Day.
124. Employees will be provided with time off for the ordinary working days between Christmas Day and New Year's Day (without deduction of annual leave) and will be paid in accordance with their ordinary hours of work.
125. An APS level employee who is required to work on an ordinary working day between Christmas Day and New Year's Day will receive payment at the applicable overtime rate for all hours worked on that day. An Executive Level employee will receive an equivalent period of time off in lieu.
126. Where, in a cycle of shifts on a regular roster, a shift worker is required to perform rostered work on each of the days of the week, that employee will, in respect of a holiday which occurs on a day on which the employee is rostered off work, be granted, if practicable, within one month after the holiday, a day's leave in lieu of that holiday.

Volunteer leave

127. Employees may access paid volunteer leave. The Agency's policy on volunteer leave provides further details. Additional matters regarding volunteer leave are set out in clause 154.

Public holidays

128. Where an employee does not work on a day or part-day identified as a public holiday under section 115 of the *Fair Work Act 2009* they will be entitled to their base rate of pay for the hours they would have ordinarily worked.
129. An employee's base location for work purposes is the employee's normal work location. Where an employee has been required to work from a different location, the new location will be the employee's base location for work purposes.
130. If under a state or territory law, a day or part day is substituted for one (1) of the public holidays referred to in clause 128, then the substituted day or part day is the public holiday.
131. An employee and the Agency Head may agree to substitute any public holiday referred to in clause 128 for a cultural or religious day of significance to the employee.
132. Where an employee works both Christmas Day and a substituted holiday, one day will attract payment at the Public Holiday rate and the other day will be paid at the non-holiday Saturday or Sunday rate as appropriate.

133. An employee may refuse, on reasonable grounds, a request to work on a public holiday.
134. Where an employee is on paid personal/carer's leave or annual leave at full or half pay on both sides of the public holiday, payment for the public holiday will be made at the employee's full rate of pay.
135. Where a public holiday falls during a period when an employee is absent on long service leave or parental 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 at half pay, payment is on half pay).
136. Where an employee works on a public holiday or substituted public holiday the minimum payment payable is four hours.

Long service leave

137. Employees are entitled to long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*. The Agency Head will consider applications for long service leave in light of operational requirements. The Agency Head may approve for an employee to access a period of long service leave at half pay.
138. The minimum period of absence for which long service leave will be granted is seven (7) calendar days at full pay or 14 calendar days at half pay. Long service leave may not be broken by other forms of leave unless otherwise required by legislation.

Personal/Carer's leave

139. Ongoing and non-ongoing employees are entitled to 18 days paid personal/carer's leave for each year of service with the Agency.
140. Personal/carer's leave accrues daily and is accrued on a pro-rata basis for part-time employees.
141. An employee is entitled to take personal/carer's leave where the employee is:
 - ill or injured; or
 - required to provide care or support for members of the employee's family or household because of a personal illness or injury of the member or an unexpected emergency affecting the member.
142. An employee's accrual of personal/carer's leave will be reduced proportionately where a period or cumulative periods of leave without pay that does not count as service exceeds 30 days within a 12 month period.
143. An employee will provide a medical certificate or, where it is not practical to provide a medical certificate, a statutory declaration or other supporting evidence acceptable to the Agency Head in the following circumstances:
 - where the employee is or will be absent on personal/carer's leave for three (3) or more consecutive working days, unless the Agency Head informs the employee that such evidence will not be required;
 - if the employee has been advised by the Agency Head that they are required to provide evidence for any future personal/carer's leave absences due to the employee's pattern of leave; or

- if the Agency Head has reason to believe that the employee's absence is not consistent with the appropriate use of personal/carer's leave.
144. Employees are entitled to two (2) days' unpaid carer's leave in accordance with the *Fair Work Act 2009*.
145. An employee cannot take unpaid carer's leave if the employee could instead take paid personal/carer's leave unless approved to do so by the Agency Head.
146. In exceptional situations the Agency Head may grant an employee who has used all of their personal/carer's leave credits additional personal/carer's leave on half pay. The employee must provide supporting evidence.

Defence Service Sick Leave

147. An employee who is unfit for duty as a result of a medical condition that has been determined by the Department of Veterans' Affairs to be Defence-caused within the meaning of relevant legislation may be granted Defence service sick leave.

Cultural and Ceremonial Leave

148. The Agency is committed to the employment of Aboriginal and Torres Strait Islander people and recognises the traditional roles and obligations placed on them to participate in cultural and ceremonial activities.
149. To enable employees to meet cultural obligations they may access the following leave, subject to Agency Head approval:
- up to three (3) days leave with pay each financial year for full-time employees and pro-rata for part-time employees to participate in activities associated with their culture or ethnicity; and
 - up to a total of two (2) months' leave without pay each financial year to fulfil cultural obligations.

NAIDOC Week Leave

150. Aboriginal and Torres Strait Islander employees may access, subject to Agency Head approval, up to one (1) full day leave with pay each financial year to participate in cultural activities during NAIDOC week.

Miscellaneous leave

151. Miscellaneous leave may be granted with or without pay for a purpose not provided for elsewhere in this Determination. Unless otherwise determined by the Agency Head:
- a period of miscellaneous leave with pay will count as service for any purpose;
 - except for the purpose of long service leave accruals, a period or cumulative periods of miscellaneous leave without pay which exceed 30 days within a 12 month period will not count as service for any purpose unless required by legislation; and
 - any periods of miscellaneous leave without pay will count (or not count) as service for the purposes of long service leave accruals in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

152. Applications for miscellaneous leave are considered subject to the operational requirements of the Agency and on a case by case basis. Appropriate supporting evidence, relevant to the request, is to be provided with the application.
153. Unless the Agency Head determines otherwise, miscellaneous leave without pay will not be granted until all forms of appropriate paid leave are exhausted.
154. The Agency Head may grant an employee one day of miscellaneous leave with pay and a reasonable amount of leave without pay to undertake volunteer or community service work.

Community service leave

155. An employee who engages in eligible community service activity is entitled to a period of leave in accordance with sections 108 and 109 of the *Fair Work Act 2009*.
156. Community service leave may be approved for community service personnel for emergency services duties and encompasses leave for regular training, all emergency services responses, reasonable recovery time and ceremonial duties.
157. An employee (except casual employees) will be reimbursed reasonable expenses incurred by the employee in excess of the NES entitlement while attending court to serve as a juror.

Defence reserve leave

158. The Agency Head may grant an employee leave, with or without pay, to enable the employee to fulfil Australian Defence Force (ADF), Reserve and Continuous Full-Time Service (CFTS) or Cadet Force obligations.
159. An employee is entitled to ADF Reserve leave with pay, for up to four (4) weeks during each financial year for the purpose of fulfilling service in the ADF Reserve. These purposes include training and operational duty as required.
160. During the employee's first year of ADF Reserve service, a further two (2) weeks' paid leave may be granted to facilitate participation in additional ADF Reserve training, including induction requirements.
161. With the exception of the additional two (2) weeks in the first year of service, leave can be accumulated and taken over a period of two (2) years to enable the employee to undertake training as a member of the ADF Reserves.
162. Employees are not required to pay their tax-free ADF Reserve salary to the Agency in any circumstances.
163. Defence Reserve leave counts as service for all purposes except for unpaid leave to undertake CFTS. Unpaid leave for the purpose of CFTS counts for all purposes except annual leave.

Compassionate leave

164. An employee is entitled to compassionate leave on each occasion when:
 - a. a member of the employee's immediate family or household:
 - i. contracts or develops a personal illness that poses a serious threat to their life;
 - ii. sustains a personal injury that poses a serious threat to their life;

- b. a child is stillborn, where the child would have been a member of the employee's immediate family, or a member of the employee's household, if the child had been born alive; or
 - c. the employee, or the employee's spouse or de facto partner, has a miscarriage.
165. An employee is entitled to compassionate leave for bereavement purposes on each occasion of the death of a member of the employee's immediate family or household.
166. Ongoing and non-ongoing employees are entitled to paid compassionate leave of three (3) days on each occasion referred to in clauses 164 and 165.
167. Casual employees are entitled to unpaid compassionate leave of three (3) days on each occasion referred to in clauses 164 and 165.

Unauthorised absence

168. If an employee is unexpectedly unable to attend work the employee or their representative should make a reasonable effort to notify the relevant manager within two (2) hours after their usual starting time.
169. If an employee is absent from work without approval, all pay and other benefits provided under this Determination will cease to be available until the employee resumes work, is granted leave or has their employment terminated. A period of unauthorised absence does not count as service for any purpose.

Parental Leave

170. An employee is entitled to an initial period of unpaid parental leave of up to 12 months from the date of the birth or placement of a dependent child, as applicable.
171. On return from an initial period up to 12 months' parental leave, an employee is entitled to return to:
- the employee's pre-parental leave position on the same employment and attendance basis prior to the leave; or
 - if the position no longer exists – an available position for which the employee is qualified and suited nearest in employment status and pay to the pre-parental leave position.
172. Upon request from the employee, the Agency Head will agree to an extension of unpaid parental leave for a further period of up to 12 months, immediately following the end of the initial 12 month period.
173. An employee returning from parental leave who has care of a child who is of school age or younger may apply, in writing, for flexible working arrangements (including working part-time). Approval will be granted unless the flexible work arrangements cannot be accommodated under any circumstances.

Maternity Leave

174. An employee is entitled to up to 52 weeks' unpaid maternity leave in accordance with the Maternity Leave (Commonwealth Employees) Act 1973 and/or Division 5 of Part 2-2 of the *Fair Work Act 2009*. The period of 52 weeks will be reduced by any period of leave taken under clause 175.

175. An employee who is entitled to up to 12 weeks' paid leave under the Maternity Leave (Commonwealth Employees) Act 1973 is entitled to an additional two (2) weeks' paid maternity leave under this Determination. Where an employee elects to have the payment for this leave spread over a maximum of 28 weeks at a rate no less than half normal salary, a maximum of 14 weeks of the leave will count as service.

Leave for supporting partners

176. An employee who is not the primary caregiver to a dependent child is entitled to be absent from the workplace with pay within the first 12 months following the birth or placement of the dependent child for two weeks (10 days). Where an employee elects to take this leave at half pay, only the first half of the leave will count as service.
177. An employee eligible for leave under clause 176 may access up to three (3) weeks of additional leave from their personal/carer's leave credits, subject to retaining sufficient balance to allow the employee to use 10 days' paid personal/carer's leave in any year of service for purposes under section 97 of the *Fair Work Act 2009*. Where an employee elects to take this leave at half pay, only the first half of the leave will count as service.
178. An employee with 12 months' continuous service in the APS, following a period of supporting partners leave, is entitled to a maximum of 12 months' unpaid parental leave (not to count as service) from the date of the birth or placement of the dependent child, as applicable.
179. The maximum period of 12 months is reduced by any period of leave taken under clauses 176 and 177.

Adoption Leave

180. An employee who is the adoptive parent of a newly-adopted child under 16 years at the date of placement, is entitled to:
- a. a maximum of 12 months' unpaid leave (not to count as service) from the date of placement of the child. The maximum period of 12 months is reduced by any period of leave taken under clause 180b.
 - b. for primary caregivers with 12 months' continuous service in the APS, up to 14 weeks' paid leave (to count as service) from the date of placement of the child.
181. An employee who has insufficient paid leave credits may take two (2) days' unpaid pre-adoption leave to attend interviews or examinations required to obtain approval to adopt a child in accordance with section 85 of the *Fair Work Act 2009*.
182. An Aboriginal and Torres Strait Islander employee who is the adoptive parent and primary caregiver of a newly-adopted child under 16 years at the date of placement under traditional adoption will be eligible for the entitlements in clause 180.

Foster care leave

183. An employee who enters into a long-term formal arrangement to be a foster parent to a child who is or will be under 16 years at the date of placement may access:
- a. for primary caregivers with 12 months' continuous service in the APS, up to 14 weeks' paid leave (to count as service) from the date of the placement of the child; and
 - b. a maximum of 12 months' unpaid leave (not to count as service) from the date of placement of the child. The maximum period of 12 months is reduced by any period of leave taken under clause 183a.

Permanent care order leave

184. An employee who is granted custody and guardianship of a child, who is or will be under 16 years at the day of placement, as a result of a permanent care order and is the caregiver of the child may access:
- a. for primary caregivers with 12 months' continuous service in the APS, up to 14 weeks' paid leave (to count as service) from the date of the placement of the child; and
 - b. a maximum of 12 months' unpaid leave (not to count as service) from the date of placement of the child. The maximum period of 12 months is reduced by any period of leave taken under clause 184a.

Cancellation of leave

185. If an employee has leave cancelled by the Agency or is recalled to duty and will incur additional and/or unrecoverable costs as a direct result, the Agency Head will reimburse reasonable costs on submission of proof of expenditure. An employee will not be entitled to reimbursement if the costs are otherwise recoverable.

SECTION 6 – CLASSIFICATION, REMUNERATION AND ALLOWANCES

Definitions

186. "Applicable pay scale" for an employee means the pay scales set out in the table at clause 192.
187. "New, transferred or promoted employee" means an employee covered by one or more of clauses 189 to 191.
188. "ZoD" means the Zone of Discretion, which is a salary range above the maximum pay point for each of the APS6 — EL2 classifications. Placement on a salary within the ZoD is discretionary.

Salary on engagement, promotion or movement

189. A person who is new to the APS or an existing APS employee who is promoted to a job in the Agency will be paid at the minimum pay point for the relevant classification set out in the table at clause 192. The Agency Head may approve payment of a higher salary based on the experience, qualifications or skills of the person.
190. Unless the Agency Head determines otherwise, an existing APS employee moving to the Agency at the same classification level whose current salary exceeds the maximum pay point for that classification as set out in Column 3 of the table at clause 192 will have their salary maintained. General salary increases will not be applied until the salary is at or below the maximum salary point for the relevant classification level.
191. Unless the Agency Head determines otherwise, an existing APS employee moving to the Agency whose current base salary falls between the minimum pay point and the maximum pay point for their substantive classification in Column 3 of the table at clause 192 will have their base salary set at the next highest pay point for their classification level.

Salary rates

192. The salary rates under this determination are set out in the following table:

Item	Column 1 Salary Pay Point	Column 3 Rate
EL2	EL2 - ZoD	\$160,689
	EL2.4	\$151,736
	EL2.3	\$143,656
	EL2.2	\$135,573
	EL2.1	\$127,492
EL1	EL1-ZoD	\$133,515
	EL1.4	\$124,841
	EL1.3	\$119,739
	EL1.2	\$114,638

	EL1.1	\$109,536
APS6	APS6 - ZoD	\$104,927
	APS6.4	\$95,786
	APS6.3	\$92,833
	APS6.2	\$89,458
	APS6.1	\$85,236
APS5	APS5.4	\$82,387
	APS5.3	\$80,546
	APS5.2	\$78,706
	APS5.1	\$77,063
APS4	APS4.4	\$74,645
	APS4.3	\$73,032
	APS4.2	\$71,744
	APS4.1	\$69,796
APS3	APS3.3	\$66,832
	APS3.2	\$65,739
	APS3.1	\$64,163
APS2	APS2.4	\$61,226
	APS2.3	\$60,096
	APS2.2	\$58,854
	APS2.1	\$57,455
APS1	APS1.3	\$53,487
	APS1.2	\$51,714
	APS1.1	\$48,918

193. An employee's salary may only be set above the maximum pay point and at or below the ZoD with the approval of the Agency Head.

Salary advancement

194. On 1 August each year, an ongoing employee (excluding Graduates) who is not already on the maximum pay point for the employee's current substantive classification in the applicable pay scale will advance to the next highest pay point, if the employee:
- has been at their current pay point for at least 3 months; and
 - is working at or above the expected standard for their substantive classification level as determined by the Agency Head.
195. Employees may advance two or more pay points with the agreement of the Agency Head based on proven high performance.

Graduates

196. The Agency may run a graduate program each year. Details of the program are outlined in the Graduate Program Policy.
197. Graduates will be engaged at the bottom of the graduate broadband on the APS 3 classification at the minimum pay point as per clause 199.
198. Progression through the graduate broadband under clause 199 is subject to meeting the requirements of the graduate program as outlined in the Graduate Program Policy.

Graduate broadband

199. The Graduate broadband is set out in the following table:

Classification	Pay point	Salary
APS 5	APS5.4	\$82,387
	APS5.3	\$80,546
	APS5.2	\$78,706
	APS5.1	\$77,063
APS4	APS4.4	\$74,645
	APS4.3	\$73,032
	APS 4.2	\$71,744
	APS4.1	\$69,796
APS3	APS3.3	\$66,832
	APS3.2	\$65,739
	APS3.1	\$64,163

Casual employees

200. Casual employees are engaged to perform duties that are irregular or intermittent.
201. Employees engaged on a casual basis will receive a 20 per cent loading in lieu of paid leave (excluding long service leave) and public holidays, in addition to their hourly rate of salary. The employee's salary rate and casual loading under this clause includes payment for casual loading the employee is entitled to receive under the APS Award.
202. A casual employee who is scheduled to work on a day that falls on a public holiday, as identified in clause 128 of this Determination, and is not required to perform duties on that day will receive payment for that day at their base rate of pay, including casual loading.

Supported wage system

203. An employee who is affected by disability may be eligible for a supported wage.

Payment of salary

204. An employee will be paid fortnightly by electronic funds transfer into a financial institution account of the employee's choice.
205. The fortnightly rate of pay is calculated using the following formula: annual rate of pay multiplied by 12 and divided by 313.

Flexible remuneration packaging

206. Employees may choose to sacrifice part of their salary for a range of non-cash benefits in accordance with legislation and government policy.

Superannuation

207. The Agency will make compulsory employer superannuation contributions as required by the applicable legislation and fund requirements.
208. The Agency Head may choose to limit superannuation choice to complying superannuation funds that allow employee and/or employer contributions to be paid through fortnightly electronic funds transfer.
209. Where employer contributions are paid to the Public Sector Superannuation accumulation plan (PSSap) or another accumulation fund, the employer contribution will be 15.4 per cent of the Fortnightly Contribution Salary (FCS).
210. Employer superannuation contributions:
 - will be made during the first 12 months of unpaid maternity leave or parental leave (reduced by any period of paid maternity leave) in accordance with the rules of the relevant superannuation scheme and provided that those rules permit such contributions to be made; and
 - will not be paid during any other periods of unpaid leave that do not count as service, unless otherwise required by law.
211. Employer contributions to superannuation will not be reduced by any other contributions to superannuation made by the employee through salary sacrifice arrangements.

Salary on reduction

212. An employee's classification may be reduced at the employee's request or if the Agency Head directs, in accordance with the circumstances provided for in section 23 of the *Public Service Act 1999*.
213. If an employee requests in writing or is directed to perform work at a lower classification level temporarily or permanently, the Agency Head will determine the employee's salary rate at the lower classification level. The determination will reflect the employee's experience, qualifications and skills and the circumstances under which the reduction occurred.

Higher Duties Allowance (HDA)

214. Where the Agency Head has assigned duties to an employee at a higher non-SES classification level for 15 consecutive working days (inclusive of public holidays) or more, the employee will be paid a higher duties allowance (HDA) equal to the difference between the employee's current base salary and the minimum salary point of the higher classification, or a higher salary level, as determined by the Agency Head.
215. An employee's salary rate includes payment for any higher duties allowance under the APS Award in any circumstance where an employee performs duties at a higher classification for fewer than 15 days and would not be entitled to HDA under clause 214.
216. Part-time employees will be paid a HDA if they have been assigned duties at a higher non-SES classification level for 15 consecutive days actually worked or six (6) weeks (whichever occurs first).
217. Where the Agency Head has assigned duties to an employee at a higher level in an SES position for 15 consecutive working days (inclusive of public holidays) or more the employee will be remunerated at a salary level determined by the Agency Head.

Travel assistance

218. Where the Agency Head requires an employee to travel the Agency will meet the reasonable costs of travelling, accommodation, meals and other incidental expenses. If an allowance is paid it will be no less than the rates set by the Australian Taxation Office as amended from time to time. Where practicable any allowance will be paid in advance of undertaking the travel. An allowance is not payable under this clause if expenses are paid for by the Agency.
219. The Agency's preferred method of paying travel expenses is through the use of a travel charge card or other Government credit card. An allowance will be paid where this is not practicable.
220. The Agency Head may authorise the payment of airline lounge membership fees for an employee who needs access to an airline lounge for work purposes. Other employees may purchase a membership at the Agency's discounted corporate rate.

Camping allowance

221. An employee, required to camp out or be employed in a camping party is entitled to be paid the applicable rate of camping allowance.
222. An employee who camps out for more than one night (other than in a base camp established by the Agency, a caravan or in a hut) and who is required to move camp from place to place is entitled to an additional allowance for each of those nights.
223. Where an employee camps out for more than seven days, an additional allowance in respect of the total period is payable.

224. Camping allowance is paid at the below rates:

\$		
Camping allowance—Where cook is provided by the agency	38.76	Per day
Camping allowance—Where cook is not provided by the agency	64.45	Per day
Additional allowance—2 to 5 consecutive nights	12.31	Per night
Additional allowance—6 or more consecutive nights	24.65	Per night
Camping outlay allowance—between 7 and 13 days	73.17	Per trip
Camping outlay allowance—between 14 and 20 days	146.34	Per trip
Camping outlay allowance—more than 21 days	219.50	Per trip

Excess travel time

225. Where an employee is directed to work temporarily at a location other than their normal place of employment, and as a result spends more time travelling to their temporary place of work than they spent travelling to their usual place of work, they will be entitled to the payment for the excess travel time or time off in lieu during normal hours of duty for that time subject to:
- a. the employee's salary not exceeding the rate for an APS Level 4;
 - b. the additional travel time being at least 30 minutes in travel per day, or two and one half hours in any fortnight; and
 - c. the payment not exceeding five hours in any one day.
226. The rate of payment will be single time on Mondays to Saturdays and time and a half on Sundays and Public Holidays.
227. Payment of salary will include any higher duties allowance.
228. Where an employee's normal place of work is variable within a specified district, the Agency Head will determine the usual place of work. In this case a minimum of 20 minutes travelling time each way will apply where an employee is directed to work at another location before an employee is entitled to payment for the excess travel time.
229. An employee working temporarily at a location other than their normal place of employment, and who as a result incurs costs greater than the cost of travelling to and from their usual place of work, will be entitled to the reimbursement of excess fares as long as they are not in receipt of travelling allowance or have been notified in writing that they will be permanently

relocated to that place of work. The payment of excess fares to an employee based at home will be calculated from the employee's office based site.

Carer's assistance

- 230. Subject to approval by the Agency Head, an employee may receive a reimbursement for reasonable, unavoidable, additional costs associated with the care of a family member or dependent where an employee is required to travel away from his or her normal work location for business purposes or is directed to work outside his or her normal pattern of hours. The employee must advise his or her supervisor in advance that costs may be incurred.

Retirement financial assistance

- 231. An employee who is aged 54 years or more may receive a one-off reimbursement of up to \$500 (plus GST) towards the cost of financial retirement advice.

Corporate responsibility allowances

- 232. Employees performing the roles specified in Column 1 of the following table will be paid a Corporate Responsibility Allowance at the rate included in Column 3 of the following table.

Item	Column 1 Corporate responsibility role	Column 3 Rate
1	First Aid Officer	\$31.78
2	Fire Warden	\$31.78
3	Health and Safety Representative	\$28.37
4	Harassment Contact Officer	\$25.06

- 233. Where an employee holds two (2) or more of these roles simultaneously, the employee will only receive one (1) allowance.
- 234. The allowance will not be payable during any periods of unpaid leave or paid leave in excess of 20 consecutive working days.

Professional memberships

- 235. The Agency will reimburse or pay professional membership fees and accreditation fees where a professional membership or accreditation is an essential requirement of an employee's role. Employees may also be eligible for reimbursement or payment of the costs of other professional memberships.

Motor vehicle allowance

- 236. The Agency Head may approve an employee to use a private vehicle for official purposes where the Agency Head considers that this will result in greater efficiency or involve less expense for the Agency. If an allowance is paid it will be at the rate set by the Australian

Taxation Office and, where practicable, paid in advance of undertaking the travel. An allowance is not payable under this clause 243 if expenses are paid for by the Agency.

237. Where an employee is authorised to use a private motor vehicle for the transport or haulage of goods or materials weighing 100 kilograms or more and/or the conveyance of passengers, the costs of which would otherwise be met by the Agency Head, the employee will be paid an additional allowance of \$0.0118 per kilometre.

Isolated allowance

238. An allowance is payable to employees to provide assistance to undertake additional commuting as a result of their place of work being located outside of an urban area.

239. Employees will not be eligible for the allowance payment when:

- a. an employee travels to and from an isolated establishment at the expense of the Commonwealth;
- b. an employee resides in a dwelling owned or leased by the Commonwealth where the dwelling is situated at or in very close proximity to the isolated establishment; or
- c. an employee receives any payment of motor vehicle allowance or excess fares under the provisions of this Award.

240. Where an employee travels to a non-urban work location in order to attend for ordinary work, or in respect of a period of extra duty where the employee has been directed to return to that location, the employee will be entitled to be paid a rate of allowance calculated using the following formula:

Formula: Distance (kms) x Rate (\$0.51 per km) x 2

where: Distance is the shortest distance by road between the non-urban work location and the nearest urban boundary, except where the distance is less than 5 kilometres, in which case the distance will be deemed to be 3.5 kilometres. The payment of Isolated Allowance to an employee based at home will be calculated from the employee's office based site.

241. The following definitions apply for the purposes of this clause:

- a. Urban boundary means the boundary of an urban area as defined by the Australian Bureau of Statistics in the Australian Standard Geographical Classification (ASGC) Section of State (SOS) Structure from time to time.
- b. Non-urban work location means a work location within a "bounded locality" or "rural balance" as classified by the Australian Bureau of Statistics in the Australian Standard Geographical Classification (ASGC) Section of State (SOS) Structure from time to time.

Travel to airport in urban location

242. An employee who travels to an airport in an urban work location to perform:

- a. duty as ordinary time or overtime which commences or ceases between 7.00 pm and 7.00 am; or
- b. overtime where the employee has been recalled after leaving the airport at the conclusion of their ordinary hours,

will be entitled to an allowance of \$7.68 in respect of each continuous period of duty.

Reimbursement for loss or damage

243. The Agency Head may approve reimbursement to an employee for loss or damage to clothing and/or personal effects, which occurred in the course of the employee's work.

Relocation assistance

244. An employee may be entitled to assistance with relocation expenses. Details are in Classification, Remuneration and Allowances Policy.

Disturbance allowance

245. Where the household effects of an eligible employee are removed from one locality to another as a consequence of the employee's relocation for a period of 12 months or more, the employee will also be entitled to:

- a. the payment of a single payment of disturbance allowance to offset non-reimbursed costs associated with the removal:

Disturbance allowance	\$
Employee without dependants or partner	643.84
Employee with one or more dependants or a partner	1349
Additional payment for each payment for each full-time student(s) dependent child(ren)	255.64

- b. reimbursement of reasonably incurred costs associated with the connection or reconnection of a telephone service at the new locality if the employee had a telephone service at the previous locality; and
- c. reimbursement of expenses incurred in respect of one motor vehicle owned by the employee for stamp duty on registration, establishment fee for the transfer of the employee's driving licence, and establishment fee for the transfer of the vehicle's registration.

Reunion visits

246. Where an employee:

- a. is required to be absent from the employee's home locality to perform duties for a fixed period, that the Agency Head has certified in writing are critical to the operating efficiency of the agency; and
- b. has dependants and/or a partner residing at the former home locality who have not accompanied the employee,

the employee will be entitled to reimbursement for the cost of travel for the purpose of reunion with the dependants and/or the partner. The employee may elect to be reimbursed

an amount equal to six reunion visits by economy class return travel by air in any one year commencing on the day that the employee commenced the term transfer. An unused yearly reunion visit entitlement will lapse two years after it has become available.

247. The Agency Head may authorise:

- a. a reunion visit to a place other than the former home locality, provided the employee pays for any difference in fare; and/or
- b. payment of motor vehicle allowance, in lieu of an airfare where travel is by private motor vehicle, with entitlement to payment of the lesser of the reimbursement of costs reasonably incurred, or the amount the employee would have been reimbursed for travel by air.

Remote locality assistance

248. Where an employee works in a locality that is designated as a remote locality by this Determination or the APS Award, the Agency will calculate the employee's entitlement to remote locality assistance under clauses 249 to 258 of this Determination and the APS Award. For each form of assistance, the employee will be entitled to the more generous of the entitlements under the Determination and the APS Award.

249. Remote locality assistance is not paid pro-rata in respect of part-time employees.

250. Upon commencement of this Determination, a remoteness score will be determined for each locality in which the Agency operates by:

- calculating the Accessibility/Remoteness Index of Australia Plus (ARIA+) for the locality; and
- where applicable, adding an additional score(s) in accordance with the following table.

Number of months per calendar year where the mean average maximum temperature is:	Additional score
Between 30°C and 35°C (based on BoM statistics)	
6 – 9 months	1
10 – 12 months	2
Above 35°C (based on BoM statistics)	
1 – 5 months	1
6 – 9 months	2
10 – 12 months	3

251. For the purposes of this section, a “remote locality” is a locality with a remoteness score of greater than 3.10.

252. If the Agency commences operation in a new locality during the life of this Determination, a remoteness score will be calculated for that locality in accordance with clause 250.

Remote locality allowance

253. The remote locality allowance is payable to an employee stationed at a designated remote locality as follows:

Total score	Allowance	
	With dependants	Without dependants
Grade A 3.10 – 3.49	\$4,244	\$3,212
Grade B 3.50 – 7.49	\$8,030	\$6,882
Grade C 7.50 – 12.49	\$12,389	\$8,374
Grade D 12.50+	\$16,403	\$11,242

Remote locality leave fare

254. An employee based in a remote locality will accrue an entitlement to a remote locality leave fare on the day the employee commences working at the remote locality. The entitlement to remote locality leave fares will accrue on the anniversary of the employee’s commencement at the remote locality in accordance with the following table:

Grade	Leave fare entitlement
Grades A and B	1 every two years
Grades C and D	1 each year

255. No more than two remote locality leave fares may be held in credit at any one time. Remote locality leave fares cannot be cashed out and cannot be transferred if an employee moves to another location that is not remote. Remote locality leave fares will not be paid out on termination of employment.

256. For the purposes of the remote locality leave fare, employees will be reimbursed for travel undertaken by the employee and each eligible dependant or partner of the employee, up to the lesser amount of:

- return airfare(s) based on the best fare of the day from travel from the designated remote locality to the nearest capital city in that State (with Adelaide being deemed to be the nearest capital city for Northern Territory);
- return airfare(s) for the actual travel undertaken based on the best fare of the day;
or

- motor vehicle allowance for the car travel undertaken.

(for the purposes of this clause “best fare of the day” means the ‘best’ fare quoted by the Agency’s contracted travel provider for travel after 7:00 am on the day that the employee undertakes the travel)

257. The Agency Head (delegate) will approve fares reimbursement for employees and their dependants living in a designated remote locality for up to two student travel concession fares per 12 month period reasonably incurred for return travel by each child from the place where they attend school to the employee’s locality.

Additional annual leave for remote localities

258. Employees living in designated remote localities will accrue additional annual leave as follows:

Grade	Additional days of annual leave per year
Grade A	2
Grade B	3
Grade C	5
Grade D	7

Emergency or compassionate travel – Reimbursement of transport costs

259. Where:

- an employee or a dependant of an employee is stationed at a remote locality; and
- it is necessary for the employee or a dependant of the employee to travel from the locality for medical, dental, specialist or emergency treatment, compassionate reasons (e.g. where a family member becomes critically or dangerously ill or dies), or other situations approved by the Agency Head,

The Agency Head will authorise reimbursement of reasonable costs incurred for return transport by air through the Agency’s travel management provider, where possible, or surface travel to the locality:

- where the family member lived before their death if that locality is within Australia or to an international airport in Australia if that locality is outside of Australia;
- where the family member is ill, provided that a qualified medical practitioner certifies that during a specified period the close relative has been critically or dangerously ill, if that locality is within Australia or to an international airport in Australia if that locality is outside of Australia; or
- in relation to a crisis situation.

Payment upon death of an employee

260. Where an employee dies, or the Agency Head has directed that an employee will be presumed to have died on a particular date, payment may be made to the legal personal representative of the former employee of an amount that would have been paid if the employee had otherwise ceased employment on resignation or age retirement.
261. Long service leave credits will be paid out in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

SECTION 7 – WORKFORCE MANAGEMENT

Probation

262. A newly appointed ongoing APS employee will be required to undertake a probationary period up to six (6) months from the date of commencement of employment with the Agency.

Resignation by employee

263. An employee with less than one years' service may resign from employment at any time by giving a minimum of one (1) weeks' notice in writing to the Agency Head. Otherwise an employee must provide a minimum of two (2) weeks' notice.

Termination of employment by the Agency

264. The Agency Head may terminate the employment of an employee for serious misconduct, without notice or payment in lieu of notice of termination.

Management of excess employees

265. Clauses 268 to 299 will apply to any the Agency employee who is excess to the requirements of the Agency, other than non-ongoing employees or employees on probation.

Workplace support for excess employees

266. An excess employee may request assistance in meeting the cost of reasonable travel and incidental expenses incurred in seeking alternative employment where these are not met by the prospective employer.
267. An excess employee will be entitled to reasonable time off with full pay to attend necessary employment interviews, from the date the period of notice for redundancy commences.

Consultation process

268. Where the Agency Head becomes aware that an employee is potentially excess, the Agency Head will advise the employee in writing, as soon as practicable, that the employee is potentially excess and the reasons why the employee is potentially excess.
269. Within 30 calendar days of the notification in clause 268, the Agency Head will hold discussions with the employee, and the employee's nominated representative (if applicable), to consider:
- any measures that could be taken to remove or reduce the likelihood of an employee becoming excess; and
 - whether voluntary redundancy (VR), redeployment or re-assignment of duties may be appropriate.

Invitation to other employees to express interest in a VR

270. The Agency Head may, prior to the conclusion of the discussions referred to in clause 269, invite employees who are not potentially excess to express interest in a VR, where this would permit the redeployment of employees who are potentially excess.

Declaration of excess

271. Where an employee has been notified that they are potentially excess and the employee or their nominated representative has declined to participate in a discussion referred to in clause

269, the Agency Head may immediately identify the employee as excess to the requirements of the Agency.

272. The Agency Head may identify an employee as excess to the requirements of the Agency 30 days after the employee was notified that they are potentially excess.

Redeployment and re-assignment of duties

273. The Agency Head will take all reasonable steps, including merit based selection, to re-assign the duties of an excess employee at the same level, within the Agency, or to assist in the movement of the employee to another APS agency.

274. The Agency will consider an excess employee in isolation from other applicants for an ongoing position in the Agency at or below the employee's classification level for which the employee has applied.

275. If necessary, employees seeking redeployment may be referred to an APS redeployment program, if redeployment is not readily available in the Agency. The Agency will meet any costs associated with this referral.

276. An excess employee who:

- has declined an offer of VR; or
- has not accepted a VR offer within the 30 day consideration period; and
- has not already been referred to a redeployment program, will be immediately referred to a redeployment program/s and commence a retention period in accordance with clause 292.

277. If an employee was referred to a redeployment program prior to having been made an offer of VR and the employee has not been successfully redeployed to an ongoing position within two (2) months, the employee will be offered a VR.

Voluntary Redundancy (VR)

Period of consideration

278. An employee who has been advised that they are excess and who is not seeking redeployment will be made only one (1) offer of VR in respect of any single redundancy situation, and will be given 30 days in which to consider the offer commencing on the day after the offer is made.

Offer of voluntary redundancy

279. When an employee is invited to accept a VR, or has been notified in writing that they are potentially excess, they will be given information on the:

- amount of their severance pay and the indicative value of the balance of any annual leave and long service leave credits;
- details regarding superannuation entitlements;
- likely taxation rules applying to the various payments;
- the length of notice the employee is entitled to; and
- availability of career advisory services.

280. The Agency will reimburse an employee considering a VR up to \$500 (plus GST) for financial advice obtained from a registered financial adviser prior to making a decision to formally accept the offer of a VR.

Period of notice

281. Upon receipt of the acceptance of an offer of VR, the Agency Head will issue the employee with a notice of termination under section 29 of the *Public Service Act 1999*.

282. The employee will be provided with four (4) weeks' notice (five (5) weeks for an employee over 45 years of age with at least five (5) years of continuous service) prior to the termination of their employment. The notice period will commence on the day after the employee is issued with a notice of termination under section 29 of the *Public Service Act 1999*.

283. Where an employee requests and the Agency Head agrees or where the Agency Head directs an earlier termination date within the notice period, the employee's employment will be terminated under section 29 of the *Public Service Act 1999* on that date. The employee will receive payment in lieu of notice for the unexpired portion of the notice period on the basis of:

- the employee's current ordinary hours of work;
- the amounts payable to the employee in respect of those hours, e.g. allowances; and
- any other payments under the employee's contract of employment except for accruals that would have occurred had the person remained as an employee during the relevant notice period.

Severance benefit – recognition of service

284. An employee who accepts a VR and whose employment is terminated by the Agency Head under section 29 of the *Public Service Act 1999* on the grounds that they are excess to requirements is entitled to two (2) weeks' salary for each completed year of continuous service, plus a pro-rata payment for completed months of service since the last completed year of service.

285. The minimum amount payable will be four (4) weeks' salary and the maximum will be 48 weeks' salary subject to any minimum amount the employee is entitled to under section 119 of the *Fair Work Act 2009*.

286. Severance payments involving part-time employees will be calculated on a pro-rata basis for any period where they have worked part-time hours during their period of service and where they have less than the equivalent of 24 years' full-time service.

287. Service for severance pay purposes means:

- service in the Agency;
- Government service' as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
- 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;
- service with the Australian Defence Forces;

- APS service immediately preceding deemed resignation under the repealed section 49 of the repealed *Public Service Act 1922* if the service has not previously been recognised for severance pay purposes; and
- service in another organisation where the employee was moved from the APS to give effect to an administrative re-arrangement; or an employee of that organisation is engaged as an APS employee as a result of an administrative re-arrangement, and such service is recognised for long service leave purposes.

288. For earlier periods of service to count as severance pay, there must be no breaks between periods of service, except where:

- the break in service is less than 1 month and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer; or
- 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*.

Severance benefit – rate of payment

289. Salary for severance pay purposes will include:

- the employee's substantive salary adjusted on a pro-rata basis for periods of part-time service;
- higher duties allowance for performance of duties at a higher classification level where the employee has been performing duties and continues to perform duties at the higher classification level for a continuous period of at least 12 months immediately prior to the date on which the employee was given notice of termination of employment;
- other allowances in the nature of salary which have been paid to the employee on a regular basis and have continued to be paid during periods of annual leave, excluding allowances which are a reimbursement for expenses incurred; and
- shift penalties are to be included in salary where the employee has undertaken shift work and is entitled to shift penalties for 50% or more of the pay periods in the 12 months preceding the date on which the employee is given notice of termination. The employee is entitled to have the weekly average of the penalties payable over the 12 months immediately preceding the date on which the employee is given notice of termination included in salary.

Retention period

290. A retention period will commence in relation to an employee who has sought redeployment, has declined an offer of VR and has been referred to a redeployment program prior to the offer being made.

291. Where an excess employee has declined an offer of VR the employee will commence a retention period of seven (7) months. The retention period will commence on the earlier of the following:

- the day the employee is formally advised in writing by the Agency Head that they are an excess employee; or

- 30 days after the day on which the Agency Head invites the employee to accept a VR.
292. If an excess employee is entitled to a redundancy payment in accordance with section 119 of the *Fair Work Act 2009* the retention period in clause 291 is reduced by the number of weeks' redundancy pay that the employee will be entitled to under the *Fair Work Act 2009* on termination of employment.
293. The retention period and the notice period may be extended by any periods of paid personal/carer's leave not exceeding six (6) months, which is supported by medical evidence.
294. During the retention period, the Agency Head:
- will continue to take reasonable steps to find alternative suitable employment for the excess employee; and/or
 - may, after giving four (4) weeks' notice to the excess employee, reduce their classification as a means of securing alternative employment.
295. If an employee's classification is reduced during the retention period the employee will continue to be paid at their previous substantive base salary, immediately prior to the reduction in classification, for the balance of the retention period.
296. Where the Agency Head believes there is insufficient productive work available for the excess employee during the retention period, the Agency Head may, with the agreement of the excess employee, terminate the employee's employment under section 29 of the *Public Service Act 1999* during the retention period on the grounds that they are excess to requirements and pay the balance of the retention period as a lump sum amount. The lump sum payment will be taken to include payment in lieu of notice of termination.
297. Upon termination pursuant to clause 298, the employee will be paid a lump sum comprising:
- the balance of the retention period (as shortened under clause 292) and this payment will be taken to include the payment in lieu of notice of termination of employment; and
 - any redundancy payment to which the employee is entitled pursuant to section 119 of the *Fair Work Act 2009*.

Involuntary Retrenchment (IR)

298. At the end of the retention period the Agency Head may make the excess employee involuntarily redundant under section 29 of the *Public Service Act 1999*.
299. An excess employee will not be made involuntarily redundant where:
- the employee has not been invited to accept an offer of VR;
 - the employee has requested a VR, but the Agency Head has refused; or
 - the employee has not been given four (4) weeks' notice of termination of employment (or five (5) weeks for an employee over 45 years of age with at least five (5) years' continuous service), or payment in lieu of notice.

ATTACHMENT B – RECOGNITION OF ALLOWANCE FOR PARTICULAR PURPOSES

	Counts as salary for superannuation ²	Counts as salary for overtime	Payable during long service leave	Payable during annual leave	Payable during other paid leave	Reduced during periods of half pay leave (if payable during leave) or part time	Included in salary for calculation of redundancy payment ¹	Included in salary for payment in lieu of termination notice ¹	Included in salary for payment in lieu of annual leave ¹	Included in salary for payment in lieu of long service leave ¹
Corporate Responsibility Allowance ³	Yes ⁵	No	Yes	Yes	Yes	Yes	No	Yes	No	Yes
Higher duties allowance	Yes	Yes	Yes	Yes	Yes	Yes ⁶	Yes ²	Yes	Yes	Yes
Remote Locality Allowance ⁴	No	No	Yes	Yes	Yes	No	No	Yes	Yes	No

¹ Employee must be in receipt of the relevant allowance on the last day of service for it to count towards these purposes.

² Employee must have been in receipt of the relevant allowance for a minimum continuous period of 12 months for the allowance to count for this purpose.

³ Allowance is only payable during periods of leave up to 20 days. Allowance will cease for periods in excess of 20 days.

⁴ Allowance is only payable during periods of long service leave where the employee remains in the locality.

⁵ Corporate Responsibility Allowance will count as salary for superannuation immediately for first aid officers.

⁶ Payment based on working hours.

ATTACHMENT C – LEAVE TYPES TO COUNT AS SERVICE (TCAS) STATUS

Leave type	Counts as service for Long Service Leave⁷	Counts as service for redundancy (severance pay) purpose	Counts as service for accrual of personal or annual leave
Adoption leave without pay	Yes	Yes	Yes
Adoption leave at half pay	Yes ¹	Yes ¹	Yes ¹
Adoption leave without pay	Where determined by the Agency Head ⁷	No	No
Annual leave	Yes	Yes	Yes
Annual leave at half pay	Yes	Yes	Yes
Compassionate/ bereavement leave	Yes	Yes	Yes
Cultural and ceremonial leave	Yes	Yes	Yes
Cultural and ceremonial leave without pay	Where determined by the Agency Head ⁷	Yes	Yes
Defence Reserve Leave	Yes	Yes	Yes ⁶
Foster care leave and permanent care order leave	Yes ¹	Yes ¹	Yes ¹
Foster care leave and permanent care order leave without pay	Where determined by the Agency Head ⁷	No	No
Long Service Leave	Yes	Yes	Yes
Long Service Leave at half pay	Yes	Yes	Yes
Maternity leave with pay	Yes ¹	Yes ¹	Yes ¹
Maternity leave at half pay	Yes ¹	Yes ¹	Yes ¹

Maternity leave without pay	Where determined by the Agency Head ⁷	No ⁵	No ⁵
Miscellaneous leave with pay	Yes ⁴	Yes ⁴	Yes ⁴
Miscellaneous leave without pay	Where determined by the Agency Head ⁷	No ^{2 3}	No ^{2 3}
Personal/Carer's leave with pay	Yes	Yes	Yes
Personal/Carer's leave without pay	Yes	Yes	Yes
Carer's leave without pay	Where determined by the Agency Head ⁷	No	No
Purchased leave	Yes	Yes	Yes
Parental leave without pay	Where determined by the Agency Head ⁷	No	No
Supporting partners leave	Yes	Yes	Yes
Unauthorised absence	No	No	No

¹ Accrual for the first 14 weeks only.

² Miscellaneous leave without pay that is community service leave within the meaning of the FW Act will count as service.

³ Unless the leave is agreed by the Agency Head to count as service (conditional on returning to duty).

⁴ Conditional on returning to duty.

⁵ Where an employee is ineligible for paid maternity leave the first 14 weeks of their unpaid leave will count as service for all purposes.

⁶ Unpaid Defence Reserve Leave for the purposes of CFTS does not count as service for the purposes of accruing annual leave.

⁷ For periods of unpaid leave (other than for absences on account of illness or in respect of defence service), the Agency Head must make a specific determination that the period of unpaid leave counts for service for long service leave purposes either at the time of approving the period of leave or at a later time.

ATTACHMENT D – KEY TERMS

APS	Australian Public Service.
Base Salary	<p>The rate of pay payable to the employee for their ordinary hours of work, but not including any of the following:</p> <ul style="list-style-type: none"> • incentive-based payments and bonuses; • loadings; • monetary allowances; • overtime or penalty rates; and • any other separately identifiable amounts.
Classification Rules	<i>Public Service Classification Rules 2000.</i>
Compressed hours	Where an employee works a varied work pattern that includes some or all of the employee's standard daily hours being in excess of 7 hours 36 minutes (within their agreed bandwidth) to enable the employee to work reduced hours on other days.
Cultural Leave	To enable Aboriginal and Torres Strait Islander employees to meet their cultural and ceremonial obligations including participation in cultural activities.
De facto partner	<p>The de facto partner of an employee means:</p> <ul style="list-style-type: none"> • a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and • includes a former de facto partner of the employee.
Dependant	<p>In relation to an employee, a dependant means:</p> <ul style="list-style-type: none"> • an employee's spouse (or former spouse); or • an employee's partner who stands in a bona fide domestic relationship with the employee; or

	<ul style="list-style-type: none"> • a child or parent of the employee, or of the spouse (or former spouse)/partner of the employee being a child or parent who ordinarily resides with the employee and who is wholly or substantially dependent upon the employee. <p>For the purposes of Remote Locality Allowance and Leave Fares Assistance an eligible dependant is a dependant (as defined above) who:</p> <ul style="list-style-type: none"> • for the previous 12 months had ordinarily resided with the employee in the remote locality; and • has an income, if any, less than the applicable minimum wage.
Employee	A member of staff of the Agency employed under the <i>Public Service Act 1999</i> and paid by the Agency through the payroll system, whose employment is covered by this Determination, whether the employee is ongoing or non-ongoing, or is employed on a full-time or part-time, or casual basis.
Excess Employee	An employee who is excess to the requirements of the Agency if the Agency Head determines: <ul style="list-style-type: none"> • the employee is included in a class of employees employed by the Agency, and there are more employees in the class than is necessary for the efficient and economical working of the Agency; • the services of the employee cannot be effectively used because of technological or other changes in the work methods, or changes in the nature, extent or organisation of the functions of the Agency; or • the duties usually performed by the employee are to be performed by the employee at a different locality, and the employee is not willing to perform duties at that locality.
Family	Family or immediate family means: <ul style="list-style-type: none"> • a spouse (or former spouse) or de facto partner of the employee;

	<ul style="list-style-type: none"> • a child (including an adopted child, step child, foster child or an ex-nuptial child) of the employee; • parent, grandparent, grandchild or sibling of the employee; • a child (including an adopted child, step child, foster child or an ex-nuptial child) of the employee's spouse (or former spouse) or de facto partner; • a parent, grandparent, grandchild or sibling of a spouse (or former spouse) or de facto partner of the employee; • a member of the employee's household; • a person that the Agency Head considers to be of recognised significance to the employee; or • traditional kinship where there is a relationship or obligation, under customs and traditions of the community or group to which the employee belongs.
Foster child	<p>A foster child of an employee means a child for whom the employee has assumed primary responsibility for the long term care of the child who is, or will be, under 16 years of age and the child is not (otherwise than because of fostering) a child of the employee or the employee's spouse (or former spouse) or de facto partner.</p>
Meal period	<p>A meal period will mean the following periods, or substituted meal periods, as agreed between the Agency Head and the majority of affected employees, or the Agency Head and an individual employee. Such an agreement will provide for four meal allowance periods in each 24 hour cycle:</p> <ul style="list-style-type: none"> • 7.00 am to 9.00 am; • 12 noon to 2.00 pm; • 6.00 pm to 7.00 pm; and • midnight to 1.00 am
Non-ongoing employee	<p>An employee engaged for a specific period, the duration of a specified task or duties that are</p>

	irregular or intermittent, as defined by the <i>Public Service Act 1999</i> .
Ongoing employee	Ongoing employment as defined by the <i>Public Service Act 1999</i> .
Permanent care order	A permanent care order is a court order which grants custody and guardianship of a child (up to the age of 18) to the person or persons named in the order (not being the child's parent).
SES	A Senior Executive Service employee under section 34 of the <i>Public Service Act 1999</i> .
Shift worker	Means an employee who is rostered to perform ordinary hours of work outside the period 6.30 am to 6.00 pm Monday to Friday, and/or on Saturdays, Sundays or Public Holidays for an ongoing or fixed period.
Substantive classification	An employee's permanent/ongoing classification level.