



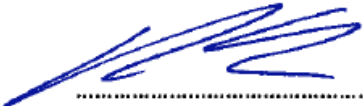
Australian Government

**Department of Infrastructure
and Regional Development**

ENTERPRISE AGREEMENT 2016

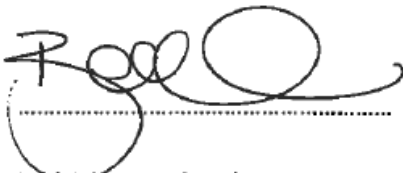
FORMAL ACCEPTANCE OF THE AGREEMENT

This Agreement is made under section 172 of the *Fair Work Act 2009*. By signing below, the parties to the Agreement signify their agreement to its terms:


.....

Dated: 1 March 2016

Mike Mrdak
Secretary
Department of Infrastructure and Regional Development
GPO Box 594, Canberra ACT 2601


.....

Dated: 2 March 2016 .

Beth Vincent-Pietsch
Deputy Secretary
Community and Public Sector Union
1/40 Brisbane Avenue, Barton ACT 2600

CONTENTS

DEFINITIONS	3
APPLICATION AND COVERAGE	4
CONSULTATION AND DISPUTE RESOLUTION	5
SALARY AND CLASSIFICATION	8
ALLOWANCES AND REIMBURSEMENTS	12
WORKING ARRANGEMENTS	16
PERFORMANCE MANAGEMENT	24
LEAVE	25
REDEPLOYMENT, RETRENCHMENT AND REDUNDANCY	32
[SCHEDULE A] SALARY SCALES AND BROADBANDS	38
[SCHEDULE B] TRANSITIONAL ARRANGEMENTS	39
[SCHEDULE C] SUPPORTED WAGE SYSTEM	41

DEFINITIONS

In this Agreement, the singular includes the plural. For the purposes of this Agreement the following definitions apply:

Agreement means the *Department of Infrastructure and Regional Development Enterprise Agreement 2016*;

APS means the Australian Public Service;

De facto partner includes a former de facto partner;

Department and **the Department** mean the Commonwealth Department of Infrastructure and Regional Development, or its successor however described;

Dependant in relation to an employee, means the partner of the employee or a child or parent of the employee, being a child or parent who ordinarily resides with the employee and who is wholly or substantially dependent on the employee;

Employee means an employee engaged under subsection 22(2) of the PS Act, but does not include an SES employee;

Immediate family means a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee, fostering or traditional kinship;

HDA means Higher Duties Allowance;

LSL Act means the [Long Service Leave \(Commonwealth Employees\) Act 1976](#);

LSL means Long Service Leave as defined in the LSL Act;

ML Act means the [Maternity Leave \(Commonwealth Employees\) Act 1973](#);

NES means the [National Employment Standards](#);

Non-ongoing employee means an employee engaged under subsection 22(2)(b) or (c) of the PS Act but does not include a non-ongoing SES employee;

Ongoing employee means an employee engaged under subsection 22(2)(a) of the PS Act but does not include an ongoing SES employee;

Partner means, in relation to a person who is a member of a couple, the other member of the couple;

PCL means, Personal Circumstances Leave;

Primary care giver is the employee who will assume the principal role for the care and attention of a child/children. The employer may require confirmation of primary care giver status;

PS Act means the [Public Service Act 1999](#) as amended from time to time;

Salary means the employee's rate of pay specified in [\[Schedule A\]](#) unless otherwise defined;

Secretary means the person for the time being holding or performing the duties of the office of Secretary of the Department;

SES means the Senior Executive Service as defined in the PS Act;

Settlement period means a four week period commencing on a Thursday and ending on a Wednesday;

Spouse includes former spouse;

Superannuation Act means the [Superannuation Act 2005 \(Cth\)](#).

APPLICATION AND COVERAGE

1. TITLE

- 1.1 This agreement made under section 172 of the *Fair Work Act 2009* shall be known as the *Department of Infrastructure and Regional Development Enterprise Agreement 2016*.

2. COVERAGE

- 2.1 This Agreement covers:
- the Secretary of the Department, for and on behalf of the Commonwealth of Australia as the employer; and
 - employees of the Department engaged under the PS Act (other than Senior Executive Service employees).

3. COMMENCEMENT AND DURATION OF THIS AGREEMENT

- 3.1 This Agreement commences seven days after approval by the Fair Work Commission. This Agreement nominally expires three years after the date of commencement.

4. DELEGATION

- 4.1 The Secretary may, in writing, delegate to a person any of the Secretary's powers or functions under this Agreement.
- 4.2 A person exercising powers or functions delegated under this clause must comply with any conditions imposed by the Secretary on the exercise of that power or function.

5. AGREEMENT OPERATES IN CONJUNCTION WITH OTHER DOCUMENTATION

- 5.1 Any policies or employment procedures referred to in this Agreement do not form part of this Agreement. Department employment procedures, however described, are subordinate to this Agreement to the extent that they deal with terms and conditions of employment expressly set out in this Agreement.

6. INDIVIDUAL FLEXIBILITY ARRANGEMENTS

- 6.1 The Secretary may agree to make an individual flexibility arrangement with an employee to vary the effect of terms of this Agreement relating to:
- a) arrangements about when work is performed;
 - b) overtime rates;
 - c) penalty rates for shiftworkers;
 - d) allowances;
 - e) overseas postings, allowances and conditions;
 - f) remuneration; and/or
 - g) leave

where the arrangement meets an employee's genuine needs and those of the Department.

- 6.2 The Secretary must ensure that a flexibility arrangement agreed to under this subsection 6:
- a) is about permitted matters under section 172 of the FW Act;
 - b) does not include unlawful terms under section 194 of FW Act;
 - c) results in the employee being better off overall than if no arrangement was agreed to;
 - d) is in writing;
 - e) is signed by both the employee and the Secretary, and, if the employee is under 18, is signed by a parent or guardian;
 - f) is able to be terminated by either the employee or the Secretary giving not more than 28 days' written notice, or at any time by agreement between the employee and the Secretary in writing; and
 - g) is given to the employee within 14 days after it is agreed to.

A flexibility arrangement must be genuinely agreed between an employee and the Secretary.

CONSULTATION AND DISPUTE RESOLUTION

7. CONSULTATION

- 7.1 Subsection 7 applies if the Department:
- a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to the Department that is likely to have a significant effect on the employees; or
 - b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.
- 7.2 For a major change referred to in subclause 7.1a):
- a) the Department will notify the relevant employees of the decision to introduce the major change; and
 - b) clauses 7.3 to 7.9 apply.
- 7.3 The relevant employees may appoint a representative for the purposes of the procedures in clauses 7.3 to 7.7 if:
- a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - b) the employee or employees advise the Department of the identity of the representative;
- 7.4 The Department will recognise a representative under clause 7.3.
- 7.5 As soon as practicable after making its decision, the Department will:
- a) discuss with the relevant employees:
 - i. the introduction of the change; and
 - ii. the effect the change is likely to have on the employees; and
 - iii. measures the Department is taking to avert or mitigate the adverse effect of the change on the employees; and
 - b) for the purposes of the discussion—provide, in writing, to the relevant employees:
 - i. all relevant information about the change including the nature of the change proposed; and
 - ii. information about the expected effects of the change on the employees; and
 - iii. any other matters likely to affect the employees.

- 7.6 The Department is not required to disclose confidential or commercially sensitive information to the relevant employees.
- 7.7 The Department will give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- 7.8 If a clause in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Department, the requirements set out in subclause 7.2a) and clauses 7.3 and 7.5 are taken not to apply.
- 7.9 In this clause, a major change is likely to have a significant effect on employees if it results in:
- a) the termination of the employment of employees; or
 - b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
 - c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - d) the alteration of hours of work; or
 - e) the need to retrain employees; or
 - f) the need to relocate employees to another workplace; or
 - g) the restructuring of jobs.
- 7.10 For a change referred to in subclause 7.1b), the Department will notify the relevant employees of the proposed change and clauses 7.11 to 7.15 apply.
- 7.11 The relevant employees may appoint a representative for the purposes of the procedures in clauses 7.13 to 7.15 if:
- a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - b) the employee or employees advise the employer of the identity of the representative.
- 7.12 The Department will recognise a representative under clause 7.11.
- 7.13 As soon as practicable after proposing to introduce the change, the Department will:
- a) discuss with the relevant employees the introduction of the change; and
 - b) for the purposes of the discussion—provide to the relevant employees:
 - i. all relevant information about the change, including the nature of the change; and
 - ii. information about what the employer reasonably believes will be the effects of the change on the employees; and
 - iii. information about any other matters that the Department reasonably believes are likely to affect the employees; and
 - c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- 7.14 However, the Department is not required to disclose confidential or commercially sensitive information to the relevant employees.
- 7.15 The Department will give prompt and genuine consideration to matters raised about the change by the relevant employees.

- 7.16 In this subsection 7, relevant employees means the employees who may be affected by a change referred to in clause 7.1.
- 7.17 The Secretary will establish a Departmental Consultative Committee.
- 7.18 The Department's employment procedure sets out arrangements for consultation, including departmental consultative committees.
- 7.19 Prior to any employment procedures being amended or introduced, the Department will make the employment procedure available on the intranet for comment and feedback for a period of two weeks. The Department will consider any comments or feedback received in relation to the employment procedure prior to finalising the employment procedure.

8. DISPUTE AVOIDANCE AND SETTLEMENT PROCEDURE

- 8.1 If a dispute relates to a matter under this agreement, or the NES, the parties to the dispute must first attempt to resolve the matter at the workplace level by discussions between the employee or employees concerned and the relevant supervisor.
- 8.2 If a resolution to the dispute has not been achieved after discussions have been held in accordance with clause 8.1, the parties to the dispute will endeavour to resolve the dispute in a timely manner either through discussions with more senior levels of management where appropriate or through alternative dispute resolution methods.
- 8.3 If discussions at the workplace level do not resolve the dispute, and all appropriate steps have been taken in accordance with clauses 8.1 and 8.2, a party to the dispute may refer the matter to the Fair Work Commission.
- 8.4 The Fair Work Commission may deal with the dispute in two stages:
- a) The Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
 - b) If the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
 - i. arbitrate the dispute; and
 - ii. make a determination that is binding on the parties

Note: If the Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Act. A decision that the Fair Work Commission makes when arbitrating a dispute is a decision for the purposes of Div 3 of Part 5.1 of the Fair Work Act 2009. Therefore, an appeal may be made against the decision.

- 8.5 The Department or an employee who is party to the dispute may appoint another person, organisation or association to accompany and/or represent them for the purpose of this subsection 8.
- 8.6 While the parties are trying to resolve the dispute using the procedures in this subsection an employee must;
- a) continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
 - b) comply with a direction given by the Secretary to perform other available work at the same workplace, or another workplace unless:
 - i. the work is not safe; or

- ii. applicable work health and safety legislation would not permit the work to be performed; or
- iii. the work is not appropriate for the employee to perform; or
- iv. there are other reasonable grounds for the employee to refuse to comply with the direction.

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

9. TERMINATION OF EMPLOYMENT

9.1 The sole and exhaustive rights and remedies of an employee in relation to termination of employment are those that the employee enjoys under:

- a) Part 3-1, Part 3-2 and Division 2 of Part 6-4 of the *Fair Work Act 2009*;
- b) other Commonwealth laws (including the Constitution); and
- c) at common law.

9.2 Termination of, or a decision to terminate employment, cannot be reviewed under the Dispute Avoidance and Settlement Procedure set out in subsection 8 of this Agreement.

SALARY AND CLASSIFICATION

10. CLASSIFICATION STRUCTURE

10.1 The Department's non-SES classification structure is set out in [\[Schedule A\]](#).

11. SALARY INCREASES

11.1 Unless otherwise specified in [\[Schedule B\]](#) or clause 12, employees will receive the following salary increases during the life of this Agreement:

- a) 3.00% of salary on commencement;
- b) 2.00% of salary on the first anniversary of the Agreement; and
- c) 1.00% of salary on the second anniversary of the Agreement.

12. EMPLOYEES ON NON-STANDARD SALARY RATES

12.1 Unless otherwise specified in [\[Schedule B\]](#), employees in receipt of a salary rate not listed in [\[Schedule A\]](#) will remain on that rate until it reaches the relevant equivalent salary point for the employee's classification. During this time they will not receive the salary increases set out in clause 11.1.

12.2 Once an employee's non-standard salary rate reaches the relevant equivalent salary point for the employee's classification, they will transition to the corresponding pay point or next highest pay point applying to the employee's classification set out in table 1 of [\[Schedule A\]](#).

13. TRANSITIONAL PROVISIONS – LEGAL AND PUBLIC AFFAIRS

13.1 [\[Schedule B\]](#) contains transitional salary provisions applying to employees who, immediately prior to the commencement of this Agreement, were engaged in a Legal or Public Affairs classification.

14. TRANSITIONAL PROVISIONS – FORMER DRALGAS EMPLOYEES

- 14.1 [Schedule B] contains transitional salary provisions applying to employees who, prior to 1 June 2015, had their terms and conditions set by operation of the *Determination under subsection 24(3) - Non-SES employees moved between APS agencies to give effect to the Administrative Arrangement Orders made by the Governor-General in Council on 18 September 2013 (as amended) (Determination)*.

15. PAYMENT OF SALARY

- 15.1 Employees will be paid fortnightly in arrears based on the following formula:
Fortnightly pay = Annual Salary X 12/313
- 15.2 Each employee will be paid his or her fortnightly pay by electronic funds transfer into the financial institution account nominated by the employee.
- 15.3 The Secretary may approve the prepayment of an employee's salary.

16. SALARY ON ENGAGEMENT AND PROMOTION

- 16.1 Subject to the following clauses, if an employee is engaged or promoted to a classification within the Department, salary will be payable at the minimum point in the salary range that they have been employed at.
- 16.2 The Secretary may authorise payment of salary above the minimum point in the salary range after considering the employee's experience (including any previous periods of HDA at or above that level), qualifications, skills, and any other relevant factor.

17. SALARY ON MOVEMENT FROM ANOTHER APS AGENCY

- 17.1 If an employee transfers to the Department from another APS agency, the Secretary will determine the rate of salary applying to the employee.

18. SALARY ON REDUCTION

- 18.1 If an employee requests, in writing, and the Secretary agrees, a temporary reassignment of duties at a lower classification level, the Secretary may determine in writing the rate of salary applicable to the lower level that the employee will be paid.

19. EMPLOYEES PERFORMING IRREGULAR OR INTERMITTENT DUTIES

- 19.1 A non-ongoing employee engaged to perform irregular or intermittent duties under subsection 22(2)(c) of the PS Act will receive a salary loading of 20% in lieu of Public Holidays on which the employee is not rostered to work, paid Annual Leave and paid PCL.

20. JUNIOR RATES

- 20.1 Junior rates of pay as a percentage of the APS Level 1.1 equivalent adult rate of pay will apply as follows:

Under 18 years	60%
At 18 years	70%
At 19 years	81%
At 20 years	91%

21. TRAINEE APS (ADMINISTRATIVE) EMPLOYEES

- 21.1 Employees engaged as Trainee APS (Administrative) employees will have a commencement salary at the minimum salary point applying to the APS 1 classification under this Agreement, unless otherwise determined by the Secretary.
- 21.2 Trainee APS (Administrative) employees will undertake a course of training as determined by the Secretary.
- 21.3 On successfully completing their training, Trainee APS (Administrative) employees will progress to the maximum salary point applying to the APS Level 1 classification and will be assigned to this APS classification or such other classification which is in accordance with the *Public Service Classification Rules 2000*.

22. TRAINEE APS (TECHNICAL) EMPLOYEES

- 22.1 Trainee APS (Technical) employees have a commencement salary at the minimum salary point applying to the APS 2 classification under this Agreement, unless otherwise determined by the Secretary.
- 22.2 Trainee APS (Technical) employees will undertake a course of training as determined by the Secretary.
- 22.3 On successfully completing their training, Trainee APS (Technical) employees will progress to the minimum salary point applying to APS Level 3 and will be assigned to this APS classification or such other classification which is in accordance with the *Public Service Classification Rules 2000*.

23. GRADUATE APS EMPLOYEES

- 23.1 Graduate APS employees will have a commencement salary of an APS 3.1 as specified in [\[Schedule A\]](#) for the duration of their training.
- 23.2 Graduate APS employees will undertake a course of training as determined by the Secretary.
- 23.3 On successfully completing their training, and subject to effective performance, Graduate APS employees will:
 - a) be assigned to the APS 3.1 GRAD within the APS 3/APS 5 (Graduate) Broadband;
 - b) advance to APS 5.1 GRAD salary point within the APS Level 3/APS Level 5 (Graduate) Broadband; and
 - c) immediately following that advancement, transfer to the APS 5.1 level in the general APS classification structure in accordance with the *Public Service Classification Rules 2000* (as amended from time to time).

24. CADET APS EMPLOYEES

- 24.1 Subject to the following clause, Cadet APS employees' rates of pay as a percentage of the APS Level 2.1 salary point will apply as follows:
 - a) 100% when undertaking practical training; and
 - b) 57% when undertaking full-time study.
- 24.2 Cadet APS employees will undertake a course of training as determined by the Secretary.

- 24.3 The Department will assist Cadet APS employees to purchase compulsory books and any other equipment required for their studies.
- 24.4 On successfully completing their training, ongoing Cadet APS employees will progress to a salary point at or above the minimum salary point applying to APS Level 3 as determined by the Secretary and will be assigned to this APS classification or such other classification which is in accordance with the *Public Service Classification Rules 2000*.
- 24.5 The Department's employment procedure sets out arrangements for Cadet APS Employees.

25. BROADBANDING ARRANGEMENTS

- 25.1 The Secretary may determine the commencement salary and broadband progression requirements for entry level employees who are engaged through whole of government target programs, for example, targeted traineeships and apprenticeships.

26. SUPPORTED WAGE SYSTEM

- 26.1 Supported salary rates for employees with disability are payable in accordance with [\[Schedule C\]](#).

27. REMUNERATION PACKAGES

- 27.1 Employees have access to flexible remuneration packages, provided that the employee meets any costs incurred by the Department.
- 27.2 If an employee opts for flexible remuneration packaging on the basis of 'salary sacrifice', the employee's salary for purposes of superannuation or severance and termination will be determined as if the salary sacrifice arrangements had not taken place.

28. SUPERANNUATION

- 28.1 For an employee who exercises superannuation choice, the Department will maintain the maximum basic contribution for designated employers as specified in Part 2, Division 2 of the Deed to establish the Public Sector Superannuation accumulation plan (PSSap) (pursuant to section 10 of the Superannuation Act). For the purpose of this section 28, an employee is an employee who, if not for the exercise of superannuation choice, would be an ordinary employer sponsored member of the PSSap.
- 28.2 Where employer contributions are to an accumulation superannuation fund the employer contribution will be 15.4% calculated on the employee's fortnightly contribution salary. This will not be reduced by any other contributions made through salary sacrifice arrangements.
- 28.3 The Secretary may choose to limit superannuation choice to funds which:
- a) are complying and registered superannuation funds;
 - b) allow employee and/or employer contributions to be paid fortnightly through electronic funds transfer; and
 - c) make satisfactory arrangements for the acceptance of payments from the Department and for information transfer between the Department's payroll and the fund.
- 28.4 Employer superannuation contributions will not be paid on behalf of employees during periods of unpaid leave that does not count as service (with the exception of Maternity Leave, Adoption Leave and Foster Carer Leave), unless otherwise prescribed by legislation.

28.5 This clause does not apply where a superannuation fund cannot accept employer superannuation contributions.

29. PAYMENT ON DEATH OF EMPLOYEE

29.1 Where an employee dies, or the Secretary has directed that an employee will be presumed to have died on a particular date, the Secretary may authorise the payment of the amount to which the former employee would have been entitled had the employee ceased employment through resignation or retirement.

29.2 Payments authorised under this clause include, but are not limited to, unpaid salary entitlements, accrued Annual Leave and LSL entitlements in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

29.3 Payment may be made only to the former employee's legal personal representative.

30. SALARY PROGRESSION

30.1 Employees will be entitled to progress one salary point up the salary scale applying to the employee's substantive classification on 1 July each year, subject to meeting the requirements of clause 30.2.

30.2 Salary progression is subject to confirmation by the employee's supervisor that the employee:

- a) has participated in the Department's performance management processes for a period of at least six months in the previous performance management cycle; and
- b) has achieved a rating of at least equivalent to effective in the employee's performance management review; and
- c) satisfies any qualifications criteria for progression.

31. ACCELERATED SALARY PROGRESSION

31.1 A supervisor may submit a proposal to the Secretary, in writing, that an employee receive accelerated salary progression if the supervisor considers that the employee has demonstrated outstanding skills and competencies.

31.2 Upon receipt of a proposal under clause 31.1 the Secretary may progress an employee to the next salary point up the salary scale applying to the employee's substantive classification if the Secretary is satisfied that the employee:

- a) has participated in the Department's performance management processes for the previous six months;
- b) achieved a rating of 'exceeds expectations' at the previous performance management exchange; and
- c) at the time of the request for accelerated salary progression, the employee has continued to consistently exceed performance expectation for their level and has met several of the required performance standards of the next level up.

ALLOWANCES AND REIMBURSEMENTS

32. INTRODUCTION

32.1 Arrangements for payment of allowances and reimbursements are set out in the relevant Department employment procedure.

- 32.2 Allowances will count for superannuation purposes in accordance with applicable superannuation fund rules.
- 32.3 Allowances (other than Meal Allowance and expense related allowances) will be paid on a pro rata basis for part-time employees.

33. HIGHER DUTIES ALLOWANCE (HDA)

- 33.1 Higher Duties Allowance (HDA) will be paid where an employee performs higher work value duties for a period of 10 continuous working days or longer.
- 33.2 Payment of HDA must not extend beyond 12 months, except where authorised by the Secretary.
- 33.3 The Secretary will determine the level of HDA payable and the period for which it is to be paid.
- 33.4 An employee who is temporarily reassigned to perform duties at the SES level will be eligible for HDA.
- 33.5 HDA will not be paid during unpaid leave periods.

34. ADDITIONAL DUTIES ALLOWANCES

- 34.1 An employee will be paid a fortnightly allowance for the period the employee:
 - a) holds a current first aid certificate and has been appointed by the Secretary to perform first aid duties; or
 - b) holds a fire safety training certificate and has been appointed by the Secretary to fire warden duties; or
 - c) holds a certificate from an accredited health and safety training organisation and is elected by members of his or her designated work group to perform health and safety representative duties; or
 - d) has been appointed as a Workplace Harassment Contact Officer (WHCO) and received appropriate training as a WHCO.
- 34.2 The rate of the fortnightly Additional Duties Allowance will be paid in accordance with the following table:

From commencement of the Agreement	\$27.30
From the first anniversary of the Agreement	\$27.85
From the second anniversary of the Agreement	\$28.13

- 34.3 Employees will not be paid more than one allowance for the responsibilities listed in clause 34.1.
- 34.4 Additional Duties Allowances will not be paid during paid leave periods of 90 days or greater, unless required by legislation. For the avoidance of doubt, an employee is entitled to payment of Additional Duties Allowances for the first 89 days of paid leave.

35. DEPARTMENTAL LIAISON OFFICER ALLOWANCE

- 35.1 The Secretary may approve payment of an annual allowance to an employee who performs the duties of Departmental Liaison Officer in the office of a Minister or Parliamentary Secretary.
- 35.2 An employee receiving the Departmental Liaison Officer Allowance will not be entitled to overtime in accordance with subsection 59.

- 35.3 The annual rate of the Departmental Liaison Officer allowance is set out in the table below. The allowance will be paid fortnightly in accordance with an equivalent formula as the fortnightly pay formula detailed in clause 15.1.

From commencement of the Agreement	\$21,617
From the first anniversary of the Agreement	\$22,049
From the second anniversary of the Agreement	\$22,269

36. MEAL ALLOWANCE

- 36.1 Employees who work two hours of overtime on a normal rostered work day, or four hours on a non-work day, will be entitled to a meal allowance. The amount of the meal allowance will be the amount published from time to time by the Australian Taxation Commissioner as the reasonable amount for overtime meal expenses in the Commissioner's ruling on reasonable travel and meal allowance expense amounts.
- 36.2 Employees who work nine hours continuous overtime will be entitled to a further meal allowance.
- 36.3 Employees who are provided with a meal, or are performing overtime at home will not be entitled to a meal allowance.
- 36.4 Executive Level 1 and 2 employees who work extended hours may be entitled to payment for meal allowance.
- 36.5 Meal allowance will be paid to employees fortnightly through the payroll system.

37. MOTOR VEHICLE USE

- 37.1 An employee may be authorised, in advance, to use a private motor vehicle owned or hired by the employee for official purposes if the Secretary decides that it is appropriate to do so, having regard to the individual circumstances. Use of the car for official purposes is at the employee's own expense and risk.
- 37.2 If an employee's private motor vehicle is approved for official purposes, the employee will be entitled to be paid the amount per kilometre as specified in Part 2 of Schedule 1 of the *Income Tax Assessment Regulations 1997*. On request by the Department, an employee will provide evidence of the engine capacity of the employee's private motor vehicle for the purposes of determining the applicable rate of allowance.

38. REMOTE LOCALITIES ASSISTANCE

- 38.1 The Secretary may provide remote localities assistance such as allowances or additional leave.
- 38.2 Employees already in receipt of localities assistance will continue to receive the assistance.
- 38.3 The Department's employment procedure sets out arrangements for remote localities assistance.

39. TRANSPORT SECURITY INSPECTOR (TSI) AND VEHICLE SAFETY STANDARDS INSPECTOR (VSSI) ALLOWANCE

- 39.1 An employee who is appointed as an inspector by the Secretary pursuant to:
- a) section 77 of the *Aviation Transport Security Act 2004* (Cth); or
 - b) section 136 of the *Maritime Transport and Offshore Facilities Security Act 2003* (Cth); or
 - c) section 25 of the *Motor Vehicle Standards Act 1989* (Cth);

and is required to undertake audit and compliance work in the field as an important ongoing component of their role, shall be paid a TSI/VSSI allowance as set out in the following table:

From commencement of the Agreement	\$3,442
From the first anniversary of the Agreement	\$3,511
From the second anniversary of the Agreement	\$3,546

39.2 The TSI/VSSI allowance will be paid fortnightly in accordance with an equivalent formula as the fortnightly pay formula detailed in clause 15.1 during the period the employee continues to be appointed as an inspector.

39.3 Eligibility for the allowance shall cease:

- a) one month from the date on which the Secretary has determined that there is no longer a requirement for the employee to undertake audit and compliance work in the field, or for the employee to be available to undertake audit and compliance work in the field; or
- b) from the date on which the employee has moved to a different role or employment area within the Department; and
- c) the employee is not required to undertake audit and compliance work in the field that is an important, ongoing component of their role.

40. RELOCATION ASSISTANCE

40.1 Where an employee is relocated, the Department may meet all fair and reasonable costs associated with the relocation.

40.2 The cost of relocating must be approved by the Secretary in advance of the employee's removal, having regard to the employee's personal circumstances and the Department's employment procedure on relocation expenses.

40.3 If an employee voluntarily leaves the Department (and not due to extenuating circumstances such as, but not restricted to and on a case-by-case basis, illness, redeployment, retrenchment or redundancy), or has their employment terminated due to misconduct within 12 months of the date of the relocation, the Department may seek reimbursement of the relocation assistance.

41. REIMBURSEMENT FOR WORK RELATED EXPENSES

41.1 Employees may be reimbursed for fair and reasonable work-related expenses incurred during the course of, or arising out of their employment, if the Secretary so decides.

42. PROFESSIONAL MEMBERSHIPS/ACCREDITATIONS

42.1 The Secretary will reimburse membership fees and or accreditation fees where a membership or accreditation from a professional association is required for an employee to undertake their responsibilities for the Department.

43. REIMBURSEMENT FOR CANCELLED LEAVE OR RECALL TO DUTY

43.1 Subject to the presentation of receipts for consideration by the Secretary, an employee may be reimbursed reasonable costs that are not recoverable which arise because the employee's approved leave is cancelled or the employee is recalled to duty while on Annual Leave or LSL.

WORKING ARRANGEMENTS

44. STANDARD WORKING HOURS

- 44.1 Standard hours of work in the Department are 7.5 hours per day (Monday to Friday), within the bandwidth of 7.00 am to 7.00 pm. This is a total of 37.5 hours per week or 150 hours per four-week settlement period.
- 44.2 A standard day for the purposes of leave, attendance (including flextime) and payment of salary shall constitute the hours 8.30am–12.30pm and 1.30pm–5.00pm.
- 44.3 Standard hours for part-time employees shall be those agreed between the employee and their supervisor in accordance with this Section.
- 44.4 The Department's employment procedure sets out arrangements for working hours.

45. BANDWIDTH

- 45.1 The Secretary may agree to an employee working a different pattern of hours either on a short-term or continuing basis, which may encompass any hours of the week.
- 45.2 Regardless of the bandwidth applying to an employee, he or she must break for at least 30 minutes after five hours continuous work.

46. REGULAR PART-TIME WORK

- 46.1 The Secretary may agree in writing to an employee working less than an average of 75 hours a fortnight over a specified period for a maximum of 12 months.
- 46.2 Salary, leave, benefits and allowances (other than Meal Allowance and expense related allowances) for employees who work part-time will be calculated on a pro rata basis, being the appropriate percentage of the salary, leave, benefits and allowances applying to full-time employees.
- 46.3 Part-time employees must work at least three hours on any agreed working day.
- 46.4 Applications to revert to full time employment or increase part-time hours for the purpose of maximising payments while on leave, for public holidays or salary for superannuation purposes will not be agreed.
- 46.5 Requests from employees returning from Maternity, Foster Carer, Adoption and Parental Leave to work on a part-time basis will be, subject to operational requirements, favourably considered.
- 46.6 The Department's employment procedure sets out arrangements for part-time employment.

47. FLEXIBLE WORK ARRANGEMENTS

- 47.1 Division 4 of the National Employment Standards allows certain employees to request flexible working arrangements. For full details, please see section 65 of the *Fair Work Act 2009*.

48. FLEXTIME

- 48.1 Flextime is available to all APS Levels 1 – 6, Graduates and training/cadet employees, subject to operational requirements, the availability of work, and the approval of the employee's supervisor, which may be either general or specific.
- 48.2 Part-time employees may access the same flextime arrangements as full-time employees but their maximum flextime credit and debit levels will be on a pro rata basis.

48.3 Flextime may not be used to vary a part-time employee's hours without the consent of the employee concerned.

49. FLEXTIME CREDITS

49.1 Employees may accrue flextime credit to a total of 30 hours. Where due to exceptional operational pressures, the supervisor and employee cannot take action to prevent the employee from exceeding the maximum flextime credit of 30 hours at the end of the settlement period, a higher flex credit may be carried over on a temporary basis to the end of the next settlement period.

49.2 Excess balances beyond 30 hours require the employee and supervisor to agree to a strategy to reduce the excess hours to under 30 hours within four weeks.

49.3 With the agreement of their supervisor and subject to operational requirements, an employee may take as much consecutive flextime leave as they have accrued.

49.4 Notwithstanding clause 48.1 and 49.5, employees should have an opportunity to exhaust their flextime credits before ceasing their employment with the Department.

49.5 If an employee leaves the Department any unexhausted flextime credit will not be paid out.

50. FLEXTIME DEBITS

50.1 Employees may carry forward a maximum flextime debit of 15 hours from one settlement period to the next.

50.2 Employees with a maximum flextime debit of 15 hours may be required to take any additional debits as Other Leave without pay.

51. RECORDING ATTENDANCE - FLEXTIME

51.1 Employees and supervisors are responsible for ensuring that flextime attendance records are:

- a) completed accurately at time of commencement and finishing work;
- b) promptly checked and certified by supervisors; and
- c) stored in accordance with the Department's employment procedure.

52. REVERSION TO STANDARD HOURS

52.1 The Secretary may require an employee to work standard hours where it is reasonably considered that:

- a) standard hours are required to meet operational requirements;
- b) the employee is misusing flexible working arrangements or flextime; or
- c) the employee has been absent without authorisation under subsection 93.

52.2 Access to flextime will not be available where an employee is required to work standard hours under subclause 52.1b) or 52.1c).

52.3 Where reversion to standard hours is being considered, the proposed action should be discussed with the affected employee and a written explanation of the reasons for requiring the employee to revert to standard hours be provided.

- 52.4 Where an employee has been reverted to standard hours, they will work the prescribed standard hours of duty of 7.5 hours per day, from 8.30 am to 5.00 pm (or other standard hours determined to genuinely address the employee's needs) for a period of time at the discretion of the Secretary.
- 52.5 The period of time that an employee is reverted to standard hours will be reviewed at regular intervals.

53. FLEXIBLE HOURS - EXECUTIVE LEVEL (EL) EMPLOYEES

- 53.1 EL employees (including EL employees working under a part-time arrangement) will be required, as senior professionals responsible for delivering key work outputs, to work reasonable additional hours from time to time but, may, by agreement in advance with their supervisor, work flexible hours.
- 53.2 EL employees are entitled to be absent from the workplace, including whole days off, under a flexible hours arrangement agreed with their supervisor.
- 53.3 Flexible hours for EL employees are not based on an hour-for-hour recognition of additional hours worked.

54. HOME BASED WORK

- 54.1 The Department's employment procedure sets out arrangements for Home Based Work.

55. PUBLIC HOLIDAYS

- 55.1 Employees will be entitled to the following public holidays:
- a) New Year's Day (1 January);
 - b) Australia Day (26 January);
 - c) Good Friday;
 - d) Easter Monday;
 - e) Anzac Day (25 April);
 - f) The Queen's birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
 - g) Christmas Day (25 December);
 - h) Boxing Day(26 December);
 - i) Any other day, or part-day, declared or prescribed by or under a law in a State or Territory to be observed generally within the State or Territory, or a region of the State or territory, as a public holiday, other than a day or part-day, or a kind of part-day, that is excluded by the Fair Work regulations from counting as a public holiday.
- 55.2 If under a state or territory law, a day or part day is substituted for one of the public holidays listed in clause 55.1, then the substituted day or part day is the public holiday.
- 55.3 The Secretary and an employee may agree on the substitution of a day or part day that would otherwise be a public holiday, having regard to operational requirements.
- 55.4 An employee, who is absent on a day or part-day that is a public holiday in the place where the employee is based for work purposes, is entitled to be paid for the part or full day absence as if that day or part day was not a public holiday, except where that person would not normally have worked on that day.

- 55.5 Where a public holiday falls during a period when an employee is absent on leave (other than Annual or paid PCL) there is no entitlement to receive payment as a public holiday. Payment for that day would be in accordance with the entitlement for that form of leave (e.g. if on LSL on half pay, payment is on half pay).
- 55.6 If under a law of a State or Territory every Sunday is declared or prescribed by or under that law to be a public holiday, there is no entitlement to receive payment as a public holiday if the employee would have worked, or does perform work, on that day. In these circumstances, payment will only be made at the public holiday rate of pay if employee performs work on that day, and the Sunday would otherwise be a public holiday under clause 55.1.

56. ANNUAL CLOSEDOWN

- 56.1 The Department's offices will be closed for normal business purposes from 25 December and resume normal business on the first working day following the first day of January ('the Annual Closedown').
- 56.2 Over the Annual Closedown, employees (other than shiftworkers) who work full-time are entitled to absent themselves for the ordinary working days (Monday to Friday) during that period and record on their attendance record approved Annual Closedown Leave. There will be no requirement to take Annual Leave or flextime leave over this period. Employees (other than shiftworkers) who work part-time are entitled to record the number of hours that they would have worked during the working days of approved Annual Closedown Leave.
- 56.3 A shiftworker will attend for any rostered shifts falling during the Annual Closedown, and will be paid for all ordinary hours worked in accordance with clause 62.2.
- 56.4 If an employee is recalled to duty to attend an emergency during a period of Closedown Leave, the employee may be entitled to overtime.

57. OVERSEAS POSTS

- 57.1 The following policies provide additional terms and conditions that may apply to employees posted to a Departmental overseas post:
- a) DFAT Whole of Government overseas conditions; or
 - b) The Department's Overseas Conditions of Service Manual.

58. OVERTIME

- 58.1 APS Level 1 – 6 employees are entitled to overtime payment, if their supervisor has directed that they perform additional duties, as follows:
- a) if the day is a normal work day for the employee — payment of overtime commences on the employee completing more than 7.5 hours duty in a single day (subject to a recall to duty in an emergency); or
 - b) if the day is not a normal work day — payment of overtime will be for all hours worked.
- 58.2 Overtime will be payable only to employees who do not have a flextime debit at the time of performing the additional duties. If an employee has a flextime debit and performs overtime, the flextime debit will be set-off at the same rate as the applicable overtime rate.
- 58.3 APS Level 1 – 6 employees who are recalled to duty in an emergency at a time when they would normally not have been on duty will have the reasonable time taken to travel to and from

emergency duty included in their overtime payment. In such cases, Motor Vehicle Allowance will also be payable if use of the employee's private vehicle for official duty has been approved. However, employees who commence normal work immediately after their emergency duty will be paid only for the inward journey.

- 58.4 APS Level 1 - 6 part-time employees who are directed to work outside their agreed daily hours for any particular day are entitled to overtime payments.
- 58.5 Executive Level 1 and 2 employees are not eligible for overtime payments except in exceptional circumstances as determined by the Secretary. Any overtime so paid must not include any payment of HDA as salary.

59. OVERTIME RATES

- 59.1 The rates payable for overtime are as follows:
 - a) **Monday to Sunday:** time and a half; and
 - b) **Public holidays:** single time for the first 7.5 hours (as an additional payment - employees already receive single time payment for public holidays) and double time after that.
- 59.2 The rate of overtime includes any allowances being paid as salary.
- 59.3 Calculation of overtime will be rounded to the nearest quarter of an hour. The hourly rate of overtime payment is calculated according to the following formula:

Time and a half rate

$$\frac{\text{Annual Salary}}{313} \times \frac{6}{37.5 \text{ hours}} \times \frac{3}{2}$$

Double time rate

$$\frac{\text{Annual Salary}}{313} \times \frac{6}{37.5 \text{ hours}} \times \frac{2}{1}$$

60. TIME OFF IN LIEU (TOIL)

- 60.1 Employees may elect, with the agreement of their supervisor, to forego overtime payments and take the time worked as TOIL credit.
- 60.2 Time credited as TOIL will be at the same rate as the applicable overtime rate. TOIL in lieu of overtime payment for APS 1-6 level employees is separate to a flextime credit.

61. TIME OFF IN LIEU OR OVERTIME (FOR DOMESTIC TRAVEL)

- 61.1 The Secretary may agree to an APS 1 – 6 level employee required to undertake domestic travel on a day the employee is normally on duty to record the time spent travelling in excess of 7.5 hours (excluding the usual time taken for the employee to travel to and from their regular place of work) as Time Off in Lieu at the relevant overtime rate or claim overtime.
- 61.2 The Secretary may agree to APS 1 – 6 level employee required to undertake domestic travel on a day the employee would not normally be on duty to record all time spent travelling as Time Off in Lieu at the relevant overtime rate or claim overtime.
- 61.3 Time Off in Lieu (for domestic travel) is separate to a flextime credit.

62. SHIFT WORK

62.1 An employee is a shiftworker if the employee is rostered on duty for a standard shift outside the period 6.30 am to 6.00 pm on any day of the week for a fixed period or on an ongoing basis.

62.2 Shiftworkers will receive the following penalty rates calculated on the employee's base salary:

Rostered time of work	Penalty rate
Work performed on a shift, any part of which falls between 6.00pm and 6.30am.	15%
Work performed continuously for a period exceeding 4 weeks on a shift falling wholly between 6:00pm and 8:00am	30%
Work performed on a Saturday	50%
Work performed on a Sunday	100%
Work performed on a public holiday	150%

62.3 An irregular or intermittent (casual) employee as defined in clause 19.1 who is also a shiftworker, will receive, for each shift, the higher of the penalty rates prescribed in clause 62.2 or the casual loading set out in clause 19.1.

62.4 Penalty rates for shift work performed on a Saturday, Sunday or public holiday will be payable for any time worked after midnight on those days, including where the shift commenced the day before.

62.5 An employee who is a shiftworker is not entitled to flextime.

63. SHIFT ROSTERS

63.1 The Department may roster shiftworkers to work ordinary hours in shifts of the following duration:

- a) 12 hour, 15 minute shifts incorporating a 30 minute unpaid meal break;
- b) 8 hour, 30 minute shifts incorporating a 30 minute unpaid meal break;
- c) a combination of shifts of 12 hour, 15 minute shifts and 8 hour, 30 minute shifts; or
- d) such other pattern as agreed by the Department and the majority of affected employees.

63.2 A standard shift cannot exceed 12 hours and 15 minutes.

63.3 An employee who is a shiftworker may exchange the employee's rostered shift or rostered days off with another shiftworker by mutual agreement and with the consent of the Secretary, provided the exchange does not give any employee an entitlement to an overtime payment.

63.4 An employee who is required by the Secretary to change the employee's rostered hours of duty will be given a minimum of seven days' notice of the change.

63.5 If seven days' notice is not given, the employee will be paid overtime for that part of the shift that is outside the previous rostered hours of duty until the notice period has expired.

63.6 If the failure to give seven days' notice is the result of another employee's illness or otherwise unanticipated absence, the Secretary and the employee may come to an agreement where the employee will be rostered off on an alternative day within the roster cycle. Should an alternative day not be available within the current cycle then overtime will be paid at the rate of time and a half, except for Saturdays, Sundays and Public Holidays when the shiftworker will be paid at the rate of double time.

64. REST BREAKS - SHIFTWORKERS

64.1 An employee who is a shiftworker is entitled to paid and unpaid rest breaks as follows:

Length of shift	Rest breaks	Paid/Unpaid
8 hours, 30 minutes	Not less than 30 minutes taken not later than 5 hours after commencement of shift Where the shift exceeds 10 hours, the employee will be provided with an additional break of 30 minutes provided that work will continue after the break is taken.	Unpaid
12 hours, 15 minutes	Not less than 20 minutes taken not later than 4 hours after commencement of shift	Paid (and counted as time worked)
	Not less than 30 minutes taken not later than 5 hours after commencement of shift	Unpaid
	Not less than 20 minutes taken not later than 11 hours after commencement of shift	Paid (and counted as time worked)

64.2 An employee who is a shiftworker is entitled to a break of at least eight consecutive hours off duty plus reasonable travelling time preceding the start of the employee's next shift.

64.3 A shiftworker may be directed by the Secretary to resume or continue duty without having had eight consecutive hours off duty plus reasonable travelling time. In this case, the employee will be paid at the rate of double time for the time so worked until the required rest break occurs.

64.4 Rest breaks do not apply to overtime worked unless the actual time worked (excluding reasonable travel time) is a minimum of three hours on each such occasion.

65. EXTRA DUTY — OVERTIME - SHIFTWORKERS

65.1 An employee who is a rostered shiftworker is entitled to overtime for extra duty performed on any day outside the employee's rostered hours of duty on that day but the amount of extra duty will not exceed 120 minutes in each 24 hour cycle.

65.2 An employee who is a shiftworker may be rostered for an overtime standard shift on not more than one of the employee's rostered days off.

65.3 A shiftworker who is required to attend a meeting either before commencing or after concluding his or her shift will be paid overtime for the period of time during which the shiftworker attends the meeting.

65.4 A shiftworker who is required to attend work on a rostered day off will be paid overtime for a period of time of not less than three hours at the rate of time and a half, except for Saturdays and Sundays when the shiftworker will be paid at the rate of double time.

65.5 The shift penalty rates set out in clause 62.2 are not payable for overtime hours worked by a shiftworker.

66. PUBLIC HOLIDAYS – SHIFTWORKERS

66.1 Where a public holiday falls on a day that is a shiftworker's rostered day off, the shiftworker is entitled to be paid for the day absence as if that day was not a public holiday.

66.2 Where a public holiday falls on a day that a shiftworker is rostered to work, the employee is entitled to public holiday shift penalty set out in clause 62.2.

66.3 A rostered shiftworker will be paid double time for:
a) all work performed on a public holiday that is also the shiftworker's rostered day off; and
b) all overtime worked on a public holiday.

66.4 For the purposes of this subsection 66, each of the ordinary working days (Monday to Friday) during the Annual Closedown will be treated as public holidays.

67. LEAVE – SHIFTWORKERS

67.1 An employee who is a shiftworker is entitled to apply for PCL on the basis that one day of PCL is equivalent to the duration of the rostered shift. If the period of PCL is less than the rostered shift, the amount of PCL that may be granted will be on an hour for hour basis.

67.2 The primary Annual Leave entitlement of 150 hours per annum will accrue daily and be credited monthly in arrears, in hours and minutes.

67.3 During a period of Annual Leave, a shiftworker will be paid the employee's base rate of pay for the ordinary hours that would otherwise be worked by the employee during that period. The employee's base rate of pay includes any allowances in the nature of salary, and excludes shift penalties and other loadings. The employee's leave balance will be reduced by the number of ordinary hours that would otherwise be worked by the employee during that period

67.4 An employee who is a shiftworker is entitled to an additional 3.75 hours of paid leave for each Sunday and Public Holiday on which the employee is rostered, but the period of additional leave to which the employee is entitled cannot exceed a total of 37.5 hours in each calendar year. For the purposes of this clause, a rostered shift of not less than three hours which starts or ends on a Sunday is a rostered Sunday shift.

67.5 If an employee has accumulated:
a) more than eight weeks of Annual Leave, in the case of an employee not entitled to additional leave under clause 67.4; or
b) more than ten weeks of Annual Leave, in the case of an employee entitled to additional Annual Leave under clause 67.4,
the Secretary may direct an employee to take paid Annual Leave to reduce the employee's Annual Leave balance to eight weeks or 10 weeks (as applicable).

67.6 The Department will provide the employee with at least one month's notice prior to the date the employee is required to commence the leave.

68. APPLICATION

- 68.1 In the event of any inconsistency between shift work provisions and any other provision in the agreement, the former prevails and the latter is of no effect to the extent of the inconsistency.

PERFORMANCE MANAGEMENT

69. MANAGING INDIVIDUAL PERFORMANCE

- 69.1 Employees are required to participate in the Department's performance management processes as provided by the Performance Management employment procedure.
- 69.2 As part of six monthly performance management exchanges, each employee will be assessed against the following performance standards:
- a) **Exceeds expectations** – based on the myPerformance plan and the APS Work Level Standards, the employee has clearly and consistently demonstrated superior overall performance and made significant contributions, exceeding the performance standards for their level and meets several of the required performance standards of the next level up. Objectives not met were due to circumstances beyond the individual's control;
 - b) **Effective** – based on the myPerformance plan and the APS Work Level Standards, the employee has consistently demonstrated effective performance and met the performance standards for their level. Objectives not met were due to circumstances beyond the individual's control;
 - c) **Developmental** – based on the myPerformance plan and the APS Work Level Standards, the employee has generally demonstrated only some of the relevant capabilities and performance standards expected for their level;
 - d) **Unsatisfactory** – based on the myPerformance plan and the APS Work Level Standards, the employee has not demonstrated the relevant capabilities and performance standards expected for their level.
- 69.3 Where an employee is rated as "Unsatisfactory", the employee's performance will be managed under a performance management process. The Department's Managing Underperformance employment procedure sets out how underperformance is managed.

70. STUDY ASSISTANCE

- 70.1 Financial assistance, travel, accommodation and study leave may be approved by the Secretary in accordance with the Department's Study Assistance employment procedure.
- 70.2 If an employee voluntarily leaves the Department (and not due to extenuating circumstances such as, but not restricted to and on a case-by-case basis, illness, redeployment, retrenchment or redundancy), or has their employment terminated due to misconduct within 12 months of the date of the financial assistance, the Department may seek reimbursement of the financial assistance paid during this period.

71. HEALTH AND SUPPORT

- 71.1 The Department will:
- a) conduct and maintain a health and wellbeing program;
 - b) make available annual influenza vaccinations to all employees;

- c) provide access by employees and their families to the Employee Assistance Program; and
- d) provide access to specialist critical incident stress debriefing to employees as required.

LEAVE

72. GENERAL

- 72.1 Leave may only be taken with the approval of the Secretary.
- 72.2 This clause 72.2 applies to employees other than shiftworkers. When an employee is on leave (other than LSL), the employee's leave balance will be reduced by the number of hours the employee would have worked on that day.

Note: Subsection 67 sets out the arrangements for shiftworkers.
- 72.3 Where an employee joins the Department on or after the commencement date from an employer staffed under the PS Act, the *Parliamentary Service Act 1999*, from the ACT Government Service, accrued Annual Leave and personal/carer's leave (however described) will be transferred, provided there is no break in continuity of service.

73. ANNUAL LEAVE

- 73.1 A full-time employee is entitled to 150 hours of paid Annual Leave per annum.
- 73.2 Annual Leave will accrue daily and be credited monthly in arrears, in hours and minutes. Annual Leave will not accrue during any period of leave that does not count as service (including unauthorised absence). The crediting of Annual Leave monthly in arrears will not limit the employee's access to use this leave as it accrues.
- 73.3 Annual Leave counts as service for all purposes.
- 73.4 Annual Leave will not generally be paid in advance and in any case not be advanced across two financial years.
- 73.5 Annual Leave will be taken at a time agreed between the employee and the employee's supervisor.
- 73.6 Annual Leave may be taken at either full-pay or half-pay.
- 73.7 Approved Annual Leave may be cancelled and recredited where an employee makes application and the Secretary agrees that special circumstances warrant this.
- 73.8 An employee on Annual Leave can, on production of medical or other supporting documentation, apply to take PCL for illness, injury and caring purposes or Compassionate Leave or Community Service Leave and have the Annual Leave recredited.
- 73.9 Annual Leave cannot be used to break periods of LSL except as provided for by the ML Act.
- 73.10 The Department's employment procedure sets out arrangements for Annual Leave.

74. CASHING OUT - ANNUAL LEAVE

- 74.1 The Secretary may approve in writing an employee's written application to cash out up to four weeks of accrued Annual Leave per calendar year.
- 74.2 An employee may only apply to cash out Annual Leave if the employee:
 - a) has at least 12 months continuous service in the APS; and

- b) has taken at least an equivalent amount of Annual Leave in the previous 12 month period to the amount they are seeking to cash out;
- c) will have a remaining accrued entitlement to paid Annual Leave of at least four weeks after any cash out;
- d) each cashing out of a particular amount of paid Annual Leave must be in a separate written application to the Secretary; and
- e) the employee must be paid the full amount of what would have been payable to the employee had the employee taken the leave that the employee has forgone.

74.3 The Department's employment procedure sets out arrangements for cashing out Annual Leave.

75. DIRECTED ANNUAL LEAVE

75.1 Where an employee's amount of accrued Annual Leave is approaching an equivalent of 12 weeks, the employee and the employee's supervisor should discuss and agree on a leave management strategy to reduce the amount of accrued Annual Leave.

75.2 Where an employee has accrued an equivalent of 12 weeks or more of Annual Leave, the Secretary may require an employee to absent themselves from the workplace and take Annual Leave on one month's written notice to the employee, unless there is an agreed strategy to reduce the accrued leave within three months. The Secretary may require an employee to take up to two weeks of Annual Leave in each instance. The employee may apply to take additional Annual Leave at this time.

75.3 The Department's employment procedure sets out arrangements for Annual Leave.

76. PAYMENT ON SEPARATION

76.1 On separation from the APS, an employee will be entitled to payment in lieu of Annual Leave accruals.

76.2 Payment in lieu will be calculated using the employee's final salary, including allowances that would have been included during Annual Leave. Remote localities assistance will be included in the calculation only for leave accrued in a remote locality.

77. PURCHASED LEAVE

77.1 Subject to an employee having at least 12 months continuous service in the APS, the employee may apply to purchase up to 40 days additional leave per year. Purchased Leave will be purchased by a corresponding reduction in the employee's fortnightly pay over a 12 month period commencing on the first pay after the application to Purchase Leave is approved. Periods of Purchased Leave count for service.

77.2 Purchased Leave must be used:

- a) within 12 months of the application to purchase leave being approved;
- b) in the case of shift workers, for an entire shift cycle; and
- c) in the case of all other employees, in amounts of no less than 5 consecutive days.

77.3 An employee will be refunded any unused Purchased Leave amount after 12 months, unless the employee receives written approval to carry the Purchased Leave over.

77.4 Applications for Purchased Leave will be considered having regard to the operational requirements of the Department. To assist in this consideration, an application for Purchased Leave should include an indication of the period(s) during which the employee intends to use the Purchased Leave.

78. LONG SERVICE LEAVE (LSL)

78.1 Employees are entitled to accrue and access LSL in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

78.2 The minimum amount of accrued LSL that an employee may take at any one time is seven calendar days at full pay or 14 calendar days at half pay.

79. PERSONAL CIRCUMSTANCES LEAVE (PCL)

79.1 An employee is entitled to 20 days PCL per year.

79.2 PCL will accrue progressively and be credited monthly in advance (based on an employee's commencement date). Employees will be credited with one month's PCL accrual on engagement or commencement with the Department.

79.3 PCL will be debited at the relevant full pay rate, unless the employee requests conversion to half pay, in which case only half the period will be deducted.

79.4 PCL will not accrue during any period of leave that does not count as service (including unauthorised absence).

79.5 An employee who receives compensation under the *Safety, Rehabilitation and Compensation Act 1988* (Cth) for more than 45 weeks accrues PCL credit on a pro rata basis based on the hours worked.

79.6 Subject to notice and evidence requirements the Secretary will approve PCL because the employee:

- a) is not fit for work due to a personal injury or illness; or
- b) is providing care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of:
 - i. a personal illness or personal injury affecting the member; or
 - ii. an unexpected emergency affecting the member.

79.7 Except where it will result in an employee having fewer accumulated days of personal/carers leave that the employee is entitled to under the NES, the Secretary may also approve PCL because the employee:

- a) is affected by a genuine emergency situations such as bushfires, floods and earthquakes; or
- b) has an important personal medical appointment that can only be attended during standard work time.

79.8 An employee is required to give their supervisor notice of the taking of PCL, including notification of the reason for the PCL absence in accordance with the permissible reasons for taking PCL set out under subclause 79.6 and 79.7 and the expected period of absence.

79.9 If the employee is unable to provide prior notification of their intended PCL absence, employees must, as far as practicable, advise their supervisor of their intention to be absent no later than two hours after their normal start time on the day of their absence.

- 79.10 Where the period of expected absence extends beyond that originally notified, the employee must advise their supervisor as soon as practicable.
- 79.11 An employee is required to provide evidence to be entitled to paid PCL, where the employee is absent from work:
- a) for a period of three or more consecutive work days; and/or
 - b) for any absence taken in excess of ten days (pro-rata for part-time employees) paid PCL without supporting evidence in the preceding 12 month period.
- 79.12 Evidence for the purposes of PCL means:
- a) a medical certificate from registered health practitioners and registered health providers;
 - b) a statutory declaration, if it was not reasonably practicable for the employee to obtain a medical certificate. The statutory declaration must include:
 - i. why the employee is or was unable to attend work in accordance with the permissible reasons for taking PCL under subclauses 79.6 and 79.7; and
 - ii. why it was not practicable for them to obtain a medical certificate.
 - c) Another form of evidence with the prior agreement or direction of the Secretary.
- 79.13 A supervisor may also request that medical evidence is provided by an employee for any period of PCL where:
- a) a pattern of absence has been identified; or
 - b) arrangements are in place for managing attendance as part of managing performance; or
 - c) the supervisor reasonably believes that PCL has previously been taken for an improper purpose.
- 79.14 The Secretary may allow an employee to take PCL without pay where paid PCL credits are exhausted, subject to the notice and evidence requirements.
- 79.15 The Secretary may waive the requirement to provide notification and/or evidence in specific circumstances.
- 79.16 The Department's employment procedure sets out arrangements for PCL.

80. IRREGULAR/INTERMITTENT EMPLOYEES

- 80.1 Unpaid PCL may be granted to an irregular/intermittent (casual) employee.

81. RETURN TO WORK ASSISTANCE

- 81.1 The Department's employment procedure sets out arrangements for return to work assistance.

82. UNPAID CARERS LEAVE

- 82.1 An employee is entitled to 2 days of Unpaid Carers Leave for each occasion (permissible occasion) when a member of the employee's immediate family, or a member of the employee's household, requires care or support because of:
- a) a personal illness, or personal injury, affecting the member; or
 - b) an unexpected emergency affecting the member.

82.2 Unpaid Carers Leave is only available after an employee has exhausted all paid PCL and is subject to the PCL notice and evidence requirements.

83. COMPASSIONATE/BEREAVEMENT LEAVE

83.1 Employees will be granted three days paid Compassionate Leave on each occasion that a member of his or her immediate family or household:

- a) contracts or develops a personal illness that poses a serious threat to his or her life; or
- b) sustains a personal injury that poses a serious threat to his or her life; or
- c) dies.

83.2 The employee may take the period of leave as a single period of three days or any separate period which the Secretary and employee agree. The Secretary may require the employee to provide evidence to support the request for leave.

83.3 Compassionate Leave for irregular and intermittent employees is unpaid.

84. COMMUNITY SERVICE LEAVE

84.1 Community Service Leave with or without pay is available to enable employees to undertake eligible community service activity. Consistent with section 109 of the *Fair Work Act 2009*, such activity includes:

- a) jury service (including attendance for jury selection) required by a law of the Commonwealth, State or Territory; and
- b) a voluntary emergency management activity.

84.2 In relation to jury service, the Secretary will approve paid Community Service Leave to enable an employee to attend court appearances as a juror, in which event the employee will continue to receive their normal salary subject to any payments of a salary nature made to the employee by the court for jury service being signed over to the Department.

84.3 In relation to a voluntary emergency management activity, the Secretary will approve up to four days paid leave for each civil emergency response, to enable an employee who is a member of a State Emergency Service, fire-fighting service, search and rescue unit or other volunteer community service performing similar functions, to fulfil an obligation to that service in the event of a civil emergency.

84.4 The Secretary may approve additional paid or unpaid leave for an ongoing civil emergency response, or other related and appropriate activities such as regular training, reasonable travel, recovery time and ceremonial duties.

84.5 Consistent with section 110 of the *Fair Work Act 2009*, an employee applying for Community Service Leave must provide the Department with notice of the absence as soon as practicable (which may be a time after the absence has started), and the period or expected period of the absence. Where requested, an employee must also provide written evidence that the absence from work is because they have been or will be engaged in an eligible community service activity.

85. ABORIGINAL AND TORRES STRAIT ISLANDER CEREMONIAL LEAVE

- 85.1 The Secretary may approve up to one day of paid leave each year for an employee of Aboriginal or Torres Strait Islander descent to participate in National Aboriginal and Islander Day Observation Committee (NAIDOC) ceremonies.
- 85.2 In addition to any Compassionate/Bereavement Leave available under clause 83, the Secretary may approve up to three days of paid leave for an employee of Aboriginal or Torres Strait Islander descent for:
- a) ceremonial purposes connected with the death of a member of the immediate family or extended family; or
 - b) other ceremonial obligations under Aboriginal and Torres Strait Islander Lore.
- 85.3 The Secretary may approve a period of leave without pay for the reasons set out in subclause 85.1 and 85.2 in addition to paid leave.
- 85.4 The Department's employment procedure sets out arrangements for Aboriginal and Torres Strait Islander Ceremonial Leave.

86. MATERNITY LEAVE

- 86.1 After completing a minimum of 12 months of continuous APS employment, an eligible employee is entitled to up to 52 weeks of maternity leave of which:
- a) up to 12 weeks will be paid in accordance with the ML Act; and
 - b) up to six weeks will be paid under this Agreement; and
 - c) the remaining period will be unpaid.
- 86.2 An eligible employee may elect in advance to spread the payment of up to 18 weeks paid Maternity Leave at half pay up to a maximum of 36 weeks. A maximum of 18 weeks paid Maternity Leave will count as service for any purpose.
- 86.3 An employee who is not entitled to paid Maternity Leave is entitled to up to 52 weeks of unpaid Maternity Leave, for which there is no minimum qualifying period, in accordance with the ML Act. Unpaid Maternity Leave will not count as service for any purpose.
- 86.4 Upon request from an eligible employee, the Secretary will agree to an extension of up to 24 months, to be taken as Other Leave without pay, immediately following the end of the initial 52 week period of Maternity Leave.
- 86.5 The Department's employment procedure sets out arrangements for Maternity Leave.

87. ADOPTION LEAVE

- 87.1 An eligible employee is entitled to up to 18 weeks' paid Adoption Leave immediately after the placement of an eligible child with the employee for adoption provided the employee:
- a) has at least 12 months continuous service in the APS;
 - b) adopts an eligible child; and
 - c) is that eligible child's primary care giver.
- 87.2 An eligible employee may elect in advance to spread the payment for the period of paid Adoption Leave at half pay over a maximum period of 36 weeks. Only the first 18 weeks of paid Adoption Leave counts as service for any purpose.

- 87.3 An employee may not take PCL during the period of paid Adoption Leave.
- 87.4 The Department's employment procedure sets out arrangements for paid Adoption Leave including eligibility and evidence requirements.

88. FOSTER CARER LEAVE

- 88.1 An eligible employee is entitled to up to 18 weeks' paid Foster Carer Leave immediately after the placement of an eligible child with the employee under permanent 'fostering' arrangements provided the employee:
- a) has at least 12 months continuous service in the APS;
 - b) assumed long-term responsibility for an eligible child arising from the placement of the child through a permanent 'fostering' arrangement; and
 - c) is that eligible child's primary care giver.
- 88.2 Where more than one child is placed with the employee at, or around the same time (e.g. siblings), the employee will only be entitled to 18 weeks paid Foster Carer Leave in respect of all of the children (not 18 weeks paid leave for each child).
- 88.3 An eligible employee may elect in advance to spread the payment for the period of paid Foster Carer Leave at half pay over a maximum of 36 weeks. Only the first 18 weeks of paid Foster Carer Leave counts as service for any purpose.
- 88.4 The Department's employment procedure sets out arrangements for Foster Carer Leave including eligibility and evidence requirements.

89. SUPPORTING PARTNER LEAVE

- 89.1 An employee who has at least 12 months continuous service in the APS and has or will become a parent, through birth, adoption or foster caring and has or will have a responsibility of care for the child, is entitled to six weeks' paid Supporting Partner Leave. Supporting Partner Leave counts as service for any purposes.
- 89.2 An employee will not have access to Supporting Partner Leave under this subsection 89 where an employee is entitled to paid leave under Maternity Leave, Adoption Leave or Foster Carer Leave.
- 89.3 An employee may not take PCL during the period of paid Supporting Partner Leave.

90. UNPAID PARENTAL LEAVE

- 90.1 An employee who has at least 12 months continuous service in the APS and has or will become a parent, through birth, adoption or foster caring and has or will have responsibility for the care of a child is entitled to up to 12 months of unpaid Parental Leave.
- 90.2 An employee is not entitled to unpaid parental leave under this subsection 90 if the employee has been granted unpaid leave under subsection 86.
- 90.3 Upon request from the employee, the Department will agree to an extension of unpaid leave for a further period of up to 24 months, taken as unpaid Other Leave, immediately following the end of the initial 12 month period of unpaid Parental Leave.
- 90.4 A period of unpaid Parental Leave does not break the employee's period of continuous service, but will not count as service for any other purpose.

- 90.5 The Department's employment procedure sets out arrangements for unpaid Parental Leave including eligibility and evidence requirements.

91. DEFENCE RESERVE LEAVE

- 91.1 The Secretary may grant an employee Defence Reserve Leave, with or without pay, to enable the employee to undertake peacetime training and/or deployment with the Australian Defence Force. Defence Reserve Leave also includes a reservist being deployed on Continuous Full Time Service (CFTS) or an employee undertaking Cadet Force obligations.
- 91.2 An employee who is a member of the Australian Defence Force Reserve or who has Cadet Force obligations may be granted paid Defence Reserve Leave of up to 20 days each financial year. During the employee's first year of Defence Reserve service, a further 10 days' paid leave may be granted to allow the employee to participate in common induction training.
- 91.3 Employees are not required to pay their tax free ADF Reserve salary to the Agency in any circumstances.
- 91.4 Periods of Defence Reserve Leave without pay in excess of 6 months do not count as service for Annual Leave purposes. Leave granted for Defence Reserve purposes counts as service for all other purposes.
- 91.5 Defence Reserve Leave entitlements can be accumulated and taken over a period of two years.
- 91.6 In addition to approved Defence Reserve Leave, employees who are members of the Defence Reserve may apply for Annual Leave, LSL or flextime leave for Defence Reserve purposes.

92. OTHER LEAVE

- 92.1 The Secretary may approve Other Leave with or without pay for a purpose that the Secretary considers to be in the interest of the Department or where the employee is entitled to leave under the NES.
- 92.2 Other Leave will generally be granted as leave without pay that does not count for service.
- 92.3 The Department's employment procedure sets out arrangements for Other Leave.

93. UNAUTHORISED ABSENCE

- 93.1 Where an employee is absent from work without approval, all salary and entitlements (including leave accrual) provided under this Agreement will cease to be available until the employee resumes work or is granted leave.
- 93.2 Where an employee is absent from duty without authorisation, the period of absence will not count as service for any purpose.

REDEPLOYMENT, RETRENCHMENT AND REDUNDANCY

94. INTRODUCTION

- 94.1 The following provisions only apply to ongoing APS employees not on probation.
- 94.2 For the purposes of this Agreement, an employee may be declared excess if the Secretary considers that:

- a) the employee is included in a class of employees employed in the Department, which class comprises a greater number of employees than is necessary for the efficient and economical working of the Department; or
- b) the services of the employee cannot be effectively used because of technological or other changes in the work methods of the Department or structural or similar changes in the nature, extent or organisation of the functions of the Department; or
- c) the duties are to be performed at a different locality, which is not within a capital city and the employee is not willing to move to the different locality.

94.3 If requested, the employee may have a representative present at any discussions concerning the application of this section to the employee.

95. NOTIFICATION AND CONSULTATION PROCESS

- 95.1 When the Secretary is aware that an employee is likely to become excess, the Secretary will at the earliest practicable time commence the consultation process by advising the employee of the situation.
- 95.2 Discussions with the potentially excess employee will be held to consider:
- a) reasons for the excess employee situation and the method used to determine excess employees;
 - b) redeployment opportunities for the employee at or below level within the Department or another APS department or agency;
 - c) job swap opportunities at level with other employees in the Department;
 - d) referral to an appropriate employment agency at departmental expense; and
 - e) whether voluntary retrenchment might be appropriate and whether the employee wants to be offered voluntary retrenchment.
- 95.3 Where an employee is potentially excess or is excess, the Secretary may (at the Secretary's discretion):
- a) invite employees who are not potentially excess to express interest in voluntary retrenchment, where those retrenchments would permit the redeployment of employees who are potentially excess.
 - b) allow a job swap within the Department where it is judged that:
 - i. the employee is suitable for the job after a reasonable period of adjustment; and
 - ii. it would be of no detriment to the efficient operation of the gaining area;
 - c) allow a job swap with another APS agency if it would be of no detriment to the efficient operation of the Department; and
 - d) if the employee wishes, refer the excess employee to an agreed employment agency at departmental expense.
- 95.4 The Secretary will not advise an employee that he or she is excess within one month of the employee receiving advice under clause 95.1 and until, in the opinion of the Secretary, the discussions in clause 95.2 have been completed. The discussion period may be shortened by agreement with the employee.
- 95.5 If, one month after the commencement of the consultation process in clause 95.1, the discussions in clause 95.2 have been completed and the employee has not secured a permanent job within the

Department or another APS agency, the Secretary will, taking into account the redeployment prospects of the excess employee and the excess employee's wishes:

- a) place the employee on a retention period; or
- b) make an offer of voluntary retrenchment if an offer has not already been made under subsection 96.

95.6 Prior to or at the time the Secretary notifies an employee that he or she is excess, the employee will receive the following information:

- a) the amount of redundancy benefit, pay in lieu of notice and paid up leave credits;
- b) the amount of accumulated superannuation contributions;
- c) options open to the employee concerning superannuation; and
- d) taxation rules applicable to the various payments.

95.7 An excess employee will be reimbursed reasonable costs for financial counselling up to an amount determined by the Secretary.

96. VOLUNTARY RETRENCHMENT

96.1 Where the Secretary invites an excess employee to elect to be retrenched, the employee will have a consideration period of one month to elect for voluntary retrenchment. The Secretary will not give notice of termination under section 29 of the PS Act on the grounds that the employee is excess to requirements before the end of that period, unless the employee has requested this to occur.

96.2 On receipt of an agreement from the excess employee to be voluntarily retrenched, the Secretary will terminate the excess employee's employment under section 29 of the PS Act within five working days of the employee's agreement to voluntary retrenchment, or within such other period as is agreed.

96.3 Employees who do not advise the Department of their decision by the end of the consideration period will be taken to have rejected the offer of voluntary retrenchment. Only one offer of a voluntary retrenchment will be made to an excess employee.

97. PERIOD OF NOTICE – TERMINATION WITH A VOLUNTARY RETRENCHMENT

97.1 Where the employee agrees to be voluntarily retrenched under subsection 96, the Secretary can approve the employee's retrenchment and upon approval will give the required notice of termination under section 29 of the PS Act. The period of notice will be four weeks (or five weeks for an employee over 45 years of age with at least five years continuous service).

97.2 Where an employee is voluntarily retrenched prior to the end of the notice period, the employee will receive payment in lieu of any unexpired portion of the consultation process, consideration and notice periods.

98. REDUNDANCY BENEFIT

98.1 An excess employee who elects to accept an offer of a voluntary retrenchment and whose employment is then terminated by the Secretary under section 29 of the PS Act is entitled to be paid a redundancy payment equal to two weeks salary for each completed year of service, plus a

pro rata payment for completed months of service since the last completed year of service, or any greater redundancy payment payable under the NES.

- 98.2 The minimum sum payable will be four weeks' salary and the maximum will be 48 weeks' salary.
- 98.3 The redundancy benefit will be calculated on a pro rata basis for any period where an employee has worked part-time hours during his or her period of service and the employee has less than 24 years full-time service, subject to any minimum payment payable under the NES.
- 98.4 Subject to clauses 98.5 and 98.6, service for redundancy pay purposes means:
- a) service in the Department;
 - b) Government service as defined in section 10 of the LSL Act;
 - c) 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 LSL purposes;
 - d) service with the Australian Defence Forces;
 - e) APS service immediately preceding deemed resignation under section 49 of the repealed *Public Service Act 1922* (Cth), if the service has not previously been recognised for severance pay purposes; or
 - f) service in another organisation where an employee was moved from the APS to that organisation with a transfer of function, or an employee engaged by that organisation on work within a function is engaged as a result of the transfer of that function to the APS, and such service is recognised for LSL purposes.
- 98.5 For earlier periods of service to count there must be no breaks between the periods of service, except where:
- a) the break in service is less than one month and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer; or
 - b) the earlier period of service was with the APS and ceased because the employee was deemed to have resigned from the APS on marriage under section 49 of the repealed *Public Service Act 1922* (Cth).
- 98.6 Any period of service which ceased:
- a) through termination on the following grounds or on a ground equivalent to any of the following grounds:
 - i. the employee lacks, or has lost, an essential qualification for performing his or her duties;
 - ii. non-performance, or unsatisfactory performance, of duties;
 - iii. inability to perform duties because of physical or mental incapacity;
 - iv. failure to satisfactorily complete an entry level training course;
 - v. failure to meet a condition imposed under subsection 22(6) of the PS Act;
 - vi. breach of the APS Code of Conduct; or
 - vii. any other ground prescribed by the Public Service Regulations; or
 - b) on a ground equivalent to those in paragraph (a) above under the repealed *Public Service Act 1922* (Cth); or

- c) through voluntary retrenchment at or above the minimum retiring age applicable to the employee; or
- d) with the payment of a redundancy benefit or similar payment or an employer financed retirement benefit, such as a military pension;

will not count as service for redundancy pay purposes.

98.7 Absences from work which do not count as service for LSL purposes will not count as service for severance pay purposes.

99. RATE OF PAYMENT — REDUNDANCY BENEFIT

99.1 For the purpose of calculating any payment under clause 98.1, salary will include:

- a) the employee's full-time salary, adjusted on a pro rata basis for periods of part-time service; or
- b) the higher salary, where the employee has been in receipt of HDA for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of retrenchment; and
- c) other allowances in the nature of salary which are paid during periods of Annual Leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred (e.g. car parking allowances), or a payment for disabilities associated with the performance of duty;
- d) shift penalties, 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 being given notice of retrenchment. A weekly average of penalties due over the 12 months will be included in the salary; and
- e) to the extent that redundancy payment is required by the NES, any additional amount required by the NES.

100. RETENTION PERIOD

100.1 An excess employee who does not accept an offer of voluntary retrenchment will be entitled to the following period of retention:

- a) 13 months where an employee has 20 or more years of service or is over 45 years of age; or
- b) seven months for other employees.

100.2 If an employee is entitled to a redundancy payment in accordance with the NES the relevant period in sub-clauses 100.1a) and 100.1b) above is reduced by the number of weeks redundancy pay that the employee will be entitled to under the NES on termination, calculated as at the expiration of the retention period (as adjusted by this clause).

100.3 The retention period will commence on the earlier of the following:

- a) the day the employee is advised in writing by the Secretary that he or she is an excess employee; or
- b) one month after the day on which the Secretary invites the employee to elect to be retrenched.

100.4 The Secretary will consider an excess departmental employee in isolation from and not in competition with other applicants for vacancies to which an excess employee of the Department seeks a move at level. An excess employee on retention is not eligible to access the provisions of this Agreement for job swapping, being clauses 95.3b) and c).

- 100.5 During the retention period the Secretary:
- a) will continue to take all reasonable steps to find alternative employment for the excess employee; and/or
 - b) may, with four weeks' notice, reduce the excess employee's classification as a means of securing alternative employment for the excess employee. Where an excess employee is reduced in classification before the end of the appropriate retention period, the employee will continue to be paid at the employee's previous level for the balance of the retention period. The salary maintenance will include:
 - i. the higher salary where an employee has been in receipt of HDA for more than 12 months continuously and the HDA would have continued except for the excess situation; and
 - ii. other allowances in the nature of salary which are paid during periods of Annual Leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.
- 100.6 During the retention period the excess employee will:
- a) take reasonable steps to find alternative employment; and
 - b) actively participate in learning and development activities, trial placements or other arrangements agreed to, to assist in obtaining a permanent placement.
- 100.7 The retention period will not be extended by periods of leave taken by the excess employee. In exceptional circumstances, the Secretary may extend an employee's retention period by the amount equivalent to a period of PCL taken by an employee because of personal injury or illness.
- 100.8 The excess employee is entitled to assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment where these expenses are not met by the prospective employer.
- 100.9 Where the Secretary is satisfied that there is insufficient productive work available for the employee within the Department during the remainder of the retention period and that there is no reasonable redeployment prospects in the APS:
- a) the Secretary may terminate their employment under section 29 of the PS Act; and
 - b) on termination the employee will be paid a lump sum comprising:
 - i. the balance of the retention period (as shortened for the NES) and this payment will be taken to include the payment in lieu of notice of termination of employment; plus
 - ii. the employee's NES entitlement to redundancy pay.
- 100.10 An excess employee will be given four weeks notice (or five weeks notice for an employee over 45 years of age with at least five years of continuous service) where it is proposed that the employee will be involuntarily retrenched.

[SCHEDULE A] SALARY SCALES AND BROADBANDS

TABLE 1: SALARY RATES

Column 1	Column 2	Column 3	Column 4	Column 5
Classification & Pay Level	Salary Rates Pre-lodgement	Salary Increase – On commencement of EA	Salary Increase – 1 st Anniversary of EA	Salary Increase – 2 nd Anniversary of EA
APS 1.1	\$42,317	\$43,587	\$44,459	\$44,904
APS 1.2	\$43,610	\$44,918	\$45,816	\$46,274
APS 1.3	\$44,908	\$46,255	\$47,180	\$47,652
APS 1.4	\$46,612	\$48,010	\$48,970	\$49,460
APS 2.1	\$47,926	\$49,364	\$50,351	\$50,855
APS 2.2	\$49,367	\$50,848	\$51,865	\$52,384
APS 2.3	\$50,992	\$52,522	\$53,572	\$54,108
APS 2.4	\$52,909	\$54,496	\$55,586	\$56,142
APS 3.1	\$54,679	\$56,319	\$57,445	\$58,019
APS 3.2	\$56,088	\$57,771	\$58,926	\$59,515
APS 3.3	\$57,500	\$59,225	\$60,410	\$61,014
APS 3.4	\$59,041	\$60,812	\$62,028	\$62,648
APS 4.1	\$60,583	\$62,400	\$63,648	\$64,284
APS 4.2	\$62,514	\$64,389	\$65,677	\$66,334
APS 4.3	\$64,132	\$66,056	\$67,377	\$68,051
APS 4.4	\$65,833	\$67,808	\$69,164	\$69,856
APS 5.1	\$67,635	\$69,664	\$71,057	\$71,768
APS 5.2	\$69,766	\$71,859	\$73,296	\$74,029
APS 5.3	\$71,716	\$73,867	\$75,344	\$76,097
APS 6.1	\$74,852	\$77,098	\$78,640	\$79,426
APS 6.2	\$78,240	\$80,587	\$82,199	\$83,021
APS 6.3	\$81,466	\$83,910	\$85,588	\$86,444
APS 6.4	\$83,898	\$86,415	\$88,143	\$89,024
EL 1.1	\$96,145	\$99,029	\$101,010	\$102,020
EL 1.2	\$98,521	\$101,477	\$103,507	\$104,542
EL 1.3	\$101,441	\$104,484	\$106,574	\$107,640
EL 2.1	\$113,426	\$116,829	\$119,166	\$120,358
EL 2.2	\$118,420	\$121,973	\$124,412	\$125,656
EL 2.3	\$124,554	\$128,291	\$130,857	\$132,166
EL 2.4	\$127,465	\$131,289	\$133,915	\$135,254

TABLE 2: APS LEVEL 3/APS LEVEL 5 (GRADUATE) BROADBAND

Classification & Pay Level	Salary Rates Pre-lodgement	Salary Increase – On commencement of EA	Salary Increase – 1 st Anniversary of EA	Salary Increase – 2 nd Anniversary of EA
APS 3.1 GRAD	\$54,679	\$56,319	\$57,445	\$58,019
APS 5.1 GRAD	\$67,635	\$69,664	\$71,057	\$71,768

[SCHEDULE B] TRANSITIONAL ARRANGEMENTS

PART 1: LEAVE

1. PERSONAL CIRCUMSTANCES LEAVE

- 1.1 Clauses 79.1 and 79.2 of this Agreement will commence to apply to affected employees from the anniversary date that the employee was last credited with leave under clause K4.11 of the DIT EA.

PART 2: SALARY

2. DEFINITIONS

- 2.1 For the purposes of Part 3 of this [Schedule B], **current salary** means the employee's salary immediately prior to commencement of this Agreement.

3. FORMER DRALGAS EMPLOYEES

- 3.1 This clause 3 applies to employees (affected employees) who, prior to 1 June 2015, had their terms and conditions set by operation of the *Determination under subsection 24(3) - Non-SES employees moved between APS agencies to give effect to the Administrative Arrangement Orders made by the Governor-General in Council on 18 September 2013 (as amended) (Determination)*.
- 3.2 If, at the date of commencement of this Agreement, an affected employee's current salary is above the maximum pay point for the employee's classification set out in column 3 of table 1 in [\[Schedule A\]](#), the employee's current salary will receive a salary increase of 1.50% on the commencement of the Agreement.
- 3.3 Subject to clause 3.4, affected employees qualifying for the salary increase under clause 3.2 of this [\[Schedule B\]](#) are not entitled to salary increases provided under clause 11.1 of this Agreement.
- 3.4 Following the salary increase provided for by clause 3.2, affected employees who received that salary increase will be deemed to be on a non-standard salary and subsection 12 of this Agreement will apply.
- 3.5 If, at the date of commencement of this Agreement, an affected employee's current salary is equivalent to a pay point for the employee's classification set out in column 2 of table 1 in [\[Schedule A\]](#), the employee's current salary will increase in accordance with the salary increases in clause 11.1 of this Agreement.

4. EMPLOYEES PERFORMING LEGAL DUTIES AND PUBLIC AFFAIRS DUTIES

- 4.1 This clause 4 applies to employees (affected employees) who, immediately prior to the commencement of this Agreement were covered by the DIT EA and employed in a Legal or Public Affairs classification.
- 4.2 If, at the date of commencement of this Agreement, an affected employee's current salary is above the maximum pay point for the employee's classification set out in column 3 of table 1 in [\[Schedule A\]](#), the employee's current salary will increase in accordance with the salary increases in clause 11.1.
- 4.3 If, at the date of commencement of this Agreement, an affected employee's current salary is at or below the maximum pay point for the employee's classification set out in column 3 of table 1 in [\[Schedule A\]](#):

- (a) the employee's salary will be set at the corresponding pay point or the next highest pay point (as applicable) applying to the employee's classification in column 3 of table 1 in [\[Schedule A\]](#); and
- (b) the employee's salary will not be increased by the salary increase in clause 11.1a) of this Agreement.

[SCHEDULE C] SUPPORTED WAGE SYSTEM

1. EXCLUSIONS

- 1.1 This Schedule C does not apply to a current employee with a workers' compensation claim against the Department (regardless of whether liability has been accepted by Comcare), or to any employee undertaking rehabilitation for a work-related injury or illness.
- 1.2 This Schedule C does not apply to the Department in respect of any programme, undertaking, or service funded under the [Disability Service Act 1986 \(Cth\)](#) to enable the Department to fulfil the dual role of service provider and sheltered employer to people with disabilities or who receive or are eligible for a Disability Support Pension, except to the extent that the Department, or a part of the Department, is recognised under ss.10 or 12A of that Act.

2. ELIGIBLE EMPLOYEES

- 2.1 This Schedule C applies to an employee who is unable to perform the range of duties of his or her job at the required level of competence because the employee's productive capacity is affected by a disability and the employee meets the impairment criteria for a Disability Support Pension.
- 2.2 Employees to whom this Schedule C applies will be paid the percentage of the rate of pay applying to the duties of the employee's job relevant to the employee's assessed performance capacity as set out in Table E.

Table E

Assessed Capacity	% of salary
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

- 2.3 An employee to whom this Schedule C applies will be paid in accordance with the minimum weekly payment set by the Fair Work Commission (or its predecessor) or such appropriately higher amount as may be determined during the life of this Agreement to reflect one or more increases in the minimum wage.
- 2.4 If an employee's assessed capacity is 10% or less, the Department will provide a higher degree of assistance and support to him or her.
- 2.5 The productive capacity of an employee will be assessed in accordance with the SWS and documented in an assessment instrument by the Department and an Accredited Assessor.
- 2.6 An assessment instrument applying to an employee will be agreed and signed by the parties to the assessment, and lodged by the Department with Fair Work Commission together with the employee's applicable rate of pay.

- 2.7 The Department will review the employee's applicable rate of pay annually. The Department may undertake an earlier review on request if it is reasonable and practicable to do so. The review process will be in accordance with the procedures for assessing capacity under the SWS.
- 2.8 An employee to whom this Schedule C applies will receive the same terms and conditions of employment as apply to all other employees paid on a pro rata basis.

3. TRIAL PERIOD OF EMPLOYMENT

- 3.1 The Department may employ a person under the provisions of this Schedule C for a trial period under an interim contract of employment for a period not exceeding 12 weeks to enable the assessment of the person's performance capacity.
- 3.2 If any additional work adjustment time is required during the trial period, the additional time must not exceed a further 4 weeks.
- 3.3 During the trial period, the assessment of the person's capacity will be undertaken and the rate of pay determined for the person's ongoing employment.
- 3.4 During the trial period the person will be paid in accordance with the minimum weekly payment set by the Fair Work Commission (or its predecessor) or such appropriately higher amount as may be determined during the life of this Agreement to reflect one or more increases in the minimum wage.
- 3.5 On the completion of the trial period, if the Department and the person decide to establish a continuing employment relationship, a further contract of employment will be entered into based on the rate of pay determined under Table E.
- 3.6 The Department will, in considering the engagement of a person to whom this Schedule C may apply, take reasonable steps to consider changes in the workplace that will enhance the person's capacity to perform the duties of the job. Changes may involve the re-design of duties, or new time or work arrangements. The Department will consult other employees in the area in these circumstances.

4. INTERPRETATION

- 4.1 In this Schedule C:

Accredited assessor means a person accredited by the managing unit established by the Australian Government under the Supported Wage System (SWS) to perform assessments of an individual's productive capacity within the SWS.

Assessment instrument means the form provided for under the SWS that records the assessment of the productive capacity of the person to be employed under the SWS.

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

Supported Wage System means the Australian Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in [Supported Wage System: Guidelines and Assessment Process](#).