



**Fair Work**  
OMBUDSMAN

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**Fair Work Ombudsman**

**Enterprise Agreement 2019 - 2022**



# DECISION

*Fair Work Act 2009*  
s.185—Enterprise agreement

**Commonwealth of Australia, represented by the Fair Work Ombudsman**  
**T/A Office of the Fair Work Ombudsman**  
(AG2019/4654)

## **FAIR WORK OMBUDSMAN ENTERPRISE AGREEMENT 2019 – 2022**

Commonwealth employment

COMMISSIONER JOHNS

MELBOURNE, 12 DECEMBER 2019

*Application for approval of the Fair Work Ombudsman Enterprise Agreement 2019 – 2022.*

[1] An application has been made for approval of an enterprise agreement known as the *Fair Work Ombudsman Enterprise Agreement 2019 – 2022* (**the Agreement**). The application was made pursuant to s.185 of the *Fair Work Act 2009* (Cth) (**the Act**). It has been made by the Commonwealth of Australia, represented by the Fair Work Ombudsman T/A Office of the Fair Work Ombudsman. The Agreement is a single enterprise agreement.

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

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

[4] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 19 December 2019. The nominal expiry date of the Agreement is 18 December 2022.



COMMISSIONER

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# Part A – Scope of the agreement

## Agreement title

1. This agreement is to be referred to as the Fair Work Ombudsman Enterprise Agreement 2019 – 2022 (the agreement).

## Purpose

2. The purpose of this agreement is to provide terms and conditions of employment to employees covered by the agreement.

## Coverage of the agreement

3. This agreement covers:
  - a. the Fair Work Ombudsman on behalf of the Commonwealth of Australia
  - b. employees of the Office of the Fair Work Ombudsman (the Agency), except employees engaged as Senior Executive Service (SES) employees.

## Commencement date

4. This agreement will commence to operate seven days after it is approved by the Fair Work Commission (FWC) (the commencement date).

## Nominal expiry date

5. This agreement shall nominally expire three years from the commencement date.

## Relationship to other legislation

6. This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.
7. This agreement operates in conjunction with a range of other Acts (including regulations, directions, rules or instruments made under those Acts) as in force from time to time, that may regulate terms and conditions of employment, including, but not limited to, the:
  - a. *Public Service Act 1999*
  - b. *Fair Work Act 2009*
  - c. *Fair Work (Transitional and Consequential Amendments) Act 2009*
  - d. *Public Governance, Performance and Accountability Act 2013*
  - e. *Long Service Leave (Commonwealth Employees) Act 1976*
  - f. *Maternity Leave (Commonwealth Employees) Act 1973*
  - g. *Superannuation Act 1976*
  - h. *Superannuation Act 1990*
  - i. *Superannuation Act 2005*
  - j. *Superannuation (Productivity Benefit) Act 1988*
  - k. *Superannuation Benefits (Supervisory Mechanisms) Act 1990*
  - l. *Superannuation Guarantee (Administration) Act 1992*
  - m. *Safety, Rehabilitation and Compensation Act 1988*
  - n. *Work Health and Safety Act 2011*
  - o. *Privacy Act 1988*
  - p. *Equal Employment Opportunity (Commonwealth Authorities) Act 1987*

- q. *Paid Parental Leave Act 2010*
- r. *Defence Reserve Service (Protection) Act 2001*
- s. *Veteran's Entitlements Act 1986*
- t. *Military Rehabilitation and Compensation Act 2004*

### **Supporting policies, procedures, guides and guidelines**

- 8. This agreement refers to various policies, procedures, guides and guidelines as in force from time to time. To avoid doubt, any policies, procedures, guides and guidelines referred to in this agreement are not incorporated into, and do not form part of, this agreement. A term of this agreement prevails to the extent of any inconsistency with a policy, procedure, guide or guideline.

### **Delegation**

- 9. Where the agreement implies that approval is necessary or specifies that payment will be made or leave will be granted, but a head of power is not specified, the agreement should be read as meaning the approval of the Fair Work Ombudsman will be obtained prior to the action occurring.
- 10. The Fair Work Ombudsman may delegate any or all of his or her powers or functions under this agreement, including this power of delegation, and may do so subject to conditions.

## **Part B - Forms of employment**

### **Full-time employees**

- 11. Full-time employees will be engaged on the basis that their ordinary hours of work will be equivalent to 150 hours per four week period.
- 12. Full-time employees will be paid fortnightly, in arrears, based on the following formula:

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

### **Part-time employees**

- 13. Part-time employees will be engaged on the basis that their ordinary hours of work are less than 150 hours per four week period. Employees are required to work at least three hours on any agreed working day, unless otherwise agreed between the employee and their manager.
- 14. Where the hours of a part-time employee are to be varied for a short period, flextime or other flexible working arrangements, as agreed between the employee and their manager, are to be used.
- 15. Part-time employees will be paid fortnightly, in arrears, based on the following formula:

$$\text{Fortnightly pay} = \frac{\text{annual salary} \times 12}{313} \times \frac{\text{Part-time ordinary hours of work}}{\text{Full-time ordinary hours of work}}$$

- 16. Leave (unless otherwise provided for by legislation) and other entitlements of part-time employees will be calculated on a pro rata basis, based on the proportion of hours worked in comparison to full-time hours.

17. Paragraph 16 does not apply to allowances of a reimbursement nature. In such instances, the part-time employee will receive the same allowance amount as a full-time employee.

### **Casual employees**

18. Casual employees are employees who are engaged under paragraph 22(2)(c) of the *Public Service Act 1999* (PS Act).
19. Casual employees will be paid fortnightly, in arrears, based on the following formula:

$$\text{Fortnightly pay} = \frac{\text{annual salary} \times 12}{313} \div 75 \times \frac{\text{Actual hours worked in fortnight}}{75} \times 1.2$$

20. The formula in paragraph 19 includes a 20 per cent casual loading. This loading is paid in lieu of public holidays not worked and paid leave, with the exception of long service leave.
21. Unless specified elsewhere in this agreement, casual employees are not entitled to paid leave.

## **Part C - Remuneration**

### **Classifications and salary rates**

22. The classifications and salary rates applicable during the term of this agreement are provided at Attachment A.

The salary rates will increase:

On the commencement date:	2.0%
12 months from commencement date:	2.0%
24 months from commencement date:	2.0%

### **Supported salary rates for employees with a disability**

23. An employee with a disability who is eligible for a supported wage will be paid the applicable percentage as set out in Attachment B of the relevant salary rate for which the employee is engaged.

### **Fortnightly pay**

24. Employees will be paid fortnightly, in arrears.
25. Payment will be made by electronic funds transfer (EFT) into a financial institution account of the employee's choice.

### **Salary on commencement of this agreement**

26. On commencement of this agreement, where an existing employee's current salary exceeds the maximum salary for their classification, the employee's salary will be maintained until such time as it is exceeded by the maximum salary for their classification.

### **Salary on engagement, promotion, movement**

27. Where an employee commences employment, or an existing employee is promoted to a higher classification, in the Agency, the Fair Work Ombudsman will determine their salary, having regard to the experience, qualifications and skills of the employee.



28. When an employee moves at the same classification level from another Australian Public Service (APS) Agency and their salary is:
- a. above the top pay point of the relevant range as stated at Attachment A, they will be paid at the top pay point unless a higher salary is agreed to by the Fair Work Ombudsman or
  - b. below the top pay point of the relevant range as stated at Attachment A, but not aligned with a pay point in the range, their salary will be paid at the next highest pay point in that range.

### **Salary advancement**

29. Salary advancement (movement to a higher pay point within a classification) will occur for eligible ongoing and non-ongoing employees from 1 July each year. There will be no salary advancement at any other time in the year. The actual payment of salary at the higher pay point will generally commence from the beginning of the first full pay period commencing on or after 1 August each year, back paid to 1 July. To be eligible for salary advancement, an employee must:
- a. complete the requirements of the Performance Policy and
  - b. achieve a rating of 'Meets Expectations' or better in the Performance Rating Scale at the end of the performance cycle and
  - c. perform duties at the employee's substantive level or above, within the Agency, for an aggregate of three months or more within the performance cycle ended 30 June and
  - d. have successfully completed the probationary period where one applies.
30. When an ongoing employee has been temporarily reassigned to duties at a higher classification for a period aggregating three months or longer during the performance cycle and is performing duties of this higher classification on 1 July, the employee will be eligible for salary advancement at this higher classification for the period of Temporary Performance Loading (TPL) from 1 July onwards. The employee must achieve a rating of 'Meets Expectations' or better in the Performance Rating Scale at the higher classification at the end of the performance cycle, based on performance expectations set at the higher classification.

### **Salary packaging**

31. Employees may choose to sacrifice part of their salary from a selection of non-cash benefits. Participation in salary packaging will not affect salary for superannuation purposes or any other purpose.

### **Overpayment of entitlements**

32. Where an employee is overpaid an amount of salary or other remuneration, the amount of the overpayment may be recovered from amounts payable to the employee by deductions authorised by the employee or by the Agency's Accountable Authority Instructions. A recovery payment plan will be considered by the Fair Work Ombudsman in circumstances of financial hardship.

### **Superannuation**

33. The Agency will provide employer superannuation contributions in accordance with the relevant legislative requirements.
34. The default fund for the Agency is the Public Sector Superannuation Accumulation Plan (PSSap).
35. The salary for superannuation purposes for PSSap members or those who choose another fund will be calculated based on the employee's Ordinary Time Earnings (OTE) within the meaning of the *Superannuation Guarantee (Administration) Act 1992*.

36. Employer contributions to the PSSap will be 15.4% of the employee's OTE. Employer contributions for employees in other accumulation schemes will be at the same rate as for employees in PSSap. Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements. This clause does not apply where a superannuation fund cannot accept employer superannuation contributions.
37. An employee may choose any approved superannuation fund as long as the fund can accept employer contributions by EFT. Any fees associated with EFT will be borne by the Agency.
38. For employees who take paid or unpaid parental leave (which includes maternity, adoption, supporting partner, primary caregiver and foster care leave), employer contributions (based on the employer contribution amount in the full pay period immediately prior to commencing parental leave) will be made for a period equal to a maximum of 52 weeks, in accordance with the rules of the appropriate superannuation scheme. For employees in PSSap, the rules permit employer contributions to be made.

## Part D – Allowances and assistance

### Corporate citizen allowance

39. An allowance of \$27.54 will be paid to appointed employees on a fortnightly basis for undertaking the following corporate citizen roles:
  - a. First Aid Officers
  - b. Chief, Floor and Area Wardens
  - c. Health and Safety Representatives and
  - d. Harassment and Diversity Contact Officers.
40. This allowance will be increased in line with general wage increases under this agreement so that fortnightly total amounts are:
 

a. On the commencement date:	\$27.54
b. 12 months from commencement date:	\$28.09
c. 24 months from commencement date:	\$28.65
41. Employees who are authorised by the Fair Work Ombudsman to undertake more than one of the above corporate citizen roles will only receive one payment of the allowance per fortnight. Where an employee is absent for a period (except a period of Long Service Leave) of more than four weeks the allowance will not be payable during the period of the absence.

### Community language allowance

42. The Fair Work Ombudsman may approve payment of a community language allowance of \$714 per annum, paid on a fortnightly basis to an employee with the required level of competency, as determined by the Fair Work Ombudsman, where there is an identifiable and continuing need for particular skills in a language other than English.
43. This allowance will be increased in line with general wage increases under this agreement as follows:
 

a. On the commencement date:	\$714.00
b. 12 months from commencement date:	\$728.28
c. 24 months from commencement date:	\$742.85

## **Professional payments assistance**

44. The Agency will pay for professional practice, membership or other fees for those employees in positions where the Fair Work Ombudsman has determined that those professional skills, qualifications and memberships are required.

## **Motor vehicle allowance**

45. When the Fair Work Ombudsman authorises an employee to use a private motor vehicle for official purposes, the employee will receive a motor vehicle allowance of 68 cents per kilometre.

## **Additional costs assistance**

46. The Fair Work Ombudsman may reimburse additional costs arising from operational requirements, and other costs borne by the employee in the course of their employment.

## **Study assistance**

47. Study assistance, which may include paid or unpaid other leave and/or reimbursement of costs, may be provided to eligible employees. Further information is contained in the *Study Assistance Guide*.

## **Work related travel**

48. An employee who is required to travel on official business will not be out of pocket for the reasonable costs of accommodation, meals, incidentals and other travel expenses incurred.
49. Work related travel, where possible, should be undertaken during the normal bandwidth, and time recorded according to flextime (APS Level 1-6) or Time Off in Lieu (Executive Level 1-2) arrangements. An employee's personal circumstances will be considered when organising and approving work related travel.
50. If the Fair Work Ombudsman and employee agree that the travel is to be undertaken outside the normal bandwidth, TOIL will be granted to the employee at ordinary time rates. If the employee is directed to undertake travel outside the normal bandwidth, TOIL will be granted to the employee using the same calculation as would be used for the calculation of overtime pay. For Executive Level 1-2, this will be in accordance with TOIL arrangements for Executive Level 1-2 at paragraphs 92 - 94.
51. Where an employee is required to undertake travel for less than one day, but commences before 7.00 am or concludes after 7.00 pm in the State/Territory where they work, they:
  - a. will be eligible for a non-acquittable cash payment of \$20 per day or
  - b. may use their travel card to purchase the meals (breakfast, lunch or dinner) for which the employee is away from the home locality to the value of those specified in the relevant policy or guide. The purchase of the meal must be accompanied by a receipt or statutory declaration and the expenditure must be acquitted.
52. Further information is contained in the *Domestic Travel Policy*.

## **Transition to retirement**

53. To assist employees with retirement planning, employees aged 54 years and over who are approaching or genuinely considering retirement, may access financial assistance in the form of a one-off reimbursement payment up to a total maximum of \$500 (inclusive of GST) to obtain financial advice from a registered financial advisor. This financial assistance is not available to excess employees (Part J).

54. In addition, employees aged 54 and over who are approaching retirement may elect to work on a part-time basis until retirement.

### **Grandfathered remote localities assistance**

55. Employees who are in receipt of remote localities assistance on the commencement of this agreement will continue to receive the remote localities assistance until they are no longer employed in the Darwin office.
56. Where an employee who was eligible for remote localities assistance ceases to be eligible for this assistance, they cannot become eligible again at a later date.
57. The remote localities assistance, payable on a fortnightly basis, is:
  - a. for employees with dependents, \$10,000 per annum
  - b. for employees without dependents, \$6,000 per annum.

## **Part E – Flexible working arrangements**

58. The Agency is committed to providing flexible working arrangements to assist employees to achieve work/life balance.
59. Any employee may request flexible working arrangements. Where a request is refused, the written response will include reasons for the refusal.
60. A request made in accordance with section 65 of the *Fair Work Act 2009* (FW Act) must be in writing and set out details of the change to working arrangements sought and of the reasons for the change. The Fair Work Ombudsman will respond in writing to the request within 21 days and will only refuse on reasonable business grounds. Where the request is refused, the response will include reasons for the refusal.

### **Working from home**

61. An employee and the Fair Work Ombudsman may agree to the employee working from home on either a regular, temporary or intermittent basis.

### **Job sharing**

62. The Fair Work Ombudsman may approve job sharing arrangements between two or more employees subject to operational requirements. The details of any job sharing arrangement, including the duration, will be agreed in writing between the manager and the employees involved.

### **Individual flexibility arrangement**

63. The Fair Work Ombudsman and an employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
  - a. the agreement deals with one or more of the following matters:
    - i. arrangements about when work is performed
    - ii. overtime rates
    - iii. penalty rates
    - iv. allowances
    - v. remuneration and/or
    - vi. leave and leave loading and
  - b. the arrangement meets the genuine needs of the Agency and employee in relation to one or more of the matters mentioned in paragraph 63 a and
  - c. the arrangement is genuinely agreed to by the Fair Work Ombudsman and employee.

64. The Fair Work Ombudsman must ensure that the terms of the individual flexibility arrangement:
  - a. are about permitted matters under section 172 of the FW Act
  - b. are not unlawful terms under section 194 of the FW Act
  - c. result in the employee being better off overall than the employee would be if no arrangement was made.
65. The Fair Work Ombudsman must ensure that the individual flexibility arrangement:
  - a. is in writing and
  - b. includes the name of the Agency and employee and
  - c. is signed by the Fair Work Ombudsman and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee and
  - d. includes details of:
    - i. the terms of the enterprise agreement that will be varied by the arrangement and
    - ii. how the arrangement will vary the effect of the terms and
    - iii. how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement and
    - iv. states the day on which the arrangement commences and ceases.
66. The Fair Work Ombudsman must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
67. The Fair Work Ombudsman or employee may terminate the individual flexibility arrangement:
  - a. by giving no more than 28 days written notice to the other party to the arrangement or
  - b. if the Fair Work Ombudsman and employee agree in writing — at any time.

## Part F – Working hours

### The standard day

68. The standard day is defined as being worked from 8.30 am to 12.30 pm and 1.30 pm to 5.00 pm (7 hours 30 minutes per day).
69. A manager and employee may agree to a different pattern of hours by which the employee will meet their ordinary hours of duty.
70. When determining working patterns, managers and employees should consider:
  - a. the period of time in which all employees are required to attend, for the team or work area
  - b. any other relevant issues for the team or work area.
71. An employee will not normally be expected to work more than:
  - a. 10 hours ordinary time on any day or
  - b. five consecutive hours without a meal break of at least 30 minutes.
72. Where this does occur, overtime and Time Off in Lieu (TOIL) provisions at paragraphs 89 to 98 and meal allowance provisions at paragraph 100 may apply.
73. If employees are required to work in excess of their ordinary hours over a settlement period, managers will consult with the affected employees about appropriate recompense through TOIL and overtime provisions.
74. The bandwidth of hours in which an employee may work their ordinary hours are 7.00 am to 7.00 pm Monday to Friday, or as otherwise agreed on an individual basis between the Fair Work Ombudsman and employee.

## **Flexitime scheme**

75. Flexitime is a system of flexible working arrangements that enables employees and managers to vary working hours, patterns and arrangements to provide maximum organisational flexibility with benefit to employees, customers and the Agency. A business unit may decide to implement the flexitime scheme by means of a scheduled accumulated day off.
76. All employees covered by this agreement are required to accurately record their working hours, including break times and any leave.
77. APS Level 1-6 employees are eligible to accrue flexitime for duties performed in excess of their ordinary hours of work (over the settlement period), but which does not attract overtime, where it is operationally feasible to do so and is agreed by the manager.
78. APS Level 1-6 employees temporarily assigned duties at Executive Level 1-2 are not eligible to accrue flexitime during the period of reassignment.

## **Insufficient work**

79. An employee cannot work hours in addition to ordinary hours to accrue flexitime where there is insufficient work.

## **Flexitime credit balance**

80. Employees may carry over a maximum credit of 37 hours 30 minutes (pro-rata for part-time employees) of flexitime accumulated in any settlement period into the next settlement period.

## **Cash out of flexitime credits exceeding 37 hours 30 minutes**

81. The Fair Work Ombudsman may approve the cashing out of flexitime credits at ordinary time rates at the end of a settlement period where flexitime credits exceed the maximum credit of 37 hours 30 minutes.

## **Flexitime debit balance**

82. Employees may carry over a maximum debit of 10 hours of flexitime accumulated in any settlement period into the next settlement period.
83. In circumstances where the maximum debit is exceeded at the end of a settlement period, the manager and employee will endeavour to reduce the debit to the maximum allowable (or lower) over the next settlement period.

## **Deduction of flexitime debit from salary**

84. Should this not occur, the amount by which the maximum is exceeded shall be treated as leave without pay and deducted from the employee's salary. Alternatively, with their manager's approval, an employee may use accrued annual leave to offset any flexitime debit.

## **Flexitime balances at cessation**

85. Where any flexitime credits are outstanding at cessation of employment with the Agency, these will be paid to the employee at ordinary rates. Where any flexitime debits are outstanding at cessation, these will be recovered from any termination payment.

## **Reversion to standard day**

86. When an employee has failed to comply with the provisions of flexitime, the Fair Work Ombudsman may remove access to flexitime provisions for that employee for a specified period and the employee will revert to working the standard day. Access to flexitime will be restored where the Fair Work Ombudsman is satisfied that the employee will maintain satisfactory attendance patterns.

## Unauthorised absences

87. When an employee is absent from work without approval, reasonable efforts will be made to contact the employee and to establish the reason for the unauthorised absence.
88. When an employee is absent from work without approval, all salary and other benefits provided under this agreement will cease to be available until the employee resumes work or is granted leave.

## Overtime and time off in lieu (TOIL)

### APS Level 1-6

89. On occasion and with provision of reasonable notice, employees may be required to work overtime. APS Level 1-6 employees will be entitled to payment of overtime in accordance with paragraph 96 where they are required to perform work and pre-agreement from their Manager has been attained:
  - a. outside the bandwidth (except when travelling, refer to paragraph 50)
  - b. on a public holiday
  - c. in excess of 10 hours on any one day or
  - d. outside a part-time employee's ordinary hours of work.
90. In exceptional circumstances, where an employee is directed to work overtime, the Fair Work Ombudsman may approve access to overtime for all work performed outside the ordinary hours (plus any additional hours, if relevant) on any one day.
91. An employee may elect to take TOIL at the equivalent overtime rate instead of payment of overtime as calculated according to paragraph 96.

### Executive Level

92. Executive Level employees often have extra, irregular and non-ongoing demands placed upon them, including working beyond ordinary hours. Their remuneration recognises the additional demands which may be placed upon them.
93. Where an Executive Level employee has been required to work substantially in excess of ordinary hours, the Fair Work Ombudsman may provide reasonable time off in lieu for hours worked. This will not normally be on an hour-for-hour basis.
94. Executive Level employees are not generally entitled to overtime. However, the Fair Work Ombudsman may approve overtime payments for excess hours worked in exceptional circumstances.

### Part-time employees

95. A part-time employee directed to perform work in excess of the agreed hours of duty over the settlement period and who has not elected to receive flextime for such will be eligible for overtime in accordance with paragraphs 89 to 91 and 94.

### Calculation

96. Overtime is calculated at the following rates:

Monday to Saturday	Time and one half for the first three hours each day, and double time thereafter
Sunday	Double time
Public Holidays	Double time and one half

## **Non-continuous duty**

97. Where a period of overtime is not continuous with ordinary duty, the minimum overtime payment is four hours at the relevant rate. Where the period of overtime is greater than four hours, payment will be made for the actual period worked at the relevant rate.

## **Continuous duty**

98. Overtime is considered to be continuous with ordinary duty when an employee does not have a break, other than a meal break, between the periods of ordinary duty and overtime.

## **Call in allowance**

99. An employee, up to and including an Executive Level 1 employee, who is called to work to meet an emergency outside the ordinary (or agreed) bandwidth will be paid at double time for the period of work and any time necessarily spent in travelling to and from the work site. The minimum payment for such work will be two hours at double time.

## **Meal allowance**

100. Where an employee is directed to work overtime for a continuous period to the completion of or beyond a meal period, they will be paid a meal allowance of \$22.05. An employee who performs overtime at home is not eligible for a meal allowance.

## **Public holidays**

101. Employees, other than casuals, will be entitled to the following public holidays without loss of pay:
- 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 of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part-day, or a kind of day or part-day, that is excluded by the Fair Work Regulations from counting as a public holiday.
102. If, under a State or Territory law, a day or part-day is substituted for one of the public holidays listed above, then the substituted day or part-day is the public holiday.
103. The Fair Work Ombudsman 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.
104. In accordance with section 116 of the FW Act, where an employee, is absent from his or her normal employment on a day, or part-day, that is a public holiday, they will be paid at the employee's normal rate of pay for the employee's ordinary hours of work on the day or part-day.
105. Where an employee works on a public holiday, the employee will be entitled to overtime or TOIL, which will be calculated at double time and one half in accordance with paragraphs 89 to 98.



106. Where a public holiday occurs in a period of annual or personal/carer's leave, the public holiday will not be deducted from the employee's annual or personal/carer's leave credits respectively.
107. Where an employee is on a period of leave without pay and a public holiday occurs, the employee will not be entitled to payment for the public holiday.
108. 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 the employee performs work on that day, and the Sunday would otherwise be a public holiday under paragraph 101 a to i.
109. If under a law of a State or Territory Easter Tuesday 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.

### **Make up time for substituted day**

110. Where an employee cannot work on the day for which a substituted holiday has been granted, they will make up that time through mutual agreement with their manager, without entitlement to payment for overtime.

### **Annual closedown**

111. Employees will be provided paid time off from 12.30 pm on the working day immediately prior to Christmas Day and for the days between Christmas and New Year's Day which would otherwise be working days. If an employee agrees to work following a call for volunteers over this period, for days other than public holidays, they will be provided with TOIL to be taken at an alternative time convenient to the employee and agreed with their manager. If an employee is directed to work, overtime will apply in accordance with paragraphs 89 to 98.
112. If an employee elects to work on the next normal working day after the Boxing Day holiday (previously known as the public service holiday), an employee may elect to receive TOIL or payment of overtime in accordance with paragraphs 89 to 98.
113. Part-time employees normally not working on the days of the week on which the annual closedown occurs will not be entitled to alternative time off duty.

## **Part G – Leave**

### **Annual leave**

114. Full-time employees are entitled to four weeks of paid annual leave per year of service.
115. Part-time employees are entitled to paid annual leave on a pro rata basis.
116. Casual employees are not entitled to paid annual leave.
117. An employee must obtain their manager's approval prior to taking any annual leave. Requests for annual leave will not be unreasonably refused.
118. Where an employee accrues in excess of eight weeks paid annual leave, the Fair Work Ombudsman may, after providing at least four weeks' notice, direct the employee to take up to two weeks of paid annual leave.
119. The Fair Work Ombudsman will not direct an employee to take leave where the employee agrees to appropriate arrangements to reduce the leave balance within an agreed timeframe.

120. Employees may take annual leave at either full or half pay. Where an employee takes annual leave at half pay, annual leave credits will be deducted for half the duration of the leave.
121. On separation from the APS, the employee will be paid in lieu of any unused leave credits in accordance with the FW Act and *Long Service Leave (Commonwealth Employees) Act 1976*.

### **Annual leave cash out**

122. An employee may cash out accrued annual leave subject to the following conditions:
  - a. the employee must have at least four weeks annual leave remaining
  - b. the employee has taken a minimum of five days annual leave during the last twelve month period, and
  - c. the Fair Work Ombudsman and the employee must make a separate agreement in writing for each cashing out of a particular amount of annual leave.
123. Where an employee cashes out accrued annual leave they will be paid at least the full amount that would have been payable to the employee had the employee taken the leave.

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

124. An employee may access paid personal/carer's leave in the following circumstances:
  - a. where the employee is not fit for work due to personal illness or injury affecting the employee or
  - b. to provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of:
    - i. a personal illness, or personal injury affecting the member or
    - ii. an unexpected emergency affecting the member.
125. Employees will be entitled to 18 days paid personal leave for every 12 months of service. Personal/carer's leave will accrue progressively and be credited on a monthly basis.
126. Subject to approval, employees who are newly engaged in the Australian Public Service may take up to four days in advance of accruing an entitlement (pro rata for part-time employees) of personal/carer's leave in the first three months of their employment. Any leave taken in advance of its accrual will be offset against future accruals.
127. The Fair Work Ombudsman may allow an employee to take paid personal/carer's leave in advance of accruing an entitlement to paid leave in exceptional circumstances and where current personal/carer's leave credit has been exhausted. Any leave taken in advance of its accrual will be offset against future accruals.
128. Where personal/carer's leave has been taken in advance of its accrual and the employee ceases employment with the Agency, the value of any paid leave that has been taken but not accrued by the employee will be treated as an overpayment of entitlements.
129. An existing APS employee who has joined the Agency and has received an annual credit of personal/carer's leave from their former Agency during the 12 months prior to joining the Agency, will transition to a monthly accrual at the next anniversary date of their last personal/carer's leave accrual.
130. Part-time employees are entitled to paid personal/carer's leave on a pro rata basis.
131. Casual employees are not entitled to paid personal/carer's leave.

132. Personal/carer's leave accumulates from year to year.
133. Unused personal/carer's leave will not be paid out on termination of employment.

### **Taking personal/carer's leave**

134. Employees must advise their manager as soon as possible of their absence or their intention to be absent.
135. To use personal/carer's leave, an employee must provide acceptable evidence in the following circumstances:
  - a. for personal/carer's leave of more than three consecutive working days
  - b. for any personal/carer's leave in excess of a total of ten days without evidence in any calendar year or
  - c. in any other circumstance, where requested by their manager, for future periods of leave.
136. In exceptional circumstances, such as chronic illness, where it is not reasonably practicable to provide evidence for each absence in excess of ten days in a calendar year, employees may provide medical evidence for a defined period.
137. Acceptable evidence will be evidence that would satisfy a reasonable person that the leave was taken in accordance with paragraph 124. Medical evidence from registered health practitioners will be accepted for the purpose of personal illness or injury or where required to undertake carer's responsibilities. Where it is not reasonably practicable to provide medical evidence from a registered health practitioner, a statutory declaration signed by the employee will be accepted.

### **Re-crediting periods of approved leave**

138. The Fair Work Ombudsman may approve personal/carer's, compassionate, or other leave types as provided by the NES (excluding parental leave) during a period of annual or long service leave if acceptable evidence is provided. Annual leave will be re-credited to the extent of any other leave granted.
139. Long service leave will only be re-credited for full days of leave. An employee is unable to access personal/carer's leave while on paid supporting partner/paternity leave.

### **Unpaid carer's leave**

140. An employee, including a casual employee, is entitled to two days of unpaid carer's leave for each occasion (a 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.
141. An employee may take unpaid carer's leave for a particular permissible occasion as a single continuous period of up to two days or any separate periods to which the employee and the Fair Work Ombudsman agree.
142. An employee cannot take unpaid carer's leave during a particular period if the employee could instead take paid personal/carer's leave.
143. The Fair Work Ombudsman may require the employee to provide evidence in support of the request for unpaid carer's leave. Medical evidence from registered health practitioners will be accepted for the purpose of caring responsibilities due to illness or injury. Where it is not reasonably practicable to provide medical evidence from a registered health practitioner, a statutory declaration signed by the employee will be accepted.

## **Compassionate leave**

144. A full-time or part-time employee may take three days paid compassionate leave on each occasion that a member of their 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.
145. The employee may take the period of leave as a single period of three days, three separate periods of one day each or any separate periods to which the Fair Work Ombudsman and employee agree.
146. The Fair Work Ombudsman may require the employee to provide evidence of the illness, injury or death in support of the request for leave.
147. A casual employee may access compassionate leave as per the NES.
148. The Fair Work Ombudsman may approve additional compassionate leave on the occasion of the death of a member of an employee's family or household. Discretion also exists for the Fair Work Ombudsman to approve applications for other leave with pay in circumstances where an employee has, because of his or her cultural traditions or religious beliefs, an obligation to fulfil responsibilities before and after death.

## **Long service leave**

149. Long service leave will accrue and be available to eligible employees in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.
150. Long service leave will only be granted for a minimum period of seven consecutive calendar days at full pay or 14 consecutive calendar days at half pay with the granting of such leave subject to operational requirements.
151. Periods of long service leave cannot be broken by any other leave including absences on flextime, except as provided for by legislation.

## **Parental leave**

### **Maternity leave**

152. Employees covered by this agreement may be entitled to up to 12 weeks paid maternity leave in accordance with the *Maternity Leave (Commonwealth Employees) Act 1973*.
153. Employees may elect to have the payment for this leave spread over a maximum of 24 weeks at a rate no less than half normal salary. Where payment is spread over a longer period, a maximum of 12 weeks of the leave period will count as service. The other weeks that do not count as service do not break the employee's continuous service with the Agency.

### **Additional paid maternity leave**

154. Employees are entitled to take an additional four weeks paid leave to be taken immediately following the paid period of maternity leave provided for under the *Maternity Leave (Commonwealth Employees) Act 1973*. The additional four weeks paid maternity leave will count as service for all purposes.
155. The Fair Work Ombudsman will approve an employee's request to have the payment for this leave spread over a maximum of eight weeks at a rate no less than half normal salary. Where payment is spread over a longer period, a maximum of four weeks of the leave period will count as service. The other weeks that do not count as service do not break the employees' continuous service with the Agency.

## Lactation breaks

156. An employee returning to work from maternity leave will also be supported through the provision of paid lactation breaks.

## Primary caregiver's leave

157. Primary caregiver means an ongoing employee with at least 12 months continuous service in the APS who:
- a. is the partner of a parent who has given birth, and
  - b. has the sole responsibility for providing care to a newborn baby within the family home during normal business hours.
158. The intention of primary caregiver's leave is to enable the partner of a parent who has given birth to access an entitlement equivalent to paid maternity/parental leave, where:
- a. the partner is the primary caregiver of the newborn baby; and
  - b. the partner of the primary caregiver (regardless of whether or how much employer-provided parental leave is granted), returns to employment within 16 weeks of the child's date of birth.
159. A primary caregiver is entitled to up to 16 weeks paid primary caregiver's leave.
160. A primary caregiver may elect to have the payment for this leave spread over 32 weeks at a rate of half normal salary. Where the payment is spread over a longer period, a maximum of 16 weeks of the leave period will count as service. The other weeks that do not count as service do not break the employees' continuous service with the Agency.
161. Primary caregiver's leave is available for a maximum period of 16 weeks commencing from the date of birth of the child (or 32 weeks, if taken at half pay).
162. Where a primary caregiver's partner has accessed, or intends to access, employer-provided parental leave, the primary caregiver may only access paid primary caregiver's leave on a non-concurrent basis (i.e. not whilst the employee's partner is accessing employer-provided parental leave) so that the combined period of parental and primary caregiver's leave does not exceed 16 weeks (or 32 weeks at half pay).
163. Applications for primary caregiver's leave must be supported by a signed statutory declaration which must include:
- a. a statement to the effect that the employee concerned is the primary caregiver for a child and the duration of the caring arrangements and
  - b. a statement that primary caregiver's leave for the employee concerned will only be accessed on a non-concurrent basis with any employer-provided parental leave entitlements taken by the employee's partner.
164. References to "employer-provided parental leave" refer to both paid and unpaid leave, including for maternity, primary caregivers, adoption, foster care or surrogacy arrangements. It does not include supporting partner leave.

## Paid supporting partner leave

165. A full-time or part-time employee is entitled to take four weeks paid leave within twelve months of the birth of the employee's child or the employee's partner's child [where the employee is not entitled to paid maternity leave under the *Maternity Leave (Commonwealth Employees) Act 1973* or primary caregiver's, adoption or foster care leave].
166. This leave with pay counts as service for all purposes.

## Unpaid parental leave

167. To enable an employee to care for a newborn, newly adopted or newly fostered child under 16 years of age, all employees are entitled to up to 52 weeks of unpaid parental leave. An employee who takes unpaid parental leave may request the Fair Work Ombudsman to agree to an extension of unpaid parental leave for a further period of up to 12 months immediately following the end of the available parental leave period (in accordance with section 76 of the FW Act).
168. Paragraph 167 does not apply to employees covered by the *Maternity Leave (Commonwealth Employees) Act 1973* to the extent that that Act is more beneficial.
169. The 52 weeks unpaid parental leave can be taken over a 68 week period unless required by legislation.
170. Unpaid parental leave does not count as service for any other purpose except as provided in the *Maternity Leave (Commonwealth Employees) Act 1973* as amended from time to time.

## Adoption and foster care leave

171. Full-time or part-time employees are entitled to up to 16 weeks paid adoption or foster care leave where:
  - a. the employee has at least 12 months continuous service in the APS and
  - b. is the primary caregiver for an adopted child under 16 years of age or
  - c. is the primary caregiver for a foster child under 16 years of age and, at its commencement, the arrangement is a long term, formal fostering arrangement of more than 12 months.
172. Adoption and foster care leave is available from one week prior to the date of placement of the child and must be taken within eight weeks of the child being adopted or fostered.
173. Paid adoption and foster care leave may be taken over 32 weeks at a rate of half normal salary. Where the payment is spread over a longer period, a maximum of 16 weeks of the leave period will count as service. The other weeks that do not count as service do not break the employee's continuous service with the Agency.
174. Applications for adoption or foster care leave must be supported by evidence which must include:
  - a. a signed statutory declaration that provides:
    - i. a statement to the effect that the employee concerned is the primary caregiver for the child, and
    - ii. a statement that the adoption or foster care leave for the employee concerned will only be accessed on a non-concurrent basis with any employer-provided parental leave entitlements taken by the employee's partner.
175. References to "employer-provided parental leave" refer to both paid and unpaid leave, including for maternity, primary caregivers, adoption, foster care or surrogacy arrangements. It does not include supporting partner leave.

## Pre adoption and foster leave

176. Employees in the process of adopting or fostering a child may take up to two days leave without pay to attend any interviews or examinations required to obtain approval for the adoption or foster arrangement.

## **Return to work from parental leave**

177. An employee returning to duty from maternity, primary caregiver's, adoption, foster care or unpaid parental leave and who is the primary caregiver of the child will be provided with access to part-time work, upon application, up until the child reaches school age.

## **Purchased leave**

178. Once in any 12 month period, an employee may elect to purchase from one to eight weeks' leave.
179. Purchased leave will count as service for all purposes.
180. The employee's salary for superannuation purposes continues to be their salary as if they had not purchased leave.
181. A reconciliation of purchased leave deductions will be undertaken at the conclusion of the purchased leave period.

## **Sabbatical leave**

182. The Fair Work Ombudsman may approve an application from an ongoing employee to work for a four year period followed by a one year sabbatical leave period.
183. An employee whose sabbatical leave application is approved will receive one year's sabbatical leave by agreeing to forgo 20% of their eligible salary on each payday in each of the four years immediately prior to going on one year's sabbatical leave.
184. During the sabbatical year, employees will be paid an amount equivalent to the total amount forgone from salary for the previous four years, in equal fortnightly instalments.
185. Should an employee cease employment with the Agency or otherwise leave the scheme, the Agency will pay the employee the balance of any amount forgone during the four year period.
186. Sabbatical leave does not count as service for any purpose.
187. Sabbatical leave does not break the continuity of service.

## **Other leave**

188. Other leave may be granted by the Fair Work Ombudsman, having regard to the operational needs of the Agency, including for purposes that the Fair Work Ombudsman considers to be in the interests of the Agency.
189. Other leave may be granted:
- a. for the period requested or for another period
  - b. with or without pay and
  - c. subject to conditions.
190. In order for absence on other leave without pay to count as service for personal/carer's leave, the employee must resume duty with the Agency at or before the expiration of the leave.
191. Further information is contained in the *Leave Policy*.

## **Cultural leave**

192. Leave with pay for up to two days per calendar year may be granted for employees to observe religious or culturally significant days/events.
193. Leave with pay for one day per calendar year may be granted for employees to attend or participate in NAIDOC week activities.

## **Community Service leave**

194. The Fair Work Ombudsman may grant paid leave for the purpose of engaging in emergency management activities as defined in the NES. Paid leave may be granted for up to four days for each emergency call out. An extension may be approved by the Fair Work Ombudsman for employees who are members of a State Emergency Service, fire fighting service and rescue unit or another volunteer organisation to respond to an emergency, including reasonable travel time and rest time. Leave without pay may also be granted.
195. Leave with pay will be granted for the purpose of engaging in jury service activities as defined in the NES. Payment by the courts for jury service activities should not be accepted by employees. If payment is accepted, the employee's salary will be reduced by the amount received.

## **Defence service sick leave**

196. Employees may be eligible to be granted Defence service sick leave while unfit for duty because of a Defence-caused condition.
197. A Defence caused condition means an injury or disease to a former member of the Defence Force that has been accepted by the Department of Veteran's Affairs (DVA) to be Defence caused within the meaning of the relevant legislation.
198. Evidence of DVA acceptance is required in order for an employee to be credited with Defence service sick leave.
199. Eligible employees will accrue a special credit of nine weeks on commencement in the APS and an annual credit of three weeks for each year of APS Service. Unused leave will accumulate to a maximum of nine weeks.

## **Leave for Australian Defence Force reserve and continuous full time service or Cadet Force obligations**

200. An employee may be granted leave (with or without pay) to enable the employee to fulfil Australian Defence Force (ADF) reserve and continuous full time service (CFTS) or Cadet Force obligations.
201. An employee is entitled to leave with pay, of up to four weeks during each financial year, and an additional two weeks paid leave in the first year of ADF Reserve Service, for the purpose of fulfilling service in the ADF Reserve.
202. With the exception of the additional two weeks in the first year of service, leave can be accumulated and taken over a period of two years.
203. Defence reserve leave counts as service for all purposes, except for unpaid leave to undertake CFTS. Unpaid leave for the purpose of CFTS counts as service for all purposes except annual leave accrual.

## **Domestic and Family Violence**

204. FWO is committed to providing a supportive, flexible and safe workplace for employees who are affected by domestic and family violence. Further information is available in the Domestic and Family Violence Policy.
205. For the purposes of this agreement, domestic and family violence will have the same meaning as "family violence" in the Family Law Act 1975.



206. An employee experiencing domestic or family violence, or who is supporting a family member impacted by domestic or family violence, may apply for Other leave as per paragraphs 188-191 for the purposes of seeking support or assistance required as a direct consequence of domestic or family violence. This may include, but is not limited to:

- a. Moving into emergency accommodation and/or seeking more permanent safe housing
- b. Organising alternative care and educational arrangements for children
- c. Attending medical or counselling appointments
- d. Attending court proceedings
- e. Attending police appointments
- f. Accessing legal and financial advice; or
- g. Engaging with other relevant support services.

This leave will be in addition to existing leave entitlements and may be taken as consecutive days, single days or part days.

207. In considering requests for leave or alternative working arrangements, the FWO may require evidence that would satisfy a reasonable person that the employee was absent because they are experiencing domestic or family violence.

Acceptable evidence includes a medical certificate, statutory declaration or an agreed document issued by the Police Service, a court, or Lawyer.

208. In some circumstances other available leave types may be more appropriate for an employee to access, this will be considered on a case by case basis.

209. Additional support regarding external services available to someone experiencing domestic or family violence may be provided to an individual by HR or by a FWO recognised Domestic and Family Violence Contact Officer.

### **Return to duty from unpaid leave**

210. On return to duty from any leave without pay which counts as service, leave credits (except for personal/carer's leave) will be calculated and applied in accordance with this agreement and the *Long Service Leave (Commonwealth Employees) Act 1976*. In the case of personal/carer's leave, the employee will accrue 18 days per year for the period of absence.

### **Portability of leave**

211. Where an employee joins the Agency from an employer staffed under the PS Act, the *Parliamentary Service Act 1999*, or from the Australian Capital Territory (ACT) Public Service, accrued annual leave and personal/carer's leave (however described) will be transferred or recognised provided there is no break in continuity of service. Future leave entitlements will accrue at the rate applying in the Agency.

212. Where a non-ongoing employee of the Agency becomes an ongoing employee, the employee's accrued annual and personal/carer's leave will be recognised, provided there is no break in continuity of service.

### **Recognition of prior service**

213. Prior service with organisations where the employee was previously employed under the PS Act, the *Parliamentary Service Act 1999*, or from the ACT Public Service, where there has been a break in service, for reasons other than redundancy, may be recognised for personal/carer's leave purposes if the break in service is not more than two calendar months. Prior service will be recognised for long service leave purposes in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

## Exceptional circumstances

214. The Fair Work Ombudsman may, in exceptional circumstances, recognise a period of service for personal/carer's leave purposes.

## Part H – Performance management

215. All employees will be required to genuinely and actively participate in performance management activities.
216. All employees will receive a performance rating at the end of the performance cycle which will reflect their performance for key outcomes and observable behaviours.
217. The following principles underpin our performance management practices:
- a. Managers have a responsibility to lead and manage for performance. Performance refers to the achievement of key deliverables and the demonstration of behaviours.
  - b. Employees will participate in performance and feedback discussions.
  - c. Where underperformance is identified, the affected employee(s) will work with their manager(s) to attain and sustain the standards required.
  - d. Procedural fairness is applied in all performance practices.
  - e. An employee may be supported by a person of their choice.
218. Further information is contained in the *Performance Policy* and the *Performance Improvement Guide*.

## Part I – Workforce management and planning

### Broadbanding

219. The Agency has established a broadband for the APS classifications 3, 4, 5 and 6, known as the General Broadband. Movement and salary progression through the General Broadband is not automatic and can only occur when:
- a. there is an ongoing position available at the higher classification and
  - b. there has been an assessment of the employee's work related qualities, including the necessary qualifications, skills, behaviour and experience to undertake the higher level work or
  - c. an employee has undertaken a mandatory training or development programme where progression is subject to the programme's outcomes or
  - d. an employee is successful in an open merit selection process consistent with paragraph 10A(1)(c) and 10A(2) of the PS Act.
220. Movement through the General Broadband to a higher classification will only be available to ongoing employees whose performance has been assessed as "Meets Expectations" or higher under the Performance Policy.
221. A decision as to whether to implement movement to a higher classification through the General Broadband or merit selection remains at the discretion of the Fair Work Ombudsman.

### Temporary reassignment of duties

222. The Fair Work Ombudsman may temporarily reassign an employee to other duties as set out in the PS Act.
223. Requests to participate in internal temporary transfers as a result of a successful Expression of Interest will be genuinely considered. Where a request is refused, a written response will be provided, upon request, including reasons for the refusal.

### **Reassignment to a lower classification**

224. Where an employee temporarily or permanently moves to a lower classification level at their own request, by consent or at the direction of the Fair Work Ombudsman, the Fair Work Ombudsman will determine a salary within the lower classification salary range, having regard to the experience, qualifications and skills of the employee, and the circumstances under which the reduction occurred. Normally, the salary will be at the top of the salary range of the lower classification. In the case of a temporary reassignment to a lower classification, such determination will specify the period for which the lower salary will apply.

### **Reassignment to a higher classification**

225. To be temporarily reassigned to a higher level and recommended for payment of TPL, an employee must have been assessed as 'Meets Expectations' or better in the Performance Rating Scale in their substantive classification or above, under the most recent performance cycle assessment, or where the manager otherwise certifies that the employee is meeting expectations and is capable of filling the higher level position.

### **Period of TPL attracting payment**

226. TPL is payable where an employee is engaged in and performs the duties at a higher classification for an approved period of temporary reassignment.

### **Level of payment**

227. When an employee is to be paid TPL, the employee will be paid at the pay point nominated by the Fair Work Ombudsman. Normally, this would be at the minimum pay point of the relevant salary range.
228. The pay point attained through salary advancement in previous periods of TPL at that classification level will be at least maintained.

### **Reassignment to SES classification**

229. A non-SES employee who is temporarily reassigned to perform work at an SES classification, will be paid at a rate determined by the Fair Work Ombudsman for the period of temporary reassignment.

### **Payment for partial performance**

230. Where the full range of duties of the position at a higher classification are not being undertaken by the employee, the Fair Work Ombudsman may determine payment at a point in a classification below that of the higher classification.

### **Public holidays or leave**

231. An employee in receipt of TPL who is granted paid leave or who observes a public holiday will continue to receive TPL, having regard to the provisions of this agreement, during their absence. TPL will not be paid beyond the date on which the employee would have ceased the period of temporary reassignment had they not been absent. Where the period of leave is paid at less than full pay, payment of TPL will be made on a pro rata basis.

## **Part J - Management of excess employees**

232. The Agency is committed to assisting employees to pursue redeployment opportunities within the Agency or other APS Agencies.
233. The following redeployment and redundancy provisions only apply to ongoing employees who are not on probation.

## **Definition of “excess”**

234. An employee is excess if:

- a. the employee is included in a class of employees employed in the Agency which class comprises a greater number of employees than is necessary for the efficient and economical working of the Agency
- b. the services of the employee cannot be effectively used because of technological or other changes in the work methods of the Agency or changes in the nature, extent or organisation of the functions of the Agency or
- c. where the duties usually performed by the employee are to be performed at a different locality, the employee is not willing to perform duties at the locality, and the Fair Work Ombudsman has determined that these provisions will apply to that employee.

## **Notification of potentially excess status**

235. Employees who are likely to become excess will be advised in writing by the Fair Work Ombudsman at the earliest practicable time.

## **Consultation period**

236. A period of consultation of up to four weeks will occur with the employee and if requested by the employee, their representative, to consider:

- a. actions that might be taken to reduce the likelihood of the employee becoming excess
- b. redeployment opportunities for the employee within the Agency or another APS Agency
- c. the availability of job swaps within the Agency or another APS Agency.

237. This consultation period may be foreshortened, with the written agreement of the employee.

238. As close to the beginning of this consultation period as possible, and at the latest by the commencement of the consideration period, the employee will also be given information on:

- a. the amounts payable as redundancy pay, pay in lieu of notice and accrued annual and long service leave credits
- b. the taxation rules applicable to the various payments made by the Agency and
- c. available outplacement assistance including financial advice, career counselling or training relevant to the employee’s career prospects are available for the employee. The total maximum amount payable will be \$5000. This payment is subject to the employee providing receipts or invoices from the provider(s) to demonstrate that the service(s) have been provided.

The information is provided for guidance purposes only, and is not an offer capable of forming a binding contract.

## **Voluntary redundancy**

239. Only one offer of voluntary redundancy will be made to an employee in an excess or potentially excess situation.

## **Consideration period**

240. Where the Fair Work Ombudsman offers an employee a voluntary redundancy, the employee will have a four week consideration period within which to accept or reject the offer. An employee and the Fair Work Ombudsman can agree to reduce this four week consideration period if the employee has received the information outlined in paragraph 238.

## Redundancy payments

241. An excess employee who agrees to be voluntarily retrenched and whose employment is terminated by the Fair Work Ombudsman on the grounds that they are excess to the requirements of the Agency, is entitled to be paid redundancy pay as follows:

- a. the sum equal to two weeks' salary for each completed year of continuous service and
- b. a pro rata payment for completed months of service since the last completed year of service.

This is subject to a minimum payment of four weeks and a maximum of 48 weeks' salary and also subject to any minimum amount the employee is entitled to under the NES.

242. In addition, where the consideration period is reduced, the employee will be paid:

- a. the unexpired portion of the consideration period as at the date of termination and
- b. any leave credits which would have accrued had the employee worked for the entire consideration period.

243. If the employee accepts the offer, the Fair Work Ombudsman will give the employee the required notice of termination of four weeks (or five weeks for an employee over 45 years of age) or a lesser period agreed with the employee. If the employee ceases employment at the commencement of or within the notice period, the employee will be paid for the unexpired portion of the notice period.

244. Redundancy payments will be calculated on:

- a. the employee's salary on the date of termination
- b. TPL, where the employee has received the loading for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of termination of employment and
- c. 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.

245. The redundancy payment will be calculated on a pro rata basis for any period where an employee has worked part-time hours during their period of service and the employee has less than 24 years full-time service, subject to any minimum amount the employee is entitled to under the NES.

## Calculating service for redundancy pay purposes

246. Subject to paragraphs 247 and 248, service for the purposes of calculating redundancy payments means:

- a. service in the Agency
- b. Government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*
- 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 long service leave purposes
- d. service with the Australian Defence Force
- e. service in another organisation where an employee was transferred from the APS to that organisation with a transfer of function, or an employee engaged by that organisation on work within a function is appointed as a result of the transfer of that function to the APS and such service is recognised for long service leave purposes.

247. For earlier periods of service to count, there must be no breaks between the periods of service, except where the break in service is less than one month and occurs where an offer of employment in relation to the second period of service was made and accepted by the employee before the first period of service ended (whether or not the two periods of service are with the same employer or Agency). Absences from work which do not count as service for any purpose will not count as service for redundancy pay purposes.
248. Periods of service that **will not** count as service for redundancy pay purposes are periods of service that ceased by way of:
- a. termination under section 29 of the PS Act or
  - b. prior to the commencement of the PS Act, by way of redundancy; retirement on the grounds of invalidity, inefficiency or loss of qualifications; forfeiture of office; dismissal or termination of probationary appointment for reasons of unsatisfactory service or
  - c. voluntary retirement at or above the minimum retiring age applicable to the employee or
  - d. payment of a redundancy benefit or similar payment or with the payment of an employer financed retirement.

### **Relocation assistance following offer of voluntary redundancy**

249. Where an ongoing employee has been relocated to a remote locality at the initiative of the Agency and is subsequently offered and accepts that offer of voluntary redundancy, the Fair Work Ombudsman may approve payment or reimbursement of reasonable costs incurred in the employee's return to their previous location.

### **Retention period**

250. The purpose of the retention period is to provide an employee with a specific period of time that may allow them to secure alternative employment.
251. The Fair Work Ombudsman will take all reasonable steps, consistent with efficient operational requirements, to avoid involuntary redundancy or compulsory redeployment. It is also the employee's responsibility to take all reasonable steps to identify and apply for suitable vacancies at their substantive level.
252. If an employee decides not to accept the offer of voluntary redundancy per paragraph 239 the retention period commences on the day after the expiry of the consideration period. If the consideration period is reduced per paragraph 240, this earlier date will be regarded as being the expiry of the consideration period. The retention period will be:
- a. 13 months for employees over 45 years of age or employees with over 20 years of service
  - b. seven months for other employees.
253. If an employee is entitled to a redundancy payment in accordance with the NES, the relevant period in paragraph 251 above is reduced by the number of weeks redundancy pay that the employee will be entitled to under the NES on termination, as at the expiration of the retention period (as adjusted by this paragraph).

### **Redeployment during the retention period**

254. During the retention period the employee:
- a. will be assisted with attempts to find alternative employment and/or
  - b. may, on request, be provided with assistance in meeting reasonable travel costs and incidental expenses incurred in seeking alternative employment where these expenses are not met by the prospective employer and/or

- c. may be moved to a suitable position, after being given four weeks' notice, at the current or a lower classification as a means of securing alternative employment. If this occurs, the employee will be paid their salary at the higher classification level for the remainder of the retention period.
255. Employees over 45 years of age and employees in regional and remote areas may be eligible for additional outplacement assistance (up to the value of \$3,075) during the retention period.
256. Where the Fair Work Ombudsman is satisfied that there is insufficient productive work available for the employee during the remainder of their retention period and that there are no reasonable redeployment prospects in the APS, the Fair Work Ombudsman may, terminate their employment under Section 29(3)(a) of the PS Act. Upon termination the employee will be paid a lump sum comprising:
- a. the balance of the retention period less the number of weeks redundancy pay that the employee will be entitled to under the NES and this payment will be taken to include the payment in lieu of notice of termination of employment and
  - b. an amount of redundancy pay as per the NES.

### **Extension of the retention period due to absence from work**

257. A retention period will only be extended by leave where the Fair Work Ombudsman is satisfied that an employee is substantially incapacitated and unfit for work, based on the opinion of a registered health practitioner nominated by the Fair Work Ombudsman. Unless exceptional circumstances exist, a retention period will not be extended on these grounds beyond an additional eight weeks.

### **Termination of employment**

258. Excess employees will not have their employment terminated involuntarily if they have not been invited to elect for voluntary retrenchment or if their election to be made redundant voluntarily has been refused.
259. An excess employee's employment will be terminated under section 29 of the PS Act when their retention period ceases.
260. Where the employee is to be terminated involuntarily, the Fair Work Ombudsman will give four weeks' notice of termination, or five weeks for an employee over 45 years of age or a lesser period agreed with the employee. As far as practicable, the period of notice will be served concurrently with the retention period. If the employee ceases employment at the commencement of or within the notice period the employee will be paid for the unexpired portion of the notice period.

## **Part K – Separation**

### **Termination at the Agency's initiative**

261. Notice of termination will be as provided for under the NES (section 117 of the FW Act).
262. Where an ongoing employee is to have their employment terminated, the provisions of section 29 of the PS Act will apply.

### **Right of review**

263. To avoid doubt, this agreement does not provide the employee with any rights or remedies in relation to the termination of, or a decision to terminate, their employment. Termination of employment, or a decision to terminate employment, cannot be reviewed under the dispute resolution procedure contained in this agreement or under the review of employment related action procedures.

## Termination at employee's initiative

264. Where an employee terminates their employment, the notice of termination required to be given by an employee is the same as that required of an employer, except that there is no requirement on the employee to give additional notice based on the age of the employee concerned. The minimum period of notice is set out below:

Period	Employee's period of continuous service with the employer at the end of the day the notice is given	Period
1	Not more than one year	One week
2	More than one year but not more than three years	Two weeks
3	More than three years but not more than five years	Three weeks
4	More than five years	Four weeks

265. The obligation to provide notice by an employee may be waived by the Fair Work Ombudsman.

266. Where an employee resigns on a public holiday, they will be deemed to have resigned on the last working day prior to the public holiday.

## Payments on death

267. Where an employee dies, or is presumed to have died on a particular date, the Fair Work Ombudsman may authorise a payment, to be made to the dependants or partner or the legal representative of the employee of the amount which the former employee would have been entitled had they ceased employment on resignation or retirement. Long service leave credits will be paid out in accordance with the *Long Service Leave Act (Commonwealth Employees) 1976*.

# Part L – Working together

## Diversity and Inclusion

268. The Agency is committed to promoting and supporting workplace diversity and to creating an environment that values and utilises the contributions of people with different backgrounds, experiences and perspectives.

## Consulting on workplace issues

269. The Agency is committed to consulting with employees about issues relating to the implementation and operation of this agreement and issues affecting their entitlements and conditions of employment, including policies, procedures, guides and guidelines.

270. The Agency communicates and consults with employees through:

- a. meetings
- b. the Intranet, with a minimum period of 10 working days for consultation and
- c. an Agency Consultative Forum (ACF).

271. It is acknowledged that there may be circumstances where the Fair Work Ombudsman is not able to consult with employees.

272. An individual employee's choice to be represented will be respected by all parties in the workplace.



## Consultation

273. Paragraph 274 to 289 are the model consultation term from the *Fair Work Regulations 2009*.

274. This Part applies if the Agency:

- a. has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise that is likely to have a significant effect on the employees or
- b. proposes to introduce a change to the regular roster or ordinary hours of work of employees.

## Major change

275. For a major change referred to in paragraph 274 a:

- a. the Agency must notify the relevant employees of the decision to introduce the major change and
- b. sub paragraphs 276 to 282 apply.

276. The relevant employees may appoint a representative for the purposes of the procedures in this Part.

277. 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 Agency of the identity of the representative
- c. the Agency must recognise the representative.

278. As soon as practicable after making its decision, the Agency must:

- a. discuss with the relevant employees:
  - i. the introduction of the change and
  - ii. the effect the change is likely to have on the employees and
  - iii. measures the Agency 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 and including the nature of the change proposed
  - ii. information about the expected effects of the change on the employees
  - iii. any other matters likely to affect the employees.

279. However, the Agency is not required to disclose confidential or commercially sensitive information to the relevant employees.

280. The Agency must give prompt and genuine consideration to matters raised about the major change by relevant employees.

281. If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Agency, the requirements set out in paragraph 275 a and paragraphs 276 and 278 are taken not to apply.

282. In this Part, a major change is **likely to have a significant effect on employees** if it results in:

- a. the termination of employment of employees or
- b. major change to the composition, operation, or size of the Agency'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.

### **Change to regular roster or ordinary hours of work**

283. For a change referred to in 274 b:

- a. the Agency must notify the relevant employees of the proposed change and
- b. paragraphs 284 to 288 apply.

284. The relevant employee may appoint a representative for the purposes of the procedures in this Part.

285. 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 Agency of the identity of the representative

the Agency must recognise the representative.

286. As soon as practicable after proposing to introduce the change, the Agency must:

- 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 Agency reasonably believes will be the effects of the change on the employees and
  - iii. information about any other matters that the Agency 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).

287. However, the Agency is not required to disclose confidential or commercially sensitive information to the relevant employees.

288. The Agency must give prompt and genuine consideration to matters raised about the change by the relevant employees.

289. In this Part:

**relevant employees** means the employees who may be affected by a change referred to in paragraph 274.

### **Dealing with disputes for enterprise agreements**

290. If a dispute relates to:

- a. a matter arising under the agreement, or
- b. the NES

this Part sets out procedures to settle the dispute.

291. An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this Part.

292. In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.

293. If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to Fair Work Commission.

294. 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 purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

295. While the parties are trying to resolve the dispute using the procedures in this Part:
- a. an employee must continue to perform their work as they would normally in accordance with established custom and practice in their substantive role that existed prior to the dispute arising unless they have a reasonable concern about an imminent risk to their health or safety and
  - b. an employee must comply with a direction given by the Agency to perform other available work at the same workplace, or at another workplace, unless:
    - i. the work is not safe or
    - ii. applicable occupational 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.

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

## Part M – Relocation

### Relocation assistance

297. Employees who are relocated to a different geographic location at the Agency's initiative, or employees who permanently relocate to a different geographic location at their own request, may discuss a package of assistance with the relevant manager subject to the approval by the Fair Work Ombudsman. Where relocation is at the Agency's initiative, the assistance must meet reasonable costs necessarily incurred through relocation.
298. If a temporary relocation is for at least eight weeks, the employee is eligible for one return airfare to the usual work locality during that period, and during any further eight week period. If an employee with dependants is accompanied by all dependants, the fare will not be granted. The airfare is to be used in the employee's own time, and all other costs associated with the travel will be met by the employee.

# Attachments

## Classifications, the General Broadband and salary rates Attachment A - Table 1 - Fair Work Ombudsman Salary Rates

Broadband	APS classification	Pay point	Salaries effective on commencement	Salaries effective 12 months from commencement	Salaries effective 24 months from commencement
FWO General Broadband	<b>Executive Level 2</b>	Exec 2.5	\$148,916	\$151,894	\$154,932
		Exec 2.4	\$144,185	\$147,069	\$150,010
		Exec 2.3	\$136,879	\$139,616	\$142,409
		Exec 2.2	\$132,044	\$134,685	\$137,379
		Exec 2.1	\$127,305	\$129,851	\$132,448
	<b>Executive Level 1</b>	Exec 1.3	\$119,219	\$121,603	\$124,035
		Exec 1.2	\$114,814	\$117,111	\$119,453
		Exec 1.1	\$110,468	\$112,677	\$114,931
	<b>APS Level 6</b>	APS 6.5	\$99,863	\$101,860	\$103,898
		APS 6.4	\$95,452	\$97,361	\$99,308
		APS 6.3	\$91,763	\$93,599	\$95,471
		APS 6.2	\$89,303	\$91,089	\$92,911
		APS 6.1	\$86,869	\$88,607	\$90,379
	<b>APS Level 5</b>	APS 5.3	\$85,014	\$86,714	\$88,449
		APS 5.2	\$82,670	\$84,323	\$86,010
		APS 5.1	\$80,241	\$81,846	\$83,483
	<b>APS Level 4</b>	APS 4.4	\$78,121	\$79,683	\$81,277
		APS 4.3	\$76,089	\$77,611	\$79,163
		APS 4.2	\$74,195	\$75,679	\$77,192
		APS 4.1	\$72,022	\$73,463	\$74,932
<b>APS Level 3</b>	APS 3.4	\$69,770	\$71,165	\$72,589	
	APS 3.3	\$67,942	\$69,301	\$70,687	
	APS 3.2	\$66,301	\$67,627	\$68,980	
	APS 3.1	\$64,730	\$66,025	\$67,345	
<b>APS Level 2</b>	APS 2.4	\$63,007	\$64,268	\$65,553	
	APS 2.3	\$60,749	\$61,964	\$63,203	
	APS 2.2	\$59,126	\$60,309	\$61,515	
	APS 2.1	\$57,572	\$58,723	\$59,898	
<b>APS Level 1</b>	APS 1.2	\$52,801	\$53,857	\$54,934	
	APS 1.1	\$50,810	\$51,826	\$52,863	

Salaries are full-time equivalent (pro rata for part-time employees).

## Attachment B - Supported Wage System

299. This attachment defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this agreement.

300. In this attachment:

- a. **Approved assessor** means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system
- b. **Assessment instrument** means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system
- c. **Disability Support Pension** means the Commonwealth Government pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991* (Cth), as amended from time to time, or any successor to that scheme
- d. **Relevant minimum wage** means the minimum wage prescribed in this agreement for the class of work for which an employee is engaged
- e. **Supported Wage System (SWS)** means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the JobAccess website ([www.jobaccess.gov.au](http://www.jobaccess.gov.au))
- f. **SWS wage assessment agreement** means the document in the form required by the Department of Employment that records the employee's productive capacity and agreed wage rate.

### Eligibility criteria

301. Employees covered by this attachment will be those who are unable to perform the range of duties to the competence level required within the class for which the employee is engaged under this agreement, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.

302. The attachment does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this agreement relating to the rehabilitation of employees who are injured in the course of their employment.

### Supported wage rates

Employees to whom this clause applies shall be paid the applicable percentage of the relevant minimum wage according to the following schedule: <b>Assessed capacity [paragraphs 305 &amp; 306]</b>	<b>% of prescribed agreement rate</b>
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

303. Provided that the minimum amount payable must be not less than \$87 per week or other amount as determined by the Fair Work Commission.
304. Where an employee's assessed capacity is 10%; they must receive a high degree of assistance and support.

### **Assessment of capacity**

305. For the purposes of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and the employee, and if the employee so desires, a union which the employee is eligible to join.
306. Assessment made under this attachment must be documented in a SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

### **Lodgement of SWS wage assessment agreement**

307. All SWS wage assessment agreements under the conditions of this attachment, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.
308. All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the agreement is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

### **Review of assessment**

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

### **Other terms and conditions of employment**

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

### **Workplace adjustment**

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

### **Trial Period**

312. In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this attachment for a Trial Period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
313. During that Trial Period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
314. The minimum amount payable to the employee during the Trial Period must be no less than \$87 per week.

315. Work trials should include induction or training as appropriate to the job being trialled.
316. Where an employee's assessed capacity is 10%; they must receive a high degree of assistance and support.

## Definitions

<b>Agency</b>	Means the Office of the Fair Work Ombudsman, a Statutory Agency created by Part 5-2 of the FW Act.
<b>Agreement</b>	Means the Fair Work Ombudsman Enterprise Agreement 2019 – 2022.
<b>Classification</b>	An approved classification as defined in the Public Service Classification Rules. At date of lodgement, non-SES classifications are APS Levels 1 – 6, Executive Levels 1 and 2. The General Broadband is a local title which groups the duties of some of these classifications.
<b>Dependant</b>	In relation to an employee means: <ul style="list-style-type: none"> <li>a. the spouse of the employee and/or</li> <li>b. a child or parent of the employee, or of the spouse of the employee, being a child or parent who ordinarily resides with the employee and who is wholly or substantially dependent upon the employee.</li> </ul> For the purposes of eligibility for Agency allowances or assistance, an adult dependant is a person for whom the employee is eligible to claim a tax offset from the Australian Tax Office. A child dependant is a child less than 18 years or a full-time student less than 25 years.
<b>Employees</b>	All persons employed under the <i>Public Service Act 1999</i> (PS Act) who are covered by this agreement.
<b>Fair Work Ombudsman or FWO</b>	Means the Agency Head of the Office of the Fair Work Ombudsman appointed under section 681 of the FW Act.
<b>Family</b>	A person who is related by blood, marriage (including a former spouse), adoption, fostering or traditional kinship; a de facto partner (including same sex partner and former de facto partner); a person who has a strong affinity with the employee; or a parent, child, grandparent, grandchild or sibling of the employee's spouse or de facto partner.
<b>Manager</b>	The person to whom an employee is responsible and who is authorised by the Fair Work Ombudsman to exercise the powers and responsibilities of manager in relation to that employee.
<b>Medical evidence</b>	A certificate or report provided by: <ul style="list-style-type: none"> <li>a. a registered health practitioner, including a medical practitioner, dentist, optometrist, radiographer, psychologist, physiotherapist, chiropractor, podiatrist, osteopath, or acupuncturist; or</li> <li>b. another health practitioner (e.g. naturopath, herbalist, homeopath or iridologist) in circumstances where the employee has either been referred to that health practitioner by a registered health practitioner, or obtains a registered health practitioner's endorsement that the treatment provided was desirable.</li> </ul>

<b>Non-ongoing employee</b>	Is an employee engaged for: <ul style="list-style-type: none"> <li>• a specified term (paragraph 22(2)(b) of the PS Act);</li> <li>• the duration of a specified task (paragraph 22(2)(b) of the PS Act); or</li> <li>• duties that are intermittent (paragraph 22(2)(c) of the PS Act).</li> </ul>
<b>Ongoing employee</b>	As per paragraph 22(2)(a) of the PS Act.
<b>Ordinary Hours</b>	Ordinary hours are 7 hours 30 minutes per day and are used to calculate leave accruals and deductions, deductions for unauthorised absences, deductions for participation in industrial action as defined in the FW Act and part-time hours.
<b>Partner</b>	In relation to a person who is a member of a couple, the other member of the couple.
<b>Redeployment</b>	Reassignment of duties within the Agency or movement to another APS Agency.
<b>Salary</b>	The employee's salary is the relevant rate at Attachment A or as determined by the Fair Work Ombudsman from time to time. It is salary for all purposes, including superannuation (subject to relevant superannuation scheme rules), overtime, payment of excess flextime, severance and termination and excludes loadings and allowances. Neither participation in salary sacrifice arrangements nor purchased leave affect salary as defined.
<b>Salary advancement</b>	This means the movement through the pay points within the salary range for a classification. These increases are counted as salary for the purposes of determining salary for superannuation purposes, in accordance with the relevant superannuation fund rules.
<b>Settlement period</b>	A settlement period is 20 consecutive working days from payday Thursday to the Wednesday before payday, four weeks following. This is a total of 150 hours per four week settlement period.



This agreement is made and approved under section 172 of the Fair Work Act 2009.

The persons below sign this agreement in accordance with Regulation 2.06A of the Fair Work Regulations 2009.

**On behalf of the Minister for Industrial Relations**

Signed:



Sandra Parker  
Fair Work Ombudsman  
Office of the Fair Work Ombudsman  
Level 14, 414 La Trobe Street, Melbourne VIC 3000  
Date: 29/11/19

**Bargaining representative**

Signed:



Brooke Muscat-Bentley  
Deputy National President  
Community and Public Sector Union  
Level 1, 40 Brisbane Avenue, Barton ACT 2600  
Date: 02/12/19