
Productivity Commission Enterprise Agreement 2024 – 2027



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1 Technical matters

1.1 Title

1. This agreement will be known as the Productivity Commission Enterprise Agreement 2024 – 2027.

1.2 Parties to the agreement

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

1.3 Operation of the agreement

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

1.4 Delegations

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

1.5 Definitions

6. The following definitions apply to this agreement:
 - 6.1 **APS agency** means an agency whose employees are employed under the PS Act, including an agency as defined in section 7 of the PS Act whose employees are employed under that Act.
 - 6.2 **APS consultative committee** means the committee established by the APS Commissioner to consider matters pertaining to the (APS) employment relationship and of interest to the APS as a whole.
 - 6.3 **Agency Head** or **Chair** means the Chair of the Productivity Commission, or the Chair’s delegate.

- 6.4 **Agreement** means the Productivity Commission Enterprise Agreement 2024 – 2027.
- 6.5 **APS** means the Australian Public Service.
- 6.6 **Australian Defence Force Cadets** means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.
- 6.7 **Bandwidth** means the span of hours during which an employee can perform ordinary hours.
- 6.8 **Broadband** refers to the allocation of more than one approved classification by the Chair to a group of duties involving work value applying to more than one classification under sub-rule 9(4) of the *Public Service Classification Rules 2000*. A broadband encompasses the full range of work value of the classifications contained within it.
- 6.9 **Casual employee (irregular or intermittent employee)** means an employee engaged under section 22(2)(c) of the PS Act who:
- a. is a casual employee as defined by the FW Act; and
 - b. works on an irregular or intermittent basis.
- 6.10 **Classification or classification level** means the approved classifications as set out in rule 5 of the *Public Service Classification Rules 2000*.
- 6.11 **Child** means a biological child, adopted child, foster child, stepchild, or ward.
- 6.12 **Commission** means the Productivity Commission.
- 6.13 **De facto partner** means a person who, regardless of gender, is living in a common household with the employee in a bona fide, domestic, interdependent partnership, although not legally married to the employee. This includes a former de facto partner.
- 6.14 **Delegate** means someone to whom a power or function has been delegated.
- 6.15 **Dependant** means the employee's spouse or de facto partner, a child, parent or aged relative of the employee or the employee's spouse or de facto partner, who ordinarily lives with the employee and who is substantially dependent on the employee. Dependant also includes a child of the employee who does not ordinarily live with the employee but for whom the employee provides substantial financial support.
- 6.16 **Employee** means an employee of the Commonwealth engaged under section 22(2) of the PS Act who is covered by this agreement (whether full-time, part-time or casual, ongoing or non-ongoing).
- 6.17 **Employee representative** means a person (whether an employee or not) elected or chosen by an employee, or elected or chosen by a group of employees in a workplace, to represent the individual and/or collective views of those employees in relation to a matter under this agreement.
- 6.18 **Family** means:
- a. a spouse, former spouse, de facto partner or former de facto partner of the employee;
 - b. a child, parent, grandparent, grandchild, or sibling of the employee;
 - c. a child, parent, grandparent, grandchild, or sibling of a spouse, former spouse, de facto partner or former de facto partner of the employee;

- d. a member of the employee's household; or
 - e. a person with whom the employee has a relationship of traditional kinship where there is a relationship or obligation, under customs and traditions of the community or group to which the employee belongs.
- 6.19 **Family and domestic violence** has the same meaning as in section 106B(2) of the FW Act.
- 6.20 **Full-time employee** means an employee employed to work an average of 37 hours and 30 minutes per week, in accordance with this agreement.
- 6.21 **FW Act** means the *Fair Work Act 2009* as amended from time to time.
- 6.22 **Manager** means an employee's direct manager who is usually the person to whom an employee reports to on a day-to-day basis for work related matters, and may include a person referred to as a supervisor.
- 6.23 **ML Act** means the *Maternity Leave (Commonwealth Employees) Act 1973* as amended from time to time, and any successor legislation.
- 6.24 **Non-ongoing employee** means an employee engaged for a specified term or for the duration of a specified task in accordance with section 22(2)(b) of the PS Act, and consistent with the FW Act.
- 6.25 **NES** means the National Employment Standards at Part 2-2 of the FW Act.
- 6.26 **Ongoing employee** means an employee engaged under section 22(2)(a) of the PS Act.
- 6.27 **Ordinary hours, duty or work** means an employee's usual hours worked in accordance with this agreement and does not include additional hours.
- 6.28 **Parliamentary service** means employment under the *Parliamentary Service Act 1999*.
- 6.29 **Partner** means a spouse (including a former spouse) or de facto partner (including a former de facto partner).
- 6.30 **Part-time employee** means an employee employed to work less than an average 37 hours and 30 minutes per week, in accordance with this agreement.
- 6.31 **Primary caregiver** for the purposes of the parental leave clause means a pregnant employee with an entitlement under the ML Act, or an employee other than a casual employee who has primary care responsibility for a child who is born to them or who is adopted or in long-term foster care as per the clauses on adoption and long-term foster care in this agreement.
- 6.32 **PS Act** means the *Public Service Act 1999* as amended from time to time.
- 6.33 **Relevant employee** means an affected employee.
- 6.34 **Secondary caregiver** for the purposes of the parental leave clause means an employee, other than a pregnant employee or casual employee, who has secondary care responsibility for a child who is born to them, or for a child who is adopted or in long-term foster care as per the clauses on adoption and long-term foster care in this agreement.
- 6.35 **Usual location of work** means the designated office location identified in the employee's letter of offer or other engagement documentation. If no designated office location was specified on engagement, the Agency Head may specify a

designated office location by advising the employee in writing. The agency and employee may agree to vary the employee's designated office location on a temporary or permanent basis.

1.6 National Employment Standards (NES) precedence

7. The terms of this agreement are intended to apply in a manner that does not derogate from the National Employment Standards (NES). The NES will continue to apply to the extent that any term of this agreement is detrimental to an employee of the Commission in any respect when compared with the NES.

1.7 Closed comprehensive agreement

8. This agreement states the terms and conditions of employment of employees covered by this agreement, other than terms and conditions applying under relevant Commonwealth laws.
9. This agreement will be supported by policies and guidelines, as implemented and varied from time to time.
10. Policies and guidelines are not incorporated into and do not form part of this agreement. To the extent that there is any inconsistency between policies and guidelines and the terms of this agreement, the terms of this agreement will prevail.

1.8 Individual flexibility arrangements

11. The Commission and an employee covered by this agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
 - 11.1 the agreement deals with one or more of the following matters:
 - a. arrangements about when work is performed;
 - b. overtime rates;
 - c. penalty rates;
 - d. allowances;
 - e. remuneration; and
 - f. leave and leave loading; and
 - 11.2 the arrangement meets the genuine needs of the Commission and employee in relation to one or more of the matters mentioned in clause 11.1; and
 - 11.3 the arrangement is genuinely agreed to by the Commission and employee.
12. The agency must ensure that the terms of the individual flexibility arrangement:
 - 12.1 are about permitted matters under section 172 of the FW Act;
 - 12.2 are not unlawful terms under section 194 of the FW Act; and
 - 12.3 result in the employee being better off overall than the employee would be if no arrangement was made.

13. The Commission must ensure that the individual flexibility arrangement:
 - 13.1 is in writing;
 - 13.2 includes the name of the Commission and employee;
 - 13.3 is signed by the Commission and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
 - 13.4 includes details of:
 - a. the terms of the enterprise agreement that will be varied by the arrangement;
 - b. how the arrangement will vary the effect of the terms;
 - c. how the employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and
 - 13.5 states the day on which the arrangement commences.
14. The Commission must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
15. The Commission or employee may terminate the individual flexibility arrangement:
 - 15.1 by giving no more than 28 days written notice to the other party to the arrangement; or
 - 15.2 if the Commission and employee agree in writing – at any time.
16. The Commission and employee are to review the individual flexibility arrangement at least every 12 months.

2 Remuneration

2.1 Salary

17. The salary rates will be as set out in **Attachment A – Base salaries** to this agreement.
18. The base salary rates in Attachment A include the following increases:
 - 18.1 4.0 per cent from the first full pay period on or after 1 March 2024 (14 March 2024);
 - 18.2 3.8 per cent from the first full pay period on or after 1 March 2025 (13 March 2025); and
 - 18.3 3.4 per cent from the first full pay period on or after 1 March 2026 (12 March 2026).
19. In recognition of a common alignment date of the first full pay period on or after 1 March each year, the payments in Attachment A were calculated based on base salary rates as at 31 August 2023.
20. Note: for general salary increases, employees in the former EL2 'discretionary' range are considered to be within the salary range for their classification. The EL2 discretionary range is included at Attachment A for grandfathering purposes only.

2.2 Payment of salary

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

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

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

2.3 Salary setting

22. Where an employee is engaged, moves to or is promoted in the Commission, the employee's salary will be paid at the minimum of the salary range of the relevant classification, unless the Chair determines a higher salary within the relevant salary range under these salary setting clauses.
23. The Chair may determine the payment of salary at a higher value within the relevant salary range of the relevant classification and the date of effect at any time.
24. In determining a salary under these salary setting clauses, the Chair will have regard to relevant factors including the employee's experience, qualifications and skills.
25. Where an employee commences ongoing employment in the Commission immediately following a period of non-ongoing employment in the Commission for a specified term or task, the Chair will determine the payment of the employee's salary within the relevant salary range of the relevant classification which recognises the employee's prior service as a non-ongoing employee in the Commission.

- 26. Where an employee commences ongoing employment in the Commission immediately following a period of casual employment in the Commission, the Chair will determine the payment of salary within the relevant salary range of the relevant classification which recognises the employee’s prior service as a casual employee in the Commission.
- 27. Where an APS employee moves to the Commission at level from another APS agency, and their salary is above the maximum of the salary range for their classification, the Chair will maintain the employee’s salary at that level, until it is absorbed into the salary range for that classification.
- 28. Where the Chair determines that an employee’s salary has been incorrectly set, the Chair may determine the correct salary and the date of effect.

2.4 Incremental advancement

- 29. Incremental salary advancement is intended to recognise an employee’s capability development (skills, knowledge and experience) and contribution over time.
- 30. Employees who are below the top of the salary range for their classification are eligible for an annual performance-based increment of up to 2.5 per cent, based on the outcomes of each of their biannual performance assessments.
- 31. Annual salary increments are approved by the Chair, and:
 - 31.1 are paid to eligible employees, with effect from the beginning of the first pay period in each financial year;
 - 31.2 reflect performance assessment outcomes for individual employees in one or both of the biannual performance assessments over the previous 12-month performance cycle; and
 - 31.3 provide for incremental advancement as follows, subject to the eligibility requirements at clause 32:

Formal performance assessment at (or above) substantive classification	Percentage increase to base salary
Two formal assessments of effective performance	2.5 per cent
One formal assessment of effective performance	1.25 per cent
No formal assessment of effective performance	0 per cent

Note: Employees whose salaries are less than 2.5 per cent from the top of the range for their classification will be eligible for advancement up to the top of the range.

- 32. An employee, other than a casual employee, is eligible for incremental salary advancement at their classification (including acting) if they:
 - 32.1 have a performance agreement and development plan in place which reflects their current classification, role and responsibilities; and
 - 32.2 have at least three months of aggregate service at or above their substantive classification, including periods of paid leave and unpaid leave that counts as service, during each relevant six-month performance assessment period; and
 - 32.3 have been assessed as performing effectively in one or both biannual performance assessments.
- 33. To avoid disadvantage, employees who are on a period of paid or unpaid parental leave will be eligible for their full annual increment, that would otherwise have been payable, during their first 12 months of parental leave, up to a maximum of 2.5 per cent.

34. Employees who are acting at a higher classification, and satisfy other eligibility criteria as set out at in clause 32, at the time of annual incremental advancement will:
 - 34.1 be eligible for incremental advancement at both their substantive and acting classifications; and
 - 34.2 will retain the salary reached at the higher classification for future acting duties at, or promotion to, that classification within the Commission.

2.5 Superannuation

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

2.5.1 Method for calculating superannuation salary

38. The Commission will provide an employer contribution of 15.4 per cent of the employee's Fortnightly Contribution Salary (FCS) for employees in the Public Sector Superannuation Accumulation Plan (PSSap) and Ordinary Time Earnings (OTE) for employees in other accumulation funds.
39. Employer contributions will be made for all employees covered by this agreement.
40. Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements.

2.5.2 Payment during unpaid parental leave

41. Employer contributions will be paid on periods of unpaid parental leave in accordance with the requirements of the PSSap fund, where the employee is a member of the PSSap.

2.6 Salary packaging

42. Employees have access to salary packaging arrangements. Further information is available in the Commission's policy related to salary packaging.
43. Where an employee takes up the option of salary packaging on a 'salary sacrifice' basis, the employee's salary for purposes of superannuation, severance and termination payments (and any other purpose) will be determined as if the salary sacrifice arrangement had not been entered into.

2.7 Overpayments

44. An overpayment occurs if the Chair (or the Commission) provides an employee with an amount of money to which the employee was not entitled (including but not limited to salary, entitlements, allowances, travel payment and/or other amount payable under this agreement).
45. Where the Chair considers that an overpayment has occurred, the Chair will provide the employee with notice in writing. The notice will provide details of the overpayment.
46. If an employee disagrees that there has been an overpayment, including the amount of the overpayment, they will advise the Chair in writing within 28 calendar days of receiving the notice. In this event, no further action will be taken until the employee's response has been reviewed.
47. If after considering the employee's response (if any), the Agency Head confirms that an overpayment has occurred, the overpayment will be treated as a debt to the Commonwealth that must be repaid to the agency in full by the employee.
48. The Chair and the employee will discuss a suitable recovery arrangement. A recovery arrangement will take into account the nature and amount of the debt, the employee's circumstances and any potential hardship to the employee. The arrangement will be documented in writing.
49. The Commission and employee may agree to make deduction from final monies where there is an outstanding payment upon cessation of employment.
50. Interest will not be charged on overpayments.
51. Nothing in clauses 44 to 50 prevents:
 - 51.1 The Commission from pursuing recovery of the debt in accordance with an Accountable Authority Instruction issued under the *Public Governance, Performance and Accountability Act 2013*;
 - 51.2 the Commission from pursuing recovery of the debt through other available legal avenues;
 - 51.3 the employee or the Commission from seeking approval to waive the debt under the *Public Governance, Performance and Accountability Act 2013*.

2.8 Supported wage system

52. An employee can get a percentage of the relevant pay rate in line with their assessed capacity to do the work if they:
 - 52.1 have a disability;
 - 52.2 meet the criteria for a Disability Support Pension; and
 - 52.3 are unable to perform duties to the capacity required.
53. Specific conditions relating to the supported wage system are detailed in Attachment B – Supported Wage System.

3 Allowances

3.1 Higher duties allowance

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

3.2 Workplace responsibility allowances

60. A workplace responsibility allowance will be paid where an agency has appointed or elected an employee to one of the following roles:
 - 60.1 First Aid Officer;
 - 60.2 Health and Safety Representative;
 - 60.3 Emergency Warden;
 - 60.4 Harassment Contact Officer; and
 - 60.5 Mental Health First Aid Officer.
61. An employee is not to receive more than one workplace responsibility allowance unless approved by the Agency Head due to operational requirements.
62. The minimum rate will be:

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

Note: As a salary-related allowance, this value will continue to be increased in line with headline wage increases. These increases are incorporated in the minimum rates in the table above.

63. The full allowance is payable regardless of flexible work and part-time arrangements.

- 64. The allowance is payable during periods of paid leave.
- 65. The allowance counts as salary for superannuation purposes and for calculating retirement and redundancy entitlements.
- 66. An employee’s physical availability to undertake the role will be considered by agencies when appointing and reappointing employees to these roles. This is noting that not all workplace responsibility roles will necessarily require a physical presence in the workplace for the role to be successfully undertaken, such as Harassment Contact Officers, Mental Health First Aid Officers and Health and Safety Representatives depending on work group arrangements.
- 67. Casual employees who are eligible to receive a workplace responsibility allowance will be paid the full amount (noting the minimum rate), as varied from time to time provided they engage in work during any given pay cycle, irrespective of the frequency and duration of the work undertaken.

3.3 Community language allowance

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

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

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

4 Classifications and Broadbands

4.1 Broadbands

4.1.1 Classification and broadband structure

74. The following broadbands will operate within the Commission:

Broadband title	APS classification range
Staff Level 1A	APS Levels 1–2
Staff Level 1	APS Levels 3–4
Commission Graduate	APS Levels 3–5
Staff Level 2	APS Levels 5–6

4.1.2 Advancement within a broadband

75. An employee is eligible for advancement between classifications within a broadband if:

- 75.1 sufficient work is available at the higher classification level;
- 75.2 they have gained the necessary skills and proficiencies to perform duties at the higher classification; and
- 75.3 their performance has been fully effective at their current classification in the previous 12 months.

76. Advancement within a broadband may also occur following a merit selection process.

4.1.3 Movement between broadbands

77. Movement between Staff Level broadbands may only occur after a merit selection process.

4.2 Graduates

78. Employees engaged to participate in the Commission's annual Graduate program will be engaged at the APS 4 classification, within the Commission Graduate broadband.

79. The Chair may determine the commencement classification and broadband progression requirements within the Commission Graduate broadband, for entry-level employees who are engaged through whole-of-government graduate or other graduate/development programs.

80. Subject to the requirements of clause 75, an employee engaged within the Commission Graduate broadband is eligible for advancement to the next classification within that broadband on completing their graduate (or other development) program.

4.3 Work Level Standards

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

5 Working hours and arrangements

5.1 Job security

5.1.1 Commitment to ongoing employment and rebuilding APS capacity

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

5.1.2 Reporting

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

5.1.3 Pathways to permanency

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

5.2 Non-ongoing employment

85. A non-ongoing employee is defined in the definitions section.
86. Non-ongoing employees will generally have the same terms and conditions of employment as ongoing employees under this agreement's terms, except:
- 86.1 personal/carer's leave accrual at clause 196;
 - 86.2 redundancy provisions at section 11.2, subject to clause 87; and
 - 86.3 where otherwise specified in this agreement.
87. If the non-ongoing employee's contract is not permitted by section 333E of the FW Act, then the redundancy provisions at section 11.2 will apply.
88. If the redundancy provisions apply to an employee under clause 87, the agency must adhere to the consultation requirements in section 10 and where applicable, the consultation provisions in section 11.2.

5.3 Casual (irregular or intermittent) employment

89. A casual (irregular or intermittent) employee is defined in the definitions section.
90. A decision to expand the use of casual employees is subject to section 10.1 of this agreement.
91. The Commission will regularly review the working arrangements of casuals to assess if they are genuinely performing irregular and intermittent duties, and report de-identified outcomes to the consultative committee, where one is in place.

92. Remuneration for casual employees will be on an hourly basis. A casual employee will receive a 25 per cent loading on the base hourly rate of their classification as set out in this agreement.
93. The casual loading is paid in lieu of payment for public holidays not worked, notice of termination of employment, redundancy benefits and all paid leave entitlements, other than leave required by legislation including long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976* and leave for family and domestic violence support.
94. A casual employee will be engaged for a minimum of 3 hours per engagement or will be paid for a minimum of 3 hours at the appropriate casual rate.
95. A casual employee who is eligible for a workplace responsibility allowance will be paid the full amount.

5.4 Flexible working arrangements

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

5.4.1 Requesting formal flexible working arrangements

100. The following provisions do not diminish an employee's entitlement under the NES.
101. An employee may make a request for a formal flexible working arrangement.
102. The request must:
 - 102.1 be in writing;

- 102.2 set out details of the change sought (including the type of arrangement sought and the proposed period the arrangement will operate for); and
- 102.3 set out the reasons for the change, noting the reasons for the change may relate to the circumstances set out at section 65(1A) of the FW Act.
- 103. The Chair must provide a written response to a request within 21 days of receiving the request.
- 104. The response must:
 - 104.1 state that the Chair approves the request and provide the relevant detail in clause 105; or
 - 104.2 if following discussion between the Commission and the employee, the Commission and the employee agree to a change to the employee's working arrangements that differs from that set out in the request – set out the agreed change; or
 - 104.3 state that the Chair refuses the request and include the following matters:
 - a. details of the reasons for the refusal; and
 - b. set out the agency's particular business grounds for refusing the request, explain how those grounds apply to the request; and
 - c. either:
 - i. set out the changes (other than the requested change) in the employee's working arrangements that would accommodate, to any extent, the employee's circumstances outlined in the request and that the agency would be willing to make; or
 - ii. state that there are no such changes; and
 - d. state that a decision to refuse the request, or failure to provide a written response within 21 days is subject to the dispute resolution procedures of the enterprise agreement, and if the employee is an eligible employee under the FW Act, the dispute resolution procedures outlined in section 65B and 65C of the FW Act.
- 105. Where the Chair approves the request, this will form an arrangement between the agency and the employee. Each arrangement must be in writing and set out:
 - 105.1 any security and work health and safety requirements;
 - 105.2 a review date (subject to clause 109); and
 - 105.3 the cost of establishment (if any).
- 106. The Chair may refuse to approve the request only if:
 - 106.1 the Commission has discussed the request with the employee; and
 - 106.2 the Commission has genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for refusal); and
 - 106.3 the Commission and the employee have not reached such an agreement; and
 - 106.4 the Commission has had regard to the consequences of the refusal for the employee; and

- 106.5 the refusal is on reasonable business grounds.
107. Reasonable business grounds include, but are not limited to:
- 107.1 the new working arrangements requested would be too costly for the Commission;
 - 107.2 there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested;
 - 107.3 it would be impractical to change the working arrangements of other employees, or to recruit new employees, to accommodate the new working arrangements requested;
 - 107.4 the new working arrangements requested would be likely to result in a significant loss in efficiency or productivity;
 - 107.5 the new working arrangements requested would be likely to have a significant negative impact on customer service; and
 - 107.6 it would not be possible to accommodate the working arrangements without significant changes to security requirements, or where work health and safety risks cannot be mitigated.
108. For First Nations employees, the Commission must consider connection to country and cultural obligations in responding to requests for altering the location of work.
109. Approved flexible working arrangements will be reviewed by the Commission and the employee after 12 months, or a shorter period, if agreed by the employee. This is to ensure the effectiveness of the arrangement.

5.4.2 Varying, pausing or terminating flexible working arrangements

110. An employee may request to vary an approved flexible working arrangement in accordance with clause 102. An employee may request to pause or terminate an approved flexible working arrangement.
111. The Chair may vary, pause or terminate an approved flexible working arrangement on reasonable business grounds, subject to clause 113.
112. The agency must provide reasonable notice if varying, pausing or terminating a flexible working arrangement without the agreement of the employee, having regard to the circumstances of the employee. Exceptions to this requirement are urgent and critical operational circumstances or an employee's demonstrated and repeated failure to comply with the agreed arrangements.
113. Prior to the Chair varying, pausing or terminating the arrangement under clause 111, the Commission must have:
- 113.1 discussed with the employee their intention to vary, pause or terminate the arrangement with the employee;
 - 113.2 genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for alteration);
 - 113.3 had regard to the consequences of the variation, pause or termination for the employee;

- 113.4 ensured the variation, pause or termination is on reasonable business grounds; and
- 113.5 informed the employee in writing of the variation, pause or termination to the approved flexible working arrangement, including details set out in clause 104.3.

5.4.3 Working from home

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

5.4.4 Ad-hoc arrangements

- 119. Employees may request ad-hoc flexible working arrangements. Ad-hoc arrangements are generally one-off or short-term arrangements for circumstances that are not ongoing.
- 120. Employees should, where practicable, make the request in writing and provide as much notice as possible.
- 121. Requests for ad-hoc arrangements are not subject to the request and approval processes detailed in clauses 101 to 109.
- 122. The Commission should consider ad-hoc requests on a case-by-case basis, with a bias to approving ad-hoc requests, having regard to the employee's circumstances and reasonable business grounds.
- 123. Where a regular pattern of requests for ad-hoc arrangements from an employee emerges, the Commission should consider whether it is appropriate to seek to formalise the arrangement with the employee.

5.4.5 Altering bandwidth / span of hours

- 124. An employee may request to work an alternative regular bandwidth (span of hours). If approved by the Chair, hours worked on this basis will be treated as regular working hours, and hours worked within the agreed bandwidth will not attract overtime payments.
- 125. The Commission will not request or require that any employee alter their regular span of hours (bandwidth hours) under these provisions.

5.5 Working hours

5.5.1 Hours of work

126. The ordinary hours of work for a full-time employee are 37 hours and 30 minutes per week, which translates to:
- 126.1 a standard day of 7 hours and 30 minutes per day from Monday to Friday, within a bandwidth (span of hours) of 8.00 am to 6.00 pm; and
 - 126.2 150 hours over a four-week settlement period.
127. The ordinary hours of work for a part-time employee are as per their part-time agreement.
128. A manager and employee may agree to vary the bandwidth (span of hours) under section 5.4.5.
129. For administrative purposes (including leave, attendance and payment of salary), the standard day is recorded in Aurion – including start, finish and break times.
- 129.1 For full-time employees, a standard day is 7 hours and 30 minutes.
 - 129.2 For part-time employees, a standard day is as per their part-time agreement.

5.5.2 Attendance arrangements

130. All Commission employees may work flexible hours, subject to clauses 131 to 134 below, and can request to formalise other flexible working arrangements in accordance with section 5.4.1.
131. Employees and their manager will work together to manage workloads and working hours. Managers will take into account employee preferences regarding hours of attendance, subject to operational needs.
132. Managers can require employees to attend and work the standard day within the bandwidth hours.
- 132.1 Where required for operational reasons, an employee can be directed to work during the core hours of 9.30 am to 12.00 pm and 2.00 pm to 4.00 pm, Monday to Friday.
 - 132.2 The timing of meetings and training sessions will be scheduled during and around core hours, as far as operationally practicable.
133. Attendance arrangements provide a level of flexibility to employees in their daily working hours, as agreed between managers and employees having regard to the following:
- 133.1 the need for adequate staffing of all areas of the Commission to meet operational requirements during the standard day;
 - 133.2 employees' personal needs and family commitments;
 - 133.3 the need to ensure that employees are productively employed and effectively supervised where appropriate; and
 - 133.4 work health and safety and security considerations (such as access to building out of hours). In this regard, employees should provide managers with prior advice of their intentions to work outside their bandwidth, or at any times on weekends or public holidays.

- 134. An employee must not be required to work more than:
 - 134.1 10 hours in any one day, unless it is directed duty to which it is agreed that overtime (clause 149) or flex/TOIL accrual as an alternative to overtime (clause 151) will apply; and
 - 134.2 5 hours without a meal break of at least 30 minutes.
- 135. All employees are required to record their working hours in a manner determined by the Chair.
- 136. Further details on working hours and attendance arrangements is available in the Commission’s policy related to flexible working arrangements.

5.6 Part-time work

- 137. Unless agreed otherwise between the employee and the Chair in writing, or otherwise described in this agreement, remuneration and other non-expense related benefits for part-time employees will be calculated on a pro-rata basis.
- 138. Employees engaged on a full-time basis will not be compelled to convert to part-time employment.
- 139. Employees engaged on a part-time basis will not be compelled to convert to full-time employment.

5.7 Flex for APS 1-6 classifications

- 140. Flex time arrangements (or ‘flex’) for APS Level 1–6 employees provide a level of flexibility to employees in their daily working hours, and:
 - 140.1 enables employees and their managers to agree to short-term variations in working hours; and
 - 140.2 is not intended to increase or reduce the total number of hours to be worked over a four-week settlement period.
- 141. Employees at or below APS Level 6 must record their hours using the Commission’s flex time recording system.
- 142. Employees who work more or less than their ordinary hours within the bandwidth will incur an hour-for-hour flex credit or debit. Flex credits should:
 - 142.1 only be accrued where there is an operational reason for an employee to be working above their ordinary hours; and
 - 142.2 be used for time off within the four-week settlement period, or as soon as practicable.
- 143. Over a four-week flex settlement period, the maximum carry over limits will generally apply, unless otherwise agreed in accordance with clause 144:

	Full time employees	Part-time employees
Flex credit	37 hours and 30 minutes (100% of weekly hours)	100% of their agreed total weekly hours of work
Flex debit	15 hours (40% of weekly hours)	40% of their agreed total weekly hours of work

144. The employee and their manager should proactively monitor the employee's working hours and flex balance. Where an employee carries over excess flex credits or debits, they should agree with their manager a strategy to return their flex balance to within the carry over limits.
145. Absence from duty on flex time is subject to prior approval by the employee's manager and the Commission's operational requirements, and should not exceed five days flex time during a four-week settlement period (unless otherwise agreed under clause 144).
146. Credits accumulated cannot be cashed out.
147. Further details on the administration of flex time and recording attendance is available in the Commission's policy related to flexible working arrangements.

5.8 Overtime

148. With all employees having access to flexible working hours, the parties to this agreement will endeavour to minimise the need for overtime. Consistent with the NES, employees may refuse to work unreasonable additional hours.
149. Employees can be directed to work additional hours where necessary for operational requirements.
 - 149.1 Overtime will apply to directed duty, worked in excess of the employee's standard day (as defined in clause 129) and outside the employee's usual bandwidth hours . This includes any directed duty worked on weekends or public holidays.
 - 149.2 Where circumstances do not permit prior direction, overtime can be subsequently approved in writing by the Chair.
150. The rate of payment for overtime will be time-and-a-half of the employee's current salary plus any allowances in the nature of salary.
151. As an alternative to paid overtime, an employee may choose to access flex time or TOIL at the rate of 1.5 hours for each hour of directed overtime worked.
152. Further details on overtime and managing additional working hours is available in the Commission's policy related to flexible working arrangements.

5.9 EL TOIL

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

157. An EL employee's working arrangements and actual hours worked should be discussed on at least a quarterly basis between the EL employee and their manager.
158. The pattern of hours is to be flexible enough to accommodate short term peaks and troughs in workload, and include expected reasonable additional hours. The agreed pattern of hours is to be recorded.
159. Requests from EL employees to access flexible time off which are consistent with their agreed working arrangements are to be supported, subject to operational requirements.
160. Further details on the administration of TOIL and recording attendance is available in the Commission's policy related to flexible working arrangements.

5.10 End of year closedown

161. The Commission will close its normal operations from close of business on the last working day before Christmas, with business resuming on the first working day after New Year's Day ('end of year closedown').
162. Employees will be provided with time off work for the working days in the end of year closedown and will be paid in accordance with their ordinary hours of work. There will be no requirement to take annual leave or use accrued flex time.
 - 162.1 Unless required by legislation (for example, related to long service leave) there will be no deduction from paid leave credits for the end of year closedown.
 - 162.2 Where an employee would otherwise be absent on leave on that day, the rate of payment will be in accordance with the payment for that leave (for example, if the employee is on long service leave or a form of parental leave at half pay, payment for the closedown will also be at half pay).

5.11 Public holidays

163. Employees are entitled to the following holidays each year as observed at their normal work location in accordance with the *Fair Work Act 2009*:
 - 163.1 1 January (New Year's Day);
 - 163.2 26 January (Australia Day);
 - 163.3 Good Friday and the following Monday;
 - 163.4 25 April (Anzac Day);
 - 163.5 the King's birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
 - 163.6 25 December (Christmas Day);
 - 163.7 26 December (Boxing Day); and
 - 163.8 any other day, or part day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part day, or a kind of day or part day, that is excluded by the *Fair Work Regulations 2009* from counting as a public holiday.

- 164. If a public holiday falls on a Saturday or Sunday, and if under a State or Territory law, a day or part day is substituted for one of the public holidays listed above, then the substituted day or part day is the public holiday.
- 165. The Chair 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.
- 166. The Chair and an employee may agree to substitute a cultural or religious day of significance to the employee for any day that is a prescribed holiday. If the employee cannot work on the prescribed holiday, the employee will be required to work make-up time at times to be agreed. This substitution does not impact or reduce an employee's entitlement to First Nations ceremonial leave, NAIDOC leave or cultural leave
- 167. Where an employee substitutes a public holiday for another day, they will not be paid penalty rates for working their normal hours on the public holiday.
- 168. Where a public holiday falls during a period when an employee is absent on leave (other than annual leave, paid personal/carer's leave or defence service sick leave) there is no entitlement to receive payment as a public holiday. Payment for that day will be in accordance with the entitlement for that form of leave (e.g. if on long service leave on half pay, payment is at half pay.)
- 169. If under a law of a State or Territory every Sunday is declared or prescribed by or under that law to be a public holiday, there is no entitlement to receive payment as a public holiday if the employee would have worked, or does perform work, on that day. In these circumstances, payment will only be made at the public holiday rate if the employee performs work on that day, and the Sunday would otherwise be a public holiday under clause 163.
- 170. An employee, who is absent on a day or part day that is a public holiday in their normal work location, is entitled to be paid for the part or full day absence as if that day or part day was not a public holiday, except where that person would not normally have worked on that day.
- 171. Where a full-time employee, including but not limited to employees on compressed hours, has a regular planned day off which would fall on a public holiday, the Chair may allow the employee to change their planned day off so that it does not fall on a public holiday. If it is not possible to change their planned day off, the employee will be credited an equivalent amount of time to their regular hours for the day in flex credits or EL TOIL in recognition of their planned day off.

5.12 Other attendance arrangements

5.12.1 Return from any type of parental leave

- 172. Employees returning to work after a period of parental leave will be assigned to the duties previously performed where available.
- 173. An employee returning to duty from parental leave will have the right to access part time work in accordance with the part time provisions of this agreement.

5.12.2 Reversion to a standard day

- 174. The Chair may revert an employee to a 7 hour and 30 minutes standard day for a period where:
 - 174.1 it is necessary to meet essential work requirements; or

- 174.2 it is reasonable because an employee has failed to comply with their agreed attendance arrangements, subject to the provisions of section 5.4.2 (in respect of varying, pausing or terminating flexible working arrangements).

5.12.3 Unauthorised absence

175. Where an employee is absent from work without approval, e.g. without the express approval of their supervisor, or not in accordance with a term of this agreement, the absence will be treated as an 'unauthorised absence' and will not count as service for any purpose under this agreement, including remuneration and leave accrual.

6 Leave

6.1 Application and approval of leave

- 176. All forms of leave must be applied for and approved by the Chair (or delegate).
- 177. Where an employee takes over 30 days (cumulative) of leave without pay in a calendar year, the whole period will not count as service for any purpose, subject to legislation.
- 178. Further information on application and approval of various leave types in this section is available in the Commission's policy document/s relating to leave.

6.2 Annual leave

- 179. All employees, other than casual employees, are entitled to annual leave.
- 180. Full-time employees are entitled to 4 weeks (20 days) of annual leave per year (pro-rata for part-time employees).
- 181. Annual leave will accrue and be credited daily.
- 182. Annual leave can be taken as it accrues, subject to prior approval by the employee's manager.
- 183. Annual leave may be taken at half pay, subject to approval of the Chair. When taken at half pay, deductions from annual leave credits will be halved.
 - 183.1 A maximum 16 weeks per calendar year will count as service.
 - 183.2 Unless approved by the Chair, annual leave may not be taken at half pay where the employee has an excessive leave balance.
- 184. If an employee has an been credited more than 60 days of annual leave (pro rata for part-time employees), they are considered to have an excess leave balance. The employee is to reach an agreement with their manager on a reasonable time period for taking up to a quarter of their credited annual leave.
- 185. An employee may make a written agreement with their manager to cash out a particular amount of annual leave, provided that:
 - 185.1 after cash out the employee's remaining entitlement to annual leave is 10 days or more; and
 - 185.2 the employee has taken a period of at least two weeks of annual leave or long service leave (or a combination of both) in the twelve-month period prior to the application.
- 186. Where annual leave is cancelled or the employee is recalled to duty, the employee will be reimbursed travel costs not recoverable from insurance or other sources. Evidence of costs may be required.
- 187. Employees will receive payment in lieu of any untaken annual leave upon separation from the APS.
- 188. Further information on annual leave arrangements, including the administration of excess leave balances and cash out requests, is available in the Commission's policy relating to leave.

6.3 Purchased leave

189. By agreement, employees may purchase up to 20 days' leave in each 12-month period, at their substantive salary, to count as service.
- 189.1 Deductions will be made from fortnightly salary in equal instalments over the course of 12 months, or a lesser period as otherwise agreed.
- 189.2 Approval to take purchased leave is subject to operational requirements.
- 189.3 Employees will receive reimbursement for the balance of any purchased leave that has been paid for, but not used, upon separation from the Commission.
190. Further information on the administration of purchased leave is available in the Commission's policy relating to leave.

6.4 Personal/carer's leave

6.4.1 Entitlement to personal/carer's leave

191. All employees, other than casual employees, are entitled to paid personal/carer's leave.
192. Full-time employees are entitled to 18 days of paid personal/carer's leave per year of service (pro-rata for part-time employees).
193. Personal/carer's leave may be taken at half pay subject to approval of the Chair. When taken at half pay, deductions from personal/carer's leave credits will be halved.
194. A casual employee may be absent without pay when not fit for work due to personal illness or injury. A casual employee may access 2 days unpaid carer's leave per occasion, consistent with the NES.

6.4.2 Crediting and accrual

195. Ongoing employees will be credited 18 days personal/carer's leave upon commencement with the APS (pro-rata for part-time employees).
- 195.1 Following their initial personal/carer's leave credit, an ongoing employee's leave will accrue daily, and be credited at least monthly, after 12 months (subject to clause 197).
196. Non-ongoing employees will be credited with personal/carer's leave as follows:
- 196.1 An initial personal/carer's leave credit upon commencement with the Commission, which will be capped at 18 days, and be provided on a pro-rata basis where:
- a. the employee's initial contract period is less than 12 months; and/or
 - b. the employee is engaged on a part-time basis.
- 196.2 Following their initial personal/carer's leave credit, a non-ongoing employee's leave will accrue daily, and be credited at least monthly:
- a. after their initial contract period or 12 months (subject to clause 197), whichever is shorter; or
 - b. where the employee has an existing entitlement to personal/carer's leave.

- 197. An employee's accrual date for personal/carer's leave will be deferred by periods of leave not to count as service of more than 30 days in aggregate over the previous 12 months.
- 198. Where an employee moves to the Commission from another APS agency, the provisions of section 6.13 (portability of leave) will also be considered in determining their eligibility for leave crediting and accrual under clause 195 or 196.
- 199. Employees in receipt of worker's compensation for more than 45 cumulative weeks will accrue personal/carer's leave credits on a pro-rata basis for hours actually worked.

Transitional arrangements

- 200. The accrual method set out above will apply from when the transition to daily accrual of personal/carer's leave occurs. The Commission will transition to the daily accrual method and (at least) monthly leave crediting by 1 January 2026.
- 201. Before the transition to daily accrual of personal/carer's leave, employees will continue to accrue annual personal/carer's leave credits in advance, up until their next scheduled accrual date (subject to clause 197).
- 202. Where an employee:
 - 202.1 has or cares for someone with, a chronic condition or other ongoing illness; or
 - 202.2 is recovering from surgery; or
 - 202.3 is pregnant; or
 - 202.4 is returning from parental leave or has a child commencing day care;
 and, as a result of the transition to daily accrual of personal/carer's leave, does not have sufficient credit to cover an absence for which they would otherwise be able to take personal/carer's leave, the Chair will advance the employee's accrual up to the 12-month anniversary when their leave would otherwise be credited.

6.4.3 Usage

- 203. Personal/carer's leave may be used:
 - 203.1 due to personal illness or injury;
 - 203.2 to attend appointments with a registered health practitioner;
 - 203.3 to manage a chronic condition; and/or
 - 203.4 to provide care or support for a family or household member or a person they have caring responsibilities for, because:
 - a. of a personal illness or injury affecting the other person; or
 - b. of an unexpected emergency affecting the other person.
- 204. A person that an employee has caring responsibilities for may include a person who needs care because they:
 - 204.1 have a medical condition, including when they are in hospital;
 - 204.2 have a mental illness;
 - 204.3 have a disability;
 - 204.4 are frail or aged; and/or

204.5 are a child, not limited to a child of the employee.

6.4.4 Evidence requirements

205. Evidence may be requested after more than:
- 205.1 three consecutive days; or
 - 205.2 8 days without evidence in a calendar year.
206. An employee's manager may exercise discretion to inform the employee that such evidence will not be required.
207. Acceptable evidence includes:
- 207.1 a certificate from a registered health practitioner;
 - 207.2 a statutory declaration; or
 - 207.3 another form of evidence approved by the Chair.
208. A certificate from a registered health practitioner may be used as evidence of a chronic condition for up to 12 months for both personal and carer's leave.
209. Further information on personal/carer's leave is available in the Commission's policy relating to leave.

6.5 Parental leave

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

6.5.1 Payment during parental leave

214. An employee is entitled to parental leave with pay as per clauses 216 and 217 below within the parental leave period. Any further parental leave during the parental leave period is without pay. Unused paid parental leave remaining at the end of the employee's parental leave period will lapse. An employee may choose to use their accrued paid leave entitlements in accordance with usage and eligibility requirements in this agreement during the parental leave period that would otherwise be without pay.

215. Employees newly engaged or who have moved to the Commission from another APS agency are eligible for the paid parental leave in clauses 216 and 217 where such paid leave had not already been provided by another APS or Commonwealth employer in the 24 months since the child's date of birth or placement. If the paid leave used by the employee with the previous Commonwealth or APS employer is less than the limits specified in clauses 216 and 217, the balance is available to the employee.
216. An employee who is a primary caregiver is entitled to parental leave with pay during the parental leave period to a maximum of 18 weeks as provided in **Table 1** below.

Table 1: Primary caregivers – circumstances for paid parental leave

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

217. An employee who is a secondary caregiver is entitled to parental leave with pay during the parental leave period as provided in **Table 2** below.

Table 2: Secondary caregivers – circumstances for paid parental leave

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

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

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

6.5.2 Adoption and long-term foster care

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

6.5.3 Stillbirth

223. Parents of a stillborn child remain eligible for parental leave, except for paid leave for the secondary caregiver which is two weeks.
224. A stillborn child is a child:
- 224.1 who weighs at least 400 grams at delivery or whose period of gestation was 20 weeks or more;
 - 224.2 who has not breathed since delivery; and
 - 224.3 whose heart has not beaten since delivery.

6.5.4 Pregnancy loss leave

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

6.5.5 Premature birth leave

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

6.5.6 Transitional provisions

228. Employees eligible for paid leave under the ML Act are required under legislation to use their paid maternity leave first. In this circumstance, the employee may postpone their

paid premature birth leave otherwise payable under clause 227 until after the legislated paid maternity leave is used.

6.6 Compassionate leave

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

6.7 Bereavement leave

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

6.8 Cultural, ceremonial and NAIDOC leave

6.8.1 NAIDOC leave and support

- 237. First Nations employees, including part-time employees, may access up to one day of paid leave per calendar year, to participate in NAIDOC week activities. NAIDOC leave can be taken in part days.
- 238. Regardless of their eligibility to access NAIDOC leave, all employees will be supported to participate, on paid time, in the Commission's NAIDOC week activities.

6.8.2 First Nations ceremonial leave

- 239. First Nations employees, including part-time employees, may access up to 6 days of paid leave over 2 years to participate in significant activities associated with their culture or to fulfil ceremonial obligations.
- 240. The Chair may approve additional leave for cultural or ceremonial purposes as miscellaneous leave, with or without pay.
- 241. First Nations ceremonial leave can be taken as part days.
- 242. First Nations ceremonial leave is in addition to compassionate and bereavement leave.

6.8.3 Cultural leave

- 243. The Chair may grant an employee, including a part-time employee, up to 3 days of paid leave per calendar year for the purpose of attending significant religious or cultural obligations associated with the employees' particular faith or culture.
- 244. The Chair may approve additional leave for cultural purposes as miscellaneous leave, with or without pay.
- 245. Cultural leave can be taken as part days.
- 246. For the avoidance of doubt, this leave does not cover cultural purposes or obligations which are eligible for paid leave under section 6.8.2.

6.9 Long service leave

- 247. An employee is eligible for long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.
- 248. The minimum period for which long service leave will be granted is 7 calendar days (whether taken at full or half pay). Long service leave cannot be broken with other periods of leave, except as otherwise provided by legislation or provided for in the re-crediting of leave clause at section 6.14 of this agreement.

6.10 Sabbatical leave

- 249. The Chair has discretion to approve a written application from an ongoing employee to purchase a period of sabbatical leave, and to determine the conditions that will apply.
 - 249.1 Generally, sabbatical leave will not count as service for any purpose.
- 250. By agreement, an employee may elect to have 20% of their gross fortnightly salary withheld each pay day:
 - 250.1 over two years – in order to access sabbatical leave for six months in the third year; or
 - 250.2 over four years – in order to access sabbatical leave for 12 months in the fifth year.
- 251. The withheld salary will be paid to the employee over the period of sabbatical leave in equal fortnightly instalments.
- 252. Further information on sabbatical leave is available in the Commission's policy relating to leave.

6.11 Other key leave types

6.11.1 Emergency response leave

253. In line with section 108 of the FW Act, an employee who engages in an eligible community service activity can get emergency response leave to volunteer for emergency management duties for:
- 253.1 the time engaged in the activity;
 - 253.2 reasonable travelling time; and
 - 253.3 reasonable recovery time.
254. Full-time and part-time employees will be able to access 20 working days of paid emergency response leave per year, at their full rate of pay, if required. The Chair may provide additional emergency response leave with pay.
- 254.1 For the purposes of this clause, full rate of pay is to be as if the employee was at work.
255. Paid leave may be refused where the employee's role is essential to the Commission's response to the emergency.
256. An employee must provide evidence that the organisation requests their services. Employees can provide evidence before or as soon as practical after their emergency service activity.
257. The Chair may approve reasonable paid or unpaid leave for ceremonial duties and training.
258. Emergency response leave, with or without pay, will count as service.

6.11.2 Jury duty

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

6.11.3 Leave to attend proceedings

263. An employee giving evidence before a Court, Tribunal or Royal Commission on behalf of the Commonwealth or a Commonwealth party in the course of their duties, will be considered on duty.

264. An employee who is not covered under clause 263, and is required to give evidence to, appear before or attend to instruct a representative at a Court, Tribunal or Royal Commission in relation to their duties will be released from duty without loss of pay. This includes in proceedings relating to a dispute between the employee and the Productivity Commission.
265. An employee may otherwise be granted paid or unpaid miscellaneous leave by the Chair if required to give evidence to a Court, Tribunal or Royal Commission for any other reason. Where approval for unpaid leave is given, the employee may elect to use accrued annual leave, flex leave or time off in lieu.
266. The Chair may refuse to release an employee from duty having regard to business requirements and whether the employee's attendance is necessary for the Court, Tribunal or Royal Commission hearing.

6.11.4 Defence reservist leave

267. The Chair will give an employee leave with or without pay to undertake:
- 267.1 Australian Defence Force (ADF) Reserve and continuous full-time service (CFTS); and
- 267.2 Australian Defence Force Cadet obligations.
268. An employee who is a Defence Reservist can take leave with pay for:
- 268.1 up to 4 weeks (20 days) in each financial year (pro-rata for part-time employees); and
- 268.2 an extra 2 weeks (10 days) in the first year of ADF Reserve service (pro-rata for part-time employees).
269. Leave can be built up and taken over 2 consecutive years. This includes the extra 2 weeks in the first year of service.
270. An employee who is an Australian Defence Force Cadet officer or instructor can get paid leave up to 3 weeks in each financial year to perform their duties. Australian Defence Force Cadets means:
- 270.1 Australian Navy Cadets;
- 270.2 Australian Army Cadets; and
- 270.3 Australian Air Force Cadets.
271. In addition to the entitlement at clause 268, paid leave may be granted to an employee to attend an interview or medical examination in connection with the enlistment of the employee in a Reserve Force of the Defence Force.
272. Paid defence reservist leave counts for service.
273. Unpaid defence reservist leave for 6 months or less counts as service for all purposes. This includes periods of CFTS.
274. Unpaid leave taken over 6 months counts as service, except for annual leave.
275. An employee will not need to pay their tax free ADF Reserve salary to their agency for any reason.

6.11.5 Defence service sick leave

- 276. An employee is eligible for defence service sick leave credits when the Department of Veterans Affairs (DVA) has certified that an employee's medical condition is as a result of either:
 - 276.1 war-like service; or
 - 276.2 non-war like service.
- 277. An eligible employee can get 2 types of credits:
 - 277.1 an initial credit of 9 weeks (45 days) defence service sick leave (pro rata for part-time employees) will apply as of the later below option:
 - a. they start employment with the APS; or
 - b. DVA certifies the condition; and
 - 277.2 an annual credit of 3 weeks (15 days) defence service sick leave (pro rata for part-time employees).
- 278. An employee can use their defence service sick leave when a recognised medical practitioner provides a certificate that says they were away due to their DVA certified medical condition.
- 279. Unused annual credits can be built up to 9 weeks.
- 280. An employee cannot use annual credits until the initial credit is exhausted.
- 281. Defence service sick leave is paid and counts as service for all purposes.

6.12 Miscellaneous leave

- 282. The Chair may exercise discretion to grant an employee miscellaneous leave, for a purpose that is not provided for elsewhere in this agreement.
- 283. Considerations for determining whether to grant miscellaneous leave include:
 - 283.1 whether it is for a purpose that the Chair considers to be in the interest of the Commission;
 - 283.2 operational requirements; and
 - 283.3 the employee's circumstances, nature of the request, and any relevant supporting evidence provided.
- 284. If approved, the Chair will also determine the conditions that will apply. Such leave may:
 - 284.1 be with pay (full or part) or without pay; and
 - 284.2 count for service, or may not count for service.
- 285. Miscellaneous leave may be granted to casual employees for the purpose of paid family and domestic violence leave and to accommodate other Government directives.
- 286. Further information on miscellaneous leave is available in the Commission's policy relating to leave.

6.13 Portability of leave

287. Where an employee moves into the Commission from another APS agency where they were an ongoing employee, the employee's unused accrued annual leave and personal/carer's leave will be transferred, provided there is no break in continuity of service.
288. Where an employee is engaged in the Commission immediately following a period of ongoing employment in the Parliamentary Service or the ACT Government Service, the employee's unused accrued annual leave and personal/carer's leave will be recognised unless the employee received payment in lieu of those entitlements on cessation of employment.
289. Where an employee is engaged as an ongoing employee in the Commission, and immediately prior to the engagement the person was employed as a non-ongoing APS employee (whether in the agency or another), at the employee's request, any unused accrued annual leave (excluding accrued leave paid out on separation) and personal/carer's leave will be recognised.
290. Where an employee is engaged as a non-ongoing APS employee, and immediately prior to the engagement the person was employed as a non-ongoing APS employee (whether in the agency or another) at the employee's request, any unused accrued annual leave (excluding accrued leave paid out on termination of employment) and personal/carer's leave will be recognised.
291. Where an employee is engaged as an ongoing employee in the Commission, and immediately prior to the engagement the person was employed by a Commonwealth employer (other than in the Parliamentary Services which are covered in clause 288), the Chair will recognise any unused accrued personal/carer's leave at the employee's request. The Chair will advise the employee of their ability to make this request.
292. Where an employee is engaged as an ongoing employee in the Commission, and immediately prior to the engagement the person was employed by a State or Territory Government, the Chair may recognise any unused accrued personal/carer's leave, provided there is not a break in continuity of service.
293. For the purposes of clauses 287 to 292, an employee with a break in service of less than 2 months is considered to have continuity of service.

6.14 Re-crediting of leave

294. When an employee is on:
- 294.1 annual leave;
 - 294.2 purchased leave;
 - 294.3 defence reservist leave;
 - 294.4 First Nations ceremonial leave;
 - 294.5 NAIDOC leave;
 - 294.6 cultural leave; or
 - 294.7 long service leave; and
- becomes eligible for, under legislation or this agreement:
- 294.8 personal/carer's leave; or

- 294.9 compassionate or bereavement leave; or
- 294.10 jury duty; or
- 294.11 emergency services leave; or
- 294.12 leave to attend to family and domestic violence circumstances; or
- 294.13 parental leave, premature birth leave, stillbirth leave or pregnancy loss leave;

the affected period of leave will be re-credited.

- 295. When an employee is on personal/carer's leave and becomes eligible for parental leave, premature birth leave, stillbirth leave or pregnancy loss leave, the affected period of leave will be re-credited.
- 296. Re-crediting is subject to appropriate evidence of eligibility for the substituted leave.

7 Employee support and workplace culture

7.1 Blood donation

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

7.2 Vaccinations

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

7.3 Employee Assistance Program

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

7.4 Respect at work

7.4.1 Principles

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

7.4.2 Consultation

- 304. The agency will consult with employees and their unions and/or other representatives in developing, reviewing and evaluating approaches to prevent sexual harassment, sex discrimination, sex-based harassment and victimisation in the workplace.

7.5 Family and domestic violence support

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

315. An employee may also choose to provide other forms of evidence, including a medical certificate, or document issued by the Police Service, a Court, a Doctor, district Nurse, a Family Violence Support Service or Lawyer.
316. The Commission will take all reasonable measures to treat information relating to family and domestic violence confidentially. The Commission will adopt a 'needs to know' approach regarding communication of an employee's experience of family and domestic violence, subject to steps the Commission may need to take to ensure the safety of the employee, other employees or persons, or mandatory reporting requirements.
317. Where the Commission needs to disclose confidential information for purposes identified in clause 316, where it is possible the Commission will seek the employee's consent and take practical steps to minimise any associated safety risks for the employee and/or privacy breaches.
318. The Commission will not store or include information on the employee's payslip in relation to the employee's experience of family and domestic violence; any leave accessed for the purposes of family and domestic violence; or support(s) provided by the employer, unless otherwise required by legislation.
319. Other available support for employees may include, but is not limited to, flexible working arrangements, additional access to EAP, changes to their span of hours or pattern of hours and/or shift patterns and/or location of work where reasonably practicable.
320. The Commission will acknowledge and take into account an employee's experience of family and domestic violence if an employee's attendance or performance at work is affected.
321. Further information about leave and other support available to employees affected by family and domestic violence may be found in policy.

7.6 Integrity in the APS

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

7.7 First Nations cultural competency training

325. The Chair will take reasonable steps to ensure all substantive, ongoing EL2 employees employed at the commencement of this agreement or any new substantive, ongoing EL2 employees who commence within the first 6 months of this agreement will complete

relevant First Nations cultural competency training within 12 months of the commencement of the agreement.

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

7.8 Lactation and breastfeeding support

327. Reasonable paid time during work hours will be provided for lactation breaks for breastfeeding, expressing milk and other associated activities.
328. The Commission will provide access to appropriate facilities for the purpose of breastfeeding or expressing milk, subject to clause 329. In considering whether a space is appropriate, an agency should consider whether:
- 328.1 there is access to refrigeration;
 - 328.2 the space is lockable; and
 - 328.3 there are facilities needed for expressing such as appropriate seating.
329. Where it is not practicable for an agency site to have a designated space, a flexible approach will be taken so that the employee can access the support required.
330. The Commission will facilitate discussion between individual employees and their managers about accommodating the employee's lactation needs and practical arrangements to meet these needs.
331. The manager and employee will discuss any flexible working arrangements that may be needed to support lactation. This may include consideration of arrangements such as working from home and/or remote working or varying work hours on an ad-hoc or regular basis. Wherever possible, requests by an employee will be accommodated, noting these needs may be changed over time.
332. Further information is available in policy.

7.9 Disaster support

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

8 Performance and development

8.1 Performance management

8.1.1 Performance management system

336. Performance management is a joint responsibility of employees and managers. All employees covered by this agreement will participate constructively in the Commission's performance management system.
337. Our performance management system will:
- 337.1 be based on the principles of transparency, equity and fairness;
 - 337.2 specify performance and behaviour expectations;
 - 337.3 require regular feedback discussions between employees and managers;
 - 337.4 provide the basis for formal assessment of individual performance;
 - 337.5 determine performance requirements for incremental salary advancement, as outlined at section 2.4;
 - 337.6 be linked to career and professional development; and
 - 337.7 set out the framework for managing underperformance, as outlined at section 8.1.2.
338. Further information on the performance management system is available in the Commission's policy related to performance management.

8.1.2 Managing underperformance

339. If an employee is formally assessed as **not performing effectively** in two consecutive performance assessment periods, it would normally be expected that an underperformance process would be implemented, as set out in Attachment C, but this does not preclude the process at an earlier stage.

8.2 Workloads

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

8.3 Career and professional development

343. The Commission recognises the importance of supporting continued professional development for all employees (including casual and non-ongoing employees).
344. Employees and managers are jointly responsible for identifying professional development needs and opportunities, with performance management conversations to incorporate discussion about career and professional development.
345. All employees are encouraged to participate, and will be provided with reasonable time to participate in, learning and development opportunities in relation to their current role and to support their future careers.
346. Investment in professional development must align with Commission priorities, individual and team development needs, and be affordable within budget allocations.
347. Where an employee is required to hold a professional qualification which is essential to their role, they will be provided with a reasonable reimbursement and or equivalent allowance to cover their membership and accreditation or registration fees, including required maintenance.
348. The Chair may also determine eligibility for, and conditions that apply to, further support for eligible employees, in the form of:
 - 348.1 studies assistance, including study leave and/or financial assistance;
 - 348.2 post-graduate study awards; and/or
 - 348.3 one annual professional membership, not covered by clause 347, where such membership is otherwise relevant to the Commission's priorities.
349. Further information on career and professional development is available in the Commission's policy related to studies assistance, and learning and development strategy.

9 Travel and location-based conditions

9.1 Travel

9.1.1 Travel allowances

350. The Commission will meet reasonable expenses (in relation to accommodation, meals, incidentals and transportation), as determined by the Chair.
351. Further information is available in Commission's policy related to travel, including :
- 351.1 principles relating to time recording and accrual of flex or TOIL on official travel; and
 - 351.2 reasonable expenses that apply when an employee travels on official business for a period of 10 hours or more, but not overnight.
352. Rates of allowance may be varied in accordance with ATO advice.

9.1.2 Additional caring costs

353. Employees, who have childcare responsibilities, and are directed to undertake overnight travel away from their home locality, may apply for reimbursement of additional costs for commercial child caring services where the normal child caring arrangements are not available. Such arrangements are subject to pre-approval by the delegate approving the directed travel.

9.2 Relocation assistance

354. Where an existing APS employee is required to relocate at the request of the Commission (such as a promotion), the employee will be provided with financial relocation assistance. Employees who relocate on a temporary basis to take up higher duties are entitled to removal expenses if they relocate for a period of 13 weeks or more.
355. Where an employee is required to relocate on engagement with the Commission, the employee will be provided with financial relocation assistance.
356. Reasonable expenses associated with the relocation include:
- 356.1 the cost of transport of the employee, dependants and partner by the most economical means;
 - 356.2 removal expenses, namely the reimbursement of reasonable incurred costs of the removal of furniture and household effects of the employee, dependants and partner;
 - 356.3 the reimbursement of the cost of the insurance premium based on a reasonable replacement value; and
 - 356.4 the reasonably incurred expenses in kennelling and transport of pets, up to the amount specified in the APS Award.
357. Additional relocation assistance may be considered by Chair discretion.
358. Further information is available in the Commission's policy related to relocation assistance.

10 Consultation, representation and dispute resolution

10.1 Consultation

10.1.1 Principles

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

10.1.2 When consultation is required

362. Consultation is required in relation to:
- 362.1 changes to work practices which materially alter how an employee carries out their work;
 - 362.2 changes to or the introduction of policies or guidelines relevant to workplace matters (unless the changes are minor or procedural);
 - 362.3 major change that is likely to have a significant effect on employees;
 - 362.4 implementation of decisions that significantly affect employees;

362.5 changes to employees' regular roster or ordinary hours of work (subject to any other relevant provisions in this agreement); and

362.6 other workplace matters that are likely to significantly or materially impact employees.

363. The Commission, employees and the relevant union(s) recognise that consultation prior to a decision may not be practicable where a decision is made by Government or is required due to matters beyond the reasonable control of the agency. In these circumstances, consultation regarding the implementation of the decision will occur as early as is reasonably practicable.

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

364. This clause applies if the Commission:

364.1 proposes to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or

364.2 proposes to introduce a change to the regular roster or ordinary hours of work of employees.

10.1.4 Representation

365. Employees may appoint a representative for the purposes of the procedures in this clause. A representative for the purpose of this clause may be a union representative.

366. The Commission must recognise the representative if:

366.1 a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and

366.2 the employee or employees advise the employer of the identity of the representative.

10.1.5 Major change

367. In this clause, a major change is **likely to have a significant effect on employees** if it results in, for example:

367.1 the termination of the employment of employees; or

367.2 major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or

367.3 the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or

367.4 the alteration of hours of work; or

367.5 the need to retrain employees; or

367.6 the need to relocate employees to another workplace; or

367.7 the restructuring of jobs.

368. The following additional consultation requirements in clauses 369 to 375 apply to a proposal to introduce a major change referred to in clause 362.3.
369. Consultation with employees and the relevant union(s) and/or recognised representatives will occur prior to a decision being made, subject to clause 363.
370. Where practicable, a Commission change manager, or a primary point of contact will be appointed, and their details provided to employees and the relevant union(s) and/or their recognised representatives.
371. The Commission must notify employees and relevant union(s) and/or recognised representatives of the proposal to introduce the major change as soon as practicable.
372. As soon as practicable after proposing the change, or notifying of the change in circumstances described at clause 363, the Commission must:
- 372.1 discuss with affected employees and relevant union(s) and/or other recognised representatives:
- a. the proposed change;
 - b. the effect the proposed change is likely to have on the employees; and
 - c. proposed measures to avert or mitigate the adverse effect of the proposed change on the employees; and
- 372.2 for the purposes of the discussion – provide, in writing, to employees and the relevant union(s) and/or other recognised representatives:
- a. all relevant information about the proposed change, including the nature of the change proposed; and
 - b. information about the expected effects of the proposed change on the employees; and
 - c. any other matters likely to affect the employees.
373. The Commission must give prompt and genuine consideration to matters raised about the major change by employees and the relevant union(s) and/or other recognised representatives.
374. However, the Commission is not required to disclose confidential or commercially sensitive information to employees and the relevant union(s) and/or other recognised representatives.
375. 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 Commission, the requirements set out in clauses 369 to 373 are taken not to apply.

10.1.6 Change to regular roster or ordinary hours of work

376. The following additional consultation requirements in clauses 377 to 381 apply to a proposal to introduce a change referred to in clause 362.5.
377. The Commission must notify affected employees and the relevant union(s) and/or other recognised representatives of the proposed change.
378. As soon as practicable after proposing to introduce the change, the Commission must:
- 378.1 discuss with employees and the relevant union(s) and/or other recognised representatives:
- a. the proposed introduction of the change; and

- 378.2 for the purposes of the discussion – provide to the employees and relevant union(s) and/or other recognised representatives:
- a. all relevant information about the proposed change, including the nature of the proposed change; and
 - b. information about what the employer reasonably believes will be the effects of the proposed change on the employees; and
 - c. information about any other matters that the employer reasonably believes are likely to affect the employees; and
- 378.3 invite employees and the relevant union(s) and/or other recognised representatives to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

379. However, the Commission is not required to disclose confidential or commercially sensitive information to the relevant employees and the relevant union(s) and/or other recognised representatives.

380. The Commission must give prompt and genuine consideration to matters raised about the proposed change by the employees and the relevant union(s) and/or other recognised representatives.

10.1.7 Interaction with emergency management activities

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

10.2 Agency consultative committee

382. The Chair may establish an agency consultative committee to discuss relevant workplace matters.

382.1 Employees have the opportunity to be consulted and participate in matters affecting their employment, including through the Productivity Commission Consultative Committee (PCCC), which will also monitor the implementation and operation of this agreement.

382.2 The Commission will consult with, and take into genuine consideration the views of, the PCCC on issues surrounding relevant workplace matters, as these affect the employment conditions of employees. The Commission will allow a reasonable period for the PCCC to consider issues.

383. The PCCC will operate subject to an agreed terms of reference and structure for the term of the agreement. Representation on the committee will be in accordance with the terms of reference.

10.3 APS consultative committee

384. The Chair will support the operation of the APS consultative committee to the extent possible. This includes providing information requested by the Australian Public Service Commission to support the operation of the APS consultative committee, subject to legislative requirements.

10.4 Dispute resolution

385. If a dispute relates to:
- 385.1 a matter arising under the agreement; or
 - 385.2 the NES;
- this term sets out procedures to settle the dispute.
386. An employee or union who is covered by this agreement may initiate and/or be a party to a dispute under this term.
387. An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term. Representatives will be recognised and dealt with in good faith.
388. Parties to the dispute must attempt to resolve the dispute at the workplace level, by discussion between the employee or employees and relevant managers. Parties to the dispute will notify higher level managers to assist in the resolution of the dispute. Parties will give genuine consideration to proposals to resolve the dispute.
389. If a dispute about a matter arising under this agreement is unable to be resolved at the workplace level, and all appropriate steps under clause 388 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
390. The Fair Work Commission may deal with the dispute in 2 stages:
- 390.1 the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
 - 390.2 if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
 - a. arbitrate the dispute; and
 - b. 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 FW 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 FW Act. Therefore, an appeal may be made against the decision.*
391. While the parties are attempting to resolve the dispute using the procedures in this term:
- 391.1 an employee must continue to perform their work as they would normally in accordance with established custom and practice at the Commission that existed immediately prior to the dispute arising unless they have a reasonable concern about an imminent risk to their health or safety; and
 - 391.2 subject to clause 391.1, an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
 - a. the work is not safe; or
 - b. applicable work health and safety legislation would not permit the work to be performed; or
 - c. the work is not appropriate for the employee to perform; or

- d. there are other reasonable grounds for the employee to refuse to comply with the direction.

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

392. Any disputes arising under the *Productivity Commission Enterprise Agreement 2017-2020* or the NES that were formally notified under clause 1.7 of that agreement before the commencement of this agreement, that remain unresolved at the date of commencement of this agreement, will be progressed under the dispute resolution procedures in this agreement.

10.4.1 Leave of absence to attend proceedings

393. Where the provisions of clauses 385 to 390 have been complied with, and to assist in the resolution of the matter, the employee, and/or the union delegate or other employee representative referred to in clause 387, or employee required to provide evidence, will be granted paid time to attend dispute resolution processes and proceedings in the Fair Work Commission arising from referral of the matter in clause 389.

10.5 Delegates' rights

394. Union delegates play an important and legitimate role in the workplace. This includes representing their members and supporting employee access to union officials, and providing employee views to the agency.

395. The role of union delegates is to be respected and supported.

396. The Commission and union delegates will work together respectfully and collaboratively.

10.5.1 Supporting the role of union delegates

397. The Commission respects the role of union delegates to:

397.1 provide information, consult with and seek feedback from employees in the workplace on workplace matters;

397.2 consult with other delegates and union officials, and get advice and assistance from union officials;

397.3 represent the interests of members to the employer and industrial tribunals; and

397.4 represent members at relevant union forums, consultative committees or bargaining.

398. The Commission and union delegates recognise that undertaking the role of a union delegate is not the primary purpose of an employee's engagement, and must work with and not unreasonably impact their regular duties. Honorary officials may request additional time and facilities from time to time.

399. Union delegates will be provided with reasonable paid time during their normal working hours to perform their union delegate role. The paid time provided should not result in disruption to critical services or operational requirements.

400. To support the role of union delegates, the Commission will, subject to legislative and operational requirements, including privacy and security requirements:

- 400.1 provide union delegates with reasonable access to agency facilities and resources, including for paid or unpaid meetings between employees and their unions and to communicate with union officials;
 - 400.2 advise union delegates and other union officials of the agency facilities and resources available for their use, which may include telephone, photocopying, internet, and email;
 - 400.3 allow reasonable official union communication appropriate to the agency from union delegates with employees, including through email, intranet pages and notice boards. This may include providing a link to a union website for employees to access union information. Any assistance in facilitating email communications does not include an agency vetoing reasonable communications;
 - 400.4 provide access to new employees as part of induction; and
 - 400.5 provide reasonable access to union delegates to attend appropriate paid time training in workplace relations matters, during normal working hours.
401. Where APS employees are elected as officials of a trade union or professional association, they are not required to seek permission from the workplace or Commission before speaking publicly in that capacity, subject to the APS Code of Conduct and legislative requirements.

10.6 Employee representational rights

402. The Commission recognises that an employee may, in matters concerning their employment, choose to have a representative of their choice to support or represent them. A representative requested by an employee to act in this capacity may include an elected representative, a union workplace delegate, or a work colleague. The Commission and the employee's nominated representative will deal with each other in good faith.

11 Separation and retention

11.1 Resignation

- 403. An employee may resign from their employment by giving the Chair at least 14 calendar days' notice.
- 404. At the instigation of the Chair, the resignation may take effect at an earlier date within the notice period. In such cases, the employee will receive paid compensation in lieu of the notice period which is not worked.
- 405. The Chair has the discretion to agree to a shorter period of notice or waive the requirement to give notice.
- 406. When an employee dies, or the Chair has directed that an employee is presumed to have died on a particular date, the Chair must authorise payments to the partner, dependants or legal representative of the former employee, the amount to which the former employee would have been entitled had they ceased employment through resignation or retirement, or where legislation provides specifically for amounts calculated based on the death of the employee, those amounts. If payment has not been made within a year of the former employee's death, it should be made to their legal representative.

11.2 Redeployment, retraining, redundancy

- 407. The following redeployment, retirement and redundancy provisions will apply to employees of the Commission who are excess, other than non-ongoing employees and those employees on probation.

11.2.1 Definition of 'Excess'

- 408. An employee is excess if:
 - 408.1 the employee is included in a class of employees employed in the Productivity Commission, which class comprises a greater number of employees than is necessary for the efficient and economical working of the Commission;
 - 408.2 the services of the employee cannot be effectively used because of technological or other changes in the work methods of the Commission or changes in the nature, extent or organisation of the functions of the Commission; or
 - 408.3 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 Chair has determined that these provisions will apply to that employee.

11.2.2 Process

- 409. Where the Chair has determined the Commission to be in an excess staffing situation, the Chair may identify an employee as excess. In this situation, the Chair will inform the employee they are excess and hold discussions with the employee and any representative nominated by the employee. The following options may be explored:
 - 409.1 Redeployment at the employee's current classification level within the Commission or the APS. The Commission may use the services of an external

placement organisation to assist in the process of redeployment and the provision of retraining services.

- 409.2 Reduction on redeployment pursuant to section 11.2.7 of this agreement.
- 409.3 Transfer of another employee to the position occupied by the excess employee (a 'swap') and the former employee immediately accepting voluntary retrenchment in accordance with section 11.2.3. This clause is subject to the Chair being satisfied that the excess employee can, with reasonable training, effectively replace the employee accepting voluntary retrenchment.
- 409.4 An offer of voluntary redundancy in accordance with section 11.2.3.

11.2.3 Voluntary redundancy benefit

- 410. The FW Act (s. 119) sets out the circumstances where an employee is entitled to be paid redundancy pay.
- 411. Where the Chair has determined the Commission to be in an excess staffing situation that will create employee redundancies, the Chair may make an offer of voluntary redundancy.
- 412. To enable an excess employee to make an informed decision, the employee will have access to information on:
 - 412.1 the sums of money that would be payable by way of severance pay, pay-in-lieu of notice and leave credits;
 - 412.2 the amount of accumulated superannuation contributions;
 - 412.3 the options open to the employee concerning superannuation; and
 - 412.4 the taxation treatment of the various payments.
- 413. The employee will have one month in which to advise the Chair of their acceptance of the offer. Only one offer of voluntary redundancy will be made.
- 414. Excess employees will be provided with financial assistance of up to \$1032 for the purpose of seeking financial information.
- 415. The period of notice of termination will be four weeks, except for excess employees over 45 years of age with at least five years continuous service, when the notice period will be five weeks.
- 416. The redundancy benefit will be an amount equal to two weeks' salary for each completed year of continuous service, plus a pro-rata payment for completed months of service since the last completed year of service, subject to any minimum amount the employee is entitled to under the NES.
- 417. The minimum sum payable will be 4 weeks' salary and the maximum will be 48 weeks' salary.
- 418. The redundancy benefit will be calculated on a pro rata basis for any period where an employee has worked part-time hours during his or her period of service and the employee has less than 24 years full-time service, subject to any minimum amount the employee is entitled to under the NES.

11.2.4 Involuntary redundancy

- 419. An excess employee whose excess situation is not resolved under section 11.2.3 is entitled to the following period of retention:

- 419.1 56 weeks where the employee has 20 years or more service or is over 45 years of age; or
- 419.2 30 weeks for all other employees.
- 420. If an employee is entitled to a redundancy payment under the NES, the retention period at clause 419 will be reduced by the employee's redundancy pay entitlement under the NES on termination, calculated as at the expiration of the retention period (as adjusted by this clause).
- 421. During the retention period, every effort will continue to be made to find alternative employment for the excess employee. Upon request, the employee will be referred to a commercial outplacement service provider with a \$2064 limit on costs.
- 422. Where the Chair is satisfied that there is insufficient productive work available for the employee within the Commission during the remainder of the retention period and that there is no reasonable redeployment prospects in the APS, the Chair may terminate the employment under s.29 of the PS Act and upon termination, the employee will be paid a lump sum comprising:
 - 422.1 the balance of the retention period (as shortened for the NES) and this payment will be taken to include the payment in lieu of notice of termination of employment, plus
 - 422.2 the employee's NES entitlement to redundancy pay.
- 423. The notice periods for involuntary termination of employment are the same as those specified in clause 415, and will be, as far as practicable, concurrent with the retention period.
- 424. The Chair may terminate the employment of an excess employee at the end of the retention period.

11.2.5 Salary

- 425. For the purpose of calculating a termination payment, salary will be the excess employee's:
 - 425.1 current salary including allowances paid in the nature of salary, other than higher duties allowance; or
 - 425.2 if the excess employee has been receiving higher duties allowance for a period of more than 12 months, that current salary including any other allowance paid in the nature of salary.

11.2.6 Service for severance pay purposes

- 426. Service for severance pay purposes means:
 - 426.1 service in the Commission;
 - 426.2 Government service as defined in s. 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
 - 426.3 service with a Commonwealth body (other than service with a Joint Commonwealth-State body corporate) in which the Commonwealth has a controlling interest which is recognised for long service leave purposes;
 - 426.4 service with the Australian Defence Forces;

- 426.5 APS service immediately preceding deemed resignation under repealed s. 49 of the *Public Service Act 1922*, if the service has not previously been recognised for severance pay purposes; and
- 426.6 service in another organisation where:
- a. an employee moved from the APS to that organisation with a transfer of function; or
 - b. an employee engaged by that organisation on work within a function is engaged in the APS as a result of the transfer of that function to the APS; and
 - c. such service is recognised for long service leave purposes.

11.2.7 Income Maintenance

427. Where an excess employee is reduced in classification, the employee will be eligible for income maintenance payments for the balance of the applicable retention period set out in clause 419.
428. Income maintenance payments are the amounts payable to maintain the level of salary and allowances being paid to the excess employee on the date the employee is notified as an excess employee or the date immediately prior to being reduced in classification, whichever is the later.

Attachment A – Base salaries

Commission broadband structure	APS classifications	Salary ranges as at 31 August 2023	From the later of commencement of the agreement or 14 March 2024	From 13 March 2025	From 12 March 2026
Staff level 1A	APS 1 min	\$ 46,849	\$ 52,000	\$ 54,516	\$ 57,497
	APS 1 max	\$ 52,157	\$ 55,120	\$ 57,787	\$ 60,946
	APS 2 min	\$ 53,560	\$ 56,774	\$ 59,520	\$ 62,775
	APS 2 max	\$ 61,911	\$ 64,387	\$ 66,834	\$ 69,106
Staff level 1	Graduate APS 3 min	\$ 61,018	\$ 63,740	\$ 66,823	\$ 70,477
	APS 3 max	\$ 74,870	\$ 77,865	\$ 80,824	\$ 83,572
	APS 4 min	\$ 69,110	\$ 71,874	\$ 75,022	\$ 79,125
	APS 4 max	\$ 84,371	\$ 87,746	\$ 91,080	\$ 94,177
Staff level 2	APS 5 min	\$ 77,439	\$ 80,537	\$ 84,228	\$ 88,834
	APS 5 max	\$ 89,988	\$ 93,588	\$ 97,144	\$ 100,447
	APS 6 min	\$ 84,377	\$ 90,199	\$ 94,563	\$ 99,734
	APS 6 max	\$ 102,944	\$ 107,062	\$ 111,130	\$ 114,908
	EL 1 min	\$ 106,871	\$ 111,146	\$ 115,443	\$ 121,755
	EL 1 max	\$ 135,338	\$ 140,752	\$ 146,101	\$ 151,068
	EL 2 min	\$ 129,581	\$ 134,764	\$ 139,885	\$ 144,641
	EL 2 max	\$ 162,555	\$ 169,057	\$ 175,481	\$ 181,447
	<i>Discretionary</i>	\$ 171,333	\$ 178,186	\$ 184,957	\$ 191,246

Note: Salary points in blue shading have had greater than specified increase applied, to address pay fragmentation and meet APS-wide minimum pay points by classification

Attachment B – Supported Wage System

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

Definitions

2. In this schedule:

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

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

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

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

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

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

Eligibility criteria

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

Supported wage rates

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

Table 1 Applicable percentage of relevant minimum wage paid to applicable employees

Assessed capacity [sub-clause (d)]	Percentage of agreement rate
10 per cent	10 per cent
20 per cent	20 per cent
30 per cent	30 per cent
40 per cent	40 per cent
50 per cent	50 per cent
60 per cent	60 per cent
70 per cent	70 per cent
80 per cent	80 per cent
90 per cent	90 per cent

6. Provided that the minimum amount payable to an employee to whom the SWS applies is not less than the amount prescribed in the National Minimum Wage Order. Note: The minimum amount payable is reviewed every year in July.
7. Where an employee's assessed capacity is 10 per cent, they must receive a high degree of assistance and support.

Assessment of capacity

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

Lodgement of SWS wage assessment agreement

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

Review of assessment

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

Other terms and conditions of employment

13. Where an assessment has been made, the applicable percentage will apply to the relevant wage rate only. Employees covered by the provisions of the schedule will be entitled to the

same terms and conditions of employment as all other workers covered by this agreement paid on a pro rata basis.

Workplace adjustment

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

Trial period

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

Attachment C – managing underperformance

1. After a reasonable period of counselling and coaching, an employee whose performance appears to be unsatisfactory will be issued with a formal warning. The formal warning will set out:
 - a. details of the required standards for the duties the employee has been assigned and how the employee has failed to meet those standards
 - b. details of how the employee's performance will be assessed
 - c. the possible consequences if the employee has not attained and sustained the required standards by the end of the assessment period.
2. A person nominated by the Chair will then conduct a fair and impartial assessment of the employee's work performance over a reasonable period of time (this should normally be not less than one month and not longer than three months), which is determined at the outset of the assessment period. The employee will be provided with feedback on their performance during the assessment period.
3. At the end of the assessment period, if the employee's work performance is assessed as meeting the required standard, the assessor will report this finding to the decision-maker. If the decision-maker agrees with the finding, the employee will be advised of this and no further action need be taken under these provisions.
4. If the employee is assessed as not having met the required standard, the assessor will report this finding to the decision-maker. The decision-maker will advise the employee of the finding and of the action that they propose to take, which may include one or more of the following:
 - a. termination of employment
 - b. reduction in classification and remuneration
 - c. reassignment of duties
 - d. some other appropriate action.
5. The employee will be given seven days from the receipt of the advice to respond to the findings and the action proposed by the decision-maker.
6. The decision-maker, having taken into account the assessor's findings and the employee's response, will advise the employee in writing of his or her decision and the action to be taken.
7. If an employee is dissatisfied with a decision or action to be taken, they may seek a review in accordance with relevant legislative provisions, or seek to resolve the matter under the dispute resolution terms of this agreement.

Attachment D – signatories

The *Productivity Commission Enterprise Agreement 2024-2027* is made under section 172 of the *Fair Work Act 2009*.

Employer

Signed for, and on behalf of, the Commonwealth of Australia, represented by the Productivity Commission:

Danielle Wood
Chair, Productivity Commission
Level 8, 697 Collins Street DOCKLANDS VIC 3008
19 February 2024

Bargaining representatives

Union representative:

Signed for, and on behalf of, the Community and Public Sector Union (CPSU):

John Ryall
National Organiser, CPSU
1/54-58 Foveaux Street SURRY HILLS NSW 2010
19 February 2024

Employee representative:

James Smith
Employee bargaining representative, Productivity Commission
Level 2, 4 National Circuit BARTON ACT 2600
22 February 2024

Note: electronically signed by all parties.