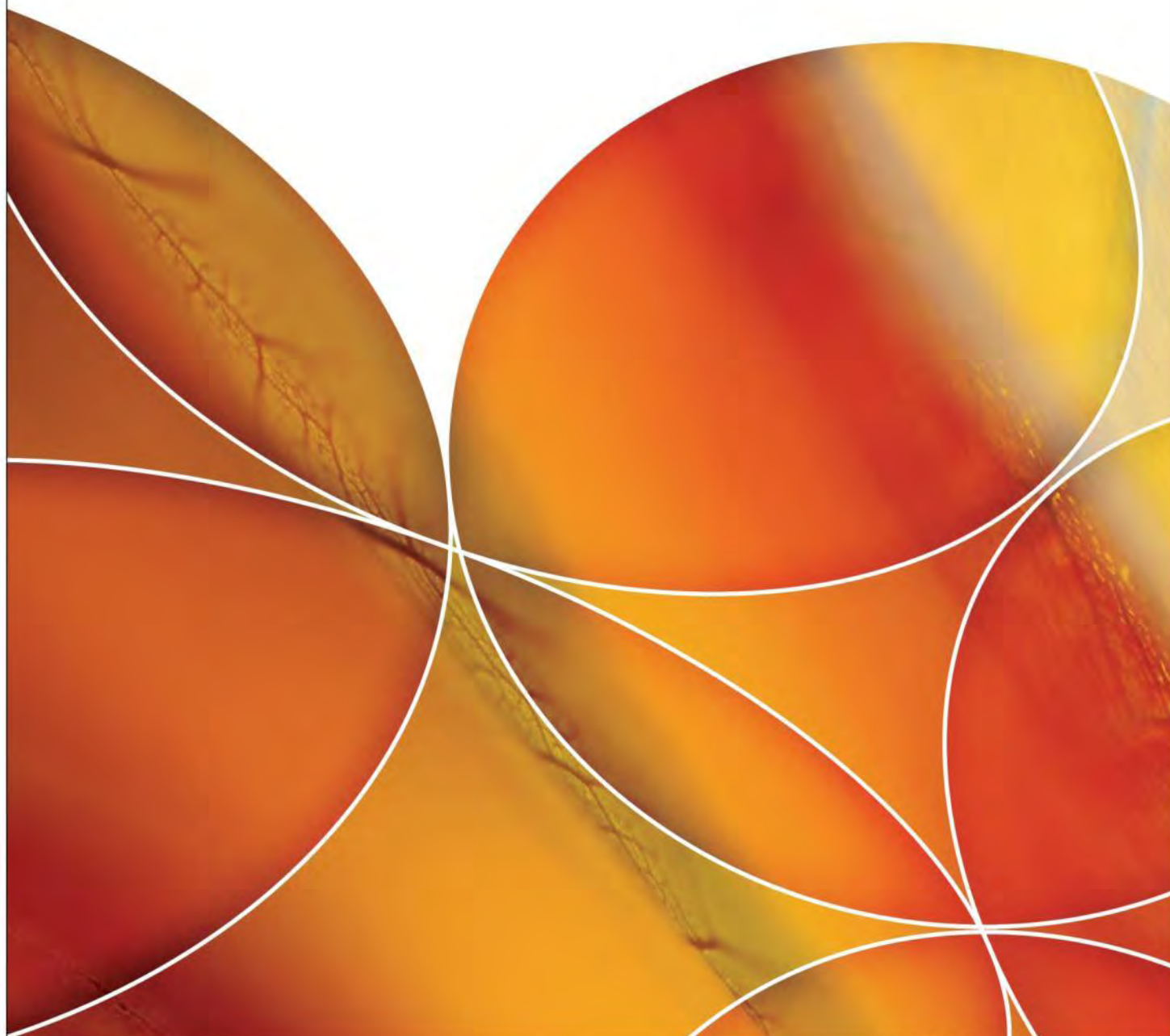




Australian Government
Australian Public Service
Commission

Enterprise Agreement 2011–14

Effective leadership Diverse workforce Capable organisations and workforce Employee conditions APS Values

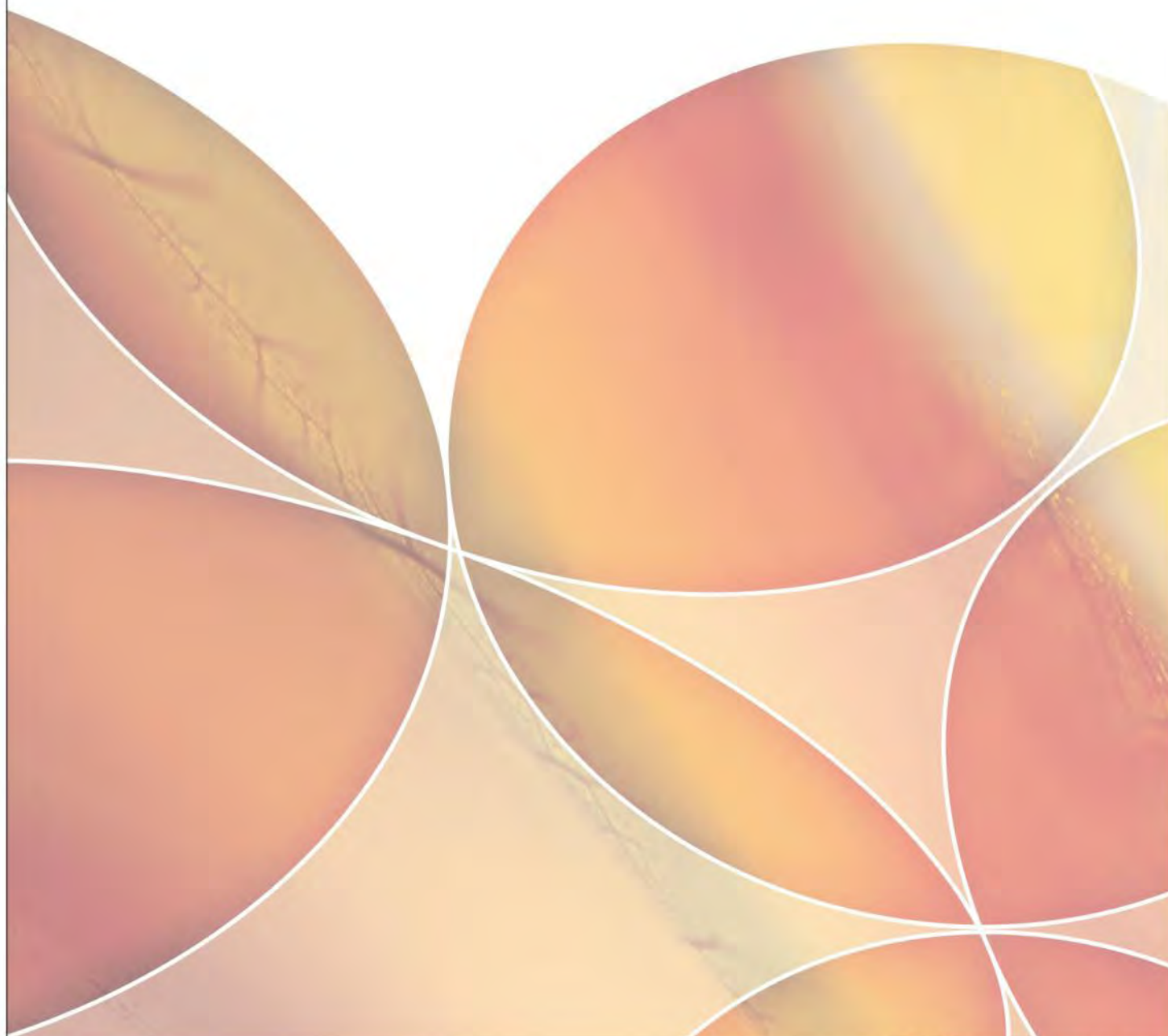




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Enterprise Agreement 2011–14

Effective leadership Diverse workforce Capable organisations and workforce Employee conditions APS Values



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Part A Formal acceptance of Agreement and Signatories

Employer

Signed for, and on behalf of, the Commonwealth by the Public Service Commissioner¹

Signed

Full Name:

Agency: Australian Public Service Commission

Address: 16 Furzer Street, Phillip, ACT 2606

Bargaining Representative: Community and Public Sector Union

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

Signed

Full Name:

Address: .

¹ The Public Service Commissioner is the Agency Head of the Australian Public Service Commission by virtue of s40(3)(b) of the Public Service Act.

Part B Technical and General

Background

1. This is an Agreement under section 172 of the *Fair Work Act 2009*.

Title

2. This Agreement shall be known as the *Australian Public Service Commission Enterprise Agreement 2011 – 2014*.

Purpose

3. The purpose of this Agreement is to set out the terms and conditions of employment of Employees covered by the Agreement.

Parties covered by this Agreement

4. In accordance with section 53 of the Fair Work Act, this Agreement covers:
 - The Public Service Commissioner
 - All Employees of the Australian Public Service Commission whose employment is, at any time when the Agreement is in operation, covered by the Agreement (in accordance with Clause 6); and
 - The Community and Public Sector Union if Fair Work Australia notes in its decision to approve this agreement that it covers that union.

Coverage

5. Subject to Clause 6, Employees including Casual Employees of the Commission engaged under the *Public Service Act 1999* are covered by this Agreement.
6. For this Agreement Employees of the Commission do not include:
 - Persons substantively performing duties in the Senior Executive Service; or
 - A person whose salary is not paid or funded by the Commission.

Commencement and duration

7. This Agreement will commence operation 7 days after approval by Fair Work Australia.
8. This Agreement shall nominally expire on 30 June 2014.

No extra claims

9. From the commencement of this Agreement, a person or organisation covered by this Agreement will not pursue further claims for terms and conditions of employment that would have effect during the period of operation of this Agreement, except where consistent with the terms of this Agreement.

Relationship to legislation

10. It is acknowledged that employment is subject to the provisions of Acts (and Regulations and Instruments made under those Acts) including, but not limited to, the:
- Administrative Decisions (Judicial Review) Act 1977*
 - Fair Work Act 2009*
 - Long Service Leave (Commonwealth Employees) Act 1976*
 - Maternity Leave (Commonwealth Employees) Act 1973*
 - Occupational Health and Safety Act 1991*
 - Public Service Act 1999*
 - Safety, Rehabilitation and Compensation Act 1988*
 - Superannuation Act 1976*
 - Superannuation Act 1990*
 - Superannuation Act 2005*
 - Superannuation Benefits (Supervisory Mechanisms) Act 1990*
 - Superannuation (Productivity Benefit) Act 1988 and*
 - Superannuation Guarantee (Administration) Act 1992*

To the extent that there is inconsistency between this Agreement and any applicable legislation, the terms of the legislation will prevail.

Delegation

11. The Commissioner may, in writing, delegate any of the Commissioner's powers or functions under this Agreement (other than under this clause).
12. A person exercising powers or functions under Clause 11 must comply with any direction of the Commissioner.

Interpretation and definitions

13. –Action” includes a refusal or failure to act.
- Agency” means an Agency as defined in section 7 of the *Public Service Act 1999*.
- Agreement” means the *Australian Public Service Commission Enterprise Agreement 2011-2014*.
- APS” means Australian Public Service.
- APS Code of Conduct” and –Code of Conduct” means the set of rules as defined in section 13 of the *Public Service Act 1999*.
- APS employee” has the same meaning as the *Public Service Act 1999*.

–“APS Values” and “Values” means the values as defined in section 10 of the *Public Service Act 1999*.

–“Approved Student” means an Employee who has received approval from the Commissioner to undertake formal study in accordance with Clause 298 of the Agreement.

–“Broadband/s” refers to the combination of two or more Classifications in a single unit called a Broadband. A Broadband encompasses the full range of work value of the Classifications contained within it.

–“Cadet APS” means an Employee allocated the classification of Cadet APS in accordance with the Classification Rules 2000. Cadets undertake a Cadetship with the Commission involving a combination of full time tertiary study and work placement throughout the duration of their studies.

–“Casual Employee/s” means a person engaged as an APS employee for duties that are irregular or intermittent.

–“Classification/s” means an approved classification under the *Public Service Classification Rules 2000*.

–“Commission” means the Australian Public Service Commission.

–“Commissioner” means the Public Service Commissioner.

–“CPSU” means the Community and Public Sector Union.

–“Employee/s” means an Employee of the Commission covered by this Agreement (whether full-time or part-time) and includes Employees on temporary placement in the Commission. Unless specified, this does not include a Casual Employee in receipt of a loading in lieu of leave.

–“Executive” means the Commissioner, the Deputy Public Service Commissioner, the Merit Protection Commissioner, the Chief Human Capital Officer or the General Manager, Employment Frameworks.

–“Excess Employee” means an Employee declared to be excess in accordance with [Part M](#) of the Agreement.

–“Fair Work Act” means the *Fair Work Act 2009*.

–“Family” means a person who:

- is related by blood or by marriage to the Employee; or
- is a de facto spouse, former spouse or former de facto spouse of the Employee without discrimination as to sexual preference; or
- the Commissioner is satisfied they have a strong affinity with the Employee; or

- is otherwise a member of the Employee's household; or
- is a member of the Employee's immediate family; or

is a child, adopted child or a foster child of the Employee or the person who stands in a genuine domestic or household relationship with the Employee.

–Foster care” means an arrangement whereby an Employee, as primary carer, assumes long term responsibility for a child:

- (a) Arising from the placement of the child by a `fostering' arrangement or Parentage Order by a person / organisation with statutory responsibility for the placement of the child
- (b) Where the child is, or will be, under 16 years of age as at the day of placement, or the expected day of placement, of the child
- (c) Where the placement of the child:
 - (i) is for a period longer than six months; and
 - (ii) in circumstances where it is not expected that the child will return to their family; and
- (d) The child is not (otherwise than because of the fostering) a child of the employee or the employee's spouse or de facto partner.

The placement of a child, means the earlier of the following days:

- (a) the day on which the employee first takes long term care of the child; or
- (b) the day on which the employee starts any travel that is reasonably necessary to take custody of the child.

–Graduate APS” means an Employee allocated the classification of Graduate APS in accordance with the Classification Rules 2000. Graduates undertake a structured program of training and work placements.

–Group” means a major organisational unit within the Commission that includes the term Group in its name.

–Group Manager” means the Employee responsible for a work unit described as a Group within the Commission.

–Individual Flexibility Arrangement” means an arrangement made between the Commissioner and an Employee which varies the terms of this Agreement.

–Manager” means the person to whom an Employee generally reports to on a day to day basis for work related matters, and may include a person referred to as a supervisor.

–Official Travel” means travel that an Employee is requested to undertake on behalf of the Commission. Official Travel requires formal approval by the Commissioner via a movement requisition.

–OH&S Committee” means Occupational Health and Safety Committee.

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

–Regional Director” means an Employee at the Executive Level 2 Classification assigned the duties of Regional Director in either the Commission’s Perth, Melbourne, Sydney or Brisbane office.

–SES” means a member of the APS Senior Executive Service employed by the Commission. A reference to the SES includes their equivalents as provided for in Schedule 1 of the *Public Service Classification Rules 2000*. For this Agreement a reference to the SES includes the Executive and the Commissioner.

–Settlement Period” means a four week period beginning on a pay day Thursday for the purposes of determining flextime debit or credit carryover.

–Trainee APS (Administrative)” means an Employee allocated the Classification of Trainee APS (Administrative) in accordance with the Classification Rules 2000. Trainee APS (Administrative) employees undertake a training program for a period of 12 months which combines time at work with training, and can be full-time, part-time or school-based.

–Training Classification” means the classifications listed in Schedule 2 of the *Public Service Classification Rules 2000*.

–Workplace Delegate/s” means an Employee nominated by the CPSU as a CPSU delegate within the Commission.

–Workplace Relations Committee” or –WRC” means the Committee established under the terms of this Agreement to monitor the implementation of this Agreement.

Part C Remuneration Arrangements

Annual productivity salary increases

14. In recognition of their commitment to this Agreement and associated productivity initiatives Employees will receive a productivity salary increase on commencement of the Agreement, from 1 July 2012 and from 1 July 2013.
15. The rate of productivity salary increases are:

On commencement of the Agreement	3.0%
On 1 July 2012:	3.0% and
On 1 July 2013:	3.0%
16. No qualifying period applies in relation to an Employee's eligibility to receive a productivity salary increase.

Salary maintenance – existing employees

17. An Employee in receipt of a salary above the salary range published at Appendix 1 for their classification and pay point on commencement of this Agreement will have their salary maintained at that higher rate until the relevant rate of pay in Appendix 1 equals or exceeds the Employee's maintained salary at which time the applicable salary in Appendix 1 will apply to the Employee for all purposes.
18. The provisions of Clauses 24 to 28, describing Individual Flexibility Arrangements, will be used to introduce or vary any salary above the salary ranges in [Appendix 1](#).

Salary rates and salary advancement

19. Salary ranges and pay points to apply under this Agreement are set out in [Appendix 1](#).
20. On commencement of this Agreement an Employee will receive the salary relevant to their current Classification and pay point as specified in [Appendix 1](#).
21. An Employee at pay point EL1.6 or EL2.6 who satisfied the requirements for pay point progression during the 2010–11 performance cycle will move to pay point EL1.7 or EL2.7 respectively on commencement of the Agreement.
22. Subject to this Agreement, an Employee may achieve a further salary increase on 1 July each year by performance based salary advancement through the pay points relevant to the Employee's Classification or Broadband based on the outcome of the Employee's participation in the Commission's Performance Appraisal Scheme.
23. The Performance Appraisal Scheme in [Part L](#) of this Agreement includes rules about eligibility for performance based salary advancement, including the qualifying period.

Individual flexibility arrangement

24. The Commissioner 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:

- the Individual Flexibility Arrangement deals with one or more of the following matters:
 - arrangements about when work is performed
 - overtime rates
 - penalty rates
 - allowances
 - remuneration; and/or
 - leave; and
- the arrangement meets the genuine needs of the Commission and the Employee in relation to one or more of the matters mentioned above; and
- the arrangement is genuinely agreed to by the Commissioner and the Employee.

25. The Commissioner must ensure that the terms of the Individual Flexibility Arrangement:

- are about permitted matters under section 172 of the Fair Work Act; and
- are not unlawful terms under section 194 of the Fair Work Act; and
- result in the Employee being better off overall than the Employee would be if no arrangement was made.

26. The Commissioner must ensure that the Individual Flexibility Arrangement:

- is in writing; and
- includes the name of the employer and the Employee; and
- is signed by the Commissioner and the Employee and if the Employee is under 18 years of age, signed by a parent or guardian of the Employee; and
- includes details of:
 - the terms of the enterprise agreement that will be varied by the Individual Flexibility Arrangement; and
 - how the Individual Flexibility Arrangement will vary the effect of the terms; and
 - how the Employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the Individual Flexibility Arrangement; and
- states the day on which the Individual Flexibility Arrangement commences and, where applicable, when the Individual Flexibility Arrangement ceases.

27. The Commissioner must give the Employee a copy of the Individual Flexibility Arrangement within 14 days after it is agreed to.
28. The Commissioner or the Employee may terminate the Individual Flexibility Arrangement:
 - by giving no more than 28 days written notice to the other party to the Arrangement; or
 - if the Commissioner and the Employee agree in writing — at any time.
29. Aggregated information, including the reasons for use of Individual Flexibility Arrangements, will be reported to the Workplace Relations Committee.

Payment of salary

30. Employees will be paid fortnightly in arrears and the fortnightly rate of pay will be based on the following formula:

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

Method of payment

31. Employees will have their fortnightly salary paid in arrears by electronic funds transfer into a financial institution account of their choice allowing for reasonable disbursements or deductions at the request of the Employee.

Flexible remuneration

32. Access to flexible remuneration packaging via the Commission’s Flexible Remuneration Scheme (Salary Packaging) - as varied from time to time - will be available to all Employees, including Casual Employees, covered by this Agreement.
33. Where an Employee takes up the option of flexible remuneration 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 flexible remuneration packaging arrangement had not been entered into.

Salary on engagement or promotion

34. Where an Employee is engaged (either on an ongoing or a non-ongoing basis) or is promoted within or to the Commission, salary will be payable at the minimum point of the Commission’s salary range applicable to the Classification of the Employee, unless the Commissioner authorises payment of salary above the minimum point in that salary range, having regard to:
 - the experience, qualifications and skills of the Employee
 - work level standards; and
 - the nature of the duties which are to be assigned to the Employee.

35. An Employee, to whom Clause 34 applies, may discuss salary with the Commissioner before taking up the assigned duties. The qualifying periods for salary advancement under the Performance Appraisal Scheme will be taken into account in this discussion.
36. Where, at the time of commencement, an Employee's salary is set at an incorrect salary point within the applicable salary range, the Commissioner may authorise in writing the payment of the Employee's salary at the correct salary point.
37. Where an Employee is promoted within the Commission and has previously been temporarily assigned duties at this Classification and that period of temporary assignment immediately precedes the date of effect of the promotion, the period of temporary assignment will count towards the qualifying period for salary advancement.

Salary on assignment within or movement to the Commission at the same classification

38. Where an Employee is assigned new duties within, or moves to, the Commission at the Employee's existing Classification, salary will be payable at the point of the Commission salary range determined by the Commissioner having regard to:
 - the experience, qualifications and skills of the Employee
 - the salary payable to the Employee in respect of the duties they performed before the new duties were assigned or they were moved
 - work level standards; and
 - the nature of the duties which are to be assigned to the Employee.

Salary on temporary assignment to the Commission from another agency at a higher classification

39. Where an Employee from another Agency (the "other Agency") is temporarily assigned duties in the Commission either at a higher Classification or in a part of a Broadband that has a higher equivalent APS Classification than the duties performed by the Employee in the other Agency, salary will be payable at the minimum point of the applicable Commission salary range unless the Commissioner authorises payment of salary above the minimum point in that salary range, having regard to:
 - the experience, qualifications and skills of the Employee
 - the salary payable to the Employee in respect of the duties they performed in the other Agency
 - work level standards; and
 - the nature of the duties which are to be assigned to the Employee.

Salary maintenance on movement to the Commission

40. At the discretion of the Commissioner, an Employee moving to the Commission from another Agency (the "other Agency") whose salary at the other Agency (current salary) exceeds the current maximum of the relevant Classification or Broadband in this

Agreement can be maintained on their current salary until such time as their salary is commensurate with the relevant Commission salary. This salary maintenance will be done in the same manner as described at Clause 17.

Salary on temporary assignment within the Commission

41. Where an Employee is temporarily assigned duties with a higher Classification for a continuous period of 20 working days or more, or a shorter period which is then extended to or beyond 20 working days, the Employee will be paid at the salary point determined in accordance with Clause 44 in the range attaching to the higher Classification or the higher Classification within the Broadband.
42. Where the initial period is intended to be continuous for 20 working days or more payment will commence immediately. Where a shorter period is extended up to or beyond 20 working days, payment will be made once the period reaches or exceeds 20 working days and will be backdated to the date of commencement of the temporary assignment.
43. These arrangements apply to each new period of temporary assignment and non-contiguous periods are not aggregated.
44. The level of salary payable to an Employee under Clause 41 will be at the minimum point of the salary range applicable to that Classification or to that Classification within the Broadband unless the Commissioner determines otherwise.
45. Where an Employee is temporarily assigned duties applicable to a higher Classification or to a higher Classification within their current Broadband the Employee may discuss any salary issues with the Commissioner before taking up the new duties.
46. All periods of temporary assignment, paid or unpaid, will be recorded on the Commission's HR information system for record-keeping and delegation purposes.

Salary on temporary assignment of duties at senior executive level

47. Where an Employee is temporarily assigned duties to an SES role for a continuous period of 20 working days or more, or a shorter period which is then extended to or beyond 20 working days, salary will be set by the Commissioner.
48. The arrangements above apply to each new period of temporary assignment and non-contiguous periods are not aggregated.
49. Where an Employee is temporarily assigned duties to an SES role the Employee may discuss any salary issues with the Commissioner before taking up the new duties.
50. All periods of temporary assignment, paid or unpaid, will be recorded on the Commission's HR information system for record-keeping and delegation purposes.

Salary on reduction to duties with a lower classification

51. Where the Classification of an Employee is reduced, on either a temporary or ongoing basis in accordance with the provisions of this Agreement and/or the provisions of the Public Service Act, salary will be determined by the Commissioner having regard to:

- the experience, qualifications and skills of the Employee
 - the salary payable to, and Classification of, the Employee in respect of the duties they performed before the new duties were assigned to the Employee
 - the classification of the Employee in relation to the new duties; and
 - work level standards.
52. Where the reduction in Classification is a result of workforce adjustment outlined in [Part M](#) of this Agreement, an Employee's reduced salary will take effect after the expiration of an income maintenance period determined in [Part M](#).
53. Where the reduction in Classification is Employee-initiated no income maintenance period will apply.

Rate of salary - regular part-time employment

54. Unless agreed otherwise in writing between the Employee and the Commissioner, where an Employee is employed for an agreed number of regular hours per week which is less than the ordinary hours of work specified in this Agreement, the Employee shall receive, on a pro rata basis, equivalent pay and conditions to those of a full-time Employee.
55. In relation to Allowances, an Employee to whom Clause 54 applies will receive entitlements specified in the relevant clauses of this Agreement.

Rate of salary – casual loading

56. Where an Employee, whether ongoing or non-ongoing, does not work a regular number of hours per Settlement Period, or performs duties on an intermittent basis, the Employee will be paid an additional 20% loading of their normal hourly rate of pay. The loading is in lieu of any payment in relation to any form of paid leave (except Long Service Leave) or in relation to any period not worked on a public holiday or during the Christmas Close-Down. An Employee paid an additional 20% loading shall be regarded as a Casual Employee for the purposes of the Fair Work Act.

Cadet rates

57. The Commissioner may engage a person as a Cadet APS.
58. A Cadet APS Employee will be paid 67% of the minimum salary point of APS 1.
59. When the Commissioner is satisfied that the course of training has been successfully completed, a Cadet APS Employee will be allocated a Classification in accordance with the Classification Rules and the Commissioner will determine a salary within the applicable range.

Trainee rates

60. The Commissioner may engage a person as a Trainee APS (Administrative).

61. A Trainee APS (Administrative) Employee will be paid at the minimum salary point of APS 1 or such other salary point as the Commissioner determines.
62. When the Commissioner is satisfied that the course of training has been successfully completed, a Trainee APS (Administrative) Employee will be allocated a Classification in accordance with the Classification Rules and the Commissioner will determine a salary within the applicable range.

Graduate rates

63. The Commissioner may engage a person as a Graduate APS.
64. A Graduate APS Employee will be required to undertake a course of training determined by the Commissioner. While undertaking training, a Graduate APS Employee will be paid at a salary point within the APS 3 Classification of the APS3/4 Broadband, as determined by the Commissioner.
65. When the Commissioner is satisfied that the course of training has been successfully completed, a Graduate APS Employee will be allocated a Classification in accordance with the Classification Rules. The Commissioner will then assign duties within the APS4 Classification of the APS3/4 Broadband and determine salary.

Supported salary rates

66. Supported wage rates as set out in [Appendix 2](#) shall apply to an Employee with a disability who is eligible for consideration under the Supported Wage System.

Superannuation

67. The Commission will make compulsory employer contributions as required by the applicable legislation and fund requirements.
68. Without providing financial advice the Commission will:
 - ensure that a new Employee is fully informed about superannuation arrangements immediately on commencement or recommencement of employment
 - allow superannuation choice for an Employee who is eligible for membership of the Public Sector Superannuation Accumulation Plan; and
 - provide an employer contribution of 15.4% of ordinary time earnings for members of the Public Sector Superannuation Accumulation Plan and for those Employees exercising superannuation choice.
69. The Employer contribution rate for an Employee who is a PSSap member, or a member of another fund because they have exercised choice, will be calculated in accordance with the Employee's Ordinary Time Earnings (OTE) within the meaning of the *Superannuation Guarantee (Administration) Act 1992*.
70. Notwithstanding that contributions may not legally be required to be made under the provisions of any applicable superannuation legislation, Employer superannuation contributions will be paid to accumulation superannuation funds during periods of paid

and unpaid parental leave (including Maternity, Parental, Adoption and Foster Care Leave) for periods of leave to a maximum of 52 weeks.

71. The Commission will make employer superannuation payments to any eligible superannuation fund nominated by an Employee, provided that it accepts payment by fortnightly electronic funds transfer (EFT) using a file generated by the Commission's payroll system.

Part D Classification Structure

Classification structure

72. The *Public Service Classification Rules 2000* make rules about the classification of APS Employees.
73. The Commission Classification structure below the SES will consist of the following:
- EL 2
 - EL 1
 - APS 6
 - APS 5
 - APS 3/4 Broadband (covering both APS Level 3 and APS Level 4 Classifications)
 - APS 1/2 Broadband (covering both APS Level 1 and APS Level 2 Classifications)
74. Movement through a Broadband (i.e. from the APS 1 Classification to the APS 2 Classification, and from the APS 3 Classification to the APS 4 Classification) may occur in the following ways:
- on the basis of review in accordance with the Commission Performance Appraisal Scheme in the Employee's current position, subject to duties being available at the higher level which meet the Work Level Standards for that higher level; or
 - by the assignment of new duties which reflect the higher Work Level Standard within a broadband following a review of a job against the Work Level Standards.

Review of jobs against work level standards

75. The Commissioner may consider pay point movements within a Broadband or within individual Classifications on the basis of proposals from Group Managers that indicate significant changes in work value measured against the relevant Work Level Standard and in some circumstances significant changes in the capability of the Employee.
76. Proposals to the Commissioner from Group Managers for movement on the basis of significant changes in work value of a job or on the basis of significant changes in the capability of the Employee will include an assessment of:
- duties performed against the Commission's Work Level Standards; and
 - the capability of the Employee to undertake the duties having regard to experience, including at least satisfactory performance, qualifications and skills.
77. Movements on the basis of work value will only be considered where there have been significant and sustained changes in the work value and not on the basis of changes in work volume.

Movements and broadbands

78. Where a person moves to the Commission from another Agency they will be moved in accordance with the APS legislative framework. A movement to a part of a Broadband with a higher equivalent Classification is a promotion under the terms of the APS legislative framework. Salary will be determined in accordance with Clause 34, Clause 39 or Clause 40 as appropriate.
79. For the purposes of allocating a Classification to an Employee within a Broadband, where an Employee attains a salary within a Broadband which pertains to a higher Classification then the Employee will be allocated the appropriate Classification and will be advised accordingly. The allocation of a higher Classification will occur at the third pay point within the Broadband.

Work level standards

80. The Commission Work Level Standards will be used to support people management processes, including:
- development and maintenance of the Commission establishment (including the Broadbands)
 - development of job descriptions
 - development of selection criteria and other selection materials
 - setting of an Employee's salary on engagement, promotion or movement to the Commission or assignment
 - movements within the Commission's Broadbands and Classifications; and
 - development of learning and development strategies.
81. The Commissioner will consult with the Workplace Relations Committee over the development and implementation of the Work Level Standards.

Selection processes

82. The Commission is committed to good practice in its approach to recruitment, promotion and assignment of duties, which is consistent with the legislative framework established by the Public Service Act.
83. An Employee who has been formally declared an Excess Employee by the Commissioner in accordance with [Part M](#) will be considered for vacancies at or below their substantive Classification prior to any decision to advertise externally.
84. Despite anything in any other provision of this Agreement, the Commissioner may move, on an ongoing or other basis, a person from another Agency to the Commission at their current Classification or equivalent, provided all interested Employees within the Commission have been provided with the opportunity to be considered, where it is practicable and appropriate to do so.

Part E Leave

Application and approval

85. The Commissioner may grant an Employee leave in accordance with this Part.
86. If a leave request is not approved the Employee must be informed about the reason(s) for non-approval in writing. While wherever possible efforts are made to approve requests, approval is subject to operational requirements.
87. Where leave is not approved, an Employee can utilise the Review of Actions provisions detailed at Clauses 390 and 391.

Portability of accrued Annual and Personal Leave entitlements

88. Where an Employee is engaged by the Commission on an ongoing or non-ongoing basis on or after the date on which this Agreement commences from an employer staffed under the Public Service Act, the *Parliamentary Service Act 1999* or from the ACT Government Service, accrued Annual Leave and Personal Leave (however described) will be recognised, provided there is no break in continuity of service.
89. Where an Employee moves (including on promotion or for an agreed period) from another Agency where they were an ongoing APS employee, the Employee's unused accrued Annual Leave and Personal Leave (however described) will be recognised, provided there is no break in continuity of service.
90. Where a person is engaged as an ongoing Employee and immediately prior to the engagement the person was employed as a non-ongoing APS employee, the Commissioner may, at the Employee's request, recognise any accrued Annual Leave and Personal Leave (however described), provided there was no break in continuity of service. Any recognised Annual Leave excludes any accrued leave paid out on separation.
91. The entitlement to avail of these accrued leave credits, and any future entitlements, will be those prevailing in the Commission.

Annual leave**Entitlement**

92. An Employee will be entitled to the equivalent of four weeks Annual Leave, expressed in hours, for each full year worked.

Accrual

93. Leave will accrue and be credited at the completion of each calendar month.
94. Annual Leave credits for an eligible Employee will be calculated monthly using the following formula:

$$\frac{A \times B \times C}{D}$$

D

A = number of hours per week for the period (based on a 7 hour 30 minute day)

B = number of calendar days to count as service in the period

C = basic annual credit of four weeks per annum

D = number of actual (calendar) days in the calendar year

95. Each period of service that has different weekly hours is calculated separately. If separate credits are calculated, all credits are added and expressed as a total number of hours of leave available.
96. Leave will accrue and be credited and available to an Employee at the end of the first calendar month during which the Employee has worked for the full month.
97. An Employee's entitlement will appear on an Employee's payslip as soon as practicable after the date of accrual.

Conditions

98. Consistent with the purpose of Annual Leave, Employees will be encouraged to utilise their Annual Leave entitlement.
99. Annual Leave credits may be taken at any time, subject to operational requirements and the approval of the Commissioner.
100. An Employee must take an amount of Annual Leave during a particular period if the Employee is required to do so by the Commissioner if:
 - at the time the direction is given the Employee has accumulated at least 450 hours (60) days; and
 - the amount of Annual Leave the Employee is required to take is no more than 25% of the amount of credited Annual Leave of the Employee at the time the direction is given.
101. Where an Employee's leave is cancelled without reasonable notice, or an Employee is recalled to duty from leave by the Commissioner, the Employee will be entitled to be reimbursed reasonable travel costs and incidental expenses not otherwise recoverable under any insurance or from any other source.
102. An Employee may, with the approval of the Commissioner, utilise an amount of Annual Leave credits not exceeding 20 day (4 weeks), providing for an absence of 40 days (8 weeks) in total, on half pay in any 12 month period and appropriate adjustments will be made to the Employee's Annual Leave credits.
103. Any request to take Annual Leave on half pay will not normally be granted where the Annual Leave accrual of the Employee, at the time of application exceeds 30 days (6 weeks), unless the Employee can demonstrate to the Commissioner's satisfaction that they need and will utilise the Annual Leave accrued in excess of 30 days (6 weeks) within 12 months.

104. An Employee is encouraged to access Annual Leave on half pay in weekly blocks.
105. An Employee is not eligible to utilise Annual Leave on half pay in the 12 months following an approved application to purchase leave in accordance with the Purchased Leave Scheme detailed in this Agreement.
106. An Employee who is medically unfit for duty for one day or longer while on Annual Leave and who produces satisfactory medical evidence may apply for and be granted Personal Leave. Annual Leave will be re-credited to the extent of the period of Personal Leave granted.
107. Annual Leave for periods of less than one day may be approved and Annual Leave credits will be reduced by the hours approved.

Cash out

108. There is no limit to the amount of Annual Leave that an Employee may cash out provided that the Employee's remaining accrued entitlement to Annual Leave is not less than 20 days. Each cashing out of a particular amount of Annual Leave must be by a separate agreement in writing with the Commissioner. The Employee will be paid the full amount that would have been paid to the Employee had the Employee taken the leave that is cashed out. The Commissioner will not approve requests to cash out leave in accordance with this clause unless the Employee has taken at least 15 days Annual Leave in the 12 months immediately preceding the request to cash out leave.

Payment on separation

109. Payment in lieu of unused Annual Leave credits will be made to an Employee on separation from the APS where the Employee does not wish to utilise those credits prior to separation.
110. Where an Employee dies, or the Commissioner has directed that an Employee will be presumed to have died on a particular date, the Commissioner may authorise the payment of the amount to which the former Employee would have been entitled had the Employee resigned or retired employment.
111. Payment will be made to dependants or the partner of the former Employee or the former Employee's legal personal representative. If a payment has not been made within 12 months of the former Employee's death, it will be paid to the legal personal representative.

Purchased Leave scheme

112. The Purchased Leave Scheme enables full-time Employees to purchase up to four weeks' additional unpaid leave per year with salary payments averaged over the whole year to ensure that a standard rate is received each fortnight.
113. The Scheme is not generally available to part-time Employees, but access may be approved by the Commissioner. A primary consideration will be the hours of work undertaken each week by the part-time Employee.

114. Purchased Leave will not affect entitlements to other forms of leave and will count as service for all purposes. Purchased Leave is generally intended to enable Employees to access such leave in weekly blocks - this will assist in workforce planning.
115. Salary for the purposes of Clause 112 will be the actual salary paid to the Employee (inclusive of payments for temporary assignment) which the Employee is receiving at the time the leave is purchased, regardless of the salary being received by the Employee when the Purchased Leave is taken.
116. An Employee can apply to the Commissioner to purchase one, two, three, or four weeks leave in any 12-month period. This election may be made at any time and will remain in force for one year from the date of approval by the Commissioner unless exceptional circumstances occur. The Commissioner will consider any proposal to vary any election on a case-by-case basis.
117. An Employee is not eligible to take Purchased Leave in the 12 months following an approved application to utilise Annual Leave on half pay in accordance with Clause 102 of this Agreement.

Public holidays

118. An Employee is entitled to Public Holidays declared by or under the law of a State or Territory to be observed in the locality at which the Employee works in accordance with section 115 of the Fair Work Act.
119. Where the Commissioner and an affected Employee agree, another day may be substituted for any Public Holiday.
120. An Employee, who is absent on a day or part-day that is a Public Holiday in the place where the Employee is based for work purposes, is entitled to be paid for the part or full day absence as if that day or part-day was not a Public Holiday, except where the Employee would not normally have worked on that day.
121. Where a Public Holiday falls during a period when an Employee is absent on leave (other than Annual or paid Personal Leave) there is no entitlement to receive payment as a Public Holiday. Payment for that day would be in accordance with the entitlement for that form of leave (e.g. if on Long Service Leave on half pay, payment is on half pay).

Christmas close-down

122. The Commission offices will be closed for normal business purposes during the period from 25 December until the commencement of the first working day following 1 January (the Christmas Close-Down Period).
123. Over the Christmas Close-Down Period Employees will absent themselves for the days which are not Public Holidays within the meaning of Clauses 118 and 119 and record those days approved close-down leave on their attendance record.
124. There will be no requirement to take Annual Leave or use accrued Flexbank leave over this period.

125. Employees, including Casual Employees, who receive a loading in lieu of leave under this Agreement, will not be entitled to any payment in respect of the Christmas Close-Down Period unless directed by the Commissioner to work.
126. Where an Employee is directed by the Commissioner, due to exceptional circumstances, to be on duty during the Christmas Close-Down Period they may take leave with pay in lieu of the time worked at a time agreed. The period of leave to which they are so entitled is one and a half times the time they were required to be on duty with a minimum of three hours deemed to have been worked.

Long service leave

127. The entitlement to Long Service Leave is provided for under the Long Service Leave (Commonwealth Employees) Act 1976.
128. An eligible Employee may access Long Service Leave for a minimum period of seven calendar days at any one time (at full or half pay). Long Service Leave cannot be broken with other periods of leave, except as otherwise provided by legislation.

Personal leave

Entitlement

129. Subject to Clause 130, an Employee is entitled to 18 days paid Personal Leave each calendar year, which will accrue at a rate of 1.5 days per calendar month and be credited at the completion of each calendar month.
130. Upon engagement in the APS by the Commission, an ongoing Employee will receive a credit of Personal Leave equivalent to the amount of leave that would accrue for the remainder of the calendar year. Further Personal Leave will then accrue in accordance with Clause 129 from the start of the subsequent calendar year.
131. Unused Personal Leave will accrue from year to year.

Use

132. Personal Leave may be used by an Employee for the following purposes:
- personal illness or injury
 - caring for Family who are ill or injured or who require assistance; or
 - unforeseen or unplanned events or emergencies, for example, where absence is necessary for the purposes of:
 - attending to health, legal or other personal matters
 - accompanying Family to assist with health, legal or other personal matters
 - dealing with urgent household matters or repairs to a maximum of three days only per calendar year.

Conditions

133. To use Personal Leave, an Employee must provide acceptable evidence in the following circumstances:
- for Personal Leave in excess of three consecutive days
 - for any Personal Leave in excess of a total of eight days in any calendar year where evidence has not been provided for any of those days.
134. Acceptable evidence will be evidence that would satisfy a reasonable person that the leave was taken for a permitted use as described in this Part. This would generally be either a medical certificate or a statutory declaration. For leave other than personal injury, illness or caring purposes, suitable written reasons must be provided to an Employee's Manager.
135. Where Personal Leave with pay is exhausted, the Commissioner may allow an Employee a grant of additional Personal Leave, either with or without pay. Where an Employee is granted additional Personal Leave without pay the period of leave will count as service for the purpose of Annual and Personal Leave entitlements.
136. An Employee will not be entitled to paid Personal Leave while also entitled to paid Maternity, Adoption or Foster Care Leave.
137. The following principles will apply generally to the use of Personal Leave:
- Employees may choose to use flextime arrangements instead of accessing unused Personal Leave credits; and
 - Personal Leave will not be debited where an Employee is medically unfit for duty on a Public Holiday which the Employee would otherwise have observed.
138. There is no limit to the maximum continuous amount of Personal Leave for personal illness or injury purposes which may be granted subject to available credits, acceptable evidence and, if required, the opinion of a medical practitioner nominated by the Commissioner.
139. Subject to Clause 138 an Employee will not, without the Employee's consent be retired on invalidity grounds before the Employee's paid Personal Leave credit has expired.

Compassionate leave

140. An Employee is entitled on application to the Commissioner to three days paid leave on each occasion that Compassionate Leave is required. The leave may be accessed:
- a. for the purposes of spending time with a family member who has contracted a personal illness or sustained a personal injury that poses a serious threat to life; or
 - b. after the death of a family member.

141. Compassionate Leave is not required to be taken in a block, and each occasion may be broken into one, two or three days.
142. A Casual Employee may access three days of unpaid leave on each occasion that Compassionate Leave is required, and access is on the same terms as paid Compassionate Leave.

Miscellaneous leave

143. There is a single category of Miscellaneous Leave. The Commissioner will decide on each application after discussion with the Employee as appropriate. Examples of circumstances in which Miscellaneous Leave may be granted are listed at [Appendix 4](#).
144. A period of leave approved in accordance with Clause 143 will be with or without pay as determined by the Commissioner, except for three days per calendar year which may be accessed with full pay for the purposes outlined at Clause 1 of [Appendix 4](#).
145. The Commissioner may determine under Clause 144 that only a part of the period of leave will be with pay.
146. Unless the Commissioner determines otherwise, any continuous period of Miscellaneous Leave without pay greater than 30 calendar days will not count as service for Annual and Personal Leave purposes.

Maternity leave

147. Maternity Leave with pay is available to eligible Employees in accordance with the *Maternity Leave (Commonwealth Employees) Act 1973*.
148. An Employee eligible for paid Maternity Leave will receive an additional four weeks leave with pay to be taken immediately following the period of paid Maternity Leave provided under the Maternity Leave Act.
149. In order to provide more flexible administration of Maternity Leave, the Commissioner may give approval to an Employee, in advance, to spread the payment for the 16 week period of absence up to a maximum period of 32 weeks at a rate no less than half normal salary. Only the first 16 week period will count as service.
150. In addition to the entitlement for paid and unpaid leave under the Maternity Leave Act, an Employee may apply for additional unpaid Parental Leave in accordance with Clause 153.

Parental leave

151. An Employee who is not the primary care giver to a dependent child is entitled to 15 days paid leave immediately following the birth, adoption or long term fostering of the dependent child. This leave counts as service for all purposes.
152. An Employee who meets the requirements under the National Employment Standards (NES) for Parental Leave is entitled to a maximum of twelve months unpaid Parental Leave in accordance with the relevant NES less any period taken under Clause 151.

153. An Employee may make application to the Commissioner for up to an additional 12 months unpaid Parental Leave immediately to follow the initial 12 month entitlement period.
154. Where an Employee requests additional unpaid Parental Leave and this request is denied written reasons will be provided by the Commissioner.
155. The Commissioner may determine that all or part of the entitlement to Parental Leave, which would otherwise be unpaid, will be with pay. The Commissioner may determine that all or part of entitlement to unpaid Parental Leave will count as service for any purpose.

Adoption leave

156. An Employee, who has 12 months continuous service in the APS is entitled to 16 weeks paid Adoption Leave for the purposes of adopting a child.
157. Adoption Leave is available from one week prior to the date of placement of a child who has not previously lived with the Employee for a continuous period of 6 months or more and must commence within 8 weeks of the child being adopted.
158. Subject to Clause 159, the period of paid Adoption Leave counts as service for all purposes.
159. In order to provide more flexible administration of Adoption Leave, the Commissioner may give approval to Employees, in advance, to spread the payment for the 16 week period of absence to a maximum period of 32 weeks at a rate no less than half normal salary. Only the first 16 week period will count as service.
160. The Commissioner may approve an additional period of Adoption Leave so that an Employee may care for an adopted child up to a maximum period of 52 weeks (including the period of paid leave).
161. The additional period of Adoption Leave will be without pay and will not count as service for any purpose, unless the Commissioner determines otherwise.
162. An Employee may also apply for additional unpaid Parental Leave in accordance with Clause 153.

Foster care leave

163. An Employee, who has 12 months continuous service in the APS, is entitled to 16 weeks paid Foster Care Leave for the purposes of the long term fostering of a child.
164. Foster Care Leave is available from one week prior to the date of placement of a child who has not previously lived with the Employee for a continuous period of 6 months or more and should commence within 8 weeks of the child being placed.
165. Subject to Clause 166, the period of paid Foster Care Leave counts as service for all purposes.

166. In order to provide more flexible administration of Foster Care Leave, the Commissioner may give approval to Employees, in advance, to spread the payment for the 16 week period of absence to a maximum period of 32 weeks at a rate no less than half normal salary. Only the first 16 week period will count as service.
167. The Commissioner may approve an additional period of Foster Care Leave so that an Employee may care for an adopted child up to a maximum period of 52 weeks (including the period of paid leave).
168. The additional period of Foster Care Leave will be without pay and will not count as service for any purpose, unless the Commissioner determines otherwise.
169. An Employee may also apply for unpaid Parental Leave in accordance with Clause 153.

Return to work after parental leave

170. On ending Parental or Maternity Leave, an Employee is entitled to return to:
 - a. The Employee's pre-Parental/Maternity Leave duties; or
 - b. If those duties no longer exist—an available position for which the Employee is qualified and suited at the same Classification and pay as applied pre-Parental/Maternity Leave. Where this is not practical, other duties will be sought, with the redeployment, reduction and redundancy provisions applying to any placement.
171. For the purposes of this clause, duties mean those performed:
 - a. If the Employee was moved to safe duties because of the pregnancy—immediately before the move; or
 - b. If the Employee began working part-time because of the pregnancy—immediately before the part-time employment began; or
 - c. Otherwise—immediately before the Employee commenced Maternity or Parental Leave.

Defence reserve leave

172. The entitlement to leave for Reserve Service is prescribed under the *Defence Reserve Service (Protection) Act 2001*.
173. An Employee may be granted leave (with or without pay) to enable the Employee to fulfil Australian Defence Force (ADF) Reserve and Continuous Full Time Service (CFTS) or Cadet Force obligations.
174. An Employee is entitled to ADF Reserve Leave with pay, for up to four weeks during each financial year for the purpose of fulfilling service in the ADF Reserve. These purposes include training and operational duty as required.
175. During an Employee's first year of ADF Reserve service, a further two weeks paid leave may be granted by the Commissioner to facilitate participation in additional ADF Reserve training, including induction requirements.

176. With the exception of the additional two weeks in the first year of service, leave can be accumulated and taken over a period of two years, to enable the Employees to undertake training as a member of the ADF Reserves.
177. Employees are not required to pay their tax-free ADF Reserve salary to the Commission in any circumstances.
178. An Employee who is an officer or instructor of cadets in a Cadet Force may be granted paid leave of up to three weeks each financial year to perform duties as an officer or instructor of Cadets. For these purposes ‘Cadet Force’ means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.
179. Defence Reserve Leave counts as service for all purposes, except for unpaid leave to undertake CFTS. Unpaid leave for the purpose of CFTS counts for all purposes except Annual Leave.
180. An eligible Employee may also apply for Annual Leave, Long Service Leave, Miscellaneous Leave without pay, top-up pay or they may use flextime to make up time for the purpose of fulfilling ADF Reserve, CFTS or Cadet Force obligations.
181. An Employee is to notify their Manager at the earliest opportunity once the dates for ADF Reserve, CFTS or Cadet Force activities are known and/or changed.

War service sick leave

182. Employees with certain Defence Force Service prescribed by the *Veterans’ Entitlement Act 1986* are eligible for additional sick leave in relation to war-caused medical conditions.
183. An eligible Employee may accrue two separate credits, a special credit of nine weeks on commencement in the APS and an annual credit of three weeks for each year of APS service. Unused credits will accumulate to a maximum of nine weeks.
184. An eligible Employee may apply to the Commissioner to use War Service Sick Leave.

Community service (emergency management and jury service) leave

185. In accordance with section 108 of the Fair Work Act, leave for participation in voluntary emergency management duties, including training, emergency service responses, reasonable recovery time, and ceremonial duties, will be approved. The Commissioner may determine whether any or all of leave taken for participation in voluntary emergency management activities will be with pay.
186. An Employee will continue to be paid by the Commission for any period of jury service, but will be required to pay to the Commission any amount of jury service pay received by the Employee.

Part F Allowances and Expenses

Payment and variation of rate of allowances

187. A regular part-time Employee or a Casual Employee will be paid an Allowance at the same rate applicable to a full-time Employee unless specified to the contrary within this Part.
188. Clauses 189 and 190 (Payment for Work Outside Standard Bandwidth) do not apply to a Casual Employee.

Payment for work outside the standard bandwidth

189. On each occasion that an Employee at an APS 1–6 Classification or a Training Classification is directed by the Commissioner:
- to work outside the Standard Bandwidth as defined in [Part H](#) of this Agreement; or
 - in the case of a regular Part-Time Employee - to work outside regular agreed hours for a continuous period of at least two hours; or
 - to return to duty for reason of urgent work requirements at a time when they would not otherwise be on duty,

the Employee will be entitled (in recognition of additional incurred costs and inconvenience) to a payment of \$85 and to accrue credits in their Flexbank in accordance with [Part H](#) of this Agreement. This payment is paid through the payroll system and is subject to tax instalment deductions.

190. Clause 189 does not apply where an Employee is undertaking [Official Travel](#).
191. An Employee may, with reasonable cause, decline to work outside the Standard Bandwidth or, in the case of a regular part-time Employee, outside regular agreed hours.

First aid allowance

192. An Employee who possesses a current First Aid Certificate and who is designated by the OH&S Committee to undertake first aid responsibilities within the Commission will be paid an allowance of \$22.15 per fortnight. This allowance is paid fortnightly through the payroll system and is subject to tax instalment deductions.
193. From 1 July 2012 this allowance will be \$22.80 per fortnight.
194. From 1 July 2013 this allowance will be \$23.50 per fortnight.

Departmental Liaison Officer duties allowance

195. An Employee who is assigned the duties of Departmental Liaison Officer is entitled to an allowance at the annual rate of \$15,252. This allowance is paid fortnightly through the payroll system and is subject to tax instalment deductions.

196. From 1 July 2012 this allowance will be \$15,710 per annum.

197. From 1 July 2013 this allowance will be \$16,181 per annum.

Loss, damage and indemnity

198. The Commissioner may approve reimbursement to an Employee for loss or damage to clothing or personal effects which occurred in the course of the Employee's work. This reimbursement is not subject to tax instalment deductions.

Relocation assistance

199. The Commissioner may determine the extent of any reasonable financial assistance for relocation from one locality to another upon:

- engagement as an ongoing Employee
- promotion within the Commission
- promotion or movement on an ongoing basis to the Commission
- temporary assignment which exceeds or is expected to exceed 12 months (or in some circumstances, a shorter period where the Commissioner considers it appropriate)
- movement within the Commission; or
- assignment to new duties in accordance with [Part M](#) of this Agreement.

Reasonable financial assistance may include:

- transport costs
- temporary accommodation costs
- the cost of moving of household furniture and effects to the new location; and
- any other costs the Commissioner determines to be reasonable.

Part G Official Travel

Review of travel allowances and expenses

200. From 1 July each year the Commissioner will, following consultation with the Workplace Relations Committee, review the rates of Motor Vehicle Allowance and Official Travel Expenses payable in this Part, and may, where the Commissioner considers it appropriate, adjust those rates. The review and any adjustment will have regard to relevant factors including:
- revised rates as outlined in the Australian Taxation Office's determinations for reasonable travel and meal allowance expense amounts ; and
 - the relevance and adequacy of rates in relation to Employees; and
 - that Expense-related allowances will be no lower than the relevant ATO determined rates applicable at the time.

Use of private motor vehicle allowance

201. Where the Commissioner considers that it will result in greater efficiency or involve less expense, the Commissioner may authorise in writing an Employee, who has agreed to do so, to use a private car owned or hired by the Employee at their own expense and risk for Official Travel. An Employee is entitled to be reimbursed an amount equal to the relevant airfare or mileage allowance, whichever is the lesser.
202. Where so authorised, an Employee will be entitled to a Motor Vehicle Allowance in accordance with the following table:

ENGINE CAPACITY (Non-Rotary)	RATE IN CENTS PER KILOMETRE
Above 2600cc	75
1601 to 2600cc	74
1600cc or less	63

203. Motor Vehicle Allowance is paid through the payroll system. This allowance is paid after a signed and properly rendered 'Motor Vehicle Running Sheet' has been received by the Commission.
204. This allowance is subject to tax instalment deductions if required by taxation legislation.

Official travel and expenses

205. An Employee may, with reasonable cause, decline to undertake Official Travel.

General conditions

206. For the purposes of the calculation of allowances in this part, when travelling by domestic airline, travel time includes one hour before the scheduled departure time and

one hour after the actual arrival time. This may be extended at the discretion of the Commissioner.

207. There may be occasions where additional costs may be incurred by an Employee beyond the allowances provided under this Part. Payment or reimbursement of these additional costs requires the prior approval of the Commissioner.
208. Accommodation expenses are to be paid by an Australian Government Credit Card wherever possible. Where this is not possible, the Employee will be reimbursed or provided with an advance of money. Reimbursement will be made to an Employee upon production of a tax invoice/receipt. An advance for accommodation expenses requires the prior approval of the Commissioner and the Employee will be required to acquit the advance on return from travel.
209. It is the Employee's responsibility to immediately advise the Commission of changes or cancelled travel arrangements.

Conditions for APS 1–6 and Executive Level 1 employees

210. An Employee who is required to be absent overnight from their usual place of work on Official Travel will be paid an entitlement for meal expenses as follows for each meal occurring during the period the Employee is undertaking Official Travel:

Meal	Time	Amount
Breakfast	7.00 a.m.	23.10
Lunch	1.00 p.m.	25.90
Dinner	7.00 p.m.	44.50

211. An allowance for incidental expenses of \$16.85 will be paid for each 24 hour period (or part thereof).
212. Overnight travel expenses are currently not subject to tax instalment deductions, and will not be unless required by taxation legislation.
213. An Employee undertaking Official Travel who is required to be absent overnight from their usual residence, is entitled to stay in accommodation at a rate of up to \$171 per night, subject to Clauses 200 and 207.
214. An Employee undertaking Official Travel for a period of not less than 10 hours, but who is not absent overnight, will be paid an allowance of \$65 in lieu of payment for the meals and incidental expenses outlined at Clauses 210 and 211. This allowance is paid through the payroll system and is currently subject to tax instalment deductions as required by taxation legislation.

Conditions for Executive Level 2 employees

215. An Employee classified as Executive Level 2 will be provided with an Australian Government Credit Card which should be used to pay reasonable out of pocket

expenses for accommodation, meals and incidentals while on Official Travel, up to the following maximum amounts:

- \$315 per day for domestic travel requiring an overnight stay, or
- \$65 per day for domestic travel undertaken on the same day.

216. Where it is impractical to use the Australian Government Credit Card, reasonable out of pocket expenses will be reimbursed in accordance with the applicable policy, instruction, or guideline of the Commission and subject to the financial limits in Clause 215.

Review of travel expenses

217. When an Employee is required to undertake Official Travel which results in the Employee residing in one locality for a period of at least 21 days, a reviewed payment which is equal to the actual amount expended on accommodation, meals and incidentals, or an amount which the Commissioner considers to be reasonable in the circumstances, will apply. In these circumstances, Clauses 210 to 216 will not apply.

Class of travel

218. Employees are entitled to economy class when undertaking Official Travel within Australia.

219. Business class travel will be used where an Employee undertakes Official Travel overseas.

Overseas official travel or deployment

Official travel overseas

220. An Employee who is required to undertake Official Travel overseas will be provided with an Australian Government Credit Card or a cash advance that is to be acquitted, to meet reasonable accommodation, meal and incidental expenses (e.g. airport taxes, telephone calls to maintain contact with family). The cash advance will be administered on a case-by-case basis having regard to issues such as accepted processes for the payment of accounts in the country being visited and projected expenses where payment by credit card is not an option.

Overseas deployment

221. The employment conditions for an Employee deployed overseas will be consistent with the prevailing whole of government overseas conditions, noting that currently these are generally coordinated by AusAID for aid-related functions.

Part H Flexible Work Environment

Hours of work

222. The hours of work for a full-time Employee are 150 hours over a four-week Settlement Period.
223. The standard working day is seven hours and thirty minutes (7 hours 30 minutes).
224. The standard working day of 7 hours 30 minutes shall be the basis for the calculation of leave entitlements and rates of pay based on a day.
225. For the purpose of granting all forms of leave only the periods between 8:30 am to 12.30 pm and 1.30 pm to 5:00 pm will be considered.
226. An Employee, other than an Employee undertaking Official Travel, should not work more than 10 hours per day unless specifically directed to do so.
227. An Employee will not be required to, and must not, work for more than five hours without an unpaid break of at least 30 minutes.
228. Once it has been established that an Employee is absent from duty without approval, all pay and other benefits provided under this Agreement, will cease to be available until the Employee resumes duty or is granted leave in accordance with this Agreement.

Bandwidths

229. Hours worked within the Standard Bandwidth are Ordinary Time.
230. The Standard Bandwidth is between the hours of 7.00 a.m. and 7.00 p.m., Monday to Friday.
231. The Extended Bandwidth is between the hours of 6.00 a.m. and 7.00 a.m. and 7.00 p.m. and 10.00 p.m., Monday to Friday and between the hours of 8.00 a.m. and 6.00 p.m. on Saturday, Sunday and Public Holidays.
232. Payment for Work Outside the Bandwidth is described at Clause 189.

Flexitime

233. An Employee at an APS 1–6 Classification or a Training Classification may access Flexitime arrangements under this Agreement, subject to agreement from the Commissioner and compliance with relevant policy and the Code of Conduct.
234. Part-time Employees are not eligible for flexitime. However, part-time Employees may access limited flexible arrangements on an ad hoc basis by agreement with their Manager.
235. Flexitime is a system of flexible working arrangements which enables an Employee and their Manager, in consultation with the Commissioner, to vary working hours, patterns and arrangements to provide maximum organisational flexibility with benefit to clients, the Employee and the Commission.

236. The Commissioner will administer these arrangements in a way which meets the Commission's operational requirements and responsibilities having regard to the needs of the Employee.
237. Patterns of attendance and record-keeping arrangements for flextime will be agreed between the Employee and their Manager, in consultation with the Commissioner.
238. An Employee may, with the approval of the Commissioner, utilise flextime in lieu of other leave within the credit and debit maximums of the Flexbank.

Flexbank

239. The Flexbank enables greater flexibility in working arrangements within the Commission to enable a balance between operational requirements, efficient client service and the personal needs of an Employee to whom flextime applies.
240. Subject to Clause 222, an Employee is required to work an average of 37 hours and 30 minutes per week with an average of 7 hours 30 minutes per working day, but flexibility in relation to hours worked on any particular day is available within the Standard Bandwidth (see Clause 230).
241. The Flexbank operates on a seven days per week basis, with specific arrangements for work performed at the direction of the Commissioner outside the Standard Bandwidth (see Clauses 247 to 251).
242. Flextime credits will accrue on an hour for hour basis when work is performed within the Standard Bandwidth, except where an Employee is directed to work more than 10 hours on any one day within the Standard Bandwidth. In these circumstances flextime for hours worked in excess of 10 hours will accrue at Extended Bandwidth rates.
243. An Employee at an APS 1–6 Classification or a Training Classification may not carry over in excess of 37 hours and 30 minutes flextime credit at the end of any Settlement Period unless:
 - a. They have brought the matter to the attention of their Manager prior to the end of the Settlement Period; and
 - b. The Manager and the Employee have put in place a strategy to reduce the credit below 37 hours and 30 minutes prior to the end of the next Settlement Period.
244. An Employee at an APS 1–6 Classification or a Training Classification may not carry over in excess of 15 hours flextime debit at the end of any Settlement Period.
245. The Manager will manage the hours of work of an Employee to ensure that an Employee is productively employed and not continuing to build excessive flextime credits without opportunity to access flextime leave.
246. Managers will encourage Employees to use accrued flextime.

Direction to work outside the standard bandwidth

247. Where the Commissioner directs an Employee at an APS 1–6 Classification or a Training Classification to work within the Extended Bandwidth, flextime credit will

accrue at the following rates with a minimum of 3 hours to be accrued for any time worked:

Monday-Saturday: one and a half hours for each hour worked

Sunday/Public Holidays: two hours for each hour worked

248. Where an Employee is directed to work within the Extended Bandwidth an Employee will be entitled to an 8 hour break plus reasonable travelling time following the end of the period of work before commencing work again.
249. Where the break referred to in Clause 248 is not possible due to operational requirements the Employee will be paid for the next period of work, or until an 8-hour break can be granted, at double the rate of the Employee's usual rate of salary.
250. Where the Commissioner directs an Employee to work outside the Extended Bandwidth i.e. 10.00 p.m. to 6.00 a.m. Monday to Friday or 6.00 p.m. to 8.00 a.m. Saturday, Sunday and Public Holidays, the Employee will be entitled to flextime credit accrued at the rate of two hours for each hour worked, with a minimum of 3 hours to be accrued for any time worked.
251. Clauses 247 to 250 do not apply where an Employee is required to undertake Official Travel.

Summary of bandwidth arrangements

	Bandwidth Hours	Flextime Accrual
Standard bandwidth	Monday to Friday 7.00 am to 7.00 pm	Hour for hour * If directed to work 10+ hours not including breaks, additional hours will be accrued at extended bandwidth rates
Extended bandwidth ** Employees must be directed to work for additional flex provisions to apply	Monday to Friday 6.00 am to 7.00 am 7.00 pm to 10.00 pm Saturday/Sunday/Public Holiday 8.00 am to 6.00 pm	Monday to Saturday – one and a half hours for each hour worked * A minimum of 3 hours accrues Sunday/public holidays – two hours for each hour worked * A minimum of 3 hours accrues
Outside extended bandwidth ** Employees must be directed to work for additional flex provisions to apply	Monday to Friday 10.00 pm to 6.00 am Saturday/Sunday/Public Holiday 6.00 pm to 8.00 am	Two hours for every hour worked * A minimum of 3 hours accrues

Working arrangements for executive level employees

252. The working arrangements (including working hours) for Executive Level 1 and 2 Employees will be agreed with their Manager. In reaching agreement the Manager and the Employee will have regard to:
- operational requirements and workload priorities

- the need to balance work and personal life; and
- any other relevant factors.

253. While the Commission's flextime and Flexbank arrangements do not apply to Executive Level 1 and 2 Employees, a Manager should consider flexibility in working arrangements, including working hours, consistent with operational requirements. Where an Employee has consistently worked excessive hours a Manager will, having regard to the points above, grant reasonable time off in recognition of additional hours worked at a time mutually agreed. Such absences do not need to be covered by any form of leave.

Employees travelling on official duty

254. Official Travel, wherever possible, should be undertaken during the Standard Bandwidth. When an Employee is required to undertake Official Travel, time spent working or in transit may be recorded as hours of work. This Clause should be read in conjunction with Clauses 239 to 246 (Flexbank) and Clauses 252 and 253 (Working Arrangements for Executive Level Employees).

Part I Work and Life Balance

Introduction

255. The Commission recognises the importance of a flexible work environment which recognises the wide range of individual Employee needs and circumstances, including, but not limited to, mature age workers, Employees with caring responsibilities, parents and young people.
256. This Part aims to provide support and flexibility in the workplace to assist Employees in achieving an effective work/life balance.
257. The Commission will consult with the Workplace Relations Committee in relation to the impact of flexible arrangements and the ability to achieve an effective balance between the operational needs of the Commission and Employee needs for a flexible working environment.

Recognition of family responsibilities

258. The Commission recognises the need to provide sufficient support and flexibility at the workplace to enable an Employee to balance work and family responsibilities.
259. The Commission recognises that an Employee has the right to request flexibility in working hours or use of leave and/or other support in the workplace to balance work and family responsibilities, including but not limited to regular part-time work and leave without pay (either following Maternity, Adoption, Parental or Foster Care Leave or for family caring responsibilities at another time).
260. Where the Commissioner receives such a request in writing from an Employee the Commissioner will give it due consideration and approval will not be unreasonably withheld.
261. Where a request cannot be approved reasonable alternatives will be considered.
262. Where a request or an alternative cannot be reasonably accommodated by the Commissioner the Employee will receive a written notice of the decision and the reason for that decision.

Flexible work arrangements for parents

263. An Employee who is a parent, or has responsibility for the care of a child under school age or a child under 18 who has a disability, may request flexible working arrangements, including part-time hours.
264. A Casual Employee engaged for irregular or intermittent duties may only request flexible work arrangements if the Employee:
- a. Is a long term casual employee as defined in section 12 of the Fair Work Act immediately before making the request; and
 - b. Has reasonable expectation of continuing employment on a regular and systematic basis.

265. A request made in accordance with Clause 263 must be in writing and set out details of the change sought and the reason for the change. The Commissioner will respond in writing to the request within 21 days and will only refuse on reasonable operational grounds. Where the request is refused, the response will include reasons for the refusal.

Regular part-time employment

266. The Commission is committed to helping Employees achieve a balance between the demands of work and other responsibilities. The provision of part-time working arrangements is a significant contributor to that objective.
267. A part-time Employee is one who works a regular number of hours and whose hours of work are less than 150 hours over the four week Settlement Period. The Commissioner will agree with the Employee the number of days and number of hours to be worked, under the four-week Settlement Period. However, a minimum of three hours are to be worked consecutively on any day.
268. The Commissioner may initiate the introduction or extension of part-time employment. Employees will not be required to convert from full-time to part-time hours or from part-time to full-time hours, without their agreement.
269. The Commissioner will agree to reasonable requests from Employees for regular part-time work, subject to operational requirements.
270. The Commissioner and the Employee may agree to vary the part time work agreement, including a reversion to full time hours, before the end of any period of an agreed part-time working arrangement.
271. Unless agreed otherwise between the Employee and the Commissioner in writing, or otherwise described in the Agreement, remuneration and other benefits for part-time Employees will be calculated on a pro rata basis.

Job sharing

272. Subject to operational requirements, the Commission will facilitate job sharing whereby two or more Employees share one full time job and each work part-time on a regular basis.
273. Job sharing arrangements will be agreed between the Commissioner and the Employees involved.
274. An Employee working under job sharing arrangements will be considered to be a part-time Employee and will be subject to the same terms and conditions of employment as a part-time Employee.

Working away from the office

275. By agreed arrangement with the Commissioner, and subject to Commission guidelines, an Employee may work away from the office on either a regular or temporary ad hoc basis.

276. The arrangement may only be varied by agreement and may be terminated by either the Commissioner or Employee, with a minimum notice period of two weeks or such shorter period as may be agreed.
277. A decision by the Commissioner to terminate the arrangement may be made on the basis of operational requirements, the inefficiency or ineffectiveness of the arrangement and/or the failure of the Employee to comply with specified requirements.
278. The Commissioner will set out arrangements to cover compensation, occupational health and safety, security, liability and access for Employees while working away from the office.
279. The Commissioner may fund the establishment of working away from the office arrangements of a regular nature to a maximum of \$3,000.
280. The content of the work to be performed away from the office must be approved by the Commissioner who must take account of security aspects and confidentiality considerations.
281. Employees engaged as non-ongoing Executive Level 1 Casual Employees when working from home are considered to be approved as undertaking ad-hoc home based work arrangements.

Family care costs

282. In recognition of caring responsibilities, the Commissioner may authorise reimbursement of reasonable expenses arising from additional family care arrangements made necessary where an Employee is:
- required to travel away from their normal work location for business purposes; or
 - directed to work additional hours or to attend a conference or learning and development course outside the standard bandwidth; or
 - outside the Employee's regular agreed hours of work; or
 - directed to return to duty.

Part J Workplace Health

Workplace diversity and harassment free workplace

283. The Commission is committed to promoting and supporting workplace diversity and to creating an environment that values and utilises the contributions of people with different backgrounds, experiences and perspectives.
284. The Commission will continue to implement the workplace diversity program and other strategies, and develop new strategies as necessary, to increase the recruitment, retention and career development of Aboriginal or Torres Strait Islander Employees, Employees with disabilities and Employees from non-English speaking backgrounds.
285. To further encourage workplace diversity, in administering Employee entitlements under this Agreement, the Commissioner will have regard to any special needs of individual Employees, including Employees with a disability, and will adopt a policy of reasonable adjustment to take account of those needs.
286. The Commission is committed to promoting equity in employment supporting an inclusive, safe, fair, productive and successful workplace that is free from discrimination and harassment.
287. The Commission will continue to implement the *Plan for a Harassment-Free Workplace in the APS Commission* and any successor Plan. The Workplace Relations Committee will be consulted on the appropriate numbers of Harassment Contact Officers for the Commission. The Commission will ensure Harassment Contact Officers receive training appropriate to that role.

Health promotion

288. The Commission, on recommendations made by the OH&S Committee, will promote health awareness among Employees, through funding annual programs focusing on health and lifestyle such as:
- presentations on health and fitness
 - meeting the cost of influenza vaccinations; and
 - health and fitness assessments for Employees.

These programs may be undertaken jointly with other agencies or through provision of services to Employees collectively or individually. All Employees will have the opportunity to access some form of health awareness programs organised and funded by the Commission.

Employee assistance scheme

289. The Commission will provide access to a confidential, professional counselling service at no cost to an Employee and their family to help resolve both personal and work-related problems.

Part K Workplace Development

Skills recognition and development

290. The Commission will identify learning and development needs of Employees annually through the Performance Appraisal Scheme outlined in [Part L](#) of the Agreement. The Performance Appraisal Scheme will include the development of a Learning and Development Agreement for each Employee.
291. Induction and learning and development programs will be prepared, drawing on the Work Level Standards, public sector competencies and other relevant material.
292. Progress against Learning and Development Agreements will be tracked by Groups through the Performance Appraisal Scheme.
293. The Commission encourages each Employee to participate in learning and development programs which will enhance the performance of duties in the APS and supports Employee participation in APS-wide programs.
294. Professional development needs, where these relate to an essential qualification required to perform an Employee's duties, will be funded by the Commission. The Commissioner may approve funding of other professional development needs where these are agreed between the Commissioner and the Employee.
295. Where an Employee is required to be a member of a professional association, or professionally licensed or registered, in order to fulfil their role with the Commission the Commissioner will reimburse the Employee the cost of annual registration upon receipt of a tax invoice. The Commissioner may consider re-imburement of professional membership, registration or license in other circumstances where there is a benefit to the Commission to do so.

Study encouragement scheme

296. The Commission encourages, and Managers support, Employees to undertake formal study in fields which link to the achievement of the Commission's strategic goals or which meet the Employee's career development needs.
297. The Commission will provide financial or other assistance to an Employee to undertake formal courses of study at tertiary and higher education institutions and other vocational education courses, where the study is agreed as part of an Employee's Learning and Development Agreement developed as a part of the Performance Appraisal Scheme.
298. The Commissioner may approve assistance to an Employee to a maximum of either:
- 8 hours per week paid leave during a semester, or period of study in accordance with regulations of the academic institution, to travel to attend classes, undertake examinations or for other study purposes; or
 - \$4,000 per calendar year.
299. A grant of assistance to an Employee in accord with Clause 298 may involve a mix of both types of assistance referred to in that clause.

300. An Employee who is an Aboriginal or Torres Strait Islander undertaking formal study may be granted paid leave up to 5 hours per week during a semester above the level of paid leave which would be granted under Clause 298.
301. The Commissioner may approve applications for assistance in excess of the amounts stipulated in Clauses 298 and 300.
302. An Employee who is approved study leave under Clauses 298 to 301 may, with the agreement of the Commissioner, accumulate some or all of their unused study leave to take as a block. The timing of access to accrued study leave must be approved by the Commissioner.

Performance appraisal scheme**Purpose**

303. The purpose of the Performance Appraisal Scheme is to:
- provide Employees with a clear understanding of their role and what is expected of them at work
 - provide incentives for improved performance through salary advancement
 - provide a clear link between an Employee's performance, learning and development needs and the achievement of the Commission's strategic directions; and
304. support a work culture that continually seeks to improve performance through discussion and constructive feedback. All Employees will participate in the Scheme so that they receive regular feedback on performance.

Participation and eligibility for performance based salary advancement

305. Eligibility for performance based salary advancement is limited to:
- ongoing Employees who have been at both the Classification or Broadbanded Classification to which the salary advancement applies, and present at the workplace and subject to appraisal for a minimum of six months during the annual appraisal cycle; and
 - ongoing Employees on temporary assignment from other agencies for more than six months,
- who achieve a performance rating of 'performing well' (2) or 'performing exceptionally' (3) at the end of the annual performance appraisal cycle.
306. Non-ongoing Employees covered by this Agreement are not eligible for salary advancement under these provisions.
307. Subject to Clauses 37 and 305, on 1 July an eligible ongoing Employee who is below the maximum pay point of their substantive Classification or substantive Broadband, will be eligible for progression to the next highest pay point within their substantive Classification or Broadband.

Responsibilities for performance appraisal

308. Employees must participate in all stages of the performance appraisal process including performance reviews.
309. Managers must:
- Participate in all stages of the performance appraisal process
 - Discuss any requirement to vary the agreement throughout the cycle

- Take action to address underperformance throughout the cycle
- Provide constructive and effective feedback about performance; and
- Apply a consistent rating scale; and
- Undertake performance reviews.

Performance agreements

310. Performance Agreements will:

- be developed between the Manager and the Employee
- include a reasonable number of business outcomes and performance measures
- identify and record learning and development requirements and any support needs, including for current skill/knowledge gaps and for future career goals; and
- demonstrate a clear link between the business outcomes and performance measures included on an Employee’s performance agreement and how these contribute to the achievement of the Commission’s strategic priorities.

Performance assessment cycle

311. The Performance Appraisal Scheme will operate on a twelve-month cycle from 1 July to 30 June.

312. At mid and end of cycle reviews an Employee’s Manager should provide the Employee with feedback in writing on the performance appraisal template on their business outcomes including adherence to APS Values and Code of Conduct.

Performance ratings and criteria

313. During the mid cycle and end of cycle reviews Employees will be provided with a performance rating of 3, 2 or 1 in accordance with the following performance scale and descriptors:

	Rating	Description
3	Performing Exceptionally	This level of performance indicates that the Employee has exceeded expectations in all priority responsibilities in their performance agreement or significantly exceeded expectations in the majority of priority responsibilities in their performance agreement; and maintained an exceptionally high standard of performance in relation to their day-to-day responsibilities.
2	Performing Well	This level of performance indicates that the Employee has fully met the expectations of all responsibilities in their performance agreement, including priority and day-to-day responsibilities.

	Rating	Description
1	Requiring Development	<p>There are three scenarios which could lead to an Employee receiving this rating. They either:</p> <ul style="list-style-type: none"> a. need more guidance than an Employee who is performing well to meet priority responsibilities; or b. failed to meet the expectations of some responsibilities of their performance agreement; or c. failed to meet several responsibilities in their performance agreement, including priority and day-to-day responsibilities.

314. An Employee who receives a rating of 1 (Requiring Development), for reasons a or b (above), during their annual review will have their performance reassessed 3 months following the date they were advised of their performance rating. Where an Employee has improved their performance and receives a reassessed rating of 2 (performing well), salary advancement to the next available pay point will take effect from the date of reassessment.

315. An Employee who receives a performance rating of 1 (Requiring Development), for reason c (above) should be managed in accordance with the Managing Underperformance process set out at Clause 319 and following. No salary advancement is payable.

Temporary assignment

316. Where an Employee is temporarily assigned new duties the Employee and their Manager should determine, based on the expected duration of the temporary assignment, whether a new Performance Agreement should be developed.

317. An Employee, who has been temporarily assigned to duties with a higher Classification for any duration during the appraisal cycle, must be rated against their substantive position. The Employee's performance at the higher level should be taken into account for the performance rating. Salary advancement will be based on Employee's substantive salary only.

Review of actions

318. The mechanisms for the internal review of employment actions set out in [Part N](#) of the Agreement are available to Employees seeking review of action associated with performance appraisal.

Managing underperformance

319. The Commissioner may invoke the Commission's process for managing underperformance where:
- an Employee's performance remains below expected standard
 - the performance issues are ongoing; and
 - informal resolution has been attempted.
320. The process for managing underperformance does not apply:
- to non-ongoing Employees
 - to Employees on probation
 - where there is a health-related reason for the underperformance; or
 - where an essential qualification has been lost.
321. Performance assessment will provide the framework for managing underperformance within the Commission. While assessment will operate on an annual cycle with mid-cycle discussions of performance, a Manager or an Employee may initiate a discussion of work performance at any time.
322. The management of underperformance applies to an Employee whose work performance is rated as Requiring development in that the Employee's performance has failed to meet several responsibilities in their performance agreement, including priority and day-to-day responsibilities.
323. Where at any time, including at the end of a performance appraisal cycle, a Manager considers that an Employee's work performance is rated as Requiring development (for reason c at Clause 313) and is to be managed in accordance with this Part, they will as soon as practicable advise the Employee in writing that they consider the Employee's work performance is rated as Requiring development (reason c) and provide the Employee with details about the following:
- the required standards for the duties the Employee has been assigned and how the Employee has failed to meet those standards
 - how the Employee's performance will be assessed; and
 - the possible consequences if the Employee has not attained and sustained the required standards by the end of an assessment period.
324. The Employee will have seven days to comment.
325. Where, having regard to the comments (if any) provided by the Employee, the Manager considers it necessary, the Employee's performance may be further assessed over a further assessment period.

Further assessment period means a period, not less than one month and not exceeding 3 months, determined by the Manager having regard to:

- the nature of the duties undertaken by the Employee
 - the availability of the Employee to undertake those duties; and
 - any other relevant circumstance.
326. During the further assessment period the Manager will provide the Employee with regular feedback on their performance.
327. If, at the end of the further assessment period, the Employee's performance is not assessed as 'Performing well' by the Manager, the Manager must provide a written report to the Commissioner on the matter together with any comments in writing (if any) the Employee wishes to make in respect of the written report.
328. Following receipt of the report and comments (if any) the Commissioner may issue a notice of intention to do one of the following:
- terminate the employment of the Employee
 - assign the Employee to other duties at their current classification
 - assign to the Employee duties either with a lower classification or at a lower level within a broadband having determined that those duties are appropriate to that classification or lower level within a broadband and that the Employee is capable of performing those duties; or
 - take other action specified in the notice that may be appropriate.
329. A notice issued under the previous clause will indicate which of the four options is intended.
330. The Employee will have seven days to make representations why the action proposed in the notice should not be taken.
331. At the end of the seven days, the Commissioner, having considered the representations (if any) submitted under Clause 330, may issue a notice of his or her decision about the action taken in relation to the Employee.

Managing breaches of the code of conduct

332. Breaches of the Code of Conduct will be dealt with under procedures established in accordance with section 15 of the Public Service Act.

Part M Workforce Adjustment

Changing role and responsibilities

333. Section 25 of the Public Service Act gives the Commissioner the power to from time to time determine the duties of an Employee or the place or places at which they are to perform duties. An Employee can decline to perform work based on a reasonable concern by the Employee about an imminent risk to his or her health or safety. In such a case the Employee must comply with any reasonable direction by the Commissioner to perform other available work, whether at the same or another workplace that is safe and appropriate for the Employee to perform.
334. There will be occasions where it is desirable to assign an Employee additional or different duties, or direct an Employee to work at a different location, on a temporary or ongoing basis, for example:
- due to changes in priorities
 - because projects are completed
 - because the Commission takes on new responsibilities or projects; or
 - to meet temporary additional demands including due to Employee absences or exceptional circumstances.
335. In line with the APS Values, the prevailing principle will be to consult with an Employee and where they choose, their representatives, in particular as to whether there are factors, such as caring responsibilities, which might make a particular direction unreasonable in relation to the particular Employee.
336. [Part N](#) of this Agreement deals with Dispute Resolution Procedures in relation to matters arising under this Agreement and for Internal Review of Employment Actions.

Employee initiated separation from the APS

337. An Employee will, where practicable, give a minimum of 2 weeks' notice of their intention to resign or retire from the APS, except where a lesser period is agreed with the Commissioner.

Excess employees**Coverage**

338. The following provisions will apply to all Employees of the Commission with the exception of:
- ongoing Employees who are on probation; or
 - non-ongoing Employees.

Definition of excess employee

339. An Employee is an Excess Employee if:

- the Employee is included in a class of Employees employed in the Commission which comprises a greater number of Employees than is necessary for the efficient and economical working of the Commission; or
- the services of the Employee cannot be used effectively 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
- 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 Commissioner has determined that these provisions will apply to that Employee.

340. Where 15 or more Employees are likely to become excess, the Commissioner will comply with the provisions of Division 2, Part 3-6 of the Fair Work Act.

Consultation with potentially excess employees

341. When the Commissioner is aware that an Employee is likely to become excess, the Commissioner will advise the Employee.

342. The Commissioner will hold discussions with the Employee to advise them of the reasons they may become excess and to consider:

- measures that could be taken to resolve the situation, including redeployment opportunities for the Employee at or below level including through any APS-wide deployment mechanism which might exist at the time
- referral to a service provider approved by the Commissioner to provide career planning and other appropriate assistance; and
- whether Voluntary Retrenchment might be appropriate.

343. Where the Employee nominates a representative, the Commissioner will hold the discussions with the Employee's representative.

344. The Commissioner may, prior to the conclusion of these discussions, invite an Employee who is not a potentially excess Employee to express interest in Voluntary Retrenchment, where the retrenchment of that Employee would permit the redeployment of an Employee who is potentially excess.

Declaring an employee excess

345. At least four weeks after advising the Employee in accordance with Clause 341 that they are likely to become excess, the Commissioner may advise the Employee in writing that they are an Excess Employee. The Employee and the Commissioner may agree to a shorter period.

Voluntary retrenchment

346. Where an Employee is advised that they are an Excess Employee in accordance with Clause 345, the Commissioner may invite the Excess Employee to accept Voluntary Retrenchment.

347. Where the Commissioner invites an Excess Employee to accept Voluntary Retrenchment, the Employee will have four weeks in which to accept the offer.
348. Where the offer is accepted the Commissioner will consider whether to proceed with approval of the Voluntary Retrenchment but will not give notice of termination under section 29(3)(a) of the Public Service Act before the end of the four week period without the agreement of the Employee.
349. As soon as possible within the four weeks referred to in Clause 347, the Commissioner will give the Excess Employee information on:
- the amount of Severance Benefit, pay in lieu of notice and paid leave credits
 - how to ascertain the amount of accumulated superannuation contributions
 - options open to the Employee concerning superannuation; and
 - any taxation rules applying to the various payments,
- which would be payable on Voluntary Retrenchment.
350. An Excess Employee invited to accept Voluntary Retrenchment will be provided with assistance up to a total of \$900 for financial advice and career counselling.
351. Only one offer of Voluntary Retrenchment will be made to an Excess Employee.

Period of notice

352. Where the Excess Employee accepts Voluntary Retrenchment, the Commissioner may retrench the Excess Employee by giving the required notice of termination under section 29(3)(a) of the Public Service Act. The period of notice will be 4 weeks (or 5 weeks for an Employee over 45 and with at least 5 years of continuous service).
353. Where an Employee's employment is terminated at the beginning of, or within, the notice period, the Employee will receive payment in lieu of notice as set out in the Fair Work Act for the unexpired portion of the notice period.

Severance benefit

354. An Employee whose employment is terminated under section 29(3)(a) of the Public Service Act following their agreement to be voluntarily retrenched is entitled to be paid a Severance Benefit calculated in accordance with [Appendix 3](#).

Accelerated separation option and additional payment

355. Where the Commissioner invites an Excess Employee to accept Voluntary Retrenchment, the Commissioner may also invite the Excess Employee to accept an accelerated separation option. This option provides, in addition to the Severance Benefit, a payment of a maximum of four weeks' salary in lieu of the consideration period referred to in Clause 347 where the Excess Employee agrees to termination of employment and the employment is so terminated within 14 days of receiving an offer of Voluntary Retrenchment. Any payment to which the Employee is entitled will be equal to the balance of the four week period referred to in Clause 347.

Retention period

356. Unless the Employee agrees, an Excess Employee will not be involuntarily retrenched unless the retention period has elapsed.
357. An Excess Employee will be entitled to the following retention period:
- 13 months where they have 20 or more years of service or are over 45 years of age; or
 - 7 months.
358. If an Employee is entitled to a redundancy payment under the NES, the retention period at Clause 357 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).
359. The retention period will commence on the day the Employee is advised in writing by the Commissioner, in accordance with Clause 345, that they are an Excess Employee.
360. The retention period will be extended by any periods of personal leave certified as sick leave taken during the retention period.
361. Where:
- an Excess Employee has been receiving redeployment assistance from a service provider for two months; and
 - the service provider advises that there is no reasonable prospect of redeployment in the APS; and
 - the Commissioner is satisfied that there is insufficient productive work available for the Employee within the Commission during the remainder of their retention period,
- the Commissioner may, with the agreement of the Employee, terminate the employment of the Employee under section 29 of the Public Service Act and upon termination, the Employee will be paid a lump sum comprising the balance of the retention period (as shortened for the NES under Clause 358) and this payment will be taken to include the payment in lieu of notice of termination of employment, plus the employee's NES entitlement to redundancy pay.

Redeployment

362. Where an Excess Employee does not accept an offer of Voluntary Retrenchment or the accelerated separation option within four weeks of the offer being made, the Redeployment arrangements of this Agreement will apply.
363. An Excess Employee will have access to the APS-wide redeployment mechanisms as outlined in the APS Redeployment Policy (April 2011), and any successor policy.
364. An Excess Employee will be entitled to a period of retention in which they will have access to the services of a provider approved by the Commissioner to the value of \$2600 in order to assist them to be redeployed. The Employee is also entitled to funding

for financial advice to the value of \$900 less any amount already paid in accordance with Clause 350.

365. The Commissioner will take all reasonable steps, consistent with the interests of the efficient administration of the Commission, to assign new duties to an Excess Employee at their substantive Classification within the Commission.
366. The Commissioner, after taking reasonable steps to find alternative employment in the Commission at the Excess Employees substantive Classification, may, with four weeks' notice, allocate a lower Classification to the Employee, having determined that duties appropriate to that Classification are to be performed by the Employee. The Employee will receive income maintenance to maintain their salary at the previous higher Classification for the balance of the retention period.

Assistance

367. An Excess Employee will be given assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment (where such expenses are not met by the prospective employer) and will be given reasonable time off work to attend job interviews.
368. An Excess Employee required to move their household to a new locality as a result of an assignment to new duties at the same or lower Classification may be entitled to reasonable expenses in accordance with [Part F](#) of this Agreement.

Involuntary retrenchment

369. Subject to Clauses 356 to 366 the Commissioner under section 29 of the Public Service Act may terminate the employment of an Excess Employee who has not agreed to Voluntary Retrenchment and has not been permanently redeployed to an ongoing position.
370. The Commissioner will not terminate the employment of an Excess Employee if the Excess Employee has not been invited to accept an offer of Voluntary Retrenchment or has elected to accept an offer of Voluntary Retrenchment but the Commissioner has refused to approve it.

Consultation and communication

372. The Commission is committed to communicating and consulting with Employees, genuinely seeking their contribution to the decision making process and providing feedback on that contribution. The Commission respects the right of Employees to be represented in the consultation process.
373. The Commission will consult with Employees in relation to workplace matters, including on major changes, through:
- Group meetings
 - the Workplace Relations Committee; and
 - Group Managers through the Commission Management Committee.

Policies and guidelines

374. The operation of this Agreement is supported by policies, procedures and guidelines. If there is any inconsistency between the policies, procedures and guidelines and the terms of this Agreement, the express terms of this Agreement will prevail.
375. Policies, procedures and guidelines which support the operation of this Agreement may be made or varied from time to time following consultation with the parties to the Agreement and will apply in the form they are in as at the time of any relevant action/decision.

Workplace Relations Committee

376. A Workplace Relations Committee will be established which will include:
- Chair (the Commissioner or nominated representative)
 - 2 management representatives (1 Group Manager and 1 Executive Level 2)
 - Group Manager Corporate
 - 2 CPSU representatives nominated by the CPSU; and
 - 3 Employee representatives covered by this agreement and elected by Employees covered by this agreement:
 - 1 Area Office representative
 - 1 Canberra based APS 1–6 representative
 - 1 Canberra based EL representative.
377. Workplace co-operation requires effective representation of Employees. Access to appropriate facilities (including communication systems, office equipment and notice boards) will be available to members of the Commission Workplace Relations Committee and members of working groups established by the Committee for the purpose of facilitating such representation.

378. The Workplace Relations Committee will have the primary responsibility for monitoring the implementation of this Agreement. The Workplace Relations Committee may at any time make recommendations to the Commissioner regarding workplace issues, including those issues not explicitly dealt with in this Agreement.

Freedom of association

379. The Commission recognises the freedom of association provisions of the Fair Work Act.
380. It is recognised that Employees may choose to be represented by a union. Irrespective of that choice, Employees will not be disadvantaged or discriminated against in respect of their employment under this Agreement.
381. The Commission recognises the role of the union in representing its members.
382. The Commission has developed in consultation with the CPSU a specific protocol which recognises the rights of union officials and nominated workplace delegates and provides facilities and resources in accordance with the Australian Public Service Bargaining Framework..

Procedures for preventing and settling disputes

383. The following are the Dispute Resolution Procedures for preventing and settling disputes between the parties to the dispute about matters arising under the Agreement or the National Employment Standards.
384. In the first instance, the parties to a dispute must genuinely attempt to resolve the dispute at the workplace level by discussions between the Employee or Employees concerned and their relevant Manager.
385. If a resolution to the dispute has not been achieved after discussions have been held in accordance with Clause 384, the parties to the dispute will endeavour to resolve the dispute in a timely manner by either through discussions with more senior levels of management where appropriate or through alternative dispute resolution methods.
386. At all stages of the dispute the Employee or Employees concerned are entitled to choose to be represented and may appoint a representative of their choice, which may be the union, for the purposes of these procedures.
387. If a dispute about this Agreement is unable to be resolved at the workplace, and all appropriate steps have been taken at the workplace level, a party to the dispute may refer the dispute to Fair Work Australia.
388. Fair Work Australia may deal with the dispute in 2 stages:
- a. Fair Work Australia will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
 - b. If Fair Work Australia is unable to resolve the dispute at the first stage, Fair Work Australia may then:

- i. arbitrate the dispute; and
- ii. make a determination that is binding on the parties.

Note: If Fair Work Australia arbitrates the dispute, it may also use the powers that are available to it under the Fair Work Act.

A decision that Fair Work Australia makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Fair Work Act. Therefore, an appeal may be made against the decision.

389. While the parties are trying to resolve the dispute using the procedures in this term:
- a. An Employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
 - b. An Employee must comply with a direction given by the Commissioner to perform other available work at the same workplace, or another workplace, unless:
 - i. The work is not safe; or
 - ii. Applicable occupational health and safety legislation would not permit the work to be performed; or
 - iii. The work is not appropriate for the Employee to perform; or
 - iv. There are other reasonable grounds for the Employee to refuse to comply with the direction.

Internal review of employment actions

390. The Commission is committed to attempting to resolve Employee's concerns in an informal manner wherever possible. Employees are therefore encouraged to discuss their concerns with their immediate Manager or their Group Manager in the first instance. If the subject matter of the complaint cannot be resolved, or is inappropriate to discuss with the Employee's immediate manager or Group Manager, the matter will be referred to the Commissioner.
391. Nothing in Clause 390 prevents an Employee from exercising their right of review of an action relating to their employment through the processes provided for in section 33 of the Public Service Act and Part 5 of the *Public Service Regulations 1999*.

Review of decisions to terminate employment

392. The sole and exhaustive rights and remedies of an Employee in relation to termination of employment are those that the Employee has under:
- the Fair Work Act
 - other Commonwealth laws (including the Constitution); and
 - common law.
393. Termination of, or a decision to terminate, employment cannot be reviewed under the procedures for preventing and settling disputes or under the procedures for internal review of employment action included in this Agreement.

394. Nothing in this Agreement prevents the Commissioner from terminating the employment of an Employee for serious misconduct, without further notice or payment in lieu of notice, in accordance with subsection 123(1)(b) of the Fair Work Act, subject to compliance with the procedures established by the Commissioner under section 15 of the Public Service Act for determining whether an Employee has breached the Code of Conduct.

Appendix 1 Commission Salary Scales

Classification	Current rates	On commencement (3%)	From 1 July 2012 (3%)	From 1 July 2013 (3%)
EL 2.7	\$121,230	\$124,867	\$128,613	\$132,471
EL 2.6	\$120,075	\$123,677	\$127,387	\$131,209
EL 2.5	\$118,419	\$121,972	\$125,631	\$129,400
EL 2.4	\$116,136	\$119,620	\$123,209	\$126,905
EL 2.3	\$113,977	\$117,396	\$120,918	\$124,546
EL 2.2	\$110,170	\$113,475	\$116,879	\$120,385
EL 2.1	\$107,836	\$111,071	\$114,403	\$117,835
EL 1.7	\$98,567	\$101,524	\$104,570	\$107,707
EL 1.6	\$97,619	\$100,548	\$103,564	\$106,671
EL 1.5	\$95,238	\$98,095	\$101,038	\$104,069
EL 1.4	\$93,864	\$96,680	\$99,580	\$102,567
EL 1.3	\$90,659	\$93,379	\$96,180	\$99,065
EL 1.2	\$88,095	\$90,738	\$93,460	\$96,264
EL 1.1	\$85,714	\$88,580*	\$91,237	\$93,974
APS 6.3	\$76,694	\$78,995	\$81,365	\$83,806
APS 6.2	\$73,554	\$75,761	\$78,034	\$80,375
APS 6.1	\$70,644	\$72,763	\$74,946	\$77,194
APS 5.3	\$67,857	\$69,893	\$71,990	\$74,150
APS 5.2	\$64,953	\$66,902	\$68,909	\$70,976
APS 5.1	\$62,050	\$63,912	\$65,829	\$67,804
APS 4.3	\$59,523	\$61,309	\$63,148	\$65,042
APS 4.2	\$56,141	\$57,825	\$59,560	\$61,347
APS 4.1	\$53,691	\$56,959*	\$58,668	\$60,428
APS 3.2	\$51,775	\$53,328	\$54,928	\$56,576
APS 3.1	\$50,212	\$51,718	\$53,270	\$54,868
APS 2.3	\$48,077	\$49,519	\$51,005	\$52,535
APS 2.2	\$44,878	\$46,224	\$47,611	\$49,039
APS 2.1	\$40,324	\$44,393*	\$45,725	\$47,097
APS 1.2	\$39,025	\$40,196	\$41,402	\$42,644
APS 1.1	\$37,725	\$38,857	\$40,023	\$41,224

*These pay points were adjusted to meet the 95th percentile of APS salary rates prior to the application of the 3% salary increase on commencement of the Agreement.

EL 2 salaries were increased by \$1000 on commencement of the 2009-2011 Agreement as a roll in of home computing allowance.

Appendix 2 Supported Salary Rates

An Employee who is eligible for a supported salary in accordance with the Supported Wage System will be paid the applicable percentage of the relevant salary rate prescribed below for the work value they are performing as follows, provided the amount payable is not less than \$71 per week.

Supported salary rate percentages

Assessed capacity	% of prescribed salary rate
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

Appendix 3 Calculation of Severance Benefit

1. An Employee who elects for retrenchment with a redundancy benefit and whose employment is terminated by the Commissioner under section 29 of the Public Service Act on the grounds that the Employee is excess to the requirements of the Commission, is entitled to payment of a redundancy benefit of 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 National Employment Standards (NES).
2. The minimum sum payable will be four weeks' salary and the maximum will be 48 weeks' salary.
3. The redundancy benefit will be calculated on a pro rata basis for any period where the 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.
4. Service for severance pay purposes means:
 - service in the Commission
 - Government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*
 - 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
 - service with the Australian Defence Forces
 - APS service immediately preceding deemed resignation under repealed section 49 of the *Public Service Act 1922*, if the service has not previously been recognised for severance pay purposes; and
 - service in another organisation where:
 - an Employee moved from the APS to that organisation with a transfer of function; or
 - an Employee engaged by that organisation on work within a function is engaged in the APS as a result of the transfer of that function to the APS; and
 - such service is recognised for long service leave purposes.
5. For earlier periods of service to count there must be no breaks between the periods of service, except where:
 - the break in service is less than one month and occurs where an offer of employment with the new employer was made and accepted by the Employee before ceasing employment with the preceding employer; or
 - the earlier period of service was with the APS and ceased because the Employee was deemed to have resigned from the APS on marriage under repealed section 49 of the *Public Service Act 1922*.

6. Any period of service which ceased:
 - a. through termination on the following grounds:
 - the Employee lacks, or has lost, an essential qualification for performing his or her duties
 - non-performance, or unsatisfactory performance, of duties
 - inability to perform duties because of physical or mental incapacity
 - failure to satisfactorily complete an entry level training course
 - failure to meet a condition imposed under subsection 22(6) of the *Public Service Act 1999*; or
 - a breach of the Code of Conduct; or
 - b. on a ground equivalent to a ground listed in subparagraph 6(a) above under the repealed *Public Service Act 1922*; or
 - c. through voluntary retirement at or above the minimum retiring age applicable to the Employee; or
 - d. with the payment of a redundancy benefit or similar payment or an employer-financed retirement benefit

will not count as service for severance pay purposes.

7. Absences from work which do not count as service for long service leave purposes will not count as service for severance pay purposes.

Rate of Payment

8. For the purpose of calculating any payment under Clause 1 of Appendix 3, salary will include:
 - the Employee's salary at their substantive work value level; or
 - the salary of the higher work value level, where the Employee has been working at the higher level for a continuous period of at least 12 months immediately preceding the date on which the Employee is given notice of retirement; and
 - other allowances in the nature of salary which are paid during periods of Annual Leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.

Appendix 4 Miscellaneous Leave

Entitlement

1. Upon application to the Commissioner an Employee will be approved to take a maximum of 3 days per calendar year with pay for the purpose of:
 - attending cultural or religious obligations, including observances of religious holidays which are not formally designated as Public Holidays in the Agreement; or
 - undertaking volunteer work with a charitable organisation to which donations are recognised by the Australian Taxation Office.

Examples of other circumstances in which Miscellaneous Leave may be granted

2. In addition to the circumstances described above, following are examples of situations for which Miscellaneous Leave (with or without pay as determined by the Commissioner) may be granted. Employees should note that some of these circumstances may also be covered by other entitlements.
 - meeting parental and/or caring responsibilities, including in circumstances relating to adoption or foster care
 - undertaking cultural or ceremonial obligations, (including participation in NAIDOC events), particularly for Indigenous Employees
 - undertaking religious or ceremonial obligations
 - accompanying a spouse on a temporary posting overseas
 - campaigning for election, noting that in some circumstances there may be a legal requirement for a candidate to resign from the APS in order to be eligible to stand for election. Employees should seek their own legal advice
 - appearing as a witness in legal proceedings
 - representatives of Employees preparing for and/or attending industrial or dispute resolution proceedings directly involving the Commission (subject to operational requirements)
 - holding office in a non-government or voluntary welfare sector organisation, providing the Employee has been employed in the APS for a continuous period of four years, with at least two years in the Commission
 - undertaking full-time study
 - suffering long-term health problems
 - where an Employee's house or home contents have been destroyed or damaged or are at risk
 - participating at international sporting events; or
 - any other circumstances approved by the Commissioner.