



DECISION

Fair Work Act 2009

s.185 - Application for approval of a single-enterprise agreement

Raelene Sharp

(AG2024/762)

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS (CDPP) ENTERPRISE AGREEMENT 2024-2027

Commonwealth employment

COMMISSIONER PLATT

ADELAIDE, 4 APRIL 2024

Application for approval of the Office of the Commonwealth Director of Public Prosecutions (CDPP) Enterprise Agreement 2024-2027

[1] An application has been made for approval of an enterprise agreement known as the *Office of the Commonwealth Director of Public Prosecutions (CDPP) Enterprise Agreement 2024-2027* (the Agreement) pursuant to s.185 of the *Fair Work Act 2009* (the Act) by the Office of the Commonwealth Director of Public Prosecutions (the Applicant). The agreement is a single enterprise agreement.

[2] The matter was allocated to my Chambers on 21 March 2024.

[3] On 22 March 2024, I provided the parties with a table of issues to seek clarification about aspects of the Agreement and invited the Applicant to address these matters including through the provision of an undertaking.

[4] The Agreement contains a number of changes which when considered in isolation, are less advantageous than the Award. These include increased ordinary hours, an expanded spread of hours and some penalty rates. I note that the Agreement also confers benefits of universal application including paid leave between Christmas and New Year and increased Superannuation Contributions. I have not considered additional benefits which were conditional in their application and/or difficult to quantify in monetary terms. I find that the universal improvements offset the disadvantages referred to.

[5] The Applicant has submitted an undertaking in the required form dated 26 March 2024, a copy of which is attached to this Agreement. The undertaking deals with the following topics:

- Higher duties allowance will be paid to employees (APS1 – APS6) after half a day where they occupy a role at a classification level higher than their substantive classification level consistent with the *Australian Public Service Enterprise Award 2015*.

- Higher duties allowance will be paid to (EL1 or above) after one week where they occupy a role at a classification level higher than their substantive classification level.
- A Part-time minimum engagement has been inserted, consistent with the *Australian Public Service Enterprise Award 2015*.
- The requirement to prescribe the agreed part time hours of working including the days of the week and start and finish times so as to determine when overtime is payable has been inserted, consistent with the *Australian Public Service Enterprise Award 2015*.

[6] A copy of the undertaking has been provided to the bargaining representatives and I have sought their views in accordance with s.190(4) of the Act. The bargaining representatives did not express any view on the undertaking. The CPSU supported the undertaking.

[7] The undertaking appears to meet the requirements of s.190(3) of the Act and I have accepted it. As a result, the undertakings are taken to be a term of the Agreement.

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

[9] I am satisfied that each of the requirements of ss.186, 187, 188 and 190 of the Act as are relevant to this application for approval have been met.

[10] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 7 days after the date of approval of the Agreement. The nominal expiry date is 28 February 2027.



COMMISSIONER

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Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of this agreement.



CDPP

Australia's Federal Prosecution Service



**Commonwealth Director of
Public Prosecutions
Enterprise Agreement 2024-2027**

Signatories - Office of the Commonwealth Director of Public Prosecutions (CDPP) Enterprise Agreement 2024-2027

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

Employer

Signed: 

Name: Raelene Sharp KC

Title: Director of Public Prosecutions

Agency: Office of the Commonwealth Director of Public Prosecutions

Address: 181 William Street, Melbourne, Victoria, 3000

Date: 15-Mar-2024

Employee Bargaining Representative

Community and Public Sector Union

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

Signed: 

Name: John Ryall

Title: National Organiser

Address: 54-58 Foveaux Street, Surry Hills, NSW, 2010

Date: 15-Mar-2024

Employee Bargaining Representative

Signed: *Luke Fomiatti*

Name: Luke Fomiatti

Title: Federal Prosecutor

Address: 28 Sydney Avenue, Forrest, ACT, 2603

Date: 15-Mar-2024

Employee Bargaining Representative

Signed: 

Name: Cecilia Pascoe

Title: Senior Federal Prosecutor

Address: 28 Sydney Avenue, Forrest, ACT, 2603

Date: 15-Mar-2024

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Section 1: Technical matters

Title

1. This agreement will be known as the Office of the Commonwealth Director of Public Prosecutions (CDPP) Enterprise Agreement 2024-2027.

Parties to the agreement

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

Operation of the agreement

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

Delegations

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

National Employment Standards (NES) precedence

6. The terms of this agreement are intended to apply in a manner that does not derogate from the NES. The NES will continue to apply to the extent that any term of this agreement is detrimental to an employee of the CDPP in any respect when compared with the NES.

Closed comprehensive agreement

7. This agreement states the terms and conditions of employment of employees covered by this agreement, other than terms and conditions applying under relevant Commonwealth laws.
8. This agreement will be supported by policies and guidelines, as implemented and varied from time to time.

9. Policies and guidelines are not incorporated into and do not form part of this agreement. To the extent that there is any inconsistency between policies and guidelines and the terms of this agreement, the terms of this agreement will prevail.

Individual flexibility arrangements

10. The CDPP 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:
 - 10.1. the agreement deals with one or more of the following matters:
 - 10.1.1. arrangements about when work is performed;
 - 10.1.2. overtime rates;
 - 10.1.3. penalty rates;
 - 10.1.4. allowances;
 - 10.1.5. remuneration; and
 - 10.1.6. leave and leave loading; and
 - 10.2. the arrangement meets the genuine needs of the CDPP and employee in relation to one or more of the matters mentioned in clause 10.1; and
 - 10.3. the arrangement is genuinely agreed to by the CDPP and employee.
11. The CDPP must ensure that the terms of the individual flexibility arrangement:
 - 11.1. are about permitted matters under section 172 of the FW Act;
 - 11.2. are not unlawful terms under section 194 of the FW Act; and
 - 11.3. result in the employee being better off overall than the employee would be if no arrangement was made.
12. The CDPP must ensure that the individual flexibility arrangement:
 - 12.1. is in writing;
 - 12.2. includes the name of the CDPP and employee;
 - 12.3. is signed by the CDPP and employee and, if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
 - 12.4. includes details of:
 - 12.4.1. the terms of the enterprise agreement that will be varied by the arrangement;
 - 12.4.2. how the arrangement will vary the effect of the terms;
 - 12.4.3. how the employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and
 - 12.5. states the day on which the arrangement commences.

13. The CDPP must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
14. The CDPP or employee may terminate the individual flexibility arrangement:
 - 14.1. by giving no more than 28 days written notice to the other party to the arrangement; or
 - 14.2. if the CDPP and employee agree in writing – at any time.
15. The CDPP and employee are to review the individual flexibility arrangement at least every 12 months.

Definitions

16. The following definitions apply to this agreement:

APS agency means an agency whose employees are employed under the PS Act, including an agency as defined in section 7 of the PS Act whose employees are employed under that Act.

APS consultative committee means the committee established by the APS Commissioner to consider matters pertaining to the (APS) employment relationship and of interest to the APS as a whole.

Agency Head means the Director of CDPP or the Director's delegate.

Agreement means the Office of the Commonwealth Director of Public Prosecutions (CDPP) Enterprise Agreement 2024 – 2027 (CDPP EA)

APS means the Australian Public Service.

Australian Defence Force Cadets means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.

Bandwidth means the span of hours during which an employee can perform ordinary hours.

Broadband refers to the allocation of more than one approved classification by the Director to a group of duties involving work value applying to more than one classification under sub-rule 9(4) of the *Public Service Classification Rules 2000*. A broadband encompasses the full range of work value of the classifications contained within it.

Casual employee (irregular or intermittent employee) means an employee engaged under section 22(2)(c) of the PS Act who:

- a. is a casual employee as defined by the FW Act; and
- b. works on an irregular or intermittent basis.

Classification or classification level means the approved classifications as set out in rule 5 of the *Public Service Classification Rules 2000*.

Child means a biological child, adopted child, foster child, stepchild, or ward.

De facto partner means a person who, regardless of gender, is living in a common household with the employee in a bona fide, domestic, interdependent partnership, although not legally married to the employee. This includes a former de facto partner.

Delegate means someone to whom a power or function has been delegated.

Dependant means the employee's spouse or de facto partner, a child, parent or aged relative of the employee or the employee's spouse or de facto partner, who ordinarily lives with the employee and who is substantially dependent on the employee. Dependant also includes a child of the employee who does not ordinarily live with the employee but for whom the employee provides substantial financial support.

Director means the Commonwealth Director of Public Prosecutions (Agency Head)

Employee means an employee of the Commonwealth engaged under section 22(2) of the PS Act who is covered by this agreement (whether full-time, part time or casual, ongoing or non-ongoing).

Employee representative means a person (whether an employee or not) elected or chosen by an employee or elected or chosen by a group of employees in a workplace, to represent the individual and/or collective views of those employees in relation to a matter under this agreement.

Family means:

- a. a spouse, former spouse, de facto partner or former de facto partner of the employee;
- b. a child, parent, grandparent, grandchild, or sibling of the employee;
- c. a child, parent, grandparent, grandchild, or sibling of a spouse, former spouse, de facto partner or former de facto partner of the employee;
- d. a member of the employee's household; or
- e. a person with whom the employee has a relationship of traditional kinship where there is a relationship or obligation, under customs and traditions of the community or group to which the employee belongs.

Family and domestic violence has the same meaning as in section 106B(2) of the FW Act.

Full time employee means an employee employed to work an average of 36 hours and 45 minutes per week in accordance with this agreement.

FW Act means the *Fair Work Act 2009* as amended from time to time.

Manager means an employee's direct manager who is usually the person to whom an employee reports to on a day-to-day basis for work related matters and may include a person referred to as a supervisor.

ML Act means the *Maternity Leave (Commonwealth Employees) Act 1973* as amended from time to time and any successor legislation.

Non-ongoing employee means an employee engaged under section 22(2)(b) of the PS Act for a specified term or for the duration of a specified task, and consistent with the FW Act.

NES means the National Employment Standards at Part 2-2 of the FW Act.

Ongoing employee means an employee engaged under section 22(2)(a) of the PS Act.

Ordinary hours, duty or work means an employee's usual hours worked in accordance with this agreement and does not include additional hours.

Parliamentary service means employment under the *Parliamentary Service Act 1999*.

Partner means a spouse (including a former spouse) or de facto partner (including a former de facto partner).

Part-time employee means an employee whose ordinary hours are less than 37 hours and 45 minutes per week in accordance with this agreement.

Primary caregiver for the purposes of the parental leave clause means a pregnant employee with an entitlement under the ML Act, or an employee other than a casual employee who has primary care responsibility for a child who is born to them or who is adopted or in long-term foster care as per the clauses on adoption and long-term foster care in this agreement.

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

Relevant employee means an affected employee.

Secondary caregiver for the purposes of the parental leave clause means an employee, other than a pregnant employee or casual employee, who has secondary care responsibility for a child who is born to them, or for a child who is adopted or in long-term foster care as per the clauses on adoption and long-term foster care in this agreement.

Usual location of work

17. An employee's usual location of work will be detailed in their letter of offer.
18. If the Director requires an employee to change their usual location of work, formal documentation will be provided to outline the new location.

Section 2: Remuneration

Salary

19. Salary rates will be as set out in Appendix A – Base salaries to this agreement.
20. The base salary rates in Appendix A include the following increases:
 - 20.1. 4.0 per cent from the first full pay period on or after 1 March 2024 (the 14 March 2024);
 - 20.2. 3.8 per cent from the first full pay period on or after 1 March 2025 (the 13 March 2025); and
 - 20.3. 3.4 per cent from the first full pay period on or after 1 March 2026 (the 12 March 2026).
21. In recognition of a common alignment date of the first full pay period on or after 1 March each year, the payments in Appendix A – Base salaries were calculated based on base salary rates as of 31 August 2023.

Payment of salary

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

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

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

Salary setting

23. Where an employee is engaged, moves to or is promoted in the CDPP, the employee's salary will be paid at the minimum of the salary range of the relevant classification, unless the Director determines a higher salary within the relevant salary range under these provisions.
24. The Director may determine the payment of salary at a higher value within the relevant salary range of the relevant classification and the date of effect at any time.
25. In determining a salary under these provisions, the Director will have regard to a range of factors (as relevant) including the employee's experience, qualifications and skills.
26. Where an employee commences ongoing employment in the CDPP immediately following a period of non-ongoing employment in the CDPP, the Director will determine the employee's salary within the relevant salary range of the relevant classification which recognises the employee's prior service as a non-ongoing employee in the CDPP.
27. Where an employee commences ongoing employment in the CDPP immediately following a period of casual employment in the CDPP, the Director will determine the employee's salary within the relevant salary range of the relevant classification which recognises the employee's prior service as a casual employee in the CDPP.
28. Where an APS employee moves to the CDPP at level from another APS agency, and their salary is above the maximum of the salary range for their classification, the Director will maintain the employee's salary at that level, until it is absorbed into the salary range for that classification.
29. Where the Director determines that an employee's salary has been incorrectly set, the Director may determine the correct salary and the date of effect.

Incremental advancement

30. Advancement between the pay points within a classification will be on the 12-month anniversary of an employee's last pay point advancement within their substantive classification, or on engagement to the CDPP, or promotion to a higher classification where:
 - 30.1. rated as satisfactory during the employee's most recent performance review; and
 - 30.2. 6 months of aggregate eligible service in the CDPP at or above the relevant classification level during the most recent annual performance management cycle; and
 - 30.3. the employee is not subject to a Performance Improvement Plan in accordance with clauses 359 to 364; and
 - 30.4. is not at the top salary point within the classification.
31. If an employee has less than 6 months of aggregate eligible service, the Director may exercise their discretion to determine a higher salary under the salary setting clause 23 to 29 in the CDPP's enterprise agreement.
32. Eligible service for salary progression will include:
 - 32.1. periods of paid leave and unpaid parental leave;
 - 32.2. periods of unpaid leave that count as service; and
 - 32.3. service while employed on a non-ongoing basis.
33. During a period of unpaid parental leave employees will be eligible to advance a maximum of one increment, regardless of the length of unpaid parental leave.
34. Employees who are acting at a higher classification, and satisfy other eligibility criteria, will be eligible for salary progression at both their substantive and acting classifications.
35. Salary progression while acting at a higher classification will be retained for future acting duties at, or promotion to, that classification regardless of elapsed time.
36. Casual employees will not usually be eligible for incremental advancement unless otherwise determined by the Director.
37. **Broadband Advancement** through classifications in a broadband will occur where:
 - 37.1. an employee's performance is satisfactory; and
 - 37.2. there is sufficient work available at the higher classification level; and
 - 37.3. the employee has the necessary skills and proficiencies to perform that work.

Superannuation

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

Method for calculating superannuation salary

- 41. The CDPP will provide an employer contribution of 15.4 per cent of the employee's Fortnightly Contribution Salary (FCS) for employees in the Public Sector Superannuation Accumulation Plan (PSSap) and employees in other accumulation superannuation funds.
- 42. Employer contributions will be made for all employees covered by this agreement.
- 43. Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements.

Payment during unpaid parental leave

- 44. Employer contributions will be paid on periods of unpaid parental leave in accordance with the requirements of the PSSap fund where the employee is a member of the PSSap, and up to a maximum of 52 weeks where the employee is a member of an accumulation fund other than PSSap.

Overpayments

- 45. An overpayment occurs if the Director (or the CDPP) provides an employee with an amount of money to which the employee was not entitled (including but not limited to salary, entitlements, allowances, travel payment and/or other amount payable under this agreement).
- 46. Where the Director considers that an overpayment has occurred, the Director will provide the employee with notice in writing. The notice will provide details of the overpayment.
- 47. If an employee disagrees that there has been an overpayment including the amount of the overpayment, they will advise the Director in writing within 28 calendar days of receiving the notice. In this event, no further action will be taken until the employee's response has been reviewed.
- 48. If after considering the employee's response (if any), the Director confirms that an overpayment has occurred, the overpayment will be treated as a debt to the Commonwealth that must be repaid to the CDPP in full by the employee.
- 49. The Director and the employee will discuss a suitable recovery arrangement. A recovery arrangement will take into account the nature and amount of the debt, the employee's circumstances and any potential hardship to the employee. The arrangement will be documented in writing.
- 50. The CDPP and employee may agree to make a deduction from final monies where there is an outstanding payment upon cessation of employment.

51. Interest will not be charged on overpayments.
52. Nothing in clauses 45 to 51 prevents:
 - 52.1. the CDPP from pursuing recovery of the debt in accordance with an Accountable Authority Instruction issued under the *Public Governance, Performance and Accountability Act 2013*;
 - 52.2. the CDPP from pursuing recovery of the debt through other available legal avenues; or
 - 52.3. the employee or the CDPP from seeking approval to waive the debt under the *Public Governance, Performance and Accountability Act 2013*.

Supported wage system

53. An employee may be paid a percentage of the relevant pay rate for their classification in line with their assessed capacity to do the work if they:
 - 53.1. have a disability;
 - 53.2. meet the criteria for a Disability Support Pension; and
 - 53.3. are unable to perform duties to the capacity required.
54. Specific conditions relating to the supported wage system are detailed in Appendix B – Supported Wage System.

Section 3: Allowances and reimbursements

Higher duties allowance

55. Where a role needs to be filled for 5 consecutive working days (inclusive of any public holiday/s) or the equivalent of an average working week for a part-time employee, higher duties allowance will be paid to any employee temporarily occupying the role acting at a classification level higher than their substantive classification level.
56. Higher duties allowance will be equal to the difference between the employee's current salary and the salary that would be payable if they were promoted to the higher classification level, or a higher amount determined by the Director.
57. Where an employee is found to be eligible for salary progression at their acting classification level, they will receive an appropriate increase in the rate of higher duties allowance. The employee's salary level will be retained for all future periods of acting regardless of elapsed time.
58. Where an employee is assigned only part of the higher duties, the Director will determine the amount of allowance payable.
59. Higher duties allowance will be payable while an employee is acting at a higher classification level as part of a job-sharing arrangement where the duration of the arrangement is at least 2 working weeks.
60. The Director may shorten the qualifying period for higher duties allowance on a case-by-case basis.

Workplace responsibility allowances

61. A workplace responsibility allowance will be paid where the CDPP has appointed or elected an employee to one of the following roles:
- 61.1. First Aid Officer;
 - 61.2. Health and Safety Representative;
 - 61.3. Fire or Emergency Warden;
 - 61.4. Harassment Contact Officer;
 - 61.5. Mental Health First Aid Officer; and
 - 61.6. Security Contact Officer (APS1-6 Classifications only)
62. An employee is not to receive more than one workplace responsibility allowance unless approved by the Director due to operational requirements.
63. The amount of the allowance will be as below (Table 1) over the life of the agreement:

Rate from commencement of the agreement	Rate from 13 March 2025	Rate from 12 March 2026
\$32.79 per fortnight	\$34.04 per fortnight	\$35.19 per fortnight

64. As a salary-related allowance, this value will continue to be increased in line with headline wage increases. These increases are incorporated into the rates in the table above.
65. The full allowance is payable regardless of flexible work and part-time arrangements.
66. An employee's physical availability to undertake the role will be considered by the CDPP when appointing and reappointing employees to these roles. This is noting that not all workplace responsibility roles will necessarily require a physical presence in the workplace for the role to be successfully undertaken, such as Harassment Contact Officers, Mental First Aid Officers and Health and Safety Representatives depending on work group arrangements.
67. Casual employees who are eligible to receive a workplace responsibility allowance will be paid the full amount (noting the minimum rate), as varied from time to time provided, they engage in work during any given pay cycle, irrespective of the frequency and duration of the work undertaken.

Community language allowance

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

Table 2: Community language allowance rates

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

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

Motor Vehicle Allowance

74. Director may authorise an employee to use a private motor vehicle owned or hired by the employee at their own expense for official purposes. Where so authorised, an employee will be entitled to a motor vehicle allowance at a rate equivalent to that set by the Australian Taxation Office for claiming a deduction for car expenses via the cents per kilometre method.

Travelling Allowance

75. For information on Travelling Allowance refer to clauses 375 to 382.

Relocation Assistance

76. For information on Relocation Assistance refer to clauses 383 to 389.

Section 4: Classifications and broadbands

Classification Structure

77. APS classification levels (including local job designations) and applicable salary rates applying to all employees covered by this Agreement are contained in Appendix A.
78. Over the life of this Agreement, the CDPP will review the classification and broadband structure with employees and their representatives.

Cadet

79. The Director may engage a person as a Cadet APS Employee.
80. When the Director is satisfied that the course of training has been successfully completed, a Cadet APS Employee will be allocated a classification at an appropriate classification level.

Trainee

81. The Director may engage a person as a Trainee APS (Administrative) Employee.
82. When the Director 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.

Graduates

83. The Director may engage a person under the local title of CDPP Graduate.
84. A CDPP Graduate Employee will be required to undertake a course of training determined by the Director.
85. When the Director is satisfied that the course of training has been successfully completed, the Director will assign duties within the APS5 classification in accordance with the Classification Rules and determine salary.

Work Level Standards

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

Section 5: Working hours and arrangements

Job Security

Commitment to ongoing employment and rebuilding APS capacity

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

Reporting

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

Pathways to permanency

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

Casual (irregular or intermittent) employment

90. A casual (irregular or intermittent) employee is defined in the definitions section.
91. A decision to expand the use of casual employees is subject to consultation (section 10) of this agreement.
92. The CDPP will regularly review the working arrangements of casual employees to assess if they are genuinely performing irregular or intermittent duties, and report de-identified outcomes to the consultative committee, where one is in place.
93. Remuneration for casual employees is on an hourly basis. A casual employee will receive a 25 per cent loading on the base hourly rate of their classification as set out in this agreement.
94. The casual loading is paid in lieu of payment for public holidays not worked, notice of termination of employment, redundancy benefits and all paid leave entitlements, other than leave required by legislation including long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976* and leave for family and domestic violence support.
95. A casual employee will be engaged for a minimum of 3 hours per engagement or shall be paid for a minimum of 3 hours at the appropriate casual rate.
96. A casual employee who is eligible for a Workplace Responsibility Allowance will be paid the full amount.

Non-ongoing employment

97. A non-ongoing employee is defined in the definitions section.
98. Non-ongoing employees will generally have the same terms and conditions of employment as ongoing employees under this agreement's terms, except:
 - 98.1. personal/carer's leave accrual at clause 202;
 - 98.2. redundancy provisions at clauses 441 to 471, subject to clause 89; and
 - 98.3. probation provisions - the initial 6-month period following the non-ongoing engagement of an employee in the APS and/or the CDPP inclusive of any previous periods of non-ongoing employment where there is no break in continuity.
 - 98.4. salary packaging - Access to Salary Packaging is available to ongoing employees and non-ongoing employees whose contract exceeds 6 months (including in-house salary packaging for private superannuation).
99. If the non-ongoing employee's contract is not permitted by section 333E of the FW Act, then the redundancy provisions at clause 441 to 471 will apply.
100. If the redundancy provisions apply to an employee under clause 99, the CDPP must adhere to the consultation requirements at the consultation section 10 and where applicable, the consultation provisions in the redundancy, redeployment and retraining section.

Working hours

101. The standard ordinary hours of duty for all full-time employees will be 36 hours 45 minutes per week, or 7 hours 21 minutes per day.
102. Ordinary hours of duty will be worked as agreed within the standard bandwidth.
103. The hours of duty of part-time staff are those agreed in their part-time work agreement or contract. of employment, conditional upon those hours being worked within the standard bandwidth.
104. An employee will not be required to work for more than 5 hours without at least a 30-minute break for a meal.
105. The standard bandwidth is 7.00am to 7.00pm Monday to Friday (excluding public holidays).

Flex for APS 1-6 classifications

106. Formal flex-time arrangements are available to APS 1 to 6 ongoing, non-ongoing and part-time employees.
107. Flexibility in relation to hours worked on any particular day outside of ordinary hours but within the standard bandwidth is available subject to supervisory approval and the availability of work.
108. The accrual of flex-time for hours worked outside the standard bandwidth may only occur where prior supervisory approval has been granted.

109. An eligible employee may accrue flex-time on official travel where that travel falls outside the employee's ordinary hours.
110. Credits for time worked on any day longer than standard hours will accrue on an hour for hour basis.
111. At the end of a Settlement Period, the maximum flex-time credit cannot exceed 36 hours and 45 minutes and the maximum flex-time debit cannot exceed 10 hours, unless otherwise agreed with management.
112. An employee may not carry over greater than 36 hours and 45 minutes flex-time credit. At the end of a settlement period, the maximum flex-time credit shall not exceed 36 hours and 45 minutes, unless otherwise agreed with management.
113. Where a request for flex-time leave cannot be accommodated due to operational requirements, the employee and their manager/supervisor will endeavour to ensure flex-time leave is taken within the following month. Access to flex time leave will not be unreasonably withheld.
114. An employee who fails to comply with the flex-time provisions may have access to flex-time removed. In these cases, the employee will be required to work Standard Ordinary Hours within the bandwidth.
115. Flex time credit and debit limits apply on a pro-rata basis for part-time employees.
116. On ceasing employment with the CDPP, a flex time credit will not be paid out but a flex time debit will be treated as leave without pay and deducted from the employee's final salary in accordance with the Accountable Authority Instructions.

Executive Level Time Off in Lieu (EL TOIL)

117. Executive level (EL) employees are sometimes required to work reasonable additional hours. Consistent with the NES, employees may refuse to work unreasonable additional hours.
118. EL employees seeking to access time off in lieu (TOIL) are required to keep records of their working hours using a method determined by the CDPP.
119. A manager is to grant TOIL in recognition of reasonable additional hours worked. TOIL granted to employees can be taken as whole or part days.
120. The working arrangements for an EL employee should be agreed through discussion between the manager and the EL employee. The discussion should include consideration of the work requirements that will safely get the job done and reasonably allow the employee to balance their work and personal life.
121. An EL employee's working arrangements and actual hours worked should be discussed on at least a quarterly basis between the EL employee and their manager.
122. The pattern of hours is to be flexible enough to accommodate short-term peaks and troughs in workload and include expected reasonable additional hours. The agreed pattern of hours is to be recorded.
123. Requests from EL employees to access flexible time off which are consistent with their agreed working arrangements are to be supported, subject to operational requirements.

Overtime

124. Where an APS 1-6 or equivalent employee is directed to work beyond the standard bandwidth and outside the start and finish times of an employees' Standard Ordinary Hours, overtime shall be paid to the employee, unless the employee requests time off in lieu in accordance with clause 129.
125. Staff may be required to work overtime at the direction of the Director.
126. Overtime must be approved prior to the employee working the overtime.
127. Overtime payment will be calculated on base salary as follows:
 - 127.1. Monday – Saturday excluding public holidays - time and one half for the first three hours worked each day and double time thereafter;
 - 127.2. Sunday - double time;
 - 127.3. Public Holidays, the Saturday following Good Friday and Christmas Closedown – Standard Ordinary Hours that would otherwise be payable plus single time for hours worked during standard hours and double time for hours worked outside of standard hours.
128. Employees will be provided a minimum break of 8 hours plus reasonable travelling time before being required to return to work following a period of overtime. Where a break cannot be provided due to operational requirements overtime rates will continue to be paid for hours worked until a break of at least 8 hours has been provided.
129. The employee may choose to take time in lieu accrued at the equivalent overtime rate for the hours worked rather than being paid overtime.
130. Ad-hoc or short-term employee requests to work outside the standard bandwidth may be accommodated at the discretion of the Director. In such cases, overtime is not payable and the relevant flex-time or working flexible provisions will apply.

Overtime Meal Allowance

131. An employee will be entitled to a meal allowance where the employee is directed to work in excess of two hours' overtime on a regular working day or in excess of five hours on a weekend or public holiday.
132. The meal allowance is \$35.65 on commencement of this Agreement. The rate will be varied from time-to-time, in line with the rate provided by the Australian Taxation Office.

Flexible working arrangements

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

Requesting formal flexible working arrangements

136. The following provisions do not diminish an employee's entitlement under the NES.
137. An employee may make a request for a formal flexible working arrangement.
138. The request must:
 - 138.1. be in writing;
 - 138.2. set out details of the change sought (including the type of arrangement sought and the proposed period the arrangement will operate for); and
 - 138.3. set out the reasons for the change, noting the reasons for the change may relate to the circumstances set out at section 65(1A) of the FW Act.
139. The Director must provide a written response to a request within 21 days of receiving the request.
140. The response must:
 - 140.1. state that the Director approves the request and provide the relevant detail in clause 141; or
 - 140.2. if following discussion between the CDPP and the employee, the CDPP and the employee agree to a change to the employee's working arrangements that differs from that set out in the request – set out the agreed change; or
 - 140.3. state that the Director refuses the request and include the following matters:
 - 140.3.1. details of the reasons for the refusal; and

- 140.3.2. set out the CDPP's particular business grounds for refusing the request, explain how those grounds apply to the request; and
 - 140.3.3. either:
 - 140.3.3.1. set out the changes (other than the requested change) in the employee's working arrangements that would accommodate, to any extent, the employee's circumstances outlined in the request and that the CDPP would be willing to make; or
 - 140.3.3.2. state that there are no such changes; and
 - 140.3.4. state that a decision to refuse the request, or failure to provide a written response within 21 days is subject to the dispute resolution procedures of the enterprise agreement, and if the employee is an eligible employee under the FW Act, the dispute resolution procedures outlined in sections 65B and 65C of the FW Act.
141. Where the Director approves the request, this will form an arrangement between the CDPP and the employee. Each arrangement must be in writing and set out:
- 141.1. any security and work health and safety requirements;
 - 141.2. a review date, subject to clause 145; and
 - 141.3. the cost of establishment (if any).
142. The Director may refuse to approve the request only if:
- 142.1. the CDPP has discussed the request with the employee; and
 - 142.2. the CDPP has genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for refusal); and
 - 142.3. the CDPP and the employee have not reached such an agreement; and
 - 142.4. the CDPP has had regard to the consequences of the refusal for the employee; and
 - 142.5. the refusal is on reasonable business grounds.
143. Reasonable business grounds include, but are not limited to:
- 143.1. the new working arrangements requested would be too costly for the CDPP;
 - 143.2. there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested;
 - 143.3. it would be impractical to change the working arrangements of other employees, or to recruit new employees, to accommodate the new working arrangements requested;
 - 143.4. the new working arrangements requested would be likely to result in a significant loss in efficiency or productivity;
 - 143.5. the new working arrangements requested would be likely to have a significant negative impact on customer service; and

- 143.6. it would not be possible to accommodate the working arrangements without significant changes to security requirements, or where work health and safety risks cannot be mitigated.
144. For First Nations employees, the CDPP must consider connection to country and cultural obligations in responding to requests for altering the location of work.
145. Approved flexible working arrangements will be reviewed by the CDPP and the employee after 12 months, or a shorter period, if agreed by the employee. This is to ensure the effectiveness of the arrangement.

Varying, pausing or terminating flexible working arrangements

146. An employee may request to vary an approved flexible working arrangement in accordance with clause 138. An employee may request to pause or terminate an approved flexible working arrangement.
147. The Director may vary, pause or terminate an approved flexible working arrangement on reasonable business grounds, subject to clause 149.
148. The CDPP must provide reasonable notice if varying, pausing or terminating a flexible working arrangement without the agreement of the employee, having regard to the circumstances of the employee. Exceptions to this requirement are urgent and critical operational circumstances or an employee's demonstrated and repeated failure to comply with the agreed arrangements.
149. Prior to the Director varying, pausing or terminating the arrangement under clause 147, the CDPP must have:
- 149.1. discussed with the employee their intention to vary, pause or terminate the arrangement with the employee;
 - 149.2. genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for alteration);
 - 149.3. had regard to the consequences of the variation, pause or termination for the employee;
 - 149.4. ensured the variation, pause or termination is on reasonable business grounds; and
 - 149.5. informed the employee in writing of the variation, pause or termination to the approved flexible working arrangement, including details set out in clause 138.3.

Working from home

150. The CDPP will not impose caps on groups of employees on the time that may be approved to work from home or remotely, with each request to be considered on its merits.
151. The CDPP may provide equipment necessary for, or reimbursement, for all or part of the costs associated with establishing a working from home arrangement.
152. An employee working from home is covered by the same employment conditions as an employee working at an office site under this agreement.
153. The CDPP will provide employees with guidance on working from home safely.

154. Employees will not be required by the CDPP to work from home unless it is lawful and reasonable to do so. This may include where circumstances prevent attendance at an office during a pandemic or natural disaster. In these situations, the CDPP will consider the circumstances of the employees and options to achieve work outcomes safely.

Ad-hoc arrangements

155. Employees may request ad-hoc flexible working arrangements. Ad-hoc arrangements are generally one-off or short-term arrangements for circumstances that are not ongoing.
156. Employees should, where practicable, make the request in writing and provide as much notice as possible.
157. Requests for ad-hoc arrangements are not subject to the request and approval processes detailed in clauses 136 to 145.
158. The CDPP should consider ad-hoc requests on a case-by-case basis, with a bias to approving ad-hoc requests, having regard to the employee's circumstances and reasonable business grounds.
159. Where a regular pattern of requests for ad-hoc arrangements from an employee emerges, the CDPP should consider whether it is appropriate to seek to formalise the arrangement with the employee.

Altering span of hours

160. An employee may request to work an alternative regular span of hours (bandwidth hours). If approved by the Director, hours worked on this basis will be treated as regular working hours and will not attract overtime payments. The CDPP will not request or require that any employee alter their regular span of hours (bandwidth hours).

Part-time work

161. Employees engaged on a full-time basis will not be compelled to convert to part-time employment.
162. Employees engaged on a part-time basis will not be compelled to convert to full-time employment.

Christmas closedown

163. The CDPP will close its normal operations from close of business on the last working day before Christmas, with business resuming on the first working day after New Years' Day ('Christmas Closedown').
164. Employees (excluding Casual employees) are entitled to be absent with pay for the working days during Christmas Closedown.
165. Payment for absences on working days during Christmas Closedown will be made in accordance with an employee's Standard Ordinary Hours of work for that day.
166. Where the Christmas closure falls during a period of paid Annual Leave or Personal Leave the employee will not be on that leave type for the duration of the Christmas closure and will be paid in accordance with clause 165 without deduction of leave credit.

167. Where the Christmas closure falls during a period when an employee is absent on leave (other than Annual or Personal Leave) there is no entitlement to receive payment as the Christmas closure. Payment for that day will be in accordance with the entitlement for that form of leave (e.g. if on Long Service Leave at half pay, payment is at half pay).

Public holidays

168. Employees are entitled to the following holidays each year as observed at their normal work location in accordance with the FW Act:
- 168.1. 1 January (New Year's Day);
 - 168.2. 26 January (Australia Day);
 - 168.3. Good Friday and the following Monday;
 - 168.4. 25 April (Anzac Day);
 - 168.5. the King's birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
 - 168.6. 25 December (Christmas Day);
 - 168.7. 26 December (Boxing Day); and
 - 168.8. any other day, or part day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part day, or a kind of day or part day, that is excluded by the Fair Work Regulations 2009 from counting as a public holiday.
169. If a public holiday falls on a Saturday or Sunday, and if under a State or Territory law, a day or part day is substituted for one of the public holidays listed above, then the substituted day or part day is the public holiday.
170. The Director and an employee may agree on the substitution of a day or part day that would otherwise be a public holiday, having regard to operational requirements.
171. The Director and an employee may agree to substitute a cultural or religious day of significance to the employee for any day that is a prescribed holiday. If the employee cannot work on the prescribed holiday, the employee will be required to work make-up time at times to be agreed. This substitution does not impact or reduce an employee's entitlement to First Nations ceremonial leave, NAIDOC leave or cultural leave.
172. Where an employee substitutes a public holiday for another day, they will not be paid penalty rates for working their normal hours on the public holiday.
173. Where a public holiday falls during a period when an employee is absent on leave (other than annual leave, paid personal/carer's leave or defence service sick leave) there is no entitlement to receive payment as a public holiday. Payment for that day will be in accordance with the entitlement for that form of leave (e.g. if on long service leave on half pay, payment is at half pay.)

174. If under a law of a State or Territory every Sunday is declared or prescribed by or under that law to be a public holiday, there is no entitlement to receive payment as a public holiday if the employee would have worked, or does perform work, on that day. In these circumstances, payment will only be made at the public holiday rate if the employee performs work on that day, and the Sunday would otherwise be a public holiday under clause 168.1 to 168.8.
175. An employee, who is absent on a day or part day that is a public holiday in their normal work location, is entitled to be paid for the part or full day absence as if that day or part day were not a public holiday, except where that person would not normally have worked on that day.
176. Where a full-time employee, including but not limited to employees on compressed hours, has a regular planned day off which would fall on a public holiday, the Director may allow the employee to change their planned day off so that it does not fall on a public holiday. If it is not possible to change their planned day off, the employee will be credited an equivalent amount of time to their regular hours for the day in flex credits or EL TOIL in recognition of their planned day off.

Section 6: Leave

Annual leave

Entitlement

177. Employees (other than casual employees) are entitled to 4 weeks (20 days) paid annual leave per year of service, accruing and credited daily. Annual leave for part-time employees accrues on a pro-rata basis.

Conditions

178. Employees are encouraged to take a minimum of two weeks annual leave each year.
179. An employee may apply to take annual leave at half pay with the approval of the Director. However, unless approved by the Director, it may not be taken at half pay where the employee has an excessive leave balance.
180. Where an employee takes annual leave at half pay, annual leave credits will be deducted at half the rate. The entire period of annual leave at half pay will count as service for all purposes.
181. Where annual leave is cancelled or the employee is recalled to duty, the employee will be reimbursed travel costs not recoverable from insurance or other sources. Evidence of costs may be required.
182. The Director may approve other types of leave during a period of annual leave where satisfactory evidence is provided. Annual leave will be re-credited to the extent of any other leave granted.
183. Employees will receive payment in lieu of any unused annual leave upon separation from the APS.

Excess Annual leave

- 184. An employee with 8 weeks or more accrued annual leave will be required to enter into a leave plan with their Supervisor/Manager. The leave plan will require the employee to reduce their annual leave balance to less than 8 weeks by the conclusion of the plan.
- 185. The leave plan will be agreed and must be completed within a reasonable timeframe. An employee will not be required to enter a leave plan when the employee is on long term personal leave, compensation leave, is proceeding on maternity leave or is 54 years of age or over and has set a retirement date occurring within 12 months.
- 186. Excess leave will be managed in accordance with CDPP enterprise agreement and policy.

Cashing Out Annual leave

- 187. An employee may, by agreement in writing with the Director, cash out an amount of Annual leave where the employee has taken at least 2 weeks annual leave in the preceding 12 months and will have a minimum of 4 weeks annual leave remaining after cashing out the leave.
- 188. Where the Director authorises the employee to cash out Annual leave, the employee will be paid the salary that they would have received if they had taken the Annual leave at that time.
- 189. Each cashing out of a particular amount of Annual leave must be by separate agreement in writing with the Director.

Payment on Resignation, Termination or Death

- 190. Unused Annual leave and Long Service Leave credits will be paid out to an employee at the time of resignation or termination from the APS.
- 191. Where an employee dies or is presumed to have died on a particular date, the Director will authorise payment to be made to the legally entitled person of all leave entitlements otherwise payable on resignation or retirement.
- 192. Final rate of salary is defined as ongoing salary plus any other allowance in the nature of salary.

Purchased leave

- 193. The Director may approve the purchase of up to four weeks additional leave per year in return for a pro rata reduction in their annual salary (excluding allowances not in the nature of salary), before any adjustment for a salary packaging arrangement. Approval to purchase and use additional leave will be dependent upon the operational requirements of the workplace.
- 194. Eligibility to purchase additional leave is limited to ongoing and long term non-ongoing employees with at least a 12-month employment contract.
- 195. Purchased leave may be purchased on one occasion per year and may be used in single days, multiple days or in conjunction with a period of annual leave.
- 196. Purchased leave may not be used to change the regular pattern of working hours or to create a part-time pattern of hours where an employee is engaged as a full-time employee.
- 197. The value of purchased leave will be paid via a corresponding reduction in fortnightly pay over a period of no more than one calendar year.

198. Purchased leave taken up to 4 weeks per calendar year will count as service, with leave accruing accordingly.
199. Purchased leave that remains untaken 12 months from the date of purchase (i.e. first repayment instalment) will be cancelled and the value repaid to the employee. Where an employee leaves the CDPP, any surplus or deficit in contributions will be recovered or offset against final payment in accordance with the Accountable Authority Instructions or repaid to the employee.

Personal/carer's leave

Entitlement to personal/carer's leave

200. 20 days paid leave per annum (pro-rata for part-time employees).
201. Leave at half pay may be approved by the Director.

Accrual of personal/carer's leave

202. For an ongoing employee, 20 days personal/carer's leave will be credited upon the employee's commencement with the APS. A further 20 days personal/carer's leave will be credited on 1 July each year where they have been employed for the preceding whole 12 months and on a pro rata basis for a part year. Part-time employees will receive personal/carer's leave credits on a pro rata basis.
203. Non-ongoing employees will receive personal/carer's leave credits in accordance with the following schedule:
- 1 day after 1 month of employment;
 - An additional 2 days after 2 months of employment;
 - An additional 2 days after 3 months of employment;
 - An additional 5 days after 6 months of employment;
 - An additional 5 days after 9 months of employment.

If their employment continues up to or beyond 12 months, their entitlement to personal/carer's leave will be calculated as if they were an ongoing employee.

204. Personal Leave, whether paid or unpaid, counts as service for the purpose of accruing leave entitlements.
205. During the operation of this Agreement, but prior to 1 January 2026, the CDPP will transition to the accrual methods detailed in clauses 206 and 207 below.
206. For an ongoing employee, 20 days personal/carer's leave will be credited upon the employee's commencement with the APS. After 12 months, the employee's leave will accrue and be credited daily.
207. For a non-ongoing employee, the personal/carer's leave will be credited upon the employee's commencement with the CDPP. This will be 20 days leave pro-rated based on the employee's initial contract period and is capped at 20 days. After the initial contract period or 12 months, whichever is shorter, or where the employee has an existing entitlement to personal/carer's leave, leave will accrue and be credited daily.
208. A casual employee may be absent without pay when not fit for work due to personal illness or injury. A casual employee may access 2 days unpaid carer's leave per occasion, consistent with the NES.

Transitional arrangements

209. As the CDPP does not currently provide for daily accrual of personal/carer's leave in subsequent years of employment, transitional arrangements will apply.
210. Where an employee:
- 210.1. has, or cares for someone with, a chronic condition or other ongoing illness; or
 - 210.2. is recovering from surgery; or
 - 210.3. is pregnant; or
 - 210.4. is returning from parental leave or has a child commencing day care;
- and, as a result of the transition to daily accrual of personal/carer's leave, does not have sufficient credit to cover an absence for which they would otherwise be able to take personal/carer's leave, the Director will advance the employee's accrual up to the 12-month anniversary when their leave would otherwise be credited.

Usage

211. Personal/carer's leave to be used:
- 211.1. due to personal illness or injury;
 - 211.2. to attend appointments with a registered health practitioner;
 - 211.3. to manage a chronic condition;
 - 211.4. to provide care or support for a family member (including a household member) or a person they have caring responsibilities for, because:
 - 211.4.1. of a personal illness or injury affecting the person;
 - 211.4.2. of an unexpected emergency affecting the other person;
 - 211.5. upon the death of an immediate family member where leave in excess of that provided for in Compassionate Leave (clauses 265 to 268) is required;
 - 211.6. emergency or unforeseen circumstances that require the employee to be absent from work;
 - 211.7. for household emergencies not including routine repairs;
 - 211.8. moving from one residence to another within the same city (normally one day) or on relocation to another DPP office (normally two days);
 - 211.9. attending, or accompanying a family member with health, legal or other personal matters within an emergency or unforeseen circumstance; and/or
 - 211.10. to attend the funeral of a relative, (not covered under the definition of Immediate Family as prescribed in this Agreement), a friend, neighbour or colleague (normally half a day to one day, depending on the circumstances).

Carers

212. A person that an employee has caring responsibilities for may include a person who needs care because they:
- 212.1. have a medical condition, including when they are in hospital;
 - 212.2. have a mental illness;
 - 212.3. have a disability;
 - 212.4. are frail or aged; and/or
 - 212.5. are a child, not limited to a child of the employee.

Evidence

213. Evidence may be requested after:
- 213.1. more than 3 consecutive days; and
 - 213.2. more than 8 days without evidence in a calendar year.
214. Acceptable evidence includes:
- 214.1. a certificate from a registered health practitioner;
 - 214.2. a statutory declaration; and
 - 214.3. another form of evidence approved by the Director.
215. A certificate from a registered health practitioner may be used as evidence of a chronic condition for up to 12 months for both personal and carer's leave.
216. If the employee does not provide the required evidence within a reasonable period, the absence will be treated as unauthorised leave.
217. The Director may, where such circumstances are justified, approve unpaid leave or allow employees to access other forms of leave where Personal Leave with pay is exhausted.
218. An ongoing employee will not, without the employee's consent, be terminated on the grounds of physical or mental incapacity before the employee's full pay Personal Leave credit has expired unless otherwise provided for in legislation.

Elder/disabled care

219. Unpaid Leave may be approved for a period of up to 12 months to enable an employee to provide care or support to an immediate family member where that person requires ongoing care or support. The CDPP may refuse a request on reasonable business grounds and will provide any reasons for such a refusal in writing within 21 days of the formal request.

Portability of leave

- 220. Where an employee moves into the CDPP from another APS agency where they were an ongoing employee, the employee's unused accrued annual leave and personal/carer's leave will be transferred, provided there is no break in continuity of service.
- 221. Where an employee is engaged in the CDPP immediately following a period of ongoing employment in the Parliamentary Service or the ACT Government Service, the employee's unused accrued annual leave and personal/carer's leave will be recognised unless the employee received payment in lieu of those entitlements on cessation of employment.
- 222. Where an employee is engaged as an ongoing employee in the CDPP, and immediately prior to the engagement the person was employed as a non-ongoing APS employee (whether in the agency or another), at the employee's request, any unused accrued annual leave (excluding accrued leave paid out on separation) and personal/carer's leave will be recognised.
- 223. Where an employee is engaged as a non-ongoing APS employee, and immediately prior to the engagement the person was employed as a non-ongoing APS employee (whether in the agency or another) at the employee's request, any unused accrued annual leave (excluding accrued leave paid out on termination of employment) and personal/carer's leave will be recognised.
- 224. Where an employee is engaged as an ongoing employee in the CDPP, and immediately prior to the engagement the person was employed by a Commonwealth employer (other than in the Parliamentary Services which are covered in clause 221), the Director will recognise any unused accrued personal/carer's leave at the employee's request. The Director will advise the employee of their ability to make this request.
- 225. Where an employee is engaged as an ongoing employee in the CDPP, and immediately prior to the engagement the person was employed by a State or Territory Government, the Director may recognise any unused accrued personal/carer's leave, provided there is not a break in continuity of service.
- 226. For the purposes of clauses 220 to 225, an employee with a break in service of less than 2 months is considered to have continuity of service.

Leave without pay

- 227. Leave without pay in excess of 30 days in any financial year will not count as service for Annual and Personal Leave purposes, except where an employee is granted Miscellaneous Leave without pay in the public interest and they return to duty in the APS, where the period of leave will count for service for all purposes except Annual Leave.
- 228. 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.

Re-crediting of leave

229. When an employee is on:

229.1. annual leave;

229.2. purchased leave;

229.3. defence reservist leave;

229.4. First Nations ceremonial leave;

229.5. NAIDOC leave;

229.6. cultural leave; or

229.7. long service leave; and

becomes eligible for, under legislation or this agreement:

229.8. personal/carer's leave;

229.9. compassionate or bereavement leave;

229.10. jury duty;

229.11. emergency services leave;

229.12. leave to attend to family and domestic violence circumstances; or

229.13. parental leave, premature birth leave, stillbirth leave or pregnancy loss leave;

the affected period of leave will be re-credited.

230. When an employee is on personal/carer's leave and becomes eligible for parental leave, premature birth leave, stillbirth leave or pregnancy loss leave, the affected period of leave will be re-credited.

231. Re-crediting is subject to appropriate evidence of eligibility for the substituted leave.

Long service leave

232. An employee is eligible for long service leave in accordance with the Long Service Leave (*Commonwealth Employees*) Act 1976.

233. The minimum period for which long service leave will be granted is 7 calendar days (whether taken at full or half pay). Long service leave cannot be broken with other periods of leave, except as otherwise provided by legislation or provided for in the re-crediting of leave clause at 229 to 231 of this agreement.

Miscellaneous leave

- 234. The Director may grant employees miscellaneous leave with or without pay, for a purpose not covered by other leave provisions in this Agreement. Each application will be determined after discussion with the employee as appropriate.
- 235. Miscellaneous Leave without pay in excess of 30 days in any financial year will not count as service for Annual and Personal Leave purposes, except where an employee is granted Miscellaneous Leave without pay in the public interest and they return to duty in the APS, where the period of leave will count for service for all purposes except annual Leave.
- 236. A casual employee may be granted paid miscellaneous leave for the purposes of family and domestic violence support and otherwise by Government directive.

Cultural, ceremonial and NAIDOC leave

NAIDOC leave

- 237. First Nations employees may access up to one day of paid leave per calendar year to participate in NAIDOC week activities. NAIDOC leave can be taken in part days.

First Nations ceremonial leave

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

Cultural leave

- 242. The Director may grant up to 3 days of paid leave per calendar year for the purpose of attending significant religious or cultural obligations associated with the employees' particular faith or culture.
- 243. The Director may approve additional leave for cultural purposes as miscellaneous leave, with or without pay.
- 244. Cultural leave can be taken as part days.
- 245. For the avoidance of doubt, this leave does not cover cultural purposes or obligations which are eligible for paid leave under clause 238 to 241.

Parental leave

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

Payment during parental leave

250. An employee is entitled to parental leave with pay as per clauses 252 and 253 below within the parental leave period. Any further parental leave during the parental leave period is without pay. Unused paid parental leave remaining at the end of the employee's parental leave period will lapse. An employee may choose to use their accrued paid leave entitlements in accordance with usage and eligibility requirements in this agreement during the parental leave period that would otherwise be without pay.
251. Employees newly engaged in the CDPP or who have moved to the CDPP from another APS agency are eligible for the paid parental leave in clauses 252 and 253 where such paid leave had not already been provided by another APS agency or Commonwealth employer in the 24 months since the child's date of birth or placement. If the paid leave used by the employee with the previous Commonwealth employer or APS agency is less than the limits specified in clauses 252 and 253 the balance is available to the employee.
252. An employee who is a primary caregiver is entitled to parental leave with pay during the parental leave period to a maximum of 18 weeks as provided in **Table 3** below.

Table 3: Primary caregivers – circumstances for paid parental leave

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

253. An employee who is a secondary caregiver is entitled to parental leave with pay during the parental leave period as provided in **Table 4** below.

Table 4: Secondary caregivers - circumstances for paid parental leave

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

254. **Flexibility:** Parental leave with pay, whether provided as maternity leave under the ML Act or under this agreement, can be accessed flexibly during the parental leave period and does not have to be taken in a single block. For the avoidance of doubt, parental leave can be used to replicate a part time work arrangement and can be taken concurrently with another parent in relation to the same child.
255. **Rate of payment** during paid parental leave is the same as for an absence on personal/carer's leave and based on the employee's weekly hours at the time of the absence.
256. **Half-pay option:** The payment of any paid parental leave may be spread over a maximum period of 36 weeks at the rate of, no less than, half the normal rate of salary. All paid parental leave counts as service for all purposes, where permitted by legislation.

Adoption and long-term foster care

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

Stillbirth

- 259. Parents of a stillborn child remain eligible for parental leave, except for paid leave for the secondary caregiver which is two weeks.
- 260. A stillborn child is a child:
 - 260.1. who weighs at least 400g at delivery or whose period of gestation was 20 weeks or more; and
 - 260.2. who has not breathed since delivery; and
 - 260.3. whose heart has not beaten since delivery.

Pregnancy loss leave

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

Premature birth leave

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

Transitional provisions

- 264. Employees eligible for paid leave under the ML Act are required under legislation to use their paid maternity leave first. In this circumstance, the employee may postpone their paid premature birth leave otherwise payable under clause 263 until after the legislated paid maternity leave is used.

Compassionate leave

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

Bereavement leave

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

Emergency response leave

273. In line with section 108 of the *FW Act*, an employee who engages in an eligible community service activity is entitled to emergency response leave to volunteer for emergency management duties for:
- 273.1. the time engaged in the activity;
 - 273.2. reasonable travelling time; and
 - 273.3. reasonable recovery time.
274. Full-time and part-time employees will be able to access 20 working days of paid emergency response leave at their full rate of pay if required. The Director may provide additional emergency response leave with pay.
- 274.1. For the purposes of this clause, full rate of pay is to be as if the employee was at work.
275. Paid leave may be refused where the employee's role is essential to the CDPP's response to the emergency.
276. An employee must provide evidence that the organisation requests their services. Employees can provide evidence before or as soon as practical after their emergency service activity.
277. The Director may approve reasonable paid or unpaid leave for ceremonial duties and training.
278. Emergency response leave, with or without pay, will count as service.

Jury duty

- 279. Employees who are required by a court to attend either for jury selection, or to act as a juror, will be released from duty for the required period, without the need to apply for leave.
- 280. Full and part-time employees will be released from duty on their full rate of pay. Payment for casuals will be as per the relevant state legislation.
 - 280.1. For the purposes of this clause, full rate of pay is to be as if the employee was at work.
- 281. The employee is required to inform their manager before they are released from duty and provide evidence of the need to attend.
- 282. If the employee receives a payment from the court for attendance (which are not expense related such as allowances and reimbursements), they must repay that amount to the CDPP for the period of absence. This will be administered in accordance with the overpayments section (clauses 45 to 52).

Defence reservist leave

- 283. The Director will give an employee leave with or without pay to undertake:
 - 283.1. Australian Defence Force (ADF) Reserve and continuous full-time service (CFTS); and
 - 283.2. Australian Defence Force Cadet obligations.
- 284. An employee who is a Defence Reservist can take leave with pay for:
 - 284.1. up to 4 weeks (20 days) in each financial year (pro-rata for part-time employees); and
 - 284.2. an extra 2 weeks (10 days) in the first year of ADF Reserve service (pro-rata for part-time employees).
- 285. Leave can be built up and taken over 2 consecutive years. This includes the extra 2 weeks in the first year of service.
- 286. An employee who is an Australian Defence Force Cadet officer or instructor can get paid leave up to 3 weeks in each financial year to perform their duties. Australian Defence Force Cadets means:
 - 286.1. Australian Navy Cadets;
 - 286.2. Australian Army Cadets; and
 - 286.3. Australian Air Force Cadets.
- 287. In addition to the entitlement at clause 283, paid leave may be granted to an employee to attend an interview or medical examination in connection with the enlistment of the employee in a Reserve Force of the Defence Force.
- 288. Paid defence reservist leave counts for service.
- 289. Unpaid defence reservist leave for 6 months or less counts as service for all purposes. This includes periods of CFTS.
- 290. Unpaid leave taken over 6 months counts as service, except for annual leave.
- 291. An employee will not need to pay their tax free ADF Reserve salary to the CDPP for any reason

Defence service sick leave

292. An employee is eligible for defence service sick leave credits when the Department of Veterans Affairs (DVA) has certified that an employee's medical condition is as a result of either:
- 292.1. warlike service; or
 - 292.2. non-warlike service.
293. An eligible employee can get 2 types of credits:
- 293.1. an initial credit of 9 weeks (45 days) defence service sick leave will apply as of the later below option:
 - 293.1.1. they start employment with the APS;
 - 293.1.2. DVA certifies the condition; or
 - 293.2. an annual credit of 3 weeks (15 days) defence service sick leave.
294. An employee can use their defence service sick leave when a recognised medical practitioner provides a certificate that says they were away due to their DVA certified medical condition.
295. Unused annual credits can be built up to 9 weeks.
296. An employee cannot use annual credits until the initial credit is exhausted.
297. Defence service sick leave is paid and counts as service for all purposes.

Leave to attend proceedings

298. An employee giving evidence before a Court, Tribunal or Royal Commission on behalf of the Commonwealth or a Commonwealth party in the course of their duties, will be considered on duty.
299. An employee who is not covered under clause 298, and is required to give evidence to, appear before or attend to instruct a representative at a Court, Tribunal or Royal Commission in relation to their duties will be released from duty without loss of pay. This includes in proceedings relating to a dispute between the employee and the CDPP.
300. An employee may otherwise be granted paid or unpaid miscellaneous leave by the Director if required to give evidence to a Court, Tribunal or Royal Commission for any other reason. Where approval for unpaid leave is given, the employee may elect to use accrued annual leave, flex leave or time off in lieu.
301. The Director may refuse to release an employee from duty having regard to business requirements and whether the employee's attendance is necessary for the Court, Tribunal or Royal Commission hearing.

Unauthorised Absence

302. Where an employee is absent from duty without approval, the absence will be treated as an 'unauthorised absence' and will not count as service for any purpose under this Agreement, including remuneration and leave accrual. Any amounts paid to an employee in respect of an unauthorised absence are overpayments and the CDPP will seek to recover those amounts consistent with the Public Governance, Performance and Accountability Act 2013. Section 7: Employee support and workplace culture.

Section 7: Employee support and workplace culture

Blood donation

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

Vaccinations

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

Employee Assistance Program

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

Employee Health and Wellbeing Initiative

308. The CDPP recognises the benefit to employees undertaking healthy lifestyle initiatives in their own time.
309. Employees will be reimbursed up to \$295.00 annually for expenditure on approved health and wellbeing activities and equipment.
310. The CDPP will fund a range of health services aimed at maximising productivity and reducing time lost through illness and injury.
311. Further information can be found in CDPP policy.

Respect at work

Principles

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

Consultation

- 314. The CDPP will consult with employees and their unions in developing, reviewing and evaluating approaches to prevent sexual harassment, sex discrimination, sex-based harassment and victimisation in the workplace.

Family and domestic violence support

- 315. The CDPP will provide support for employees affected by family and domestic violence, depending on the employee's circumstances.
- 316. The CDPP recognises that a holistic approach should be taken to support the employee, appropriate for the employee's individual circumstances.
- 317. Family and domestic violence support, including paid leave, are available to all employees covered by this agreement.
- 318. An employee experiencing family and domestic violence is able to access paid miscellaneous leave. Reasons an employee experiencing family and domestic violence may access this leave include, but are not limited to:
 - 318.1. illness or injury affecting the employee resulting from family and domestic violence;
 - 318.2. providing care or support to a family member (including a household member) who is also experiencing family and domestic violence, and is ill or injured as a result of family and domestic violence;
 - 318.3. providing care or support to a family member (including a household member) who is also experiencing family and domestic violence, and is affected by an unexpected emergency as a result of family and domestic violence;
 - 318.4. making arrangements for the employee's safety, or the safety of a close relative;
 - 318.5. accessing alternative accommodation;
 - 318.6. accessing police services;
 - 318.7. attending court hearings;
 - 318.8. attending counselling; and

- 318.9. attending appointments with medical, financial or legal professionals.
319. This entitlement exists in addition to an employee's existing leave entitlements and may be taken as consecutive days, single days or part days and will count as service for all purposes.
320. Given the emergency context in which leave may need to be accessed, employees can proceed to take the leave and seek approval at a later date, as soon as practicable.
321. These family and domestic violence support clauses do not reduce an employee's entitlement to family and domestic violence leave under the NES.
322. Paid miscellaneous leave available under this clause is paid for ongoing and non-ongoing employees at their full rate as if they were at work.
323. Paid leave for casual employees under this clause is paid at their full pay rate for the hours they were rostered to work in the period they took leave.
324. Evidence may be requested to support the CDPP in approving leave. In most cases, this will not be required. Where it is required, this will be discussed with the employee and a statutory declaration is the only form of evidence the CDPP will require, unless the employee chooses to provide another form of evidence.
325. An employee may also choose to provide other forms of evidence, including a medical certificate, or document issued by the Police Service, a Court, a Doctor, district Nurse, a Family Violence Support Service or Lawyer.
326. The CDPP will take all reasonable measures to treat information relating to family and domestic violence confidentially. The CDPP will adopt a 'needs to know' approach regarding communication of an employee's experience of family and domestic violence, subject to steps the CDPP may need to take to ensure the safety of the employee, other employees or persons, or mandatory reporting requirements.
327. Where the CDPP needs to disclose confidential information for purposes identified in clause 326, where it is possible the CDPP will seek the employee's consent and take practical steps to minimise any associated safety risks for the employee and/or privacy breaches.
328. The CDPP will not store or include information on the employee's payslip in relation to the employee's experience of family and domestic violence; any leave accessed for the purposes of family and domestic violence; or support(s) provided by the employer, unless otherwise required by legislation.
329. Other available support may include, but is not limited to, flexible working arrangements, additional access to EAP, changes to their span of hours or pattern of hours and/or shift patterns and/or location of work where reasonably practicable.
330. The CDPP will acknowledge and take into account an employee's experience of family and domestic violence if an employee's attendance or performance at work is affected.
331. Further information about leave and other support available to employees affected by family and domestic violence may be found in policy.

Integrity in the APS

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

First Nations cultural competency training

- 335. The Director will take reasonable steps to ensure all substantive, ongoing EL2 employees employed at the commencement of this agreement or any new substantive, ongoing EL2 employees who commence within the first 6 months of this agreement will complete relevant First Nations cultural competency training within 12 months of the commencement of the agreement.
- 336. Any new substantive, ongoing EL2 employee who commences after 6 months of the commencement of this agreement will be required to complete a relevant First Nations cultural competency training course within 6 months of their engagement or promotion.

Lactation and breastfeeding support

- 337. Reasonable paid time during work hours will be provided for lactation breaks for breastfeeding, expressing milk and other associated activities.
- 338. The CDPP will provide access to appropriate facilities for the purpose of breastfeeding or expressing milk, subject to clause 339. In considering whether a space is appropriate, the CDPP will consider whether:
 - 338.1. there is access to refrigeration;
 - 338.2. the space is lockable; and
 - 338.3. there are facilities needed for expressing, such as appropriate seating.
- 339. Where it is not practicable for an CDPP site to have a designated space, a flexible approach will be taken so that the employee can access the support required.
- 340. The CDPP will facilitate discussion between individual employees and their managers about accommodating the employee's lactation needs and practical arrangements to meet these needs.

341. The manager and employee shall discuss any flexible working arrangements that may be needed to support lactation. This may include consideration of arrangements such as working from home and/or remote working or varying work hours on an ad-hoc or regular basis. Wherever possible, requests by an employee will be accommodated, noting these needs may be changed over time.
342. Further information is available in policy.

Disaster support

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

Section 8: Performance and development

Performance management

346. At a minimum, performance management is both:
- 346.1. an aspect of the management relationship between a supervisor and employee in which work responsibilities, priorities and expectations are communicated and clarified, and
 - 346.2. a process of defining, aligning and evaluating employee performance in relation to organisational goals and objectives.
347. Supervisors/ managers are required to manage and assess the performance of employees under their supervision and provide regular and ongoing informal feedback to those employees in addition to the established formal feedback mechanisms.
348. Employees are required to engage constructively in clarifying work expectations, and in resolving issues related to unsatisfactory performance.

Performance Program

349. Employees must participate in the CDPP's Performance Program.
350. The Performance cycle runs from 1 July to 30 June each year.
351. Employee's will complete a performance agreement at the beginning of each Performance cycle that outlines individual goals and objectives and identifies skills development needs and opportunities. These goals and objectives will be aligned to the behavioural expectations applicable to the employee's classification and the corporate planning framework.

- 352. Newly engaged employees will complete a performance agreement as soon as reasonably practicable upon commencement with the CDPP.
- 353. Where an employee moves roles either at level or at a higher classification, or there has been a significant change to the expectations of the role the employee will complete a new performance agreement as soon as practicable following the move or change.
- 354. Temporary assignments greater than 6 months will result in a new performance agreement being developed.
- 355. An employee temporarily assigned to another position for periods of less than 6 months may elect or be required to enter into a new performance agreement for that period where appropriate.
- 356. Formal performance feedback will occur at the midpoint of the Performance cycle and at the conclusion of the Performance cycle.
- 357. At the conclusion of the performance cycle an employee's performance will be rated as either:
 - 357.1. Satisfactory; or
 - 357.2. Requires development.

Pay Point Advancement Linked to Performance and under Higher Duties Arrangements

- 358. For information on Pay Point Advancement Linked to Performance refer to clauses 30 to 38.

Performance Improvement Plan

- 359. The procedures for managing poor performance do not apply to employees during probation.
- 360. Formal feedback is necessary to ensure that employees receive regular and constructive feedback on their performance and to provide a focus for assessing further training and development needs. Early feedback is particularly important where potential performance concerns emerge. Individual circumstances including health related issues will be taken into account.
- 361. Where an employee's performance consistently falls below an acceptable level the Employee and their supervisor/manager will implement the procedures for managing poor performance including placing the employee on a Performance Improvement Plan.
- 362. A performance improvement plan is a structured assessment plan. The performance improvement plan must have regards for the principles of procedural fairness, natural justice and issues of privacy.
- 363. Where an employee was not eligible for pay point advancement as a result of being subject to a Performance Improvement Plan and;
 - 363.1. they have improved their performance; and
 - 363.2. they are reassessed as performing satisfactorily;the employee will be eligible for consideration of salary advancement to the next available pay point from the date of reassessment, subject to relevant clause 30 to 37.
- 364. Where the Director determines, on the basis of the assessment at the conclusion of the performance improvement plan that the employee's performance remains unsatisfactory, the Director will commence action to:
 - 364.1. assign the employee to other duties; or

- 364.2. reduce the employee's classification; or
- 364.3. terminate the employee; or
- 364.4. take some other appropriate action.

Workloads

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

Study assistance

- 368. Study Assistance is regarded as a valuable element of this Agreement consistent with the objectives of the CDPP strategic priority to 'recruit, develop and retain quality people.' The CDPP acknowledges its importance as part of the overall developmental opportunities that are provided to its employees. The CDPP may provide assistance to students while they are completing formal qualifications that are relevant and beneficial to the function of the CDPP. Participation is encouraged within operational requirements, while also taking into account the individual's personal circumstances.
- 369. Approved Studies Assistance may include:
 - 369.1. approved paid and unpaid leave (including exam leave) up to 5 hours per week, and/or
 - 369.2. reimbursement of costs up to \$2,500 per semester.
- 370. Where a manager and an eligible employee agree that formal study through an accredited institution is appropriate, the employee may apply for assistance in the form of leave or financial assistance. Further information about the studies assistance scheme can be found in CDPP policy.

Learning and development

Developing Skilled People

- 371. The CDPP is committed to the provision of a range of developmental opportunities that relate to both the professional skills and the personal attributes of an employee.
- 372. Individual learning and development goals will be identified and recorded through an employee's performance agreement each year.

373. Both the employee and manager share a mutual obligation to the achievement of the identified learning and development goals by:

373.1. The employee seeking out the identified opportunities; and

373.2. The employee's manager facilitating access to those opportunities whilst balancing operational requirements.

Professional Memberships and Practising Certificates

374. The Office will meet the cost of certificates and professional memberships relevant and beneficial to the function of the CDPP.

Section 9: Travel and location-based conditions

Travel

375. The CDPP will meet reasonable accommodation, meal and incidental expenses incurred whilst an employee is required to travel on official business, involving overnight stays for periods of up to and including 21 consecutive days in any one location. This may be reasonably extended past 21 days with management approval.

376. Financial assistance for official business, involving overnight stays for periods greater than 21 consecutive days in any one location may be determined to be classified as "relocation". Refer to the relocations terms and conditions under the section Relocation Costs within Australia and to CDPP policy.

377. The CDPP may choose to meet such expenses through the provision of accommodation and meals; or in the form of an allowance; or a combination of both.

378. The amount payable to an employee as a travel allowance, will be determined annually following a review of the annual Taxation Determination issued by the Commissioner of Taxation, stating the reasonable amounts for domestic and international travel allowance expenses. Rates will not exceed the maximum amount that is relevant to the employee as indicated in the Taxation Determinations issued by the Commissioner of Taxation annually. Payment information, including the applicable rates, is available in policy.

379. Part-day travel - Where an employee is required to be away from their usual place of work for not less than 8 hours but is not required to be away overnight, the employee will be paid part-day travelling allowance of \$50.00 for meals and incidental expenses.

380. The normal class of travel for an employee is economy class. Business class travel may be used where an employee is required to travel on official business overseas.

381. In calculating the allowances payable under clauses 375 and 379, time involved in official travel by rail or air will include 90 minutes before the scheduled time of departure from the city of the employee's usual place of work and 90 minutes after the time of the employee's return to that city. For all other means of travel, the actual times of departure from and return to the city of their headquarters will be used.

382. The allowance for meals and incidentals is inclusive of the goods and services tax.

Relocation

383. Where an existing employee is required to relocate at the request of the CDPP (such as a promotion), the employee will be provided with financial relocation assistance. Employees who relocate on a temporary basis to take up higher duties are entitled to removal expenses if they relocate for a period of 13 weeks or more.
384. Where an employee is required to relocate on engagement with the CDPP, the employee will be provided with financial relocation assistance.
385. Reasonable expenses associated with the relocation include:
- 385.1. the cost of transport of the employee, their dependents and partner by the most economical means;
 - 385.2. removal expenses, namely the reimbursement of reasonable incurred costs of the removal and storage of furniture and household effects of the employee, dependants and partner;
 - 385.3. the reimbursement of the cost of the insurance premium based on a reasonable replacement value;
 - 385.4. the reasonably incurred expenses in kennelling and transport of pets, up to the amount specified in the APS Award.
 - 385.5. where appropriate, transport back to the employee's home locality;
 - 385.6. removal and storage of household furniture and effects; and
 - 385.7. Expenses which may include ongoing living expenses e.g. accommodation costs.
386. Additional relocation assistance may be considered by Director's discretion.
387. Where an employee is required by the CDPP to temporarily relocate to the same location for a period greater than 21 days, they will be provided with approved financial relocation assistance.
388. Further information about relocation assistance can be found in CDPP policy.

Section 10: Consultation, representation and dispute resolution

Consultation

Principles

389. Genuine and effective consultation with employees and the relevant union(s), taking into account the diverse needs of employees, fosters a positive and inclusive workplace, enabling the views of employees to be considered.

390. The CDPP recognises:

- 390.1. the importance of inclusive and respectful consultative arrangements;
- 390.2. employees and the relevant union(s) should have a genuine opportunity to influence decisions;
- 390.3. the nature and extent of consultation will vary depending on the proposed change and the likely impact on employees. Consultation on CDPP policies may occur over at least 2 weeks, whereas a major change is likely to require a more extensive consultation process;
- 390.4. consultation with employees and relevant unions(s) on workplace matters that significantly affect or materially impact them is sound management practice; and
- 390.5. the benefits of employee and union involvement and the right of employees to be represented by their union.

391. Genuine and effective consultation involves:

- 391.1. providing employees and the relevant union(s) with a genuine opportunity to influence the decision prior to a decision being made;
- 391.2. providing all relevant information to employees and the relevant union(s) in a timely manner to support consideration of the issues;
- 391.3. considering feedback from employees and the relevant union(s) in the decision-making process; and
- 391.4. advising employees and the relevant union(s) of the outcome of the process, including how their feedback was considered in the decision-making process.

When consultation is required

392. Consultation is required in relation to:

- 392.1. changes to work practices which materially alter how an employee carries out their work;
- 392.2. changes to or the introduction of policies or guidelines relevant to workplace matters (unless the changes are minor or procedural);
- 392.3. major change that is likely to have a significant effect on employees;
- 392.4. implementation of decisions that significantly affect employees;
- 392.5. changes to employees' regular roster or ordinary hours of work (subject to any other relevant provisions in this agreement); and
- 392.6. other workplace matters that are likely to significantly or materially impact employees.

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

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

394. This clause applies if the CDPP:

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

Representation

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

396. The CDPP must recognise the representative if:

- 396.1. A relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- 396.2. the employee or employees advise the employer of the identity of the representative.

Major change

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

- 397.1. the termination of the employment of employees; or
- 397.2. major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
- 397.3. the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
- 397.4. the alteration of hours of work; or
- 397.5. the need to retrain employees; or
- 397.6. the need to relocate employees to another workplace; or
- 397.7. the restructuring of jobs.

398. The following additional consultation requirements in clause 399 to 403 apply to a proposal to introduce a major change referred to in clause 392.3.

399. Consultation with employees and the relevant union(s) and/or recognised representatives will occur prior to a decision being made, subject to clause 393.

400. Where practicable, an CDPP change manager or a primary point of contact will be appointed and their details provided to employees and the relevant union(s) and/or their recognised representatives.

- 401. The CDPP must notify employees and relevant union(s) and/or recognised representatives of the proposal to introduce the major change as soon as practicable.
- 402. As soon as practicable after proposing the change, or notifying of the change in circumstances described at clause 393, the CDPP must:
 - 402.1. discuss with affected employees and relevant union(s) and/or other recognised representatives:
 - 402.2. the proposed change:
 - 402.2.1. the effect the proposed change is likely to have on the employees; and
 - 402.2.2. proposed measures to avert or mitigate the adverse effect of the proposed change on the employees; and
 - 402.3. for the purposes of the discussion – provide, in writing, to employees and the relevant union(s) and/or other recognised representatives:
 - 402.3.1. all relevant information about the proposed change, including the nature of the change proposed; and
 - 402.3.2. information about the expected effects of the proposed change on the employees; and
 - 402.3.3. any other matters likely to affect the employees.
- 403. The CDPP must give prompt and genuine consideration to matters raised about the major change by employees and the relevant union(s) and/or other recognised representatives.
- 404. However, the CDPP is not required to disclose confidential or commercially sensitive information to employees and the relevant union(s) and/or other recognised representatives.
- 405. If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the CDPP, the requirements set out in clauses 399 to 403 are taken not to apply.

Change to regular roster or ordinary hours of work

- 406. The following additional consultation requirements in clause 407 to 410 apply to a proposal to introduce a change referred to in clause 392.5.
- 407. The CDPP must notify affected employees and the relevant union(s) and/or other recognised representatives of the proposed change.
- 408. As soon as practicable after proposing to introduce the change, the CDPP must:
 - 408.1. discuss with employees and the relevant union(s) and/or other recognised representatives:
 - 408.2. the proposed introduction of the change; and
 - 408.3. for the purposes of the discussion – provide to the employees and relevant union(s) and/or other recognised representatives:
 - 408.3.1. all relevant information about the proposed change, including the nature of the proposed change; and

- 408.3.2. information about what the employer reasonably believes will be the effects of the proposed change on the employees; and
- 408.3.3. information about any other matters that the employer reasonably believes are likely to affect the employees; and
- 408.4. invite employees and the relevant union(s) and/or other recognised representatives to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- 409. However, the CDPP is not required to disclose confidential or commercially sensitive information to the relevant employees and the relevant union(s) and/or other recognised representatives.
- 410. The CDPP must give prompt and genuine consideration to matters raised about the proposed change by the employees and the relevant union(s) and/or other recognised representatives.

Interaction with emergency management activities

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

Agency consultative committee

- 412. The Director may establish an agency consultative committee to discuss relevant workplace matters.
- 413. CDPP consultative committees will operate subject to an agreed terms of reference and structure for the term of the agreement. Representation on the committee will be in accordance with the terms of reference.

National Consultative Committee

- 414. There will be a National Consultative Committee (NCC) to facilitate communication and consultation on CDPP employment and workplace relations matters related to the implementation of this Agreement.
- 415. The NCC will:
 - 415.1. meet at least three times a year:
 - 415.2. establish and amend Terms of Reference by agreement:
 - 415.3. have the number of employees and or employee representatives being equal to or greater than the number of management representatives.
- 416. To the extent reasonably practicable, the CDPP will consult and consider the views of the NCC on policy issues concerning the implementation and operation of this Agreement and the National Employment Standards, where these affect the employment conditions of employees. Where agreement cannot be reached on matters before the NCC, the Director will make a final decision.
- 417. The NCC will be established within 4 months of the date of effect of this Enterprise Agreement. By way of clarification, the NCC is not a decision-making body.

APS consultative committee

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

Dispute resolution

419. If a dispute relates to:
- 419.1. a matter arising under the agreement; or
 - 419.2. the National Employment Standards;
- this term sets out procedures to settle the dispute.
420. An employee or union who is covered by this agreement may initiate and/or be a party to a dispute under this term.
421. An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term. Representatives will be recognised and dealt with in good faith.
422. Parties to the dispute must attempt to resolve the dispute at the workplace level, by discussion between the employee or employees and relevant managers. Parties to the dispute will notify higher level managers to assist in the resolution of the dispute. Parties will give genuine consideration to proposals to resolve the dispute.
423. If a dispute about a matter arising under this agreement is unable to be resolved at the workplace level, and all appropriate steps under clause 422 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
424. The Fair Work Commission may deal with the dispute in 2 stages:
- 424.1 the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
 - 424.2 if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
 - 424.2.1 arbitrate the dispute; and
 - 424.2.2 make a determination that is binding on the parties.
- Note: If the Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Act. A decision that the Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.*
425. While the parties are attempting to resolve the dispute using the procedures in this term:
- 425.1 an employee must continue to perform their work as they would normally in accordance with established custom and practice at the CDPP that existed immediately prior to the dispute arising unless they have a reasonable concern about an imminent risk to their health or safety; and

- 425.2 subject to 425.1, an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
- 425.2.1 the work is not safe; or
 - 425.2.2 applicable work health and safety legislation would not permit the work to be performed; or
 - 425.2.3 the work is not appropriate for the employee to perform; or
 - 425.2.4 there are other reasonable grounds for the employee to refuse to comply with the direction.
426. The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this term.
427. Any disputes arising under the Office of the Commonwealth Director of Public Prosecutions (CDPP) Enterprise Agreement 2017 – 2020 or the National Employment Standards that were formally notified under clause 51 of the Enterprise Agreement 2017 – 2020 before the commencement of this agreement, that remain unresolved at the date of commencement of this agreement, will be progressed under the dispute resolution procedures in this agreement.

Leave of absence to attend proceedings

428. Where the provisions of clauses 419 to 423 have been complied with, and to assist in the resolution of the matter, the employee, and/or the union delegate or other employee representative referred to in clause 420, or employee required to provide evidence, will be granted paid time to attend dispute resolution processes and proceedings in the Fair Work Commission arising from referral of the matter in clause 423.

Delegates' rights

429. Union delegates play an important and legitimate role in the workplace. This includes representing their members and supporting employee access to union officials and providing employee views to the CDPP.
430. The role of union delegates is to be respected and supported.
431. The CDPP and union delegates will work together respectfully and collaboratively.

Supporting the role of union delegates

432. The CDPP respects the role of union delegates to:
- 432.1 provide information, consult with and seek feedback from employees in the workplace-on-workplace matters;
 - 432.2 consult with other delegates and union officials, and get advice and assistance from union officials;
 - 432.3 represent the interests of members to the employer and industrial tribunals; and
 - 432.4 represent members at relevant union forums, consultative committees or bargaining.

433. The CDPP and union delegates recognise that undertaking the role of a union delegate is not the primary purpose of an employee's engagement and must work with and not unreasonably impact their regular duties. Honorary officials may request additional time and facilities from time to time.
434. Union delegates will be provided with reasonable paid time during their normal working hours to perform their union delegate role. The paid time provided should not result in disruption to critical services or operational requirements.
435. To support the role of union delegates, the CDPP will, subject to legislative and operational requirements, including privacy and security requirements:
- 435.1 provide union delegates with reasonable access to CDPP facilities and resources, including for paid or unpaid meetings between employees and their unions and to communicate with union officials;
 - 435.2 advise union delegates and other union officials of the CDPP facilities and resources available for their use, which may include telephone, photocopying, internet, and email;
 - 435.3 allow reasonable official union communication appropriate to the CDPP from union delegates with employees, including through email, intranet pages and notice boards. This may include providing a link to a union website for employees to access union information. Any assistance in facilitating email communications does not include the CDPP vetoing reasonable communications;
 - 435.4 provide access to new employees as part of induction; and
 - 435.5 provide reasonable access to union delegates to attend appropriate paid time training in workplace relations matters, during normal working hours.
436. Where APS employees are elected as officials of a trade union or professional association, they are not required to seek permission from the workplace or CDPP before speaking publicly in that capacity, subject to the APS Code of Conduct and legislative requirements.

Section 11: Separation and retention

Resignation

437. An employee may resign from their employment by giving the Director at least 14 calendar days' notice.
438. At the instigation of the Director, the resignation may take effect at an earlier date within the notice period. In such cases, the employee will receive paid compensation in lieu of the notice period which is not worked.
439. The Director has the discretion to agree to a shorter period of notice or waive the requirement to give notice.

Payment on death of an employee

440. When an employee dies, or the Director has directed that an employee is presumed to have died on a particular date, subject to any legal requirements, the Director must authorise payments to the partner, dependants or legal representative of the former employee, the amount to which the former employee would have been entitled had they ceased employment through resignation or retirement, or where legislation provides specifically for amounts calculated based on the death of the employee, those amounts. If payment has not been made within a year of the former employee's death, it should be made to their legal representative.

Redeployment, retraining, redundancy

Managing Excess Employees

441. Meaning of Excess Employee:

- 441.1 An employee may be an excess employee for the purposes of this agreement if at least one of the following applies:

441.1.1 The employee is included in a class of employees employed in the CDPP which comprises a greater number of employees than is necessary for the effective performance of a particular role or function within the CDPP;

441.1.2 The services of the employee cannot be effectively used because of technological or other changes in the work methods of the CDPP or changes in the nature, extent or organisation of the functions of the CDPP; or

441.1.3 Where the duties usually performed by the employee are to be performed at a different locality, the employee is not willing to perform duties at the locality and the Director has determined that these provisions will apply to that employee.

Application

442. The following procedures will apply to all employees of the CDPP with the exception of:

442.1 ongoing employees who are on probation;

442.2 non-ongoing employees.

Excess Employee Process

Consultation

443. When the Director is aware that an employee is likely to become excess, the Director will advise the employee of the situation at the earliest practicable time.

444. The Director will hold discussions with the employee to consider:

444.1 Measures that could be taken to resolve the situation, including redeployment opportunities for the employee, at or below level, within or outside the CDPP;

444.2 Whether termination of employment is appropriate.

445. Where the employee chooses a representative, the Director will hold the discussions with the employee's representative.

Early Separation

446. Where an employee is likely to be the subject of action under these provisions, the CDPP may provide to that employee an early separation opportunity. This option provides for separation to occur within 14 days of any such opportunity being made available to the employee. It attracts an additional payment of 6 weeks of salary, over and above any other amount paid on separation e.g. redundancy pay. The payment is in lieu of the time that may have reasonably been expected to elapse for the purposes of the consultation and consideration periods (refer clauses 443 and 444 respectively).

Declaring an employee excess

447. Within one 1-month after advising the employee that they are likely to become excess, the Director may advise the employee in writing that they are an excess employee. The employee and the Director may agree to a shorter period.

Separation with Consent

448. Where the Director has advised an employee, in writing, that they are excess and the Director proposes to terminate the employee in accordance with subsection 29(3)(a) of the PS Act, the employee will have a maximum period of 1-month in which to consider their position and provide their consent to the termination or request redeployment assistance. The Director will not give notice of termination until the expiration of that 1-month period unless the employee requests an earlier termination date within that 1-month period.
449. Within that month, unless agreed otherwise, an employee consenting to termination must be given information on the:
- 449.1 Amount of redundancy pay, pay in lieu of notice and paid-up leave credits;
 - 449.2 Amount of accumulated superannuation contributions;
 - 449.3 Options open to the employee concerning superannuation;
 - 449.4 Taxation rules applying to the various payments; and
 - 449.5 Level of assistance up to a maximum of \$500 for financial advice.

Redundancy Benefit

450. An excess employee who consents to termination of their employment and whose employment is terminated by the Director under subsection 29(3)(a) of the PS Act on the grounds that they are excess to the requirements of the CDPP is entitled to be paid redundancy pay of a sum equal to 2 weeks of 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 clause 451.
451. An excess employee with at least 2 years' service but less than 3 years will receive 6 weeks' redundancy pay in total. An excess employee with at least 3 years' service but less than 3.5 years will receive 7 weeks' redundancy pay in total.
452. The minimum sum payable will be 4 weeks of salary and the maximum will be 48 weeks of salary.

453. The redundancy benefit will be calculated on a pro rata basis for any period where an employee has worked part-time hours during their period of service and the employee has less than 24 years' full-time service.

Period of Notice

454. Where the excess employee agrees to be terminated, the Director may terminate the employee by giving the required notice of termination. The period of notice will be 4 weeks (or 5 weeks for an employee over 45 years of age with at least 5 years of continuous service).
455. Where an employee 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 FWA for the unexpired portion of the notice period. This amount is additional to any early separation payment.

Periods of Service

456. For earlier periods of service to count there must be no breaks between the periods of service, except where:
- 456.1 The break in service is less than 1 month and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer; or
 - 456.2 The earlier period of service was with the APS and ceased because the employee was deemed to have resigned from the APS on marriage under the repealed Section 49 of the *Public Service Act 1922*.
457. Subject to 458, service for redundancy pay purposes means:
- 457.1 Service in the CDPP;
 - 457.2 Government service as defined in Section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
 - 457.3 Service with the Commonwealth (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;
 - 457.4 Service with the Australian Defence Forces;
 - 457.5 Service in another organisation where:
 - 457.5.1 an employee was transferred from the APS to that organisation with a transfer of function; or
 - 457.5.2 an employee engaged by that organisation on work within a function is appointed as a result of the transfer of that function to the APS; and
 - 457.5.3 such service is recognised for Long Service Leave purposes.
458. Any period of service which ceased through termination on the following grounds will not count as service for redundancy pay purposes:
- 458.1 The employee lacks, or has lost an essential qualification for performing his or her duties;
 - 458.2 Non-performance, or unsatisfactory performance of duties;

- 458.3 Inability to perform duties because of physical or mental incapacity;
 - 458.4 Failure to satisfactorily complete an entry level training course;
 - 458.5 Failure to meet a condition imposed under subsection 22(6) of the PS Act;
 - 458.6 Breach of the Code of Conduct;
 - 458.7 Any other ground prescribed by the *Public Service Regulations 2023*;
 - 458.8 Voluntary retrenchment at or above the minimum retiring age applicable to the employee; or
 - 458.9 With the payment of a redundancy benefit or similar payment or an employer financed retirement benefit.
459. Absences from work which do not count as service for Long Service Leave purposes will not count as service for redundancy pay purposes.

Rate of Payment – Redundancy Pay

460. For the purpose of calculating any payment under 450 to 453, salary will include:
- 460.1 the employee's salary at their regular and ongoing classification; or
 - 460.2 the salary of a higher classification, 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 termination; and
 - 460.3 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.

Redeployment

461. If an excess employee wishes to be redeployed rather than consent to termination, the Director will take all reasonable steps, consistent with the efficient management of the CDPP, to assign duties to that employee in accordance with Section 25 of the PS Act. In the first instance, this placement will be handled within the employee's home office. The employee should pursue redeployment opportunities at the same time and may look across and outside the CDPP.
462. The redeployment provisions provide an employee with intensive and immediate redeployment assistance. The CDPP will assist employees throughout the redeployment process by providing, amongst other things, reasonable expenses and time off to attend necessary employment interviews.
463. The Director may choose to offer the services of a selected outplacement/career management provider at any point in the process (on and from the point the employee is advised that they are likely to become excess).
464. The CDPP will ask excess employees whether they want to register for APS-wide redeployment. With the agreement of the employee, the CDPP will register the employee's interest in redeployment by submitting their resume to a central electronic database maintained by the APS Commission where that is in operation at that time.
465. The redeployment process commences from the date the employee is advised, in writing, that they are an excess employee.

Salary Maintenance

466. Where the Director exercises their power under s.23 of the PS Act 1999 to reduce the classification of an employee; salary maintenance will be applied from the date of reduction in classification for a period of 6 months. Salary maintenance will be calculated on the basis of the employee's regular and ongoing salary.

Compulsory Termination

467. Subject to clause 471, if after 13 weeks from the date an employee has been identified as an excess employee:

467.1 The Director has been unable to assign duties to the employee (at or below level) despite having taken all reasonable steps to do so;

467.2 the employee has not consented to termination;

The Director may decide to compulsorily terminate the excess employee under s.29 of the PS Act.

468. An excess employee must not be compulsorily terminated unless they have:

468.1 rejected the opportunity to provide their consent to termination; and

468.2 been given the required period of notice of 4 weeks (or 5 weeks in the case of an employee over 45 years of age with at least 5 years' service).

469. In practice, notice of termination will be given 4 or 5 weeks before the end of the redeployment period described above to satisfy the requirements of the FWA. If redeployment arrangements are subsequently made after the issue of the notice of termination, the notice will be withdrawn.

470. An employee with 12 or more years of service who elects for redeployment and whose employment is compulsorily terminated, will receive the same entitlements on termination of employment as employees who consent to termination, except that the redundancy pay will be reduced to account for salary payments received during the redeployment period.

471. An employee with less than 12 years of service, who elects for redeployment, will have the 13- week redeployment period reduced to the period as set out below. In addition, these employees will be entitled to the redundancy benefit as set out in the NES.

Years of service	Redeployment period	NES redundancy benefit
1	11 weeks	4 weeks
2	9 weeks	6 weeks
3	9 weeks	7 weeks
4	9 weeks	8 weeks
5	8 weeks	10 weeks
6	8 weeks	11 weeks
7	7 weeks	13 weeks
8	7 weeks	14 weeks
9	6 weeks	16 weeks
10	11 weeks	12 weeks
11	12 weeks	12 weeks

Appendix A – Base salaries

Table A1 - Classification Structure, Salary Scales and Pay Increases - Legal

Classification	CDPP Legal Classification	Salary levels	As at 31 August 2023	From the later of commencement of the agreement or 14 March 2024	From 13 March 2025	From 12 March 2026
Executive Level 2	Principal Federal Prosecutor	2	\$150,915	\$156,952	\$162,916	\$168,455
		1	\$141,875	\$147,550	\$153,157	\$158,364
Executive Level 1	Senior Federal Prosecutor	4	\$131,317	\$136,570	\$141,760	\$146,580
		3	\$123,298	\$128,230	\$133,103	\$137,628
		2	\$115,489	\$120,109	\$124,673	\$128,912
		1	\$107,916	\$112,233	\$116,498	\$121,755
APS Level 6	Federal Prosecutor 2 Broadband	6			\$105,910	\$111,701
		5	\$95,701	\$101,793	\$105,661	\$109,253
		4	\$88,553	\$92,095	\$95,595	\$99,734
		3	\$85,203	\$90,199	\$94,563	
APS Level 5		2		\$87,572	\$91,809	\$96,829
		1	\$78,024	\$81,145	\$84,229	\$88,834
APS Level 4	Federal Prosecutor 1	3				\$86,246
		2	\$76,980	\$80,059	\$83,101	\$85,926
		1	\$69,586	\$72,369	\$75,119	\$79,125
Increase				4.0%	3.8%	3.4%

Table A2 - Classification Structure, Salary Scales and Pay Increases – Non-Legal

Classification	Salary levels	As at 31 August 2023	From the later of commencement of the agreement or 14 March 2024	From 13 March 2025	From 12 March 2026
Executive Level 2	3	\$147,177	\$153,064	\$158,880	\$164,282
	2	\$139,675	\$145,262	\$150,782	\$155,909
	1	\$130,029	\$135,230	\$140,369	\$145,141
Executive Level 1	3				\$132,713
	2	\$117,775	\$122,486	\$127,140	\$131,463
	1	\$107,916	\$112,233	\$116,497	\$121,755
APS Level 6	4			\$105,910	\$111,701
	3	\$97,878	\$101,793	\$105,661	\$109,254
	2	\$88,553	\$92,095	\$95,595	\$99,734
	1	\$85,203	\$90,199	\$94,563	
APS Level 5	5				\$96,829
	4		\$87,752	\$91,809	\$94,931
	3	\$83,778	\$87,129	\$90,440	\$93,515
	2	\$79,921	\$83,118	\$86,276	\$89,210
	1	\$77,518	\$80,619	\$84,228	\$88,834
APS Level 4	4				\$86,246
	3	\$76,980	\$80,059	\$83,101	\$85,927
	2	\$73,371	\$76,306	\$79,205	\$81,898
	1	\$69,586	\$72,369	\$75,119	\$79,125
APS Level 3	4				\$76,820
	3	\$68,748	\$71,498	\$74,215	\$76,738
	2	\$64,396	\$66,972	\$69,517	\$71,880
	1	\$62,520	\$65,021	\$67,492	\$70,477
APS Level 2	3	\$62,100	\$64,584	\$67,038	\$69,317
	2	\$58,584	\$60,927	\$63,243	\$65,393
	1	\$56,480	\$58,739	\$60,971	\$63,044
APS Level 1	7	\$54,792	\$56,984	\$59,149	\$61,160
	6	\$51,636	\$53,701	\$55,742	\$57,637
	5	\$48,905	\$52,000	\$54,516	\$57,497
Increase			4.0%	3.8%	3.4%

Appendix B – Supported Wage System

- B1. This schedule defines the condition which will apply to employees because of the effects of a disability and who are eligible for a supported wage under the terms of this agreement.

Definitions

- B2. In this schedule:

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

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

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

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

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

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

Eligibility criteria

- B3. Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class for which the employee is engaged under this agreement, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.
- B4. The schedule does not apply to any existing employee who has a claim against the employer which is to the provisions of workers compensation legislation or any provision of this agreement relating to the rehabilitation of employees who are injured in the course of their employment.

Supported wage rates

B5. Employees to whom this clause applies shall be paid the applicable percentage of the relevant minimum wage according to the following schedule:

Table B1 Applicable percentage of relevant minimum wage paid to applicable employees

Assessed capacity	Percentage of agreement rate
10 per cent	10 per cent
20 per cent	20 per cent
30 per cent	30 per cent
40 per cent	40 per cent
50 per cent	50 per cent
60 per cent	60 per cent
70 per cent	70 per cent
80 per cent	80 per cent
90 per cent	90 per cent

- B6. Provided that the minimum amount payable to an employee to whom the SWS applies is not less than the amount prescribed in the National Minimum Wage Order. Note: The minimum amount payable is reviewed every year in July.
- B7. Where an employee's assessed capacity is 10 per cent, they must receive a high degree of assistance and support.

Assessment of capacity

- B8. For the purposes of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and the employee, and if the employee so desires, a union which the employee is eligible to join.
- B9. Assessment made under this schedule must be documented in a SWS wage assessment agreement and retained by the employer as a time and wages record in accordance with the FW Act.

Lodgement of SWS wage assessment agreement

- B10. All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.

B11. All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the agreement is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

Review of assessment

B12. The assessment of the applicable percentage should be subject to annual review or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.

Other terms and conditions of employment

B13. Where an assessment has been made, the applicable percentage will apply to the relevant wage rate only. Employees covered by the provisions of the schedule will be entitled to the same terms and conditions of employment as all other workers covered by this agreement paid on a pro-rata basis.

Workplace adjustment

B14. An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve redesign of job duties, working time arrangements and work organisation in consultation with other workers in the area.

Trial period

B15. In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a Trial Period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

B16. During that Trial Period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.

B17. The minimum amount payable to the employee during the Trial Period must be no less than the current weekly rate, as determined by the Fair Work Commission.

B18. Work trials should include induction or training as appropriate to the job being trialled.

B19. Where the employer and employee wish to establish a continuing employment relationship following the completion of the Trial Period, a further contract of employment will be entered into based on the outcome of assessment under clause B8 and B9.

To: Commissioner Platt
THE FAIR WORK COMMISSION
FWC Matter No.: AG2024/762

Applicant: Commonwealth Director of Public Prosecutions


Section 185 – Application for approval of a single enterprise agreement

Undertaking – Section 190

I, Sabeena Oberoi, Chief Operating Officer, have the authority given to me by the Director of Public Prosecutions to give the following undertakings with respect to the Commonwealth Director of Public Prosecutions (CDPP) Enterprise Agreement 2024-2027:

1. Undertake that in respect of clauses 55 to 60 on higher duties allowance:
 - a) an employee who is directed to perform higher duties at the APS 1 – 6 classification level for at least a half day will be paid a higher duties allowance as at clause 56 or clause 58 as applicable. Where an employee is directed to perform higher duties at the APS 1 – 6 classification level for a period of a half a day, they will be paid for the full day.
 - b) an employee who is directed to perform higher duties at the Executive Level 1 classification level or above for a period of one week or more will be paid higher duties allowance in accordance with clause 56 or clause 58 as applicable.
2. Undertake with respect to the definition of a part-time employee and part-time minimum engagements, the minimum pattern of hours will be no less than 3 continuous hours on any one day, unless agreed by the Agency Head and the employee.
3. Undertake with respect to part-time employment safeguards, an employee's written part-time agreement will specify:
 - a) the prescribed weekly hours of duty; and
 - b) the pattern of hours worked, including starting and finishing times for employees other than shift workers, on each or any day of the week, Monday to Friday, within the limits of the span of hours specified for an equivalent full-time employee.

These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

Signature  _____

Date 26 March 2024