



Australian Government

Department of Jobs and Small Business

# Department of Jobs and Small Business Enterprise Agreement 2019-2022

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## Part A – Scope of the Agreement

### Agreement title

1. This Agreement shall be known as the Department of Jobs and Small Business Enterprise Agreement 2019 - 2022.

### Purpose

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

### Coverage

3. This Agreement covers the Department of Jobs and Small Business (the Department) and all its employees (including casual employees), with the exception of any Senior Executive Service (SES) employee, or any employee whose salary is not paid by the Department.

### Commencement and duration

4. This Agreement commences operation on 29 March 2019, or seven days after approval is given by the Fair Work Commission, whichever is the later. This Agreement shall nominally expire three years after the date of commencement.

### Relationship to other awards, agreements and legislation

5. This Agreement operates to the exclusion of Awards.
6. Employees (including casual employees) may also be subject to the provisions of various Acts (along with regulations, directions, rules or instruments made under those Acts), as amended from time to time, including, but not limited to:
  - *Fair Work Act 2009 (FW Act)*
  - *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*
  - *Long Service Leave (Commonwealth Employees) Act 1976*
  - *Maternity Leave (Commonwealth Employees) Act 1973 (Maternity Leave Act)*
  - *Paid Parental Leave Act 2010*
  - *Public Service Act 1999 (PS Act)*
  - *Safety, Rehabilitation and Compensation Act 1988*
  - *Superannuation Act 1976*
  - *Superannuation Act 1990*
  - *Superannuation Act 2005*
  - *Superannuation (Productivity Benefit) Act 1988*
  - *Superannuation Benefits (Supervisory Mechanisms) Act 1990*
  - *Superannuation Guarantee (Administration) Act 1992*
  - *Work Health and Safety Act 2011.*

7. This Agreement states the terms and conditions of employment that are not otherwise provided under relevant legislation or by common law.
8. The operation of this Agreement is supported by policies, procedures and guidelines. Any guidelines, policies and procedures referred to in this Agreement are not incorporated into, and do not form part of this Agreement. If there is any inconsistency between the policies, procedures and guidelines and the terms of this Agreement, the express terms of this Agreement will prevail.

### **Delegation**

9. The Secretary may, in writing, delegate any of the Secretary's powers or functions under this Agreement including the power to sub-delegate, subject to conditions.

### **National Employment Standards**

10. Nothing in this Agreement reduces the entitlement available to an employee under the National Employment Standards (NES).

## **Part B – Remuneration**

### **Salary**

11. The salary rates for all classifications are detailed at Attachments A, B, C and D of this Agreement.
12. Employees will receive salary increases of 2 per cent on 29 March 2019, 2 per cent 12 months after commencement of the Agreement and 2 per cent 24 months after commencement of the Agreement.
13. Employees whose salary remains above the top pay point for their classification will retain their salary until their actual salary falls within the pay point range for their APS classification. Employees will move to the equivalent pay point or, if no equivalent, the pay point closest to, but not lower than, their actual salary.

### **Salary payment**

14. An employee will be paid fortnightly in arrears by electronic funds transfer into a financial institution account of the employee's choice.
15. The fortnightly rate of pay is calculated using the following formula: annual rate of pay multiplied by 12 and divided by 313.

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

16. A person who is engaged to work at the Department, an existing APS employee promoted or moved to the Department, or an existing departmental employee promoted or moved within the broadband in the Department, will be paid, subject to the exceptions in clauses 17-20, at the base pay point of the relevant classification unless the Secretary approves payment of a higher salary.
17. An employee who, immediately before a movement within the broadband or promotion, is in receipt of Temporary Performance Loading (TPL) above the base pay point of the TPL classification due to receiving salary advancement at the TPL classification, will be paid at the higher pay point from the date of promotion or movement.
18. Unless the Secretary determines a higher salary, an existing APS employee moving to the Department at the same classification level whose current salary does not match a departmental pay point for that classification and is below the maximum pay point in the Department for that APS classification will be paid at the pay point closest to, but not lower than their current salary.
19. Unless the Secretary determines otherwise, an existing APS employee moving to the Department at the same classification level, whose current salary in their previous APS agency exceeds the top pay point in the Department for that classification will be maintained on that salary until their actual salary falls within the pay point range for the relevant classification level.
20. Where an employee's salary exceeds the top pay point in the relevant departmental classification level and is set by an Individual Flexibility Arrangement under an enterprise

agreement or an instrument other than an enterprise agreement, the Secretary will determine the salary on movement to the Department.

21. Clauses 16-20 do not apply to a departmental employee returning to the Department following a temporary placement with another agency.

### **Salary on reduction**

22. Where an employee reduces to a lower classification level, by consent or at the direction of the Secretary, the Secretary will determine salary within the lower classification level. This would normally be at the top of the salary range of the lower classification.

### **Salary advancement**

23. On 15 August each year, an ongoing employee (excluding employees under the Training Broadband) who is not already on the top pay point in their substantive APS classification, will advance to the next pay point if the employee:
- a) has performed duties in the Department at that classification level or higher for a period of three continuous months or more in the performance cycle and
  - b) has received ratings of 'mostly achieves' or better for both key business deliverables and observable work behaviours as part of the end cycle performance appraisal ending 30 June each year.
24. Clause 23 does not apply to employees in the Government Lawyer Broadbands. Salary advancement provisions for Government Lawyers are outlined in Attachment C.
25. Salary advancement provisions for IT Specialists are outlined in Attachment D.

### **Salary advancement and TPL**

26. Where an ongoing employee is in receipt of TPL on 15 August, they will be eligible for salary advancement at both their temporary performance and substantive levels, effective from 15 August, where the employee:
- a) was continuously acting at the same classification and pay point from 1 April to 15 August that year and
  - b) has received ratings of 'mostly achieves' or better for both key business deliverables and observable work behaviours at the TPL classification as part of the end cycle performance appraisal ending 30 June that year.
27. Where there is a break of three weeks or less in TPL between 30 June and 15 August of the same calendar year the employee is still eligible for salary advancement at both levels.
28. Clauses 26 and 27 do not apply to employees in the Government Lawyer Broadbands. Salary advancement provisions for Government Lawyers are outlined in Attachment C.

## **Salary advancement and promotion**

29. An employee who is promoted or moved within the broadband between 1 April and 15 August each year is eligible for salary advancement to the next pay point, effective from 15 August, where the employee:
- a) was continuously acting at the same classification and pay point from 1 April to immediately before the promotion and
  - b) has received ratings of 'mostly achieves' or better for both key business deliverables and observable work behaviours at the promotion or movement classification as part of the end cycle performance appraisal ending 30 June that year.
30. Where between 30 June and 15 August of the same calendar year, there is a break of three weeks or less between the TPL and promotion or movement date, the employee is eligible for salary advancement.
31. Clauses 29 and 30 do not apply to employees in the Government Lawyer Broadbands. Salary advancement provisions for Government Lawyers are outlined in Attachment C.

## **Accelerated advancement**

32. On 15 August each year, an ongoing employee who is eligible for advancement under clauses 23, 26-27 or 29-30 receives a rating of 'consistently exceeds' for both key business deliverables and observable work behaviours will be advanced by two pay points within their current classification level.

## **Part time employees**

33. Remuneration and other benefits for part time employees will be calculated on a pro rata basis according to hours worked, with the exception of expense-related allowances, which will be paid at the same amount as full time employees.

## **Casual employees**

34. Casual employees are entitled to a loading of 20 per cent in lieu of public holidays on which the employee is not rostered to work and all paid leave entitlements (except long service leave).

## **Superannuation**

35. The Department will provide employer superannuation contributions in accordance with the relevant legislative requirements. The Department will provide employer superannuation contributions to members of PSSap of no less than 15.4 per cent of an employee's fortnightly contribution salary.
36. Where an employee exercises superannuation choice, employer superannuation contributions will be no less than 15.4 per cent of an employee's ordinary time earnings. This will not be reduced by any other contributions made through salary sacrifice arrangements.

37. For employees who take paid and/or unpaid parental leave (which includes maternity, supporting partner, adoption and foster care leave), employer contributions will be made as if the entire period of leave was paid leave, in accordance with the rules of the appropriate superannuation scheme. For employees who exercise superannuation choice, the contributions will be based on the employer contribution amount in the full pay period immediately prior to commencing leave.
38. Employer superannuation contributions will not be paid on behalf of employees during other periods of unpaid leave that do not count as service, unless otherwise required under legislation.
39. The Secretary may choose to limit superannuation choice to complying superannuation funds that allow employee and/or employer contributions to be paid through fortnightly electronic funds transfer using a file generated by the Department's payroll system.
40. Any fees applied by a chosen fund associated with the administration of superannuation contributions will be borne by the employee.

### **Salary packaging**

41. Employees may access salary packaging and may package up to 100 per cent of salary.
42. Where an employee elects to access salary packaging, the employee's salary for the purposes of superannuation, severance and termination payments, and any other purposes, will be determined as if the salary packaging arrangement had not occurred.

### **Individual flexibility arrangements**

43. The Secretary and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of any of the terms of this Agreement, where the arrangement meets the genuine needs of the employee and agency.
44. The Secretary must ensure that a flexibility arrangement agreed to under this clause:
  - a) is about permitted matters under section 172 of the FW Act
  - b) does not include unlawful terms under section 194 of FW Act
  - c) includes the name of the employer and the employee
  - d) results in the employee being better off overall than if no arrangement was agreed to
  - e) is in writing and includes details of:
    - the terms of the enterprise agreement that will be varied by the arrangement, and
    - how the arrangement will vary the effect of the term, and
    - how the employee will be better off overall in relation to the terms and conditions of the employee's employment as a result of the arrangement, and
  - f) states the day on which the arrangement commences
  - g) is signed by both the employee and the Secretary, and, if the employee is under 18, is signed by their parent or guardian

h) is able to be terminated by either the employee or the Secretary giving no more than 28 days written notice, or at any time by agreement between the employee and the Secretary in writing, and

i) is given to the employee within 14 days after it is agreed to.

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

## Part C - Classification structure

46. The Department's classification structure and Broadbands consist of the following:

- Executive Level 2 (EL 2)
- Executive Level 1 (EL 1)
- Broadband Level 2 (APS 4-6)
- Broadband Level 1 (APS 1-3)
- Training Broadband (APS 1-4)
- Principal Government Lawyer (EL 2)
- Government Lawyer Broadband (APS 3-EL 1)
- Information Technology Specialist Designation (EL 1).

47. These Broadbands are detailed in Attachments A, B, C and D.

### Training Broadband

48. The Training Broadband at Attachment B is used for those employees required to undertake a mandatory training or development program whose progression is subject to successful completion of that program.

49. The Secretary may assign other classifications to the Training Broadband relevant to the training and development program being undertaken by an employee or to ensure consistency with whole of government approaches.

### Employment Graduates

50. Graduates will enter the Department at the APS 3 classification level within the Training Broadband. On successful completion of the Graduate Program, Graduates will be advanced to the APS 4 classification level within the Training Broadband, and will then be moved into the Broadband Level 2.

### Cadets

51. Employees recruited as Cadets will undertake a course of study as determined by the Secretary. Cadets will be assigned a classification level within the Training Broadband. On successful completion of their course of study and a final 12-week work placement, Cadets will be assessed for advancement to the APS 3 classification level, and, if successful, can then be moved into the Broadband Level 1.

### Trainee APS (Administrative)

52. Trainee APS (Administrative) employees will be assigned a classification within the Training Broadband and undertake a course of study determined by the Secretary. On successful completion of their training requirements, Trainee APS (Administrative) employees will be assessed for advancement to not less than the APS 3 classification level and, if successful, can then be moved into the Broadband Level 1.

## Part D – Allowances

### Health related allowance

53. The Department will provide each employee with a health related allowance to be paid as a lump sum on the first full pay period on or after 1 September each year. The health related allowance will be increased on or after 1 September each year, in line with the all groups Consumer Price Index as advised by the Australian Bureau of Statistics for the 12 months preceding the June quarter. As at commencement of this Agreement, the allowance is as follows:

- APS 1-3 employees will receive \$500
- APS 4-EL 2 employees will receive \$200.

54. Employees who have commenced a period of leave without pay (other than maternity leave without pay) for a period of six months or more on or before 1 September each year will not be entitled to receive the health related allowance for that year.

### School holiday care allowance

55. The Department will contribute to the cost of school holiday care for primary school children of employees, when the employee is at work. Where both carers work for the Department, the allowance will only be paid when both are at work.

56. On production of a receipt from an approved school holiday program provider, the Department will reimburse \$18 per child per day up to \$180 per family per week.

### Departmental Liaison Officer allowance

57. An employee who receives the annual Departmental Liaison Officer (DLO) allowance is not entitled to claim for flextime or any overtime worked while performing the duties of DLO. The DLO allowance will be increased over the life of the Agreement as follows:

**Table 1: DLO allowance**

<b>Time</b>	<b>Amount</b>
On commencement	\$22,080 per annum
12 months after commencement	\$22,522 per annum
24 months after commencement	\$22,972 per annum

### Workplace responsibility allowance

58. An ongoing employee is entitled to a workplace responsibility allowance where they are appointed to a workplace responsibility role and have successfully completed any training

programs and/or refresher courses required. The workplace responsibility allowance will be increased over the life of the Agreement as follows:

**Table 2: Workplace responsibility allowance**

<b>Time</b>	<b>Amount</b>
On commencement	\$26.50 per fortnight
12 months after commencement	\$27.00 per fortnight
24 months after commencement	\$27.50 per fortnight

59. A workplace responsibility role includes a First Aid Officer, Emergency Warden or Health and Safety Representative.
60. If an employee undertakes more than one of the recognised workplace responsibilities they will not be entitled to multiple payment of the workplace responsibility allowance.

### **Community and Indigenous Australian languages allowance**

61. An employee is eligible for an annual allowance where the employee is accredited to a fluent level in a recognised Community or Indigenous Australian language by an appropriate individual or body, and where the employee is required to utilise the language in the delivery of the Department's program. The community and Indigenous Australian languages allowance will be increased over the life of the Agreement as follows:

**Table 3: Community and Indigenous Australian languages allowance**

<b>Time</b>	<b>Amount</b>
On commencement	\$1,734 per annum
12 months after commencement	\$1,769 per annum
24 months after commencement	\$1,804 per annum

### **Studies assistance**

62. An employee undertaking formal study may apply for studies assistance which may include paid leave of up to eight hours per week (15 hours for Aboriginal and Torres Strait Islander employees), additional paid and/or unpaid leave, and/or reimbursement of costs up to \$3,000 per year.

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

63. The Department recognises employees have family and personal commitments and is committed to providing flexibility in working arrangements that allow the Department to be responsive and to assist employees to balance their personal and work commitments.
64. An employee, including casual employees, may request flexible working arrangements.
65. The Department is committed to supporting employees who experience domestic and family violence and providing a workplace environment that affords employees flexibility at the time of need. The Department will provide employees with leave and support in accordance with this Agreement.

### **Working hours**

66. All employees are required to maintain a record of attendance.
67. For the definitions of ordinary hours, standard day, settlement period and bandwidth please refer to the definitions at the end of this Agreement.
68. Arrangements for shift workers are contained in Attachment E of the Agreement.
69. Employees must take a meal break of at least 30 minutes after five continuous hours of work. The maximum number of agreed working hours to be worked in a day is 10 hours, unless also working overtime.
70. Employees should not commence work on any day without having at least eight hours plus reasonable travelling time minimum break from the previous day's work, including any overtime worked, without specific approval from the Secretary.
71. Where the Secretary requires an employee to resume or continue work without having had a minimum break, the employee will be paid at double the hourly rate for the hours worked, until the employee has had an eight hour break.
72. Where all or some of the employee's minimum break occurs during ordinary hours, the employee will not lose pay for the absence.

### **Ordinary hours – full time employees**

73. The ordinary hours for full time employees are 150 hours per settlement period.

### **Part time employees**

74. A part time employee is an employee whose ordinary hours are less than 150 hours in a settlement period. Employees are required to work at least three hours on any agreed working day.
75. The Department may engage an employee on a part time basis. An employee engaged on a part time basis does not have an automatic right to vary their part time hours or access full time hours.

76. An employee may request access to part time employment at any time. Managers will make every attempt to accommodate the request having regard to both operational requirements of the department and the personal needs of the employee.
77. Employees who work part time can agree to work outside their agreed hours and pattern of work. In such instances, APS level part time employees will be entitled to flextime provisions, but where work is directed outside their agreed hours, overtime rates are applicable. Executive Level (EL) part time employees may be able to access EL time off in lieu.

## **Public holidays**

78. An employee is entitled to public holidays in accordance with the NES.
79. An employee and the Secretary may come to an agreement to substitute any public holiday for a cultural or religious day of significance to the employee.

## **Christmas Closedown**

80. All departmental workplaces will be closed from 12.30 pm (12.00 pm for Northern Territory offices) on the last working day before Christmas Day and reopen the first working day following the first day of January. This period will be known as the Christmas Closedown.
81. Employees are not required to attend for duty during the Christmas Closedown, unless otherwise directed by the Secretary, and will be paid in accordance with their ordinary hours of work. Where an employee is absent on leave, payment for the Christmas Closedown will be in accordance with the entitlement for that form of leave. There will be no deduction from annual or personal/carer's leave credits for the Christmas Closedown.
82. Where an employee is directed by their manager to attend work or perform periods of duty under the restriction provisions during the Christmas Closedown, the overtime rate applicable to Sunday overtime will apply for the days designated as Christmas Closedown.

## **Flextime**

83. Flextime is available to all APS level employees. All hours must be recorded on the departmental flex sheet.
84. An employee's pattern of ordinary hours should be agreed between the employee and their manager. These agreed hours may on occasions need to be varied by either the employee or the manager to accommodate operational or personal requirements. In the event that agreement cannot be reached, a manager may direct an employee to work a standard day, or for part time employees, ordinary hours as per their part time arrangement, or for rostered employees, ordinary rostered hours.
85. Employees accumulate flextime within the Bandwidth.
86. A flex credit is where an employee accumulates hours in excess of ordinary hours. An employee may only carry over more than 37.5 hours flex credit into the next settlement period in exceptional circumstances and where the manager has expressly agreed to the additional hours being worked.

87. Where an employee has flex credits in excess of 37.5 hours, the Secretary may:
- a) direct that flex leave be taken
  - b) offer the employee the option to cash out flextime credits in excess of 37.5 hours at the ordinary time rate or
  - c) convert the excess credits to annual leave on a one to one basis.
88. A flex debit occurs when the employee works less time than their ordinary hours. A maximum of 22.5 hours debit can be accumulated and carried over to the next settlement period. An employee carrying over in excess of 22.5 hours into the next settlement period must use miscellaneous leave without pay or access annual leave for the period in excess of 22.5 hours.
89. Flex leave is where an employee works less than their ordinary hours on any given day and is not on any other form of leave. Flex leave requires prior approval by the employee's manager, and for periods of one day or more reasonable notice is required.
90. Where there is insufficient work, a manager may require an employee not to work hours in addition to their ordinary hours.
91. Where an employee's manager considers the employee's attendance is unsatisfactory or that the employee is misusing flex, the employee may be required to work a standard day (or for part time employees, ordinary hours as per their part time arrangement) for a period specified by the manager.

## Overtime

92. Where operational requirements make it necessary, a manager may direct an employee to work outside and in excess of their ordinary hours on any day.
93. An APS level employee directed to perform work outside and in excess of their ordinary hours on a given day will be paid an overtime payment or, where agreed, receive time off in lieu of overtime payment. This is instead of, not in addition to, accruing flextime.
94. Where a period of overtime is not continuous with ordinary time work, the base period of overtime payment for such work will be calculated as if the employee had worked for four hours. When determining whether a period is continuous with ordinary time work, meal breaks should not be regarded as breaking continuity.
95. Overtime payments approved by an employee's manager will be calculated as follows:
- **Monday to Saturday:** one and a half times the hourly rate for the first three hours each day and double the hourly rate thereafter
  - **Saturday:** double the hourly rate for Shift Workers (as per Shift Work provisions)
  - **Sunday:** double the hourly rate
  - **Public Holiday within employee's ordinary hours:** two and a half times the hourly rate (duty on a public holiday not in excess of 7 hours and 30 minutes - that is, duty that is not overtime - will be paid at one and a half times the hourly rate additional to payment for the holiday)
  - **Public Holiday outside employee's ordinary hours:** two and a half times the hourly rate.

96. Time off in lieu of overtime payment may be approved by an employee's manager on an 'hour for hour' basis or 'penalty time' basis as agreed.
97. Where time off in lieu of payment has been agreed and the employee has not been granted time off within four weeks or another agreed period due to operational requirements, payment of the original entitlement will be made.
98. Executive Level employees will only be eligible to receive overtime payments in exceptional circumstances with the approval of the Secretary.

### **Restriction allowance**

99. Where the Secretary requires an employee to remain contactable and available to perform extra duty outside their agreed ordinary hours (i.e. be restricted), they will be paid a restriction allowance.
100. Restricted employees will receive a restriction allowance at the rate of nine per cent of their ordinary hourly rate for each hour they are restricted outside the bandwidth, subject to:
  - a) the employee remaining contactable and available to perform extra duty and
  - b) the employee not being in receipt of any other payment for the period for which restriction allowance would otherwise be payable, except as provided for in the following clause.
101. Restriction allowance is payable whether or not the restricted employee is required to perform duty outside the agreed ordinary hours. Where a restricted employee entitled to overtime payment is required to perform duty, overtime will be payable and subject to:
  - a) a one hour base rate of payment when work is performed without the necessity to travel to the workplace
  - b) a three hour base rate of payment, including travel time, if work is required to be performed at the workplace.
102. If an employee is required to perform subsequent periods of duty within the one hour minimum payment period, only the initial one hour minimum is payable. Where an employee is required to undertake a second period of duty that commences after the one minimum payment period has lapsed for the previous period of duty, a second one hour minimum payment period commences and a further one hour minimum is payable.
103. Restriction allowance will continue to be paid for periods of overtime worked while restricted.

### **Emergency duty**

104. Emergency duty will attract a base payment of two hours (which includes reasonable travel time) at double the hourly rate, which will be payable for all emergency callouts without prior notice. Executive Level employees will only be eligible to receive emergency duty payments in exceptional circumstances with the approval of the Secretary.

## **Overtime meal allowance**

105. Where an employee is directed to work overtime for at least three hours outside their ordinary hours their manager will approve a flat rate overtime meal allowance of \$26. Where an employee works a further five hours overtime on a Saturday, Sunday or public holiday, they will receive an additional overtime meal allowance of \$26.

## **Executive level time off in lieu**

106. The hours of duty worked by EL employees are not regular and EL employees may be required to work additional time beyond ordinary hours. Where an EL employee works considerable additional hours, managers will, subject to operational requirements, approve access to reasonable time off in lieu in recognition of additional hours worked.

## **Working from home**

107. The Secretary may approve requests from employees for a working from home arrangement.
108. Employees must seek approval from the Secretary to obtain home based or mobile IT access. Where employees below the EL 2 level have a regular approved Working from Home arrangement or approved mobile IT access arrangements, assistance to maintain home based or mobile IT equipment and internet access will be provided as determined by the Secretary up to a maximum value of \$3,000 per annum.

## Part F – Leave

### Portability of leave

109. Where an employee joins the Department on an ongoing or non-ongoing basis from an employer staffed under the PS Act, the *Parliamentary Service Act 1999* or from the ACT Government Service, unused accrued annual and personal/carer's leave (however described) will be transferred or recognised, provided there is no break in continuity of service.
110. Prior service with organisations where the employee was previously employed under the PS Act, the *Parliamentary Service Act 1999*, or from the ACT Government Service may be recognised for personal/carer's leave purposes if the break in service is not more than two calendar months.
111. Where personal/carer's leave was credited on a basis other than 1 January each year, they will be adjusted on commencement to align with an accrual date of 1 January.

### Deferral of leave accruals

112. Where an employee takes 30 or more days leave without pay in a calendar year the accumulated period of leave without pay does not count as service for annual and personal/carer's leave purposes.
113. Where an employee takes 30 or more days leave without pay during the calendar year, annual and personal/carer's leave accruals are to be reduced on a pro rata basis.

### Cancellation of leave or recall to duty from leave

114. Where an employee's leave is cancelled by the employee's manager without reasonable notice, or they are recalled to work from leave, reasonable travel costs, travelling time, incidental costs and any other unavoidable costs arising from the recall to duty will be reimbursed where they are not recoverable under insurance or from another source and all unused leave will be re-credited.

### Re-crediting periods of approved leave

115. The Secretary may approve other types of leave during a period of annual leave or long service leave where satisfactory evidence is provided. Annual leave and/or long service leave will be re-credited to the extent of any other leave subsequently granted.

### Annual leave

116. A full time employee is entitled to four working weeks of paid annual leave for each completed year of service, accruing daily and credited monthly. Any unused annual leave accumulates.
117. A part time employee's annual leave entitlement will accrue on a pro rata basis.

118. Annual leave credits may be taken at any time, subject to operational requirements and the approval of the employee's manager.
119. An employee may seek approval from their manager to take annual leave at half pay. Where an employee takes annual leave at half pay, annual leave credits will be deducted at half the duration of the leave and the employee cannot access purchased leave in the same calendar year.
120. Employees may request to cash out annual leave so long as the remaining accrued entitlement to annual leave does not fall below 20 days (pro rata for part time employees). Each cashing out of an amount of paid annual leave must be by a separate agreement in writing by the employer and employee. The employee will be paid the full amount that would have been paid to the employee had the employee taken the leave that is cashed out.
121. The Secretary will not approve requests to cash out leave unless the employee has taken at least 10 days annual leave at the same time or has taken a block of 10 days annual leave (pro rata for part time employees) in the same calendar year.
122. Employees who have accrued an annual leave credit of 40 days (or equivalent of two years) or more may be directed by their manager to take at least 10 days annual leave within 12 weeks of the direction.
123. Periods of long service leave cannot be broken with annual leave, except as provided for by legislation.

### **Purchased leave**

124. With the approval of the Secretary, employees may purchase up to eight weeks additional annual leave once per 12 month period.
125. The expected pattern of purchased leave must take into account operational requirements and the reasons for the employee's request.
126. Where an employee purchases leave they cannot take annual leave at half pay in the same calendar year.
127. Unless otherwise agreed, purchased leave not taken during the nominated 12 month period will automatically be reimbursed as salary.
128. Purchased leave will count as service for all purposes including superannuation.

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

129. Ongoing employees are entitled to 18 paid days (or the part time equivalent) personal/carer's leave per year of service, credited on 1 January each year.
130. On initial engagement with the Department, ongoing employees will be credited with 18 working days personal/carer's leave. On the following 1 January, their credits will be calculated on a pro rata basis for service between the engagement date and 31 December of the year of engagement less any periods of leave taken. Ongoing employees engaged on a part time basis will accrue personal/carer's leave in the same manner based on their actual hours worked.

131. For the purposes of calculating the amount of personal/carer's leave to be credited where a period of service is recognised for personal/carer's leave purposes, leave taken or paid out in lieu during the period of recognised service will reduce the personal/carer's leave credit on engagement.
132. Non-ongoing employees will be entitled to an initial credit of seven working days personal/carer's leave on commencement where there is no prior service recognised. A further credit of one day for each following month of service up to a maximum of 18 days paid personal/carer's leave in a calendar year will then accrue. After 12 months service in the Department, the provisions for ongoing employees will apply.

#### **Use of personal/carer's leave**

133. Personal/carer's leave gives employees access to paid personal/carer's leave to be used when they are absent:
- a) due to personal illness or injury
  - b) attendance at personal medical appointments
  - c) to provide care or support for a member of the employee's family or household who is ill or injured
  - d) to provide care or support for a member of the employee's family or household who is affected by an unexpected emergency or special circumstance, including attending medical appointments
  - e) due to domestic or family violence or
  - f) as a result of special or exceptional circumstances (moving house, personal emergency situations).
134. Personal/carer's leave must not be used for the purposes of clauses 133 (b), (e) and (f) where it would adversely affect the employee's entitlements under the NES.
135. Personal/carer's leave may be granted by the employee's manager, with pay. Employees may be granted personal/carer's leave at half pay instead of full pay. Where an employee takes personal/carer's leave at half pay, personal/carer's leave credits will be deducted at half the duration of the leave. Only where paid personal/carer's leave credits are exhausted, a manager may grant personal/carer's leave without pay.
136. Personal/carer's leave is cumulative but will not be paid out on separation.
137. Where an employee has exhausted their paid personal/carer's leave entitlements they are entitled to unpaid carer's leave as prescribed in the FW Act.

#### **Provision of medical certificates or other evidence**

138. No more than three consecutive days of personal/carer's leave may be taken without medical or other evidence.
139. Medical certificates from registered medical practitioners, or registered health professionals, will be accepted for the purpose of personal illness, injury or caring responsibilities. Where it is not reasonably practicable to provide a medical certificate a statutory declaration made by the

employee will be accepted. Other evidence, as deemed appropriate, will be accepted for absences related to domestic or family violence.

140. A manager may request that medical evidence is provided by the employee for any future period of leave in certain circumstances.

141. Where an employee does not provide the required medical evidence any personal/carer's leave will ordinarily be without pay.

#### **Extended absences related to illness or injury**

142. An employee that is, or is likely to be, on an extended absence due to illness or injury should contact their manager as soon as practicable and outline the reason for the absence and likely or expected period of absence.

143. The opinion of a medical practitioner nominated by the Department will be accepted over that of a medical practitioner nominated by an employee, to the extent that their opinions differ. Should a medical practitioner nominated by the Department be of the opinion that an employee is fit for work, the employee will not be entitled to personal leave with or without pay unless that practitioner subsequently assesses the employee as unfit for work.

#### **Serious illness register**

144. An employee may, under certain circumstances, donate up to two days per annum of their accrued personal leave credits to the serious illness register.

#### **Compassionate leave**

145. An employee is entitled to a period of three days of paid compassionate leave for each occasion when a member of the employee's family or household contracts or develops a personal illness or sustains a personal injury that poses a serious threat to their life, or dies.

146. An employee may be required to provide reasonable evidence to the Secretary in support of an application for compassionate leave.

147. Compassionate leave will count as service for all purposes.

#### **Long service leave**

148. An employee will be eligible for long service leave (LSL) in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

149. Long service leave credits may be taken at any time, on full or half pay, subject to operational requirements and the approval of the employee's manager.

150. The minimum period for which LSL will be granted is seven calendar days at full pay (or 14 calendar days at half pay). A period of LSL cannot be broken by other periods of leave, a weekend or a public holiday, except as otherwise provided by legislation.

#### **Community service leave**

151. An employee is entitled to paid leave for the purposes of engaging in community service activities including jury service and emergency management activities as defined in the NES.

152. Participation in voluntary emergency management duties includes training, emergency service responses, reasonable recovery and travelling time and ceremonial duties.
153. An employee will be required to provide the manager notice of the absence, including the period or expected period of absence, as soon as practicable.

### **Defence Reserve leave**

154. 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.
155. An employee is entitled to ADF Reserve leave with pay, for up to four weeks during each financial year for the purpose of fulfilling service in the ADF Reserve. These purposes include training and operational duty as required.
156. During the employee's first year of ADF Reserve service, a further two weeks paid leave may be granted to facilitate participation in additional ADF Reserve training, including induction requirements.
157. With the exception of the additional two weeks in the first year of service, leave can be accumulated and taken over a period of two years, to enable the employee to undertake training as a member of the ADF Reserves.
158. Employees are not required to pay their tax free ADF Reserve salary to the Department in any circumstances.
159. Defence Reserve leave will count as service for all purposes, except for unpaid leave to undertake CFTS. Unpaid leave for the purposes of CFTS will count as service for all purposes except annual leave accrual.
160. Eligible employees may also apply for annual leave, long service leave, leave without pay, top-up pay or they may use flextime or make up time for the purpose of fulfilling ADF Reserve, CFTS or Cadet Force obligations.
161. Employees are to notify supervisors at the earliest opportunity once the dates for ADF Reserve, CFTS or Cadet Force activities are known and/or changed.

### **War service sick leave**

162. Managers will grant war service sick leave to employees who are unfit for duty because of a war-caused or defence-caused condition that has been accepted by the Department of Veterans' Affairs to be war caused or Defence caused within the meaning of the relevant legislation.
163. Eligible employees will accrue two separate credits of paid war service sick leave:
- Special credit – nine weeks war service sick leave credited on commencement with the APS.
  - Annual credit – three weeks annual credit on commencement and again following each 12 months of service. Unused credits accumulate up to a maximum credit balance of nine weeks. This credit cannot be accessed until the special credit has been exhausted.

164. Employees who rejoin the APS following an earlier period of APS employment in which they had been credited with war service sick leave will be credited with:
- a) any special credit that remained unused at the final day of the prior APS employment and
  - b) any annual credit held on the final day of the prior APS employment.

### **Miscellaneous leave**

165. The Secretary may approve a period of miscellaneous leave for an employee. The Secretary will determine whether the period of absence is to be with or without pay, and whether it will count or not count as service.

### **Cultural leave**

166. Managers may grant up to two days paid cultural leave in a calendar year for religious or cultural activities associated with the employee's culture or ethnicity, including observances of religious holidays which are not formally designated as public holidays.
167. Aboriginal and Torres Strait Islander employees may access the two days of paid cultural leave to participate in NAIDOC or other cultural or ceremonial events.
168. Managers may grant up to 20 days in any two calendar years of leave without pay to Aboriginal and Torres Strait Islander employees for ceremonial purposes arising from the death of a family member or other ceremonial obligations under Aboriginal or Torres Strait Islander law. Leave for a ceremonial obligation is without pay and does not count as service.

### **Community volunteer leave**

169. Employees may be granted up to two days paid (and thereafter reasonable unpaid) community volunteer leave each calendar year to volunteer with a registered community organisation. Employees covered by the Government Lawyer Broadband may request to use the leave to undertake volunteer legal services.

### **Parental leave**

170. All paid parental leave types (not including the government's Paid Parental Leave payment scheme) will count as service for all purposes. For employees without the qualifying service period for paid maternity leave under the Maternity Leave Act, up to 12 weeks of unpaid maternity, adoption or foster care leave will count for service. All other unpaid parental leave types will not count as service, but will not be taken to have broken service.
171. Payment for all paid parental leave types may be spread over a longer period (up to double the full pay equivalent period). However, when paid over a longer period, only the full pay equivalent period (up to a maximum of 14 weeks) will count as service (except to the extent this clause contradicts with clause 170).

### **Maternity and maternal leave**

172. Eligible employees can access maternity leave in accordance with the Maternity Leave Act.

173. An employee who is entitled to paid leave under the Maternity Leave Act is also entitled to two weeks of paid maternal leave, to be taken immediately following the paid component of maternity leave.
174. An employee is unable to access personal/carer's leave while on paid maternity/maternal leave.
175. A period of maternity/maternal leave is not broken by public holidays or Christmas Closedown.

#### **Primary carer leave**

176. An ongoing employee, other than the mother, who becomes the primary care giver for a newborn baby will be entitled to a single, continuous period of six weeks paid primary carer leave.

#### **Adoption, long term foster care and permanent care order leave**

177. An employee who has completed at least 12 months continuous service in the APS and will be the primary carer of the child they are adopting, is entitled to 14 weeks of paid adoption leave from one month prior to the day of placement of a child where the child:
- a) is under school age on the day of placement
  - b) did not previously live with the employee for a period of six months or more as at the day of placement and
  - c) is not a child or step-child of the employee or the employee's partner, unless that child had not been in the custody and care of the employee or the employee's partner for a significant period of time.
178. An employee who has completed at least 12 months continuous service in the APS is entitled to a single, continuous period of 14 weeks paid foster care leave from the day of the placement of a child where:
- a) the employee becomes the primary care giver of a long term foster child or
  - b) is granted custody and guardianship of a child up to the age of 18 years as a result of a permanent care order and
  - c) the child did not previously live with the employee for a period of six months or more as at the day of placement.
179. 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.
180. An employee to whom these provisions apply may access up to 52 weeks unpaid foster care leave.
181. The maximum period of 52 weeks is inclusive of any period of paid or unpaid leave.
182. In exceptional circumstances, the Secretary may approve paid and/or unpaid foster care leave under these provisions for short term fostering arrangements or kinship care.

### **Supporting partner leave**

183. An employee, who has 12 continuous months of APS service, and whose partner gives birth to or adopts a child will be entitled to a single, continuous period of two weeks of paid supporting partner leave to be taken within one month of the birth or adoption of a child, or placement of a foster child, or within a longer period where exceptional circumstances exist.

### **Unpaid parental leave**

184. An employee is entitled to unpaid parental leave if they meet the eligibility requirements under the FW Act (or, for foster carers, have 12 months continuous service). An eligible employee may take a period of unpaid parental leave of up to 12 months, less any period of paid parental leave types taken.

185. Upon request from the employee, the Department will agree to an extension of unpaid parental leave for a further period of up to 12 months, immediately following the end of the initial 12 month period.

186. An employee is not entitled to take paid personal/carer's or compassionate leave while they are taking unpaid parental leave.

### **Returning from any type of parental leave**

187. Where an employee returns to work after a period of parental leave, the employee will be assigned to the duties previously performed or to alternative duties appropriate to the employee's skills and classification if their former position no longer exists.

188. An employee returning to duty from maternity, parental, adoption and foster care leave will be provided with access to part time work, upon application, up until the child reaches three years of age in accordance with the part time provisions in this Agreement.

### **Unauthorised absences**

189. Where an employee is absent from duty without approval, all pay and other benefits provided under this Agreement cease to be available until the employee resumes duty, or is granted leave or ceases employment. Such absences will not count as service for any purpose.

## Part G – Workforce management

### Performance management arrangements

190. All employees must participate in the Department's performance management arrangements and have a current performance agreement, except non-ongoing employees engaged for less than three months.
191. The Department uses dual performance ratings for key business deliverables and observable work behaviours. These dual ratings will be assessed separately against the following four point rating scale:
- consistently exceeds
  - consistently achieves
  - mostly achieves
  - unsatisfactory.

### Ongoing movement within a broadband

192. Ongoing movement between classification levels within a broadband applies to ongoing employees only.
193. Movement to a higher APS classification level within a broadband is not automatic and may be approved by the delegate when:
- a) there is work available at the higher level in accordance with the work level standards for the classification and
    - the employee's performance is assessed as 'consistently achieves' or better for both key business deliverables and observable work behaviours and
    - the employee demonstrates an ability to undertake the higher level work and if appropriate has the necessary qualifications, skills and/or experience
  - or
  - b) when an employee is successful in an open merit selection process consistent with the PS Act.

### Temporary performance loading

194. Temporary performance means work at a higher classification level.
195. A manager may split the temporary performance of duties between employees for development purposes.
196. Temporary performance loading (TPL) is payable for the entire period when an employee has performed duties of a higher classification for five continuous working days or more.
197. A non-SES employee who is directed to temporarily perform work at the SES level will be paid at a rate determined by the Secretary for the period of temporary performance when performing those duties for 10 continuous working days or more.

198. Where TPL is payable this would normally be at the base pay point of the higher classification. Salary advancement on TPL will be in accordance with clauses 26 and 27. A manager may approve payment of TPL at a pay point above the base pay point, taking into account the employee's previous periods of temporary performance, the employee's performance, and relevant experience or skills.

199. An employee may decline a manager's invitation to perform duties temporarily at a higher classification level.

### **Temporary performance loading on leave**

200. Where an employee is absent on paid leave, or observes a public holiday during a period when they are performing duties at a higher classification, payment of TPL will continue during the absence as if the employee was still at work.

## **Part H – Management of excess employees**

201. The following provisions apply to all employees covered by this Agreement, excluding an employee serving a probationary period and a non-ongoing employee.
202. The Department will as far as possible avoid involuntary redundancies and will throughout the process take all reasonable steps to transfer a potentially excess or excess employee to a suitable vacancy at an equal classification within the Department.
203. Excess employee: an employee will be considered an excess employee where:
- a) the employee is part of a class of employees that is larger in size than is necessary for the efficient and economical working of the Department or
  - b) the services of an employee cannot be effectively used because of technological or other changes in the work methods of the Department, or structural or other changes in the nature, extent or organisation of the functions of the Department or
  - c) the duties usually performed by the employee are to be performed in a different locality, the employee is not willing to perform the duties at the other locality and the Secretary has determined that these provisions will apply to that employee.

### **Voluntary redundancy offer**

204. The offer must state when the Secretary proposes to issue the termination notice if the offer is accepted.
205. The offer should include the following information to assist the employee in their considerations:
- amount payable as redundancy pay, pay in lieu of notice and accrued annual and long service leave credits
  - amount of accumulated superannuation contributions
  - superannuation options
  - taxation rules applicable to the various payments
  - the availability of financial assistance, on a reimbursement basis, towards obtaining independent financial advice up to the value of \$1,200.

### **Discussion and consideration period**

206. Where an excess employee situation is identified, the Secretary will:
- advise in writing, the employee(s) directly affected and their representatives of the situation, the reasons and scope
  - discuss the voluntary redundancy and reassignment processes with affected employees
  - hold discussions with the employee(s) and their representatives
  - offer the affected employee(s) voluntary redundancy.
207. The employee(s) will have a two month discussion and consideration period, commencing from the date the Secretary makes an employee a formal offer of voluntary termination, in

which to consider the offer of voluntary redundancy. An employee who has received an offer of voluntary redundancy must advise the Secretary, in writing, before the end of the discussion and consideration period whether they wish to be considered for reassignment or voluntary redundancy.

208. If the employee does not respond, the employee will be taken to have a preference to be considered for reassignment, and their retention period will commence in accordance with clause 228.
209. Employees will become excess one month after the date the employee receives a formal offer of voluntary redundancy unless during this time their employment has been terminated, they have been redeployed or the Secretary decides they are no longer in an excess situation.
210. Should the employee request and receive an earlier termination date that falls within the discussion and consideration period, the employee will be entitled to receive payment for the unexpired portion of the discussion and consideration period. In addition, the payment in lieu of the discussion and consideration period will include an amount equivalent to the annual leave and long service leave entitlements that would have accrued to the employee had they worked through the discussion and consideration period.

### **Career transition assistance**

211. At the time the employee is offered a voluntary redundancy or as soon as possible thereafter but, in any event, no later than four weeks after the voluntary redundancy offer, excess employee(s) will be offered career transition assistance which will include:
- advice on the re-assignment and redundancy process
  - a point of contact for individual queries
  - assistance with identifying re-assignment opportunities and/or
  - training/redeployment assistance.
212. Employees may also access the Department's Employee Assistance Program for free personal counselling.

### **Voluntary redundancy process**

213. If an employee accepts an offer of voluntary redundancy, and the Secretary agrees to the redundancy, the Secretary will issue a 'notice of termination' under section 29 of the PS Act.
214. The period of notice will be four weeks, or five weeks for an employee over 45 years of age with at least five years of continuous, current APS service at the time of the offer. Where an employee elects to terminate their employment before the expiration of the notice period, payment in lieu for the unexpired portion of the notice period will be made.
215. Notice of termination will not be given before the end of the discussion and consideration period without the agreement of the employee.
216. Only one offer of voluntary redundancy will be made to an employee.

217. Job exchanges will be available until the end of the discussion and consideration periods. A job exchange is where a departmental employee who has been offered a voluntary redundancy but does not want one, swaps jobs with an employee from within the Department or from another agency who is not excess but who wants a voluntary redundancy. Job exchanges are subject to the Secretary's approval on a case by case basis.
218. An employee will not be made involuntarily redundant if the employee has not been invited to elect for voluntary redundancy, or has elected but was refused.

## **Severance pay**

219. An employee who accepts voluntary redundancy and whose employment is terminated under section 29 of the PS Act on the grounds that they are excess to requirements will be entitled to the following severance pay, subject to any minimum amount the employee is entitled to under the NES:
- two weeks of salary for each completed continuous year of service
  - a pro rata payment for completed continuous months of service since the last completed year of service.
220. The minimum amount of severance pay is an amount equal to four weeks' salary and the maximum amount payable is an amount equal to 48 weeks' salary.
221. Severance pay is calculated on a pro rata basis for any period of service when the employee worked part time, subject to any minimum amount the employee is entitled to under the NES.

## **Service for severance pay purposes**

222. Service for severance pay purposes means:
- a) service in the Department
  - b) Government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*
  - c) service with a Commonwealth body (other than service with a Joint Commonwealth-State body corporate in which the Commonwealth does not have a controlling interest) which is recognised for long service leave purposes
  - d) service with the Australian Defence Forces
  - e) APS service immediately preceding deemed resignation under repealed section 49 of the *Public Service Act 1922*, if the service has not previously been recognised for severance pay purposes
  - f) service in another organisation where an employee was transferred from that organisation with a transfer of function; or an employee engaged by that organisation on work within a function is appointed as a result of the transfer of that function to the APS and such service is recognised for long service leave purposes.

223. For earlier periods of service to count, there must be no breaks between the periods of service, except where:
- a) the break in service is less than one month and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer or
  - b) the earlier period of service was with the APS and ceased because the employee was deemed to have resigned from the APS under the repealed section 49 of the *Public Service Act 1922*.

### **Service not to count for severance pay purposes**

224. Periods of service that will not count as service for redundancy pay purposes are periods of service that ceased by way of:
- a) termination under section 29 of the PS Act or
  - b) prior to the commencement of the PS Act, by way of redundancy; forfeiture of office, retirement on the grounds of invalidity, inefficiency or loss of qualifications; dismissal or termination of probationary appointment for reasons of unsatisfactory service or
  - c) voluntary retirement at or above the minimum retiring age applicable to the employee or
  - d) payment of a redundancy benefit or a similar payment or an employer-financed retirement benefit.
225. Absences from duty which do not count as service for long service leave purposes will not count for severance pay purposes.

### **Retention period**

226. Should an employee not accept the formal offer of voluntary redundancy, the employee will commence their retention period on the day after the expiry of the discussion and consideration period. The notice period will be concurrent with the retention period.
227. The intention of the retention period is to enable excess employees to be reassigned within the APS or to find other suitable employment. Consistent with this, during the retention period:
- a) the Department will continue to provide and resource reasonable career transition services and support, and take reasonable steps to move an excess employee to a suitable vacancy, to another agency or to pursue placements outside the APS consistent with this Agreement
  - b) employees will take reasonable steps to secure permanent re-assignment or placement.
228. The retention period is:
- a) thirteen months where an employee has 20 or more years of continuous, current service with the APS or is over 45 years of age
  - b) seven months for other employees.

229. If an employee is entitled to a redundancy payment under the NES, their retention period is reduced by the employee's redundancy pay entitlement under the NES on termination, calculated as at the expiration of the retention period (as adjusted by this clause).
230. Where the Secretary determines there is insufficient productive work available to an excess employee during the retention period, the Secretary may, with the agreement of the employee, terminate the employee's employment under section 29 of the PS Act and pay the balance of the retention period as a lump sum.

## **Redeployment**

231. The following provisions will apply to employees during their retention period:
- a) The employee can access up to \$1,200 for payment for outplacement services or training opportunities that would be expected to enhance the employment prospects of employees.
  - b) Excess employees of the Department will be considered first and in isolation from, and not in competition with, other applicants who are not excess for an advertised vacancy to which the employee seeks transfer but only at or below the employee's level. In placing excess employees, consideration will be given to the employee's current skills and experience or the employee's ability to acquire the relevant skills for the advertised vacancy in a short period of time.
  - c) Suitable trial placements in other organisations, including private sector organisations, will be funded for up to three months where there is an identifiable opportunity for permanent placement and no job swap arrangement is involved. An individual employee may undertake more than one trial placement.
  - d) The employee may request assistance in meeting reasonable travel costs and incidental expenses incurred in seeking alternative employment.
  - e) The employee may, after being given four weeks of notice, be reduced in classification as a means of securing alternative employment. If reduction occurs after the offer of voluntary redundancy and before the end of the retention period the employee will receive payments to maintain the employee's salary level for the balance of the retention period.
  - f) Employees over 45 years of age and employees in regional remote areas may be eligible for additional outplacement assistance (up to the value of \$3,000) during the retention period.

## **Extension of the retention period**

232. Retention periods will only be extended by periods of mandatory maternity leave or approved leave due to the employee's illness or injury (supported by medical evidence) taken during the retention period. The retention period will not be extended for other absences except where the Secretary is satisfied that exceptional circumstances exist. The period will not be extended on these grounds beyond an additional eight weeks.

## **Involuntary redundancy**

233. If an excess employee is unsuccessful in obtaining permanent reassignment at the end of the retention period, the employee's employment will be terminated under section 29 of the PS Act.
234. Where an excess employee's employment is to be terminated the employee will be given four weeks' notice of termination (or five weeks for an employee over 45 years of age with at least five years of continuous, current APS service). This period of notice will be served, as far as practicable, concurrently with the retention period.
235. Where an employee elects to terminate their employment before the expiration of the notice period, payment in lieu of the unexpired notice period will be made.
236. In deciding whether to terminate the employee's employment, the Secretary will take account of any re-assignment process that may be in progress.

## **Part I – Separation**

237. An employee who ceases employment with the APS will be paid for unused annual leave credits. Payment includes 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.
238. Any outstanding payments for purchased leave or any flex debt will be deducted from a person's final monies if they cease to work for the Department.

### **Resignation**

239. An employee should give their Branch Manager at least two weeks' notice in writing of their intention to resign or retire. Where an employee submits a resignation which takes effect on a public holiday, the resignation will be deemed effective from close of business on the working day immediately prior to the public holiday. All resignations will be deemed to take effect at close of business of the resignation date.

### **Payment on death**

240. Where an employee dies, or the Secretary directs that an employee will be presumed to have died on a particular date, the Secretary may authorise the payment of the amount of salary, TPL, annual leave and allowances to which the former employee would have been entitled had they retired or resigned.
241. Payment will be made to dependants or the partner of the former employee or the former employee's legal personal representative.

## Part J – Working together

### Diversity and inclusion

242. The Department is committed to promoting and supporting workplace diversity and to creating an environment that values and utilises the contributions of people with different backgrounds, experiences and perspectives. The Department is an inclusive organisation that values fairness, equity and diversity consistent with the APS Values and Code of Conduct.
243. The Department is committed to increasing employment opportunities and accessibility for all including
- People with disability
  - Aboriginal and Torres Strait Islander peoples
  - Multigenerational workers
  - Culturally and Linguistically diverse employees
  - Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTIQ+) people.

### Representation

244. Employees have the right to be represented by a representative of their choice in workplace matters. The Department and any employee representative will deal with each other in good faith.

### Consultation arrangements

245. The Department is committed to communicating and consulting with employees and, where they choose, their representative about the implementation and operation of this agreement and issues affecting their entitlements and conditions of employment.

#### Consultation

246. Clauses 247-261 apply if the Department:
- a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
  - b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.
247. In clauses 248-261 *relevant employees* means the employees who may be affected by a change referred to in clause 246.

#### Major change

248. For major change referred to in clause 246(a),
- a) the employer must notify the relevant employees of the decision to introduce the major change and
  - b) clauses 249-255 apply.

249. The relevant employees may appoint a representative for the purposes of the procedures in clauses 248-255.
250. If a relevant employee(s) appoint(s) a representative for the purposes of consultation and the employee(s) advise(s) the Department of the identity of the representative, the Department must recognise the representative.
251. As soon as practicable after making its decision, the Department must:
- a) discuss with the relevant employees:
    - the introduction of the change
    - the effect the change is likely to have on the employees and
    - measures the Department is taking to avert or mitigate the adverse effect of the change on the employees and
  - b) for the purposes of the discussion—provide, in writing, to the relevant employees:
    - all relevant information about the change including the nature of the change proposed
    - information about the expected effects of the change on the employees and
    - any other matters likely to affect the employees.
252. However, the Department is not required to disclose confidential or commercially sensitive information to the relevant employees.
253. The Department must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
254. If a term in this Agreement provides for major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in clauses 248(a), 249 and 251 are taken not to apply.
255. In clauses 246-261, a major change is *likely to have a significant effect on employees* if it results in:
- a) the termination of the employment of employees
  - b) major change to the composition, operation or size of the Department's workforce or to the skills required of employees
  - c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure)
  - d) the alteration of hours of work
  - e) the need to retrain employees
  - f) the need to relocate employees to another workplace or
  - g) the restructuring of jobs.

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

256. For a change referred to in subclause 246(b) the employer must notify the relevant employees of the proposed change, and clauses 257-261 apply.

257. The relevant employees may appoint a representative for the purposes of the procedures in clauses 256-261.
258. If a relevant employee(s) appoint(s) a representative for the purposes of consultation and the employee(s) advise(s) the Department of the identity of the representative, the Department must recognise the representative.
259. As soon as practicable after proposing to introduce the change, the employer must:
- a) discuss with the relevant employees the introduction of the change
  - b) for the purposes of the discussion—provide to the relevant employees
    - all relevant information about the change including the nature of the change
    - information about what the Department reasonably believes will be the effects of the change on the employees and
    - information about any other matters that the employer reasonably believes are likely to affect the employees and
  - c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
260. However, the Department is not required to disclose confidential or commercially sensitive information to the relevant employees.
261. The Department must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

### **Consultation committees**

262. The Department will establish and maintain an Employee Consultative Committee (ECC) for the life of the Agreement. The ECC will act as a forum for consultation and open discussion between management and employee representatives about matters covered by this Agreement.

### **Dispute resolution**

263. If a dispute relates to the NES, or to a matter arising under this Agreement, clauses 264-269 set out the procedures to settle the dispute.
264. An employee (including a casual employee) who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.
265. In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee/s concerned and the relevant supervisor and/or management.
266. If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the Fair Work Commission.

267. The Fair Work Commission may deal with the dispute in two stages:
- a) the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation and
  - b) if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
    - arbitrate the dispute and
    - make a determination that is binding on the parties.

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

268. While the parties are trying to resolve the dispute using the procedures in this term:
- a) an employee must continue to perform their work as the employee would normally unless the employee has a reasonable concern about an imminent risk to their health or safety
  - b) an employee must comply with a direction given by the Secretary to perform other available work at the same workplace, or at another workplace, unless:
    - the work is not safe or
    - applicable work health and safety legislation would not permit the work to be performed or
    - the work is not appropriate for the employee to perform or
    - there are other reasonable grounds for the employee to refuse to comply with the direction.

269. The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with clauses 263-269.

### **Allowance for impact of building work**

270. The Department will seek to prevent employees from being subjected to any unreasonable impact on their working environment from building work. If miscellaneous leave with pay or working from home arrangements have failed to redress employee's working conditions, a daily allowance of \$10 will be paid to employees in the affected accommodation area for the period of exposure.

271. For the purposes of this clause, 'unreasonable impact on their working environment' means any detrimental effects on the working conditions of office-based employees caused by a variety of factors associated with building activities, including one or generally more of the following: dust, noise, fumes, extremes of temperature, vibrations, wet, dirt, or loss of amenities.

272. 'Building activities' means any construction, building alterations or significant refurbishment activities at an office location, within the Department's control.

## **Part K – Travel**

### **Travel expenditure**

273. An employee (including casual employees) who undertakes travel on official business and is required to be away from home overnight will be entitled to have actual travel expenditure within the indicative daily cap paid for or reimbursed by the Department.
274. Employees whose travel includes an overnight stay may access up to \$40 cash for incidentals and meals, without the requirement to provide receipts of expenditure. This amount will reduce the daily rates available for accommodation and other meals or incidental costs.
275. Where the employee chooses to stay in non-commercial accommodation no accommodation expenses will be paid by the Department. An employee may access up to \$55 per night to meet expenses associated with staying in non-commercial accommodation.

### **Reviewed travel allowance**

276. Payment arrangements and the level of entitlement for travel expenses will be reviewed after 21 days away from home (in the one location) and paid on the basis of reasonable actual expenses or an alternative package of assistance agreed to by the employee and approved by the Secretary. A trip home will not be regarded as a break for the purposes of determining reviewed travel allowance.

### **Part day travel**

277. Where an employee is required to travel for official business purposes for a period of ten hours or more but no overnight stay is required, a part day travel allowance of \$40 will be payable to employees through the salary system.

### **Recognition of travel time**

278. For APS 1-6 (and equivalent) employees, travel on official business undertaken between the 7.00 am to 7.00 pm bandwidth may be recorded as flextime. The start and finish times of the 12-hour bandwidth may be adjusted in recognition of travel time with the approval of the Secretary.
279. Travel time is recorded (within the bandwidth) in the same manner as the travel request form is completed:
- a) for air travel to and from capital cities time recorded would normally be one hour before the flight departs and one hour after the flight arrives
  - b) for air travel to and from country centres time recorded would normally be one hour before the flight departs and half an hour after the flight arrives
  - c) all other travel would normally be recorded as actual departure and arrival times.
280. Travel time will not be paid as overtime.

281. Reasonable time off in lieu should be granted where employees are directed to travel outside the bandwidth. In exceptional circumstances the Secretary may approve time off in lieu on an hour for hour basis.

### **Motor vehicle allowance**

282. Where the Secretary authorises an employee to use their private vehicle for official business purposes, the employee will be entitled to a flat rate motor vehicle allowance of 75 cents per kilometre, capped at the cost of the lowest practical fare of the day of travel.

### **Emergency situations while travelling on official business**

283. Assistance may be authorised by the Secretary in situations where, while an employee is travelling on official business:

- a) an employee becomes critically or dangerously ill and the employee's partner or a family member travels to visit the employee or
- b) a member of the employee's family or the employee's partner's family dies or becomes critically or dangerously ill and the employee travels to visit the critically or dangerously ill family member.

284. The assistance may comprise:

- a) reimbursement to the employee for the cost of an economy return airfare in respect of travel within Australia
- b) where the use of a motor vehicle is approved, or is the most appropriate form of travel, motor vehicle allowance consistent with provisions in this Agreement.

### **Family care expenses when travelling**

285. When an employee with family caring responsibilities is required to travel away from home for official purposes, the Department will provide reimbursement on production of receipts for the full cost of 'additional commercial care' (over normal arrangements) for family members.

286. Where commercial care is not available, the Secretary has the discretion to approve the cost of the care provided by other arrangements. This reimbursement will be up to \$60 per night subject to provision of satisfactory evidence.

## **Part L – Remote localities**

287. An ongoing employee at a remote locality office may request an individual flexibility arrangement for remote localities assistance. In considering the request, the Secretary will take the employee's personal circumstances into account.
288. Where the Secretary opens a new office in a locality considered to be remote by the Secretary, clause 287 will apply.

## **Part M - Relocation**

### **New employees**

289. When a new ongoing employee moves from one geographic location to another to join the Department, relocation assistance for the removal of furniture and effects and travel to the new locality may be provided at the discretion of the Secretary.
290. Any assistance provided will take into account the business requirements and the monetary limits of the relocation provisions for employee initiated moves.

### **Employer initiated transfers**

291. Where the Department initiates the transfer of an employee from one locality to another or the employee proceeds on term transfer, the Secretary may approve a relocation package for reimbursement of reasonable expenses.

### **Employee initiated moves**

292. Where an employee of the Department receives a promotion or transfer at level which involves permanently moving from one geographic locality to another, the Secretary may approve a relocation package for reimbursement of reasonable expenses.
293. Employees requesting transfer to another locality for personal reasons are generally not eligible for relocation assistance.

### **Disturbance allowance**

294. Where the household effects of an existing employee to whom the relocation provisions apply have been removed at departmental expense from the employee's former locality to the new locality, the employee is entitled to be paid a one-off disturbance allowance of \$810 for an employee who relocates alone or \$1,500 for an employee who relocates with a spouse, partner or dependant.
295. Where an employee has received disturbance allowance at the new locality and subsequently relocates within the new locality, no further disturbance allowance is payable.

## Attachment A – General classifications, Broadbands and salary increases

Table 4: General classifications, Broadbands and salary increases

Broadband	Classification	Pay Point	Current rates	29 March 2019 2%	12 months after commencement 2%	24 months after commencement 2%
-	EL 2	4	147,824	150,780	153,796	156,872
		3	138,414	141,182	144,006	146,886
		2	130,592	133,204	135,868	138,585
		1	123,148	125,611	128,123	130,685
-	EL 1	4	115,661	117,974	120,333	122,740
		3	109,848	112,045	114,285	116,571
		2	107,164	109,307	111,493	113,723
		1	104,651	106,744	108,879	111,057
Broadband Level 2	APS 6	3	93,587	95,459	97,368	99,315
		2	87,874	89,631	91,424	93,252
		1	85,105	86,807	88,543	90,314
	APS 5	3	80,931	82,550	84,201	85,885
		2	77,314	78,860	80,437	82,046
		1	75,702	77,216	78,760	80,335
	APS 4	3	73,326	74,793	76,289	77,815
		2	70,476	71,886	73,324	74,790
		1	68,563	69,934	71,333	72,760
Broadband Level 1	APS 3	2	65,651	66,964	68,303	69,669
		1	63,030	64,291	65,577	66,889
	APS 2	3	60,143	61,346	62,573	63,824
		2	59,033	60,214	61,418	62,646
		1	56,441	57,570	58,721	59,895
	APS 1	2	52,541	53,592	54,664	55,757
		1	48,054	49,015	49,995	50,995
		Age 20	43,730	44,605	45,497	46,407
		Age 19	38,926	39,705	40,499	41,309
		Age 18	33,637	34,310	34,996	35,696
Under 18		28,832	29,409	29,997	30,597	

## Attachment B – Training Broadband

Table 5: Training Broadband

Broadband	Classification	Pay Point	Current rates	29 March 2019 2%	12 months after commencement 2%	24 months after commencement 2%
Training Broadband	APS 4	3	73,326	74,793	76,289	77,815
		2	70,476	71,886	73,324	74,790
		1	68,563	69,934	71,333	72,760
	APS 3	2	65,651	66,964	68,303	69,669
		1	63,030	64,291	65,577	66,889
	APS 2	3	60,143	61,346	62,573	63,824
		2	59,033	60,214	61,418	62,646
		1	56,441	57,570	58,721	59,895
	APS 1	2	52,541	53,592	54,664	55,757
		1	48,054	49,015	49,995	50,995
		Age 20	43,730	44,605	45,497	46,407
		Age 19	38,926	39,705	40,499	41,309
		Age 18	33,637	34,310	34,996	35,696
		Under 18	28,832	29,409	29,997	30,597

Note: Cadets undertaking full time study will be paid 57 per cent of the minimum (including junior rates where applicable) that would be payable to the cadets if the cadet was performing practical training.

296. A cadet employee is entitled to reimbursement for all compulsory fees paid during the year relating to the approved study paid for that year. A cadet also receives payment of an annual allowance of \$550 to provide for books and equipment.

## Attachment C – Government Lawyer Broadbands and salary increases

**Table 6: Principal Government Lawyer Band**

Broadband	Classification	Pay point	Current rates	29 March 2019 2%	12 months after commencement 2%	24 months after commencement 2%
Principal Government Lawyer	EL 2	2	151,520	154,550	157,641	160,794
		1	140,490	143,300	146,166	149,089

**Table 7: Government Lawyer Broadband**

Broadband	Classification	Pay point	Current rates	29 March 2019 2%	12 months after commencement 2%	24 months after commencement 2%
Senior Government Lawyer	EL 1	3	128,196	130,760	133,375	136,043
		2	109,847	112,044	114,285	116,571
		1	104,651	106,744	108,879	111,057
Government Lawyer Broadband	APS 6	6	93,587	95,459	97,368	99,315
		5	87,874	89,631	91,424	93,252
		4	85,105	86,807	88,543	90,314
	APS 5	3	77,314	78,860	80,437	82,046
	APS 4	2	70,476	71,886	73,324	74,790
	APS 3	1	65,651	66,964	68,303	69,669

### Government lawyers

297. Employees may access the Government Lawyer Broadbands structure where it is determined their duties require the regular and continuing application of legal skills in the Department's legal areas.

### Eligibility and selection

298. The eligibility requirements for entry to the Government Lawyer roles are:

- a) degree in Laws from an Australian tertiary institution or a comparable overseas qualification which is appropriate to the duties of the classification
- b) admission as a legal practitioner, however described, of the High Court or the Supreme Court of an Australian State or Territory and
- c) if the Head of the Legal Area in which the employee works determines it appropriate, possession of a current practising certificate issued by an Australian State or Territory Law Society, or the obtaining of such a certificate within three months of commencing employment within the Department.

299. The eligibility requirements for entry to Senior Government Lawyer and Principal Government Lawyer roles are:
- a) admission as a legal practitioner, however described, of the High Court or Supreme Court of an Australian State or Territory and
  - b) if the Head of the Legal Area in which the employee works determines it appropriate, possession of a current practising certificate issued by an Australian State or Territory Law Society, or the obtaining of such a certificate within three months of commencing employment within the Department.

### **Transfer to a Government Lawyer Broadband**

300. Employees who do not work within a legal area will be subject to the Department's general recruitment and selection arrangements.
301. Employees who meet the eligibility requirements for employment as a Principal, Senior or Government Lawyer may apply to the Head of the Legal Area in which the employee works to transfer to one of the Government Lawyer Broadbands. Where the transfer is approved, the employee will move from the employee's current classification to the equivalent classification in the relevant Government Lawyer Broadbands.

### **Salary determination**

302. Where an employee commences in, or is promoted to a lawyer role, salary will be determined within the relevant classification level set out in Table 1 and Table 2 above having regard to the experience, qualifications and skills of the employee and their likely corporate contribution. This is subject to the employee not being paid higher than the first pay point in the Government Lawyer Broadband, unless the Secretary is satisfied that the employee has been admitted as a legal practitioner, however described, of the High Court or the Supreme Court of a State or Territory.
303. The employee's salary on transfer to the Government Lawyer Broadbands will be the equivalent of their current salary within the relevant classification of the Principal, Senior or Government Lawyer Broadbands, or if there is no equivalent salary, to the salary closest to, but not lower than their current salary. Where the employee's salary is above the top pay point of the relevant classification within the relevant broadband the employee will retain their current salary until such time as their salary falls within the pay point range of the relevant classification within the Government Lawyer Broadbands.
304. Where an employee applies for a transfer or promotion outside the Government Lawyer Broadbands, their salary will be set in accordance with the salaries for the relevant classification. Government Lawyer Broadbands salary will not be provided on transfer out of the Government Lawyer Broadbands.

### **Salary advancement for Government Lawyers**

305. Advancement for employees in the Government Lawyer Broadband, and Principal Government Lawyer Band, structure, including for an employee in receipt of TPL, through the

salary points set out in Table 1 and Table 2 will be effective from 15 August each year, after assessment of performance under the provisions as set out in Part G of this Agreement (to the extent that it is not inconsistent with this Schedule) on the following conditions:

- a) subject to clause 306, the employee has performed duties in the Department at that classification level or higher for a period of three continuous months or more in the performance cycle
  - b) where an employee has attained a key business deliverable rating shown in Column 1 of Table 3 below, the employee shall be advanced by the number of pay points specified in Column 2 of Table 3 corresponding to the observable work behaviours rating attained by the employee
  - c) an employee within the Government Lawyer Broadbands shall not be advanced beyond the first pay point in the Government Lawyer Broadbands unless the Secretary is satisfied that the employee has been admitted as a legal practitioner, however described, of the High Court or the Supreme Court of a State or Territory
  - d) an employee within the Government Lawyer Broadbands shall not be advanced beyond the sixth pay point in the Government Lawyer scale unless the employee has:
    - performed work of the type and complexity required by a Senior Government Lawyer for at least three months
    - received performance ratings of 'Consistently Achieves' or better for both key business deliverables and observable work behaviours at the end of the performance cycle
    - the Secretary determines that the employee is capable of performing work at the Senior Government Lawyer level, and
    - there is work at that level available for the employee to perform
  - e) where an employee is advanced to the Senior Government Lawyer level, such an employee will only be advanced to the first salary point in the Senior Government Lawyer scale and must remain at that level for at least three months, or until they have continuously acted at this classification and pay point from 1 April to 15 August that year, before being eligible for further advancement within the Senior Government Lawyer scale, and
  - f) where the Secretary determines that there is more than one employee at the Government Lawyer level who is capable of performing work at the Senior Government Lawyer level, but that there is insufficient work available at the Senior Government Lawyer level for all such employees, a merit selection exercise should be conducted to determine which employee or employees will be advanced to the Senior Government Lawyer level.
306. Where an ongoing employee within the Government Lawyer Broadband, and Principal Government Lawyer Band, is in receipt of TPL on 15 August, they will be eligible for salary advancement in accordance with clause 305 at both their temporary performance and substantive levels, effective from 15 August. Despite clause 305(a), the employee will only be entitled to advancement at their TPL classification where the employee was continuously acting at the same classification and pay point from 1 April to 15 August that year.

307. Where there is a break of three weeks or less in TPL between 30 June and 15 August of the same calendar year the employee is still eligible for salary advancement at both levels.

**Table 8: Salary advancement for Government Lawyers**

Key business deliverables rating	Observable work behaviours ratings			
	Consistently exceeds	Consistently achieves	Mostly achieves	Unsatisfactory
Consistently exceeds	3 pay points	2 pay points	1 pay point	No advancement
Consistently achieves	2 pay points	2 pay points	1 pay point	No advancement
Mostly achieves	1 pay point	1 pay point	1 pay point	No advancement
Unsatisfactory	No advancement	No advancement	No advancement	No advancement

## Attachment D – Information Technology Specialist Designation and salary

**Table 9: Information Technology (IT) Specialist Designation**

Classification	Pay point	Current rates	29 March 2019 2%	12 months after commencement 2%	24 months after commencement 2%
IT Specialist (EL 1)	2	127,228	129,773	132,368	135,015
	1	121,444	123,873	126,350	128,877

308. The IT Specialist Designation structure will be available in limited circumstances where the Secretary determines that there is a requirement for particular highly specialised skills and expertise in the Department’s IT areas that are required to support the delivery of important or critical business applications, projects or services.

### Eligibility

309. The eligibility requirements for movement to the Designation are based on:
- a degree in ICT from an Australian tertiary institution, or a comparable qualification, which is appropriate to the duties of the classification
  - qualifications in an associated discipline
  - the highly specialised IT skills and expertise required to support the delivery of important or critical business applications, projects or services as determined by the relevant IT Group Manager
  - the level of IT specialist expertise held by the individual relevant to the Department’s requirements.

### Movement to the IT Specialist Designation

310. EL 1 employees who work in an IT area of the Department, and meet the eligibility requirements in clause 309, may apply and be moved at the EL 1 classification to the IT Specialist Designation, subject to the approval of their Group Manager.
311. Existing employees of the Department will need to have achieved performance ratings for both key business deliverables and observable work behaviours at the ‘consistently achieves’ level or above.

### Salary determination

312. The employee’s salary on movement to the Designation will be the equivalent of their current salary, or if there is no equivalent salary, to the salary closest to, but not lower than their current salary. Where the employee’s salary is above the top pay point of the Designation, the employee will retain their current salary until such time as their salary falls within the pay point range of the Designation.

313. Where an employee commences in, or is promoted to a role identified as an IT Specialist role, salary will be determined within the relevant classification level set out in Table 1 above having regard to the experience, qualifications and skills of the employee and their likely corporate contribution.

314. Where an employee applies for transfer or promotion to a position outside the Designation, their salary will be set in accordance with the salaries for the relevant classification in Attachment A of this Agreement. Salary maintenance at the IT Specialist Designation salary will not be provided on transfer out of the IT Specialist Designation role.

### **Salary advancement for IT Specialist Designation**

315. Advancement through the salary points in Table 1 will be subject to the employee meeting the requirements for salary advancement at clauses 23, 26-27 or 29-30 in addition to receiving performance ratings of 'consistently exceeds' for both key deliverables and observable work behaviours under the performance management arrangements.

## Attachment E – Shift workers

316. Shift workers are those employees whose rostered ordinary hours fall outside the period 7.00 am-7.00 pm Monday-Friday and/or include Saturdays, Sundays or public holidays for an ongoing or fixed period.

317. Shift workers will receive the following shift work allowances:

**Table 10: Shift worker allowances**

<b>Rostered time of work</b>	<b>Penalty rate</b>
Work performed on a shift, any part of which falls between 7.00 pm and 7.00 am	15%
Work performed continuously for a period exceeding 4 weeks on a shift falling wholly between 7.00 pm and 7.00 am	30%
Work performed anytime on a Saturday	50%
Work performed anytime on a Sunday	100%
Work performed anytime on a public holiday	150%

### **Rates for working Saturdays, Sundays or public holidays**

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

### **Crib time**

319. Where an employee working a shift pattern is required to be on standby during meal breaks they will be paid crib time of single time for the period they are required to be on standby.

### **Operation of shifts**

320. Managers will allocate shifts equitably among employees undertaking shift work, with shift rosters specifying the standard hours of work for each shift.

321. A shift worker can be moved from one shift team to another by agreement at any time or with seven days' notice. If seven days' notice has not been given, except where this is not possible due to the illness or unanticipated absence of another employee, overtime will apply as per the overtime provisions of this Agreement for work outside the employee's previously rostered hours of duty until the employee has received seven days' notice of the shift change.

322. Shift workers can exchange shifts or rostered days off by mutual agreement and with the approval of the relevant manager provided that the arrangement does not give rise to an employee working overtime.

## **Consultation – introduction of shift work and changes to rosters**

323. Where a manager considers the introduction of shift work is necessary, or where they propose to make changes to roster arrangements (including the cessation of shift work), affected employees and, where they so choose, their representatives, will be consulted.

## **Leave**

324. Shift workers will accrue an additional half day of paid annual leave for each Sunday or public holiday worked, up to a maximum of five days for each calendar year in addition to penalty rates.

325. If the employee is rostered off on a public holiday, they will if practicable, within one month of that public holiday, be granted a day's paid leave in lieu of that holiday. Where it is impractical to grant a day's leave in lieu, the employee will be paid one day's pay at ordinary time.

326. Where a shift worker takes annual leave, they will be paid shift penalty payments in respect of any duty which the shift worker would have performed had they not been on approved annual leave.

327. Where a shift worker takes a period of leave, other than annual leave, shift penalties are not payable for the period of the absence.

## **Introduction of 12 hour shifts**

328. The Secretary and affected employees may consider the introduction of 12 hour shifts. Where this occurs affected employees, and where they so choose, their representatives, will be consulted, regarding:

- a) suitable roster arrangements, including meal breaks and a forward rotation of shifts
- b) any trial and review processes considered appropriate.

329. Roster arrangements for 12 hour shifts will not involve more than three consecutive night shifts for any employee.

330. If 12 hour shifts are introduced, any hours worked as overtime will be paid at double time.

## Definitions

**Affinity:** is primarily to deal with extended family type relationships such as those that exist in Aboriginal and Torres Strait Islander cultures.

**Agency:** a Department as defined in the *Public Service Act 1999*.

**Agreement:** the Department of Jobs and Small Business Enterprise Agreement 2019 - 2022.

**APS:** the Australian Public Service.

**Bandwidth:** between 7.00 am to 7.00 pm from Monday to Friday, except on a public holiday or where different a start time is approved for travel purposes.

**Casual employee:** an employee engaged under section 22(2)(c) of the *Public Service Act 1999* for duties that are irregular or intermittent.

**Delegate:** a person to whom the Secretary of the Department of Jobs and Small Business has delegated a power or function under this Agreement.

**Department:** the Department of Jobs and Small Business.

**Dependant:** the spouse of the employee; and/or a child or parent of the employee, or of the spouse of the employee, being a child or parent who ordinarily resides with the employee and who is wholly or substantially dependent upon the employee.

**Discussion and consideration period:** a period of eight weeks commencing from the date the Secretary makes an employee a formal offer of voluntary termination.

**Employee:** an employee of the Department of Jobs and Small Business, whether ongoing, non-ongoing, full time or part time within the meaning of the *Public Service Act 1999*. Unless specified, this does not include casual employees.

**Extended absence:** due to illness or injury an absence of at least four continuous weeks or a combined total absence of four weeks within a 13-week period because of illness or injury.

**Family:** a person who is related by blood, marriage (including former spouse), adoption, fostering or traditional kinship; a de facto partner (regardless of the gender of the partner, and including former de facto partner); a person who the Secretary considers has a strong affinity with the employee; a parent, child, grandparent, grandchild or sibling of the employee's spouse or de facto partner; or a spouse or de facto partner of the employee's parent, child, grandparent, grandchild or sibling.

**Manager:** the person to whom an employee is responsible and who is authorised by the Secretary to exercise the powers and responsibilities of a manager in relation to that employee.

**Ordinary hours:** a 7 hour 30 minute day within the Bandwidth.

**Partner:** where a person is a member of a couple, this refers to the other member of the couple.

**Salary for an excess employee includes:**

- a) the employee's substantive salary on the date of termination and

- b) temporary performance loading where the employee has received the loading for a continuous period of at least 12 months immediately preceding the date on which the employee is given a formal offer of a voluntary termination and
- c) allowances in the nature of salary which are paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.

SES: a Senior Executive level employee as defined under the *Public Service Act 1999*.

Secretary: the Agency Head of the Department of Jobs and Small Business as defined under the *Public Service Act 1999*.

Settlement period: a set four week period beginning on a pay Thursday for the purposes of determining flex debit / credit carryover.

Shift worker: an employee who is rostered to work ordinary hours outside of the period 7.00 am to 7.00 pm Monday to Friday and/or Saturdays, Sundays or public holidays for an ongoing or fixed period.

Standard day: is 8.30 am to 12.30 pm and 1.30 pm to 5.00 pm (or 8.00 am to 12.00 pm and 1.00 pm to 4.30 pm in the Northern Territory) Monday to Friday, except where a public holiday occurs.