



DECISION

Fair Work Act 2009

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

Commonwealth Of Australia Represented By The Office Of The Australian Information Commissioner

(AG2024/476)

OFFICE OF THE AUSTRALIAN INFORMATION COMMISSIONER ENTERPRISE AGREEMENT 2024-2027

Commonwealth employment

COMMISSIONER PLATT

ADELAIDE, 20 MARCH 2024

Application for approval of the Office of the Australian Information Commissioner Enterprise Agreement 2024-2027

[1] An application has been made for approval of an enterprise agreement known as the *Office of the Australian Information Commissioner Enterprise Agreement 2024-2027* (the Agreement) pursuant to s.185 of the *Fair Work Act 2009* (the Act) by Commonwealth Of Australia Represented By The Office Of The Australian Information Commissioner (the Applicant). The agreement is a single enterprise agreement.

[2] The matter was allocated to my Chambers on 5 March 2024.

[3] On 6 March 2024, I conducted a telephone conference with the parties to seek clarification about aspects of the Agreement and invited the Applicant to address these matters including through the provision of an undertaking.

[4] There is one National Employment Standard (NES) issue that requires comment:

- Clause 51 provides that on termination, the employer may deduct from the employee's final payment, any amount it is authorised by the employee to deduct, including any overpayment. This provision may operate to reduce an employee's entitlement to payment of NES entitlements.

[5] Clause 6 of the Agreement acts as an effective NES precedence clause. As a result, the above clause will not apply to the extent it is inconsistent with the NES.

[6] The Agreement contains a number of changes which when considered in isolation, are less advantageous than the Award. These include increased ordinary hours, an expanded spread of hours and some penalty rates. I note that the Agreement also confers benefits of universal application including paid leave between Christmas and New Year and increased

Superannuation Contributions. I have not considered additional benefits which were conditional in their application and/or difficult to quantify in monetary terms. I find that the universal improvements offset the disadvantages referred to.

[7] With respect to the remaining issues, the Applicant has submitted an undertaking in the required form dated 15 March 2024, a copy of which is attached to this Agreement. The undertaking deals with the following topics:

- The definition of a shift worker has been inserted.
- Higher duties allowance will be paid to APS1-APS6 employees after half a day and EL1 employees (or above) after one week, where they occupy a role at a classification level higher than their substantive classification level consistent with the *Australian Public Service Enterprise Award 2015*.
- A Part-time minimum engagement has been inserted, consistent with the *Australian Public Service Enterprise Award 2015*.
- The requirement to prescribe the agreed part time hours of working including the start and finish times so as to determine when overtime is payable has been inserted, consistent with the *Australian Public Service Enterprise Award 2015*.
- Part-time employees who work hours in addition to the ordinary hours will be entitled to overtime.

[8] A copy of the undertaking has been provided to the bargaining representatives and I have sought their views in accordance with s.190(4) of the Act. The bargaining representatives that responded, supported the undertaking.

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

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

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

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



COMMISSIONER

Printed by authority of the Commonwealth Government Printer

<AE523885 PR772519>

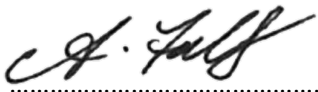
Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of this agreement.

OAIC Enterprise Agreement 2024-2027

Signatories

Signed for and on behalf of the **Commonwealth of Australia** as represented by the **Office of the Australian Information Commissioner** ABN 85 249 230 937

Name Angelene Falk
Position Australian Information Commissioner
Address Level 10, 175 Pitt Street, Sydney NSW 2000

Signature 
.....

Date 21 February 2024
.....

Signed for and on behalf of **Employee Bargaining Representative**


Name Carmela Calandra-Zamecnik
Position Investigations Officer
Address Level 10, 175 Pitt Street, Sydney NSW 2000

Signature 
.....

Date 21 February 2024
.....

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

Name Melissa Payne
Position Assistant National Secretary
Address 54-58 Foveaux St, Surry Hills NSW 2010

Signature 
.....

Date 23 February 2024
.....

OAIC Enterprise Agreement 2024-2027

Table of Contents

OAIC Enterprise Agreement 2024-2027	1
Section 1 - Technical matters	7
Title	7
Parties to the Agreement	7
Operation of the Agreement	7
Delegations	7
National Employment Standards (NES) precedence	7
Closed comprehensive agreement	8
Individual flexibility arrangements	8
Definitions	9
Usual location of work	11
Review of employment decisions	12
Section 2: Remuneration	13
Salary	13
Payment of salary	13
Salary setting	14
Incremental advancement	15
Reversion	15
Superannuation	15
Method for calculating superannuation salary	16
Overpayments	16
Supported wage system	17
Section 3: Allowances and reimbursements	18
Higher duties allowance	18
Workplace responsibility allowances	18
Community language allowance	19
Motor vehicle allowance	20

Section 4: Classifications and broadbands	21
Graduates.....	21
Broadband.....	21
Work Level Standards	21
Section 5: Working hours and arrangements	22
Job security	22
Commitment to ongoing employment and rebuilding APS capacity.....	22
Reporting.....	22
Pathways to permanency	22
Casual (irregular or intermittent) employment.....	22
Non-ongoing employment.....	23
Working hours.....	23
Standard hours and bandwidth	23
Core hours.....	23
Unpaid meal breaks	23
Start and finish times	24
Use of taxis after hours	24
Flex for APS 1-6 classifications	24
Executive Level Time Off in Lieu (EL TOIL)	25
Overtime	25
Executive Level employees	26
Overtime rates	26
Eight hour break.....	26
Overtime not continuous with ordinary duty.....	27
Meal allowance	27
Reimburse reasonable expenses	27
Restriction	27
Flexible working arrangements.....	28
Requesting formal flexible working arrangements.....	28
Varying, pausing or terminating flexible working arrangements	30
Working from home.....	31
Ad-hoc arrangements	31
Altering span of hours.....	32

Part-time work	32
Annual shutdown	32
Public holidays	32
Section 6: Leave	34
Annual leave.....	34
Excess leave credit	34
Cash out of annual leave.....	35
Purchased leave	35
Personal/carer’s leave	36
Usage.....	36
Carers	36
Entitlement	36
Acceptable evidence	37
Notification	37
Invalidity.....	37
Unpaid carer’s leave.....	37
Portability of leave	38
Re-crediting of leave	38
Long service leave	39
Miscellaneous leave.....	39
Cultural, ceremonial and NAIDOC leave	40
NAIDOC leave	40
First Nations ceremonial leave.....	40
Cultural leave	40
Parental leave	41
Payment during parental leave.....	41
Adoption and long-term foster care	42
Stillbirth.....	43
Pregnancy loss leave	43
Premature birth leave	43
Transitional provisions.....	43
Compassionate leave	43
Bereavement leave	44
Extended leave.....	44

Emergency response leave	44
Jury duty.....	45
Volunteer leave.....	45
Defence reservist leave.....	45
Defence service sick leave	46
Leave to attend proceedings	47
Moving leave.....	47
Section 7: Employee support and workplace culture	48
Healthy lifestyle	48
Supporting eye health.....	48
Blood donation.....	48
Vaccinations.....	48
Employee Assistance Program (EAP)	48
Retirement transition.....	49
Safe workplaces	49
Respect at work	49
Principles.....	49
Consultation.....	49
Family and domestic violence support	49
Integrity in the APS	51
Code of Conduct and APS values	51
Breaches of the Code of Conduct	52
First Nations cultural competency training.....	52
Diversity	52
Lactation and breastfeeding support.....	52
Disaster support.....	53
Loss, damage and indemnity	53
Section 8: Performance and development	54
Performance management	54
Managing underperformance.....	54
Workloads.....	55
Study assistance.....	55
Eligibility.....	55
Study leave.....	55
Financial study assistance	55

Advice of approval	55
Learning and development	56
Reimbursement of reasonable expenses when attending learning and development activities	56
Professional memberships, accreditation or registration fees.....	56
Section 9: Travel and location-based conditions.....	57
Travel	57
Travelling allowance rates	57
Private non-commercial rate	57
Reviewed travelling allowance	57
Part day travelling allowance.....	57
Approval of additional expenses.....	57
Repayment when travel not undertaken.....	58
Accommodation/meals provided by the Commonwealth	58
Absence on duty expenses.....	58
Reimbursement for carer's costs.....	58
Overseas travel	58
Class of travel.....	58
Relocation assistance.....	58
Section 10: Consultation, representation and dispute resolution.....	60
Consultation.....	60
Principles.....	60
When consultation is required	60
Provisions for consultation on major change and introduction of a change to regular roster or ordinary hours of work of employees.....	61
Representation.....	61
Major change	61
Change to regular roster or ordinary hours of work.....	62
Interaction with emergency management activities	63
Agency consultative committee	63
APS consultative committee	64
Dispute resolution.....	64
Leave of absence to attend proceedings	65
Delegates' rights	65

Supporting the role of union delegates	65
Section 11: Separation and retention.....	67
Resignation	67
Payment on death of an employee.....	67
Redeployment, retraining, redundancy.....	67
Legislation	67
Excess employee	67
Consultation process.....	68
Early separation	68
Separation with consent	68
Redundancy benefit.....	69
Period of notice.....	69
Periods of service	70
Redeployment.....	71
Salary maintenance.....	72
Involuntary termination of employment	72
Attachment A – Base salaries	73
Attachment B – Supported Wage System.....	74
Definitions.....	74
Eligibility criteria.....	74
Supported wage rates	74
Assessment of capacity	75
Lodgement of SWS wage assessment agreement	75
Review of assessment	75
Other terms and conditions of employment	76
Workplace adjustment.....	76
Trial period	76

Section 1 - Technical matters

Title

1. This Agreement will be known as the Office of the Australian Information Commissioner Enterprise Agreement 2024-2027.

Parties to the Agreement

2. This Agreement covers:
 - 2.1. the Australian Information Commissioner, for and on behalf of the Commonwealth of Australia as the employer;
 - 2.2. all employees of the OAIC except:
 - 2.2.1. members of the Senior Executive Service other than members acting temporarily in Senior Executive Service positions; and
 - 2.2.2. employees on secondment arrangements whose salaries are payable by organisations other than the OAIC; and
 - 2.3. subject to notice being given in accordance with section 183 of the FW Act, the Community and Public Sector Union, which was a bargaining representative for this Agreement.

Operation of the Agreement

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

Delegations

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

National Employment Standards (NES) precedence

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

Closed comprehensive agreement

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

Individual flexibility arrangements

10. The OAIC and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:
 - 10.1. the agreement deals with one or more of the following matters:
 - 10.1.1. arrangements about when work is performed;
 - 10.1.2. overtime rates;
 - 10.1.3. penalty rates;
 - 10.1.4. allowances;
 - 10.1.5. remuneration;
 - 10.1.6. leave and leave loading; and
 - 10.2. the arrangement meets the genuine needs of the OAIC and employee in relation to one or more of the matters mentioned in clause 10.1; and
 - 10.3. the arrangement is genuinely agreed to by the OAIC and employee.
11. The OAIC must ensure that the terms of the individual flexibility arrangement:
 - 11.1. are about permitted matters under section 172 of the FW Act;
 - 11.2. are not unlawful terms under section 194 of the FW Act; and
 - 11.3. result in the employee being better off overall than the employee would be if no arrangement was made.
12. The OAIC must ensure that the individual flexibility arrangement:
 - 12.1. is in writing;
 - 12.2. includes the name of the OAIC and employee;
 - 12.3. is signed by the OAIC and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and

- 12.4. includes details of:
 - 12.4.1. the terms of the enterprise agreement that will be varied by the arrangement;
 - 12.4.2. how the arrangement will vary the effect of the terms;
 - 12.4.3. how the employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and
- 12.5. states the day on which the arrangement commences.
- 13. The OAIC must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 14. The OAIC or employee may terminate the individual flexibility arrangement:
 - 14.1. by giving no more than 28 days written notice to the other party to the arrangement; or
 - 14.2. if the OAIC and employee agree in writing – at any time.
- 15. The OAIC and employee are to review the individual flexibility arrangement at least every 12 months.

Definitions

- 16. The following definitions apply to this Agreement:

Agreement means the Office of the Australian Information Commissioner Enterprise Agreement 2024-2027.

APS means the Australian Public Service.

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

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

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

Australian Information Commissioner means the Information Commissioner within the meaning of the *Australian Information Commissioner Act 2010* or the Australian Information Commissioner's Delegate. The Australian Information Commissioner is the Agency Head for the purposes of the PS Act.

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

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

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

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

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

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

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

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

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

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

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

Family means:

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

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

Full-time employee means an employee employed to work an average of 37 hours and 30 minutes per week in accordance with this Agreement.

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

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

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

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

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

OAIC means the Office of the Australian Information Commissioner.

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

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

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

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

Part-time employee means an employee employed to work less than an average of 37 hours and 30 minutes per week in accordance with this Agreement.

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

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

Relevant employee means an affected employee.

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

Usual location of work

17. An employee's standard place of work will be the designated office location identified in the employee's letter of offer or other engagement documentation. If no designated office location was specified on engagement, the Australian Information Commissioner may specify a designated office location by advising the employee in writing.
18. The OAIC and employee may agree to vary the employee's designated office location on a temporary or permanent basis.

Review of employment decisions

19. Decisions relating to an employee's employment are reviewable in accordance with legislation.

Section 2: Remuneration

Salary

20. Salary rates will be as set out in **Attachment A – Base salaries** to this Agreement.
21. The base salary rates in **Attachment A – Base salaries** include the following increases:
 - 21.1. 4.0 per cent from the first full pay period on or after 1 March 2024 (the 14 March 2024);
 - 21.2. 3.8 per cent from the first full pay period on or after 1 March 2025 (the 13 March 2025); and
 - 21.3. 3.4 per cent from the first full pay period on or after 1 March 2026 (the 12 March 2026).
22. In recognition of a common alignment date of the first full pay period on or after 1 March each year, the base salary rates in **Attachment A – Base salaries** were calculated based on base salary rates as at 31 August 2023.

Payment of salary

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

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

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

24. Employees are entitled to the following remuneration packaging scheme:
 - 24.1. An employee may opt to receive a mix of cash and specified non-cash items up to the total value of their current salary.
 - 24.2. The remuneration packaging scheme will be undertaken by a bureau service on behalf of the OAIC and participating employees.
 - 24.3. The total cost of an employee's participation in the scheme, including the cost of cash, non-cash items, taxation and administration/bureau fees, will be met by the participating employee.
 - 24.4. The implementation and operation of the remuneration packaging scheme will be cost neutral for the OAIC.
 - 24.5. The salary which would have been used for superannuation purposes and severance and termination payments but for the employee electing the option of remuneration

packaging is the salary to be used to determine salary for superannuation purposes and severance and termination payments.

Salary setting

25. Where an employee is engaged, moves to or is promoted in the OAIC, the employee's salary will be paid at the minimum of the salary range of the relevant classification, unless the Australian Information Commissioner determines a higher salary within the relevant salary range under these salary setting clauses.
26. The Australian Information Commissioner may determine the payment of salary at a higher value within the relevant salary range of the relevant classification and the date of effect at any time.
27. In determining a salary under these salary setting clauses, the Australian Information Commissioner will have regard to relevant factors including the employee's experience, qualifications, skills, market considerations, and equity with other employees. The Australian Information Commissioner will also take into account the length of the period of any higher duties performed by the employee and how recently the higher duties were performed.
28. Where an employee commences ongoing employment in the OAIC immediately following a period of non-ongoing employment in the OAIC for a specified term or task, the Australian Information Commissioner will determine the payment of the employee's salary within the relevant salary range of the relevant classification which recognises the employee's prior service as a non-ongoing employee in the OAIC.
29. Where an employee commences ongoing employment in the OAIC immediately following a period of casual employment in the OAIC, the Australian Information Commissioner will determine the payment of salary within the relevant salary range of the relevant classification which recognises the employee's prior service as a casual employee in the OAIC.
30. Where an APS employee moves to the OAIC at level from another APS agency, and their salary is above the maximum of the salary range for their classification, the Australian Information Commissioner will maintain the employee's salary at that level, until it is absorbed into the salary range for that classification.
31. Where an employee moves to the OAIC (whether or not from another APS agency), and immediately prior to commencing employment in that position the employee received a salary above the maximum point of the salary range for the relevant classification, the Australian Information Commissioner may authorise payment above the maximum point of the salary range for that classification.
32. Where the Australian Information Commissioner determines that an employee's salary has been incorrectly set, the Australian Information Commissioner may determine the correct salary and the date of effect.

Incremental advancement

33. An employee is eligible to advance within the pay range for their substantive classification if:
 - 33.1. their performance at their substantive classification is assessed as satisfactory in their most recent performance review, with further detail of performance assessments set out in policy; and
 - 33.2. they have at least 6 months of aggregate eligible service at or above their substantive classification during the most recent annual performance management cycle.
34. An employee is also eligible for incremental advancement in the pay range for any higher classification in which they are acting if:
 - 34.1. their performance at the higher classification is assessed as satisfactory in their most recent performance review, with further detail of performance assessments set out in policy; and
 - 34.2. they have at least 6 months of aggregate eligible service at or above the higher classification during the most recent annual performance management cycle.
35. Eligible service for the purposes of clauses 33 and 34 includes:
 - 35.1. periods of paid leave;
 - 35.2. periods of unpaid parental leave, although an employee is only eligible to advance one pay point per period of unpaid parental leave, regardless of the length of the period of unpaid parental leave;
 - 35.3. periods of unpaid leave that count as service; and
 - 35.4. service while the employee is employed on a non-ongoing basis.
36. If an employee has less than 6 months of aggregate eligible service during the most recent annual performance management cycle such as to be ineligible for advancement under clauses 33 and 34, the Australian Information Commissioner may exercise their discretion to determine a higher salary for the employee under clause 26.
37. A casual employee is not eligible for incremental advancement.
38. Further information may be found in clauses 366 to 371 and in policy.

Reversion

39. Where an employee requests in writing to perform work at a lower classification level, the OAIC may determine in writing that the employee will be paid a rate of salary applicable to the lower classification.

Superannuation

40. The OAIC will make compulsory employer contributions as required by the applicable legislation and fund requirements.

41. Employer superannuation contributions will be paid on behalf of employees during periods of paid leave that count as service.
42. The OAIC will make employer superannuation contributions to any eligible superannuation fund, provided that it accepts payment by fortnightly electronic funds transfer (EFT) using a file generated by the OAIC's payroll system.

Method for calculating superannuation salary

43. The OAIC will provide an employer contribution of 15.4 per cent of the employee's Ordinary Time Earnings (OTE) for employees in the Public Sector Superannuation Accumulation Plan (PSSap) and employees in other accumulation funds.
44. Employer contributions will be made for all employees covered by this Agreement.
45. Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements.

Overpayments

46. An overpayment occurs if the Australian Information Commissioner (or the OAIC) provides an employee with an amount of money to which the employee was not entitled (including but not limited to salary, entitlements, allowances, travel payment and/or other amount payable under this Agreement).
47. Where the Australian Information Commissioner considers that an overpayment has occurred, the Australian Information Commissioner will provide the employee with notice in writing. The notice will provide details of the overpayment.
48. If an employee disagrees that there has been an overpayment including the amount of the overpayment, they will advise the Australian Information Commissioner in writing within 28 calendar days of receiving the notice. In this event, no further action will be taken until the employee's response has been reviewed.
49. If after considering the employee's response (if any), the Australian Information Commissioner confirms that an overpayment has occurred, the overpayment will be treated as a debt to the Commonwealth that must be repaid to the OAIC in full by the employee.
50. The Australian Information Commissioner and the employee will discuss a suitable recovery arrangement. A recovery arrangement will take into account the nature and amount of the debt, the employee's circumstances and any potential hardship to the employee. The arrangement will be documented in writing.
51. The OAIC and employee may agree to make a deduction from final monies where there is an outstanding payment upon cessation of employment.
52. Interest will not be charged on overpayments.
53. Nothing in clauses 46 to 52 prevents:
 - 53.1. the OAIC from pursuing recovery of the debt in accordance with an Accountable Authority Instruction issued under the *Public Governance, Performance and Accountability Act 2013*;

- 53.2. the OAIC from pursuing recovery of the debt through other available legal avenues;
or
- 53.3. the employee or the OAIC from seeking approval to waive the debt under the *Public Governance, Performance and Accountability Act 2013*.

Supported wage system

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

Section 3: Allowances and reimbursements

Higher duties allowance

56. Where a role needs to be filled for 2 or more working weeks, higher duties allowance will be paid to any employee temporarily occupying the role acting at a classification level higher than their substantive classification level.
57. Higher duties allowance will be equal to the difference between the employee's current salary and the salary that would be payable if they were promoted to the higher classification level, or a higher amount determined by the Australian Information Commissioner.
58. Where an employee is found to be eligible for salary progression at their acting classification level they will receive an appropriate increase in the rate of higher duties allowance. The employee's salary level will be retained for all future periods of acting regardless of elapsed time.
59. Where an employee is assigned only part of the higher duties, the Australian Information Commissioner will determine the amount of allowance payable.
60. Higher duties allowance will be payable in respect of a period of paid leave or a public holiday if the employee would have received the allowance if they had not been absent from the workplace on that day or days.
61. Higher duties allowance will be payable while an employee is acting at a higher classification level as part of a job sharing arrangement where the duration of the arrangement is at least 2 working weeks.
62. The Australian Information Commissioner may shorten the qualifying period for higher duties allowance on a case-by-case basis.

Workplace responsibility allowances

63. A workplace responsibility allowance will be paid to an employee who is appointed or elected to undertake one or more of the following roles:
 - 63.1. First Aid Officer (requires current Senior First Aid Certificate or equivalent);
 - 63.2. Health and Safety Representative;
 - 63.3. Fire Warden;
 - 63.4. Harassment Contact Officer; and
 - 63.5. Mental Health First Aid Officer.
64. The amount paid for the workplace responsibility allowance is set out in the table below:

Rate from commencement of the agreement	Rate from 13 March 2025	Rate from 12 March 2026
\$36.78 per fortnight	\$38.18 per fortnight	\$39.48 per fortnight

65. The full workplace responsibility allowance is payable regardless of flexible work and part-time arrangements.
66. Payment of the workplace responsibility allowance will cease where an employee is absent from work for a continuous period of more than 4 weeks.
67. Where employees accept more than one of these roles, they will only be entitled to a single workplace responsibility allowance unless approved by the Australian Information Commissioner due to operational requirements.
68. Casual employees who are eligible to receive a workplace responsibility allowance will be paid the full amount of the workplace responsibility allowance provided they engage in work during any given pay cycle, irrespective of the frequency and duration of the work undertaken.
69. Each role has inherent training requirements which must be successfully met as a condition of receiving the workplace responsibility allowance.
70. An employee's physical availability to undertake the role will be considered by the OAIC when appointing and reappointing employees to roles that would entitle the employee to the workplace responsibility allowance. This is noting that not all workplace responsibility roles will necessarily require a physical presence in the workplace for the role to be successfully undertaken, such as Harassment Contact Officers, Mental First Aid Officers and Health and Safety Representatives depending on work group arrangements.

Community language allowance

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

Table 1: Community language allowance rates

Rate	Standard	Rate from commencement of the Agreement	Rate from 13 March 2025	Rate from 12 March 2026
1	An employee who has adequate language skills, as determined by an individual or body approved by the Australian Information Commissioner, for simple communication.	\$1,435 per annum	\$1,490 per annum	\$1,541 per annum
2	An employee who is certified by the National Accreditation Authority for Translators and	\$2,870 per annum	\$2,979 per annum	\$3,080 per annum

Rate	Standard	Rate from commencement of the Agreement	Rate from 13 March 2025	Rate from 12 March 2026
	Interpreters (NAATI) as a Translator or Interpreter at any level; or is assessed to be at the equivalent level by an individual or body approved by the Australian Information Commissioner.			

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

Motor vehicle allowance

- 77. Where the Australian Information Commissioner considers that it will result in greater efficiency or involve less expense, they may authorise an employee to use a private motor vehicle owned or hired by that employee at their own expense for official purposes.
- 78. Motor vehicle allowance will be payable at a rate determined by the Australian Taxation Office (ATO), as varied from time to time.

Section 4: Classifications and broadbands

Graduates

79. Employees engaged to participate in a graduate development program will, unless otherwise determined by the Australian Information Commissioner, be engaged at the APS3 classification and assigned the local title of OAIC Graduate.
80. Progression within the Graduate broadband will be determined by the Australian Information Commissioner.
81. Further information may be found in policy.

Broadband

82. The below table outlines the available broadband within the OAIC.
83. Employees within the broadband retain their approved APS classification at all times in line with relevant legislation.

Broadband title	Corresponding APS Classification
OAIC Graduate	APS 3 to APS 5

84. Further information may be found in policy.

Work Level Standards

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

Section 5: Working hours and arrangements

Job security

Commitment to ongoing employment and rebuilding APS capacity

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

Reporting

87. Where a consultative committee is in place, the OAIC will report to the OCF (as established under clause 438) on an annual basis, or more frequently if agreed, on the number, duration, classification and location of ongoing, non-ongoing and casual employees engaged by the OAIC.

Pathways to permanency

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

Casual (irregular or intermittent) employment

89. A casual (irregular or intermittent) employee is defined in the definitions section.
90. A decision to expand the use of casual employees is subject to clauses 416 to 437 of this Agreement.
91. The OAIC will regularly review the working arrangements of casual employees to assess if they are genuinely performing irregular or intermittent duties, and report de-identified outcomes to the OCF (as established under clause 438), where one is in place.
92. Remuneration for casual employees is on an hourly basis. A casual employee will receive a 25 per cent loading on the base hourly rate of their classification as set out in this Agreement.
93. The casual loading is paid in lieu of payment for public holidays not worked, notice of termination of employment, redundancy benefits and all paid leave entitlements, other than leave required by legislation including long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976* and leave for family and domestic violence support.
94. A casual employee will be engaged for a minimum of 3 hours per engagement or shall be paid for a minimum of 3 hours at the appropriate casual rate.
95. A casual employee who is eligible for a workplace responsibility allowance will be paid the full amount.

Non-ongoing employment

96. A non-ongoing employee is defined in the definitions section.
97. Non-ongoing employees will generally have the same terms and conditions of employment as ongoing employees under this Agreement's terms, except:
 - 97.1. personal/carer's leave accrual at clause 209; and
 - 97.2. redundancy provisions at clauses 464 to 501, subject to clause 98.
98. If the non-ongoing employee's contract is not permitted by section 333E of the FW Act, then the redundancy provisions at clauses 464 to 501 will apply.
99. If the redundancy provisions apply to an employee under clause 98, the OAIC must adhere to the consultation requirements at clauses 416 to 432 and clauses 467 to 468.

Working hours

100. The Australian Information Commissioner will determine all matters relating to hours of duty in accordance with clauses 100 to 120 to ensure that they are consistent with client access, security and operational requirements of the OAIC.
101. The OAIC recognises the need for employees to balance their working life commitments with other competing interests, including family and carer responsibilities and does not expect employees to work unreasonable additional hours. It is recognised that some employees will need to work extra hours from time to time in order to meet deadlines and deal with unexpected contingencies. It is expected that managers and employees will implement effective work plans to minimise the need to work additional hours, wherever possible.

Standard hours and bandwidth

102. Standard hours of work will be 150 hours in each 4-week settlement period.
103. Standard hours will be worked within the bandwidth of 7.00 am to 7.00 pm Monday to Friday.
104. A standard day is seven hours and 30 minutes from 8.30 am to 5.00 pm with an hour for lunch between 12.30 pm and 1.30 pm.
105. Employees may make a request for a flexible working arrangement under clauses 141 – 168, which may include for changes in hours of work.

Core hours

106. Core hours will be 10.00 am to 12.00 midday and 2.00 pm to 4.00 pm unless varied by agreement by an employee and their manager. Managers will genuinely consider an employee's personal circumstances when considering any request consistent with clause 355. Employees will ordinarily be present at work during core hours.

Unpaid meal breaks

107. An employee must not work for longer than 5 hours without an unpaid break for a meal of a minimum of 30 minutes and no longer than 2 hours.

Start and finish times

108. Starting and finishing times within the bandwidth are to be determined by the Australian Information Commissioner, after consultation with employee/s. To optimise effective client service, managers may require employees (including part-time employees, where this is consistent with their ordinary hours) to attend at specific times during general business hours of 8.30 am to 5.00 pm (subject to clauses 141 – 168). It is understood that these arrangements should provide employees flexibility to balance work and personal obligations subject to operational requirements of the OAIC, the need for appropriate supervisory arrangements to be in place and occupational health and safety principles.

Use of taxis after hours

109. Where an employee is directed to work after 7.30 pm, the OAIC will provide a Cabcharge for the journey home of that employee, subject to prior approval by the relevant manager or Director.

Flex for APS 1-6 classifications

110. Employees classified as APS 1–6 will have access to flex leave provisions. Flex time credits accrue only for time worked within the bandwidth or where there is an agreement to work outside the bandwidth. In accessing flex leave:
- 110.1. The purpose of flex leave is to provide flexibility in work patterns over a regular period and not to build up excessive credits to be used in conjunction with annual leave.
 - 110.2. At the conclusion of any 4-week settlement period, an employee may not have an accrual in excess of one standard week (or equivalent pro rata for employees working part-time) flex leave. Excess flex leave should be utilised in the period that it accrues.
 - 110.3. Any excess will be reduced automatically to one standard week at the end of the settlement period unless approval is given by the manager to carry excessive flex credits forward. This will only occur in exceptional circumstances, e.g., periods of high workload. This additional carryover should be used within the next settlement period.
 - 110.4. An employee may not have a debit of flex leave in excess of 10 hours at the conclusion of any settlement period.
 - 110.5. Periods of absence will be taken at such times and in such periods as are agreed between the employee and the Australian Information Commissioner.
 - 110.6. Managers must ensure that they manage the hours their team members work so that excessive flex time credits are not accrued without the opportunity for employees to access their flex time leave. If a manager identifies that an employee is working excessive hours, they will review employees' work arrangements in the relevant area to establish whether alternative arrangements are available (e.g. overtime).
111. On termination of employment:

- 111.1. outstanding flex credits should be acquitted, where possible, as no payment for accumulated flex will be made; and
 - 111.2. flex debit balances should be processed as leave without pay in accordance with the OAIC Accountable Authority Instructions.
112. Where an employee fails to comply with the provisions of flex time, a manager may recommend to the Australian Information Commissioner that the employee be removed from the flex time scheme for a specified period. The employee would revert to working standard hours for the specified period.
113. Further information may be found in policy.

Executive Level Time Off in Lieu (EL TOIL)

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

Overtime

121. An employee who is directed by the Australian Information Commissioner to work outside of standard hours will be working overtime and will be entitled to be paid or to receive time off in lieu in accordance with this clause. This should not result in the employee working hours which are unreasonable or are a risk to the employee's health and safety.
122. The hourly rate for overtime payment will be ascertained by applying the following formulae:
- 122.1. Time and a half rate: $(\text{annual salary} \div 313) \times (6 \div 37.5) \times 1.5$
 - 122.2. Double time rate: $(\text{annual salary} \div 313) \times (6 \div 37.5) \times 2$
 - 122.3. Double time and a half rate: $(\text{annual salary} \div 313) \times (6 \div 37.5) \times 2.5$

123. For the purpose of calculating the formula at clause 122 prescribed weekly hours before overtime is payable will be 37.5.
124. Further information may be found in policy.

Executive Level employees

125. Except with the approval of the Australian Information Commissioner, an Executive Level 1 or Executive Level 2 employee will not be subject to the provisions of this clause. Where the Australian Information Commissioner has approved payment to employees at the Executive Level 1 or 2, payment will be made at the maximum rate applicable to an APS Level 6. Payment of overtime will only be approved for Executive Level employees in exceptional circumstances.

Overtime rates

126. Overtime rates are as follows:
 - 126.1. Monday to Saturday: time and a half for the first 3 hours each day and double time thereafter;
 - 126.2. Sunday: double time; and
 - 126.3. public holidays: time and a half during standard hours and double time and a half outside of standard hours (as defined in clauses 102 to 104).
127. Subject to clause 180, to the extent that two overtime rates apply, the higher rate will prevail.

Eight hour break

128. An employee who works so much overtime that the employee has not had at least 8 consecutive hours off duty plus reasonable travelling time:
 - 128.1. between the termination of the employee's ordinary duty on any day or shift, and the commencement of the employee's ordinary work on the next day or shift; or
 - 128.2. on a Saturday, Sunday or a public holiday, not being an ordinary working day, or on a rostered day off, in the 24 hours preceding the employee's ordinary commencing time on the employee's next ordinary day or shift;will be granted time off under clause 129.
129. An employee who is compelled to work so much overtime that the employee meets the conditions of clause 128 will:
 - 129.1. be allowed to leave work after such overtime for a period of 8 consecutive hours off duty, plus reasonable travelling time, and will suffer no loss of pay for ordinary working time occurring during the employee's absence; and
 - 129.2. provided that if an employee is required to resume or continue work on the specific written instruction of the Australian Information Commissioner, without having had 8 consecutive hours off duty plus reasonable travelling time:
 - 129.2.1. the employee will be paid at double ordinary time rates (for time worked) until the employee has had 8 consecutive hours off duty plus reasonable travelling time; and

129.2.2. the employee is to suffer no loss of pay for ordinary working time occurring during the employee's absence.

Overtime not continuous with ordinary duty

130. Subject to this clause, where an employee is required to perform overtime duty and such duty is not continuous with ordinary duty, the minimum overtime payment for each separate overtime attendance will be:
- 130.1. 4 hours at the prescribed overtime rate if the employee is required to travel to the OAIC's physical office; and
 - 130.2. 2 hours at the prescribed overtime rate if the employee is not required to travel to the OAIC's physical office.
131. Where more than one attendance is involved, the minimum overtime payment provision will, subject to the prescribed minimum payment, not operate to increase an employee's overtime remuneration beyond that to which the employee would have been entitled had the employee remained on duty from the commencing time of duty on one attendance to the ceasing time of duty on a subsequent attendance.
132. For the purposes of determining whether an overtime attendance is or is not continuous with ordinary duty, or is or is not separate from other duty, meal periods will be disregarded.
133. Where an overtime attendance, not continuous with ordinary duty, involves duty both before and after midnight, the minimum payment provisions of this clause will be satisfied when the total payment for the whole of the attendance equals or exceeds the minimum payment applicable to one day. Where a higher overtime rate applies on one of the days, the minimum payment will be calculated at the higher rate.

Meal allowance

134. Where an employee is required to work overtime for periods in excess of 3 hours a meal allowance will be paid in accordance with the relevant Taxation Determination made by the ATO. Payment will be made through the payroll system. An additional amount may be paid for overtime worked in excess of 10 hours. In exceptional circumstances, the Australian Information Commissioner may consider a further payment.

Reimburse reasonable expenses

135. Where an employee agrees or is directed to work overtime the Australian Information Commissioner will, subject to prior approval of such arrangements including the cost, reimburse reasonable additional expenses arising from any additional care arrangements due to the requirement to work overtime.

Restriction

136. Where an employee is directed by the Australian Information Commissioner in writing to be contactable and available to work outside the span of hours, or to perform a monitoring role outside the span of hours, the Australian Information Commissioner may approve payment of an on call allowance.
137. The weekly on call allowance is set out in the table below:

Rate from commencement of the agreement	Rate from 13 March 2025	Rate from 12 March 2026
\$453 per week	\$470.21 per week	\$486.20 per week

138. Employees required to be on call for a period of less than one week will be paid on a pro-rata basis for each 24-hour period.
139. Employees will only be required to be on call for a maximum of 14 days in any 28-day period (calendar days).
140. If employees are on call and recalled to work (in the office or remotely):
- 140.1. APS 1-6 employees will be paid overtime and a minimum payment of 2 hours if the employee is not required to travel to the workplace, or no less than 4 hours plus actual travel time if the employee is required to travel to the workplace; and
 - 140.2. Executive Level employees will normally be granted TOIL subject to clauses 114 to 120, or, if the Australian Information Commissioner determines there are exceptional circumstances, paid overtime and a minimum payment of 2 hours if the employee is not required to travel to the workplace, or no less than 4 hours plus actual travel time if the employee is required to travel to the workplace.

Flexible working arrangements

141. The OAIC, employees and their union recognise:
- 141.1. the importance of an appropriate balance between employees' personal and working lives, and the role flexible working arrangements can play in helping to achieve this balance;
 - 141.2. access to flexible work can support strategies to improve diversity in employment and leadership in the APS;
 - 141.3. access to flexible work supports APS capability, and can assist in attracting and retaining the employees needed to deliver for the Australian community, including employees located at a wider range of locations;
 - 141.4. that flexibility applies to all roles in the OAIC, and different types of flexible working arrangements may be suitable for different types of roles or circumstances; and
 - 141.5. requests for flexible working arrangements are to be considered on a case-by-case basis, with a bias towards approving requests.
142. The OAIC is committed to engaging with employees and their union to build a culture that supports flexible working arrangements across the OAIC at all levels. This may include developing and implementing strategies through the OCF, as established under clause 438.
143. Flexible working arrangements include, but are not limited to, changes in hours of work, changes in patterns of work, job sharing arrangements and changes in location of work.

Requesting formal flexible working arrangements

144. The following provisions do not diminish an employee's entitlement under the NES.

145. An employee may make a request for a formal flexible working arrangement.
146. The request must:
 - 146.1. be in writing;
 - 146.2. set out details of the change sought (including the type of arrangement sought and the proposed period the arrangement will operate for); and
 - 146.3. set out the reasons for the change, noting the reasons for the change may relate to the circumstances set out at section 65(1A) of the FW Act.
147. The Australian Information Commissioner must provide a written response to a request within 21 days of receiving the request.
148. The response must:
 - 148.1. state that the Australian Information Commissioner approves the request and provide the relevant detail in clause 149; or
 - 148.2. if following discussion between the OAIC and the employee, the OAIC and the employee agree to a change to the employee's working arrangements that differs from that set out in the request – set out the agreed change; or
 - 148.3. state that the Australian Information Commissioner refuses the request and include the following matters:
 - 148.3.1. details of the reasons for the refusal; and
 - 148.3.2. set out the OAIC's particular business grounds for refusing the request, explain how those grounds apply to the request; and
 - 148.3.3. either:
 - 148.3.3.1. set out the changes (other than the requested change) in the employee's working arrangements that would accommodate, to any extent, the employee's circumstances outlined in the request and that the OAIC would be willing to make; or
 - 148.3.3.2. state that there are no such changes; and
 - 148.3.4. state that a decision to refuse the request, or failure to provide a written response within 21 days is subject to the dispute resolution procedures of the Agreement, and if the employee is an eligible employee under the FW Act, the dispute resolution procedures outlined in sections 65B and 65C of the FW Act.
149. Where the Australian Information Commissioner approves the request this will form an arrangement between the OAIC and the employee. Each arrangement must be in writing and set out:
 - 149.1. any security and work health and safety requirements;
 - 149.2. a review date (subject to clause 153); and
 - 149.3. the cost of establishment (if any).

150. The Australian Information Commissioner may refuse to approve the request only if:
 - 150.1. the OAIC has discussed the request with the employee; and
 - 150.2. the OAIC has genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for refusal); and
 - 150.3. the OAIC and the employee have not reached such an agreement; and
 - 150.4. the OAIC has had regard to the consequences of the refusal for the employee; and
 - 150.5. the refusal is on reasonable business grounds.
151. Reasonable business grounds include, but are not limited to:
 - 151.1. the new working arrangements requested would be too costly for the OAIC;
 - 151.2. there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested;
 - 151.3. it would be impractical to change the working arrangements of other employees, or to recruit new employees, to accommodate the new working arrangements requested;
 - 151.4. the new working arrangements requested would be likely to result in a significant loss in efficiency or productivity;
 - 151.5. the new working arrangements requested would be likely to have a significant negative impact on customer service; and
 - 151.6. it would not be possible to accommodate the working arrangements without significant changes to security requirements, or where work health and safety risks cannot be mitigated.
152. For First Nations employees, the OAIC must consider connection to country and cultural obligations in responding to requests for altering the location of work.
153. Approved flexible working arrangements will be reviewed by the OAIC and the employee after 12 months, or a shorter period, if agreed by the employee. This is to ensure the effectiveness of the arrangement.

Varying, pausing or terminating flexible working arrangements

154. An employee may request to vary an approved flexible working arrangement in accordance with clause 146. An employee may request to pause or terminate an approved flexible working arrangement.
155. The Australian Information Commissioner may vary, pause or terminate an approved flexible working arrangement on reasonable business grounds, subject to clause 157.
156. The OAIC must provide reasonable notice if varying, pausing or terminating a flexible working arrangement without the agreement of the employee, having regard to the circumstances of the employee. Exceptions to this requirement are urgent and critical operational

circumstances or an employee's demonstrated and repeated failure to comply with the agreed arrangements.

157. Prior to the Australian Information Commissioner varying, pausing or terminating the arrangement under clause 155, the OAIC must have:
 - 157.1. discussed with the employee their intention to vary, pause or terminate the arrangement with the employee;
 - 157.2. genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for alteration);
 - 157.3. had regard to the consequences of the variation, pause or termination for the employee;
 - 157.4. ensured the variation, pause or termination is on reasonable business grounds; and
 - 157.5. informed the employee in writing of the variation, pause or termination to the approved flexible working arrangement, including details set out in clause 148.3.

Working from home

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

Ad-hoc arrangements

163. Employees may request ad-hoc flexible working arrangements. Ad-hoc arrangements are generally one-off or short-term arrangements for circumstances that are not ongoing.
164. Employees should, where practicable, make the request in writing and provide as much notice as possible.
165. Requests for ad-hoc arrangements are not subject to the request and approval processes detailed in clauses 144 to 153.
166. The OAIC should consider ad-hoc requests on a case-by-case basis, with a bias to approving ad-hoc requests, having regard to the employee's circumstances and reasonable business grounds.

167. Where a regular pattern of requests for ad-hoc arrangements from an employee emerges, the OAIC should consider whether it is appropriate to seek to formalise the arrangement with the employee.

Altering span of hours

168. An employee may request to work an alternative regular span of hours (bandwidth hours). If approved by the Australian Information Commissioner, hours worked on this basis will be treated as regular working hours and will not attract overtime payments. The OAIC will not request or require that any employee alter their regular span of hours (bandwidth hours) under these provisions.

Part-time work

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

Annual shutdown

171. The OAIC will close its normal operations from close of business on the last working day before Christmas, with business resuming on the first working day after New Year's Day.
172. Employees will be provided with time off for the working days between Christmas and New Year's Day and will be paid in accordance with their ordinary hours of work. Where an employee is absent on leave, payment for the annual shutdown provision will be in accordance with the entitlement for that form of leave, (e.g. if on long service leave half pay, payment is on half pay).
173. There will be no deduction from annual or personal/carer's leave credits for the annual shutdown days.

Public holidays

174. Employees are entitled to the following holidays each year as observed at their normal work location in accordance with the FW Act:
- 174.1. 1 January (New Year's Day);
 - 174.2. 26 January (Australia Day);
 - 174.3. Good Friday and the following Monday;
 - 174.4. 25 April (Anzac Day);
 - 174.5. the King's birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
 - 174.6. 25 December (Christmas Day);

- 174.7. 26 December (Boxing Day); and
- 174.8. any other day, or part day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part day, or a kind of day or part day, that is excluded by the *Fair Work Regulations 2009* from counting as a public holiday.
175. If a public holiday falls on a Saturday or Sunday, and if under a State or Territory law, a day or part day is substituted for one of the public holidays listed above, then the substituted day or part day is the public holiday.
176. The Australian Information Commissioner and an employee may agree on the substitution of a day or part day that would otherwise be a public holiday, having regard to operational requirements.
177. The Australian Information Commissioner and an employee may agree to substitute a cultural or religious day of significance to the employee for any day that is a prescribed holiday. If the employee cannot work on the prescribed holiday, the employee will be required to work make-up time at times to be agreed. This substitution does not impact or reduce an employee's entitlement to First Nations ceremonial leave, NAIDOC leave or cultural leave.
178. Where an employee substitutes a public holiday for another day, they will not be paid penalty rates for working their normal hours on the public holiday.
179. Where a public holiday falls during a period when an employee is absent on leave (other than annual leave, paid personal/carer's leave or defence service sick leave) there is no entitlement to receive payment as a public holiday. Payment for that day will be in accordance with the entitlement for that form of leave (e.g. if on long service leave on half pay, payment is at half pay.)
180. If under a law of a State or Territory every Sunday is declared or prescribed by or under that law to be a public holiday, there is no entitlement to receive payment as a public holiday if the employee would have worked, or does perform work, on that day. In these circumstances, payment will only be made at the public holiday rate if the employee performs work on that day, and the Sunday would otherwise be a public holiday under clauses 174.1 to 174.8.
181. An employee, who is absent on a day or part day that is a public holiday in their normal work location, is entitled to be paid for the part or full day absence as if that day or part day was not a public holiday, except where that person would not normally have worked on that day.
182. Where a full-time employee, including but not limited to employees on compressed hours, has a regular planned day off which would fall on a public holiday, the Australian Information Commissioner may allow the employee to change their planned day off so that it does not fall on a public holiday. If it is not possible to change their planned day off, the employee will be credited an equivalent amount of time to their regular hours for the day in flex credits or EL TOIL in recognition of the planned day off.

Section 6: Leave

Annual leave

183. The purpose of annual leave is to provide an equitable work/life balance. The OAIC recognises that it is important for both employees and the OAIC to access annual leave on a regular basis. Employees are encouraged to take their annual leave credits in the year when the credits accrue and are expected to take at least 2 weeks (or 50 per cent) of those annual leave credits in the year when the credits accrue.
184. A full-time employee is entitled to 20 days (4 weeks) of paid annual leave per completed year of service. Annual leave for part-time employees accrues on a pro-rata basis.
185. Annual leave will accrue and be credited daily.
186. An employee may take annual leave at half pay. However, unless approved by the Australian Information Commissioner, it may not be taken at half pay where the employee has an excess leave balance. Half pay annual leave is approved on the basis that one day full pay annual leave is equal to two days of half pay annual leave.
187. An employee will take annual leave at such a time or times and in such a period or periods as may be agreed between the employee and the employee's manager.
188. Where the OAIC cancels an employee's approved annual leave or recalls an employee to duty while they are on annual leave, the employee will be reimbursed travel costs that are not recoverable from insurance or other sources. The OAIC may require the employee to provide evidence of travel costs before making a reimbursement.
189. Employees will receive payment in lieu of any untaken annual leave upon separation from the APS. This will be paid at the amount payable as if the employee had taken the leave.

Excess leave credit

190. To assist employees to appropriately utilise their annual leave to maintain an appropriate work-life balance and to assist the OAIC to better manage its accrued annual leave liability, employees and the OAIC agree that generally an annual leave credit of more than 6 weeks is an excess leave balance.
191. Therefore if the annual leave credit an employee is likely to accumulate by 30 June in any given year is over 6 weeks (inclusive of accrued and pro-rata entitlements) (or a pro-rated period for non full-time employees) notice will be provided by the OAIC to the employee in the preceding December and March and a request made to the employee to reduce the leave credit to no more than 6 weeks (or a pro-rated period for non full-time employees) by taking annual leave by 30 June.
192. Where an employee has more than 6 weeks accrued annual leave credit (or a pro-rated period for non full-time employees) the Australian Information Commissioner may direct an employee to take annual leave within a reasonable period to reduce their accumulated annual leave credit to 6 weeks (or a pro-rated period for non full-time employees). The reasonable

period would not usually be longer than 6 months but in exceptional circumstances may be a longer period.

Cash out of annual leave

193. An employee who has accessed at least 3 weeks annual leave in any 12 month period and has an accrual of at least 5 weeks annual leave may be paid out 1 week of annual leave in lieu of absence from the workplace, subject to clause 195 below.
194. The Australian Information Commissioner may approve further cash out of annual leave if circumstances warrant approval and where the employee has accessed a reasonable amount of annual leave over the previous 12 months, subject to clause 195 below.
195. Each agreement to cash out a particular amount of paid annual leave must be in writing. Employees cashing out annual leave are required to maintain a balance of at least 4 weeks and the OAIC must pay the employee at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone in accordance with the requirements of section 93 of the FW Act.

Purchased leave

196. An employee may, with the approval of the Australian Information Commissioner, purchase from one to four additional weeks of annual leave.
197. The leave will be purchased for the amount the employee would have received for the period of leave purchased, if they had taken ordinary annual leave for that period, as estimated at the time of applying for participation in the purchased leave scheme.
198. The purchase price of the leave will be deducted from the fortnightly pay of the purchasing employee in equal instalments over the stipulated period prior to the leave being taken:
 - 198.1. 4 weeks purchased leave 26 pay periods;
 - 198.2. 3 weeks purchased leave 20 pay periods;
 - 198.3. 2 weeks purchased leave 13 pay periods; or
 - 198.4. 1 week purchased leave 7 pay periods.
199. All such leave purchased will be taken within a 12 month period from the commencing date of accrual or will be forfeited and the purchase price of the leave refunded.
200. Purchased leave will be taken in accordance with the rules applying to annual leave at clauses 183 to 195.
201. Approval for entry into the purchased leave scheme is subject to the operational requirements of the OAIC.
202. Purchased leave will count as service for all purposes.
203. Entry into the purchased leave scheme will not affect the superannuation obligations of the OAIC and/or the employee involved.

204. Where a request for purchased leave is declined the Australian Information Commissioner must provide a written response within 21 days of receiving the request and if relevant, include any operational requirements that necessitate declining the request.

Personal/carer's leave

Usage

205. Personal/carer's leave is to be used:
- 205.1. due to personal illness or injury;
 - 205.2. to attend appointments with a registered health practitioner;
 - 205.3. to manage a chronic condition; and/or
 - 205.4. to provide care or support for a family member (including a household member) or a person they have caring responsibilities for, because:
 - 205.4.1. of a personal illness or injury affecting the person; or
 - 205.4.2. of an unexpected emergency affecting the other person.
206. Personal/carer's leave may also be used in the event of an unexpected emergency affecting the employee. However, leave will not be granted for the purpose of an employee's unexpected emergency where it would result in the employee having less than 10 days' personal/carer's leave credits per year available for use for a purpose in accordance with the NES.

Carers

207. A person that an employee has caring responsibilities for may include a person who needs care because they:
- 207.1. have a medical condition, including when they are in hospital;
 - 207.2. have a mental illness;
 - 207.3. have a disability;
 - 207.4. are frail or aged; and/or
 - 207.5. are a child, not limited to a child of the employee.

Entitlement

208. An ongoing employee will be credited 18 days of personal/carer's leave, pro-rated for part-time employees, upon commencement of employment with the APS. After 12 months of completed service, the employee will accrue 18 days of personal/carer's leave per completed year of service. This leave will accrue daily and be credited at least monthly.
209. A non-ongoing employee will be credited personal/carer's leave upon commencement of employment with the OAIC. This will be 18 days of leave, pro-rated based on the employee's initial contract period and capped at 18 days. After a non-ongoing employee's initial contract period or 12 months, whichever is shorter, or where the employee has an existing entitlement

to personal/carer's leave, the employee will accrue 18 days of personal/carer's leave pro rata per completed 12 months of service. This leave will accrue daily and be credited at least monthly.

210. An employee may take personal/carer's leave at half pay where personal circumstances require or where approved by the Australian Information Commissioner. Half pay personal/carer's leave is approved on the basis that one day full pay personal/carer's leave is equal to two days of half pay personal/carer's leave.
211. A casual employee may access unpaid personal/carer's leave due to a personal illness or injury, or in the event that they are affected by an unexpected emergency. A casual employee is entitled to 2 days of unpaid carer's leave per occasion.
212. An employee in receipt of workers' compensation for more than 45 weeks will accrue personal/carer's leave on the basis of the hours actually worked.

Acceptable evidence

213. The OAIC may request that an employee provide acceptable evidence to support use of personal/carer's leave after the employee has:
 - 213.1. taken more than 3 consecutive days of personal/carer's leave; and/or
 - 213.2. taken more than 16 days of personal/carer's leave without evidence in a calendar year.
214. Acceptable evidence includes:
 - 214.1. a certificate from a registered health practitioner;
 - 214.2. a statutory declaration; and/or
 - 214.3. another form of evidence approved by the Australian Information Commissioner.
215. A certificate from a registered health practitioner may be used by the employee as evidence of a chronic condition for up to 12 months for both personal and carer's leave.

Notification

216. An employee who takes personal/carer's leave must inform their immediate manager before the normal commencing time of work or as soon as practicable.

Invalidity

217. The employee will not, without the employee's consent, be retired on invalidity grounds before the employee's paid personal/carer's leave credit has expired, except as required by legislation.

Unpaid carer's leave

218. An employee who has at least 12 months of continuous service may request that the Australian Information Commissioner approve up to 12 months of unpaid carer's leave so that the employee can provide care or support for a family member they have caring responsibilities for.

219. An employee's request for unpaid carer's leave under clause 218 must be in writing and set out the period of leave being sought and the reasons for the leave.
220. The Australian Information Commissioner may refuse a request for unpaid carer's leave made under clause 218 on reasonable business grounds and, where this occurs, the Australian Information Commissioner will provide the employee with written reasons for the refusal within 21 days of the request, including any operational requirements that necessitate declining the request.

Portability of leave

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

Re-crediting of leave

228. When an employee is on:

- 228.1. annual leave;
- 228.2. purchased leave;
- 228.3. defence reservist leave;
- 228.4. First Nations ceremonial leave;
- 228.5. NAIDOC leave;
- 228.6. cultural leave; or
- 228.7. long service leave; and

becomes eligible for, under legislation or this Agreement:

- 228.8. personal/carer's leave;
 - 228.9. compassionate or bereavement leave;
 - 228.10. jury duty;
 - 228.11. emergency services leave;
 - 228.12. leave to attend to family and domestic violence circumstances; or
 - 228.13. parental leave, premature birth leave, stillbirth leave or pregnancy loss leave;
- the affected period of leave will be re-credited.

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

Long service leave

- 231. An employee is eligible for long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.
- 232. The minimum period for which long service leave will be granted is 7 calendar days (whether taken at full or half pay). Long service leave cannot be broken with other periods of leave, except as otherwise provided by legislation or provided for in the re-crediting of leave clause at clauses 228 to 230 of this Agreement.

Miscellaneous leave

- 233. Miscellaneous leave with or without pay may be granted by the Australian Information Commissioner.
- 234. Subject to any legislative requirements, miscellaneous leave without pay will only count as service for a period of 30 days or less unless the Australian Information Commissioner determines that:

- 234.1. miscellaneous leave without pay for a period of 30 days or less does not count as service; or
- 234.2. miscellaneous leave without pay for a period greater than 30 days does count as service.
- 235. Without limiting the scope of clause 233, paid miscellaneous leave will be granted to casual employees for the purpose of clause 331 and otherwise by Government Directive.
- 236. Applications will be considered subject to the operational requirements of the OAIC and equity with other employees.
- 237. An employee's request for miscellaneous leave must be in writing and set out the period of leave being sought and the reason for the leave.
- 238. The Australian Information Commissioner may refuse a request for miscellaneous leave on reasonable business grounds and, where this occurs, the Australian Information Commissioner will provide the employee with written reasons for the refusal within 21 days of the request, including any operational requirements that necessitate declining the request.
- 239. Further information may be found in policy.

Cultural, ceremonial and NAIDOC leave

NAIDOC leave

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

First Nations ceremonial leave

- 242. First Nations employees may access up to 6 days of paid leave over 2 calendar years to participate in significant activities associated with their culture or to fulfil ceremonial obligations.
- 243. The Australian Information Commissioner may approve additional leave for cultural or ceremonial purposes as miscellaneous leave, with or without pay.
- 244. First Nations ceremonial leave can be taken as part days.
- 245. First Nations ceremonial leave is in addition to compassionate and bereavement leave.

Cultural leave

- 246. The Australian Information Commissioner may grant up to 3 days of paid leave per calendar year for the purpose of attending significant religious or cultural obligations associated with the employee's particular faith or culture.
- 247. The Australian Information Commissioner may approve additional leave for cultural purposes as miscellaneous leave, with or without pay.
- 248. Cultural leave can be taken as part days.

249. For the avoidance of doubt, this leave does not cover cultural purposes or obligations which are eligible for paid leave under clause 242.

Parental leave

250. A primary caregiver, secondary caregiver and ML Act is defined in the definitions section.

251. An employee who is a primary caregiver or secondary caregiver is entitled to parental leave up until 24 months from the date of the child’s birth or placement (parental leave period). For the avoidance of doubt, this is inclusive of all legislated leave entitlements. The parental leave period does not extend non-ongoing employment where the employment period remaining is less than 24 months. An employee is only eligible for parental leave with pay as either a primary caregiver or a secondary caregiver for the particular parental leave period, and cannot switch roles for the purpose of accessing additional paid leave.

252. For the pregnant employee, the parental leave period starts on commencement of maternity leave as per ML Act requirements, and ceases 24 months from the date of birth. Medical certification requirements for the pregnant employee will be as required by the ML Act.

253. Conditions in this Agreement will continue to apply in circumstances where successor legislation to the ML Act does not provide parental leave conditions included in this Agreement.

Payment during parental leave

254. An employee is entitled to parental leave with pay as per clauses 256 and 257 below within the parental leave period. Any further parental leave during the parental leave period is without pay. Unused paid parental leave remaining at the end of the employee’s parental leave period will lapse. An employee may choose to use their accrued paid leave entitlements in accordance with usage and eligibility requirements in this Agreement during the parental leave period that would otherwise be without pay.

255. Employees newly engaged or who have moved to the OAIC from another APS agency are eligible for the paid parental leave in clauses 256 and 257 where such paid leave had not already been provided by another APS or Commonwealth employer in the 24 months since the child’s date of birth or placement. If the paid leave used by the employee with the previous Commonwealth or APS employer is less than the limits specified in clauses 256 and 257, the balance is available to the employee.

256. An employee who is a primary caregiver is entitled to parental leave with pay during the parental leave period to a maximum of 18 weeks as provided in Table 2 below.

Table 2: Primary caregivers – circumstances for paid parental leave

Paid leave entitlement under the ML Act	Additional parental leave with pay under this Agreement for the primary caregiver
12 weeks’ paid maternity leave, including any reduced paid maternity leave period due to ML Act qualifying period rules	Paid leave to bring the total period of paid parental leave to 18 weeks

Paid leave entitlement under the ML Act	Additional parental leave with pay under this Agreement for the primary caregiver
No ML Act eligibility or coverage	18 weeks

257. An employee who is a secondary caregiver is entitled to parental leave with pay during the parental leave period as provided in Table 3 below.

Table 3: Secondary caregivers – circumstances for paid parental leave

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

258. **Flexibility:** Parental leave with pay, whether provided as maternity leave under the ML Act or under this Agreement, can be accessed flexibly during the parental leave period and does not have to be taken in a single block. For the avoidance of doubt, parental leave can be used to replicate a part-time work arrangement, and can be taken concurrently with another parent in relation to the same child.

259. **Rate of payment** during paid parental leave is the same as for an absence on personal/carer's leave and based on the employee's weekly hours at the time of the absence.

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

Adoption and long-term foster care

261. An employee who is a primary caregiver or secondary caregiver is entitled to parental leave in accordance with this Agreement for adoption or long-term foster care, provided that the child:

261.1. is under 16 as at the day (or expected day) of placement;

261.2. has not lived continuously with the employee for a period of six months or more as at the day (or expected day) of placement; and

- 261.3. is not (otherwise than because of the adoption) a child of the employee or the employee's spouse or de facto partner.
- 262. Documentary evidence of approval for adoption or enduring parental responsibilities under formal fostering arrangements must be submitted when applying for parental leave for adoption or long-term foster carer purposes.

Stillbirth

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

Pregnancy loss leave

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

Premature birth leave

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

Transitional provisions

- 268. Employees eligible for paid leave under the ML Act are required under legislation to use their paid maternity leave first. In this circumstance, the employee may postpone their paid premature birth leave otherwise payable under clause 267 until after the legislated paid maternity leave is used.

Compassionate leave

- 269. Employees will be eligible for 3 days paid compassionate leave on each occasion when:
 - 269.1. a member of their family (including a member of their household) or someone they have a close personal relationship with contracts, develops or sustains a life-threatening illness or injury; or
 - 269.2. the employee or their partner has a miscarriage.

- 270. An employee may be asked to provide evidence to support their absences on compassionate leave.
- 271. Compassionate leave for an occasion may be taken as 3 consecutive days or in separate periods totalling 3 days. This can include part days.
- 272. For casual employees, compassionate leave is unpaid.

Bereavement leave

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

Extended leave

- 277. An ongoing employee may apply to the Australian Information Commissioner for up to one year's unpaid leave. The Australian Information Commissioner may approve some or all extended leave to count as service.

Emergency response leave

- 278. In line with section 108 of the FW Act, an employee who engages in an eligible community service activity can get emergency response leave to volunteer for emergency management duties for:
 - 278.1. the time engaged in the activity;
 - 278.2. reasonable travelling time; and
 - 278.3. reasonable recovery time.
- 279. Full-time and part-time employees will be able to access 20 working days of paid emergency response leave at their full rate of pay per year if required. The Australian Information Commissioner may provide additional emergency response leave with pay.
 - 279.1. For the purposes of this clause, full rate of pay is to be as if the employee was at work.
- 280. Paid leave may be refused where the employee's role is essential to the OAIC's response to the emergency.

- 281. An employee must provide evidence that the organisation requests their services. Employees can provide evidence before or as soon as practical after their emergency service activity.
- 282. The Australian Information Commissioner will approve unpaid leave for ceremonial duties and training, and may approve reasonable paid leave for these purposes.
- 283. Emergency response leave, with or without pay, will count as service.

Jury duty

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

Volunteer leave

- 288. The OAIC will support community volunteer leave of one day paid per calendar year for employees to undertake voluntary work for a not-for-profit community organisation. The timing of the leave must be approved by the employee's manager.
- 289. Additional unpaid volunteer leave of up to 4 days per calendar year may be approved based on operational requirements. Employees will be required to provide appropriate evidence to support leave applications.
- 290. An employee's request for unpaid volunteer leave must be in writing and set out the period of leave being sought and the reasons for the leave.
- 291. The Australian Information Commissioner may refuse a request for unpaid volunteer leave on reasonable business grounds and, where this occurs, the Australian Information Commissioner will provide the employee with written reasons for the refusal within 21 days of the request, including any operational requirements that necessitate declining the request.

Defence reservist leave

- 292. The Australian Information Commissioner will give an employee leave with or without pay to undertake:
 - 292.1. Australian Defence Force (ADF) Reserve and continuous full-time service (CFTS); and

- 292.2. Australian Defence Force Cadet obligations.
- 293. An employee who is a Defence Reservist can take leave with pay for:
 - 293.1. up to 4 weeks (20 days) in each financial year (pro-rata for part-time employees); and
 - 293.2. an extra 2 weeks (10 days) in the first year of ADF Reserve service (pro-rata for part-time employees).
- 294. Leave can be built up and taken over 2 consecutive years. This includes the extra 2 weeks in the first year of service.
- 295. An employee who is an Australian Defence Force Cadet officer or instructor can get paid leave up to 3 weeks in each financial year to perform their duties.
- 296. In addition to the entitlement at clause 293, paid leave may be granted to an employee to attend an interview or medical examination in connection with the enlistment of the employee in a Reserve Force of the Defence Force.
- 297. Paid defence reservist leave counts for service.
- 298. Unpaid defence reservist leave for 6 months or less counts as service for all purposes. This includes periods of CFTS.
- 299. Unpaid leave taken over 6 months counts as service, except for annual leave.
- 300. An employee will not need to pay their tax free ADF Reserve salary to their agency for any reason.

Defence service sick leave

- 301. An employee is eligible for defence service sick leave credits when the Department of Veterans Affairs (DVA) has certified that an employee's medical condition is as a result of either:
 - 301.1. war like service; or
 - 301.2. non-war like service.
- 302. An eligible employee can get 2 types of credits:
 - 302.1. an initial credit of 9 weeks (45 days) defence service sick leave (pro-rata for part-time employees) will apply as at the following dates, whichever is later:
 - 302.1.1. they start employment with the APS; or
 - 302.1.2. DVA certifies the condition; and
 - 302.2. an annual credit of 3 weeks (15 days) defence service sick leave (pro-rata for part-time employees).
- 303. An employee can use their defence service sick leave when a recognised medical practitioner provides a certificate that says they were away due to their DVA certified medical condition.
- 304. Unused annual credits can be built up to 9 weeks.

- 305. An employee cannot use annual credits until the initial credit is exhausted.
- 306. Defence service sick leave is paid and counts as service for all purposes.

Leave to attend proceedings

- 307. An employee giving evidence before a Court, Tribunal or Royal Commission on behalf of the Commonwealth or a Commonwealth party in the course of their duties, will be considered on duty.
- 308. An employee who is not covered under clause 307, and is required to give evidence to, appear before or attend to instruct a representative at a Court, Tribunal or Royal Commission in relation to their duties will be released from duty without loss of pay. This includes in proceedings relating to a dispute between the employee and the OAIC.
- 309. An employee may otherwise be granted paid or unpaid miscellaneous leave by the Australian Information Commissioner if required to give evidence to a Court, Tribunal or Royal Commission for any other reason. Where approval for unpaid leave is given, the employee may elect to use accrued annual leave, flex leave or time off in lieu.
- 310. The Australian Information Commissioner may refuse to release an employee from duty having regard to business requirements and whether the employee's attendance is necessary for the Court, Tribunal or Royal Commission hearing.

Moving leave

- 311. One day paid leave per year may be granted by the Australian Information Commissioner for the purposes of assisting employees in moving house.

Section 7: Employee support and workplace culture

Healthy lifestyle

312. The OAIC encourages its employees to consider healthy lifestyle activities as a means to develop and maintain work and life balance. In addition, financial support of up to \$313 per financial year will be available to reimburse employees who undertake approved activities. The supported activities will have an emphasis on promoting health and wellbeing and be approved by the Australian Information Commissioner.
313. Further information may be found in policy.

Supporting eye health

314. The OAIC will reimburse employees for attendance at standard eye examinations for screen based equipment, for any portion of the fee not covered by Medicare. Appointments may be made every 2 years or as otherwise approved.
315. In addition, where an employee requires new spectacles/lenses as the result of such appointment, the OAIC offers financial support for the cost of spectacles/lenses for any portion not covered by private health insurance up to the following amounts:
- 315.1. \$100 for single; and
 - 315.2. \$175 for bifocal or multifocal.

Blood donation

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

Vaccinations

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

Employee Assistance Program (EAP)

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

Retirement transition

321. Employees who have stated an intention to retire from the workforce within 2 years are able to participate in a retirement transition arrangement. Financial assistance of up to \$625 will be provided for access to retirement seminars and/or superannuation and financial advice. Transition arrangements may vary between individuals as both individual and operational needs are considered, but may include access to part-time work and/or changes in work level or responsibilities by agreement.

Safe workplaces

322. The parties to this Agreement are committed to effective cooperation between the OAIC and its employees on work health and safety matters. The OAIC and its employees aim to create and maintain a safe working environment and to fulfil their requirements under the *Work Health and Safety Act 2011*.
323. Under the *Safety, Rehabilitation and Compensation Act 1988*, the OAIC has an ongoing responsibility to manage workers' compensation claims and provide rehabilitation and return to work programs for injured employees. Managers and colleagues of injured employees will cooperate with case managers to provide the necessary work environment and duties to enable employees to achieve the objectives set down in their rehabilitation plan.
324. Further information about work health and safety may be found in policy.

Respect at work

Principles

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

Consultation

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

Family and domestic violence support

328. The OAIC will provide support for employees affected by family and domestic violence, depending on the employee's circumstances.

329. The OAIC recognises that a holistic approach should be taken to support the employee, appropriate for the employee's individual circumstances.
330. Family and domestic violence support provisions, including paid leave, are available to all employees covered by this Agreement.
331. An employee experiencing family and domestic violence is able to access paid miscellaneous leave. Reasons an employee experiencing family and domestic violence may access this leave include, but are not limited to:
- 331.1. illness or injury affecting the employee resulting from family and domestic violence;
 - 331.2. providing care or support to a family member (including a household member) who is also experiencing family and domestic violence, and is ill or injured as a result of family and domestic violence;
 - 331.3. providing care or support to a family member (including a household member) who is also experiencing family and domestic violence, and is affected by an unexpected emergency as a result of family and domestic violence;
 - 331.4. making arrangements for the employee's safety, or the safety of a close relative;
 - 331.5. accessing alternative accommodation;
 - 331.6. accessing police services;
 - 331.7. attending court hearings;
 - 331.8. attending counselling; and
 - 331.9. attending appointments with medical, financial or legal professionals.
332. This entitlement exists in addition to an employee's existing leave entitlements and may be taken as consecutive days, single days or part days and will count as service for all purposes.
333. Given the emergency context in which leave may need to be accessed, employees can proceed to take the leave and seek approval at a later date, as soon as practicable.
334. These provisions do not reduce an employee's entitlement to family and domestic violence leave under the NES.
335. Paid miscellaneous leave available under this clause is paid for ongoing and non-ongoing employees at their full rate as if they were at work.
336. Paid leave for casual employees under this clause is paid at their full pay rate for the hours they were rostered to work in the period they took leave.
337. Evidence may be requested to support the OAIC in approving leave. In most cases, this will not be required. Where it is required, this will be discussed with the employee and a statutory declaration is the only form of evidence the OAIC will require, unless the employee chooses to provide another form of evidence.
338. An employee may also choose to provide other forms of evidence, including a medical certificate, or document issued by the Police Service, a Court, a Doctor, district Nurse, a Family Violence Support Service or Lawyer.

339. The OAIC will take all reasonable measures to treat information relating to family and domestic violence confidentially. The OAIC will adopt a 'needs to know' approach regarding communication of an employee's experience of family and domestic violence, subject to steps the OAIC may need to take to ensure the safety of the employee, other employees or persons, or mandatory reporting requirements.
340. Where the OAIC needs to disclose confidential information for purposes identified in clause 339, where it is possible the OAIC will seek the employee's consent and take practical steps to minimise any associated safety risks for the employee and/or privacy breaches.
341. The OAIC will not store or include information on the employee's payslip in relation to the employee's experience of family and domestic violence; any leave accessed for the purposes of family and domestic violence; or support(s) provided by the employer, unless otherwise required by legislation.
342. Other available support may include, but is not limited to, flexible working arrangements, additional access to EAP, changes to their span of hours or pattern of hours and/or shift patterns and/or location of work where reasonably practicable.
343. The OAIC will acknowledge and take into account an employee's experience of family and domestic violence if an employee's attendance or performance at work is affected.
344. Further information about leave and other support available to employees affected by family and domestic violence may be found in policy.

Integrity in the APS

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

Code of Conduct and APS values

348. The OAIC is committed to delivering high quality professional public service. In implementing this Agreement, the OAIC will act ethically and lawfully as an employer. In implementing this Agreement and in undertaking their duties, an employee will comply with the Australian Public Service Values and Code of Conduct and will not behave in a way contrary to the interest of the OAIC.

Breaches of the Code of Conduct

349. Matters concerning possible breaches of the Code of Conduct as specified at clause 348 will be dealt with in accordance with relevant provisions of the PS Act, Public Service Commissioner's Directions and the *Public Service Regulations 1999* and principles governing the application of natural justice.
350. Further information may be found in policy.

First Nations cultural competency training

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

Diversity

353. The OAIC is an agency which values fairness, equity and diversity. Consistent with that aim, the OAIC is committed to preventing and eliminating discrimination on the basis of race, colour, gender, sexual orientation or practices, age, disability, marital status, family responsibilities, pregnancy, religion, political opinion, irrelevant criminal record, national extraction, membership or non-membership of a trade union or social origin.
354. The OAIC will develop and implement a Diversity Strategy which recognises and values the diverse skills, cultural values and backgrounds of its employees.
355. The OAIC recognises the need for a supportive and flexible workplace to enable employees to combine work and family responsibilities. The Agreement contains clauses that support and promote flexible, family friendly practices and includes access to part-time work, home-based work, parental leave and personal/carer's leave which assist employees to balance their family and work responsibilities.

Lactation and breastfeeding support

356. Reasonable paid time during work hours will be provided for lactation breaks for breastfeeding, expressing milk and other associated activities.
357. The OAIC will provide access to appropriate facilities for the purpose of breastfeeding or expressing milk, subject to clause 358. In considering whether a space is appropriate, an agency should consider whether:
- 357.1. there is access to refrigeration;
 - 357.2. the space is lockable; and

- 357.3. there are facilities needed for expressing such as appropriate seating.
358. Where it is not practicable for an OAIC site to have a designated space, a flexible approach will be taken so that the employee can access the support required.
359. The OAIC will facilitate discussion between individual employees and their managers about accommodating the employee's lactation needs and practical arrangements to meet these needs.
360. The manager and employee shall discuss any flexible working arrangements that may be needed to support lactation. This may include consideration of arrangements such as working from home and/or remote working or varying work hours on an ad-hoc or regular basis. Wherever possible, requests by an employee will be accommodated, noting these needs may change over time.
361. Further information may be found in policy.

Disaster support

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

Loss, damage and indemnity

365. The OAIC may approve reimbursement to an employee for loss or damage to clothing or personal effects which occurred in the course of the employee's work.

Section 8: Performance and development

Performance management

366. The purpose of the OAIC's performance management framework is to strengthen and support the OAIC in performing its functions by providing regular and formal assessment of employees' work performance and to provide employees with skill development and career advancement opportunities.
367. An employee's performance will be assessed at least annually. This assessment will be the basis of salary advancement within the pay range for their classification in accordance with clauses 33 to 37 and may also be taken into account:
- 367.1. when considering an employee for temporary reassignment of duties or promotion; and
 - 367.2. as a basis to commence proceedings in relation to the unsatisfactory performance of duties or misconduct.
368. Employees and managers will develop a performance agreement and employees will have their work performance assessed and rated, generally by their manager.
369. The OAIC is committed to providing regular feedback on performance to employees and recognises that the performance management framework is one avenue for this.
370. Employees who are not satisfied with the manager's assessment may request a review in accordance with legislation.
371. Further information may be found in policy.

Managing underperformance

372. The procedures for managing underperformance only apply to ongoing employees who are not on probation. They do not apply to non-ongoing employees. They do not apply in cases of suspected breaches of the Code of Conduct or where there is a health-related reason for unsatisfactory performance or where an essential qualification has been lost.
373. Where an employee's performance consistently falls below an acceptable level it may be necessary to implement the procedures for managing poor performance.
374. A structured performance assessment plan must be developed. The performance assessment plan will be implemented over a period of time determined by the Australian Information Commissioner not exceeding 2 months unless there are exceptional circumstances.
375. The assessment process must have regard for the principles of procedural fairness and natural justice, and consider issues of privacy.
376. Where the Australian Information Commissioner determines, on the basis of the assessment, that the employee's performance remains unsatisfactory, they will commence action to:
- 376.1. assign the employee to other duties;

- 376.2. reduce the employee's classification;
- 376.3. terminate the employee; or
- 376.4. take some other form of appropriate action.

Workloads

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

Study assistance

- 380. The OAIC has a commitment to support employees undertaking formal studies that are relevant both to the OAIC and the employee's personal career development.

Eligibility

- 381. All employees may apply for approval as a student. Approval as a student is not an automatic entitlement but may be granted subject to operational requirements of the OAIC and equity with other employees of the OAIC.
- 382. An employee's proposed course of study as a student must be approved by the Australian Information Commissioner for the employee to have any access to any form of study assistance.

Study leave

- 383. The Australian Information Commissioner may grant paid study leave or study leave without pay to approved students.

Financial study assistance

- 384. Approved students may apply for financial assistance up to \$6000 per financial year on successful completion of studies.

Advice of approval

- 385. Employees will be advised in writing of approval of their proposed course of study, study leave and/or financial assistance. Where a request is refused the employee may seek a review of the decision in accordance with legislation.

386. Where a request is declined the Australian Information Commissioner must provide a written response within 21 days of receiving the request and if relevant, include any operational requirements that necessitate declining the request.
387. Further information may be found in guidelines.

Learning and development

388. The OAIC is committed to providing opportunities for employees to gain and maintain the skills needed to do their jobs and assisting employees to achieve their full potential by supporting learning and development opportunities. The OAIC recognises the importance of supporting the development of our employees to achieve the best possible outcomes for our clients.
389. Learning and development activities will:
- 389.1. have a clear connection with the work of the OAIC;
 - 389.2. have a direct link to employees' work responsibilities; and
 - 389.3. assist ongoing career development.
390. The parties to this Agreement are committed to adequate training support to accompany changes, innovations or improvements to work arrangements.
391. Performance agreements play a vital role in identifying learning and development needs for employees on an individual, work unit and agency basis.
392. Further information may be found in policy.

Reimbursement of reasonable expenses when attending learning and development activities

393. The OAIC will, subject to prior approval of such arrangements by the Australian Information Commissioner including the cost, reimburse reasonable additional expenses arising from additional care arrangements when the employee is required to attend a particular learning and development activity outside normal hours of work or away from their normal work location.

Professional memberships, accreditation or registration fees

394. The OAIC will, subject to prior approval by the Australian Information Commissioner, pay reasonable costs for professional memberships, accreditation or registration fees, including required maintenance, where the OAIC considers it is required or reasonably necessary in order to enhance the performance or the effectiveness of the employee to perform their role.
395. Further information may be found in policy.

Section 9: Travel and location-based conditions

Travel

396. Employees are expected to travel on official business as reasonably directed. A travelling allowance will be payable to an employee who undertakes travel on official business and is required to be absent overnight.
397. Travelling allowances are in addition to the cost of conveyance.
398. An employee who is travelling to a place of work in anticipation of a permanent move to that place of work, and who has been advised in writing that the move is to be made permanent, will not be eligible to receive travelling allowance during employment at that place of work.

Travelling allowance rates

399. An employee who is required to be absent overnight from the employee's usual place of work on official business under clause 396 will be paid in accordance with the relevant Taxation Determination made by the ATO.

Private non-commercial rate

400. Where commercial accommodation is not required the employee is not eligible to receive a payment under clause 399. The employee will be eligible to receive a payment for every overnight absence in accordance with the relevant Taxation Determination made by the ATO for meals and incidentals (for capital cities).

Reviewed travelling allowance

401. After an employee has resided in the one locality for a period of 21 days, the employee will be paid an allowance equal to the amount actually expended on accommodation, meals and incidentals, or an amount which the OAIC considers to be reasonable in the circumstances.

Part day travelling allowance

402. It is recognised that employees may be required to be absent for more than a standard day when travelling to attend meetings in regional areas or interstate. To compensate an employee for time spent travelling and additional costs, an employee who is required to be absent from the employee's usual place of work on official business, but is not absent overnight, may be paid \$100. Managers may agree to reasonable compensatory time off or include as flex leave in recognition of any additional time spent travelling outside normal working hours. The employee's normal travelling time would be taken into account when considering this.

Approval of additional expenses

403. Where reasonable evidence is provided to the satisfaction of the Australian Information Commissioner that the allowance payable to an employee under clauses 396, 399, 400, and 402 is insufficient to cover expenses which have been, or may be, incurred, the Australian Information Commissioner may direct payment as is necessary to meet those expenses.

Repayment when travel not undertaken

404. An employee who fails to undertake the anticipated travel, or who undertakes the travel for a lesser period than anticipated, will repay either the full travel allowance, or the difference between the allowance paid and the amount that would have been payable for the actual absence in accordance with the OAIC Accountable Authority Instructions.

Accommodation/meals provided by the Commonwealth

405. Where an employee is provided with either accommodation or adequate meals, or both, at Commonwealth expense:
- 405.1. the employee will not be paid those components of the allowance under clause 396 in respect of any accommodation or meals provided; and
 - 405.2. payment will be made in respect of incidental expenses during the period as the Australian Information Commissioner directs.

Absence on duty expenses

406. Where an employee who is absent on duty from the employee's usual place of work takes personal/carer's leave for a condition for which the employee is not at fault and is unable to return home, the employee is entitled to be reimbursed an amount equal to the costs incurred by the employee up to the amount that would be payable under clause 396.

Reimbursement for carer's costs

407. Where an employee is required to travel for official business away from their usual place of work the OAIC will, subject to prior approval of the arrangements and the cost, reimburse reasonable expenses arising from additional care arrangements.

Overseas travel

408. An employee required to travel on official business overseas will be provided with a recoverable cash advance to meet reasonable accommodation, meal and incidental expenses. The cash advance will be administered on a case-by-case basis having regard to the costs associated with the country being visited. The rates in accordance with the relevant Taxation Determination made by the ATO will be used as a basis for determining reasonable expenses.
409. Further information may be found in policy.

Class of travel

410. An employee is entitled to economy class where required to travel on official business within Australia.
411. An employee is entitled to business class where required to travel on official business overseas.

Relocation assistance

412. Where an APS employee is required to relocate at the request of the OAIC (such as a promotion), the employee will be provided with financial relocation assistance. Employees

who relocate on a temporary basis to take up higher duties are entitled to removal expenses if they relocate for a period of 13 weeks or more.

413. Where an employee is required to relocate on engagement with the OAIC, the employee will be provided with financial relocation assistance.
414. Reasonable expenses associated with the relocation include:
 - 414.1. the cost of transport of the employee, their dependants and partner by the most economical means;
 - 414.2. removal expenses, namely the reimbursement of reasonable incurred costs of the removal of furniture and household effects of the employee, dependants and partner;
 - 414.3. the reimbursement of the cost of the insurance premium based on a reasonable replacement value; and
 - 414.4. the reasonably incurred expenses in kennelling and transport of pets, up to the amount specified in the APS Award.
415. Additional relocation assistance may be considered by Australian Information Commissioner discretion.

Section 10: Consultation, representation and dispute resolution

Consultation

Principles

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

When consultation is required

419. Consultation is required in relation to:
- 419.1. changes to work practices which materially alter how an employee carries out their work;
 - 419.2. changes to or the introduction of policies or guidelines relevant to workplace matters (unless the changes are minor or procedural);

- 419.3. major change that is likely to have a significant effect on employees;
 - 419.4. implementation of decisions that significantly affect employees;
 - 419.5. changes to employees' regular roster or ordinary hours of work (subject to any other relevant provisions in this agreement); and
 - 419.6. other workplace matters that are likely to significantly or materially impact employees.
420. The OAIC, employees and the relevant union(s) recognise that consultation prior to a decision may not be practicable where a decision is made by Government or is required due to matters beyond the reasonable control of the OAIC. In these circumstances, consultation regarding the implementation of the decision will occur as early as is reasonably practicable.

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

421. This clause applies if the OAIC:
- 421.1. proposes to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
 - 421.2. proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Representation

422. Employees may appoint a representative for the purposes of the procedures in this clause. A representative for the purpose of this clause may be a union representative.
423. The OAIC must recognise the representative if:
- 423.1. a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - 423.2. the employee or employees advise the employer of the identity of the representative.

Major change

424. In this clause, a major change is likely to have a significant effect on employees if it results in, for example:
- 424.1. the termination of the employment of employees; or
 - 424.2. major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
 - 424.3. the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - 424.4. the alteration of hours of work; or
 - 424.5. the need to retrain employees; or

- 424.6. the need to relocate employees to another workplace; or
 - 424.7. the restructuring of jobs.
425. The following additional consultation requirements in clauses 426 to 432 apply to a proposal to introduce a major change referred to in clause 419.3.
426. Consultation with employees and the relevant union(s) and/or recognised representatives will occur prior to a decision being made, subject to clause 420.
427. Where practicable, an OAIC change manager or a primary point of contact will be appointed and their details provided to employees and the relevant union(s) and/or their recognised representatives.
428. The OAIC must notify employees and relevant union(s) and/or recognised representatives of the proposal to introduce the major change as soon as practicable.
429. As soon as practicable after proposing the change, or notifying of the change in circumstances described at clause 420, the OAIC must:
- 429.1. discuss with affected employees and relevant union(s) and/or other recognised representatives:
 - 429.1.1. the proposed change;
 - 429.1.2. the effect the proposed change is likely to have on the employees; and
 - 429.1.3. proposed measures to avert or mitigate the adverse effect of the proposed change on the employees; and
 - 429.2. for the purposes of the discussion – provide, in writing, to employees and the relevant union(s) and/or other recognised representatives:
 - 429.2.1. all relevant information about the proposed change, including the nature of the change proposed; and
 - 429.2.2. information about the expected effects of the proposed change on the employees; and
 - 429.2.3. any other matters likely to affect the employees.
430. The OAIC must give prompt and genuine consideration to matters raised about the major change by employees and the relevant union(s) and/or other recognised representatives.
431. However, the OAIC is not required to disclose confidential or commercially sensitive information to employees and the relevant union(s) and/or other recognised representatives.
432. If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the OAIC, the requirements set out in clauses 426 to 430 are taken not to apply.

Change to regular roster or ordinary hours of work

433. The following additional consultation requirements in clauses 434 to 437 apply to a proposal to introduce a change referred to in clause 419.5.

434. The OAIC must notify affected employees and the relevant union(s) and/or other recognised representatives of the proposed change.
435. As soon as practicable after proposing to introduce the change, the OAIC must:
- 435.1. discuss with employees and the relevant union(s) and/or other recognised representatives:
 - 435.1.1. the proposed introduction of the change; and
 - 435.2. for the purposes of the discussion – provide to the employees and relevant union(s) and/or other recognised representatives:
 - 435.2.1. all relevant information about the proposed change, including the nature of the proposed change; and
 - 435.2.2. information about what the employer reasonably believes will be the effects of the proposed change on the employees; and
 - 435.2.3. information about any other matters that the employer reasonably believes are likely to affect the employees; and
 - 435.3. invite employees and the relevant union(s) and/or other recognised representatives to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities). However, the OAIC is not required to disclose confidential or commercially sensitive information to the relevant employees and the relevant union(s) and/or other recognised representatives.
436. The OAIC must give prompt and genuine consideration to matters raised about the proposed change by the employees and the relevant union(s) and/or other recognised representatives.

Interaction with emergency management activities

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

Agency consultative committee

438. The Australian Information Commissioner may establish an agency consultative committee known as the OAIC consultation forum (OCF) to discuss relevant workplace matters, including:
- 438.1. proposed changes to its terms of reference;
 - 438.2. issues relating to the implementation of this Agreement; and
 - 438.3. policies and guidelines relating to working arrangements.
439. The OCF will meet every 6 months on dates set in advance. Extra meetings may be convened when necessary to consult.
440. The OCF will operate subject to an agreed terms of reference and structure for the term of the Agreement. Representation on the OCF will be in accordance with the terms of reference.

APS consultative committee

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

Dispute resolution

442. If a dispute relates to:

442.1. a matter arising under the Agreement; or

442.2. the NES;

this term sets out procedures to settle the dispute.

443. An employee or union who is covered by this Agreement may initiate and/or be a party to a dispute under this term.

444. An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term. Representatives will be recognised and dealt with in good faith.

445. Parties to the dispute must attempt to resolve the dispute at the workplace level, by discussion between the employee or employees and relevant managers. Parties to the dispute will notify higher level managers to assist in the resolution of the dispute. Parties will give genuine consideration to proposals to resolve the dispute.

446. If a dispute about a matter arising under this Agreement is unable to be resolved at the workplace level, and all appropriate steps under clause 445 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.

447. The Fair Work Commission may deal with the dispute in 2 stages:

447.1. the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and

447.2. if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:

447.2.1. arbitrate the dispute; and

447.2.2. make a determination that is binding on the parties.

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

448. While the parties are attempting to resolve the dispute using the procedures in this term:

448.1. an employee must continue to perform their work as they would normally in accordance with established custom and practice at the OAIC that existed

immediately prior to the dispute arising unless they have a reasonable concern about an imminent risk to their health or safety; and

448.2. subject to clause 448.1, an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:

448.2.1. the work is not safe; or

448.2.2. applicable work health and safety legislation would not permit the work to be performed; or

448.2.3. the work is not appropriate for the employee to perform; or

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

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

450. Any disputes arising under the Office of the Australian Information Commissioner Enterprise Agreement 2016-2019 or the NES that were formally notified under clause 9 of that agreement before the commencement of this Agreement, that remain unresolved at the date of commencement of this Agreement, will be progressed under the dispute resolution procedures in this Agreement.

Leave of absence to attend proceedings

451. Where the provisions of clauses 442 to 446 have been complied with, and to assist in the resolution of the matter, the employee, and/or the union delegate or other employee representative referred to in clause 444 or employee required to provide evidence, will be granted paid time to attend dispute resolution processes and proceedings in the Fair Work Commission arising from referral of the matter in clause 446.

Delegates' rights

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

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

454. The Oaic and union delegates will work together respectfully and collaboratively.

Supporting the role of union delegates

455. The Oaic respects the role of union delegates to:

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

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

455.3. represent the interests of members to the employer and industrial tribunals; and

- 455.4. represent members at relevant union forums, the OCF (as established under clause 438) or bargaining.
- 456. The OAIC and union delegates recognise that undertaking the role of a union delegate is not the primary purpose of an employee's engagement, and must work with and not unreasonably impact their regular duties. Honorary officials may request additional time and facilities from time to time.
- 457. Union delegates will be provided with reasonable paid time during their normal working hours to perform their union delegate role. The paid time provided should not result in disruption to critical services or operational requirements.
- 458. To support the role of union delegates, the OAIC will, subject to legislative and operational requirements, including privacy and security requirements:
 - 458.1. provide union delegates with reasonable access to OAIC facilities and resources, including for paid or unpaid meetings between employees and their unions and to communicate with union officials;
 - 458.2. advise union delegates and other union officials of the OAIC facilities and resources available for their use, which may include telephone, photocopying, internet, and email;
 - 458.3. allow reasonable official union communication appropriate to the OAIC from union delegates with employees, including through email, intranet pages and notice boards. This may include providing a link to a union website for employees to access union information. Any assistance in facilitating email communications does not include an agency vetoing reasonable communications;
 - 458.4. provide access to new employees as part of induction; and
 - 458.5. provide reasonable access to union delegates to attend appropriate paid time training in workplace relations matters, during normal working hours.
- 459. Where APS employees are elected as officials of a trade union or professional association, they are not required to seek permission from the workplace or OAIC before speaking publicly in that capacity, subject to the APS Code of Conduct and legislative requirements.

Section 11: Separation and retention

Resignation

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

Payment on death of an employee

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

Redeployment, retraining, redundancy

Legislation

- 464. The legislative basis for certain action relating to the management of excess employees may be found in the PS Act, specifically:
 - 464.1. section 23, relating to reducing an employee's classification;
 - 464.2. section 25, assignment of duties;
 - 464.3. section 27, the Public Service Commissioner's power to move an excess employee to another agency; and
 - 464.4. section 29, termination of employment.

Excess employee

- 465. The procedure for handling excess employees set out below applies to all employees except:
 - 465.1. an ongoing employee who is on probation; and
 - 465.2. a non-ongoing employee.

466. When the OAIC is aware that an employee is likely to become excess, the Australian Information Commissioner will advise the employee of the situation at the earliest practicable time. An employee is an excess employee if:
- 466.1. the OAIC has a greater number of employees than is necessary for the effective performance of a particular role or function within the OAIC;
 - 466.2. the services of the employee cannot be effectively used because of technological or other changes in the work methods of the OAIC or changes in the nature, extent or organisation of the functions of the OAIC; or
 - 466.3. where the duties usually performed by the employee are to be performed at a different locality, the employee is not willing to perform duties at the locality and the OAIC has determined that the provisions of this clause will apply to that employee.

Consultation process

467. The Australian Information Commissioner will hold discussions with an excess employee to consider:
- 467.1. measures that could be taken to resolve the situation, including redeployment opportunities for the employee, at or below level, within or outside the OAIC;
 - 467.2. whether termination of employment (voluntary redundancy) might be appropriate; and
 - 467.3. where the employee chooses a representative, the Australian Information Commissioner will hold the discussions with the employee's representative.
468. The maximum period of time allowed for consultations should be one month (4 weeks) unless a lesser period is agreed to.

Early separation

469. Where an employee is likely to be the subject of action under these provisions, the Australian Information Commissioner may provide to that employee an early separation opportunity.
470. This option provides for separation to occur within 14 days of the employee being advised that they are excess under clause 466.
471. It attracts an additional payment of 8 weeks salary (or 10 weeks for an employee over 45 years of age with at least 5 years continuous service), over and above any other amount paid on separation in accordance with clauses 478 to 481.
472. The payment is in lieu of the time that may have reasonably been expected to elapse for the purposes of the consultation, consideration periods and notice periods.

Separation with consent

473. Where an employee is advised in writing that they are excess and that it is proposed to terminate the employee in accordance with section 29 of the PS Act, the employee will have a maximum period of one month to consider their position and provide their consent to the termination of their employment or request redeployment assistance.

474. The Australian Information Commissioner will not give an employee notice of termination of their employment under section 29 of the PS Act until the expiration of that one-month period (unless the employee requests an earlier termination of employment date within that one-month period).
475. Within that month, unless agreed otherwise, an employee consenting to termination of employment must be given all the relevant financial information, including:
- 475.1. amount of redundancy pay, pay in lieu of notice and cashable leave credits;
 - 475.2. amount of accumulated superannuation contributions;
 - 475.3. options open to the employee concerning superannuation;
 - 475.4. taxation rules applying to the various payments; and
 - 475.5. assistance up to a maximum of \$800 for financial advice and career counselling, reimbursed on production of receipts.
476. The employee is only entitled to receive one offer of voluntary retirement.

Redundancy benefit

477. Where the provisions of this clause provide for less than the NES, the NES will prevail.
478. An excess employee who agrees to be voluntarily retrenched and whose employment is terminated by the Australian Information Commissioner under section 29 of the PS Act on the grounds that they are excess to requirements is entitled to be paid a sum equal to two weeks salary for each completed year of continuous service, plus a pro-rata payment for completed months of service since the last completed year of service, subject to any minimum amount the employee is entitled to under the NES.
479. The minimum sum payable will be 4 weeks salary and the maximum will be 48 weeks salary.
480. The redundancy benefit will be calculated on a pro-rata basis for any period where an employee has worked part-time hours during their period of service and the employee has less than 24 years full-time service.
481. For the purpose of calculating payment, salary will include:
- 481.1. the employee's salary;
 - 481.2. the salary including higher duties, where the employee has been receiving higher duties allowance for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of termination of employment; and
 - 481.3. other allowances in the nature of salary which are paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.

Period of notice

482. Where the excess employee agrees to be voluntarily retrenched the Australian Information Commissioner may terminate the employment of the employee by giving the required notice

of termination of employment under section 29 of the PS Act. The period of notice will be 4 weeks (or 5 weeks for an employee over 45 years of age with at least 5 years of continuous service).

483. Where an employee's employment is terminated at the beginning of or within the notice period, the employee will receive payment in lieu of notice for the unexpired portion of the notice period. This amount is additional to any redundancy benefit payment.

Periods of service

484. For earlier periods of service to count there must be no breaks between the periods of service, except where:

- 484.1. 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
- 484.2. the earlier period of service was with the APS and ceased because the employee was deemed to have resigned from the APS on marriage under the then section 49 (as repealed in 1966) of the repealed *Public Service Act 1922*.

485. Subject to clause 484 service for redundancy pay purposes means:

- 485.1. service with the OAIC;
- 485.2. Government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
- 485.3. service with the Commonwealth (other than service with a joint Commonwealth-State body corporate in which the Commonwealth has a controlling interest) which is recognised for long service leave purposes;
- 485.4. service with the Australian Defence Forces;
- 485.5. APS service immediately preceding deemed resignation under the then section 49 (as repealed in 1966) of the repealed *Public Service Act 1922*, if the service has not previously been recognised for severance pay purposes; and
- 485.6. service in another organisation where an employee was transferred from the APS to that organisation with a transfer of function, or an employee engaged by that organisation on work within a function, is appointed as a result of the transfer of that function to the APS and such service is recognised for long service leave purposes. Note: transfer means the movement to a new agency under the PS Act.

486. Any period of service which ceased through termination of employment on the following grounds will not count as service for redundancy pay purposes:

- 486.1. the employee lacks, or has lost an essential qualification for performing their duties;
- 486.2. non-performance, or unsatisfactory performance of duties;
- 486.3. inability to perform duties because of physical or mental incapacity;
- 486.4. failure to satisfactorily complete an entry level training course;

- 486.5. failure to meet a condition imposed under sub-section 22(6) of the PS Act, including probation;
 - 486.6. a breach of the Code of Conduct;
 - 486.7. for a reason equivalent to a reason listed above at clauses 485.1 to 485.6 under the repealed *Public Service Act 1922*;
 - 486.8. any other ground prescribed by the *Public Service Regulations 1999*;
 - 486.9. through voluntary retrenchment at or above the minimum retiring age applicable to the employee; and
 - 486.10. payment of a redundancy benefit or similar payment or an employer financed retirement benefit.
487. Absences from work which do not count as service for long service leave purposes will not count as service for severance pay purposes.

Redeployment

488. This clause is intended to provide an employee with far more intensive and immediate redeployment assistance.
489. The OAIC will assist employees throughout the redeployment process by providing reasonable expenses and time off to attend necessary employment interviews where the costs are not met by the prospective employer.
490. If an excess employee wishes to be redeployed rather than consent to termination of employment, the OAIC will take all reasonable steps, consistent with the efficient management of the OAIC, to assign duties to that employee in accordance with section 25 of the PS Act.
491. In the first instance, this placement will be handled within the OAIC.
492. The OAIC may also choose to offer the services of a selected outplacement/career management provider at any point in the process (on and from the point the employee is advised that they are likely to become excess).
493. The OAIC will give excess employees the option of seeking redeployment in the APS in accordance with any APS wide redeployment arrangements in place at the time.
494. The redeployment process commences from the date the employee is advised, in writing, that they are an excess employee.
495. Where the Australian Information Commissioner is satisfied that there is insufficient productive work available for the employee within the OAIC during the remainder of their redeployment period, the Australian Information Commissioner may, with the agreement of the employee, terminate the employee's employment under section 29 of the PS Act and pay an agreed lump sum not greater than the salary which would be payable for the balance of the redeployment period.
496. If redeployment has not proven to be a successful option, an employee can consent to termination at the end of the first 2 month period, in preference to continuing redeployment action. If an employee consents to termination of employment at this point and this

employment is terminated by the OAIC under section 29 of the PS Act on the grounds they are excess to requirements, they will be eligible to receive the full redundancy benefit as specified at clauses 478 and 479.

Salary maintenance

497. Where the OAIC reduces the classification of an employee under section 23 of the PS Act, salary maintenance will be applied from the date of reduction in classification for a period of 6 months. Salary maintenance will be calculated on the basis of the employee's regular and ongoing salary.

Involuntary termination of employment

498. If after 3 months from the date an employee has been notified in writing under clause 473 that they are an excess employee:
- 498.1. the OAIC has been unable to assign duties to the employee (at or below level) despite having taken all reasonable steps to do so;
 - 498.2. the employee has not consented to termination of employment,
- the Australian Information Commissioner may decide to involuntarily terminate the employment of the excess employee under section 29 of the PS Act.
499. An excess employee cannot have their employment terminated involuntarily unless they have rejected the opportunity to provide their consent to their termination of employment.
500. Employees whose employment has been terminated involuntarily by the Australian Information Commissioner under section 29 of the PS Act will receive the same entitlements on termination as employees who consent to termination of employment except that the redundancy benefit will be reduced to account for salary payments received during the redeployment period. The reduction in the amount of the redundancy benefit cannot be more than half the amount the employee would have received if they had provided their consent to termination of their employment subject to any minimum amount the employee is entitled to under the NES.
501. If an employee is entitled to a redundancy period under the NES, the redeployment/retention period at clause 498 will be reduced by the employee's redundancy pay entitlement under the NES on termination, calculated as at the expiration of the retention period (as adjusted by this clause).

Attachment A – Base salaries

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Classification	Salary levels	As at 31 August 2023	From the later of commencement of the agreement or 14 March 2024	From 13 March 2025	From 12 March 2026
APS1	APS1.1	\$50,158	\$52,164	\$54,516	Employees progress directly to APS 1.2
	APS1.2	\$50,922	\$52,959	\$54,971	\$57,497
	APS1.3	\$52,300	\$54,392	\$56,459	\$58,379
	APS1.4	\$55,862	\$58,096	\$60,304	\$62,354
APS2	APS2.1	\$57,290	\$59,582	\$61,846	\$63,949
	APS2.2	\$58,794	\$61,146	\$63,470	\$65,628
	APS2.3	\$60,323	\$62,736	\$65,120	\$67,334
	APS2.4	\$61,831	\$64,304	\$66,748	\$69,017
APS3	APS3.1	\$63,508	\$66,048	\$68,558	\$70,889
	APS3.2	\$65,157	\$67,763	\$70,338	\$72,729
	APS3.3	\$66,812	\$69,484	\$72,124	\$74,576
	APS3.4	\$68,544	\$71,286	\$73,995	\$76,820
APS4	APS4.1	\$73,033	\$75,954	\$78,840	\$81,521
	APS4.2	\$74,525	\$77,506	\$80,451	\$83,186
	APS4.3	\$76,050	\$79,092	\$82,097	\$84,888
	APS4.4	\$77,600	\$80,704	\$83,771	\$86,619
APS5	APS5.1	\$81,420	\$84,677	\$87,895	\$90,883
	APS5.2	\$82,951	\$86,269	\$89,547	\$92,592
	APS5.3	\$84,510	\$87,890	\$91,230	\$94,332
	APS5.4	\$86,077	\$89,520	\$92,922	\$96,829
APS6	APS6.1	\$89,781	\$93,372	\$96,920	\$100,215
	APS6.2	\$92,709	\$96,417	\$100,081	\$103,484
	APS6.3	\$95,731	\$99,560	\$103,343	\$106,857
	APS6.4	\$98,866	\$102,821	\$106,728	\$110,357
	APS6.5	New pay point added in 2026			\$111,702
EL1	EL1.1	\$113,148	\$117,674	\$122,146	\$126,299
	EL1.2	\$115,716	\$120,345	\$124,918	\$129,165
	EL1.3	\$118,343	\$123,077	\$127,754	\$132,098
	EL1.4	\$121,035	\$125,876	\$130,659	\$135,101
EL2	EL2.1	\$131,425	\$136,682	\$141,876	\$146,700
	EL2.2	\$137,340	\$142,834	\$148,262	\$153,303
	EL2.3	\$143,521	\$149,262	\$154,934	\$160,202
	EL2.4	\$149,988	\$155,988	\$161,916	\$167,421

Attachment B – Supported Wage System

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

Definitions

2. In this schedule:

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

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

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

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

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

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

Eligibility criteria

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

Supported wage rates

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

Table 4 Applicable percentage of relevant minimum wage paid to applicable employees

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

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

Assessment of capacity

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

Lodgement of SWS wage assessment agreement

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

Review of assessment

12. The assessment of the applicable percentage should be subject to annual review or more frequent review on the basis of a reasonable request for such a review. The process of

review must be in accordance with the procedures for assessing capacity under the supported wage system.

Other terms and conditions of employment

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

Workplace adjustment

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

Trial period

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

THE FAIR WORK COMMISSION

FWC Matter No.: AG2024/476

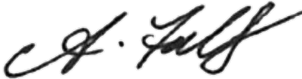
Applicant: Commonwealth of Australia as represented by the Office of the Australian Information Commissioner

Section 185 – Application for approval of a single enterprise agreement

Undertaking – Section 190

I, Angelene Falk, Australian Information Commissioner, on behalf of the Commonwealth of Australia as represented by the Office of the Australian Information Commissioner give the following undertaking with respect to the *Office of the Australian Information Commissioner Enterprise Agreement 2024-2027* ("the Agreement"):

1. The Australian Information Commissioner will record the following matters in writing for a part-time employee before the part-time arrangement commences:
 - a. the ordinary hours the employee will work each week; and
 - b. the pattern of hours to be worked including starting and finishing times for employees other than shiftworkers, within the limits of the bandwidth outlined in clause 103 of the Agreement. The pattern of hours will provide for no less than three hours per day, or an alternative period agreed.
2. If a part-time employee is directed by the Australian Information Commissioner to work hours in addition to the ordinary hours recorded in writing under paragraph 1 of this Undertaking, the employee will be entitled to overtime in accordance with clauses 121 to 135 of the Agreement.
3. An employee whose substantive classification is APS1 to APS6 and who is directed to perform the duties of a higher classification for a period of half a day or more will be paid a higher duties allowance in accordance with clause 57 of the Agreement. Where the employee is directed to perform higher duties for a period of half a day, they will be paid for the full day.
4. An employee whose substantive classification is at or above EL1 and who is directed to perform the duties of a higher classification for a period of one week or more will be paid a higher duties allowance in accordance with clause 57 of the Agreement.
5. A shiftworker is an employee who is rostered to perform ordinary hours of work outside the bandwidth outlined in clause 103 of the Agreement for an ongoing or fixed period.

Signature  _____

Date 15 March 2024