



# DECISION

*Fair Work Act 2009*  
s.185—Enterprise agreement

**Commonwealth of Australia represented by the Department of Human Services T/A Department of Human Services**  
(AG2018/4613)

## **DEPARTMENT OF HUMAN SERVICES MEDICAL OFFICERS AGREEMENT 2018-2021**

Commonwealth employment

DEPUTY PRESIDENT KOVACIC

CANBERRA, 10 JANUARY 2019

*Application for approval of the Department of Human Services Medical Officers Agreement 2018-2021.*

[1] An application has been made for approval of an enterprise agreement known as the *Department of Human Services Medical Officers Agreement 2018-2021* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Commonwealth of Australia represented by the Department of Human Services T/A Department of Human Services. The Agreement is a single enterprise agreement.

[2] Subject to concerns that have been addressed by way of undertakings, I am satisfied that each of the requirements of ss.186, 187 and 188 of the Act as are relevant to this application for approval have been met.

[3] As noted, pursuant to s.190(3), I have accepted undertakings from the employer. In accordance with s.191(1) of the Act the undertakings are taken to be a term of the Agreement. A copy of the undertakings are attached to this decision.

[4] 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) I note that the Agreement covers the organisation.

[5] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 17 January 2019. The nominal expiry date of the Agreement is 17 January 2022.



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## Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.:  
**AG2018/4613**

Applicant:

Commonwealth of Australia, represented by the Department of Human Services

Section 185 – Application for approval of a single enterprise agreement

### Undertakings - Section 190

I, **Renée Leon, Secretary for the Department of Human Services** ("the Department") give the following undertakings with respect to the **Department of Human Services Medical Officers Agreement 2018-2021** ("the Agreement"):

1. I have the authority given to me by section 57 of the *Public Service Act 1999* (Cth) to provide these undertakings in relation to the application before the Fair Work Commission.
2. In relation to annual leave and clauses F2.1 and F5.2 of the Agreement, these clauses will be read and interpreted in conjunction with the National Employment Standards ("NES") as contained in the *Fair Work Act 2009* (Cth). Where there is an inconsistency between the application of these clauses in the Agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.
3. In relation to clause E3.1 of the Agreement, a "settlement period" is a period of four weeks. Therefore, pursuant to this clause, full time employees will work 150 hours per four-week period as their ordinary hours of duty, equating to ordinary weekly hours of 37.5 hours per week. Further, in accordance with section 62 of the *Fair Work Act 2009* (Cth), the Department will not request or require an employee to work more than a maximum of 38 hours per week unless the additional hours are reasonable.
4. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Signature

14/12/18

Date

# DEPARTMENT OF HUMAN SERVICES MEDICAL OFFICERS AGREEMENT 2018-2021

**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 the agreement.**

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## **PART A SCOPE OF AGREEMENT**

### **A1 TITLE**

- A1.1 This Agreement will be known as the *Department of Human Services Medical Officers Agreement 2018-2021*.
- A1.2 Throughout this document, it will be referred to as "this Agreement".

### **A2 PARTIES TO THIS AGREEMENT**

- A2.1 This Agreement covers:
- (a) the Secretary of the Department of Human Services ("the department"), for and on behalf of the Commonwealth of Australia as the employer; and
  - (b) persons employed by the department, at a classification of Medical Officer 2, Medical Officer 3, Medical Officer 4.
  - (c) Subject to notice being given in accordance with section 183 of the Fair Work Act 2009, the following employee organisation which was a bargaining representative for this Agreement:
    - (i) The Community and Public Sector Union (CPSU)

- A2.2 This Agreement does not cover Senior Executive Service employees and their equivalents.

### **A3 OPERATION OF THIS AGREEMENT**

- A3.1 This Agreement is made under section 172 of the *Fair Work Act 2009*.
- A3.2 This Agreement will commence seven days after it is approved by the Fair Work Commission.
- A3.3 The nominal expiry date of this Agreement will be the date that is three years after the date of commencement.

### **A4 CLOSED COMPREHENSIVE AGREEMENT**

- A4.1 The terms and conditions of employment of the employees covered by this Agreement, other than terms and conditions applying under relevant Commonwealth laws, are stated in this Agreement.
- A4.2 This Agreement will be supported by policies and guidelines, as implemented and amended from time to time. Policies and guidelines will not form part of this Agreement. To the extent that there is any inconsistency between policies or guidelines and the express terms of this Agreement, this Agreement will prevail. Clause A7 requires the Secretary to consult with employees and where



they choose their representatives, where a definite decision is made to amend or introduce a policy which introduces a major change as outlined in clause A7.

- A4.3 Prior to a HR policy being amended or introduced, the department will make the policy available on the intranet for comment and feedback for a period of at least two weeks. The department will consider any comments or feedback received in relation to the policy prior to finalising the policy.

## **A5 DELEGATION**

- A5.1 The Secretary may, in writing, delegate or authorise any person to perform any of the Secretary's powers or functions under this Agreement.
- A5.2 Delegation and authorisation instruments will be published on the department's intranet pages as soon as practicable after being signed by the Secretary.

## **A6 INDIVIDUAL FLEXIBILITY ARRANGEMENT**

- A6.1 The Secretary and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of this Agreement if:
- (a) the arrangement deals with one or more of the following matters:
    - (i) arrangements about when work is performed, overtime rates and/or penalty rates;
    - (ii) allowances;
    - (iii) remuneration; and/or
    - (iv) leave;
  - (b) the arrangement meets the genuine needs of the Secretary and employee in relation to one or more of the matters mentioned in paragraph (a); and
  - (c) the arrangement is genuinely agreed to by the Secretary and the employee.
- A6.2 The Secretary must ensure that the terms of the individual flexibility arrangement:
- (a) are about permitted matters under section 172 of the *Fair Work Act 2009*;
  - (b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
  - (c) result in the employee being better off overall than the employee would be if no arrangement was made.
- A6.3 The Secretary must ensure that the individual flexibility arrangement:
- (a) is in writing;
  - (b) includes the name of the Secretary and the employee;
  - (c) is signed by the Secretary and the employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
  - (d) includes details of:
    - (i) the terms of the enterprise agreement that will be varied by the arrangement;
    - (ii) how the arrangement will vary the effect of the terms;

- (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
- (iv) states the day on which the arrangement commences, and where relevant, the day on which the arrangement ceases.

A6.4 The Secretary must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

A6.5 The Secretary or employee may terminate the individual flexibility arrangement:

- (a) by giving no more than 28 days' written notice to the other party to the arrangement;  
or
- (b) if the employer and employee agree in writing, at any time.

## **A7 CONSULTATION**

A7.1 In this clause A7, a reference to a 'relevant employee' means an employee who may be affected by the major change.

A7.2 If a definite decision is made to introduce a major change to programme, organisation, structure or technology in relation to the department that is likely to have a significant effect on employees, the Secretary will:

- (a) notify the relevant employees of the decision;
- (b) discuss with the relevant employees, as soon as practicable after making the decision:
  - (i) the introduction of the change;
  - (ii) the effect the change is likely to have on the employees; and
  - (iii) the measures being taken to avert or mitigate the adverse effect of the change on the employees; and
- (c) for the purposes of those discussions, provide in writing to the relevant employees:
  - (i) all relevant information about the change, including the nature of the change proposed;
  - (ii) information about the expected effects of the change on the employees; and
  - (iii) information about any other matters likely to affect the employees.

- A7.3 The Secretary is not required to disclose confidential or commercially sensitive information.
- A7.4 The relevant employees may appoint a representative to represent them under this clause A7. Subject to informing the Secretary of the identity of the representative, the Secretary will recognise the representative.
- A7.5 The Secretary must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- A7.6 If a term in this agreement provides for a major change to production, programme, organisation, structure or technology in relation to the department, the requirements set out in paragraph A7.2 and subclauses A7.4 and A7.5 are taken not to apply.
- A7.7 For the purposes of this clause A7, a major change is likely to have a significant effect on employees if it results in:
- (a) the termination of the employment of employees;
  - (b) major change to the composition, operation or size of the department's workforce or to the skills required of employees;
  - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure);
  - (d) the alteration of hours of work;
  - (e) the need to retrain employees;
  - (f) the need to relocate employees to another workplace; or
  - (g) the restructuring of jobs.

## **A8 CONSULTING ON CHANGES TO REGULAR OR ORDINARY HOURS OF WORK**

- A8.1 In this clause A8, a reference to a 'relevant employee' means an employee who may be affected by the change referred to.
- A8.2 If the Secretary proposes to introduce a change to the regular or ordinary hours of work of employees, the Secretary will:
- (a) notify the relevant employees of the proposed change
  - (b) discuss the introduction of the change with the relevant employees, as soon as practicable after proposing to introduce the change;
  - (c) for the purposes of those discussions, provide to the relevant employees:
    - (i) all relevant information about the change, including the nature of the change proposed; and
    - (ii) information about what the department reasonably believes will be the effect on the employees; and
    - (iii) information about any other matters that the department reasonably believes is likely to affect the employees; and
  - (d) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

- A8.3 The Secretary is not required to disclose confidential or commercially sensitive information.
- A8.4 The relevant employees may appoint a representative to represent them under this clause A8. Subject to informing the Secretary the identity of the representative, the Secretary will recognise the representative.
- A8.5 The Secretary must give prompt and genuine consideration to matters raised about the change by the relevant employees.

#### **A9 NATIONAL CONSULTATIVE COMMITTEE**

- A9.1 The National Consultative Committee (NCC) provides a forum to consult with employees, including Medical Officers, and, where they choose, their representatives about workplace changes, consistent with clause A7.
- A9.2 The department recognises that genuinely consulting with employees and their representatives about matters that affect employees in the workplace is of benefit both to the department and employees. In addition to consultation with the NCC, the department may consult directly with employees, and where they choose their representatives.

#### **A10 DISPUTE RESOLUTION PROCEDURE**

- A10.1 If a dispute relates to:
- (a) a matter arising under the Agreement; or
  - (b) the National Employment Standards;
- this clause sets out procedures to settle the dispute.
- A10.2 An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this clause.
- A10.3 In the first instance, the parties to the dispute must genuinely and in good faith attempt to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.
- A10.4 If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to Fair Work Commission.
- A10.5 The Fair Work Commission may deal with the dispute in 2 stages:
- (a) the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
  - (b) if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
    - (i) arbitrate the dispute; and
    - (ii) make a determination that is binding on the parties.
- Note: If Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Fair Work Act 2009. A decision that the Fair Work Commission makes when arbitrating a dispute is a decision for the purposes of Division 3 of Part 5.1 of the Fair Work Act 2009. Therefore, an appeal may be made against the decision.*

A10.6 While the parties are trying to resolve the dispute using the procedures in this clause:

- (a) an employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
- (b) an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
  - (i) the work is not safe; or
  - (ii) applicable occupational health and safety legislation would not permit the work to be performed; or
  - (iii) the work is not appropriate for the employee to perform; or
  - (iv) there are other reasonable grounds for the employee to refuse to comply with the direction.

A10.7 The parties to the dispute agree to be bound by a decision made by Fair Work Commission in accordance with this clause.

***Support for dispute resolution***

A10.8 Under this clause A10, the parties to the dispute will endeavour to resolve the dispute in a timely manner.

A10.9 Any disputes arising under the *Department of Human Services Medical Officers Agreement 2013-2014* or the National Employment Standards that were formally notified under clause A8 of that Agreement before the commencement of this Agreement and remain unresolved at the date of commencement of this Agreement, will be progressed under the dispute resolution procedures in this Agreement.

**A11 EMPLOYEE REPRESENTATION**

A11.1 The department respects the principles of freedom of association and recognises that it is every employee's right to freely decide whether or not to join and be represented by a union in workplace matters.

A11.2 The department recognises that an employee may, in matters concerning their employment as referenced throughout this Agreement, choose to have a representative of their choice to support or represent them. A representative requested by an employee to act in this capacity may include a union workplace delegate, an elected representative, or a work colleague. The department and the employee's nominated representative will deal with each other in good faith.

A11.3 Employee representatives play an important role in maintaining a positive workplace culture. The department recognises that employees who represent other staff do so in addition to their usual duties.

A11.4 The role of employee representatives, including union delegates and other non-union employee representatives, is to be respected and facilitated.

## **PART B REMUNERATION AND CLASSIFICATION**

### **B1 CLASSIFICATION STRUCTURE**

- B1.1 This Agreement provides for the classification structure outlined in Schedule 2 (Base salaries).

### **B2 PAYMENT OF SALARY**

- B2.1 Schedule 2 (Base salaries) sets out the minimum and maximum salary levels for each classification level. During the term of this Agreement, the minimum and maximum salary levels for each classification level will be adjusted to reflect the general salary increases provided under clause B5.
- B2.2 Where an employee's salary is adjusted in accordance with clause B5 or clause B6 of this Agreement, the employee's revised salary will be rounded up to the next highest dollar.
- B2.3 An employee's salary will be paid fortnightly by electronic funds transfer into a financial institution of the employee's choice. The applicable salary will be calculated by applying the following formula:

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

### **B3 SUPERANNUATION**

- B3.1 The department will make compulsory employer contributions as required by the applicable legislation and fund requirements.
- B3.2 The default superannuation scheme for new employees will be the Public Sector Superannuation accumulation plan (PSSap), however the department recognises choice of fund.
- B3.3 Employer contributions to the PSSap will be 15.4% of the employee's ordinary time earnings. Employer contributions for employees in other accumulation schemes will be at the same rate as for employees in PSSap. This clause B3 does not apply where a superannuation fund cannot accept employer superannuation contributions.
- B3.4 Employer superannuation contributions will not be paid on behalf of employees during periods of unpaid leave that do not count as service, unless otherwise prescribed by legislation.
- B3.5 The Secretary may choose to limit superannuation choice to complying superannuation funds that allow employee and employer contributions to be paid through fortnightly electronic funds transfer.

### **B4 SALARY SACRIFICE**

- B4.1 An employee may salary sacrifice up to 100% of their salary for non-cash items, consistent with departmental policy.
- B4.2 The employee will meet the costs of the salary sacrifice arrangement, including any fringe benefits tax and administrative costs incurred.
- B4.3 Salary sacrifice arrangements will not reduce salary for superannuation purposes or any other purpose.

### **B5 SALARY INCREASES**

- B5.1 Immediately following commencement of this Agreement, the salaries of eligible employees will increase by 3%.

- B5.2 The salaries of eligible employees will increase by 2% on the first anniversary of commencement of this Agreement.
- B5.3 The salaries of eligible employees will increase by 1% on the 18 month anniversary of commencement of this Agreement.
- B5.4 An employee is an 'eligible employee' for the purpose of subclauses B5.1, B5.2 and B5.3 if, at the time of the general salary increase under subclauses B5.1, B5.2 or B5.3 the employee's salary is equal to or less than the maximum salary level for their classification.
- B5.5 Where an employee is not an eligible employee under subclause B5.4 because their salary is above the maximum salary level for their classification, but an adjustment to the salary bands under subclauses B5.1, B5.2 or B5.3 results in the maximum salary for the relevant classification exceeding the employee's salary, then the employee's salary will be increased to the maximum salary level for their classification.
- B5.6 Where an employee's salary is increased to the maximum salary level for their classification under subclause B5.5 and the amount by which the employee's salary has increased is less than the annual salary increase (expressed as a percentage) provided under this clause B5, the employee will receive a fortnightly allowance in respect of the balance of the annual salary increase calculated by applying Formula 1 of Schedule 2 (Base salaries).
- B5.7 Where an employee's salary remains above the maximum salary level for their classification after adjustments to the salary bands under subclauses B5.1 or B5.2, the employee will receive a fortnightly allowance equal to the annual salary increase of their salary calculated by applying Formula 2 of Schedule 2 (Base salaries).
- B5.8 Subject to subclause B5.9, an allowance payable under subclause B5.6 or B5.7 will be payable for the following period (with a pro rata adjustment for any part fortnight):
- (a) an allowance payable in lieu of a salary increase under subclause B5.1– payable fortnightly from the date of commencement of this Agreement until the day prior to the first anniversary of the commencement of this Agreement inclusive; and
  - (b) an allowance payable in lieu of a salary increase under subclause B5.2 payable fortnightly from the first anniversary of the commencement of this Agreement until the day prior to the 18 month anniversary of the commencement of this Agreement inclusive; and .
  - (c) an allowance payable in lieu of a salary increase under subclause B5.3 – payable fortnightly from the 18 month anniversary of the commencement of this Agreement until the day prior to the third anniversary of this Agreement inclusive.
- B5.9 An allowance payable under this clause B5:
- (a) is taxable as ordinary remuneration;
  - (b) will be payable during periods of approved leave, but will not be payable during periods of unpaid leave or unauthorised absences;
  - (c) will be treated as an allowance in the nature of salary for the purposes of calculating a redundancy benefit under subclause I6.1;
  - (d) will not be payable during a period in which an employee receives temporary higher duties allowance under clause B8 or B9, but will be taken into account when determining the minimum amount of temporary higher duties allowance payable under subclause B8; and

- (e) will not count as salary for any other purpose under this Agreement, including (without limitation) for the purpose of calculating overtime payments under clause E6.

## **B6 SALARY ADVANCEMENT**

- B6.1 The performance cycle period will run from 1 July each year to 30 June in the following year.
- B6.2 Performance-based salary advancement will be applied from 1 September in each year.
- B6.3 An employee is an 'eligible employee' for the purpose of clause B6 if:
  - (a) they are:
    - (i) an ongoing employee, or
    - (ii) a non-ongoing employee with 12 months or more continuous service at 30 June in the relevant year ;
  - (b) they have performed duties at or above their classification level for an aggregate of at least 18 weeks during the relevant performance cycle; and
  - (c) they have had their performance in relation to each relevant classification level assessed as at least "Fully Effective" in accordance with clause H4.7.
- B6.4 An eligible employee will receive performance-based salary advancement at the employee's classification of 2.75% of the employee's salary.
- B6.5 Where an employee has performed duties at a higher classification for an aggregate period of at least 18 weeks within the performance cycle, the employee's salary for the purpose of subclause B6.4(a) will be increased by 2.75% of the employee's salary.
- B6.6 Any performance based salary advancement under B6.4 or B6.5 will not result in an employee's salary at the relevant classification exceeding the maximum salary level for that classification. Where performance based salary advancement would take an employee's salary above the maximum salary level for their classification, the employee's salary will be increased to the maximum salary level for their classification (and no higher).

## **B7 SALARY SETTING**

- B7.1 Where an employee:
  - (a) commences employment within the department;
  - (b) is promoted within the department; or
  - (c) transfers to the department from another APS agency,

the employee's salary will be set at the minimum salary level for their classification, unless the Secretary determines a higher salary, having regard to the employee's experience, qualifications and skills, and specific market factors.
- B7.2 Where the Secretary determines that an employee's salary has been incorrectly set under subclause B7.1, the Secretary may determine the correct salary.
- B7.3 Where an employee is promoted within the department the increase to ongoing salary will be at least \$1,000. The Secretary may approve a higher salary within the salary band in accordance with B7.1.



- B7.4 Where an employee transfers at level to the department from another APS agency and their salary is higher than the highest salary level for their classification, the Secretary may decide to maintain the employee's salary at that level, until it is absorbed into the salary band for that classification under this Agreement.
- B7.5 Where an employee moves to a lower classification, either temporarily or permanently, the Secretary will determine the employee's salary taking into account the employee's skills, experience and qualifications, and the reason(s) for the reduction in classification.
- B7.6 Where an employee's salary is maintained under subclause B7.4, that salary will be maintained subject to any reductions made in accordance with the *Public Service Act 1999*, or subclauses H6.9 or I8.5 of this Agreement.

## **B8 TEMPORARY HIGHER DUTIES AT THE NON-SES LEVEL**

- B8.1 An employee who temporarily undertakes duties at a higher classification for three cumulative or continuous working days or more will be paid a temporary higher duties allowance in accordance with this clause B8. Once eligibility is achieved, the employee will be back paid for the qualifying three day period.
- B8.2 Once an employee has become eligible for higher duties under subclause B8.1, they will remain eligible for higher duties undertaken by the employee within 12 months of the last day or part day of duties for which they became eligible for a temporary higher duties allowance. All periods of temporary duties must involve duties at the same higher classification level.
- B8.3 The temporary higher duties allowance will be equal to the difference between the employee's ongoing salary and the salary of the higher classification.
- B8.4 For the purposes of subclause B8.3, the salary of the higher classification will be the minimum salary for the higher classification, unless:
  - (a) the employee has obtained a particular salary through salary advancement at the higher classification and the employee has performed duties at or above that classification level in the previous two-year period, in which case:
    - (i) the employee will maintain access to that salary for any periods of temporary higher duties; and
    - (ii) the salary will be increased to reflect salary increases under subclauses B5.1, B5.2 and B5.3 provided the salary does not exceed the maximum salary level for the higher classification ; or
  - (b) the Secretary decides that a higher salary should apply having regard to the employee's experience, qualifications and skills.
- B8.5 Where the temporary higher duties allowance calculated under subclauses B8.3 and B8.4 would be equivalent to less than \$1,000 per annum, the employee will be paid temporary higher duties allowance calculated at a rate equivalent to \$1,000 per annum.
- B8.6 Subject to clauses B8.1 and B8.2, where an employee undertakes temporary higher duties for part of a day, they will receive payment of temporary higher duties allowance for a full day.
- B8.7 The allowance payable under this clause B8 will be treated as salary for all purposes unless otherwise excluded by this Agreement or relevant legislation.
- B8.8 An employee will continue to receive the allowance during periods of paid leave, if they would have continued to perform the temporary higher duties had they been at work.

**B8.9 Where:**

- (a) before the commencement of this Agreement, an employee has obtained a salary at the higher classification level as contemplated by subclause B8.4(a); and
- (b) that salary remains above the maximum salary level for their classification after adjustments to the salary bands under subclauses B5.1 and B5.2,

the employee will receive a fortnightly allowance equal to the annual salary increase (expressed as a percentage) calculated by applying Formula 3 in Schedule 2 (Base salaries) during any period in which the employee receives temporary higher duties allowance. The fortnightly allowance will be payable in accordance with subclauses B5.6 and B5.9 (with the exception of subclause B5.9(d)).

**B8.10 Where:**

- (a) before the commencement of this Agreement, an employee has obtained a salary at the higher classification level as contemplated by subclause B8.4(a); and
- (b) prior to the adjustment of salary bands under subclauses B5.1, B5.2 and B5.3 the employee's salary is above the maximum salary for the classification; but
- (c) an adjustment to the salary bands under subclauses B5.1, B5.2 and B5.3 results in the maximum salary for the higher classification exceeding the employee's salary at the higher classification;

the employee's salary will be increased to the maximum salary level for the higher classification.

**B8.11** Where an employee's salary at the higher classification is increased to the maximum level for the higher classification under subclause B8.10, and the amount by which the employee's salary at the higher classification has increased is less than the annual salary increase (expressed as a percentage) provided under clause B5, the employee will receive a fortnightly allowance in respect of the balance of the annual salary increase calculated by applying Formula 4 of Schedule 2 (Base Salaries). The fortnightly allowance will be paid in accordance with subclauses B5.6 and B5.9 (with the exception of B5.9 (d)), and will be paid during any period in which the employee receives temporary higher duties allowance.

**B8.12** Where a position has been filled on a temporary basis for 12 months and there is a need to continue to fill the position, the Secretary will assess whether the job is genuinely vacant where the employee performing the duties requests such an assessment, and determine whether it should be advertised for permanent filling.

**B9 TEMPORARY HIGHER DUTIES AT THE SES LEVEL**

**B9.1** Where an employee undertakes temporary duties at the SES level, the terms and conditions of their employment, including salary, will be determined by the Secretary.

## PART C ALLOWANCES AND REIMBURSEMENTS

### C1 FIRST AID OFFICER ALLOWANCE

- C1.1 Where an employee possesses a current first aid certificate, and has been appointed by the Secretary as a first aid officer in their workplace, the department will pay the employee a fortnightly allowance at the rates outlined in Table C1 (Rate 1).
- C1.2 Where the Secretary has determined that a workplace is a high risk workplace, an employee who is eligible for an allowance under clause C1.1 and has relevant qualifications for a high risk workplace will be entitled to a higher rate of fortnightly allowance at the rates outlined in Table C1 (Rate 2).

**Table C1**

Allowance	Rate per fortnight on commencement	From the first anniversary (per fortnight)	From the 18 month anniversary (per fortnight)
First aid (Rate 1)*	\$24.78	\$25.28	\$25.54
First aid (Rate 2)*	\$37.17	\$37.92	\$38.30

### C2 COMMUNITY LANGUAGE ALLOWANCE

- C2.1 An employee whose language competency is of the required standard may be paid an allowance by the department where:
- (a) there is a business need for the language skills to be used in the workplace, including for communication with customers, in languages other than English, including Aboriginal and Torres Strait Islander languages, AUSLAN and other deaf languages; and
  - (b) there is an identifiable and ongoing need, as determined by the Secretary, for the employee to use their language skills in the workplace for customers and/or employees.
- C2.2 A fortnightly allowance under this clause C2 will be paid at the rates outlined in Table C2, in accordance with the following:
- (a) where an employee is required to use particular language skills at least three times per month: Rate 1; or
  - (b) where an employee is required to use particular language skills at least eight times per month: Rate 2.

**Table C2**

Allowance	Rate per fortnight on commencement	From the first anniversary (per fortnight)	From the 18 month anniversary (per fortnight)
Community language allowance (Rate 1)	\$41.90	\$42.74	\$43.17

Community language allowance (Rate 2)	\$100.56	\$102.58	\$103.61
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### **C3 OFFICE DISTURBANCE ALLOWANCE**

- C3.1 The Secretary may approve payment of an appropriate allowance to an employee or group of employees who is/are subjected to detrimental effects from building activities or environmental effects in their place of work.

### **C4 OVERTIME MEAL ALLOWANCE**

- C4.1 An employee who is required to work a separate period of overtime, and the overtime commences prior to the start of an overtime meal period, and ends at or after the end of an overtime meal period, will be eligible for an overtime meal allowance in accordance with this clause C4.
- C4.2 Where an employee works a period of overtime continuous with their ordinary pattern of hours, regular hours or rostered hours of duty, and the overtime extends their working day past 7pm, or where the overtime is before the ordinary or rostered hours of duty and starts before 7am, the department will pay the employee an overtime meal allowance.
- C4.3 The meal allowance periods are as follows:
- (a) 7am to 8am;
  - (b) 12noon to 2pm;
  - (c) 6pm to 7pm;
  - (d) midnight to 1am.
- C4.4 Where an employee is entitled to receive travel allowance in respect of the relevant meal period, they will not be entitled to an overtime meal allowance.
- C4.5 The rate of allowance will be paid in accordance with the overtime meal rate in the relevant subscription service.

### **C5 CLINICAL PROFESSIONAL DEVELOPMENT REIMBURSEMENT**

- C5.1 An employee is eligible to be reimbursed for professional development expenses from 1 July to 30 June annually to assist in attaining and maintaining relevant and agreed skills and knowledge including relevant professional registration fees in accordance with this clause C5.
- C5.2 On commencement of this Agreement, the maximum annual reimbursement for professional development expenses under this clause C5 will be \$5,155.
- C5.3 The maximum annual reimbursement for professional development expenses under this clause C5 will be adjusted on:
- (a) the first anniversary of commencement of the Agreement in accordance with the educational group component of the Consumer Price Index (CPI) for September

Quarter 2017 to September Quarter 2018 published by the Australian Bureau of Statistics (ABS); and

- (b) the second anniversary of commencement of the Agreement in accordance with the educational group component of the CPI for September Quarter 2018 to September Quarter 2019 published by the ABS.

C5.4 The reimbursement of professional development expenses:

- (a) must be in respect of agreed and relevant expenses which must be approved by the employee's branch manager prior to the expense being incurred;
- (b) will not count as salary for superannuation purposes;
- (c) will not be paid out if the employee does not incur such professional development expenses within two years of the date on which the amount is credited;
- (d) will be paid to the employee in the form of payment of invoices or the reimbursement of receipted expenses.

C5.5 Each employee will be credited with five days' paid leave on 1 July each year that may be accessed for purposes associated with their professional development in accordance with the following conditions:

- (a) the purpose and timing of the leave to be taken by the employee for their professional development must be approved by the employee's branch manager; and
- (b) the leave must be taken within two years of being credited to the employee or the entitlement to take that period of leave will be lost.

C5.6 The reimbursement provided under clause C5.1 and the leave provided under clause C5.5 will be available on a pro-rata basis for employees commencing employment part way through a financial year.

## **C6 MOTOR VEHICLE ALLOWANCE**

C6.1 The Secretary may authorise the payment of an allowance to an employee who uses a private vehicle for official purposes.

C6.2 Where the use of a private vehicle is the more efficient or least expensive arrangement, the allowance under subclause C6.1 will be calculated and paid in accordance with the relevant subscription service.

C6.3 Where there is a more cost-effective option available for official travel, and an employee elects to travel by private vehicle, the rate of their allowance under subclause C6.1 will be limited to the cost of the more cost-effective option.

C6.4 Employees using a private motor vehicle for official travel who are entitled to a motor vehicle allowance will be reimbursed all associated fees, charges and tolls (parking fees, bridge, freeway, car-ferry tolls) and other expenses incurred on duty in addition to the motor vehicle allowance. Employees will be responsible for all speeding or parking fines and any other fines imposed by law when using their vehicle for official purposes.

C6.5 Where an employee has been authorised by the Secretary to use a private motor vehicle for official travel, and incurs additional registration and/or insurance charges as a result, the employee will be reimbursed the additional charges.

## **C7 REMOTE LOCALITIES ASSISTANCE**

- C7.1 The Secretary will approve assistance to employees working in remote localities in accordance with Schedule 3.

## **REIMBURSEMENT OF EXPENSES**

### **C8 LOSS OF OR DAMAGE TO PERSONAL ITEMS**

- C8.1 The Secretary may approve reimbursement to an employee of a reasonable amount to repair or replace clothing and/or personal effects where loss or damage occurs in the course of the employee's duties.
- C8.2 This clause C8 does not cover loss of or damage to a private vehicle.

### **C9 ADDITIONAL EXPENSES INCURRED ON OFFICIAL BUSINESS**

- C9.1 Where an employee is required to be absent from their usual place of work on official business and is not in receipt of a daily travel allowance, the Secretary may approve reimbursement to the employee of reasonable additional expenses, including fares and parking, incurred by the employee as a result of being absent from their usual place of work.

### **C10 SCHOOL HOLIDAY CARE ALLOWANCE**

- C10.1 The Secretary will approve payment of an allowance to an employee in respect of child care expenses incurred during school holiday periods where:
- (a) the employee has a child or children of school age;
  - (b) the employee works during the relevant school holiday period (or where an employee is incapacitated and accesses personal leave); and
  - (c) the employee provides receipts to demonstrate that expenses have been incurred in respect of the period for which the allowance is claimed, and those expenses have been incurred for child care provided by an approved child care provider.
- C10.2 The allowance under this clause C10 is payable at the rates outlined in Table C3 of this Agreement, for a maximum of eight weeks per calendar year.

**Table C3 – Rates for school holiday care allowance\***

	<b>Rate on commencement</b>	<b>Rate from first anniversary</b>	<b>Rate from 18 month anniversary</b>
School holiday (daily per child)	\$16.89	\$17.23	\$17.41
School holiday (weekly maximum for all children)	\$168.83	\$171.21	\$173.94

*\* The rates specified in Table C3 are net of taxation*

- C10.3 Where both parents of a child work for the department, only one partner will be eligible for reimbursement at any one time, and the allowance cannot be paid for more than eight weeks per year between the employees. The allowance is only payable when both parents are at work (or where an employee is incapacitated and accesses personal leave).
- C10.4 Where an employee's partner is eligible for and receives a similar child care benefit from their employer, the employee will not be eligible to receive this payment.

## **PART D TRAVEL AND RELOCATION**

### **D1 CLASS OF TRAVEL**

- D1.1 An employee required to travel in the course of their duties for official purposes will generally travel economy class while flying within Australia. The Secretary may approve the employee travelling business class in exceptional circumstances.
- D1.2 Where an employee is required to travel overseas for official purposes the Secretary may approve travel in business class.
- D1.3 For the purposes of this clause, "official purposes" does not include travel that forms part of the employee's professional development or is required to maintain a professional qualification.

### **D2 AIRLINE LOUNGE MEMBERSHIP**

- D2.1 Where an employee is required to undertake air travel on a regular basis in the course of their duties for official purposes, the Secretary may approve provision of an airline lounge membership. Administration of this arrangement will be supported by relevant policy.

### **D3 TRAVEL ALLOWANCES**

- D3.1 These provisions apply where an employee is required to be absent from their usual locality for official purposes.
- D3.2 Where an employee is required to be absent from their usual locality for one or more days, including an overnight stay, the Secretary will approve payment to the employee of a daily travel allowance, paid at the rates outlined in the relevant subscription service.
- D3.3 A daily travel allowance under subclause D3.2 will be payable for the first 21 consecutive days that an employee is absent from their usual locality. Thereafter, clause D5 of this Agreement will apply.
- D3.4 The meal and/or accommodation components of a daily travel allowance will not be payable where the relevant expense is met by the department or another organisation.
- D3.5 Where an employee chooses to stay in non-commercial accommodation, they will not be entitled to the accommodation component of a daily travel allowance. The Secretary will instead approve payment to the employee of a non-commercial accommodation allowance of:
- (a) a one-off payment of \$86 (taxable), to cover the first and second night in a locality; and
  - (b) \$45 (taxable) per night for the third night and any subsequent nights.

- D3.6 An employee may choose to waive part or all of their entitlement to travel allowances. This waiver must be provided in writing prior to the commencement of the travel.

### **D4 TRAVEL EXPENSES, FARES AND TRAVEL TIME**

#### ***Additional expenses***

- D4.1 Where an employee incurs additional child care expenses as a result of being required to travel for official purposes, the Secretary will approve reimbursement of reasonable additional expenses to the employee, where the employee provides suitable evidence of the additional expenses incurred.

- D4.2 Where the travel allowance paid to an employee under clause D3 of this Agreement is insufficient to cover reasonably incurred expenses while travelling, the Secretary will approve payment of an additional amount to the employee to cover these expenses, where suitable evidence of the additional expenses is provided by the employee.
- D4.3 Where an employee becomes ill while travelling for official purposes, and incurs additional expenses as a result of being unable to return home, the Secretary will approve reimbursement of actual expenses incurred, up to the rate of the daily travel allowance.

#### ***Fares***

- D4.4 Where an employee becomes critically or dangerously ill while absent from their usual place of work for official purposes, and a support person and/or dependent child or children travels to be with the employee, the Secretary will approve the reimbursement of reasonable fares incurred by the support person/child/children.
- D4.5 Where an employee is performing duties while absent from their usual place of work, and is granted either compassionate or bereavement leave in respect of a partner, parent, child or sibling of the employee or their partner, the Secretary will approve reimbursement to the employee for reasonable additional fares that would not have been incurred had the employee been located at their usual place of work.

#### ***Travel time***

- D4.6 An employee will be considered to be on duty:
- (a) while they are in direct transit; and
  - (b) while they are undertaking official business in the temporary locality.
- D4.7 When an employee spends time on personal matters, the employee is not considered to be on duty.

### **D5 REVIEWED RATE OF TRAVEL ALLOWANCE**

- D5.1 Where an employee is required to be absent from their usual locality on official business for at least 21 continuous days in a single location, they will be entitled to a reviewed rate of travel allowance for any periods beyond 21 days which may include:
- (a) reimbursement of reasonable expenses for rent or board at the temporary locality, subject to prescribed rental ceilings;
  - (b) reimbursement of reasonable additional costs incurred at the employee's usual locality because of their absence;
  - (c) a one-off, taxable payment of a household establishment allowance, at the following rates (depending on duration of the stay):

<b>Household establishment allowance</b>	<b>From commencement</b>	<b>From the 12 month anniversary</b>	<b>From the 18 month anniversary</b>
Rate 1 (21 – 36 days in a single location)	\$412.00	\$420.24	\$424.45
Rate 2 (more than 36 days in a single location)	\$825.03	\$841.54	\$849.96



- (d) a reunion fare at the completion of each full three-month period at the temporary locality, where the employee has dependents who have not accompanied the employee to the temporary locality;
- (e) the meals component of the daily travel allowance, where the Secretary agrees that the employee is unable to move out of hotel/motel accommodation, and that they do not have suitable kitchen facilities; and/or
- (f) travel and removal expenses for the employee and their dependents, where the employee is expected to work at the temporary locality for more than three months.

## **D6 RELOCATION**

D6.1 An employee who relocates from one locality to another as a result of:

- (a) a promotion; or
- (b) reassignment of duties or engagement determined by the Secretary to be in the interests of the department (including redeployment of an excess employee),

will be eligible to be paid reasonable relocation costs.

D6.2 The Secretary may approve payment of reasonable relocation costs to an employee who requests and receives approval to relocate for personal reasons.

D6.3 The Secretary may approve payment of the following allowances:

- (a) a one-off taxable payment of household establishment allowance, at the following rates:

<b>Household establishment allowance</b>	<b>From commencement</b>	<b>From the 12 month anniversary</b>	<b>From the 18 month anniversary</b>
<b>Rate</b>	\$825.03	\$841.54	\$849.96

and/or

- (b) where an employee is promoted or reassigned duties (but not on engagement), a one-off taxable payment of disturbance allowance, at the rates advised by the relevant subscription service.

D6.4 The Secretary may meet, or reimburse employees for reasonable costs of relocation on promotion, reassignment of duties or engagement.

D6.5 Where expenses are met or paid under this clause D6 and the employee then ceases employment with the Australian Public Service within 12 months of the relocation, the Secretary may decide to require the employee to repay up to 50% of the expenses paid under this clause D6. Amounts payable by an employee under this subclause D6.5 may, in accordance with a relevant Accountable Authority Instruction, be deducted from monies otherwise payable to the employee or recovered as a debt due to the Commonwealth.

## **PART E FLEXIBLE WORKING CONDITIONS**

### **ATTENDANCE AND HOURS OF DUTY**

#### **E1 GENERAL ATTENDANCE**

- E1.1 An employee must retain an accurate record of their attendance, including commencement, break and finish times and records of their leave or absences.
- E1.2 An employee will not work more than five hours continuously without a meal break of at least 30 minutes.

#### **E2 BANDWIDTH**

- E2.1 The bandwidth within which ordinary hours of duty will be performed is 7am to 7pm, Monday to Friday.

#### **E3 FULL TIME EMPLOYEES**

- E3.1 A full time employee will work 150 hours per settlement period as their ordinary hours of duty.
- E3.2 An employee will not be required to work more than 10 hours per day as ordinary hours of duty.

#### **E4 PART TIME EMPLOYEES**

- E4.1 An employee who works less than 150 hours per settlement period on an ongoing basis or for a fixed period is considered to be a part time employee.
- E4.2 For part time employees, the ordinary hours of duty are those in their part time work agreement or specified for the job.
- E4.3 A part time employee's salary, leave entitlements, and duties-related allowances will be calculated and paid/accrued on a pro rata basis in accordance with the ordinary hours worked.
- E4.4 A full time employee will not be compelled to convert to part time employment.
- E4.5 The Secretary may approve a request from a full time employee for a part time arrangement. Such a request may be made at any stage.
- E4.6 Applications from full time employees to part time work, and application from part time employees to change their pattern of hours (or number of ordinary hours or duty), will not be unreasonably refused.
- E4.7 The Secretary will make all reasonable efforts to accommodate employee request to access or renew a part time agreement, taking into account:
  - (a) the employee's needs and preferences; and
  - (b) the capacity and needs of a team, workplace or business line to meet its internal or external service delivery requirements.
- E4.8 Where an employee's written request for part time arrangements is refused, the Secretary will provide the employee with written reasons for the decision, within 21 days of the decision.
- E4.9 Where the Secretary and an employee cannot reach agreement on a part time agreement, the employee will continue to work in accordance with their existing pattern of ordinary hours or part time agreement until the end of the current settlement period.

- E4.10 At the end of the current settlement period, if agreement cannot be reached, the employee may choose:
- (a) to work in accordance with a default regular hours option; or
  - (b) to continue their existing pattern of ordinary hours or part time agreement for a further settlement period, after which time the employee will work in accordance with a default regular hours option.
- E4.11 Part time arrangements (except for employees returning from parental leave under clause F16 of this Agreement) will apply for a specified period of 12 months, unless a shorter period is requested by the employee.
- E4.12 An employee returning from parental leave (under clause F16 of this Agreement) has a right to access part time arrangements until the child's third birthday.
- E4.13 Without limiting clause E9 (Flexible Work Arrangements for Parents) an employee who meets the circumstances of section 65 of the National Employment Standards in the *Fair Work Act 2009* has a right to request a part time agreement, and to have that request reasonably considered.
- E4.14 An employee will return to full time arrangements at the end of their part time agreement subject to any request (in accordance with this clause E4) to extend the part time arrangement.
- E4.15 The employee and their supervisor will meet and discuss part time working arrangements a month before the end date of the current part time agreement to enable discussion on continuing the part time agreement or new working hours arrangements.
- E4.16 Where an employee has an existing part time work agreement and they voluntarily move to another position within the department, the department will advise the employee, prior to them accepting the voluntary move, if the department is unable to accommodate the employee's existing part time work arrangement. Decisions regarding part time work arrangements associated with voluntary moves will be made consistent with this clause E4.

## **E5 FLEXIBLE ARRANGEMENTS FOR MEDICAL OFFICER EMPLOYEES**

- E5.1 Generally, the salary provisions for employees covered by this Agreement are considered to be appropriate compensation for reasonable additional hours that may be worked.
- E5.2 Where an employee works hours that are in addition to those "reasonable additional hours" for which an employee is compensated (as set out in subclause E5.1), the Secretary may grant an employee access to time off in lieu for those hours. Access to time off in lieu will be subject to operational requirements including the needs and preferences of the affected employee, and other employees. Time off in lieu is not an hour for hour arrangement.
- E5.3 Employees who do not work hours in addition to the reasonable additional hours for which the employee is compensated (as set out in subclause E5.1) will not access time off in lieu arrangements but may access other flexible working hours arrangements (including but not limited to patterns of ordinary hours or regular hours agreements, or part time arrangements).

## **E6 OVERTIME**

- E6.1 An employee may access overtime on the following basis:
- (a) where the Secretary determines that exceptional circumstances apply;
  - (b) where the Secretary requires the employee to work on a public holiday for operational reasons; or

- (c) where the Secretary requires the employee to work a period of overtime while the employee is in receipt of restriction allowance.

- E6.2 An employee may be requested to work a period of overtime. Where operational requirements dictate, the Secretary may direct an employee to work a reasonable amount of overtime on any day.
- E6.3 In requesting or directing an employee to work overtime, the Secretary will take into account the personal circumstances of the employee. An employee has a right to refuse overtime for caring or personal reasons.
- E6.4 An employee can only work overtime with the prior approval of the Secretary.
- E6.5 The Secretary will provide reasonable notice of a requirement or a request to work overtime (subject to clause E7 of this Agreement).
- E6.6 An employee who works a period of overtime will be paid at the rates provided in this subclause E6.6:

Day	Rate
Monday – Saturday	Time and a half for first three hours Double time after first three hours
Sunday	Double time
Public Holiday	Time and a half for ordinary/rostered hours for public holiday Double time and a half for where no ordinary/rostered hours on the relevant day
Emergency duty (see clause E7 – Overtime without prior notice)	Double time

- E6.7 An employee's hourly rate of pay for the purposes of determining the rates in subclause E6.6 will include temporary higher duties allowance, but excludes duties-related allowances.
- E6.8 An employee must have a meal break after five hours of continuous duty, which includes any regular hours worked directly before the period of overtime.
- E6.9 An unpaid meal break within the period of overtime does not disrupt the continuity of duty or eligibility for an overtime meal allowance.

#### ***Minimum Payments***

- E6.10 Minimum payments for periods of overtime will apply as follows:

Situation	Minimum Payment
Overtime period is continuous with ordinary or rostered hours	No minimum payment
Overtime period is not continuous with ordinary or rostered hours and the employee needs to attend the workplace to perform duties	Four hours
Overtime period is not continuous with ordinary or rostered hours, and employee has no notice of overtime (see clause E7 – Emergency duty)	Two hours

Overtime period is not continuous with ordinary or rostered hours, and the employee does not need to attend the workplace to perform duties	Two hours
<i>Employees on restriction duty required to perform overtime:</i>	
Where the employee needs to attend the workplace to perform duties	Three hours
Where the employee does not need to attend the workplace to perform duties	One hour

- E6.11 Where an employee performs more than one period of overtime in a day, payments (in accordance with clause E6.10) will not exceed the payment that would be made if the employee remained on duty from the time of commencing the first period of overtime to the end of any subsequent periods of overtime.

***Rest relief after overtime***

- E6.12 Employees are entitled to a break of at least eight consecutive hours, plus reasonable travelling time, between the time they finished duty (including overtime worked after a period of ordinary duty) and the time they are next required to commence ordinary duty, without loss of pay. Where this break is not possible due to business needs, the employee will be paid at double ordinary time rates for any period of work until an eight-hour break occurs.
- E6.13 Subclause E6.12 does not apply to emergency or restricted duty situations, unless the actual time worked, excluding travelling time, is at least three hours on each call.

**E7 EMERGENCY DUTY (OVERTIME WITHOUT PRIOR NOTICE)**

- E7.1 This clause E7 will apply where an employee is required to work overtime without receiving prior notice.
- E7.2 Where an employee is required to attend the workplace in accordance with this clause E7, and the employee is not in receipt of a restriction allowance, the employee will be paid the "Emergency Duty" rate in subclause E6.6 for time worked and reasonable travel time, subject to the minimum payment provided in subclause E6.10.
- E7.3 Where an employee can perform overtime under this clause E7 without needing to attend the workplace, the employee will be paid the "Overtime without notice" rate in subclause E6.6 for time worked, subject to subclause E6.10.

**E8 RESTRICTION DUTY**

- E8.1 Where the Secretary directs an employee to be immediately contactable and available to perform additional duties outside of their pattern of ordinary hours, regular hours agreement or rostered hours of duty, the employee will be paid allowance in respect of this restriction ("restriction duty").
- E8.2 The allowance payable under this clause E8 will be paid for each hour, or part thereof that an employee is on restriction duty.
- E8.3 Where an employee is on restriction duty, and is required to work outside of their pattern of ordinary hours, regular hours agreement or rostered hours of duty, they will be paid overtime in accordance with clause E6. The allowance under this clause E8 will not be payable for any periods where an employee is in receipt of overtime payments.
- E8.4 The allowance under this clause E8 will not be payable to an employee who is expected to be immediately contactable and available to perform additional duties, but does not meet these expectations.

E8.5 The rates payable under this clause E8 are as follows:

- (a) Monday – Friday: 7.5% of hourly rate;
- (b) Saturday – Sunday: 10% of hourly rate;
- (c) Public Holidays: 15% of hourly rate.

## **OTHER MECHANISMS TO SUPPORT FLEXIBILITY**

### **E9 FLEXIBLE WORK ARRANGEMENTS FOR PARENTS**

- E9.1 An employee who is a parent, or has responsibility for the care of a child of school age or younger, or a child under 18 who has a disability, may request flexible working arrangements, including part time hours. An employee is not eligible to make this request unless they have completed at least 12 months of continuous qualifying service.
- E9.2 For the avoidance of doubt, clause E9.1 does not restrict an employee's ability to otherwise request flexible working arrangements in accordance with section 65 of the National Employments Standards in the *Fair Work Act 2009*.
- E9.3 A casual employee may only request flexible working arrangements if the employee is a long term casual employee immediately before making the request.
- E9.4 A request made in accordance with subclause E9.1 must be in writing and set out details of the change sought and the reasons for the change. A request made under subclause E9.1 can only be refused on reasonable business grounds. Where refusing a request the Secretary will provide a written response within 21 days which sets out the reasons for the refusal.

### **E10 HOME BASED WORK**

- E10.1 The Secretary may approve a request from an employee to work from home on a short-term or regular basis.
- E10.2 An approved request will be formalised in a written agreement between the employee and the Secretary.
- E10.3 Arrangements made under this clause E10 should be trialled for a short-term period, before longer-term arrangements are implemented.
- E10.4 The Secretary will make available and maintain any equipment required for an employee to undertake home based work.
- E10.5 The Secretary may access the employee's home site to ensure the work site is suitable, including that it is safe and secure, for its intended purpose, provided the Secretary gives the employee at least 24 hours' notice.
- E10.6 Where an employee's request for regular or long-term home-based work is approved, the Secretary may approve the payment or reimbursement of costs of up to \$2,500 associated with establishing the home-based work arrangement. Any items purchased under this arrangement remain the property of the Commonwealth.
- E10.7 An employee's office, not their home, is deemed their usual place of work for the purposes of calculating allowances based on travel requirements.
- E10.8 The arrangement can be varied or terminated as a result of operational requirements, or where the arrangement is ineffective or inefficient. Either party may terminate the arrangement with reasonable notice.

E10.9 Requests for home-based work will be considered on an individual basis. Parties will acknowledge that not all jobs are suitable to or compatible with home-based work, and not all individuals are suited to work from home.

## PART F LEAVE

### F1 GENERAL LEAVE PROVISIONS

- F1.1 The Secretary may grant a period of leave in accordance with this Part F. The Secretary may require an employee to provide evidence to support an application for leave where relevant. Employees will not be required to provide evidence to access leave in accordance with clauses F3, F6, F17, F23 and F28.
- F1.2 Unless otherwise required by legislation or specified in the Agreement, leave with pay under Part F will count as service for all purposes, and leave without pay under this Part F will not count as service.
- F1.3 The Secretary will re-credit a relevant period of leave, and may approve reimbursement of reasonable incidental and travel expenses incurred by an employee:
- (a) whose leave is cancelled without reasonable notice; or
  - (b) who is recalled to duty while on approved leave.

### ANNUAL LEAVE

#### F2 ACCRUAL OF ANNUAL LEAVE

- F2.1 A full time employee will accrue 23 days (172.5 hours) of annual leave for each full year of service.
- F2.2 A part time employee will accrue annual leave on a pro rata basis, in accordance with their ordinary hours of duty.
- F2.3 An employee's accrual of annual leave will be reduced for any periods of leave that do not count as service (including unauthorised absence).
- F2.4 An employee engaged in a remote locality may accrue additional annual leave in accordance with Schedule 3 (Remote localities) of this Agreement.
- F2.5 Annual leave will accrue progressively and be credited monthly in arrears, in hours and minutes, based on a calculation of:

$$A/12 \times (B-C)/B$$

A = basic annual credit of 172.5 hours (pro rata for part time), plus additional credits for remote localities

B = number of calendar days in the previous month

C = calendar days in the previous month that do not count as service, totalling one day or more; and/or

- calendar days in the previous month where the employee was not employed because they commenced or ceased employment part-way through the previous month; and /or

- days where annual leave is accrued at a different rate part-way through the previous month.

#### F3 GRANTS OF ANNUAL LEAVE

- F3.1 The Secretary may grant an employee access to their paid annual leave credits at any time, in accordance with this clause F3.
- F3.2 In determining whether to grant an employee annual leave, the Secretary will take into account achieving a balance between:



- (a) the employee's needs and preferences; and
- (b) the capacity and needs of a team, workplace or business line to meet its internal or external service delivery requirements.

Requests to access annual leave will not be unreasonably refused.

- F3.3 The Secretary may approve a request from an employee to access annual leave at full pay or half pay. Where an employee accesses half pay annual leave, half the period of leave taken will be deducted from accrued annual leave credits and the full period of leave will count as service for all purposes.
- F3.4 Where an employee has purchased leave credits available, they will not be entitled to access half pay annual leave until the purchased leave credits have been used in full.
- F3.5 Employees are encouraged to use at least two weeks' annual leave per year, and are guaranteed access to their full year's annual leave entitlement in each year. Requests to access annual leave will be facilitated as possible, however, the timing of the leave will be subject to the considerations outlined in subclause F3.2.
- F3.6 Periods of annual leave will be paid at the same rate that the employee would have been paid had they performed their ordinary duties during this period. This will include payment of temporary higher duties allowances as relevant.

#### **F4 EXCESS ANNUAL LEAVE CREDITS**

- F4.1 "Excess annual leave credits" for the purpose of this clause F4 means that an employee has:
  - (a) for a full time employee - in excess of 345 hours (46 days) annual leave credits available; or
  - (b) for a part time employee - in excess of twice their annual leave entitlement.
- F4.2 Where an employee has excess annual leave credits, the Secretary and employee will seek to reach agreement on a leave management plan or on a mutually convenient time to reduce the annual leave entitlements balance to the limits specified at subclause F4.1. Where an employee's available credits are well in excess of the limits specified at subclause F4.1, they may be directed to access up to 25% of their total leave credits to reduce the employee's leave balance to the limits specified at subclause F4.1.
- F4.3 Where a mutually convenient time or a leave management plan cannot be agreed, the Secretary may direct the employee to take leave, in a single block, within the following three months provided the employee has been given a minimum of one month's notice.
- F4.4 A direction given under this subclause F4.2 and F4.3 must be reasonable in the circumstances.

#### **F5 CASH OUT OF ANNUAL LEAVE**

- F5.1 At any time during the operation of this Agreement, the Secretary may allow an employee to cash out up to 10 days annual leave credits.
- F5.2 In order to be eligible to cash out annual leave credits under subclause F5.1, an employee must:

- (a) have taken at least 10 days annual leave or long service leave in the 12-month period before they request the cash-out arrangement;
- (b) retain annual leave credits of at least 20 days (150 hours) after the cash-out; and
- (c) enter into a written agreement with the Secretary to provide for the cash-out.

F5.3 Cashed out annual leave will be paid to the employee at the rate that would have been payable to the employee had they taken the leave at the time the cash out agreement is made.

## **F6 PURCHASED LEAVE**

F6.1 The Secretary may allow an ongoing employee with at least 12 months' qualifying service to purchase up to four weeks' leave in a 12-month period.

F6.2 Purchased leave, where accessed, will count for service for all purposes.

F6.3 Leave is purchased at the rate of the employee's ongoing salary, applicable district allowance, and duties-related allowances that apply at the date that the purchase is approved. Temporary higher duties allowance is not included in the purchase cost.

F6.4 Purchased leave is taken at the rate of the employee's ongoing salary, applicable district allowance, and duties-related allowances that apply at the date the leave is taken. Temporary higher duties allowance is not payable during periods of purchased leave.

F6.5 Purchased leave cannot be taken at half pay, and must be used before an employee is eligible to access annual leave at half pay.

F6.6 Access to purchased leave will be subject to the considerations outlined in subclause F3.2.

F6.7 Where an employee has paid for purchased leave, and has not accessed that leave prior to cessation of employment with the department, the purchased leave will be reimbursed to the employee on cessation.

F6.8 Where, on cessation of employment with the department, an employee has accessed purchased leave in excess of the leave they have paid for:

- (a) the employee may elect to repay the outstanding amount; or
- (b) if no such election is made, the Secretary may, in accordance with a relevant Accountable Authority Instruction, deduct an amount equal to the outstanding amount from monies otherwise payable to the employee or recover that amount as a debt due to the Commonwealth.

F6.9 Where an employee provides supporting documentation, confirming they have a legitimate ongoing illness or one-off acute medical condition requiring an extended recovery period, the Secretary, having considered other flexible working arrangements, may approve purchased leave where the employee's personal leave credits have been exhausted.

## **PERSONAL/CARER'S LEAVE**

### **F7 ACCRUAL OF PERSONAL/CARER'S LEAVE**

F7.1 A full time employee will accrue 18 days (135 hours) of paid personal/carer's leave progressively and be credited monthly in arrears for each full year of service.

F7.2 A part time employee will accrue personal/carer's leave on a pro rata basis, in accordance with their ordinary hours of duty.

- F7.3 An employee's accrual of personal/carer's leave will be reduced for any periods of leave that do not count as service (including unauthorised absence).
- F7.4 Full time employees who are new to the APS will receive an initial credit of nine days (67.5 hours) on commencement, and a further credit of nine days (67.5 hours) after six months of service.
- F7.5 Ongoing employees who transfer to the department from another APS employer, with no break in continuity of service, will not be entitled to the credits under subclause F7.4 (in accordance with clause F37 – portability of entitlements).
- F7.6 After the first full year of service (for employees new to the APS), personal/carer's leave will accrue progressively and be credited monthly in arrears – 11.25 hours on the first day of each month.
- F7.7 Employees covered by subclause F7.5 will commence accruing personal/carer's leave consistent with the arrangements in subclause F7.6 on the first day of the month after their commencement with the department, and will receive a pro rata entitlement in respect of any time between their commencement of employment, and first monthly credit, that has not been covered by a credit of personal/carer's leave from their previous employer.

## **F8 WAR SERVICE SICK LEAVE**

- F8.1 Employees with an injury or disease determined to be war- or defence-caused in accordance with relevant legislation, are entitled to an additional one-off credit of nine weeks of personal leave, on commencement of employment in the APS.
- F8.2 Employees with an injury or disease determined to be war- or defence-caused in accordance with relevant legislation, will also receive an additional three weeks' personal leave per full year of service during their employment with the department. Unused annual credits under this subclause F8.2 will accumulate to a maximum balance of nine weeks.
- F8.3 Leave credited or accrued under this clause F8 may be used by an employee when they are unfit for duty because of their war- or defence-caused injury or disease.

## **F9 ACCESSING PERSONAL/CARER'S LEAVE**

- F9.1 Leave accrued under clause F7 may be used as "personal leave" where an employee is unfit for duty, and/or where an employee needs to attend medical procedures and/or appointments.
- F9.2 Leave accrued under clause F7 may be used as "carer's leave" where an employee needs to provide care or support for a member of the employee's immediate family or household, or for another person for whom the employee has caring responsibilities, where the other person:
  - (a) is ill or injured and requires care or support in respect of the illness or injury;
  - (b) is unable to attend a medical appointment or medical procedure without the employee's personal support or assistance; or
  - (c) requires care or support from the employee during an unexpected emergency.
- F9.3 Subject to available leave credits, an employee may also use up to two weeks personal/carers leave to supplement Supporting Partner Leave, taken under F14 of this Agreement. This subclause F9.3 will be applied so that its effect is not detrimental to an employee in any respect, when compared to the National Employment Standards.
- F9.4 Employees must advise an appropriate person, as determined for their workplace, as soon as reasonably practicable of an absence or their intention to be absent. Generally, this should be prior to the employee's scheduled start time wherever possible, unless there are circumstances beyond the employee's control.

- F9.5 Managers will advise employees of the reporting arrangements for their workplace, including identifying the "appropriate person" for that workplace.
- F9.6 An employee may access up to five days of paid personal/carer's leave (subject to available leave credits) in a calendar year without providing suitable evidence to support the absence. These five days make up part of an employee's 18 days accrual.
- F9.7 After an employee has accessed five days personal/carer's leave without suitable evidence, in accordance with subclause F9.6, the Secretary may require an employee to provide suitable evidence to support all further paid personal/carer's leave in that calendar year. A requirement to provide suitable evidence will not be made retrospectively.
- F9.8 Where the Secretary has required an employee to provide suitable evidence to support absences from the workplace, and that evidence cannot be provided to support absences, the Secretary may deem the leave to be an unauthorised absence.
- F9.9 The Secretary may grant unpaid personal/carer's leave where an employee does not have sufficient personal/carer's leave credits to access paid leave, or where an employee has been required to provide suitable evidence to support their absence and suitable evidence was not provided. For the avoidance of doubt, this clause does not restrict an employee's ability to access any entitlement to unpaid personal/carer's leave they may have under legislation.
- F9.10 Personal/carer's leave without pay does not count as service for the purpose of accruing annual or personal/carer's leave.
- F9.11 In this clause F9, suitable evidence means:
- (a) evidence from a registered health practitioner;
  - (b) a statutory declaration in appropriate circumstances, such as where it is not reasonably practicable for an employee to obtain evidence from a registered health practitioner; or
  - (c) in respect of carer's leave, evidence from an appropriate source such as school or child care provider, or a statutory declaration in appropriate circumstances.
- F9.12 The Secretary will grant available paid personal leave to an employee who provides suitable evidence that they are medically unfit for one day or more while on unpaid maternity leave, annual leave, purchased leave, flex leave or long service leave. Annual leave, purchased leave, flex leave and long service leave will be re-credited to the extent of the period of personal leave granted.

## **F10 LONGER TERM CARING LEAVE**

- F10.1 An employee may be granted unpaid leave for longer term caring purposes.

## **F11 COMPASSIONATE AND BEREAVEMENT LEAVE**

- F11.1 The Secretary will approve two days paid compassionate leave per occasion to an employee where a member of the employee's immediate family or household:
- (a) contracts or develops a life-threatening illness; or
  - (b) sustains a life-threatening injury.
- F11.2 The Secretary will approve three days paid bereavement leave per occasion to an employee where a member of the employee's immediate family or household dies.
- F11.3 An employee may be asked to provide evidence to support their absences under this clause F11.

F11.4 Leave under this clause F11 may be taken as two/three consecutive days (as applicable), or in periods equalling two/three days (as applicable).

#### **Additional Bereavement leave**

F11.5 An employee may be granted:

- (a) up to an additional 2 days of paid leave per occasion in respect of the death of the current partner, parent, child or sibling of the employee; or the parent, sibling or child of the employee's current partner; and
- (b) up to an additional 1 day of paid leave per occasion in respect of the death of the grandparent or grandchild of the employee; or the grandparent or grandchild of the employee's current partner.

#### **F12 MATERNITY LEAVE**

F12.1 An employee is entitled to maternity leave (paid and/or unpaid) in accordance with the *Maternity Leave (Commonwealth Employees) Act 1973*.

F12.2 An employee who is entitled to paid maternity leave under the *Maternity Leave (Commonwealth Employees) Act 1973* is entitled to access an additional two weeks paid maternal leave immediately following paid maternity leave. These two weeks will count as service for all purposes.

F12.3 An employee eligible to receive maternity leave and additional maternal leave may access that leave at half pay by spreading the payments over a maximum of 28 weeks. Only a maximum of 14 weeks of leave will count as service.

#### **F13 ADOPTION AND FOSTERING LEAVE**

F13.1 The Secretary may approve leave in relation to the adoption of a child where:

- (a) the child has not lived with the employee for more than six continuous months prior to the placement of the child with the employee;
- (b) the child is not a child or step-child of the employee or the employee's partner, unless the child has not been in the custody of the employee or the employee's partner for a significant period of time;
- (c) the employee is the primary caregiver for an adopted child; and
- (d) the employee provides the Secretary with evidence of the adoption, including the date of placement with the employee.

F13.2 An employee who is in the process of adopting a child may take up to two days leave to attend any interviews or examinations required to obtain approval for the adoption. This leave may be taken as annual leave, purchased leave or flex leave (where available), or as miscellaneous leave without pay.

F13.3 The Secretary may approve leave in relation to the fostering of a child where:

- (a) the child has not lived with the employee for more than six continuous months prior to the placement of the child with the employee;
- (b) the child is not a child or step-child of the employee or the employee's partner, unless the child has not been in the custody of the employee or the employee's partner for a significant period of time; and
- (c) the employee provides the Secretary with evidence of:
  - (i) the employee assuming long term responsibility for the child arising from the placement of the child in a permanent fostering arrangement;
  - (ii) the date of placement of the child with the employee; and
  - (iii) the employee being the primary caregiver for the child.

F13.4 Where an employee has at least 12 months service (as defined under the *Maternity Leave (Commonwealth Employees) Act 1973*), they are entitled to access 14 weeks paid leave under this clause F13. This leave may be taken at half pay over 28 weeks. Only the first 14 weeks of leave will count as service.

F13.5 Leave taken under this provision must commence within the period commencing one week prior to the placement of the child with the employee, and ending six months after the placement of the child with the employee. Leave should generally be taken in a single block.

#### **F14 SUPPORTING PARTNER LEAVE**

F14.1 An employee whose partner has given or is giving birth to a child, or an employee whose partner is the primary caregiver for an adopted or fostered child, is entitled to two weeks supporting partner leave. This leave:

- (a) will be paid leave, where the employee has at least 12 months service (as defined under the *Maternity Leave (Commonwealth Employees) Act 1973*);
- (b) will be unpaid leave, where the employee does not have at least 12 months service (as defined under the *Maternity Leave (Commonwealth Employees) Act 1973*);
- (c) can be taken within the period commencing in the week prior to the expected due date of the child, or placement of the child with the employee's partner, and ending six months after the birth or placement of the child;
- (d) should generally be taken in a single block; and
- (e) may be taken at half pay. Only the first 2 weeks of leave will count as service.

F14.2 An employee may be required to provide evidence in support of their application for leave, including evidence of the date of birth of a child, or placement of a child with the employee's partner.

#### **F15 GENERAL PARENTAL LEAVE**

F15.1 An employee who is entitled to access maternity leave, supporting partner leave or adoption/foster care leave is entitled to take up to 24 months unpaid parental leave.

F15.2 An employee who is not eligible to access paid leave under clause F12 or F13 because they do not have the required length of service or they are not the primary caregiver of the child is entitled to access leave under this clause F15.

F15.3 The 24-month period of leave available under this clause F15 will not be extended by any other period of paid or unpaid leave.

*Note: An employee may be granted any of the following types of paid leave during a period of unpaid parental leave: maternity leave, adoption/fostering leave, supporting partner leave, annual leave and long service leave. An employee will not be granted paid personal/carer's leave or compassionate/bereavement leave during a period of unpaid parental leave, unless the unpaid parental leave runs concurrently with another leave type where an employee is entitled to access paid personal leave under clause F9.*

F15.4 Periods of unpaid parental leave will not count as service for any purpose (unless otherwise provided under Commonwealth legislation).

F15.5 Where an employee's partner is entitled to access parental leave (paid or unpaid) either under this Agreement, or in accordance with the terms and conditions of employment provided by another employer, the total period of parental leave that may be taken between the couple cannot exceed 24 months after the day of birth or the date of placement.

F15.6 Nothing in this Agreement affects an employee's entitlements to paid or unpaid parental leave (however described) under Commonwealth legislation, including the *Fair Work Act 2009*, the *Maternity Leave (Commonwealth Employees) Act 1973*, and the *Paid Parental Leave Act 2010*.

## **F16 RETURN TO WORK AFTER PARENTAL LEAVE**

F16.1 On ending maternity leave, supporting partner leave, adoption/foster care leave or general parental leave, an employee is entitled to return to:

- (a) the employee's pre-leave duties; or
- (b) if those duties no longer exist, an available position for which the employee is qualified and suited at the same classification and pay (subject to clauses B4 and B5 of this Agreement) as applied pre-leave. Where this is not practical, other duties will be sought.

F16.2 For the purposes of this clause F16, "duties" means those performed:

- (a) if the employee was moved to safe duties because of their pregnancy – immediately before that move;
- (b) if the employee began working part-time because of their pregnancy – immediately before that part-time employment began; or
- (c) otherwise, immediately before the employee commenced leave.

## **F17 LONG SERVICE LEAVE**

F17.1 An employee is eligible for long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

F17.2 The minimum period that an employee may take long service leave is seven days (at full pay or fourteen days at half pay). Long service leave cannot be broken with other periods of leave, except as otherwise provided by legislation.

## **F18 DEFENCE RESERVE LEAVE**

F18.1 An employee may be granted leave (with or without pay) to enable the employee to fulfil Australian Defence Force (ADF) Reserve and Continuous Full Time Service (CFTS) or Cadet Force obligations.

- F18.2 An employee is entitled to ADF Reserve leave with pay, for up to four weeks during each calendar year for the purpose of fulfilling service in the ADF Reserve. These purposes include training and operational duty as required. During the employee's first year of ADF Reserve service, a further two weeks' paid leave may be granted to facilitate participation in additional ADF Reserve training, including induction requirements. With the exception of the additional two weeks in the first year of service, leave can be accumulated and taken over a period of two years, to enable the employee to undertake training as a member of the ADF Reserves. Employees are not required to pay their tax free ADF Reserve salary to the department in any circumstances.
- F18.3 An employee who is an officer or instructor of cadets in a cadet force may be granted paid leave of up to three weeks each financial year to perform duties as an officer or instructor of cadets. For these purposes, "cadet force" means the Australian Navy Cadets, Australian Army Cadets or the Australian Air Force Cadets.
- F18.4 Defence Reserve leave counts as service for all purposes, except for unpaid leave to undertake CFTS. Unpaid leave for the purpose of CFTS counts for all purposes except annual leave.
- F18.5 Eligible employees may also apply for annual leave, long service leave, leave without pay, top-up pay, or they may use flex or make up time, for the purpose of fulfilling ADF Reserve, CFTS, or Cadet Force obligations.
- F18.6 An employee must notify the department when the dates of ADF Reserve, CFTS, or Cadet Force activities are known and/or changed.

#### **F19 MISCELLANEOUS LEAVE**

- F19.1 The Secretary may grant an employee miscellaneous leave, either with or without pay.
- F19.2 Leave under this clause F19 will generally not exceed 12 months.
- F19.3 Unless otherwise specified in the relevant policy, leave with pay under this clause will count as service for all purposes, and leave without pay under this clause will not count as service.

#### **F20 JURY SERVICE LEAVE**

- F20.1 An employee will be granted paid leave to undertake jury service for the period required by the court.
- F20.2 Employees are required to provide evidence of the total amount of jury service pay or allowances that have been paid, or are payable, from the relevant court for a period of jury service.
- F20.3 Employees who receive jury service payments from the relevant court, will have their payment for leave reduced by the total amount of the payments received, or is payable for jury service.

#### **F21 DONATING BLOOD LEAVE**

- F21.1 An employee may be granted paid leave for the period required to donate blood including reasonable travel time. Leave under this clause may include leave for the purposes of plasma and platelet donations.



## **F22 VOLUNTEER EMERGENCY MANAGEMENT LEAVE**

F22.1 An employee will be granted up to five days of paid leave per calendar year for the purpose of voluntary emergency management duty (including emergency services responses, training, reasonable travel and recovery time, and ceremonial duties).

F22.2 The period of paid leave may be extended in exceptional circumstances.

F22.3 Employees will be granted unpaid leave for the purpose of voluntary emergency management duty (including emergency services responses, training, reasonable travel and recovery time, and ceremonial duties) where the absence is reasonable in the circumstances.

## **F23 LEAVE FOR EMERGENCY MANAGEMENT SITUATIONS**

F23.1 An employee may be granted paid leave as required, for the purpose of rest relief after assisting in emergency management activities on behalf of the department.

## **F24 DAMAGE TO AN EMPLOYEE'S HOME**

F24.1 An employee may be granted paid leave as required, where there is damage to their home during a declared State of emergency.

## **F25 LEAVE TO ATTEND PROCEEDINGS**

F25.1 An employee giving evidence on behalf of the Commonwealth, or on their own behalf, in relation to their duties will be considered on duty.

F25.2 An employee may be granted a period of leave as required, for the purpose of providing evidence or attending proceedings on behalf of Commonwealth/State/Territory, or before a Royal Commission.

F25.3 Leave granted under this clause F25 may be with or without pay depending on the circumstances.

## **F26 LEAVE TO REPRESENT AUSTRALIA**

F26.1 An employee may be granted a period of paid leave of up to one calendar week per occasion, for the purpose of representing Australia as an accredited official or competitor in the Olympic Games, Commonwealth Games and Paralympics.

F26.2 Leave granted under this clause F26 will be for the duration required to complete official duties or compete, plus reasonable travelling time and may be extended by further period of paid or unpaid leave depending on the circumstances.

## **F27 CULTURAL/CEREMONIAL LEAVE**

F27.1 Aboriginal and/or Torres Strait Islander employees, are entitled to:

(a) two days paid cultural/ceremonial leave (including NAIDOC/Coming of the Light) each calendar year, and

(b) 10 days unpaid cultural/ceremonial leave over two calendar years.

F27.2 Paid and unpaid cultural/ceremonial leave granted under subclause F27.1 will count as service for all purposes.

F27.3 An employee may be granted unpaid leave for religious holidays that are not public holidays.

## **F28 TEMPORARY OFFICE CLOSURE**

F28.1 An employee will be granted paid leave as required, where their office is temporarily closed and no alternative arrangements can be made.

## **F29 SPECIAL LEAVE**

F29.1 An employee may be granted up to two days of paid leave for the purpose of:

- (a) attending to personal emergencies:
  - (i) that are unplanned, unforeseen and unavoidable; and
  - (ii) that require the direct and immediate involvement of the employee; and
  - (iii) where no alternative arrangements can be made; or
- (b) bereavement or compassionate reasons in respect of a close friend or relative, where leave would not be available under clause F11 of this Agreement.

F29.2 Leave granted under subclause F29.1(b) may be extended in exceptional circumstances.

## **F30 EARLY INTERVENTION LEAVE**

F30.1 An employee may be granted up to 3 days paid leave for early intervention purposes, for example to access the Employee Assistance Program.

## **F31 LEAVE TO ACCOMPANY PARTNERS ON COMMONWEALTH POSTINGS**

F31.1 An employee may be granted unpaid leave as required, for the period required where their current partner is posted with the Commonwealth.

## **F32 LEAVE FOR APPROVED OUTSIDE EMPLOYMENT**

F32.1 An employee may be granted unpaid leave, generally not exceeding 12 months, for the purpose of undertaking approved outside employment.

## **F33 CAMPAIGN LEAVE**

F33.1 An employee may be granted unpaid leave as required, for the purpose of assisting with an election campaign in their personal capacity.

## **F34 UNAUTHORISED ABSENCE**

F34.1 Where an employee is absent for any period without authority, the absence will not count as service for any purpose, and will not attract payment of salary.

## **F35 PAYMENT IN LIEU OF LEAVE ENTITLEMENTS ON DEATH OF EMPLOYEE OR SEPARATION**

### ***Separation because of death***

F35.1 Where a person's employment ceases because of their death, the Secretary may approve payment of the employee's:

- (a) accrued annual leave, and unused purchased or sabbatical leave, to the employee's estate, or where the employee has nominated another party before their death, to that party; and
- (b) long service leave entitlements in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

***Separation other than by death***

- F35.2 An employee who separates from the APS (other than by death) will be paid in lieu of any unused annual leave. Payment will be made using the rate of the employee's final salary, including allowances that would have been included in the employee's salary during periods of annual leave.
- F35.3 Long service leave will be paid out on separation only in accordance with the *Long Service Leave Act 1976*.
- F35.4 An employee is not taken to have separated from the department for the purpose of subclause F35.2 if:
  - (a) they are an ongoing employee who ceases employment with the department on one day and commences employment with another APS agency on the next working day; or
  - (b) they are a non-ongoing employee who does not have a break in service between periods of engagement with the department.

**F36 PRESERVATION OF ACCRUED ENTITLEMENTS**

- F36.1 This clause F36 preserves any leave that an employee accrued or purchased under the previous industrial instrument.

**F37 PORTABILITY OF ACCRUED LEAVE ENTITLEMENT**

- F37.1 Where an employee moves (including on promotion or for an agreed period) from another agency where they were an ongoing APS employee, the employee's unused accrued annual leave and personal/carer's leave (however described) will be recognised, provided there is no break in continuity of service.
- F37.2 Where an employee is engaged as either an ongoing or non-ongoing APS employee 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 (however described) will be recognised. ACT Government Service will be recognised in accordance with provisions in the *Australian Capital Territory Government Service (Consequential Provisions) Act 1994*, as amended or replaced.
- F37.3 Where an employee is engaged as an ongoing employee, and immediately prior to the engagement the person was employed as a non-ongoing APS employee, the Secretary may, at the employee's request, recognise any accrued annual leave and personal/carer's leave (however described) provided there is no break in continuity of service (subject to subclause G20.1(b) of this Agreement).
- F37.4 Any recognised annual leave under this clause F37 will exclude any accrued leave paid out on separation from a previous APS agency, or accrued leave paid out at the end of period of non-ongoing employment.

### **F38 PUBLIC HOLIDAYS**

F38.1 An employee is entitled to the following public holidays:

- (a) New Year's Day (1 January);
- (b) Australia Day (26 January);
- (c) Good Friday;
- (d) Easter Monday;
- (e) Anzac Day (25 April);
- (f) Queen's Birthday (on the day on which it is celebrated in the relevant State or Territory);
- (g) Christmas Day (25 December);
- (h) Boxing Day (26 December); and
- (i) any other day or part day that is declared or prescribed under a law of a State or Territory to be observed generally in that State or Territory, or a region within that 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.

F38.2 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.

F38.3 The Secretary and an employee may agree on the substitution of a day or part-day that would otherwise be a public holiday.

F38.4 An employee, who is absent on a day or a part-day that is a public holiday in the place where the employee is based for work purposes, is entitled to be paid for the part or full day absence as if that day or part-day was not a public holiday, except where that person would not normally have worked on that day.

F38.5 Where a public holiday falls during a period when an employee is absent on leave (other than annual or personal leave) there is no entitlement to receive payment as a public holiday. Payment for that day would be in accordance with the entitlement for that form of leave (for example, if an employee is on long service leave on half pay, payment is at half pay).

F38.6 If a full time employee has a regular planned day off which would fall on a public holiday, the Secretary 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 the planned day off, the department will credit the employee with time off in lieu.

### **F39 APS HOLIDAY**

F39.1 Employees will observe an additional holiday, on the first business day after Boxing Day. Employees who are required to work on the APS Holiday will receive 100% loading for the time worked. The APS Holiday will be treated as a public holiday for all other purposes in this Agreement.

#### **F40 CHRISTMAS CLOSEDOWN AND REDUCED ACTIVITY PERIOD**

- F40.1 Employees are not required to attend for duty during the department's reduced activity period as described in F40.2 unless directed by the Secretary. The Secretary may only give such a direction to meet essential operational requirements.
- F40.2 The department's reduced activity period commences on the last working day (being a weekday) before Christmas Day, to New Year's Day (inclusive).
- F40.3 The Secretary will determine which services are essential operational requirements over the reduced activity period. Employees who are required to work over this period will be notified by 1 October each year. Where the Secretary directs an employee to work over the reduced activity period after 1 October due to unforeseen or exceptional circumstances that arise after 1 October, then the Recall to Duty provisions at clause F1 will apply.
- F40.4 Where an employee commences employment after 1 October in the respective year and does not have sufficient leave credits to cover the reduced activity period, the employee may elect to work during the reduced activity period.
- F40.5 Employees who are not required to attend for duty during the reduced activity period will access three days of their accrued annual leave for this period.
- F40.6 Where, due to essential operational requirements, the Secretary directs an employee or group(s) of employees to attend work on some or all of the working days during the reduced activity period, employees will use their annual leave credits for any period during the reduced activity period where they are not required to attend for work.
- F40.7 In determining the essential operational requirements of a workplace, team or business line, the Secretary will take into account:
- (a) the capacity of a workplace, team or business line to meet its internal or external service delivery requirements; and
  - (b) the needs and preferences of employees in that workplace, team or business line to take leave during the relevant period.
- F40.8 Where an employee has approved parenting leave (maternity, maternal, supporting partner, adoption or foster) or long service leave on both sides of the reduced activity period, the employee is not required to use annual leave for this period.
- F40.9 Annual leave during the reduced activity period may be re-credited in accordance with subclause F9.12.
- F40.10 Where an employee is not required to attend for duty for all or part of the reduced activity period and has insufficient annual leave then available time off in lieu, purchased leave or leave without pay will be approved to count as service for all purposes or the period where paid leave is not available.
- F40.11 Despite anything to the contrary in this Agreement, where an employee is not required to work during the reduced activity period and does not have sufficient leave credits to cover all or part of the reduced activity period, the employee may request purchased leave. A request for purchased leave under this subclause F40.11 will be approved for the purpose of the reduced activity period.

## PART G GENERAL EMPLOYMENT CONDITIONS

### G1 CASUAL EMPLOYEES

- G1.1 The following clauses of this Agreement do not apply to casual employees unless otherwise specified in this Part G: B2.3, B4, B6, C7, E4, E7, E8, E10, Part F, G4, G5, G6, G7, Part H, Part I and/or Schedule 3.
- G1.2 Casual employees will receive an hourly rate of pay calculated on the minimum salary point for the relevant classification as set out in Schedule 2. In addition to their hourly rate of pay, casual employees will receive a salary loading equivalent to 20% of that hourly rate of pay for each hour of work they perform. Casual loading is paid in lieu of public holidays not worked, and all paid leave entitlements, other than long service leave, which will accrue in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.
- G1.3 The fortnightly payment for a casual employee will be calculated based on the hours of duty they have performed in the previous fortnight and paid by electronic funds transfer.
- G1.4 Casual employees who work overtime as provided for in clause E6 will be entitled to overtime rates as set out in that clause (calculated on their hourly rate of pay plus their casual loading).
- G1.5 Casual employees that work more than 37.5 hours between Monday and Friday in the same week, will receive:
- (a) their hourly rate of pay; plus
  - (b) their casual loading; plus
  - (c) a loading (calculated on their hourly rate of pay plus their casual loading) of 50% for the first 3 hours worked and 100% for any hours worked thereafter in excess of 37.5 hours between Monday and Friday in the same week.

For the avoidance of doubt, a casual employee's ordinary hours of work for the purposes of this subclause do not include any hours in respect of which the employee receives overtime payments in accordance with clause E6 or subclause G1.4.

- G1.6 Casual employees who are required to commence work on a day, and have not had at least 8 consecutive hours off duty between that time and the time at which they ceased performing duty on the previous day for which they were paid a loading set out in subclauses G1.1 to G1.5, will be entitled to a loading of 100% until they have 8 consecutive hours off duty.
- G1.7 Any additional responsibility allowance paid to a casual employee will be calculated, accrued and paid on a pro rata basis in accordance with the hours of duty undertaken in that particular week.
- G1.8 Casual employees do not have access to any paid leave entitlements under this Agreement unless otherwise provided in the relevant legislation.
- G1.9 Casual employees may access unpaid leave for the purposes of clauses F9, F10, F11, F12, F13, F14, F15, F17, F19, F20, F25, F27.1(b), F28, F33, F34, F35, F36 and F37. This subclause G1.9 does not restrict a casual employee's ability to access unpaid leave for purposes outlined in relevant legislation.
- G1.10 The principles of performance management outlined in clause H2 will apply to casual employees.

- G1.11 The statement of expectations for casual employees establishes the performance and behavioural expectations required of casual employees.
- G1.12 At any time where a casual employee is not meeting performance expectations, the employee will be provided with guidance and support to assist them to meet these expectations.
- G1.13 Casual employees will be eligible for an annual increase of 2.75% to their hourly rate of pay (that is, not including casual loading) on each anniversary of their placement on the temporary register of casual employees, where on that anniversary:
- (a) their performance is assessed as meeting requirements against the standards for their role as required by the department;
  - (b) they have maintained their placement on the temporary register of casual employees for the previous 12 months; and
  - (c) they have performed duties at or above their classification for at least 675 hours in the previous 12 months.
- G1.14 The hourly rate of pay for a casual employee (excluding casual loading) will not exceed the maximum salary point for the relevant classification (calculated as an hourly rate).
- G1.15 Casual employees will be provided with adequate training to undertake their duties. Should a casual employee be required to undertake new or additional duties, further adequate training will be provided as required to enable the casual employee to undertake these new or additional duties.

## **G2 EMERGENCY MANAGEMENT SITUATIONS**

- G2.1 In the event that the department is required to respond to an emergency situation, either within Australia or overseas, the Secretary may activate this clause G2 to assist in providing suitable terms and conditions of employment for those employees who are required to assist in that response.
- G2.2 In activating this clause G2, the Secretary will:
- (a) determine which employees or groups of employees the decisions under this clause will apply to;
  - (b) take the needs and preferences of employees into account in that determination;
  - (c) determine the length of time for which any decisions will apply; and
  - (d) determine the clauses that will be varied in order to respond to the emergency situation.
- G2.3 The Secretary may, under this clause G2, decide that some clauses of this Agreement will be varied for affected employees. Depending on the nature of the event, these clauses may include:
- (a) where work is performed;
  - (b) penalty rates (including shift or overtime);
  - (c) allowances;
  - (d) application of leave arrangements, such as miscellaneous leave; and/or
  - (e) timeframes for performance management.

G2.4 A decision made under this clause G2:

- (a) must ensure that an employee's health and safety in the course of their duties is not adversely affected;
- (b) must result in any terms and conditions provided under this clause G2 being more beneficial to the employee than what would have otherwise been available to the employee under the usual operation of this Agreement.

### **G3 COMMONWEALTH DWELLINGS – RENTAL CONTRIBUTION**

- G3.1 An employee who is provided with residential accommodation that is owned or leased by the Commonwealth will be required to pay 15% of their salary towards the rent of that accommodation.
- G3.2 If Commonwealth accommodation is shared between more than one employee, the employees will each pay an equal share of the 15% contribution.
- G3.3 Where an employee is required to supervise or control Commonwealth personnel or property outside of the employee's ordinary hours of duty, the rental contribution payable by the employee will not exceed 10% of their salary.
- G3.4 The Secretary may reduce the contribution payable by an employee under this clause G3.

### **G4 STUDIES ASSISTANCE**

- G4.1 The Secretary may, under this clause and in accordance with relevant policy, determine that an ongoing employee is an "approved student" for the purposes of providing studies assistance. The Secretary will consider:
- (a) the personal development needs of the employee;
  - (b) the financial resources, operational needs and corporate goals of the department;
  - (c) the effective work performance of the approved student;
  - (d) the length of the course; and
  - (e) the demonstrated requirements of the broader APS.
- G4.2 An approved student may receive studies assistance for full time or part time studies, in the form of:
- (a) paid leave;
  - (b) unpaid leave; and/or
  - (c) full or partial reimbursement of costs associated with studies.
- G4.3 Leave without pay for study purposes will count as service for all purposes other than annual leave and salary advancement if the approved student returns to the department following their study leave.

### **G5 LEARNING AND DEVELOPMENT**

- G5.1 The department is committed to ensuring that employees have the skills and knowledge they require to perform their duties, and supporting employee career development. Employees and supervisors have a joint responsibility to ensure employees have the skills and knowledge to



perform their role. The department will ensure that all employees have access to appropriate learning and development opportunities.

- G5.2 The supervisor and employee will work together to develop a Learning and Development Plan in accordance with subclause H4.2 that assists the employee to maintain their professional development and skills.

## **G6 RESIGNATION**

- G6.1 An ongoing employee will be required to provide two weeks' notice of their intent to resign from the department, unless:

- (a) the Secretary and the employee agree a shorter period; or
- (b) a longer period of notice is stipulated in the employee's letter of engagement.

- G6.2 Where an employee fails to provide notice in accordance with this clause G6, the Secretary may, in accordance with a relevant Accountable Authority Instruction, deduct an amount equal to the salary payable during the unexpired portion of the notice period from monies otherwise payable to the employee or recover that amount as a debt due to the Commonwealth.

- G6.3 A non-ongoing or casual employee will be required to provide notice of their intent to resign in accordance with the terms of their contract or letter of engagement.

## **G7 NOTICE OF TERMINATION**

- G7.1 Where an ongoing employee's employment is terminated by the Secretary, the employee will be entitled to be given prior written notice of the termination of their employment, in accordance with the table below:

Employee's length of service on the day notice is given	Period of notice
Not more than one year	One week
More than one year but not more than three years	Two weeks
More than three years but not more than five years	Three weeks
More than five years	Four weeks

G7.2 The "period of notice" in the table in subclause G7.1 will be increased by one week where an employee has at least two years' continuous service, and is at least 45 years old.

G7.3 The Secretary may, at their discretion, decide not to give prior written notice in accordance with subclause G7.1. Where prior written notice is not given, the employee will be entitled to payment in lieu of the notice period provided in the table in subclause G7.1.

G7.4 The "period of notice" in the table in subclause G7.1 does not apply to an employee whose employment is terminated because of serious misconduct

## **G8 RIGHT TO PRIVATE PRACTICE**

G8.1 Subject to operational requirements, and where agreed between an employee and the Secretary, an employee is entitled to engage in outside employment for a maximum of one half day (3 hours 45 minutes) per week, when averaged over a 12 month period, during normal working hours to:

- (a) work in private medical practice; or
- (b) participate in other professional activity as approved by the Secretary.

G8.2 Subject to operational requirements, and where agreed between an employee, their manager and the Secretary, an employee may access up to an additional four half days per month during normal working hours on the basis that the employee "make up" this time or utilise leave without pay for such purposes.

## **G9 UNIFORMS**

G9.1 A subsidy program will be provided for employees who elect to purchase departmental corporate wardrobe items.

# **PART H PERFORMANCE MANAGEMENT**

## **H1 PURPOSE OF PERFORMANCE MANAGEMENT**

H1.1 The purpose of the performance management process is to:

- (a) develop a culture of high performance in the department;
- (b) align individual performance requirements with business requirements;
- (c) ensure that employees have a clear understanding of their role, and the performance standards expected of them;
- (d) support and encourage ongoing feedback between employees and their direct supervisors, including through formal mechanisms;
- (e) identify and plan for learning and development needs; and
- (f) assess and reward employee performance.

## **H2 PRINCIPLES OF PERFORMANCE MANAGEMENT**

H2.1 Joint responsibility – employees and supervisors will participate in all aspects of the performance management process, including initiating reviews, and seeking and providing feedback as required; and be provided with resources and support to do so.

H2.2 Confidentiality – performance management processes, including access to and the use of performance data, will comply with privacy principles.

H2.3 No surprises – the performance process will ensure that employees are aware of their performance progress. Supervisors and managers should identify and address performance concerns at the earliest opportunity.

H2.4 Fair – the performance process will provide employees with an opportunity to, respond to performance feedback, and will provide reasonable adjustments for employees with disabilities if required; consistent with natural justice principles.

H2.5 Holistic – business related work outcomes and performance measures will be realistic, within the employee's control and consistent with their work level. The performance assessments will balance qualitative and quantitative evidence of employee performance.

H2.6 Representation – an employee may have a support person (who may be a union representative) at any stage of the performance process. All parties in a performance process will undertake discussions constructively. The support person's role may facilitate and may supplement direct discussions between the employee and their supervisor.

## **H3 PERFORMANCE CYCLE**

H3.1 The performance cycle for all employees will run from 1 July each year to 30 June in the following year.

## **H4 PERFORMANCE PROCESS**

H4.1 An employee and their supervisor will develop and agree on an Individual Performance Agreement within eight weeks of:

- (a) the commencement of a new performance cycle; and/or
- (b) starting in a new position, either temporarily or permanently, at the same or a higher level.

H4.2 Individual Performance Agreement means a holistic plan that is consistent with an employee's classification and outlines:

- (a) Business-related work outcomes and individual performance measures that are realistic, achievable, measurable, and within an employee's control;
- (b) expectations regarding workplace behaviours, consistent with APS Values and workplace behaviours; and
- (c) an employee's learning and development plan, including:
  - (i) role-related learning requirements;
  - (ii) career development goals (as relevant); and
  - (iii) opportunities identified by the employee and their supervisor to address learning and development needs.

H4.3 Amendments to an Individual Performance Agreement to account for changes in an employee's circumstances or business changes will be by agreement with the employee and their supervisor.

H4.4 The employee and their supervisor will participate in a mid-cycle review of the employee's performance against the Individual Performance Agreement, which will be completed in writing, by February in the relevant year. In this discussion, the employee will be provided with an indicative rating of their performance as part of this review.

H4.5 The employee and their supervisor will participate in an annual review of the employee's performance against the Individual Performance Agreement, which will be completed in writing, by 15 August in the relevant year.

H4.6 Where an employee's supervisor has not initiated a review process in accordance with this clause H4, the employee will raise the matter with their supervisor's direct manager.

H4.7 An employee's overall performance (at the mid-cycle review and annual review stages) will be rated against the following scale, following discussions between the employee and their supervisor:

Rating	Description
1	<b>Requirements not met:</b> employee has not met most or all of their performance outcomes as outlined in their Individual Performance Agreement.
2	<b>Support required:</b> employee has met some performance outcomes, or has made satisfactory progress towards meeting their performance outcomes, but requires further time, support, development or improvement to perform at the Fully Effective level as outlined in their Individual Performance Agreement.
3	<b>Fully effective:</b> employee has met their required performance outcomes as outlined in their Individual Performance Agreement.
4	<b>Exceeds expectations:</b> employee has consistently exceeded their required performance outcomes as outlined in their Individual Performance Agreement.

H4.8 Salary advancement will apply in accordance with clause B6 of this Agreement.

- H4.9 Where an employee's performance at the annual review is assessed as "Support required", clause H5 ('Back on Track' Process) will apply and they will not be eligible for salary advancement in accordance with clause B5 of this Agreement, other than as provided for in H5.
- H4.10 Where an employee's performance at the annual review is assessed as "Requirements not met", they will not be eligible for salary advancement in accordance with clause B5 of this Agreement. Where a 'Back on Track' process has not been initiated at the time of the annual review, clause H5 ('Back on Track' Process) applies.
- H4.11 Where an employee is on a 'Back on Track' at the time of the annual performance review they will receive a rating of "Support required" at that time. Where an employee is on Formal Performance Counselling at the time of the annual performance review they will receive a performance rating "Requirements not met" at that time.

## **H5 'BACK-ON-TRACK' PROCESS**

- H5.1 This clause does not apply to non-ongoing and casual employees, employees on an Entry Level Program or employees on probation.
- H5.2 At any stage during the performance cycle where an employee's supervisor or manager identifies that an employee's performance is below, and remains below, satisfactory standards (including, but not limited to, where an employee's performance has been rated as a "2" in accordance with subclause H4.7), the supervisor may initiate a 'Back on Track' process in order to assist the employee to attain and sustain fully effective performance.
- H5.3 The 'Back on Track' process is a structured approach to performance improvement that is designed to be less formal and operate before the Formal Performance Counselling process at clause H6
- H5.4 The 'Back on Track' process will involve:
- (a) identification of areas of performance that require improvement;
  - (b) discussions between the employee and their supervisor to develop strategies to improve performance, including reasonable support that will be provided to the employee (including training or learning and development needs);
  - (c) documentation of a 'Back on Track' plan, which should be agreed and signed by the employee and their supervisor, which will outline:
    - (i) performance expectations that are realistic, reasonable, measurable, and consistent with the Individual Performance Agreement during the period of the plan;
    - (ii) arrangements for supervision and assessment during the period of the plan; and
    - (iii) arrangements for support, including learning or training, for the employee to assist in improving their performance during the period of the plan; and
  - (d) regular assessments of progress against the 'Back on Track' plan.
- H5.5 While an employee is participating in a 'Back on Track' process their Individual Performance Agreement is suspended. On successful completion of the 'Back on Track' process, their Individual Performance Agreement will be updated to ensure it meets the principle as set out in subclause H2.5 ('holistic').
- H5.6 The 'Back on Track' process will run for ten weeks, subject to subclauses H5.7 to H5.9.
- H5.7 This ten week period may be extended by any periods of approved leave.

- H5.8 Where, at the end of ten weeks, an employee has attained and sustained fully effective performance, the process will cease.
- H5.9 Where, at the end of ten weeks, an employee has not attained fully effective performance with reasonable support, the Secretary may initiate the Formal Performance Counselling process at clause H6. Salary advancement will not occur.
- H5.10 Where an employee is reassessed as "Fully Effective" at the end of a 'Back on Track' process initiated as a result of subclause H4.9; the employee will be eligible for salary advancement in accordance with clause B6 with effect from the date of the reassessment.

## **MANAGING UNDERPERFORMANCE**

### **H6 FORMAL PERFORMANCE COUNSELLING**

- H6.1 This clause H6 does not apply to non-ongoing and casual employees, or employees on probation.
- H6.2 The Secretary may initiate this process where an employee has been unable to attain fully effective performance with reasonable support at the completion of the 'Back on Track' process.
- H6.3 Where the Secretary applies this clause H6 to an employee, they will observe the following process:
- (a) formal written notice of counselling will be provided to the employee, which will identify areas of underperformance and notify the employee of the counselling session to be held under subclause H6.3(b);
  - (b) a formal counselling session will be conducted with the employee;
  - (c) a Formal Performance Counselling (FPC) plan will be developed and implemented, outlining required realistic, reasonable, and measurable levels of performance, and strategies to assist the employee attain and sustain performance at the "Fully Effective" level; and
  - (d) regular reviews of the employee's performance will be conducted.
- H6.4 While an employee is participating in a FPC process, their Individual Performance Agreement is suspended. On successful completion of the FPC process, their Individual Performance Agreement will be updated to ensure it meets the principle as set out in subclause H2.5 ('holistic').
- H6.5 The FPC process will run for eight weeks.
- H6.6 This eight week period will be extended by any periods of approved leave.
- H6.7 At any time during the FPC process, where an employee has attained and sustained fully effective performance, the Secretary may determine that the process will cease (and no salary advancement will be available).
- H6.8 At any time during the FPC process, the employee may consent to termination of employment. Where an employee agrees to have their employment terminated under this clause H6.8 they will be entitled to payment of a lump sum of any balance of the FPC period. The termination of employment notice periods apply as specified in the *Fair Work Act 2009*, but will be deemed to run concurrently with the balance of the FPC period.
- H6.9 Where, at the end of the eight week FPC process, the employee has not attained and sustained the required standards of performance during the FPC process, the Secretary may take appropriate action, including:

- (a) initiating termination of employment processes in respect of unsatisfactory performance of duties;
- (b) initiating reduction in classification processes in respect of unsatisfactory performance of duties; or
- (c) reassigning the employee to alternative duties at the same classification.

H6.10 Where the Secretary applies this clause H6 to an employee, they will ensure that the employee is afforded procedural fairness, and is advised of their right to be represented or have a support person assist them with the process.

H6.11 If within 12 months of completing a FPC process an employee's supervisor or manager identified that an employee's performance is below, and remains below, satisfactory standards for the same reasons; the employee may commence on an eight week FPC without undertaking a 'Back on Track' process.

## **PART I RETENTION, REDEPLOYMENT AND REDUNDANCY**

### **I1 APPLICATION**

- I1.1 Clauses relating to the management of excess employees will not apply to employees on probation, casual or non-ongoing employees.

### **I2 DEFINITION OF EXCESS EMPLOYEE**

- I2.1 An employee is an excess employee if:
- (a) the employee is included in a class of employees employed in the department where there are more employees in the class than is needed for the efficient, effective and economical operation of the department;
  - (b) the employee's services cannot be effectively used because of technological or other changes in work methods of the department, or changes in the nature, extension or organisation of functions of the department; or
  - (c) the duties usually performed by the employee are required to be performed at a different locality, the employee is not willing to relocate to perform their duties, and the Secretary has determined that clauses I1 to I2 apply to that employee.

### **I3 CONSULTATION WITH AFFECTED EMPLOYEES**

- I3.1 Where the Secretary considers that there is likely to be a need to identify an employee or employees as excess, the Secretary will, as soon as practicable, advise the employee or employees and their representatives, in writing, and offer to hold discussions with the employee(ss), to consider:
- (a) actions that might be taken to reduce the likelihood of the employee(s) becoming excess;
  - (b) redeployment opportunities for the employee(s) within the department or another APS agency; or
  - (c) the possibility of retrenchment with the payment of a redundancy benefit.
- I3.2 This consultation period will extend for at least a four-week period, but may be reduced with the written agreement of the affected employee(s).
- I3.3 The Secretary may invite other employees who are not excess to express an interest in voluntary retrenchment under clause I4, where that arrangement would allow the redeployment of the excess employee(s).
- I3.4 An employee who is advised, in accordance with this clause I3, that they are likely to become excess, may seek a "job swap" with another employee who is interested in voluntary retrenchment, to allow the initial employee to be redeployed. This arrangement is subject to the Secretary deciding that the other employee is a suitable employee for the purpose of the swap.

### **I4 VOLUNTARY RETRENCHMENT**

- I4.1 Where the Secretary decides that an employee is excess to the department's requirements, the Secretary will:



- (a) advise the employee in writing of the decision, and may invite the employee to elect for retrenchment with the payment of a redundancy benefit;
  - (b) ensure the employee is provided, as soon as is practicable, with information on the entitlements they would be eligible to receive if retrenched, including superannuation options and taxation treatment of entitlements; and
  - (c) reimburse the employee up to \$500 for expenses incurred in seeking financial advice.
- 14.2 Where the Secretary invites an excess employee to elect for retrenchment with a redundancy benefit, the employee will have four weeks in which to notify the Secretary of his or her decision (the consideration period). Where the employee elects for retrenchment, the Secretary may decide to retrench the employee but will not give notice of termination of employment before the end of the consideration period without the agreement of the employee.
- 14.3 The consideration period can be reduced by agreement between the employee and the Secretary. Where the period is reduced, the employee will, on termination of employment, be paid the unexpired period of the consideration period. The Secretary may give notice of termination of employment in accordance with clause G7 of this Agreement, or may decide to make a payment to the employee in lieu of notice.
- 14.4 Only one invitation to elect for retrenchment with the payment of a redundancy benefit will be made to an excess employee.

## **I5 REDUNDANCY BENEFIT**

- 15.1 An employee who elects for retrenchment with a redundancy benefit and whose employment is terminated by the Secretary under section 29 of the *Public Service Act 1999* on the grounds that he or she is excess to the requirements of the department, is entitled to payment of a redundancy benefit of an amount equal to two weeks' salary for each completed year of continuous service, plus a pro-rata amount for completed months of service since the last completed year of service, subject to any minimum amount the employee is entitled to under the National Employment Standards.
- 15.2 The minimum sum payable under this clause I5 will be four weeks' salary, and the maximum sum will be 48 weeks' salary.
- 15.3 The redundancy benefit will be calculated on a pro rata basis for any period where an employee has worked part-time hours during his or her period of service and the employee has less than 24 years full time service (refer to subclause I6.2), subject to any minimum amount the employee is entitled to under the National Employment Standards.

## **I6 RATE OF PAYMENT FOR REDUNDANCY BENEFIT**

- 16.1 For the purposes of calculating any payment for a redundancy benefit, salary will include:
- (a) the employee's salary at their substantive (ongoing) classification;
  - (b) the employee's salary at a temporary higher classification, where the employee has been working at the higher level for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of termination of employment; and
  - (c) 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 of an office disturbance allowance under clause C3 of this Agreement.

- 16.2 Where an employee has worked part-time hours during his or her period of service and the employee has less than 24 years' full time service, the two weeks per year of service that relates to that part-time service will be paid on a pro rata basis as follows:

- (a) Current annual full-time equivalent salary (as used for redundancy pay purposes), divided by full time hours, multiplied by the part-time hours for that part-time period worked.

## **17 NOTICE OF TERMINATION**

- 17.1 Where the employment of an excess employee is to be terminated under section 29 of the *Public Service Act 1999* on the grounds that he or she is excess to requirements, the Secretary will give written notice of termination of four weeks (or five weeks for an employee who is over 45 with at least five years of continuous service).

- 17.2 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.

*Note: an employee's entitlement to notice under this clause 17 replaces any entitlement the employee would have under clause G7 of this Agreement.*

## **18 RETENTION PERIOD**

- 18.1 An excess employee who does not agree to be retrenched with the payment of a redundancy benefit will be entitled to the following retention period:

- (a) thirteen months where the employee has 20 years or more service or is over 45 years of age; or
- (b) seven months for all other employees.

- 18.2 If an employee is entitled to a redundancy payment under the National Employment Standards, the relevant period in subclause 18.1 will be reduced by the number of weeks' redundancy pay that the employee will be entitled to under the National Employment Standards, as at the expiration of the retention period (as adjusted by this subclause 18.2).

- 18.3 The retention period will commence on the day the Secretary advised the employee in writing that they are an excess employee.

- 18.4 During the retention period, the Secretary:

- (a) will continue to take reasonable steps to find alternative employment for the excess employee; and
- (b) may, with four weeks' notice, reassign the excess employee to duties at a lower APS classification.

- 18.5 Where, under subclause 18.4(b), an employee's duties are reassigned to a lower classification before the end of the retention period, the employee will receive income maintenance to maintain salary at the previous higher classification for the balance of the retention period. Where a salary is maintained under this subclause 18.5, the employee's eligibility for salary advancement in respect of subclause B6 will be assessed against the employee's salary being within the salary range of the higher classification, not the new lower classification.

- 18.6 The retention period will be extended by any periods of approved leave due to personal illness or injury of the employee (supported by suitable evidence) taken during the retention period (calculated in accordance with subclauses 18.1 and 18.2).

- 18.7 The department will observe the relevant APS policies, including in respect of providing excess employees with redeployment assistance.
- 18.8 It is the excess employee's responsibility to take all reasonable steps to identify and apply for suitable vacancies at their substantive classification level during the retention period.
- 18.9 The excess employee may request assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment where those expenses are not met by the prospective employer.
- 18.10 Where an excess employee is required to move the employee's household to a new locality the Secretary may approve payment or reimbursement of reasonable expenses where those expenses are not met by the prospective employer.
- 18.11 Where the Secretary is satisfied that there is insufficient productive work available for the employee within the department during the remainder of the retention period and that there are no reasonable redeployment prospects within the APS:
- (a) the Secretary may, with the consent of the employee, terminate the employee's employment under section 29 of the *Public Service Act 1999*; and
  - (b) upon termination of employment, the employee will be paid a lump sum comprising:
    - (i) the balance of the retention period (as reduced under subclause 18.2 for the National Employment Standards), and this payment will be taken to include the payment in lieu of notice of termination of employment under clause G7 of this Agreement; plus
    - (ii) the employee's entitlement to redundancy payment under the National Employment Standards.

## **19 INVOLUNTARY TERMINATION OF EMPLOYMENT AT THE END OF THE RETENTION PERIOD**

- 19.1 In accordance with section 29 of the *Public Service Act 1999*, the Secretary may terminate the employment of the excess employee, without the employee's consent, at the end of the retention period.
- 19.2 An excess employee's employment will not be terminated without their consent without the employee being given notice of termination under clause G7 of this Agreement. Wherever possible, this notice period will be concurrent with the retention period.
- 19.3 An excess employee's employment will not be terminated without their consent if the employee has not been invited to elect for retrenchment with the payment of a redundancy benefit (under clause 14), or where the employee has elected for retrenchment with the payment of a redundancy benefit but the Secretary has refused to approve that election.

## **110 SERVICE FOR REDUNDANCY PAY PURPOSES**

- 110.1 The following types of service are counted in the calculation of service for the purposes of a redundancy benefit:

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

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

- (a) the break in service is less than four weeks and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer; or
- (b) the earlier period of service was with the APS and ceased because the employee was deemed to have resigned from the APS on marriage under the repealed section 49 of the *Public Service Act 1922*.

*Note: This is also subject to the transfer of business rules under Part 2-8 of the Fair Work Act 2009.*

110.3 Any period of service which ceased by way of:

- (a) any of the grounds for termination specified in section 29 of the *Public Service Act 1999* (including any additional grounds prescribed in the *Public Service Regulations 1999*);
- (b) on a ground equivalent to any of these grounds;
- (c) through voluntary retirement at or above the minimum retiring age applicable to the employee;
- (d) with the payment of a redundancy benefit or similar payment or an employer-financed retirement benefit,

will not count as service for redundancy pay purposes.

110.4 Absences from work that do not count as service for leave purposes will not count as service for redundancy pay purposes.

## SCHEDULE 1 – DEFINITIONS

The following definitions apply to this Agreement:

**APS Employee** means a person engaged under the *Public Service Act 1999*.

**child** means a biological child, adopted child, foster child, step child, or ward of the employee or the employee's partner.

**de facto** means a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis.

**household member** means a person, other than an immediate family member, who is residing in the employee's household at the time of the relevant illness, injury, emergency or death.

**immediate family** means:

- (a) a partner, parent, child, grandparent, grandchild or sibling of the employee;
- (b) the parent, child, grandparent, grandchild or sibling of the employee's partner; and
- (c) traditional kinship, where there is a relationship or obligation, under the customs and traditions of the community or group to which the employee belongs.

**parent** means a biological parent, step-parent, adoptive parent, guardian or former guardian, foster parent or former foster parent of the employee or the employee's partner.

**partner of the employee** means a spouse or de facto, (including former spouse or de facto), regardless of gender or sexual preference.

**performed duties** means having been present at work within the department and performing duties as required. This definition may be amended by the Secretary on a case by case basis to take into account an employee who is seconded to another organisation (that is, where the employee is paid by the department, but undertakes duties for another organisation).

**permanent fostering arrangement** means an arrangement under which a person or organisation with statutory responsibility for the placement of children places the child with the employee., in circumstances where the child is not expected to return to his or her family.

**previous industrial instrument** means the instrument that applied to an employee immediately preceding the commencement of this Agreement, being the *Department of Human Services Medical Officers Agreement 2013-2014*.

**qualifying service** has the same meaning as "service for redundancy pay purposes".

**undertaking official business in [a] temporary locality** (in relation to travel) includes:

- (a) attending meetings, workshops, conferences, or other official activities that are the primary activity for which official travel is required;
- (b) preparation for relevant activities;
- (c) transit to and from work locations in the temporary locality; and
- (d) time spent undertaking an employee's ordinary duties in the temporary locality.

## SCHEDULE 2 – BASE SALARIES

Classification		Salary points including first pay rise (on commencement)	Salary points from first anniversary of the commencement date	Salary points from 18 month anniversary of the commencement date
Medical Officer 2	Min.	\$122,382	\$124,830	\$126,079
	Max.	\$145,522	\$148,433	\$149,918
Medical Officer 3	Min.	\$154,983	\$158,083	\$159,664
	Max.	\$161,956	\$165,196	\$166,848
Medical Officer 4	Min.	\$168,424	\$171,793	\$173,511
	Max.	\$179,476	\$183,066	\$184,897

## **Fortnightly allowance in lieu of salary increase (see clause B5)**

### **Formula 1:**

***Fortnightly allowance (where the employee's salary has been partially absorbed into the salary band)***

The fortnightly allowance payable under subclause B5.6 is calculated by applying the following formula.

$$\frac{((A \times X) - (B - A)) \times 12}{313}$$

Where:

A = The employee's previous annual salary (before any increase under subclause B5.5)  
B = The employee's new salary (following an increase under subclause B5.5)  
C = The relevant percentage increase in accordance with clause B5

### **Formula 2:**

***Fortnightly allowance (where the employee's salary remains above the salary band)***

The fortnightly allowance payable under subclause B5.7 is calculated by applying the following formula.

$$\frac{A \times X \times 12}{313}$$

Where:

A = The employee's annual salary  
X = The relevant percentage increase in accordance with clause B5

### **Formula 3:**

***Fortnightly allowance (temporary higher duties where the salary at the higher classification remains above the salary band)***

The fortnightly allowance payable under subclause B8.9 is calculated by applying the following formula.

$$\frac{A \times X \times 12}{313}$$

Where:

A = The salary obtained by the employee at the higher classification level at which the employee is performing higher duties  
X = The relevant percentage increase in accordance with clause B5

**Formula 4:**

***Fortnightly allowance (where the employee's salary at the higher classification has been partially absorbed into the salary band)***

The fortnightly allowance payable under subclause B8.11 is calculated by applying the following formula:

$$\frac{(A \times X) - (B - A) \times 12}{313}$$

Where:

A = the employee's previous salary at the higher classification (before any increase under Subclause B8.10)

B = the employee's new salary at the higher classification (following an increase under Subclause B8.10)

X = The relevant percentage increase in accordance with clause B5



## **SCHEDULE 3 – REMOTE LOCALITIES**

### **1. Coverage**

- 1.1. This Schedule 3 applies to employees who are eligible for assistance in accordance with clause C7 of this Agreement.

### **2. Additional annual leave**

- 2.1. A full time employee will accrue annual leave at the rate (expressed in weeks) specified for their remote locality in Table A of this Schedule 3.
- 2.2. A part time employee is entitled to accrue pro rata leave under this clause 2 in accordance with the hours they work.
- 2.3. Leave accrued under this Schedule 3 accrues in addition to annual leave available under clause F2 (annual leave)

### **3. District allowance**

- 3.1. An employee is entitled to a district allowance in accordance with:
  - (a) the grading specified for the locality in Table A of this Schedule 3; and
  - (b) the rate for the applicable grade, as specified in the relevant subscription service; and
  - (c) the relevant rate in the subscription service, depending on an employee's dependents.
- 3.2. The district allowance is payable on a fortnightly basis in accordance with payment of salary.
- 3.3. Part time and casual employees eligible to receive payment of district allowance will be paid at the full rate.

### **4. Leave fares**

- 4.1. An employee may be entitled to leave fares in accordance with Table A of this Schedule 3, which accrues on a yearly (annual) basis, or every two years (biennial).
- 4.2. An annual leave fare will lapse two years from the date the leave fare accrued, and a biennial leave fare will lapse four years from the date the leave fare accrued.
- 4.3. An employee who has completed probation may elect to receive their leave fare as a cash payment. This election may be made at any time. Once an election has been made, all future entitlements will be processed as a cash payment on accrual.
- 4.4. Cash payments will be made in accordance with the rates specified in Table A of this Schedule 3 will be grossed up to reflect the tax rate applicable to the employee's annual salary.

### **5. Air-conditioning subsidy**

- 5.1. An employee residing in a Commonwealth dwelling is entitled to an air-conditioning subsidy in accordance with Table A of this Schedule 3.

### **6. Other fares assistance**

- 6.1. An employee will be entitled to:

- (a) reimbursement of the cost of travel to the nearest qualified medical or dental practitioner for medical or emergency dental treatment where the treatment is not available at the employee's usual locality;
- (b) reimbursement of fares incurred for emergency or compassionate travel; and
- (c) reimbursement of fares of children necessarily at school away from the employee's usual locality.

## 7. Additional assistance

7.1. An employee permanently residing in Nhulunbuy is entitled to return fares from Nhulunbuy to Darwin for them and their dependents, which accrue after 12 months service at Nhulunbuy, and every two years thereafter.

7.2. An employee permanently residing in Broken Hill is entitled to a weekly allowance of \$13.60 (where they have at least one dependent), or \$6.80 (where they have no dependents). The allowances in this subclause 7.2 of Schedule 3 will be increased in accordance with the pay rises at subclauses B5.2 and B5.3.

**Table A – Active Locations**

Location	Additional annual leave	District Allowance	Leave fares	Adult cash out rate	Child cash out rate	Air-conditioning subsidy
<b>NSW</b>						
Bourke	1.0	C	Biennial	\$720	\$720	No
Broken Hill	0.4	A	No	N/A	N/A	No
Lightning Ridge	1.0	C	No	N/A	N/A	No
Moree	0.4	A	No	N/A	N/A	No
Narrabri	0.4	A	No	N/A	N/A	No
Walgett	1.0	C	No	N/A	N/A	No
<b>QLD</b>						
Bamaga	1.4	D	Annual	\$2120	\$1700	Nov - Mar
Biloela	0.4	A	No	N/A	N/A	No
Bowen	0.4	A	Biennial	\$498	\$498	No
Burketown	1.4	D	Annual	N/A	N/A	Sept - May
Cannonvale	0.4	A	Biennial	\$498	\$498	No
Charleville	0.6	B	Biennial	\$816	\$650	No
Cloncurry	1.0	C	Annual	\$1482	\$1200	No
Cooktown	1.0	C	Biennial	\$1535	\$1236	No
Doomadgee	1.4	D	Annual	N/A	N/A	Sept - May
Goondiwindi	0.4	A	No	N/A	N/A	No
Emerald	0.4	A	No	N/A	N/A	No

Location	Additional annual leave	District Allowance	Leave fares	Adult cash out rate	Child cash out rate	Air-conditioning subsidy
Hopevale	1.0	C	Biennial	N/A	N/A	No
Longreach	1.0	C	Annual	\$1046	\$828	No
Mt Isa	0.6	B	Annual	\$1482	\$1200	No
Mornington Island	1.4	D	Annual	N/A	N/A	Sept - May
Normanton	1.4	D	Annual	\$2154	\$1585	Sept - May
Palm Island	0.6	B	Annual	\$1440	\$1107	No
Roma	0.4	A	Biennial	\$668	\$528	No
Thursday Island	1.4	D	Annual	\$2360	\$1918	Nov - Mar
Weipa	1.4	D	Annual	\$2078	\$1666	Oct - Mar
NT						
Angurugu	1.4	D	Annual	\$2445	\$2023	Oct - Apr
Ali Curung	1.4	D	Annual	\$1430	\$1156	Oct - Apr
Alice Springs	1.0	B	Annual	\$1430	\$1156	No
Borrooloola	1.4	D	Annual	\$2048	\$1652	Nov - Mar
Elliott	1.4	D	Annual	\$1430	\$1156	Oct - Apr
Galiwinku	1.4	D	Annual	\$2420	\$2005	Oct - Apr
Gunbalanya	1.4	D	Annual	\$1998	\$1652	Oct - Apr
Hermannsburg	1.4	D	Annual	\$1430	\$1156	Nov - Mar
Katherine	1.4	D	Annual	\$2048	\$1652	Sept - May
Lajamanu	1.4	D	Annual	\$1998	\$1652	Oct - Apr
Maningrida	1.4	D	Annual	\$2614	\$2129	Oct - Apr
Milingimbi	1.4	D	Annual	\$2369	\$1962	Oct - Apr
Nhulunbuy	1.4	D	Annual	\$2048	\$1652	Oct - Apr
Papunya	1.4	D	Annual	\$1430	\$1156	Nov-Mar
Santa Teresa	1.4	D	Annual	\$1430	\$1156	Nov - Mar
Tennant Creek	1.4	D	Annual	\$2928	\$2170	Nov - Mar
Tiwi Islands	1.4	D	Annual	\$2188	\$1710	Oct - Apr
Wadeye	1.4	D	Annual	\$2368	\$1780	Nov - Mar
Yuendumu	1.4	D	Annual	\$1430	\$1156	Nov - Mar
SA						
Ceduna	1.0	C	Biennial	\$834	\$834	No
Coober Pedy	1.0	C	Annual	\$984	\$984	No

Location	Additional annual leave	District Allowance	Leave fares	Adult cash out rate	Child cash out rate	Air-conditioning subsidy
WA						
Broome	1.0	C	Annual	\$1700	\$1356	Sept - Apr
Carnarvon	0.6	B	Biennial	\$709	\$709	Jan – Feb
Derby	1.4	D	Annual	\$1700	\$1356	Aug – May
Esperance	0.6	B	No	N/A	N/A	N/A
Fitzroy Crossing	1.4	D	Annual	\$2316	\$1808	Aug – May
Halls Creek	1.4	D	Annual	\$2486	\$1988	Oct – Apr
Kalgoorlie	0.4	A	No	N/A	N/A	No
Karratha	1.0	C	Annual	\$1402	\$1120	Sept – Apr
Kununurra	1.4	D	Annual	\$1700	\$1356	Aug – May
Laverton	0.6	C	Annual	\$912	\$912	No
Meekatharra	1.0	C	Annual	\$764	\$442	Nov – Mar
Newman	1.0	C	Annual	\$1284	\$998	Oct – Apr
South Hedland	1.0	C	Annual	\$1450	\$1152	Oct - Apr

## SCHEDULE 4 – TRANSITIONAL ARRANGEMENTS

### 1. Performance management

- 1.1. If, immediately prior to the commencement of this Agreement, an employee was undertaking a Back on Track process (BOT) under clause H5 of the *Department of Human Services Medical Officers Agreement 2013-2014*, the process will continue to be undertaken in accordance with clause I5 of the *Department of Human Services Medical Officers Agreement 2013-2014* until that process is completed.
- 1.2. If, at the completion of that Back on Track process (BOT) referred to in subclause 1.1 of this Schedule 4, an employee has not attained fully effective performance, the Formal Performance Counselling (FPC) process will be undertaken in accordance with clause H6 of the *Department of Human Services Medical Officers Agreement 2013-2014*.
- 1.3. If, immediately prior to the commencement of this Agreement, an employee was undertaking a Formal Performance Counselling process (FPC) under clause H6 of the *Department of Human Services Medical Officers Agreement 2013-2014*, the process will continue to be undertaken in accordance with clause I6 of the *Department of Human Services Medical Officers Agreement 2013-2014* until that process is completed.
- 1.4. If an employee's performance is assessed as below fully effective within 12 months of completing either a Back on Track (BOT) or Formal Performance Counselling process (FPC) under clause H5 or H6 of *Department of Human Services Medical Officers Agreement 2013-2014*, subclause H6.11 of this Agreement will apply.

### 2. Working hours

- 2.1 Employees who, immediately prior to the commencement of this Agreement were covered by the *Department of Human Services Medical Officers Agreement 2013-2014* and had in place a current part time work agreement, regular hours agreement, ordinary pattern of hours or other working hours agreement which fixed their working hours, will continue to observe the terms of that arrangement until the earlier of the following:
  - (a) the expiration of that agreement;
  - (b) that agreement is altered, or ceases by agreement between the employee and their manager; or
  - (c) the first anniversary of the commencement of this Agreement.

### 3. Timing of commencement of additional matters

#### 3.1 Higher duties

Clause B8 of this Agreement will not take effect until the start of the second full settlement period after the commencement of this Agreement. Until that time, employees will be entitled to higher duties allowance in accordance with clause B9 of the *Department of Human Services Medical Officers Agreement 2013-2014*.

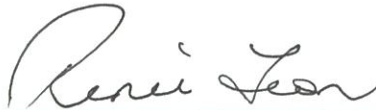
### 4. Long Service Leave

- 4.1 Where upon commencement of this Agreement an employee has applied for a period of long service leave at half pay in accordance with clause F16.2 of the *Department of Human Services Medical Officers Agreement 2013-2014* and that period of leave has been approved, the employee will be eligible to access that period of approved leave in accordance with clause F16.2 of the *Department of Human Services Medical Officers Agreement 2013-2014*.

**Signature Page**

Signed on behalf of the Department of Human Services by  
Renee Leon  
in her capacity as Secretary, Department of Human Services  
18 Canberra Avenue, Forrest, ACT 2603.

Signature:



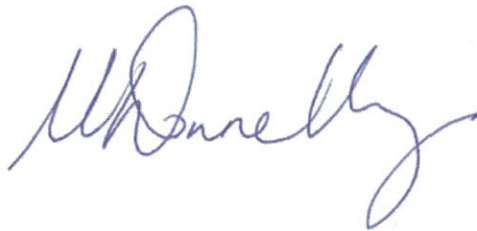
Date:



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Signed on behalf of the Community and Public Sector Union (CPSU) by  
Melissa Donnelly  
in her capacity as Deputy Secretary, CPSU  
5,191-199 Thomas Street, Haymarket, NSW 2000.

Signature:



Date:

\_15/08/2018\_

IN THE FAIR WORK COMMISSION

FWC Matter No.:

**AG2018/4613**

Applicant:

Commonwealth of Australia, represented by the Department of Human Services

Section 185 – Application for approval of a single enterprise agreement

## Undertakings - Section 190

I, **Renée Leon, Secretary for the Department of Human Services** ("the Department") give the following undertakings with respect to the **Department of Human Services Medical Officers Agreement 2018-2021** ("the Agreement"):

1. I have the authority given to me by section 57 of the *Public Service Act 1999* (Cth) to provide these undertakings in relation to the application before the Fair Work Commission.
2. In relation to annual leave and clauses F2.1 and F5.2 of the Agreement, these clauses will be read and interpreted in conjunction with the National Employment Standards ("NES") as contained in the *Fair Work Act 2009* (Cth). Where there is an inconsistency between the application of these clauses in the Agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.
3. In relation to clause E3.1 of the Agreement, a "settlement period" is a period of four weeks. Therefore, pursuant to this clause, full time employees will work 150 hours per four-week period as their ordinary hours of duty, equating to ordinary weekly hours of 37.5 hours per week. Further, in accordance with section 62 of the *Fair Work Act 2009* (Cth), the Department will not request or require an employee to work more than a maximum of 38 hours per week unless the additional hours are reasonable.
4. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Signature

14/12/18

Date