



# DECISION

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

**Administrative Appeals Tribunal**  
(AG2017/1838)

## AAT ENTERPRISE AGREEMENT 2017 - 2020

Commonwealth employment

COMMISSIONER GREGORY

MELBOURNE, 2 JUNE 2017

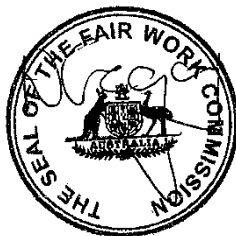
*Application for approval of the AAT Enterprise Agreement 2017 - 2020.*

[1] An application has been made for approval of an enterprise agreement known as the *AAT Enterprise Agreement 2017 - 2020* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Administrative Appeals Tribunal. The Agreement is a single enterprise agreement.

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

[3] The CPSU, 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.

[4] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 9 June 2017. The nominal expiry date of the Agreement is 9 June 2020.



COMMISSIONER

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# **AAT ENTERPRISE AGREEMENT 2017-2020**

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## Introduction

1. The AAT Enterprise Agreement sets out terms and conditions of employment for employees covered by this Agreement. Attachment A sets out defined terms applying to this Agreement.
2. Under this Agreement, employees and supervisors of the AAT are committed to:
  - (a) working together to enable accessible, fair, just, economical, informal, quick and proportionate review of administrative decisions that promotes public trust and confidence in the decision-making of the AAT;
  - (b) working together in accordance with the APS Values and Code of Conduct and Employment Principles to continuously and innovatively improve the productivity, effectiveness and quality of AAT services, both externally to applicants and agencies, and internally via its administrative operations. All parties to the agreement acknowledge that this will be done with consideration to the Government's funding and employment policy framework;
  - (c) being conversant with, and upholding the principles and provisions of this Agreement and other supporting policies, guidelines and instructions;
  - (d) engaging constructively in the AAT's performance appraisal process;
  - (e) following the consultation processes as per the consultation provisions in this Agreement;
  - (f) valuing and respecting the diversity of the work force in a discrimination free workplace;
  - (g) maintaining all required employee records, e.g. attendance, leave and participation in learning and development activities;
  - (h) maintaining accurate records of matters which influence any decision on business-related matters and ensuring that appropriate records are captured on appropriate corporate record keeping systems.
3. This Agreement seeks to:
  - (a) ensure that employees are provided with the tools needed to do their work efficiently, effectively, and ethically;
  - (b) achieve clarity in terms and conditions of employment;
  - (c) attract and retain quality employees through an affordable and competitive package of pay and conditions;
  - (d) provide a healthy and safe workplace that is free of discrimination, harassment and bullying;
  - (e) recognise the efforts of employees;
  - (f) support work and life balance by providing flexibility in workplace arrangements, working hours and leave consistent with the service required to be provided to the public and other clients;
  - (g) link reward and advancement to an assessment of skills, performance and the value of the work undertaken;
  - (h) build organisational capability by encouraging employee access to learning and development and giving employees guidance and encouragement to undertake their work effectively.

4. Nothing in this Agreement is intended to reduce an employee's entitlements under the National Employment Standards (NES).

## Remuneration

### Classification and salary rates

5. The AAT classification structure under this Agreement consists of the APS classifications listed under table B.1 of Attachment B.
6. An employee will be paid fortnightly in arrears and the fortnightly rate of pay will be based on the formula: Annual salary multiplied by 12 divided by 313. Attachment B details salary rates to be paid over the life of this Agreement, including transitional salary rates, for employees on certain maintained salaries.
7. An employee with a salary that falls within the AAT salary scale will receive salary increases as follows:
  - 3% on commencement of this Agreement
  - 2% 12 months from commencement
  - 1% 18 months from commencement
8. Employees on maintained salaries (as defined in Attachment A) will receive salary increases in accordance with the transitional provisions under B.2 of Attachment B.
9. An ongoing employee who is not on a maintained salary or the top salary pay point of the salary range in table B.1 will be eligible for salary advancement at their substantive classification with effect from 1 July each year subject to:
  - (a) having a current performance agreement in place;
  - (b) having received a performance rating of at least 'met expectations', as defined at clause 80, for the period ending 31 May;
  - (c) having been on the pay point for at least 6 months as at 31 May (excluding unpaid leave that does not count towards service); and
  - (d) having satisfied any requirement of salary progression associated with a broadband.
10. Subject to satisfying the remaining requirements in clause 9:
  - (a) an ongoing employee who is not entitled to pay point advancement on 1 July in a year because the employee has not received a performance rating of at least 'met expectations' in accordance with clause 9(b) will be eligible for pay point advancement on the day their performance has been assessed as 'met expectations' or higher; or
  - (b) an ongoing employee who is ineligible for pay point advancement on 1 July under clause 9(c) is eligible for advancement once they have been at their current pay point for 6 months (excluding unpaid leave that does not count towards service).
11. The Registrar will determine an employee's pay point where an employee and the Registrar agree to a reduction in the employee's classification.
12. An ongoing employee who has been temporarily assigned duties at a higher level for a continuous period of 12 months, or for a total period of 12 months within a 36 month period is also eligible for salary advancement within the salary range of the lowest applicable higher duties classification, subject to:

- (a) having received a performance rating of at least 'met expectations' for the period ending 31 May; or
- (b) being assessed as contributing effectively at the higher level classification where a performance plan is not required to be in place.

#### Broadbanding

- 13. If a group of duties involves work requirements applying to more than one classification, the Registrar may allocate more than one classification (a broadband) to the group of duties.
- 14. Where a broadband is established, the Registrar will issue procedures for that broadbanding arrangement. At a minimum, these procedures should ensure an employee is only advanced where, in addition to satisfying the requirements for salary advancement in clause 9:
  - (a) sufficient work is available at the higher classification; and
  - (b) the employee has gained the necessary skills and proficiency to perform at the APS classification level.
- 15. Advancement within a broadband is not considered a promotion.

#### Graduate classification

- 16. An employee may be engaged as a Graduate APS employee.
- 17. Graduate APS employees will have access to a Graduate Broadband. Table B.1 of Attachment B sets out the salary rates for employees in this broadband.
- 18. A Graduate APS employee will be paid at the APS3.1 pay point on commencement.
- 19. While undertaking training, a Graduate APS employee will be paid at a pay point within the APS 3 classification as determined by the Registrar.
- 20. On successful completion of training determined by the Registrar, a Graduate APS employee will be allocated an appropriate operational classification as listed in Schedule 2 of the Public Service Classification Rules (the Classification Rules). The Registrar may then assign duties within the Graduate Broadband and determine the appropriate pay point for the employee's duties.

#### Training classifications

- 21. An employee may be engaged in an ongoing training classification determined by the Registrar. Table B.1 in Attachment B sets out the salary rates for employees in a training classification.
- 22. On successful completion of training determined by the Registrar, the trainee will be allocated an appropriate operational classification as listed in Schedule 2 of the Classification Rules. This is not a promotion.
- 23. A trainee's employment can be terminated for failure to satisfactorily complete a required entry-level course.

#### Salary on engagement, promotion and assignment of duties

- 24. An employee's salary on engagement, promotion and assignment of duties (including movement from another APS agency) will normally be at the minimum salary rate for the classification, unless the Registrar approves payment at a higher pay point within the classification. The Registrar may have regard to any previous history of higher duties at level when determining the relevant pay point.



25. Where, at the time of engagement, an employee's salary is set at an incorrect pay point within the applicable salary scale, the Registrar may determine (in writing) the payment of the employee's salary at the correct pay point.
26. Where an employee agrees, in writing, to temporarily perform work at a lower work value level, the Registrar may determine (in writing) that the employee shall be paid at the pay point applicable to the lower work value level.
27. At the discretion of the Registrar, an existing APS employee moving to the AAT at the same classification level whose current salary exceeds the highest pay point in the AAT for that classification will be maintained on the higher salary until it is absorbed by pay increases at the relevant classification level. Once the higher salary is absorbed by pay increases at the relevant classification level, the employee will move to the next highest pay point available at the relevant classification level.
28. Non-ongoing employees who are offered an extension of contract after completing a minimum of 12 months' service at a particular APS level may be offered renewal at the next pay point for that level provided their performance in the previous 12 months is assessed as having 'met' or 'exceeded expectations'. Irregular / intermittent employees who satisfy these criteria may also be considered for salary advancement at the discretion of the Registrar.

#### Categories of employees

29. Employees covered by this Agreement are engaged in accordance with the *Public Service Act 1999*:
  - (a) as an ongoing employee; or
  - (b) for a specified term or for the duration of a specified task; or
  - (c) for duties that are irregular or intermittent.
30. Employees engaged as an irregular or intermittent (casual) employee will be remunerated on an hourly basis.
31. Employees engaged as an irregular or intermittent employee will receive a loading of 20% of salary in lieu of public holidays on which the employee is not rostered to work and all leave entitlements except long service leave, unpaid parental leave (if the employee is an eligible casual employee as defined by the *Fair Work Act 2009* (the Fair Work Act)), 2 days' unpaid compassionate leave per each permissible occasion, and 2 days' unpaid carer's leave per each permissible occasion.
32. Non-ongoing and irregular or intermittent employees may be considered for ongoing engagement in accordance with relevant legislation.

#### Supported salary rates and workplace adjustment

33. Employees who are eligible for a supported salary who meet the impairment criteria for the Disability Support Pension will be paid the applicable percentage of the relevant rate for the work value they are performing in accordance with the "*Special Supported Wage System (Employees with a Disability) Transitional Australian Pay and Classification Scale*" or replacement instrument. Details are provided at Attachment D.
34. Where the Registrar employs a person under these provisions, the AAT shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

#### Individual flexibility arrangements

35. The Registrar and an employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of this Agreement if:

- (a) the arrangement deals with 1 or more of the following matters:
    - i) arrangements about when work is performed;
    - ii) overtime rates;
    - iii) penalty rates;
    - iv) allowances;
    - v) remuneration; and/or
    - vi) leave; and
  - (b) the arrangement meets the genuine needs of the AAT 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 Registrar and the employee.
36. The Registrar must ensure that the terms of the individual flexibility arrangement:
- (a) are about permitted matters under section 172 of the Fair Work Act; and
  - (b) are not unlawful terms under section 194 of the Fair Work Act; and
  - (c) result in the employee being better off overall than the employee would be if no arrangement was made.
37. The Registrar must ensure that the individual flexibility arrangement:
- (a) is in writing; and
  - (b) includes the name of the AAT and employee; and
  - (c) is signed by the Registrar and 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 this Agreement that will be varied by the arrangement; and
    - ii) how the arrangement will vary the effect of the terms; and
    - 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
  - (e) states the day on which the arrangement commences and, where applicable, when the arrangement ceases.
38. The Registrar must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
39. The Registrar 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 Registrar and employee agree in writing — at any time.

#### Superannuation

- 40. The AAT will provide employer superannuation contributions in accordance with the relevant legislative requirements.
- 41. Employer contributions to the PSSap will be 15.4% of the employee's fortnightly contribution salary. Employer contributions for employees in other accumulation schemes will be at the same rate as for employees in PSSap.

42. The Registrar may choose to limit superannuation choice to complying superannuation funds that allow employee and/or employer contributions to be paid through fortnightly electronic funds transfer (EFT) using a file generated by the AAT's payroll system.
43. Employer superannuation contributions will not be paid on behalf of employees during periods of unpaid leave that does not count as service, unless otherwise required under legislation.
44. The AAT will make employer superannuation contributions with respect to employees aged over 75 years who are members of an accumulation scheme at the rate of contribution for employees in PSSap.

#### Salary packaging

45. Salary packaging arrangements - as varied from time to time - will be available to ongoing employees and non-ongoing employees whose initial contract exceeds 12 months.
46. Requests for salary packaging arrangements by employees not covered by clause 45 will be considered on a case by case basis.
47. Where an employee elects to access salary packaging, the employee's salary for the purposes of superannuation, severance and termination payments, and any other purposes, will be determined as if the salary packaging arrangement had not occurred.
48. The employee will meet the costs of any salary packaging arrangement, including any fringe benefits tax and administrative costs incurred by the AAT.

#### **Allowances**

##### Temporary assignment of duties

49. An employee may decline an invitation to perform duties temporarily at a higher classification level.
50. Where an employee is temporarily assigned duties at a higher classification level for a continuous period of 1 week or more, the employee will be paid either an allowance equal to the difference between the employee's own salary and the salary the employee would have received if promoted to the higher classification, or an amount equivalent to \$3,000 per annum, whichever amount is the greater, or an alternative amount determined by the Registrar, for the period of the higher duties.
51. Once an employee has received salary advancement at a higher classification, that salary advancement will be retained for future temporary assignment at that classification level unless the employee does not perform duties at that higher classification level for 3 consecutive years.
52. Where an employee is temporarily assigned duties at a Senior Executive Service (SES) classification, the employee will be paid an allowance determined by the Registrar for the period of the temporary assignment.

##### Conferencing allowance

53. An employee whose primary role is to exercise powers as authorised under section 33(2)(a) of the *Administrative Appeals Tribunal Act 1975* (AAT Act) will be paid an allowance of 2% of salary per annum while undertaking such duties.
54. When an employee who is not covered by clause 53 prepares for and/or conducts conferences or other alternative dispute resolution processes, the employee will be paid an amount of \$50 per day for a day on which conferences or other alternative dispute resolution processes are performed. An employee cannot be paid more per financial year under this clause than under clause 53.

Workplace responsibility allowance

55. An employee is entitled to a workplace responsibility allowance where the employee is appointed to a workplace responsibility role and has successfully completed any training programs and/or refresher courses required.
56. The table below specifies the annual workplace responsibility allowances, paid fortnightly in arrears.

<b>Allowance type</b>	<b>Allowance on commencement of this Agreement</b>	<b>Allowance 12 months after commencement of this Agreement</b>	<b>Allowance 18 months after commencement of this Agreement</b>
First Aid Officer	\$738.80	\$753.60	\$761.10
Health and Safety Representative	\$738.80	\$753.60	\$761.10
Workplace Harassment Officer	\$369.40	\$376.80	\$380.55
Secure Room Custodian	\$1,343.30	\$1,370.15	\$1,383.85

57. Where a Secure Room Custodian is required to respond to an alarm call and:
- (a) does not attend AAT premises - the Custodian will receive an additional payment of \$50; or
  - (b) attends AAT premises - the Custodian is entitled to receive payment in accordance with the Emergency Duty provisions (including travel related costs).
58. Payment of a workplace responsibility allowance will cease for continuous absences of over 4 weeks unless otherwise required by legislation.

Security vetting allowances

59. Where an employee successfully completes an initial Negative Vetting 2 or equivalent or higher clearance process, the employee will be paid a lump sum of \$500.
60. Where an employee successfully completes a re-validation process for a Negative Vetting 2 or equivalent or higher clearance, the employee will be paid a lump sum of \$250.

Special duties allowance

61. The Registrar may approve payment of allowances of a special nature to compensate an employee for additional duties that arise from the conduct of work, e.g. due to the addition of new duties or responsibilities, whether of a short or longer term nature.

Travelling allowance

62. An allowance will be payable to an employee who is required to travel on official business and is away from home overnight. The allowance is to meet costs of accommodation, meals and any incidental expenses incurred by the employee while travelling on official business.
63. The Registrar may authorise an additional payment in circumstances where an employee has incurred, or will incur, reasonable costs in excess of the allowance paid in accordance with clause 62.
64. Where an employee is provided with either accommodation or meals, or both, at AAT expense, the employee will not be paid for those components of travelling allowance in respect of any accommodation or meals provided.
65. The Registrar will set travelling allowance rates in accordance with the rates set by the Australian Taxation Office (ATO).

### Overseas travel

66. Employees required to undertake official overseas business related travel are entitled to:
- (a) appropriate Overseas Travelling Allowances;
  - (b) travel at premium economy (if available), otherwise business or equivalent class of travel;
  - (c) have access to appropriate rest periods and have other related costs met by the AAT.
67. Employees will not be out of pocket for reasonable work-related expenses incurred.
68. Where an Overseas Travelling Allowance is payable the rates will be those determined by the Registrar in accordance with the rates set by the ATO.

### Motor vehicle allowance

69. Where the Registrar authorises an employee to use a private car owned or hired by the employee at the employee's own expense for official purposes the employee will be paid a Motor Vehicle Allowance as determined by the Registrar in accordance with the rates set by the ATO.

## **Performance and development**

### Learning and development

70. The AAT is committed to providing opportunities for employees to develop and enhance their skills and knowledge to meet the current and future requirements of the AAT and APS. This will improve services and enable the AAT to have a more skilled and flexible workforce.
71. An employee may be provided with assistance to cope with change, and support in retraining and re-skilling for new duties within the AAT.
72. Employees and their supervisors will identify learning and development needs and opportunities as part of their performance agreement.
73. The AAT will assist employees by providing access to appropriate training and support to perform additional duties. An employee attending training under this clause will be regarded as being on duty for the duration of approved training.
74. Learning and development activities encompass both on-the-job and other opportunities, including self-learning, work experience, training courses, conferences and study.

### Studies assistance

75. The Registrar may provide assistance for an employee undertaking a course of study. For an approved course of study, the assistance may include:
- (a) leave to assist with study commitments;
  - (b) financial assistance to assist with costs.

### Performance appraisal scheme

76. The AAT will have in place a performance appraisal scheme consistent with the APS Employment Principles and the Public Service Commissioner's Directions.
77. The performance cycle begins at 1 June and ends at 31 May.
- Note: Employees who commence employment in the AAT after the performance cycle has begun are subject to clause 10(b).
78. All employees are required to participate in the AAT's performance appraisal scheme, unless otherwise specified by the relevant delegate.

79. Employee performance will be rated on a three-point scale, using the following ratings: 'did not meet expectations', 'met expectations', and 'exceeded expectations'.
80. To be rated as 'met expectations', an employee must attain and sustain performance, including behaviour, consistent with the employee's performance agreement.  
Note: Employees who do not receive at least a 'met expectations' rating are subject to clause 10(a).
81. Should an employee and supervisor not agree on the content of the agreement, then the agreement may be settled by the next level supervisor.

#### Managing underperformance

82. Underperformance is a continued or repeated failure to achieve expected standards.
83. The AAT is committed to addressing under-performance matters promptly and fairly.
84. A supervisor may make an assessment at any time that an employee's performance is failing to meet expectations or is likely not to meet expectations without improvement.
85. Where such an assessment is made, the employee and his or her supervisor will identify and work towards the employee attaining and sustaining the standard of performance required to meet expectations. This will typically involve informing the employee where expected outcomes are not or appear unlikely to be met, discussing reasons for underperformance, and clarifying expectations about performance where appropriate.
86. If an ongoing employee, who is not a probationary employee, does not attain and sustain the standard of performance required, a performance improvement plan will be instituted which will set out the standard of performance required and provide a period during which the employee must attain and sustain the standard of performance required, and set out possible consequences if the employee's performance does not meet expectations.
87. A formal assessment period of 8 weeks will apply unless a shorter period is agreed between the employee and the relevant delegate.
88. In developing a performance improvement plan, both employee and supervisor should be involved in the process of identifying and implementing strategies or measures aimed at improving performance.
89. A supervisor and an employee will meet regularly during the performance improvement process.
90. At the conclusion of the performance improvement plan, the supervisor will make an assessment as to whether the employee has attained, and demonstrated the ability to sustain, the expected standard of performance.
91. An employee will be provided 5 working days to respond to the supervisor's assessment report, prior to the Registrar making a decision.
92. Following the completion of a performance improvement process, the Registrar may:
  - (a) take no further action as the employee has met the expected standards;
  - (b) extend the assessment period;
  - (c) reduce the employee's classification level;
  - (d) reduce the employee's pay point within a classification level to the lowest pay point;
  - (e) redeploy the employee at the same classification level;
  - (f) terminate the employee's employment; or
  - (g) other actions considered appropriate.

93. An employee may have an employee representative or support person present for any discussions relating to the performance improvement process and outcomes. Related policies and guidelines can be found on the intranet.

### **Freedom of Association**

94. The AAT recognises that employees under the Fair Work Act are:
- (a) free to become, or not become, members of industrial associations; and
  - (b) free to be represented or not represented, by industrial associations; and
  - (c) free to participate, or not participate, in lawful industrial activities under the Fair Work Act.
95. Employees will not be disadvantaged or discriminated against because they are, or are not, a member of an industrial association.

### **Employee representation**

96. In any matter arising under this Agreement, an employee may have an employee representative assist, support, accompany or represent them. To avoid doubt, this assistance includes acting as an advocate. The AAT and employee representatives will deal with each other in good faith.
97. The role of employee representatives, including union delegates and other non-union employee representatives, is to be respected and facilitated.
98. An employee will provide prior notice to all parties to a discussion where the employee chooses to be represented.
99. An employee is expected to be present at discussions where they choose to be represented.

### **Consultation**

100. The AAT may undertake broader consultation with employees to promote employee satisfaction and welfare, and organisational productivity through a cooperative working relationship.

#### **Consultation on major change**

101. If the Registrar has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to the AAT that is likely to have a significant effect on employees:
- (a) the Registrar must notify the relevant employees of the decision to introduce the major change;
  - (b) the relevant employees may appoint a representative;
  - (c) if:
    - i) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
    - ii) the employee or employees advise the employer of the identity of the representative;the Registrar must recognise the representative;
  - (d) as soon as practicable after making the decision, the Registrar must:

- i) discuss with the relevant employees:
  - the introduction of the change;
  - the effect the change is likely to have on the employees;
  - measures the Registrar is taking to avert or mitigate the adverse effect of the change on the employees; and
- ii) for the purposes of the discussion—provide, in writing, to the relevant employees:
  - all relevant information about the change including the nature of the change proposed; and
  - information about the expected effects of the change on the employees; and
  - any other matters likely to affect the employees.

102. If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the AAT, the requirements set out in paragraph 101(a), 101(b) and 101(d) are taken not to apply.

103. A major change is likely to have a significant effect on employees if it results in:

- (a) the termination of the employment of employees; or
- (b) major change to the composition, operation or size of the AAT's workforce or to the skills required of employees; or
- (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
- (d) the alteration of hours of work; or
- (e) the need to retrain employees; or
- (f) the need to relocate employees to another workplace; or
- (g) the restructuring of jobs.

#### Consultation of changes to an employee's regular roster or ordinary hours

104. If the Registrar proposes to introduce a change to the regular roster or ordinary hours of work of employees:

- (a) the Registrar must notify the relevant employees of the proposed change;
- (b) the relevant employees may appoint a representative;
- (c) if:
  - i) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
  - ii) the employee or employees advise the Registrar of the identity of the representative;the Registrar must recognise the representative.
- (d) As soon as practicable after proposing to introduce the change, the Registrar must:
  - i) discuss with the relevant employees the introduction of the change; and
  - ii) for the purposes of the discussion—provide to the relevant employees:



- all relevant information about the change, including the nature of the change; and
  - information about what the Registrar reasonably believes will be the effects of the change on the employees; and
  - information about any other matters that the Registrar reasonably believes are likely to affect the employees; and
- (e) 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).
105. In providing information under clauses 101 and 104, the Registrar is not required to disclose confidential or commercially sensitive information to the relevant employees.
106. In relation to matters arising under clauses 101 and 104, the Registrar must give prompt and genuine consideration to matters raised about the change by the relevant employees.
107. For the purposes of clauses 101 and 104, a relevant employee is an employee who may be affected by the change referred to.

#### National Consultative Committee (NCC)

108. The Registrar is committed to consulting with employees and will convene a NCC to:
- (a) facilitate an exchange of information and to improve understanding of workplace issues affecting employees;
  - (b) provide an avenue for employees to contribute views on workplace issues affecting them;
  - (c) provide a mechanism for reasonable consultation with employees about the implementation of this Agreement and other workplace matters considered by the Registrar or employees to be relevant for the NCC, including the development and modification of supporting policies and guidelines.
109. In order to ensure effective communication and consultation between employees and management, the composition of the NCC will be composed of management and employee representatives with regard to the AAT's national presence.
110. The NCC will meet biannually unless otherwise agreed by the NCC.
111. Other details relating to the NCC will be maintained in the terms of reference. Changes to terms of reference will be subject to consultation and agreement at the NCC.

### **Hours of work and flexible working arrangements**

#### Hours of work

112. The ordinary hours of work are:
- (a) for full-time employees – 150 hours per 4-week period, or 7 hours 30 minutes per day; and
  - (b) for part-time employees – the number of hours per 4-week period as agreed in their part-time work arrangement (as varied from time to time).
113. The standard hours of attendance are:
- (a) for full-time employees – from 8.30 am to 1.00 pm and 2.00 pm to 5.00 pm.
  - (b) for part-time employees – as agreed in their part-time work arrangement as varied from time to time.

(c) for full-time and part-time Executive level employees – as per clause 129

114. Core hours for all APS Level employees will be 9.30 am to 12.00 pm and 2.00 pm to 4.00 pm unless varied by agreement by an employee and the employee's supervisor based on operational needs. Employees shall ordinarily be present at work during core hours.

#### Span of hours

115. The span of ordinary hours (bandwidth) within which an employee may work is 7.30 am to 6.30 pm, Monday to Friday.

116. Where an employee specifically requests to do so, the Registrar may, subject to operational requirements, approve an employee to work outside this span of hours for a specified period. Any hours worked on this basis will not attract overtime rates.

#### Flex credit

117. Where an APS Level employee works in excess of the employee's ordinary hours on any given day, the employee will accrue flextime credits for the period in excess of the employee's ordinary hours for that day.

118. The maximum flextime credit for full-time APS Level employees is 37.5 hours. For part-time APS Level employees the maximum flextime credit is calculated on a pro rata basis.

119. APS Level employees may, with the approval of the employee's supervisor, take a maximum 5-day block of flextime absence, subject to the employee not going into a flex debit as a result of the flextime absence.

120. Where an APS Level employee formally notifies the AAT of his or her intention to cease employment with the AAT, requests to use flextime credits before leaving the AAT will not be unreasonably refused.

#### Insufficient work

121. The relevant supervisor may require an employee not to work hours in addition to ordinary hours where there is insufficient work.

#### Flex debit

122. Where an APS Level employee works less than that employee's ordinary hours on any given day, without being on other approved leave, the employee will have flextime debited for the period not worked, up to the employee's ordinary hours for that day.

123. The maximum flex debit is 10 hours. Any debit in excess of 10 hours must be reduced by the end of the next settlement period. Where an employee has in excess of 10 hours at the end of the settlement period, the employee may choose to reduce the excess (or whole) amount either by salary adjustment through the use of Miscellaneous Leave Without Pay not to count as service, or in special circumstances, Annual Leave.

124. Any flex debit which is outstanding on cessation of employment with the AAT will be treated as a recoverable debt in accordance with the relevant Accountable Authority Instruction.

#### Working patterns

125. The pattern of hours by which employees work their ordinary hours is a matter for agreement between supervisors and employees. However, employees will:

- (a) make themselves available for reasonable direction to work outside their agreed pattern of work;
- (b) not be required to work for more than 10 hours ordinary time on any day; and
- (c) not be required to work more than 5 consecutive hours without a meal break of at least 30 minutes.

126. The Registrar may direct an employee to adopt a particular pattern of working hours, subject to providing 2 weeks' notice of such a direction. In making such a direction the Registrar will take into account:

- (a) operational requirements;
- (b) the impact on parties appearing before the AAT and their representatives;
- (c) the impact on other employees and members; and
- (d) the personal needs of the employee (e.g. need to collect dependent children).

#### Unauthorised absence

127. Where an employee is absent from duty without approval, all pay and other benefits provided under this Agreement, e.g. flextime, flexible work arrangements, etc. will cease to be available until the employee resumes duty or is granted leave. Unauthorised absences do not count as service for any purpose.

#### Executive level employees

128. Full-time employees at the Executive Level 1 and Executive Level 2 classification are paid on the basis of 75 hours per fortnight and reasonable additional hours. Employees at these levels are expected to work reasonable additional hours without additional pay where this is necessary in order to achieve required outcomes.

129. In recognition of their attendance requirements and to assist in enabling a reasonable work/life balance, an Executive Level employee has the flexibility to determine his or her actual hours of work on each day (including short-term absences during the day), subject to the following:

- (a) the employee's supervisor may require the employee to start work by no later than a nominated time or to finish work no earlier than a nominated time (provided this does not result in the employee working in excess of his or her ordinary hours on an ongoing basis);
- (b) the employee must be at work on every weekday unless he or she is part-time, has an approved flexible work arrangement, is on an approved form of leave, or his or her supervisor has agreed to the employee having time off in recognition of additional hours the employee has worked; and
- (c) the employee works no less than the employee's ordinary hours of work for a 4 week period as set out in clause 112 of this Agreement.

Supervisors and their Executive Level employees will work together to manage workloads and working hours. Where an Executive Level employee has worked excessive hours, the employee and their supervisor may discuss, and the supervisor may grant, reasonable time off in recognition of the additional hours worked. The time off can be in the form of a part or full day absence, not to be covered by official leave. This will not be on an hour for hour basis.

130. In determining what is reasonable time off for the purposes of clause 129, some of the factors that may be considered include::

- (a) the number of additional hours that have been worked;
- (b) the period over which those hours have been worked;
- (c) the impact on the health and wellbeing of the employee; and
- (d) the nature of the employee's role.

131. In determining when reasonable time off may be taken in accordance with clause 129, some of the factors that may be considered include:

- (a) the impact on the health and wellbeing of the employee;
- (b) the employee's personal circumstances;
- (c) the operational requirements of the AAT; and
- (d) the employee's level of responsibility.

The Tribunal considers it good practice to allow Executive Level employees, where possible, to access reasonable time off as soon as possible after the additional hours have been worked.

#### Public holidays

132. Employees are 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) The Queen's birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
- (g) Christmas Day (25 December);
- (h) Boxing Day (26 December);
- (i) Any other day, or part-day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part-day, or a kind of day or part-day, that is excluded by the *Fair Work Regulations 2009* from counting as a public holiday.

133. 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.

134. The Registrar and an employee may agree on the substitution of a day or part-day that would otherwise be a public holiday, having regard to operational requirements.

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

136. The following table sets out the entitlement to receive payment in relation to a public holiday (including a substituted day) or limited operation day:

Where an employee receives the following rate of pay before the public holiday/limited operation day*:	Where an employee receives the following rate of pay after the public holiday/limited operation day*:	The rate of payment for the public holiday/limited operation day will be*:
Full pay	Full pay	Full pay
Full pay	Half pay	Full pay
Full pay	Unpaid Leave	Full pay

Half pay	Full pay	Full pay
Half pay	Half pay	Full pay for Annual and paid Personal/Carer's Leave Half pay for Long Service Leave and Maternity Leave
Half pay	Unpaid Leave	Full pay for Annual and paid Personal/Carer's Leave Half pay for Long Service Leave and Maternity Leave if public holiday included in period of leave at half pay
Unpaid Leave	Full pay	Full pay
Unpaid Leave	Half pay	Full pay for Annual and paid Personal/Carer's Leave Half pay for Long Service Leave and Maternity Leave if public holiday included in period of leave at half pay
Unpaid Leave	Unpaid Leave	Unpaid

NOTE: (\*) This clause restricts entitlements to days or part-days on which the employee would normally have worked. This would usually exclude public holidays falling on a weekend.

### Christmas Closedown

137. The AAT will limit normal operations from close of business on the last working day before Christmas, with business resuming on the first working day after New Year's Day.

138. Employees will be provided with time off for the working days between Christmas and New Year's Day and will be paid in accordance with their ordinary hours of work. Where an employee is absent on leave, payment for the Christmas Closedown provision will be in accordance with the entitlement for that form of leave (e.g. if on Long Service Leave half pay, payment is on half pay).

139. There will be no deduction from Annual or Personal/Carer's Leave credits for the closedown days.

140. Where employees are required to attend for work on the days, other than public holidays, described in this Agreement as Christmas Closedown, in addition to salary already received for that day:

- (a) employees, other than Executive Level 1 or 2 employees, can:
  - (i) be paid for time worked at single time; or
  - (ii) take time off in lieu

Time off in lieu will be on a one-for-one basis – that is 1 day off for each day worked, and at time agreed with the employee's supervisor.

- (b) Executive Level 1 or 2 employees who work on those days may access reasonable time off in lieu.

### Flexible working arrangements

141. The AAT recognises the importance of ensuring employees have access to flexible work arrangements and is committed to promoting a healthy work/life balance for all employees.

This agreement contains several provisions to assist with achieving work/life balance such as:

- (a) varying types of paid and unpaid leave (including for study commitments);
- (b) home-based work;
- (c) part-time employment;
- (d) flextime, changes to pattern of attendance;
- (e) assistance with caring responsibilities; and,
- (f) support for mature age employees.

142. An employee may request flexible working arrangements.

Note: the NES include a right for certain employees to request flexible working arrangements in writing (such as changes in hours of work) from their employer. An employer must give an eligible employee a written response to a request within 21 days and can only refuse such a request on 'reasonable business grounds'. If the employer refuses a request, the response must include details of the reason(s) for the refusal.

143. In making decisions about access to flexible working arrangements, the AAT will consider both the operational requirements of the AAT and the employee's circumstances.

144. A request under these provisions can be for a specified period, subject to operational requirements. If operational requirements prevent the employee from accessing flexible arrangements as requested, then alternate arrangements may be proposed for consideration.

145. Requests for flexible working arrangements will be considered and responded to in a timely manner appropriate to the circumstances of the request.

#### Part-time employment

146. A part-time employee is an employee whose ordinary hours of work are less than 150 hours over a 4 week period.

147. The Registrar may engage an employee on an ongoing, part-time basis. In such cases, the part-time arrangements will continue without the need for an annual review. The employee may still request a change to their part-time arrangements.

148. The Registrar and an employee may enter into a part-time employment arrangement. The part-time hours and days of work are to be agreed between the supervisor and an employee having regard to operational requirements and an employee's circumstances.

149. If part-time employment is requested by an eligible employee under section 65 of the Fair Work Act, the AAT will provide part-time employment to that employee subject to agreement on a pattern of hours which meets the reasonable business requirements of the AAT.

150. The terms of a part-time employment agreement can be reviewed and varied at any time by agreement between the employee and the supervisor, subject to the approval by the Registrar. This includes reversion or conversion to full-time arrangements before the originally agreed date.

151. Part-time hours can be varied, by agreement, on a short- term basis to facilitate access to training or other AAT development opportunities.

152. A full-time employee who has been approved to work part-time will revert to full-time employment on expiry of the part-time employment arrangement, unless a further period of part-time employment is negotiated.

153. Remuneration and other employment conditions and benefits for part-time employees will be calculated on a pro rata basis, apart from expense related allowances or reimbursements for which part-time employees will receive the same amount as full-time employees.
154. Within the 6 weeks prior to the birth of an employee's child, the employee will have access to part-time work if requested. Pregnant employees need to provide evidence of fitness for duty to access these provisions in accordance with *Maternity Leave Act 1973*.
155. An employee returning to duty from Maternity Leave or Parental Leave will have access to part-time employment for up to 3 years upon application in accordance with the agreed pattern of hours (see clause 143). Further applications for part-time employment will be considered in line with the part-time work provisions of this Agreement.
156. Part-time employees may be considered for temporary reassignment of duties and other employment related opportunities, where appropriate.

#### Job sharing

157. Job sharing is an arrangement whereby two or more employees share one full-time job, each working part-time on a regular, continuing basis. The Registrar may approve, subject to operational requirements, applications for job sharing arrangements. Employees working under job -sharing arrangements will be considered to be part-time employees.

#### Support for mature age employees

158. The AAT recognises the contribution of mature age employees and is committed to retaining the skills, expertise and corporate knowledge of employees approaching retirement age. Employees are encouraged to explore flexible working arrangements as a means of extending their working lives. Subject to operational requirements, supervisors will consider flexible working arrangements where requested.

#### Home-based work

159. To assist employees balance their work and family responsibilities the AAT has a policy of allowing home-based work in appropriate circumstances. In exercising the discretion to allow home-based work the Registrar will refer to the policy and consider the benefits to the AAT, as well as to the employee, before making a decision.

#### **Overtime**

160. Where necessitated by operational requirements, the Registrar may request an employee to work overtime. In accordance with the Fair Work Act, an employee can refuse to work overtime, if the request is unreasonable. A request to work overtime may take the following into consideration:
- (a) any risk to the employee's health and safety;
  - (b) the employee's personal circumstances, including family responsibilities;
  - (c) the needs of the work unit;
  - (d) the notice (if any) given by the Registrar of the overtime and by the employee of an intention to refuse it; and
  - (e) any other relevant matter
161. Overtime is payable where:
- (a) an APS Level employee is directed to work:
    - (i) for a full-time employee – in addition to ordinary hours of work and outside the standard hours of 8.30 am to 5.00 pm, Monday to Friday

- (ii) for a part-time employee – hours in addition to the employee's agreed or regular hours or beyond the total hours of work over the settlement period specified for the employee in the employee's part-time employment agreement; or
  - (iii) for a casual employee – in excess of 75 hours in a fortnight, or if directed to work outside of ordinary hours.
- (b) for Executive Level employees – in exceptional circumstances, the Registrar determines that the payment of overtime is appropriate.

162. Payment for authorised overtime will be at the following rates:

Day	Overtime rate
Monday to Saturday	Time and a half for the first 3 hours, double time after 3 hours
Sunday (including a Sunday in South Australia)	Double time
Public Holiday (not including a Sunday in South Australia)	Time and a half for work undertaken on a Public Holiday between 8.30am and 5.00pm, Monday and Friday  Double time and a half for work undertaken on a Public Holiday outside 8.30am to 5.00pm, Monday to Friday

163. Overtime, which is not continuous with normal duty, will be paid at the relevant rate for a minimum period of 4 hours. Where more than one separate attendance is involved the total payment will not exceed what would have been paid if the employee had remained on duty. A meal break does not break continuity for these purposes.

#### Overtime meal allowance

164. An employee who works approved overtime to the completion of, or beyond, a meal period will be paid a meal allowance in addition to any overtime.

165. Meal allowance rates are the amounts set by Australian Taxation Office in its annual taxation determination on reasonable overtime meal allowance expenses.

166. A meal period is:

- (a) 7.00 am to 9.00 am
- (b) Noon to 2.00 pm
- (c) 6.00 pm to 7.00 pm
- (d) midnight to 1.00 am

167. A meal allowance is also payable to an employee who:

- (a) is required, after the completion of the employee's ordinary hours of duty for the day, to perform duty after a break for a meal which occurs after that completion, and is not entitled to payment for that break;
- (b) is required to perform duty before the commencement of ordinary hours of duty, who breaks for a meal and is not entitled to payment for that break;
- (c) is required to perform duty on a Saturday, Sunday or public holiday, in addition to the employee's normal weekly hours of duty, extending beyond a meal break and is not entitled to payment for that meal break; or



- (d) is recalled to duty at a place of work while in receipt of Restriction Allowance and the duty extends beyond a meal break.

#### Rest relief after overtime

168. An employee who works approved overtime will be entitled to an 8 hour break plus reasonable travelling time before recommencing work without incurring any loss of pay. Where this break is not possible due to operational requirements, the employee will be paid double time for the next period of work until the employee has had an 8 hour break.

#### Time off in lieu

169. An employee working authorised overtime or emergency duty may request to take their overtime entitlement as time off in lieu calculated at the applicable overtime rate.
170. Time off in lieu may only be taken where operational requirements permit.
171. Where time off in lieu has been agreed, but the employee has not been granted that time off within 4 weeks or another agreed period due to operational requirements, the employee may elect to receive payment of the original overtime or emergency duty entitlement.

#### Emergency duty

172. An:

- (a) APS 1 to 6 employee; or
- (b) an Executive Level 1 employee responsible for IT support; or
- (c) an Executive Level 1 or 2 employee who is a Secure Room Custodian and is undertaking Custodian related duties.

who is called into work to meet an emergency outside the span of hours in clause 115, and had received no notification of the call prior to ceasing ordinary duty, will be paid for the period of work and any time necessarily spent in travelling to and from the work site at the rate of double time. The minimum payment for such work will be 2 hours.

#### Restriction allowance

173. Where an employee is required to be contactable and available to work for a specified period outside the span of hours in clause 115, the employee will be paid Restriction Allowance at a rate of:
- (a) 7.5% of his or her hourly rate of salary for each hour restricted on Monday to Friday;
  - (b) 10% of his or her hourly rate of salary for each hour restricted on weekends; and
  - (c) 15% of his or her hourly rate of salary for each hour restricted on public holidays.
174. Where an employee in receipt of a Restriction Allowance is recalled to duty at a place of work, a 3 hour minimum overtime payment will apply and where the employee is required to perform duty, but is not recalled to a place of work, a 1 hour minimum overtime payment will apply.
175. Restriction Allowance is not payable for any period for which the employee is entitled to an overtime payment.
176. Executive Level employees (or equivalent) may be paid Restriction Allowance in exceptional circumstances with the approval of the Registrar.

## Leave

177. Decisions concerning the administration of leave will be fair and equitable and will ensure that the interests and responsibilities of both the employee and the AAT are appropriately acknowledged.

### Portability of leave

178. Where an ongoing APS employee moves to the AAT (including on promotion or on temporary assignment) from another agency, the employee's unused accrued Annual Leave and Personal/Carer's Leave (however described) will be transferred, provided there is no break in continuity of service.
179. Where an employee is engaged by the AAT immediately following a period of ongoing employment in the Parliamentary Service or in the ACT Government Service, the employee's unused accrued Annual Leave and Personal/Carer's Leave (however described) will be recognised unless the employee received payment in lieu of those entitlements on termination of employment.
180. Where a person is engaged as an ongoing employee in the AAT, and immediately prior to the engagement the person was employed as a non-ongoing APS employee (whether in the AAT or another agency), the Registrar may, at the employee's request, recognise any unused, accrued Annual Leave and Personal/Carer's Leave (however described), provided there is no break in continuity of service. Any recognised Annual Leave excludes any accrued leave paid out on separation.
181. An employee who moves to the AAT from another APS Agency where the full-time standard hours are less or differ from those of the AAT will have the whole days of their Annual leave balance converted to 7 hour 30 minute days. For example, 20 days of Annual leave from the employee's previous APS agency will equate to 20 days of leave at the AAT.

### Notifying absences

182. Generally, employees must obtain prior approval for all leave and provide reasonable notice of the intended period of leave.
183. Where an employee will be absent from work on a day when the employee is expected to attend for duty, the employee must, if not impractical, notify the employee's supervisor (or if unavailable, another supervisor) by phone before 9.30am of the reason and expected length of the absence.

### Annual Leave

184. Full-time employees are entitled to 20 days' Annual Leave for each year of service, accrued progressively. For part-time employees, annual leave will accrue on a pro rata basis.
185. Annual Leave will not accrue in respect of any period or periods of leave not to count as service which total more than 30 days in aggregate in a calendar year.
186. Employees are encouraged to take their full Annual Leave entitlement each calendar year. Where an employee's Annual Leave accrual is approaching 40 days, the employee and the employee's manager should discuss and agree on a leave management strategy to reduce the amount of accrued Annual Leave.
187. Where an employee's Annual Leave accrual is more than 40 days (or part-time equivalent), the employee may be directed by the Registrar to take up to 25% of their Annual Leave credit. An employee will be provided with a minimum 4 weeks' notice when directed by the Registrar to take Annual Leave.
188. An employee may not be directed to take Annual Leave where the employee:

- (a) has made an application for Annual Leave of a period greater than 10 days in the previous 6 month period and the application was not approved; or
  - (b) is following a management strategy to reduce the employee's amount of accrued leave, which has been agreed with their manager consistent with clause 186.
189. Where an employee has been on compensation leave and has commenced a graduated return to work program, they will not be directed to be on leave until 3 months after returning to their pre-injury hours of work.
190. The Registrar may approve a request for annual leave at half pay. Where annual leave is taken at half pay, an employee's annual leave credits will be reduced by half of the duration of the annual leave taken (for example, an employee who takes 1 day of annual leave at half pay will have their annual leave balance reduced by 0.5 days).
191. Any Annual Leave taken at half pay in excess of 40 days in a calendar year will not count towards service.
192. Where an employee's approved annual leave is cancelled without reasonable notice or an employee is recalled to work from leave, the employee will be reimbursed reasonable travel costs and incidental expenses not otherwise recoverable under any insurance or from any other source.
193. The Registrar may approve a written request by an employee to cash out a part of the employee's annual leave entitlement, provided that after cash out the employee's remaining entitlement to annual leave is 20 days or more. The employee will be paid at least the full amount that would have been payable had the employee taken the leave. Each cashing out of a particular amount of paid annual leave must be by a separate agreement in writing between the employee and the Registrar.
194. The Registrar may approve the substitution of appropriate types of leave during a period of annual leave if satisfactory evidence is provided. Annual leave will be re-credited to the extent of any other leave granted.
195. Where any designated (or substituted) public holiday for which the employee is entitled to payment occurs during any period of Annual Leave, the period of the holiday is not deducted from the Annual Leave entitlement.

#### Payment of Annual Leave in lieu on retirement, resignation or termination of employment

196. Where an employee ceases employment with the APS, the employee is to receive payment in lieu of unused Annual Leave credits, including payment in lieu of uncredited Annual Leave accrued on a pro rata basis for each calendar day of continuous service, since the employee's last credit of Annual Leave or since the date of commencing duty in the case of an employee who has not accrued an Annual Leave credit.
197. Payment in lieu will be calculated using the employee's final rate of salary, including allowances that would have been included in the employee's pay during a period of Annual Leave as per Attachment C.
198. Employees who leave the APS to join the Parliamentary Service or ACT Government Service, where the employee's Annual Leave is recognised by the receiving employer, will not be entitled to payment in lieu of Annual Leave.

#### Purchased leave

199. The Registrar may approve an employee purchasing up to 20 days leave in a year, with deductions from fortnightly salary in equal instalments over the course of the year.
200. An ongoing employee may apply to the Registrar to purchase greater than 4 weeks' additional leave. Where more than 4 weeks' Purchased Leave is taken in a calendar year, it

will not count as service for Annual Leave, Personal Leave or Long Service Leave purposes but will count for superannuation purposes.

#### Long service leave

201. An employee is entitled to Long Service Leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.
202. The minimum period for which Long Service Leave can be taken is 7 calendar days at full pay (or 14 calendar days at half pay). Long Service Leave cannot be broken with other periods of leave, except as otherwise provided by legislation.

#### Personal/carer's leave

203. A full-time employee engaged on an ongoing basis will be credited with 20 days' full pay Personal/Carer's Leave on commencement with the AAT and thereafter each year on the anniversary of their commencement.
204. Where an employee's Personal Leave is transferred under clauses 178 to 180, the employee's anniversary date and initial credit will be determined by taking into consideration their last anniversary date, the date to which the previous credit accrued, the amount of that credit, and any leave not to count as service (including unauthorised absences since their last anniversary).
205. A part-time employee will accrue Personal/Carer's Leave on a pro rata basis.
206. An employee engaged on a non-ongoing basis will be credited on commencement or extension with Personal/Carer's Leave on a pro rata basis determined by the proposed length of engagement.
207. The Registrar may approve Personal/Carer's Leave at half pay. Where Personal/Carer's Leave is taken at half pay, an employee's Personal/Carer's Leave credits will be reduced by half of the duration of the Personal/Carer's Leave taken (for example, an employee who takes 1 day of Personal/Carer's Leave at half pay will have their leave balance reduced by 0.5 days).
208. Unused Personal/Carer's Leave will accumulate from year to year, but cannot be paid out on separation.
209. Personal/Carer's Leave may be granted by the Registrar in the following circumstances:
- (a) where the employee is ill or injured;
  - (b) to provide care or support to a person who is in the employee's immediate family or household, or to a person with whom the employee has a traditional kinship relationship, who is ill or injured or if an unexpected emergency is affecting the person;
  - (c) where the employee has an unexpected emergency affecting the employee and where the Registrar determines that it is appropriate to grant leave in the circumstances. However, leave will not be granted for this purpose where it would result in the employee having less than 10 days' Personal/Carer's Leave credits available for use for personal injury or illness or caring purposes as provided under the Fair Work Act.
- Note: An employee accessing Personal/Carer's Leave based on a traditional kinship relationship may be required to provide evidence of the illness, injury or unexpected emergency.
210. An employee, including an employee engaged on an irregular or intermittent basis, is entitled to 2 days of unpaid Carer's Leave for each occasion when a member of the employee's immediate family, or a member of the employee's household, requires care or support because of:

- (a) a personal illness, or personal injury, affecting the member; or
- (b) an unexpected emergency affecting the member.

211. The Registrar may approve Personal/Carer's Leave Without Pay. Where an employee has exhausted all available paid Personal/Carer's Leave the Registrar may, in addition to granting Personal/Carer's Leave Without Pay, approve an advance of the next accrual, or part thereof, of Personal/Carer's Leave credit to the employee.

212. Where an employee takes leave without pay not to count as service, Personal/Carer's Leave credits will be adjusted on a pro rata basis.

Note: An employee who has exhausted their Personal/Carer's Leave entitlements or an employee engaged on an irregular or intermittent basis may be granted unpaid Carer's Leave in accordance with the Fair Work Act.

#### Medical or supporting documentation

213. An employee must provide acceptable evidence of the need to take Personal/Carer's leave for absences of more than 3 continuous days, or if requested or required to do so by the Registrar. This would generally either be a medical certificate or a statutory declaration. Where acceptable evidence is not provided, the period of absence in excess of 3 days will be unauthorised as per clause 127.

214. In these circumstances the Registrar has the option of approving future leave based on the initial medical evidence. This means the leave is approved on the basis that medical evidence has been provided to support the future absence without the employee having to provide medical or other supporting evidence on each occasion. Approval of leave in accordance with this clause is at the discretion of the Registrar.

215. Documentation for periods preceding the Registrar's request will only be sought in exceptional circumstances.

#### Compassionate leave

216. An employee may take up to 3 days' paid compassionate leave each time a member of the employee's immediate family or household contracts or develops a personal illness that poses a serious threat to his or her life; sustains a personal injury that poses a serious threat to his or her life; or dies. Paid compassionate leave will count as service for all purposes.

#### War service sick leave

217. Employees who are eligible war veterans will accrue two separate credits of paid War Service Sick Leave:

Special credit	Annual credit
9 weeks' War Service Sick Leave is credited on first commencement with the APS following eligible military service.	3 weeks' annual credit on commencement in the APS and again following each 12 months of service. Unused credits accumulate, subject to a maximum credit balance of 9 weeks. This credit cannot be accessed until the special credit has expired.

218. The Registrar may only grant War Service Sick Leave to an employee who is unfit for duty due to a war-caused or defence-caused medical condition that has been determined under the *Veterans' Entitlements Act 1986* or *Military Rehabilitation and Compensation Act 2004*.

### Cultural leave

219. The AAT recognises the obligations placed on Aboriginal and Torres Strait Islander to participate in ceremonial activities and other cultural obligations associated with their culture or ethnicity.
220. For employees who identify as Aboriginal and Torres Strait Islanders, the following leave is provided:
- (a) up to 2 days' leave with pay each year if participating in activities or other cultural or ceremonial events such as NAIDOC Week; and
  - (b) up to 20 days of unpaid leave, not to count as service, each year may be approved to fulfil cultural obligations.

### Miscellaneous leave

221. The purpose of Miscellaneous Leave is to increase flexibility for the AAT and its employees by providing that leave may be made available for a variety of purposes where there are no other appropriate leave provisions for the grant of leave.
222. Miscellaneous Leave may be granted by the Registrar:
- (a) to an employee where their other leave entitlements are exhausted;
  - (b) as paid or unpaid leave;
  - (c) for the period, or part of the period, requested;
  - (d) in the case of leave without pay – either to count as service or not to count as service; and
  - (e) subject to conditions.
223. Supporting policy and guidance documents will be maintained in relation to Miscellaneous Leave.

### Community service leave

224. An employee, including an employee engaged on an irregular or intermittent basis, who engages in an eligible community service activity (including Voluntary Emergency Management Activity) as defined by the Fair Work Act, is entitled to be absent from work in accordance with the Community Service Leave provisions of the Fair Work Act.
225. An employee is entitled to be absent from work for the period of activity, including:
- (a) time when the employee engages in the activity;
  - (b) reasonable travelling time associated with the activity;
  - (c) reasonable rest time immediately following the activity.
226. An employee with at least 12 months' continuous APS service, and who is not engaged on an irregular or intermittent basis, may be granted up to 2 days' paid (and thereafter reasonable unpaid) Community Service Leave. Paid leave will not be available to attend ceremonial functions unless the organisation certifies in writing that the employee is required to attend as part of his or her duties.

Note: All AAT employees are exempt from jury service under the *Jury Exemption Act 1965*, and cannot be summoned to serve as a juror.

### Community volunteering leave

227. The Registrar may grant an employee unpaid miscellaneous leave to undertake volunteer work with community organisations.

228. Employees with at least 12 months' continuous APS service may be granted up to 2 days' paid leave to undertake volunteering with community organisations registered on the "GoVolunteer" website, provided that volunteering has a community focus, does not involve payment in cash (including allowances), does not present any conflict of interest with the employee's duties, and is not inconsistent with the APS code of conduct. Paid leave will not be available to attend ceremonial functions unless the organisation certifies in writing that the employee is required to attend as part of their duties.
229. The amount of leave granted will take account of operational requirements.
230. Periods of paid Community Volunteering Leave will count as service for all purposes.

#### Defence reserve leave

231. 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.
232. An employee is entitled to ADF Reserve leave with pay, for up to 4 weeks during each financial year for the purpose of fulfilling service in the ADF Reserve. These purposes include training and operational duty as required.
233. During the employee's first year of ADF Reserve service, a further 2 weeks' paid leave may be granted to facilitate participation in additional ADF Reserve training, including induction requirements.
234. With the exception of the additional 2 weeks in the first year of service, leave can be accumulated and taken over a period of 2 years, to enable the employee to undertake training as a member of the ADF Reserves.
235. Employees are not required to pay their tax free ADF Reserve salary to the AAT in any circumstances.
236. An employee who is an officer or instructor of cadets in a Cadet Force may be granted paid leave of up to 3 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.
237. Defence Reserve leave counts as service for all purposes, except for unpaid leave to undertake Continuous Full Time Service (CFTS). Unpaid leave for the purpose of CFTS counts for all purposes except accrual of Annual Leave.
238. Eligible employees may also apply for Annual Leave, Long Service Leave, Leave Without Pay, top-up pay or he or she may use flextime or make up time for the purpose of fulfilling ADF Reserve, CFTS or Cadet Force obligations.
239. Employees are to notify supervisors at the earliest opportunity once the dates for ADF Reserve, CFTS or Cadet Force activities are known and/or changed.

#### Maternity and parental leave

240. Employees are entitled to Maternity Leave in accordance with the *Maternity Leave (Commonwealth Employees) Act 1973* (the ML Act).
241. Pregnant employees are provided with an additional 2 weeks of paid leave to be taken continuously with an entitlement to paid Maternity Leave under the ML Act.
242. An employee who adopts or fosters a child long-term and who is the primary caregiver for that child (including a child for whom the employee is not the biological parent) is entitled to up to 52 weeks of Parental Leave. Up to 14 weeks of that leave will be paid leave, commencing from the time of placement of the child, provided the employee satisfies the same qualifying requirements as those required of a pregnant employee in accordance with the ML Act.

243. An employee is entitled to Parental Leave for adoption or long-term foster care under clause 242 when that child:
- (a) is under 16 years of age;
  - (b) has not, or will not have, lived continuously with the employee for a period of 6 months or more as at the day (or expected day) of placement; and
  - (c) is not (otherwise than because of the adoption) a child of the employee or the employee's spouse or partner.
244. An employee eligible for paid Maternity or Parental Leave may elect to have the payment for that leave spread over a maximum of 28 weeks at a rate no less than half normal salary. Where payment is spread over a longer period, a maximum of 14 weeks of the leave period will count as service.
245. An employee may request an extension of unpaid Parental Leave for a further period of up to 52 weeks. The second period of unpaid leave is to commence immediately following the initial 52 week leave period.
246. Employees who are not otherwise entitled to paid Maternity or Parental Leave under the ML Act or this Agreement are entitled to 2 weeks' paid Parental Leave (Miscellaneous Leave for parenting purposes) following the birth, adoption, or long-term fostering of a child or their partner's child.
247. An employee eligible for 2 weeks' paid Parental Leave under clause 246 may elect to have the payment for that leave spread over 4 weeks at half normal salary. Where payment is spread over 4 weeks, only half the total weeks of the leave period will count as service.
248. Maternity or Parental Leave without pay does not count as service for any purpose unless otherwise provided by legislation.
249. An employee who has insufficient Annual Leave credits may take 2 days' unpaid pre-Adoption or pre-Foster Parents Leave to attend interviews or examinations required to obtain approval to adopt or foster a child.
250. The AAT will consider requests under the following terms, namely:
- (a) access to up to 8 weeks' Parental Leave without pay simultaneously with their partner;
  - (b) increasing the amount of Leave Without Pay from 52 weeks to 104 weeks; and
  - (c) access to part-time work where possible up to when the child/ren reach school age.
251. The AAT shall consider requests under clause 250 having regard to the employee's circumstances and provided the request is genuinely based on the employee's parental responsibilities. The Registrar will take into account operational requirements including cost, lack of adequate replacement employees, loss of efficiency and the impact on customer service.

#### Return to work after Maternity, Parental, Adoption and Foster Parent's Leave

252. On ending Maternity, Parental, Adoption or Foster Parents 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 as applied pre-Parental/Maternity Leave.
253. For the purposes of this clause, duties means those performed:



- (a) if the employee was moved to safe duties because of the pregnancy – immediately before the move; or
- (b) if the employee began working part-time because of the pregnancy – immediately before the part-time employment began; or
- (c) otherwise – immediately before the employee commenced Maternity, Parental, Adoption or foster Parents Leave.

254. Where the returning employee seeks part-time employment, their previous duties must be considered for conversion initially and, if this is not practical, they may be assigned to alternative duties suitable for part-time employment.

## **Other**

### Health and wellbeing

255. The AAT is committed to maintaining a policy on Work Health & Safety (WHS) matters.

256. The AAT will review this policy in consultation with employee representatives as provided by legislation.

257. If health and wellbeing are identified as issues impacting performance, the Human Resources section will assess possible reasonable adjustments, fitness for duty and/or a Workplace Health Support plan.

258. Subject to contrary advice from health authorities, the Registrar will arrange for an influenza vaccination program.

259. Subject to relevant advice from health authorities, other 'at risk' vaccination programs may be accessible to employees exposed to infectious diseases while performing their duties, subject to the Registrar's approval.

260. An employee can seek reimbursement of up to \$200 every 2 calendar years for eyesight testing and optical correction costs where there is a reasonable connection between that testing or correction and the employee's work.

261. The AAT will have an Employee Assistance Program.

262. The AAT will provide funds for the payment of yearly gym, fitness/yoga class or similar membership for ongoing employees and long-term non-ongoing employees (who are engaged for specified terms of 12 months or longer) on request to allow employees to take advantage of cheaper rates for annual membership. Employees will repay the cost over 12 months (or a lesser period if applicable or requested by the employee) through fortnightly salary deductions from their after tax salary. Any balance owing on cessation of employment will be repaid to the AAT from final monies. Such arrangements will operate on the basis that there is no cost, or FBT liability, to the AAT.

263. The Registrar may approve written requests for the provision of funds for assistance towards the participation of a group of AAT employees in organised health and fitness related physical activities.

### Personal safety – use of taxis

264. Where an employee is directed to work after 7:00 pm, the AAT will provide Cabcharge for the journey home of that employee, subject to prior approval by the relevant supervisor and the request of the employee.

265. Employees travelling interstate who are staying in an unfamiliar area or have concerns regarding their personal safety may also use a taxi for work-related travel, subject to seeking prior approval where practicable.

#### Early intervention support

266. An employee may seek early intervention support for a work-related condition or a condition that has been, or is being aggravated at work. The support requires prior approval of the Human Resource delegate.
267. Support may be in the form of reimbursement of reasonable medical costs associated with General Practitioner visits (maximum of two) and up to three visits with an allied health professional that the employee has been referred to by the General Practitioner. Any support approved will not impact on the employee's rights under the *Safety Rehabilitation and Compensation Act 1988*

#### Return to work

268. Return to work processes will apply to an employee who has been on extended or regular periods of leave due to illness or injury.

#### Support for professionals

269. The AAT will reimburse or pay for the cost of annual membership fees of professional associations up to \$750 per year where membership of the association is an essential requirement of an employee's duties.
270. The AAT will reimburse or pay up to \$100 per year per employee towards annual membership of other professional associations relevant to the work of the AAT.

#### Assistance for caring responsibilities

271. Where an employee incurs additional family-related costs as a result of an application for leave not being approved, a requirement to work away from home or a requirement to work outside an employee's normal work pattern, the Registrar may approve reimbursement of those additional costs up to \$50 per day or \$250 per employee per week (or a higher amount at the Registrar's discretion).

#### Temporary relocation assistance

272. Where an employee is required to work in a different geographic location for a period in excess of 3 weeks from the day on which he or she commenced work at the new location, the Registrar will in consultation with the employee, determine a package of assistance if additional costs are incurred as a result of the employee being temporarily relocated. Travelling allowance is not payable in these circumstances.
273. An employee who temporarily works in another geographic location at his or her request may receive temporary relocation assistance at the discretion of the Registrar.

#### Relocation assistance

274. The Registrar may provide assistance to an ongoing employee of the AAT who relocates or moves on either promotion or at level or on reduction to a different geographic location in the interests of the AAT.
275. In circumstances where the period of the move is not less than 12 months, payment of a one off disturbance allowance will be made to an ongoing employee of the AAT who relocates or moves on either promotion or at level or on reduction, to a different geographic location in the interests of the AAT. The disturbance allowance will be paid to the employee even if relocation assistance is not otherwise provided under clause 274.

#### Reimbursement for loss or damage of personal effects

276. The Registrar may approve reimbursement to an employee for loss or damage to clothing or personal effects that occurred in the course of the employee's work where the employee does not receive reimbursement or compensation from any other source and provided that:

- (a) the loss or damage was caused through a fault with Commonwealth property or goods; or
- (b) the loss or damage was caused through an act or omission of another Commonwealth employee; or
- (c) the loss or damage occurred while protecting Commonwealth goods or property; or
- (d) the Registrar considers the loss or damage may reasonably be attributable to the performance of the employee's duties.

#### Excess fares

277. An employee will be entitled to reimbursement of excess fares where temporarily performing work at a place other than his or her usual place of work at the request of the AAT, when the cost of travel to and from the employee's temporary place of work is greater than the cost of travel to and from the employee's usual place of work. Excess fares are not reimbursed where the employee is receiving Travelling Allowance or has moved in anticipation of an ongoing move.

#### Reimbursement of fares

278. Where an employee becomes critically or dangerously ill while he or she is travelling on official business and an immediate family member travels to visit the critically or dangerously ill employee, the Registrar may, where requested and supplied with satisfactory medical evidence, authorise that the family member be reimbursed for reasonable travel costs.

#### Public transport loan scheme

279. A public transport loan scheme will be made available to ongoing and approved long-term non-ongoing employees (who are engaged for specified terms of 12 months or longer). AAT costs are to be recouped through deduction from the employee's salary over an agreed period of time.

#### AAT issued mobile phones

280. Where the AAT provides an employee with a mobile phone, the Registrar may approve limited personal use.

#### Resignation

281. APS 1-6 employees must provide at least 2 weeks' notice of resignation, and EL 1-2 employees must provide at least 4 weeks' notice of resignation unless an employee requests, and the Registrar agrees, to a shorter period of notice.

282. Where an employee submits a resignation which takes effect from close of business on a public holiday, the resignation will be deemed effective from close of business on the working day immediately prior to the public holiday.

#### Death of employee

283. Where an employee dies, or the Registrar directs that an employee will be presumed to have died on a particular date, the Registrar may authorise the payment of any amount to which the former employee would have been entitled had he or she retired or resigned.

284. Payment will be made to the dependants or the partner of the former employee or the former employee's legal personal representative.

#### Termination of employment

285. The sole and exhaustive rights and remedies of an employee in relation to termination of employment are:

- (a) under the *Fair Work Act 2009*;

- (b) under other Commonwealth laws (including the Constitution); and
- (c) at common law.

286. Termination of, or a decision to terminate, employment cannot be reviewed under the dispute resolution procedures addressed in clauses 289 to 296 of this Agreement.

287. The Registrar may pay an employee in lieu of all or part of notice on termination of employment.

Note: The required period of notice of termination is set out in the Fair Work Act.

288. Nothing in this Agreement prevents the Registrar from terminating the employment of an employee for serious misconduct, without further notice or payment in lieu, in accordance with the relevant provisions of the Fair Work Act.

## **Resolution of disputes**

289. If a dispute relates to a matter arising under this Agreement, or the NES, this term sets out procedures to settle the dispute.

290. The AAT or an employee who is party to the dispute may appoint another person, organisation or association to accompany or represent them for the purposes of the procedures in this term.

291. In the first instance, the parties to the dispute must first attempt to resolve the matter at the workplace level by discussions between the employee or employees concerned and the relevant supervisor/or management.

292. If a dispute is not resolved under clause 291, the parties to the dispute will endeavour to resolve the dispute through discussion with more senior levels of management or through alternative dispute resolution methods, where appropriate.

293. If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the Fair Work Commission.

294. 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.

295. While the parties are trying to resolve the dispute using the procedures in clauses 291 to 294:

- (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 Registrar 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.

296. The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with clause 294.

### **Redeployment, reduction and retrenchment**

297. The following provisions will apply to all employees of the AAT with the exception of:

- (a) ongoing employees who are on probation; and
- (b) non-ongoing employees.

#### Definition of excess employee

298. An employee is an excess employee if:

- (a) the employee is included in a class of employees employed in the AAT which comprises a greater number of employees than is necessary for the efficient and economical working of the AAT; or
- (b) the services of the employee cannot be used effectively because of technological or other changes in the work methods of the AAT or changes in the nature, extent or organisation of the functions of the AAT; or
- (c) where the duties usually performed by the employee are to be performed at a different locality, the employee is not willing to perform duties at the locality and the Registrar has determined that these provisions will apply to that employee.

#### Consultation with potentially excess employees

299. Where the Registrar considers there is likely to be a need to identify employees as excess, the Registrar will, as soon as practicable, advise the employees of the situation in writing.

300. Discussions with the potentially excess employee(s) or, where an employee requests, with the employee's representative, will be held to consider:

- (a) actions that might be taken to reduce the likelihood of the employees becoming excess;
- (b) redeployment opportunities for the employee(s) within the AAT or another APS agency, including whether the employee(s) seeks redeployment; and
- (c) whether voluntary retrenchment might be appropriate and whether the employee(s) want to be offered voluntary retrenchment.

301. The Registrar may, prior to the conclusion of these discussions, invite employees who are not potentially excess to express interest in voluntary retrenchment, where those retrenchments would permit the redeployment of employees who are potentially excess.

302. The Registrar will not advise an employee that he or she is excess until the discussions in clause 300 have occurred or 4 weeks have elapsed, whichever occurs first.

#### Voluntary retrenchment

303. Where the Registrar decides an employee is excess to the AAT's requirements, the Registrar 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 terminated, including superannuation options and taxation treatment of entitlements; and
  - (c) reimburse the employee up to \$1,500 inclusive of GST for expenses incurred in seeking financial or career planning advice.
304. Where the Registrar invites an excess employee to elect for retrenchment with a redundancy benefit, the employee will have 4 weeks in which to notify the Registrar of his or her decision (the consideration period). Where the employee elects for retrenchment the Registrar may decide to retrench the employee but will not give notice of termination before the end of the consideration period without the agreement of the employee.
305. The consideration period can be reduced by agreement between the employee and the Registrar. Where the period is reduced the employee will, on termination, be paid the unexpired period of the consideration period; and payment in lieu of the relevant period of notice of termination provided for in clause 315.
306. Only one invitation to elect for retrenchment with the payment of a redundancy benefit will be made to an excess employee.

#### Redundancy benefit

307. An employee who elects for retrenchment with a redundancy benefit and whose employment is terminated by the Registrar under section 29 of the *Public Service Act 1999* on the grounds that he/she is excess to the requirements of the AAT, is entitled to payment of a redundancy benefit of an amount equal to 2 weeks' salary for each completed year of continuous service, plus a pro rata payment for completed months of service since the last completed year of service, subject to any minimum amount the employee is entitled to under the NES.
308. The minimum sum payable will be 4 weeks' salary and the maximum will be 48 weeks' salary.
309. 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, subject to any minimum amount the employee is entitled to under the NES.

#### Service for redundancy pay purposes

310. 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 repealed section 49 of the *Public Service Act 1922*;
  - (f) service in another organisation where:
    - i) an 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.

311. 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 4 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*.

312. Any period of service which ceased by way of:

- (a) any of the grounds for termination specified in section 29 of the PS Act (including any additional grounds prescribed in the PS Regulations);
- (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.

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

#### Rate of payment for redundancy benefit

314. For the purpose of calculating payment of a redundancy benefit, salary will include:

- (a) the employee's salary at the substantive work value level, and
- (b) the salary of the higher position, where the employee has been performing work at a higher level for a continuous period of at least 12 months immediately preceding the date on which he or she is given notice of termination of employment; and
- (c) other allowances in the nature of salary that are paid during period of Annual Leave and on a regular basis, excluding allowances which are a reimbursement for expense incurred, or a payment for disabilities associated with the performance of duty.

#### Notice of termination

315. Where the employment of an excess employee is to be terminated under section 29 of the PS Act on excess grounds, the Registrar will give written notice of termination of 4 weeks (or 5 weeks for an employee over 45 with at least 5 years of continuous service).

316. 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: Section 117 of the *Fair Work Act 2009* has obligations in relation to payments in lieu of notice.

### Retention periods

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

- (a) 56 weeks where the employee has 20 years or more service or is over 45 years of age; or
- (b) 30 weeks for all other employees.

318. If an employee is entitled to a redundancy payment under the NES, the retention period at clause 317 will be reduced by the number of weeks' redundancy pay that the employee will be entitled to under the NES on termination, as at the expiration of the retention period (as adjusted by this clause).

319. The retention period commences on the day the Registrar advises the employee in writing that they are an excess employee.

320. During the retention period the Registrar:

- (a) will continue to take reasonable steps to find alternative employment for the excess employee; and
- (b) may, with 4 weeks' notice, reassign duties at a lower classification to the excess employee. Where this occurs before the end of an employee's retention period, the employee will receive income maintenance to maintain salary at the previous higher level for the balance of the retention period in 317.

321. During the retention period the employee:

- (a) will take reasonable steps to find alternative employment for the excess employee; and
- (b) actively participate in learning and development activities, trial placements or other agreed arrangements to assist in obtaining a permanent placement.

322. Upon request from the excess employee, the Registrar may approve financial assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment where these costs are not met by the prospective employer.

323. Where the Registrar is satisfied that there is insufficient productive work available for the employee within the AAT during the remainder of the retention period and that there is no reasonable redeployment prospects in the APS:

- (a) the Registrar may, with the agreement of the employee, terminate the employee's employment under section 29 of the PS Act; and
- (b) upon termination, the employee will be paid a lump sum comprising:
  - i) the balance of the retention period (as shortened for the NES under clause 318) and this payment will be taken to include the payment in lieu of notice of termination of employment, plus
  - ii) the employee's NES entitlement to redundancy pay.

324. An excess employee will not be retrenched involuntarily or reduced in classification if they have not been invited to elect to be retrenched or have elected to be retrenched but the Registrar refused to approve it.

### Employee Support and Transition

325. During the retention period, the AAT will assist the employee to find alternate employment. This assistance may be in the form of:



- (a) access to competency assessment and learning training in generic job seeking skills;
- (b) access to professional personal counselling via the Employee Assistance Program;
- (c) reasonable assistance (including career counselling) and support in applying for positions both within and outside the APS;
- (d) liaison with internal/external providers to facilitate early placement of employees to other APS agencies;
- (e) where possible, temporary assignment to other APS agencies where ongoing placement options exist.

## Technical matters

### Title

326. This Agreement is to be known as the AAT Enterprise Agreement 2017-2020.

### Application

327. This Agreement applies to:

- (a) the Registrar of the AAT, on behalf of the Commonwealth of Australia;
- (b) all of the AAT's employees engaged under the *Public Service Act 1999*, with the exception of:
  - i) any substantive Senior Executive Service (SES) employee; or
  - ii) any employee whose salary is not paid by the AAT.
- (c) the Community and Public Sector Union (CPSU), if the Fair Work Commission notes in its decision to approve the Agreement that the CPSU is bound by the Agreement.

### Commencement and duration

328. This Agreement commences 7 days after it is approved by the Fair Work Commission and shall nominally expire 3 years after the date of commencement.

### Relationship to other legislation and policies

329. This Agreement sets out the terms and conditions of employment that are not otherwise provided under relevant Commonwealth legislation or implied by common law.

330. Employment in the AAT is subject to the provisions of various Acts (and regulations, rules, instruments or directions made under those Acts), including, but not limited to:

*Administrative Appeals Tribunal Act 1975*  
*Fair Work Act 2009*  
*Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*  
*Long Service Leave (Commonwealth Employees) Act 1976*  
*Maternity Leave (Commonwealth Employees) Act 1973*  
*Paid Parental Leave Act 2010*  
*Public Service Act 1999*  
*Safety Rehabilitation and Compensation Act 1988*  
*Superannuation Act 1976*  
*Superannuation Act 1990*  
*Superannuation Act 2005*  
*Superannuation Benefits (Supervisory Mechanisms) Act 1990*  
*Superannuation Guarantee (Administration) Act 1992*  
*Superannuation (Productivity Benefit) Act 1988*

*Superannuation (Consequential Amendments) Act 2005*  
*Tribunals Amalgamation Act 2015*  
*Work Health and Safety Act 2011*

Guidelines and policies

331. The operation of this Agreement is supported by AAT personnel directions and other guidelines, policies and procedures. They are not incorporated into, and do not form part of the Agreement. If there is any inconsistency between the personnel directions and other guidelines, policies and procedures and the terms of this Agreement, the express terms of this Agreement will prevail.
332. Personnel Directions, policies, procedures and guidelines which support the operation of this Agreement may be made or varied from time to time by the Registrar following reasonable consultation with employees and will apply in the form they are in as at the time of any relevant action/decision.

Delegations

333. The Registrar may, in writing, delegate any of his or her powers or functions under this Agreement, including this power of delegation, and may do so subject to conditions.

## Attachment A - Definitions

Note: Clause 1 refers.

<b>AAT</b>	means the Administrative Appeals Tribunal
<b>Agreement</b>	means the AAT Enterprise Agreement 2017-2020
<b>APS</b>	Australian Public Service
<b>Conference Registrar</b>	means an officer of the AAT directed by the President under section 34A of the AAT Act; and engaged by the Registrar under section 34H of the AAT Act
<b>Delegate</b>	means a person acting with delegation from the Registrar
<b>Employee</b>	means a person employed by the AAT under the <i>Public Service Act 1999</i>
<b>Employee representative</b>	means a person nominated by an employee (or employees
<b>Immediate Family</b>	<p>means:</p> <ul style="list-style-type: none"><li>• a spouse or partner of the employee irrespective of gender</li><li>• a child (including an adopted child, a step-child, a foster child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee</li><li>• a child (including an adopted child, a step-child, a foster child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee's spouse or partner</li></ul> <p>noting that a reference to a spouse or partner also includes a former spouse or former partner of the employee</p>
<b>Maintained salary</b>	means, in respect of a salary for a former MRT-RRT and SSAT employee, a salary which has been maintained by the AAT following the machinery of government change on 1 July 2015.
<b>Member</b>	means a person appointed to the AAT and defined under section 6 of the <i>Administrative Appeals Tribunal Act 1975</i>
<b>MRT-RRT</b>	means the former Migration Review Tribunal – Refugee Review Tribunal transferred to the AAT through a machinery of government process on 1 July 2015
<b>PSSap</b>	the Public Sector Superannuation accumulation plan (PSSap) was established by the <i>Superannuation Act 2005</i>

<b>Registrar</b>	the person performing the duties of the office of Registrar of the Administrative Appeals Tribunal, including a delegate of the Registrar or a person authorised for a purpose by the Registrar
<b>SSAT</b>	means the former Social Security Appeals Tribunal transferred to the AAT through a machinery of government process on 1 July 2015
<b>Supervisor</b>	means a person who has line responsibility for an employee from immediate supervisor to senior manager
<b>Traditional kinship relationship</b>	means a relationship or obligation, under the customs and traditions of the community or group to which the employee belongs
<b>War veteran</b>	means an employee who, as a former member of the ADF, rendered warlike or non-warlike service on operations within the meaning of the <i>Veterans' Entitlements Act 1986</i> and/or the <i>Military Rehabilitation and Compensation Act 2004</i> and/or as determined by the Minister for Defence

## Attachment B - Classifications and salary scales

Note: Clause 5 refers.

### B.1 Standard AAT salary scale

The following annual salary rates will apply to AAT employees (pro rata for part-time and irregular/intermittent employees) employed in the classifications shown in the table below.

Table B.1

APS classification	Pay point	Previous EA salary	Salary on commencement (+3%)	12 months after commencement (+2%)	18 months after commencement (+1%)
Executive Level 2	3	\$127,929	\$131,767	\$134,402	\$135,746
	2	\$120,649	\$124,268	\$126,754	\$128,021
	1	\$112,527	\$115,903	\$118,221	\$119,403
Executive Level 1	3	\$110,611	\$113,929	\$116,208	\$117,370
	2	\$99,791	\$102,785	\$104,840	\$105,889
	1	\$93,976	\$96,795	\$98,731	\$99,718
APS Level 6	3	\$84,975	\$87,524	\$89,275	\$90,167
	2	\$77,893	\$80,230	\$81,834	\$82,653
	1	\$74,196	\$76,422	\$77,950	\$78,730
APS Level 5	3	\$72,629	\$74,808	\$76,304	\$77,067
	2	\$70,639	\$72,758	\$74,213	\$74,955
	1	\$68,491	\$70,546	\$71,957	\$72,676
APS Level 4	3	\$66,675	\$68,675	\$70,049	\$70,749
	2	\$64,110	\$66,033	\$67,354	\$68,028
	1	\$61,409	\$63,251	\$64,516	\$65,161
APS Level 3 / Graduate	2	\$59,470	\$61,254	\$62,479	\$63,104
	1	\$57,282	\$59,000	\$60,180	\$60,782
APS Level 2	3	\$54,419	\$56,052	\$57,173	\$57,744
	2	\$51,397	\$52,939	\$53,998	\$54,538
	1	\$48,374	\$49,825	\$50,822	\$51,330
APS Level 1	3	\$47,240	\$48,657	\$49,630	\$50,127
	2	\$44,996	\$46,346	\$47,273	\$47,746
	1	\$42,745	\$44,027	\$44,908	\$45,357
Trainee APS		\$42,745	\$44,027	\$44,908	\$45,357

Note: Broadband titles and advancement rules will be contained in policy.

B.2 Transitional salary scales for maintained salaries

2.1 Attachment B.2 applies to former employees of the MRT-RRT and SSAT who have a maintained salary.

*Employees with salary above highest AAT pay point for classification*

2.2 Clauses 2.3 to 2.6 apply to an employee who, immediately prior to the commencement of this Agreement, had a maintained salary that was at or below the highest pay point for their classification in the relevant enterprise agreement that covered the employee prior to transferring to the AAT on 1 July 2015.

2.3 An employee will be paid salary rates in accordance with Table B.2.

2.4 If, 12 months after commencement of this Agreement, an employee does not receive a salary increase in accordance with Table B.2, the employee will receive a lump sum payment of \$1,600 (indicated by a "#" in Table B.2).

2.5 If, 18 months after commencement of this Agreement, an employee does not receive a salary increase in accordance with Table B.2, the employee will receive a lump sum payment of \$1,100 (indicated by a "#" in Table B.2).

*Table B.2*

The following table summarises the effect of the transitional provisions in Attachment B.

APS classification	Maintained salary	Salary on commencement (+3%)	12 months after commencement	18 months after commencement
<u><i>Maintained salaries from the former MRT-RRT:</i></u>				
Executive Level 2.4	\$135,472	\$139,536	\$139,536 #	\$139,536#
Executive Level 2.3	\$130,526	\$134,442	\$134,442 #	\$135,746
Executive Level 1.4 (SLO)	\$119,577	\$123,164	\$123,164 #	\$123,164 #
APS Level 6.3	\$86,105	\$88,688	\$89,275	\$90,167
APS Level 5.3	\$74,956	\$77,205	\$77,205 #	\$77,205 #
APS Level 5.2	\$73,590	\$75,798	\$76,304	\$77,067
APS Level 4.3	\$67,585	\$69,613	\$70,049	\$70,749
APS Level 2.4	\$54,444	\$56,077	\$57,173	\$57,744
<u><i>Maintained salaries from the former SSAT</i></u>				
APS Level 6.4	\$87,745	\$90,377	\$90,377 #	\$90,377 #
APS Level 5.2	\$76,461	\$78,755	\$78,755 #	\$78,755 #
APS Level 4.3	\$70,208	\$72,314	\$72,314 #	\$72,314 #
APS Level 2.3	\$55,389	\$57,051	\$57,173	\$57,744
APS Level 1.3	\$48,635	\$50,094	\$50,094 #	\$50,127

# - indicates that the previous salary is maintained and a lump sum is payable

Note: Maintained salaries which are not specified in the table will be maintained at their current rate until such time as they are absorbed by the salary scales in Table B.1 or are varied by another instrument (such as an Individual Flexibility Arrangement).

*Employees with salary above highest pay point in previous EA*

2.6 If, immediately prior to the commencement of this Agreement, an employee had a maintained salary that is above the highest pay point in the relevant enterprise agreement that covered the employee immediately prior to transferring to the AAT on 1 July 2015, the employee's salary

will be maintained until the employee's salary is below the highest pay point for their classification in the AAT classification structure, at which time, the employee will be moved to the next highest pay point for their classification in the AAT classification structure.

## Attachment C – Recognition of allowances for particular purposes

Note: Clauses 49-61 and 173-176 refers.

	Counts as salary for superannuation purposes (CSS and PSSdb only).	Counts towards salary for calculation of overtime.	Payable during Long Service Leave	Payable during Annual Leave	Reduced pro rata during period of half pay leave (if payable during leave)	Included in income maintenance for excess employees	Included in salary for calculation of retrenchment redundancy payments	Included in salary for payment in lieu of notice of termination of employment	Payment in lieu of Long Service Leave	Payment in lieu of Annual Leave
Temporary Assignment Allowance ( <i>Higher Duties Allowance</i> )	@	✓	*	*	✓	*	*	*	#	^
Conferencing Allowance – 2%	&	✓	*	*	✓	*	*	*	#	^
Conferencing Allowance – Ad Hoc \$50 per day	X	X	X	X	X	X	X	X	X	X
Workplace Responsibility Allowance	✓	X	X	X	X	X	X	✓	X	X
Secure Room Custodian allowance	✓	X	X	X	X	X	X	✓	X	X
Secure Room Custodian allowance – other payments	X	X	X	X	X	X	X	X	X	X
Restriction Allowance	@	X	X	X	X	*	X	*	X	X

### Key

✓	Yes
#	Yes, if in receipt of allowance for a continuous period of greater than 12 months
^	Yes, if in receipt of allowance on last day of service
X	No
@	Yes, subject to a qualifying period in accordance with the Superannuation (CSS/PSS) Salary Regulations 1978, unless indicated otherwise in this Agreement
&	Yes, for employees who are in receipt of a continuing payment of the 2% Conferencing allowance.  Yes, subject to a qualifying period in accordance with the Superannuation (CSS/PSS) Salary Regulations 1978, for employees who have been temporarily assigned to the role of Conference Registrar and eligible to be paid the 2% conferencing allowance.
*	Yes, subject to relevant legislation



## Attachment D - Supported salary rates

Note: Clause 33 refers

1. This attachment defines the conditions which will apply to employees who, because of the effects of a disability, are eligible for a supported salary under the terms of this agreement.
2. Employees covered by this attachment will be those who are unable to perform the range of duties to the competence level required within the class for which the employee is engaged under this agreement, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.
3. This attachment does not apply to any existing employee who has a claim against the AAT which is subject to the provisions of workers compensation legislation or any provision of this agreement relating to the rehabilitation of employees who are injured in the course of their employment.
4. Employees to whom this clause applies shall be paid the applicable percentage of the relevant minimum salary according to the following schedule:

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

provided that the minimum amount payable must be not less than \$82 per week.

5. Where an employee's assessed capacity is 10%; they must receive a high degree of assistance and support.
6. For the purposes of establishing the percentage of the relevant minimum salary, the productive capacity of the employee will be assessed in accordance with the Supported Salary System (SSS) by an approved assessor, having consulted the AAT and the employee, and if the employee so desires, a union which the employee is eligible to join.
7. Assessment made under clause 6 must be documented in a SSS salary assessment agreement, and retained by the AAT as a time and salary record in accordance with the Fair Work Act.
8. The assessment of the applicable percentage should be subject to annual review or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported salary system.
9. Where an assessment has been made, the applicable percentage will apply to the relevant salary rate only. Employees covered by the provisions of this attachment will be entitled to the same terms and conditions of employment as all other employees covered by this agreement whose terms and conditions are calculated on a pro rata basis.

10. In order for an adequate assessment of the employee's capacity to be made, the AAT may employ a person under the provisions of this section for a Trial Period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.
11. During that Trial Period the assessment of capacity will be undertaken and the percentage of the relevant minimum salary for a continuing employment relationship will be determined.
12. The minimum amount payable to the employee during the Trial Period must be no less than \$82 per week.
13. Work trials should include induction or training as appropriate to the job being trialled.
14. Where the employer and employee wish to establish a continuing employment relationship following the completion of the Trial Period, a further contract of employment will be entered into based on the outcome of an assessment under clause 6 of this attachment.

The following definitions are applicable in this attachment:

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

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

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

**Relevant minimum salary** means the minimum salary prescribed in this award for the class of work for which an employee is engaged

**Supported Salary System (SSS)** means the Commonwealth Government system to promote employment for people who cannot work at full award salaries because of a disability, as documented in the Supported Salary System Handbook. The Handbook is available from the JobAccess website ([www.jobaccess.gov.au](http://www.jobaccess.gov.au))

**SSS salary assessment agreement** means the document in the form required by the Department of Education, Employment and Workplace Relations that records the employee's productive capacity and agreed salary rate

## Attachment E: Transitional arrangements

1. This Attachment E only applies to a former MRT-RRT employee employed under the *Migration Review Tribunal and Refugee Review Tribunal Enterprise Agreement 2012-2014 (MRT-RRT EA)* who:
  - (a) was transferred to the AAT on 1 July 2015 through a machinery of government and meet the following criteria; and,
  - (b) has been continually employed in the AAT at the same position immediately prior to the commencement of this Agreement.
2. The broadbands provided in this Attachment E are as follows. Employees within these broadbands retain their approved APS classification at all times:

Broadband Title	Corresponding APS classification
Legal Officer	APS 4 – 6
IT Officer	APS 4 - 5

### Legal Officer Broadband

3. The Legal Officer broadband only applies to a former MRT-RRT employee who, under clauses 24.1 to 24.6 of the MRT-RRT EA, was classified as an ongoing or non-ongoing Legal Officer broadbanded from the APS4 to APS6 classifications at 30 June 2015.
4. Advancement through this broadband is subject to satisfactory performance, required qualifications and work availability.
5. Employees who are admitted as a practitioner, however described by the High Court or the Supreme Court of an Australian State or Territory are eligible to be engaged at, or move to, the minimum pay point of the APS5 classification, or as determined by the Registrar or delegate.
6. Movement between salary points within the APS4 to 6 Legal Officer Broadband is based on the achievement of a rating of “met expectations” or above in their most recent performance assessment.
7. Table B.1 of Attachment B of this Agreement contains the classifications and salaries that will apply to this broadband.
8. Clauses 24 to 28 of this Agreement continue to apply.

### IT Officer broadband

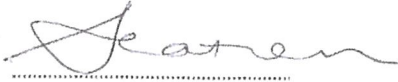
9. The IT Officer broadband only applies to a former MRT-RRT employee who, under clauses 24.10 to 24.12 of the MRT-RRT EA, was classified as an ongoing or non-ongoing IT Officer broadbanded from the APS4 to APS5 classifications.
10. Advancement through this broadband will be by application, and assessment of the employee against specified criteria, including successful completion of specific IT competencies.
11. Table B.1 of Attachment B of this Agreement contains the classifications and salaries that will apply to this broadband.
12. Clauses 24 to 28 of this Agreement continue to apply.

**Signatories and formal acceptance**

Employer

Signed for, and on behalf of, the Commonwealth by the Registrar, AAT

Signed: .....



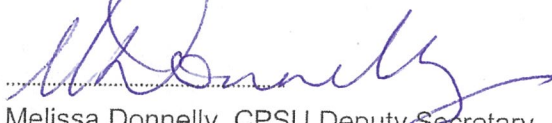
Full name: Sian Leathem

Address: 83 Clarence Street  
Sydney 2000

Bargaining representative: Community and Public Sector Union

Signed for, and on behalf of, the Community and Public Sector Union and its members within the Administrative Appeals Tribunal

Signed: .....




Full name: Melissa Donnelly, CPSU Deputy Secretary

Address: Level 5, 191-199 Thomas Street  
Haymarket NSW 2000

Bargaining representative: Individual

Signed: .....



Full name: Greg Gade

Address: Level 2, 1 King William Street  
Adelaide SA 5000

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