



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Commonwealth of Australia represented by the Administrative Appeals Tribunal T/A Administrative Appeals Tribunal
(AG2024/16)

ADMINISTRATIVE APPEALS TRIBUNAL ENTERPRISE AGREEMENT 2024–2027

Commonwealth employment

DEPUTY PRESIDENT MASSON

MELBOURNE, 19 JANUARY 2024

Application for approval of the Administrative Appeals Tribunal Enterprise Agreement 2024–2027.

[1] An application has been made for approval of an enterprise agreement known as the *Administrative Appeals Tribunal Enterprise Agreement 2024–2027* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by the Commonwealth of Australia represented by the Administrative Appeals Tribunal T/A Administrative Appeals Tribunal. The Agreement is a single enterprise agreement.

[2] The *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Cth) (Amending Act) made a number of changes to enterprise agreement approval processes in Part 2-4 of the Fair Work Act, which commenced operation on 6 June 2023. By reason of the transitional arrangements for the Amending Act and the *notification time* for the Agreement of 24 February 2023, the *genuine agreement* requirements for agreement approval in Part 2-4 of the Fair Work Act, as it was just before 6 June 2023 apply to the present application. Further, as the Agreement was *made* on 22 December 2023 the *better off overall test* provisions in Part 2-4 of the Fair Work Act as amended on 6 June 2023 apply.

[3] 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.

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

[5] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 26 January 2024. The nominal expiry date of the Agreement is 28 February 2027.



DEPUTY PRESIDENT

Printed by authority of the Commonwealth Government Printer

<AE523209 PR770452>

Administrative Appeals Tribunal Enterprise Agreement 2024–2027

Table of Contents

Administrative Appeals Tribunal Enterprise Agreement 2024–2027	1
Section 1: Technical matters	8
Title	8
Parties to the agreement	8
Operation of the agreement.....	8
Delegations	8
NES precedence	8
Closed comprehensive agreement	8
Individual flexibility arrangements	9
Definitions.....	10
Section 2: Remuneration	13
Salary.....	13
Payment of salary	13
Salary packaging.....	13
Salary setting.....	14
Incremental advancement.....	14
Superannuation	15
Method for calculating super salary	15
Overpayments.....	15
Supported wage system.....	16
Section 3: Allowances	17
Higher duties.....	17
Allowances	17
Grandfathered conferencing allowance	17
Secure Room Custodian allowance.....	17
Security vetting allowance	18
Special duties allowance	18
Motor vehicle allowance.....	18
Workplace responsibility allowances.....	18
Community language allowance.....	19
Section 4: Classifications and Broadbands	21
Graduates.....	21
Work Level Standards	21

Broadbands	21
Section 5: Working hours and arrangements.....	22
Employment types	22
Job security	22
Commitment to ongoing employment and rebuilding APS capacity.....	22
Reporting.....	22
Pathways to permanency	22
Casual (irregular and intermittent) employment	22
Non-ongoing employment.....	23
Working hours.....	23
Working patterns	24
Unauthorised absence	24
Flex for APS 1–6 classifications	25
Flex credit.....	25
Insufficient work	25
Flex debit.....	25
EL TOIL.....	25
Overtime and restriction.....	26
Overtime meal allowance	27
Rest relief after overtime.....	28
Time off in lieu	28
Emergency duty	28
Restriction allowance.....	29
Flexible working arrangements.....	29
Requesting formal flexible working arrangements.....	30
Support for mature age employees	33
Family-related costs	33
Part-time work	33
Job sharing	34
Annual closedown.....	34
Public holidays	34
Section 6: Leave	37
Notifying absences.....	37
Annual leave.....	37

Cash out of annual leave.....	38
Leave substitution.....	38
Payment of annual leave in lieu of retirement, resignation, or termination of employment.....	38
Purchased leave	38
Personal/carer’s leave	38
Usage.....	39
Carers	40
Evidence.....	40
Portability of leave	40
Leave without pay.....	41
Re-crediting of leave	41
Long service leave	42
Miscellaneous leave.....	42
Cultural, ceremonial and NAIDOC leave	43
NAIDOC leave	43
First Nations ceremonial leave.....	43
Cultural leave	43
Parental leave	43
Payment during parental leave.....	44
Adoption and long-term foster care	45
Stillbirth.....	45
Pregnancy loss leave	46
Premature birth leave.....	46
Transitional provisions.....	46
Compassionate leave	46
Bereavement leave	46
Emergency response leave	47
Jury duty.....	47
Registered charity leave.....	47
Defence reservist leave.....	48
Defence service sick leave	48
Leave to attend proceedings	49
Section 7: Employee support and workplace culture	50
Blood donation.....	50

Vaccinations	50
Employee Assistance Program	50
Eyesight testing	50
Fitness activities	50
Public transport loan scheme	51
Use of issued mobile phones	51
Early intervention support	51
Return to work	51
Reimbursement for loss or damage of personal effects.....	51
Safe workplaces	52
Personal safety – use of taxis.....	52
Respect at work	52
Principles.....	52
Consultation.....	52
Family and domestic violence support	52
Integrity in the APS	54
First Nations cultural competency training.....	54
Lactation and breastfeeding support.....	55
Disaster support.....	55
Section 8: Performance and development	56
Performance management	56
Managing underperformance.....	56
Workloads	57
Study assistance	58
Learning and development	58
Professional qualifications	58
Section 9: Travel and location-based conditions.....	60
Travel	60
Travelling allowance	60
Overseas travel	60
Excess fares	60
Reimbursement of fares	60
Relocation assistance.....	61
Section 10: Consultation, representation and dispute resolution.....	62
Consultation.....	62

Principles.....	62
When consultation is required	62
Provisions for consultation on major change and introduction of a change to regular roster or ordinary hours of work of employees.....	63
Representation.....	63
Major change	63
Change to regular roster or ordinary hours of work.....	65
Interaction with emergency management activities	65
Agency consultative committee	65
APS consultative committee	66
Dispute resolution.....	66
Leave of absence to attend proceedings	68
Freedom of association.....	68
Delegates’ rights	68
Supporting the role of union delegates	68
Employee representational rights	69
Section 11: Separation and retention.....	70
Resignation	70
Payment on death of an employee.....	70
Redeployment, retraining, redundancy.....	70
Definition of excess employee	70
Consultation with potentially excess employees.....	71
Voluntary retrenchment	71
Redundancy benefit.....	72
Service for redundancy pay purposes.....	72
Rate of payment for redundancy benefit	73
Notice of termination.....	73
Retention periods	73
Employee Support and Transition	75
Attachment A – Base salaries	76
Attachment B – Supported Wage System.....	77
Definitions.....	77
Eligibility criteria.....	77

Supported wage rates.....	78
Assessment of capacity.....	78
Lodgement of SWS wage assessment agreement.....	78
Review of assessment.....	79
Other terms and conditions of employment.....	79
Workplace adjustment.....	79
Trial period.....	79
Attachment C – Allowances.....	80
Signatories and formal acceptance.....	81
Employer.....	81
Employee bargaining representative: Community and Public Sector Union.....	81

Section 1: Technical matters

Title

1. This agreement will be known as the Administrative Appeals Tribunal Enterprise Agreement 2024–2027.

Parties to the agreement

2. The agreement covers:
 - 2.1 the Registrar, for and on behalf of the Commonwealth of Australia as the employer;
 - 2.2 all employees in the Administrative Appeals Tribunal employed under the PS Act other than:
 - 2.2.1 Senior Executive Service employees or equivalent; and
 - 2.3 subject to notice being given in accordance with section 183 of the FW Act, and the following employee organisation which was a bargaining representative for this agreement:
 - 2.3.1 Community and Public Sector Union.

Operation of the agreement

3. This agreement will commence operation 7 days after approval by the Fair Work Commission.
4. This agreement will nominally expire on 28 February 2027.

Delegations

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

NES precedence

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

Closed comprehensive agreement

7. This agreement states the terms and conditions of employment of employees covered by this agreement, other than terms and conditions applying under relevant Commonwealth laws.

8. This agreement will be supported by policies and guidelines, as implemented and varied from time to time.
9. Policies and guidelines are not incorporated into and do not form part of this agreement. To the extent that there is any inconsistency between policies and guidelines and the terms of this agreement, the terms of this agreement will prevail.

Individual flexibility arrangements

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

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

Definitions

16. The following definitions apply to this agreement:

APS agency means an agency whose employees are employed under the *Public Service Act 1999*, including an agency as defined in section 7 of the *Public Service Act 1999* whose employees are employed under that Act.

Agency Head means the Registrar of Administrative Appeals Tribunal or the person authorised by the Registrar as their delegate.

Agreement means the Administrative Appeals Tribunal Enterprise Agreement 2024–2027.

APS means the Australian Public Service.

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

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

Casual employee (irregular and intermittent employee) means an employee engaged under section 22(2)(c) of the *Public Service Act 1999* who:

- a. is a casual employee as defined by the *Fair Work Act 2009*; and
- b. works on an irregular and intermittent basis.

Cadet force means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.

Classification or classification level means the approved classifications as defined by the *Public Service Classification Rules 2000*.

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

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

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

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

Employee means an employee of the Commonwealth engaged under section 22(2) of the *Public Service Act 1999* who is covered by this agreement (whether full time, part time or casual, ongoing or non-ongoing).

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

Family means:

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

Family and domestic violence has the same meaning as in section 106B(2) of the *Fair Work Act 2009*.

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

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

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

ML Act means the *Maternity Leave (Commonwealth Employees) Act 1973* and any successor legislation.

Non-ongoing employee has the same meaning as in the *Public Service Act 1999*.

NES means the National Employment Standards at Part 2-2 of the *Fair Work Act 2009*.

Ongoing employee has the same meaning as in the *Public Service Act 1999*.

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

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

Partner means a spouse or de facto partner. This includes a former spouse or former de facto partner.

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

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

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

Relevant employee means an affected employee.

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

Section 2: Remuneration

Salary

17. The salary rates will be set out in Attachment A – Base salaries to this agreement.
18. The base salary rates in Attachment A – Base Salaries include the following increases:
 - 18.1. 4.0 per cent from the first full pay period on or after 1 March 2024 (the 14 March 2024);
 - 18.2. 3.8 per cent from the first full pay period on or after 1 March 2025 (the 13 March 2025); and
 - 18.3. 3.4 per cent from the first full pay period on or after 1 March 2026 (the 12 March 2026).
19. In recognition of a common alignment date of the first full pay period on or after 1 March each year, the base salary rates in Attachment A – Base salaries were calculated based on base salary rates as at 31 August 2023.

Payment of salary

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

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

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

Salary packaging

21. 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.
22. Requests for salary packaging arrangements by employees not covered by clause 21 will be considered on a case-by-case basis.
23. 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.
24. The employee will meet the costs of any salary packaging arrangement, including any fringe benefits tax and administrative costs incurred by the AAT.

Salary setting

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

Incremental advancement

32. An employee who is not on a maintained salary or the top increment of the salary range in Attachment A will be eligible for salary progression at their substantive classification with effect from 1 July each year subject to:
 - 32.1. having a current performance agreement in place;
 - 32.2. having received a performance rating of at least 'met expectations' for the performance management cycle;
 - 32.3. having been at or above the salary increment for at least 6 months' aggregate service, including paid leave and any unpaid leave that counts as service, during the performance cycle; and
 - 32.4. having satisfied any requirement of salary progression associated with an applicable broadband.

33. An employee who does not satisfy the requirements in clause 32.1 and 32.2 due to a period of leave without pay to count as service but otherwise satisfies the requirements in clause 32 will be eligible for salary progression at their substantive classification with effect from 1 July each year. Casual employees who satisfy these criteria may also be considered for salary advancement at the discretion of the Registrar.
34. An employee who is acting at a higher classification, subject to satisfying other eligibility criteria, will be eligible for salary progression at both their substantive and acting classifications.
35. Salary progression while acting at a higher classification will be retained for future acting duties at, or promotion to, that classification regardless of elapsed time.
36. Eligible service for salary progression will include:
 - 36.1. one increment during periods of unpaid parental leave; and
 - 36.2. service while employed on a non-ongoing basis.
37. Subject to satisfying the remaining requirements in clause 32:
 - 37.1. an employee who is not entitled to salary progression on 1 July in a year because the employee has not received a performance rating of 'met expectations' in accordance with clause 32.2 will be eligible for salary progression once their performance has been assessed as 'met expectations'; or
 - 37.2. an employee who is ineligible for salary progression on 1 July under clause 32.3 is eligible for salary progression once they have been at their current increment for 6 months eligible service.

Superannuation

38. The Administrative Appeals Tribunal will make compulsory employer contributions as required by the applicable legislation and fund requirements.

Method for calculating super salary

39. The Administrative Appeals Tribunal will provide an employer contribution of 15.4% of the employee's Fortnightly Contribution Salary (FCS) for employees in the Public Sector Superannuation Accumulation Plan (PSSap) and Ordinary Time Earnings (OTE) for employees in other accumulation funds.
40. Employer contributions will be made for all employees covered by this agreement.
41. Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements.

Overpayments

42. An overpayment occurs if the Registrar provides an employee with an amount of money to which the employee was not entitled (including but not limited to salary, entitlements, allowances, travel payment and/or other amounts payable under this agreement).

43. Where the Registrar considers that an overpayment has occurred, the Registrar will provide the employee with notice in writing. The notice will provide details of the overpayment.
44. If an employee disagrees that there has been an overpayment including the amount of the overpayment, they will advise the Registrar in writing within 28 calendar days of receiving the notice. In this event, no further action will be taken until the employee's response has been reviewed.
45. If after considering the employee's response (if any), the Registrar confirms that an overpayment has occurred, the overpayment will be treated as a debt to the Commonwealth that must be repaid to the agency in full by the employee.
46. The Registrar and the employee will discuss a suitable recovery arrangement. A recovery arrangement will take into account the nature and amount of the debt, the employee's circumstances and any potential hardship to the employee. The arrangement will be documented in writing.
47. The Registrar and employee may agree to make deduction from final monies where there is an outstanding payment upon cessation of employment.
48. Interest will not be charged on overpayments.
49. Nothing in clauses 42 to 48 prevents:
 - 49.1 the Administrative Appeals Tribunal from pursuing recovery of the debt in accordance with an Accountable Authority Instruction issued under the *Public Governance, Performance and Accountability Act 2013*;
 - 49.2 the Administrative Appeals Tribunal from pursuing recovery of the debt through other available legal avenues; or
 - 49.3 the employee or the Administrative Appeals Tribunal from seeking approval to waive the debt under the *Public Governance, Performance and Accountability Act 2013*.

Supported wage system

50. An employee can get a percentage of the relevant pay rate in line with their assessed capacity to do the work if they:
 - 50.1 have a disability;
 - 50.2 meet the criteria for a Disability Support Pension; and
 - 50.3 are unable to perform duties to the capacity required.
51. Specific conditions relating to the supported wage system are detailed in Attachment B – Supported Wage System.
52. Where the Registrar employs a person under these provisions, the Administrative Appeals Tribunal 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.

Section 3: Allowances

Higher duties

53. Where a role needs to be filled for 1 or more working weeks, higher duties allowance will be paid to any temporary occupants of the role acting at a classification higher than their substantive position.
54. Higher duties allowance will be equal to the difference between the employees' current salary and the salary that would be payable if they were promoted to the higher classification, or an amount equivalent to \$3000 per annum, whichever amount is greater, or a higher amount determined by the Registrar.
55. 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 temporary assignment.
56. Where an employee is found to be eligible for salary progression at their acting level they will receive an appropriate increase in the rate of higher duties allowance. The employee's salary level will be retained for all future periods of acting regardless of elapsed time.
57. Where an employee is assigned only part of the higher duties, the Registrar will determine the amount of allowance payable.
58. Higher duties allowance will be payable while an employee is acting at a higher classification as part of a job sharing arrangement where the duration of the arrangement is at least 1 working week.
59. The Registrar may shorten the qualifying period for higher duties allowance on a case-by-case basis.
60. An employee may decline an invitation to perform duties temporarily at a higher classification level.

Allowances

Grandfathered conferencing allowance

61. An employee who was eligible to receive a conferencing allowance on the day before this agreement took effect because their primary role was to exercise powers as authorised under section 33(2)(a) of the *Administrative Appeals Tribunal Act 1975* will continue to receive an allowance of 2% of salary per annum while their primary role requires that they undertake equivalent duties.

Secure Room Custodian allowance

62. An employee who is appointed as a Secure Room Custodian will receive an allowance as specified in Attachment C – Allowances.
63. Where a Secure Room Custodian is required to respond to an alarm call and:

- 63.1 does not attend Administrative Appeals Tribunal premises – the Custodian will receive an additional payment of \$50; or
- 63.2 attends Administrative Appeals Tribunal premises – the Custodian is entitled to receive payment in accordance with the Emergency Duty provisions at clause 144.3 (including travel related costs).

Security vetting allowance

- 64. 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.
- 65. 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

- 66. 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.

Motor vehicle allowance

- 67. 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 Australian Taxation Office (ATO).

Workplace responsibility allowances

- 68. An employee is entitled to a workplace responsibility allowance where the Administrative Appeals Tribunal has appointed or elected the employee to one of the following workplace responsibility roles and has successfully completed any training programs and/or refresher courses required:
 - a. First Aid Officer;
 - b. Health and Safety Representative;
 - c. Emergency Warden;
 - d. Harassment Contact Officer; and
 - e. Mental Health First Aid Officer.
- 69. Attachment C – Allowances specifies the fortnightly amount of workplace responsibility allowances. As a salary-related allowance, these values will continue to be increased in line with headline wage increases.
- 70. An employee is not to receive more than one workplace responsibility allowance unless approved by the Registrar due to operational requirements.
- 71. As a salary-related allowance, this value will continue to be increased in line with headline wage increases.

- 72. The full allowance is payable regardless of flexible work and part-time arrangements.
- 73. An employee’s physical availability to undertake the role will be considered by the Administrative Appeals Tribunal when appointing and reappointing employees to workplace responsibility roles. This is noting that not all workplace responsibility roles will necessarily require a physical presence in the workplace for the role to be successfully undertaken, such as Harassment Contact Officers, Mental Health First Aid Officers and Health and Safety Representatives depending on work group arrangements.
- 74. Casual employees who are eligible to receive a workplace responsibility allowance will be paid the full amount (noting the minimum rate), as varied from time to time provided they engage in work during any given pay cycle, irrespective of the frequency and duration of the work undertaken.

Community language allowance

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

Table 1: Community language allowance rates

Rate	Standard	Rate from 14 March 2024	Rate from 13 March 2025	Rate from 12 March 2026
1	An employee who has adequate language skills, as determined by an individual or body approved by the Registrar, for simple communication.	\$1,435 per annum	\$1,490 per annum	\$1,541 per annum
2	An employee who is certified by the National Accreditation Authority for Translators and Interpreters (NAATI) as a Translator or Interpreter at any level; or is assessed to be at the equivalent level by an individual or body approved by the Registrar.	\$2,870 per annum	\$2,979 per annum	\$3,080 per annum

- 77. The allowance is calculated annually and paid fortnightly.
- 78. The full allowance is payable regardless of flexible work and part-time arrangements.
- 79. The allowance is payable during periods of paid leave.

80. The allowance counts as salary for superannuation purposes and for calculating retirement and redundancy entitlements.

Section 4: Classifications and Broadbands

Graduates

81. An APS employee engaged under a graduate program will be paid at the APS 4.1 increment upon commencement.
82. While undertaking training, an APS employee in a graduate program will be paid at an increment within the APS 4 classification as determined by the Registrar.
83. On successful completion of training determined by the Registrar, the Registrar will assign duties to the employee and determine the appropriate increment for those duties.

Work Level Standards

84. The APS Work Level Standards continue to operate and describe the work at each of the classification levels in this agreement, consistent with the *Public Service Classification Rules 2000*, made in accordance with section 23 of the *Public Service Act 1999*.

Broadbands

85. 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.
86. 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 32:
 - 86.1 sufficient work is available at the higher classification; and
 - 86.2 the employee has gained the necessary skills and proficiency to perform at the APS classification level.
87. Advancement within a broadband is not considered a promotion.

Section 5: Working hours and arrangements

Employment types

88. **Ongoing employee** means an employee engaged under section 22(2)(a) of the PS Act.
89. **Non-ongoing employee** means an employee engaged under section 22(2)(b) of the PS Act for a specified term or for the duration of a specified task, and consistent with the FW Act.
90. **Casual employee (irregular and intermittent employee)** means an employee engaged under section 22(2)(c) of the PS Act who:
- 90.1 is a casual employee as defined by the FW Act; and
 - 90.2 works on an irregular and intermittent basis.
91. **Full-time employee** is an employee whose ordinary hours are 37 hours 30 minutes per week in accordance with this agreement.
92. **Part-time employee** means an employee whose ordinary hours are less than 37 hours 30 minutes per week in accordance with this agreement. The APS is a career-based public service. In its engagement decisions, the Administrative Appeals Tribunal recognises that the usual basis for engagement is as an ongoing APS employee.

Job security

Commitment to ongoing employment and rebuilding APS capacity

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

Reporting

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

Pathways to permanency

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

Casual (irregular and intermittent) employment

96. A casual (irregular and intermittent) employee is defined in the definitions section.

97. A decision to expand the use of casual employees is subject to clause 422 of this agreement.
98. The Administrative Appeals Tribunal will regularly review the working arrangements of casuals to assess if they are genuinely performing irregular and intermittent duties, and report de-identified outcomes to the consultative committee, where one is in place.
99. Remuneration for casual employees shall be on an hourly basis. A casual employee shall receive a 25 per cent loading on the base hourly rate of their classification as set out in this agreement.
100. The casual loading is paid in lieu of payment for public holidays not worked, notice of termination of employment, redundancy benefits and all paid leave entitlements, other than leave required by legislation including long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976* and leave for family and domestic violence support.
101. A casual employee shall be engaged for a minimum of 3 hours per engagement or shall be paid for a minimum of 3 hours at the appropriate casual rate.
102. A casual employee who is eligible for a workplace responsibility allowance will be paid the full amount.

Non-ongoing employment

103. A non-ongoing employee is defined in the definitions section.
104. Non-ongoing employees will generally have the same terms and conditions of employment as ongoing employees under this agreement's terms, except:
 - 104.1 personal/carer's leave accrual at clause 221;
 - 104.2 redundancy provisions at clauses 477 to 506, subject to clause 105;
 - 104.3 purchase leave at clause 219;
 - 104.4 managing underperformance at clauses 384 to 391; and
 - 104.5 provision of funds for yearly fitness memberships at clause 326.
105. If the non-ongoing employee's contract is not permitted by section 333E of the FW Act, then the redundancy provisions at clauses 477 to 506 will apply.
106. If the redundancy provisions apply to an employee under clause 105, the agency must adhere to the consultation requirements at clause 432.

Working hours

107. The standard working hours are:
 - 107.1 for full-time employees – 7 hours 30 minutes per day, totalling 150 hours per 4-week settlement period; and
 - 107.2 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).

108. The span of ordinary hours (bandwidth) within which an employee may work is 7:30 am to 6:30 pm, Monday to Friday.
109. Where an employee specifically requests to do so, the Registrar may, subject to operational requirements, approve an employee to work outside the span of hours for a specified period. Any hours worked on this basis will not attract overtime rates.

Working patterns

110. 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, or varied through a flexible working arrangement as at clause 10. Employees shall ordinarily be present at work during core hours.
111. The standard patterns of attendance are:
 - 111.1 for full-time employees – from 8.30 am to 1.00 pm and 2.00 pm to 5.00 pm;
 - 111.2 for part-time employees – as agreed in their part-time work arrangement as varied from time to time; and
 - 111.3 for full-time and part-time Executive Level employees – as per clause 123.
112. The pattern of hours by which employees work their standard hours is a matter for agreement between supervisors and employees, however, employees will:
 - 112.1 make themselves available for reasonable direction to work outside their agreed pattern of work;
 - 112.2 not be required to work for more than 10 hours ordinary time on any day; and
 - 112.3 not be required to work more than 5 consecutive hours without a meal break of at least 30 minutes.
113. The Registrar may direct an employee to adopt a particular pattern of working hours, subject to providing 2 weeks' notice of such a direction, and subject to any flexible working arrangements agreed to under clause 10 and the consultation requirements at clauses 422.5 and 436. In making such a direction the Registrar will take into account:
 - 113.1 operational requirements;
 - 113.2 the impact on parties appearing before the Administrative Appeals Tribunal and their representatives;
 - 113.3 the impact on other employees and members; and
 - 113.4 the personal needs of the employee (e.g. need to collect dependent children).

Unauthorised absence

114. Where an employee is absent from duty without approval, all pay and other benefits provided under the 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.

Flex for APS 1–6 classifications

Flex credit

115. Where an APS Level employee works in excess of the employee's standard 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.
116. 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.
117. 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.
118. Where an APS Level employee formally notifies the Administrative Appeals Tribunal of their intention to cease employment with the Administrative Appeals Tribunal, requests to use flextime credits before leaving the Administrative Appeals Tribunal will not be unreasonably refused.

Insufficient work

119. The relevant supervisor may require an employee not to work hours in addition to the standard working hours where there is insufficient work.

Flex debit

120. Where an APS Level employee works less than that employee's standard 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 standard hours for that day.
121. 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.
122. Where there is a flex debit on cessation of employment with the Administrative Appeals Tribunal, the Administrative Appeals Tribunal will recover the amount as a debt due to the Commonwealth..

EL TOIL

123. In recognition of their attendance requirements and to assist in enabling a reasonable work/life balance, an Executive Level (EL) employee has the flexibility to determine their actual hours of work on each day (including short-term absences during the day), subject to the following:
 - 123.1 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 their standard working hours on an ongoing basis);

123.2 the employee must be at work on every weekday unless they are part-time, have an approved flexible work arrangement, are on an approved form of leave, or their supervisor has agreed to the employee having time off in recognition of additional hours the employee has worked; and

123.3 the employee works no less than the employee's standard working hours over a 4-week period as set out in clause 107 of this agreement.

Supervisors and their EL employees will work together to manage workloads and working hours.

124. EL employees are sometimes required to work reasonable additional hours. Consistent with the NES, employees may refuse to work unreasonable additional hours.
125. EL employees seeking to access time off in lieu (TOIL) are required to keep records of their working hours using a method determined by the Administrative Appeals Tribunal.
126. A manager is to grant TOIL in recognition of reasonable additional hours worked. TOIL granted to employees can be taken as whole or part days.
127. The Administrative Appeals Tribunal considers it good practice to allow EL employees, where possible, to access reasonable time off as soon as possible after the additional hours have been worked.
128. The working arrangements for an EL employee should be agreed through discussion between the manager and the EL employee. The discussion should include consideration of the work requirements that will safely get the job done and reasonably allow the employee to balance their work and personal life.
129. An EL employee's working arrangements and actual hours worked should be discussed on at least a quarterly basis between the EL employee and their manager.
130. The pattern of hours is to be flexible enough to accommodate short term peaks and troughs in workload, and include expected reasonable additional hours. The agreed pattern of hours is to be recorded.
131. Requests from EL employees to access flexible time off which are consistent with their agreed working arrangements are to be supported, subject to operational requirements.

Overtime and restriction

132. Where necessitated by operational requirements, the Registrar may request an employee to work overtime. In accordance with the FW Act, an employee can refuse to work overtime if the request is unreasonable. A request to work overtime may take the following into consideration:

132.1 any risk to the employee's health and safety;

132.2 the employee's personal circumstances, including family responsibilities;

132.3 the needs of the work unit;

132.4 the notice (if any) given by the Registrar of the overtime and by the employee of an intention to refuse it; and

132.5 any other relevant matter.

133. Overtime is payable where an employee is directed to work:

133.1 for a full-time APS Level employee – in addition to standard working hours and outside the standard pattern of attendance of 8:30 am to 5:00 pm, Monday to Friday;

133.2 for a part-time APS Level 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;

133.3 for a casual APS Level employee – in excess of 75 hours in a fortnight, or if directed to work outside of the standard pattern of attendance; or

133.4 for an EL employee – in exceptional circumstances where the Registrar determines that the payment of overtime is appropriate.

134. 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 8:30 am and 5:00 pm, Monday to Friday Double time and a half for work undertaken on a public holiday outside 8:30 am to 5:00 pm, Monday to Friday

135. Overtime that 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

136. 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.

137. Meal allowance rates are the amounts set by the ATO in its annual taxation determination on reasonable overtime meal allowance expenses.

138. A meal period is:

138.1 7.00 am to 9.00 am

138.2 Noon to 2.00 pm

138.3 6.00 pm to 7.00 pm

138.4 midnight to 1.00 am

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

139.1 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;

139.2 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;

139.3 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

139.4 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

140. 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

141. 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.

142. Time off in lieu may only be taken where operational requirements permit.

143. 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

144. An:

144.1. APS 1 to 6 employee; or

144.2. an Executive Level 1 employee responsible for IT support; or

144.3. 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 108, 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

145. Where an employee is required to be contactable and available to work for a specified period outside the span of hours in clause 108, the employee will be paid a Restriction Allowance at a rate of:
 - 145.1. 7.5% of their hourly rate of salary for each hour restricted on Monday to Friday;
 - 145.2. 10% of their hourly rate of salary for each hour restricted on weekends; and
 - 145.3. 15% of their hourly rate of salary for each hour restricted on public holidays.
146. Where an employee in receipt of a Restriction Allowance is recalled to duty at an Administrative Appeals Tribunal location, a 3-hour minimum overtime payment will apply. Where the employee is required to perform duty, but is not recalled to an Administrative Appeals Tribunal location, a 1-hour minimum overtime payment will apply.
147. Restriction Allowance is not payable for any period for which the employee is entitled to an overtime payment.
148. EL employees (or equivalent) may be paid a Restriction Allowance in exceptional circumstances with the approval of the Registrar.

Flexible working arrangements

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

Requesting formal flexible working arrangements

152. The following provisions do not diminish an employee's entitlement under the NES.
153. An employee may make a request for a formal flexible working arrangement.
154. The request must:
 - 154.1 be in writing;
 - 154.2 set out details of the change sought (including the type of arrangement sought and the proposed period the arrangement will operate for); and
 - 154.3 set out the reasons for the change, noting the reasons for the change may relate to the circumstances set out at section 65(1A) of the FW Act.
155. The Administrative Appeals Tribunal must provide a written response to a request within 21 days of receiving the request.
156. The response must:
 - 156.1 state that the Registrar approves the request and provide the relevant detail in clause 157; or
 - 156.2 if following discussion between the Administrative Appeals Tribunal and the employee, the agency and the employee agree to a change to the employee's working arrangements that differs from that set out in the request – set out the agreed change; or
 - 156.3 state that the Registrar refuses the request and include the following matters:
 - 156.3.1 details of the reasons for the refusal; and
 - 156.3.2 set out the agency's particular business grounds for refusing the request, explain how those grounds apply to the request; and
 - 156.3.3 either:
 - 156.3.3.1 set out the changes (other than the requested change) in the employee's working arrangements that would accommodate, to any extent, the employee's circumstances outlined in the request and that the agency would be willing to make; or
 - 156.3.3.2 state that there are no such changes; and
 - 156.3.4 state that a decision to refuse the request, or failure to provide a written response within 21 days is subject to the dispute resolution procedures of the enterprise agreement, and if the employee is an eligible employee under the FW Act, the dispute resolution procedures outlined in sections 65B and 65C of the FW Act.
157. Where the Registrar approves the request this will form an arrangement between the agency and the employee. Each arrangement must be in writing and set out:
 - 157.1 any security and work health and safety requirements;
 - 157.2 a review date (subject to clause 161); and

- 157.3 the cost of establishment (if any).
- 158. The Registrar may refuse to approve the request only if:
 - 158.1 the Administrative Appeals Tribunal has discussed the request with the employee;
 - 158.2 the Administrative Appeals Tribunal has genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for refusal);
 - 158.3 the Administrative Appeals Tribunal and the employee have not reached such an agreement;
 - 158.4 the Administrative Appeals Tribunal has had regard to the consequences of the refusal for the employee; and
 - 158.5 the refusal is on reasonable business grounds.
- 159. Reasonable business grounds include, but are not limited to:
 - 159.1 the new working arrangements requested would be too costly for the Administrative Appeals Tribunal;
 - 159.2 there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested;
 - 159.3 it would be impractical to change the working arrangements of other employees, or to recruit new employees, to accommodate the new working arrangements requested;
 - 159.4 the new working arrangements requested would be likely to result in a significant loss in efficiency or productivity;
 - 159.5 the new working arrangements requested would be likely to have a significant negative impact on customer service; and
 - 159.6 it would not be possible to accommodate the working arrangements without significant changes to security requirements, or where work health and safety risks cannot be mitigated.
- 160. For First Nations employees, the Administrative Appeals Tribunal must consider connection to country and cultural obligation in responding to requests for altering the location of work.
- 161. Approved flexible working arrangements will be reviewed by the Administrative Appeals Tribunal and the employee after 12 months, or a shorter period, if agreed by the employee. This is to ensure the effectiveness of the arrangement.

Varying, pausing or terminating flexible working arrangements

- 162. An employee may request to vary an approved flexible working arrangement in accordance with clause 154. An employee may request to pause or terminate an approved flexible working arrangement.
- 163. The Registrar may vary, pause or terminate an approved flexible working arrangement on reasonable business grounds, subject to clause 165.

164. The Administrative Appeals Tribunal must provide reasonable notice if varying, pausing or terminating a flexible working arrangement without the agreement of the employee, having regard to the circumstances of the employee. Exceptions to this requirement are urgent and critical operational circumstances or an employee's demonstrated and repeated failure to comply with the agreed arrangements.
165. Prior to varying, pausing or terminating the arrangement under clause 163, the Administrative Appeals Tribunal must have:
 - 165.1 discussed with the employee their intention to vary, pause or terminate the arrangement with the employee;
 - 165.2 genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for alteration);
 - 165.3 had regard to the consequences of the variation, pause or termination for the employee;
 - 165.4 ensured the variation, pause or termination is on reasonable business grounds; and
 - 165.5 informed the employee in writing of the variation, pause or termination to the approved flexible working arrangement, including details set out in clause 156.3.

Working from home

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

Ad-hoc arrangements

171. Employees may request ad-hoc flexible working arrangements. Ad-hoc arrangements are generally one-off or short term arrangements for circumstances that are not ongoing.
172. Employees should, where practicable, make the request in writing and provide as much notice as possible.
173. Requests for ad-hoc arrangements are not subject to the request and approval processes detailed in clauses 152 to 161.

174. The Administrative Appeals Tribunal should consider ad-hoc requests on a case-by-case basis, with a bias to approving ad-hoc requests, having regard to the employee's circumstances and reasonable business grounds.
175. Where a regular pattern of requests for ad-hoc arrangements from an employee emerges, the Administrative Appeals Tribunal should consider whether it is appropriate to seek to formalise the arrangement with the employee.

Altering span of hours

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

Support for mature age employees

177. The Administrative Appeals Tribunal 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.

Family-related costs

178. 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).

Part-time work

179. Employees engaged on a full-time basis will not be compelled to convert to part-time employment.
180. Employees engaged on a part-time basis will not be compelled to convert to full-time employment.
181. 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 arrangement.
182. Part-time hours can be varied, by agreement, on a short-term basis to facilitate access to training or other Administrative Appeals Tribunal development opportunities.
183. 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.

184. 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, or as otherwise provided for in this agreement.
185. 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 as per clause 112. Further applications for part-time employment will be considered in line with the flexible work provisions of this agreement.
186. Part-time employees may be considered for temporary reassignment of duties and other employment related opportunities, where appropriate.

Job sharing

187. Job sharing is an arrangement whereby 2 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 part-time employees.

Annual closedown

188. The Administrative Appeals Tribunal will limit normal operations from close of business on the last working day before Christmas Day, with business resuming on the first working day after New Year's Day.
189. Employees will be provided with time off for the working days between Christmas Day and New Year's Day and will be paid in accordance with their ordinary hours of work. Where an employee is absent on leave, payment for the annual 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).
190. There will be no deduction from annual or personal/carer's leave credits for the closedown days.
191. Where APS Level employees are required to attend for work on the days, other than public holidays, described in this agreement as annual closedown, they may elect either to:
 - 191.1 be paid at double time; or
 - 191.2 take time off in lieu on a one-for-one basis, that is, 1 day off for each day worked, at a time agreed with the employee's supervisor.
192. EL employees who are required to attend for work on the days, other than public holidays, described in this agreement as annual closedown, are entitled to reasonable time off in lieu.

Public holidays

193. Employees are entitled to the following holidays each year as observed at their normal work location in accordance with the FW Act:
 - 193.1 1 January (New Year's Day);

- 193.2 26 January (Australia Day);
- 193.3 Good Friday and the following Monday;
- 193.4 25 April (Anzac Day);
- 193.5 the King's birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
- 193.6 25 December (Christmas Day);
- 193.7 26 December (Boxing Day); and
- 193.8 any other day, or part day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part day, or a kind of day or part day, that is excluded by the *Fair Work Regulations 2009* from counting as a public holiday.
194. If a public holiday falls on a Saturday or Sunday, and if under a State or Territory law, a day or part day is substituted for one of the public holidays listed above, then the substituted day or part day is the public holiday.
195. 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.
196. The Registrar and an employee may agree to substitute a cultural or religious day of significance to the employee for any day that is a prescribed holiday. If the employee cannot work on the prescribed holiday, the employee will be required to work make-up time at times to be agreed. This substitution does not impact or reduce an employee's entitlement to First Nations ceremonial leave, NAIDOC leave or cultural leave.
197. Where an employee substitutes a public holiday for another day, they will not be paid penalty rates for working their normal hours on the public holiday.
198. Where a public holiday falls during a period when an employee is absent on leave (other than annual leave, paid personal/carer's leave or defence service sick leave) there is no entitlement to receive payment as a public holiday. Payment for that day will be in accordance with the entitlement for that form of leave (e.g. if on long service leave on half pay, payment is at half pay).
199. If under a law of a State or Territory every Sunday is declared or prescribed by or under that law to be a public holiday, there is no entitlement to receive payment as a public holiday if the employee would have worked, or does perform work, on that day. In these circumstances, payment will only be made at the public holiday rate if the employee performs work on that day, and the Sunday would otherwise be a public holiday under clauses 193.1 to 193.8.
200. An employee, who is absent on a day or part day that is a public holiday in their normal work location, is entitled to be paid for the part or full day absence as if that day or part day was not a public holiday, except where that person would not normally have worked on that day.
201. Where a full-time employee, including but not limited to employees on compressed hours, has a regular planned day off which would fall on a public holiday, the Registrar may allow the employee to change their planned day off so that it does not fall on a public holiday. If it is not

possible to change their planned day off, the employee will be credited an equivalent amount of time to their regular hours for the day in flex credits or EL TOIL in recognition of their planned day off.

Section 6: Leave

202. 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 Administrative Appeals Tribunal are appropriately acknowledged.

Notifying absences

203. Generally, employees must obtain prior approval for all leave and provide reasonable notice of the intended period of leave.
204. 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 9.30 am of the reason and expected length of the absence.

Annual leave

205. Employees (other than casual employees) are entitled to 4 weeks (20 days) paid annual leave per year of service, accruing daily, credited fortnightly. Annual leave for part-time employees accrues on a pro-rata basis.
206. Employees are encouraged to take their full annual leave entitlement each calendar year.
207. 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.
208. 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.
209. An employee may not be directed to take annual leave where the employee:
- 209.1 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
 - 209.2 is following a management strategy to reduce the employee's amount of accrued leave, which has been agreed with their manager consistent with clause 206.
210. 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.
211. 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).
212. 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.

Cash out of annual leave

213. 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.

Leave substitution

214. 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 of retirement, resignation, or termination of employment

215. 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.
216. 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.
217. 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

218. 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.
219. 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.

Personal/carer's leave

220. For an ongoing employee, 20 days personal/carer's leave will be credited upon the employee's commencement with the APS (pro rata for part-time employees). In subsequent years, the employee's leave will accrue daily, credited fortnightly.
221. For a non-ongoing employee, the personal/carer's leave will be credited upon the employee's commencement with the Administrative Appeals Tribunal (pro rata for part-time employees).

This will be 20 days leave pro-rated based on the employee's initial contract period, and is capped at 20 days. After the initial contract period or 12 months, whichever is shorter, or where the employee has an existing entitlement to personal/carer's leave, leave will accrue daily, credited at least monthly.

- 222. Unused personal/carer's leave will accumulate from year to year, but cannot be paid out on separation.
- 223. A casual employee may be absent without pay when not fit for work due to personal illness or injury.
- 224. A casual employee may access 2 days unpaid carer's leave per occasion, consistent with the NES. This includes when a member of the employee's immediate family, or a member of the employee's household, requires care and support because:
 - 224.1 of a personal illness, or personal injury, affecting that person; or
 - 224.2 an unexpected emergency affecting that person.

Usage

- 225. Personal/carer's leave may be approved:
 - 225.1 due to personal illness or injury;
 - 225.2 to attend appointments with a registered health practitioner;
 - 225.3 to manage a chronic condition; and/or
 - 225.4 to provide care or support for a family or household member or a person for whom they have caring responsibilities (including under a traditional kinship relationship); because:
 - 225.4.1 of a personal illness or injury affecting the other person; or
 - 225.4.2 of an unexpected emergency affecting the other person.
- 226. Personal/carer's leave may also be granted where the employee has an unexpected emergency affecting them 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 FW Act.
- 227. The Registrar may approve personal/carer's leave at half pay.
- 228. 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.
- 229. 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.

Carers

230. A person that an employee has caring responsibilities for may include a person who needs care because they:
- 230.1 have a medical condition, including when they are in hospital;
 - 230.2 have a mental illness;
 - 230.3 have a disability;
 - 230.4 are frail or aged; and/or
 - 230.5 are a child, not limited to a child of the employee.

Evidence

231. Evidence may be requested after:

- 231.1 more than 3 consecutive days; and
- 231.2 more than 8 days without evidence in a calendar year.

Where acceptable evidence is requested and is not provided, the period of absence in excess of the relevant threshold will be unauthorised.

232. Acceptable evidence includes:

- 232.1 a certificate from a registered health practitioner;
- 232.2 a statutory declaration; or
- 232.3 another form of evidence approved by the Agency Head.

233. A certificate from a registered health practitioner may be used as evidence of a chronic condition for up to 12 months for both personal and carer's leave.

Portability of leave

234. Where an employee moves into the Administrative Appeals Tribunal from another APS agency where they were an ongoing employee, the employee's unused accrued annual leave and personal/carer's leave will be transferred, provided there is no break in continuity of service. Where the full-time standard hours are less or differ from those of the Administrative Appeals Tribunal, the employee 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 Administrative Appeals Tribunal.
235. Where an employee is engaged in the Administrative Appeals Tribunal immediately following a period of ongoing employment in the Parliamentary Service or the ACT Government Service, the employee's unused accrued annual leave and personal/carer's leave will be recognised unless the employee received payment in lieu of those entitlements on cessation of employment.
236. Where an employee is engaged as an ongoing employee in the Administrative Appeals Tribunal, and immediately prior to the engagement the person was employed as a non-

ongoing APS employee (whether in the agency or another), at the employee's request, any unused accrued annual leave (excluding accrued leave paid out on separation) and personal/carer's leave will be recognised.

237. Where an employee is engaged as a non-ongoing APS employee, and immediately prior to the engagement the person was employed as a non-ongoing APS employee (whether in the agency or another) at the employee's request, any unused accrued annual leave (excluding accrued leave paid out on termination of employment) and personal/carer's leave will be recognised.
238. Where a person is engaged as an ongoing employee in the Administrative Appeals Tribunal, and immediately prior to the engagement the person was employed by a Commonwealth Government entity (other than in the Parliamentary Services which are covered in clause 235), the Registrar will offer to recognise any unused accrued personal/carer's leave at the employee's request.
239. Where an employee is engaged as an ongoing employee in the Administrative Appeals Tribunal, and immediately prior to the engagement the person was employed by a State or Territory Government, the Administrative Appeals Tribunal may recognise any unused accrued personal/carer's leave, provided there is not a break in continuity of service.
240. For the purposes of clauses 234 to 239, an employee with a break in service of less than 2 months is considered to have continuity of service.

Leave without pay

241. Leave entitlements will not accrue in respect of any period or periods of leave without pay not to count as service which total more than 30 days in aggregate in a calendar year. Service for Long Service Leave purposes is provided for in the *Long Service (Commonwealth Employees) Act 1976*.

Re-crediting of leave

242. When an employee is on:

- 242.1 annual leave;
- 242.2 purchased leave;
- 242.3 defence reservist leave;
- 242.4 First Nations ceremonial leave;
- 242.5 NAIDOC leave;
- 242.6 cultural leave; or
- 242.7 long service leave; and

becomes eligible for, under legislation or this agreement:

- 242.8 personal/carer's leave;

- 242.9 compassionate or bereavement leave;
 - 242.10 jury duty;
 - 242.11 emergency services leave;
 - 242.12 leave to attend to family and domestic violence circumstances; or
 - 242.13 parental leave, premature birth leave, stillbirth leave or pregnancy loss leave;
- the affected period of leave will be re-credited.

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

Long service leave

- 245. An employee is eligible for long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.
- 246. The minimum period for which long service leave will be granted is 7 calendar days (whether taken at full or half pay). Long service leave cannot be broken with other periods of leave, except as otherwise provided by legislation or provided for in the re-crediting of leave clause at 242.7 of this agreement.

Miscellaneous leave

- 247. The purpose of miscellaneous leave is to increase flexibility for the Administrative Appeals Tribunal 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.
- 248. Miscellaneous leave may be granted by the Registrar:
 - 248.1 to an employee where their other available leave entitlements are exhausted;
 - 248.2 as paid or unpaid leave;
 - 248.3 for the period, or part of the period, requested;
 - 248.4 in the case of leave without pay – either to count as service or not to count as service; and/or
 - 248.5 subject to conditions.
- 249. Supporting evidence may be required by the Registrar from the employee before a miscellaneous leave application is considered, subject to other provisions of this agreement.
- 250. The Registrar will advise the employee in writing of their decision to grant or refuse leave. If the leave is granted, this advice will include details of the leave and any conditions to which the leave is subject. Where the request is refused the employee will be advised of the reason for the decision to refuse leave.

- 251. Supporting policy guidance will be maintained in relation to Miscellaneous Leave.
- 252. Miscellaneous leave may be made available to casual employees for the purposes of family and domestic violence support or otherwise by Government direction. Casual employees are generally otherwise not eligible for miscellaneous leave.

Cultural, ceremonial and NAIDOC leave

NAIDOC leave

- 253. First Nations employees may access up to 2 days per calendar year, of paid leave, to participate in NAIDOC week activities.
- 254. NAIDOC leave can be taken in part days.
- 255. Employees who do not identify as First Nations employees will be supported to participate, on paid time, in agency NAIDOC week activities.

First Nations ceremonial leave

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

Cultural leave

- 260. The Registrar may grant up to 3 days of paid leave per calendar year for the purpose of attending significant religious or cultural obligations associated with the employees' particular faith or culture.
- 261. The Registrar may approve additional leave for cultural purposes as miscellaneous leave, with or without pay.
- 262. Cultural leave can be taken as part days.
- 263. For the avoidance of doubt, this leave does not cover cultural purposes or obligations which are eligible for paid leave under clause 256.

Parental leave

- 264. Primary caregiver, secondary caregiver and ML Act are defined in the definitions section.
- 265. An employee who is a primary caregiver or secondary caregiver is entitled to parental leave up until 24 months from the date of the child's birth or placement (parental leave period). For the avoidance of doubt, this is inclusive of all legislated leave entitlements. The parental leave period does not extend non-ongoing employment where the employment period remaining is less than 24 months. An employee is only eligible for parental leave with pay as either a

primary caregiver or a secondary caregiver for the particular parental leave period, and cannot switch roles for the purpose of accessing additional paid leave.

- 266. For the pregnant employee, the parental leave period starts on commencement of maternity leave as per ML Act requirements, and ceases 24 months from the date of birth. Medical certification requirements for the pregnant employee will be as required by the ML Act.
- 267. Conditions in this agreement will continue to apply in circumstances where successor legislation to the ML Act does not provide parental leave conditions included in this agreement.

Payment during parental leave

- 268. An employee is entitled to parental leave with pay as per clauses 265 and 266 below within the parental leave period. Any further parental leave during the parental leave period is without pay. Unused paid parental leave remaining at the end of the employee’s parental leave period will lapse. An employee may choose to use their accrued paid leave entitlements in accordance with usage and eligibility requirements in this agreement during the parental leave period that would otherwise be without pay.
- 269. Employees newly engaged or who have moved to the Administrative Appeals Tribunal from another APS agency are eligible for the paid parental leave in clauses 265 and 266 where such paid leave had not already been provided by another APS or Commonwealth employer in the 24 months since the child’s date of birth or placement. If the paid leave used by the employee with the previous Commonwealth or APS employer is less than the limits specified in clauses 265 and 266, the balance is available to the employee.
- 270. An employee who is a primary caregiver is entitled to parental leave with pay during the parental leave period to a maximum of 18 weeks as provided in **Table 1** below.

Table 1: Primary caregivers - circumstances for paid parental leave

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

- 271. An employee who is a secondary caregiver is entitled to parental leave with pay during the parental leave period as provided in **Table 2** below.

Table 2: Secondary caregivers - circumstances for paid parental leave

Period which coincides with the parental leave period for the secondary caregiver	Parental Leave with pay under this agreement
Date of commencement of this agreement to 28 February 2025	8 weeks, or top up to 8 weeks where a lesser period of parental leave has already been provided

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

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

Adoption and long-term foster care

275. An employee who is a primary caregiver or secondary caregiver is entitled to parental leave in accordance with this agreement for adoption or long-term foster care, provided that the child:
- 275.1 is under 16 as at the day (or expected day) of placement;
 - 275.2 has not lived continuously with the employee for a period of 6 months or more as at the day (or expected day) of placement; and
 - 275.3 is not (otherwise than because of the adoption) a child of the employee or the employee's spouse or de facto partner.
276. Documentary evidence of approval for adoption or enduring parental responsibilities under formal fostering arrangements must be submitted when applying for parental leave for adoption or long-term foster carer purposes.

Stillbirth

277. Parents of a stillborn child remain eligible for parental leave, except for paid leave for the secondary caregiver which is 2 weeks.
278. A stillborn child is a child:
- 278.1 who weighs at least 400 grams at delivery or whose period of gestation was 20 weeks or more;

- 278.2 who has not breathed since delivery; and
- 278.3 whose heart has not beaten since delivery.

Pregnancy loss leave

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

Premature birth leave

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

Transitional provisions

- 282. Employees eligible for paid leave under the ML Act are required under legislation to use their paid maternity leave first. In this circumstance, the employee may postpone their paid premature birth leave otherwise payable under clause 281 until after the legislated paid maternity leave is used.

Compassionate leave

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

Bereavement leave

- 287. Employees will be eligible for 3 days paid bereavement leave on each occasion when:
 - 287.1 a member of their family, household or someone they had a close personal relationship with dies; or

- 287.2 a child is stillborn, where the child was a member of their family or household.
288. An employee may be asked to provide evidence to support their absences on bereavement leave.
289. Bereavement leave for an occasion may be taken as 3 consecutive days or in separate periods totalling 3 days. This can include part days.
290. For casual employees, bereavement leave is unpaid.

Emergency response leave

291. In line with section 108 of the FW Act, an employee who engages in an eligible community service activity can get emergency response leave to volunteer for emergency management duties for:
- 291.1 the time engaged in the activity;
 - 291.2 reasonable travelling time; and
 - 291.3 reasonable recovery time.
292. Full-time and part-time employees will be able to access 20 working days of paid emergency response leave per year if required. The Registrar may provide additional emergency response leave with pay.
- 292.1 For the purpose of this clause, full rate of pay is to be as if the employee was at work.
293. Paid leave may be refused where the employee's role is essential to the Administrative Appeals Tribunal's response to the emergency.
294. An employee must provide evidence that the organisation requests their services. Employees can provide evidence before or as soon as practical after their emergency service activity.
295. The Registrar may approve reasonable paid or unpaid leave for ceremonial duties and training.
296. Emergency response leave, with or without pay, will count as service.

Jury duty

297. Employees of the Administrative Appeals Tribunal are exempt from jury service under the *Jury Exemption Act 1965* and cannot be summoned to serve as a juror.

Registered charity leave

298. The Registrar may grant an employee unpaid miscellaneous leave to undertake volunteer work with community organisations.
299. The Registrar may consider requests from employees with at least 12 months' continuous APS service to be granted up to 2 days' paid leave to undertake appropriate work for a registered charity, provided that the work 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.

300. The amount of leave granted will take account of operational requirements.

Defence reservist leave

301. The Registrar will give an employee leave with or without pay to undertake:

301.1 Australian Defence Force (ADF) Reserve continuous full-time service (CFTS); and

301.2 ADF Cadet obligations.

302. An employee who is a defence reservist can take leave with pay for:

302.1 up to 4 weeks (20 days) in each financial year (pro-rata for part-time employees); and

302.2 an extra 2 weeks (10 days) in the first year of ADF Reserve service (pro-rata for part-time employees).

303. Leave can be built up and taken over 2 consecutive years. This includes the extra 2 weeks in the first year of service.

304. An employee who is an ADF Cadet officer or instructor can get paid leave up to 3 weeks in each financial year to perform their duties. ADF Cadets means:

304.1 Australian Navy Cadets;

304.2 Australian Army Cadets; and

304.3 Australian Air Force Cadets.

305. In addition to the entitlement at clause 302, paid leave may be granted to an employee to attend an interview or medical examination in connection with the enlistment of the employee in a Reserve Force of the Defence Force.

306. Paid defence reservist leave counts for service.

307. Unpaid defence reservist leave for 6 months or less counts as service for all purposes. This includes periods of CFTS.

308. Unpaid leave taken over 6 months counts as service, except for annual leave.

309. An employee will not need to pay their tax free ADF Reserve salary to their agency for any reason.

Defence service sick leave

310. An employee is eligible for defence service sick leave credits when the Department of Veterans Affairs (DVA) has certified that an employee's medical condition is as a result of either:

310.1 war like service; or

- 310.2 non-war like service.
311. An eligible employee can get 2 types of credits:
- 311.1 an initial credit of 9 weeks (45 days) defence service sick leave (pro-rata for part-time employees) will apply as at the following dates, whichever is later:
 - 311.1.1 they start employment with the APS; or
 - 311.1.2 DVA certifies the condition; and
 - 311.2 an annual credit of 3 weeks (15 days) defence service sick leave.
312. An employee can use their defence service sick leave when a recognised medical practitioner provides a certificate that says they were away due to their DVA certified medical condition.
313. Unused annual credits can be built up to 9 weeks.
314. An employee cannot use annual credits until the initial credit is exhausted.
315. Defence service sick leave is paid and counts as service for all purposes.

Leave to attend proceedings

316. An employee giving evidence before a Court, Tribunal or Royal Commission on behalf of the Commonwealth or a Commonwealth party in the course of their duties, will be considered on duty.
317. An employee who is not covered under clause 316, and is required to give evidence to, appear before or attend to instruct a representative at a Court, Tribunal or Royal Commission in relation to their duties will be released from duty without loss of pay. This includes in proceedings relating to a dispute between the employee and the Administrative Appeals Tribunal.
318. An employee may otherwise be granted paid or unpaid miscellaneous leave by the Registrar if required to give evidence to a Court, Tribunal or Royal Commission for any other reason. Where approval for unpaid leave is given, the employee may elect to use accrued annual leave, flex leave or time off in lieu.
319. The Registrar may refuse to release an employee from duty having regard to business requirements and whether the employee's attendance is necessary for the Court, Tribunal or Royal Commission hearing.

Section 7: Employee support and workplace culture

Blood donation

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

Vaccinations

- 322. The Administrative Appeals Tribunal will offer annual influenza vaccinations at no cost to all employees.
- 323. Where the Administrative Appeals Tribunal requires an employee performing a role to be vaccinated for a particular condition, this vaccination will be offered at no expense to the employee.

Employee Assistance Program

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

Eyesight testing

- 325. 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.

Fitness activities

- 326. The Administrative Appeals Tribunal 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 Administrative Appeals Tribunal from final monies. Such arrangements will operate on the basis that there is no cost, or FBT liability, to the Administrative Appeals Tribunal.

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

Public transport loan scheme

328. 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). Administrative Appeals Tribunal costs are to be recouped through deduction from the employee's salary over an agreed period of time.

Use of issued mobile phones

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

Early intervention support

330. 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 Registrar.
331. Support may be in the form of reimbursement of reasonable medical costs associated with General Practitioner visits (maximum of 2) and up to 3 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

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

Reimbursement for loss or damage of personal effects

333. 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:
- 333.1 the loss or damage was caused through a fault with Commonwealth property or goods;
 - 333.2 the loss or damage was caused through an act or omission of another Commonwealth employee;
 - 333.3 the loss or damage occurred while protecting Commonwealth goods or property; or

- 333.4 the Registrar considers the loss or damage may reasonably be attributable to the performance of the employee's duties.

Safe workplaces

334. The Administrative Appeals Tribunal is committed to maintaining a policy on Work Health and Safety (WHS) matters.
335. The Administrative Appeals Tribunal will review this policy in consultation with employee representatives as provided by legislation.
336. If health and wellbeing are identified as issues impacting performance, the Administrative Appeals Tribunal will assess possible reasonable adjustments, fitness for duty and/or a Workplace Health Support plan.

Personal safety – use of taxis

337. Where an employee is directed to work after 7:00 pm, the Administrative Appeals Tribunal will provide Cabcharge for the journey home of that employee, subject to prior approval by the relevant supervisor and the request of the employee.
338. 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.

Respect at work

Principles

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

Consultation

341. The Administrative Appeals Tribunal will consult with employees and their unions and/or other representatives in developing, reviewing and evaluating approaches to prevent sexual harassment, sex discrimination, sex-based harassment and victimisation in the workplace.

Family and domestic violence support

342. The Administrative Appeals Tribunal will provide support for employees affected by family and domestic violence, depending on the employee's circumstances.

343. The Administrative Appeals Tribunal recognises that a holistic approach should be taken to support the employee, appropriate for the employee's individual circumstances.
344. Family and domestic violence support provisions, including paid leave, are available to all employees covered by this agreement.
345. An employee experiencing family and domestic violence is able to access paid miscellaneous leave. Reasons an employee experiencing family and domestic violence may access this leave include, but are not limited to:
 - 345.1 illness or injury affecting the employee resulting from family and domestic violence;
 - 345.2 providing care or support to a family or household member who is also experiencing family and domestic violence, and is ill or injured as a result of family and domestic violence;
 - 345.3 providing care or support to a family or household member who is also experiencing family and domestic violence, and is affected by an unexpected emergency as a result of family and domestic violence;
 - 345.4 making arrangements for the employee's safety, or the safety of a close relative;
 - 345.5 accessing alternative accommodation;
 - 345.6 accessing police services;
 - 345.7 attending court hearings;
 - 345.8 attending counselling; and
 - 345.9 attending appointments with medical, financial or legal professionals.
346. This entitlement exists in addition to an employee's existing leave entitlements and may be taken as consecutive days, single days or part days and will count as service for all purposes.
347. Given the emergency context in which leave may need to be accessed, employees can proceed to take the leave and seek approval at a later date, as soon as practicable.
348. These provisions do not reduce an employee's entitlement to family and domestic violence leave under the NES.
349. Paid miscellaneous leave available under this clause is paid for ongoing and non-ongoing employees at their full rate as if they were at work.
350. Paid leave for casual employees under this clause is paid at their full pay rate for the hours they were rostered to work in the period they took leave.
351. Evidence may be requested to support the Administrative Appeals Tribunal in approving leave. In most cases, this will not be required. Where it is required, this will be discussed with the employee and a statutory declaration is the only form of evidence the Administrative Appeals Tribunal will require, unless the employee chooses to provide another form of evidence.
352. An employee may also choose to provide other forms of evidence, including a medical certificate, or document issued by the Police Service, a Court, a Doctor, district Nurse, a Family Violence Support Service or Lawyer.

353. The Administrative Appeals Tribunal will take all reasonable measures to treat information relating to family and domestic violence confidentially. The Administrative Appeals Tribunal will adopt a 'needs to know' approach regarding communication of an employee's experience of family and domestic violence, subject to steps the Administrative Appeals Tribunal may need to take to ensure the safety of the employee, other employees or persons, or mandatory reporting requirements.
354. Where the Administrative Appeals Tribunal needs to disclose confidential information for purposes identified in clause 353, where it is possible the Administrative Appeals Tribunal will seek the employee's consent and take practical steps to minimise any associated safety risks for the employee and/or privacy breaches.
355. The Administrative Appeals Tribunal will not store or include information on the employee's payslip in relation to the employee's experience of family and domestic violence; any leave accessed for the purposes of family and domestic violence; or support(s) provided by the employer, unless otherwise required by legislation.
356. Other available support may include, but is not limited to, flexible working arrangements, additional access to EAP, changes to their span of hours or pattern of hours and/or shift patterns and/or location of work where reasonably practicable.
357. The Administrative Appeals Tribunal will acknowledge and take into account an employee's experience of family and domestic violence if an employee's attendance or performance at work is affected.
358. Further information about leave and other support available to employees affected by family and domestic violence may be found in policy.

Integrity in the APS

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

First Nations cultural competency training

362. The Registrar will take reasonable steps to ensure all substantive, ongoing EL2 employees employed at the commencement of this agreement or any new substantive, ongoing EL2

employees who commence within the first 6 months of this agreement will complete relevant First Nations cultural competency training within 12 months of the commencement of the agreement.

363. Any new substantive, ongoing EL2 employee who commences after 6 months of the commencement of this agreement will be required to complete a relevant First Nations cultural competency training course within 6 months of their engagement or promotion.

Lactation and breastfeeding support

364. Reasonable paid time during work hours will be provided for lactation breaks for breastfeeding, expressing milk and other associated activities.
365. The Administrative Appeals Tribunal will provide access to appropriate facilities for the purpose of breastfeeding or expressing milk, subject to clause 366. In considering whether a space is appropriate, an agency should consider whether:
- 365.1 there is access to refrigeration;
 - 365.2 the space is lockable; and
 - 365.3 there are facilities needed for expressing such as appropriate seating.
366. Where it is not practicable for an agency site to have a designated space, a flexible approach will be taken so that the employee can access the support required.
367. The Administrative Appeals Tribunal will facilitate discussion between individual employees and their managers about accommodating the employee's lactation needs and practical arrangements to meet these needs.
368. The manager and employee shall discuss any flexible working arrangements that may be needed to support lactation. This may include consideration of arrangements such as working from home and/or remote working or varying work hours on an ad hoc or regular basis. Wherever possible, requests by an employee will be accommodated, noting these needs may be changed over time.
369. Further information is available in policy.

Disaster support

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

Section 8: Performance and development

Performance management

- 373. The Administrative Appeals Tribunal will have in place a performance management scheme consistent with the APS Employment Principles and the Public Service Commissioner's Directions.
- 374. The performance cycle begins at 1 June and ends at 31 May.
- 375. All employees are required to participate in the Administrative Appeals Tribunal's performance management scheme, unless otherwise specified by the relevant delegate.
- 376. Performance agreements may have reference to the employee's role responsibilities, relevant behavioural expectations, additional responsibilities, work level standards, relevant capability frameworks, specific deliverables, or any other relevant standard.
- 377. Where a dispute arises in relation to the content of a performance agreement, the dispute resolution provisions of this agreement at clauses 449 to 458 may be accessed.
- 378. At least once per year, employees should have their performance assessed against their performance agreement as either having met or not met expectations.
- 379. To be rated as 'met expectations', an employee must attain and sustain consistent performance, including behaviour, consistent with the employee's performance agreement.

Managing underperformance

- 380. Underperformance is a continued or repeated failure to achieve expected standards.
- 381. The Administrative Appeals Tribunal is committed to addressing underperformance matters promptly and fairly.
- 382. 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.
- 383. Where such an assessment is made, the employee and their 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.
- 384. 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. For clarity, performance improvement plan provisions of this agreement do not apply to non-ongoing employees.
- 385. A formal assessment period of 8 weeks will apply unless a shorter period is agreed between the employee and the relevant delegate.

386. 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.
387. A supervisor and an employee will meet regularly during the performance improvement process.
388. 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.
389. An employee will be provided 5 working days to respond to the supervisor's assessment report, prior to the Registrar making a decision.
390. Following the completion of a performance improvement process, the Registrar may:
 - 390.1 take no further action as the employee has met the expected standards;
 - 390.2 extend the assessment period;
 - 390.3 reduce the employee's classification level;
 - 390.4 reduce the employee's pay point within a classification level to the lowest pay point;
 - 390.5 redeploy the employee at the same classification level;
 - 390.6 terminate the employee's employment; or
 - 390.7 other actions considered appropriate.
391. 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.

Workloads

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

Study assistance

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

Learning and development

396. The Administrative Appeals Tribunal is committed to fostering a culture of continuous learning and development to ensure employees have the skills, knowledge, and capabilities relevant to their current or expected duties and career development within the APS.
397. The Administrative Appeals Tribunal recognises that learning and development activities build organisational capability, and that where possible, allocation of work should facilitate regular dedicated time for learning and development.
398. At least once per year, employees and their managers will establish or review a learning and development plan for the employee's current work and APS career development goals. An employee may request that their learning and development plan be updated to reflect changes in their work responsibilities or career development goals.
399. All employees will be provided with the opportunity to undertake regular learning and development activities within standard work hours to complete both mandatory training activities and activities in line with the employee's learning and development plan. Such activities will not ordinarily exceed 4 hours each month. This allocation is distinct from induction-related training and may be used flexibly to accommodate the agreed training needs of the individual, which may include participation in full day training activities.
400. An employee who considers that they are unable to participate in appropriate learning and development activities as per clause 399 due to their existing workload should raise their concerns with their manager who can consider appropriate arrangements.
401. Employees and their managers should regularly discuss learning and development opportunities consistent with the employee's learning and development plan. Participation in learning and development activities is subject to prior approval by the employee's manager regarding the time, date, and nature of activities. Managers must consider the impact on operational requirements when considering requests to undertake learning and development activities but will not unreasonably refuse participation considering all circumstances.
402. An employee may be provided with assistance to cope with change, and support in retraining and re-skilling for new duties within the Administrative Appeals Tribunal.

Professional qualifications

403. The Administrative Appeals Tribunal will reimburse or pay for the cost of annual membership fees of professional associations, or application fees for professional accreditation, up to \$750 per year for each employee where membership of the association or professional accreditation is an essential requirement of an employee's duties.

404. The Administrative Appeals Tribunal will reimburse or pay up to \$100 per year per employee towards annual membership of other professional associations, or application fees for professional accreditation, relevant to the work of the Administrative Appeals Tribunal.

Section 9: Travel and location-based conditions

Travel

Travelling allowance

405. 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.
406. 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 405.
407. Where an employee is provided with either accommodation or meals, or both, at Administrative Appeals Tribunal expense, the employee will not be paid for those components of travelling allowance in respect of any accommodation or meals provided.
408. The Registrar will set travelling allowance rates in accordance with the rates set by the ATO.

Overseas travel

409. Employees required to undertake official overseas business-related travel are entitled to:
- 409.1 appropriate overseas travelling allowances;
 - 409.2 travel at premium economy (if available), otherwise business or equivalent class of travel; and
 - 409.3 have access to appropriate rest periods and have other related costs met by the Administrative Appeals Tribunal.
410. Employees will not be out of pocket for reasonable work-related expenses incurred.
411. 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.

Excess fares

412. An employee will be entitled to reimbursement of excess fares where temporarily performing work at a place other than their usual place of work at the request of the Administrative Appeals Tribunal, 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

413. Where an employee becomes critically or dangerously ill while 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.

Relocation assistance

414. Where an existing employee is required to relocate at the request of the Administrative Appeals Tribunal (such as a promotion), the employee will be provided with financial relocation assistance. Employees who relocate on a temporary basis to take up higher duties are entitled to removal expenses if they relocate for a period of 13 weeks or more.
415. Where an employee is required by the Administrative Appeals Tribunal to relocate on engagement, the employee will be provided with financial relocation assistance.
416. Reasonable expenses associated with the relocation include:
 - 416.1 the cost of transport of the employee, dependants and partner by the most economical means;
 - 416.2 removal expenses, namely the reimbursement of reasonable incurred costs of the removal of furniture and household effects of the employee, dependants and partner;
 - 416.3 the reimbursement of the cost of the insurance premium based on a reasonable replacement value; and
 - 416.4 the reasonably incurred expenses in kennelling and transport of pets, up to the amount specified in the APS Award.
417. Additional relocation assistance may be considered by Registrar discretion.
418. 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 Administrative Appeals Tribunal who relocates or moves on either promotion or at level or on reduction, to a different geographic location in the interests of the Administrative Appeals Tribunal. The disturbance allowance will be paid to the employee even if relocation assistance is not otherwise provided under clause 415.

Section 10: Consultation, representation and dispute resolution

Consultation

Principles

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

When consultation is required

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

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

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

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

Representation

425. Employees may appoint a representative for the purposes of the procedures in this clause. A representative for the purpose of this clause may be a union representative.
426. The Administrative Appeals Tribunal must recognise the representative if:
- 426.1 a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - 426.2 the employee or employees advise the employer of the identity of the representative.

Major change

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

- 427.6 the need to relocate employees to another workplace; or
- 427.7 the restructuring of jobs.
- 428. The following additional consultation requirements in clause 429 to 434 apply to a proposal to introduce a major change referred to in clause 422.3.
- 429. Consultation with employees and the relevant union(s) and/or recognised representatives will occur prior to a decision being made, subject to clause 423.
- 430. Where practicable, an Administrative Appeals Tribunal change manager or a primary point of contact will be appointed and their details provided to employees and the relevant union(s) and/or their recognised representatives.
- 431. The Administrative Appeals Tribunal must notify employees and relevant union(s) and/or recognised representatives of the proposal to introduce the major change as soon as practicable.
- 432. As soon as practicable after proposing the change, or notifying of the change in circumstances described at clause 423, the Administrative Appeals Tribunal must:
 - 432.1 discuss with affected employees and relevant union(s) and/or other recognised representatives:
 - 432.1.1 the proposed change;
 - 432.1.1.1 the effect the proposed change is likely to have on the employees;
 - 432.1.1.2 the effect the proposed change is likely to have on the employees; and
 - 432.1.1.3 proposed measures to avert or mitigate the adverse effect of the proposed change on the employees; and
 - 432.1.2 for the purposes of the discussion – provide, in writing, to employees and the relevant union(s) and/or other recognised representatives:
 - 432.1.2.1 all relevant information about the proposed change, including the nature of the change proposed; and
 - 432.1.2.2 information about the expected effects of the proposed change on the employees; and
 - 432.1.2.3 any other matters likely to affect the employees.
- 433. The Administrative Appeals Tribunal must give prompt and genuine consideration to matters raised about the major change by employees and the relevant union(s) and/or other recognised representatives.
- 434. However, the Administrative Appeals Tribunal is not required to disclose confidential or commercially sensitive information to employees and the relevant union(s) and/or other recognised representatives.

435. If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Administrative Appeals Tribunal, the requirements set out in clauses 429 to 432 are taken not to apply.

Change to regular roster or ordinary hours of work

436. The following additional consultation requirements in clause 437 to 440 apply to a proposal to introduce a change referred to in clause 422.5.

437. The Administrative Appeals Tribunal must notify affected employees and the relevant union(s) and/or other recognised representatives of the proposed change.

438. As soon as practicable after proposing to introduce the change, the Administrative Appeals Tribunal must:

438.1 discuss with employees and the relevant union(s) and/or other recognised representatives the proposed introduction of the change; and

438.2 for the purposes of the discussion – provide to the employees and relevant union(s) and/or other recognised representatives:

438.2.1 all relevant information about the proposed change, including the nature of the proposed change; and

438.2.2 information about what the employer reasonably believes will be the effects of the proposed change on the employees; and

438.2.3 information about any other matters that the employer reasonably believes are likely to affect the employees; and

438.3 invite employees and the relevant union(s) and/or other recognised representatives to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

439. However, the Administrative Appeals Tribunal is not required to disclose confidential or commercially sensitive information to the relevant employees and the relevant union(s) and/or other recognised representatives.

440. The Administrative Appeals Tribunal must give prompt and genuine consideration to matters raised about the proposed change by the employees and the relevant union(s) and/or other recognised representatives.

Interaction with emergency management activities

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

Agency consultative committee

442. The Registrar may establish a consultative committee to discuss relevant workplace matters.

443. The consultative committee will be convened to:

443.1 facilitate an exchange of information and to improve understanding of workplace issues affecting employees;

- 443.2 provide an avenue for employees to contribute views on workplace issues affecting them; and
 - 443.3 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 consultative committee, including the development and modification of supporting policies and guidelines.
444. The consultative committee will operate subject to an agreed terms of reference and structure for the term of the agreement. Representation on the committee will be in accordance with the terms of reference.
445. In order to ensure effective communication and consultation between employees and management, the composition of the consultative committee will be composed of management and employee representatives with regard to the Administrative Appeals Tribunal's national presence.
446. The consultative committee will meet biannually unless otherwise agreed by the Administrative Appeals Tribunal consultative committee.
447. Other details relating to the consultative committee will be maintained in the terms of reference. Changes to terms of reference will be subject to consultation and agreement with the consultative committee.

APS consultative committee

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

Dispute resolution

449. If a dispute relates to:
- 449.1 a matter arising under the agreement; or
 - 449.2 the National Employment Standards;
- this term sets out procedures to settle the dispute.
450. An employee or union who is covered by this agreement may initiate and/or be a party to a dispute under this term.
451. An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term. Representatives will be recognised and dealt with in good faith.
452. Parties to the dispute must attempt to resolve the dispute at the workplace level, by discussion between the employee or employees and relevant managers. Parties to the dispute will notify higher level managers to assist in the resolution of the dispute. Parties will give genuine consideration to proposals to resolve the dispute.

453. If a dispute about a matter arising under this agreement is unable to be resolved at the workplace level, and all appropriate steps under clause 452 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
454. The Fair Work Commission may deal with the dispute in 2 stages:
- 454.1 the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
 - 454.2 if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
 - 454.2.1 arbitrate the dispute; and
 - 454.2.2 make a determination that is binding on the parties.

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

455. While the parties are attempting to resolve the dispute using the procedures in this term:
- 455.1 an employee must continue to perform their work as they would normally in accordance with established custom and practice at the Administrative Appeals Tribunal that existed immediately prior to the dispute arising unless they have a reasonable concern about an imminent risk to their health or safety; and
 - 455.2 subject to 455.1, an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
 - 455.2.1 the work is not safe; or
 - 455.2.2 applicable work health and safety legislation would not permit the work to be performed; or
 - 455.2.3 the work is not appropriate for the employee to perform; or
 - 455.2.4 there are other reasonable grounds for the employee to refuse to comply with the direction.
456. The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this term.
457. Any disputes arising under *AAT Enterprise Agreement 2017 – 2020* as maintained by *Public Service (Section 24(1)—Administrative Appeals Tribunal Non-SES Employees) Determination 2023/1* or the National Employment Standards that were formally notified under clauses 289 to 296 of that agreement before the commencement of this agreement, that remain unresolved at the date of commencement of this agreement, will be progressed under the dispute resolution procedures in this agreement.

Leave of absence to attend proceedings

458. Where the provisions of clauses 449 to 453 have been complied with, and to assist in the resolution of the matter, the employee, and/or the union delegate or other employee representative referred to in clause 450, or employee required to provide evidence, will be granted paid time to attend dispute resolution processes and proceedings in the Fair Work Commission arising from referral of the matter in clause 453.

Freedom of association

459. The Administrative Appeals Tribunal recognises that employees under the FW Act are:
- 459.1 free to become, or not become, members of industrial associations; and
 - 459.2 free to be represented or not represented, by industrial associations; and
 - 459.3 free to participate, or not participate, in lawful industrial activities under the FW Act.

Delegates' rights

460. Union delegates play an important and legitimate role in the workplace. This includes representing their members and supporting employee access to union officials, and providing employee views to the agency.
461. The role of union delegates is to be respected and supported.
462. The Administrative Appeals Tribunal and union delegates will work together respectfully and collaboratively.

Supporting the role of union delegates

463. The Administrative Appeals Tribunal respects the role of union delegates to:
- 463.1 provide information, consult with and seek feedback from employees in the workplace on workplace matters;
 - 463.2 consult with other delegates and union officials, and get advice and assistance from union officials;
 - 463.3 represent the interests of members to the employer and industrial tribunals; and
 - 463.4 represent members at relevant union forums, consultative committees or bargaining.
464. The Administrative Appeals Tribunal and union delegates recognise that undertaking the role of a union delegate is not the primary purpose of an employee's engagement, and must work with and not unreasonably impact their regular duties. Honorary officials may request additional time and facilities from time to time.
465. Union delegates will be provided with reasonable paid time during their normal working hours to perform their union delegate role. The paid time provided should not result in disruption to critical services or operational requirements.

466. To support the role of union delegates, the Administrative Appeals Tribunal will, subject to legislative and operational requirements, including privacy and security requirements:
- 466.1 provide union delegates with reasonable access to agency facilities and resources, including for paid or unpaid meetings between employees and their unions and to communicate with union officials;
 - 466.2 advise union delegates and other union officials of the agency facilities and resources available for their use, which may include telephone, photocopying, internet, and email;
 - 466.3 allow reasonable official union communication appropriate to the agency from union delegates with employees, including through email, intranet pages and notice boards. This may include providing a link to a union website for employees to access union information. Any assistance in facilitating email communications does not include an agency vetoing reasonable communications;
 - 466.4 provide access to new employees as part of induction; and
 - 466.5 provide reasonable access to union delegates to attend appropriate paid time training in workplace relations matters, during normal working hours.
467. Where APS employees are elected as officials of a trade union or professional association, they are not required to seek permission from the workplace or Administrative Appeals Tribunal before speaking publicly in that capacity, subject to the APS Code of Conduct and legislative requirements.

Employee representational rights

468. In any matter arising under this agreement, an employee may have an employee representative assist, support, accompany or represent them. This assistance may include acting as an advocate. The advocate must be operating under the instructions of the relevant employee or group of employees. The Administrative Appeals Tribunal and employee representatives will deal with each other in good faith.
469. The role of employee representatives, including union delegates and other non-union employee representatives, is to be respected and facilitated.
470. An employee will provide prior notice to all parties to a discussion where the employee chooses to be represented.
471. An employee is expected to be present at discussions where they choose to be represented.

Section 11: Separation and retention

Resignation

- 472. An employee may resign from their employment by giving the Registrar at least 14 calendar days' notice.
- 473. 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.
- 474. At the instigation of the Registrar, the resignation may take effect at an earlier date within the notice period. In such cases, the employee will receive paid compensation in lieu of the notice period which is not worked.
- 475. The Registrar has the discretion to agree to a shorter period of notice or waive the requirement to give notice.

Payment on death of an employee

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

Redeployment, retraining, redundancy

- 477. The following provisions will apply to all employees of the Administrative Appeals Tribunal with the exception of:
 - 477.1 ongoing employees who are on probation; and
 - 477.2 non-ongoing employees.

Definition of excess employee

- 478. An employee is an excess employee if:
 - 478.1 the employee is included in a class of employees employed in the Administrative Appeals Tribunal which comprises a greater number of employees than is necessary for the efficient and economical working of the Administrative Appeals Tribunal; or
 - 478.2 the services of the employee cannot be used effectively because of technological or other changes in the work methods of the Administrative Appeals Tribunal or changes in the nature, extent or organisation of the functions of the Administrative Appeals Tribunal; or

- 478.3 where the duties usually performed by the employee are to be performed at a different locality, the employee is not willing to perform duties at the locality and the Registrar has determined that these provisions will apply to that employee.

Consultation with potentially excess employees

479. 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.
480. Discussions with the potentially excess employee(s) or, where an employee requests, with the employee's representative, will be held to consider:
- 480.1 actions that might be taken to reduce the likelihood of the employees becoming excess;
 - 480.2 redeployment opportunities for the employee(s) within the Administrative Appeals Tribunal or another APS agency, including whether the employee(s) seeks redeployment; and
 - 480.3 whether voluntary retrenchment might be appropriate and whether the employee(s) want to be offered voluntary retrenchment.
481. 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.
482. The Registrar will not advise an employee that they are excess until the discussions in clause 480 have occurred or 4 weeks have elapsed, whichever occurs first.

Voluntary retrenchment

483. Where the Registrar decides an employee is excess to the Administrative Appeals Tribunal's requirements, the Registrar will:
- 483.1 advise the employee in writing of the decision and may invite the employee to elect for retrenchment with the payment of a redundancy benefit;
 - 483.2 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
 - 483.3 reimburse the employee up to \$1,500 inclusive of GST for expenses incurred in seeking financial or career planning advice.
484. 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 their 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.
485. 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 495.

486. Only one invitation to elect for retrenchment with the payment of a redundancy benefit will be made to an excess employee.

Redundancy benefit

487. An employee who elects for retrenchment with a redundancy benefit and whose employment is terminated by the Registrar under section 29 of the PS Act on the grounds that they are excess to the requirements of the Administrative Appeals Tribunal, 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.

488. The minimum sum payable will be 4 weeks' salary and the maximum will be 48 weeks' salary.

489. The redundancy benefit will be calculated on a pro rata basis for any period where an employee has worked part-time hours during their period of service and the employee has less than 24 years' full-time service, subject to any minimum amount the employee is entitled to under the NES.

Service for redundancy pay purposes

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

490.1 service in an APS agency;

490.2 Government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;

490.3 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;

490.4 service with the Australian Defence Forces;

490.5 APS service immediately preceding deemed resignation due to the marriage bar under the repealed section 49 of the *Public Service Act 1922*;

490.6 service in another organisation where:

490.6.1 an employee was transferred from the APS to that organisation with a transfer of function; or

490.6.2 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

490.6.3 such function is recognised for long service leave purposes.

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

- 491.1 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
 - 491.2 the earlier period of service was with the APS and ceased because the employee was deemed to have resigned from the APS on marriage under the repealed section 49 of the *Public Service Act 1922*.
492. Any period of service which ceased by way of:
- 492.1 Any of the grounds for termination specified in section 29 of the PS Act (including any additional grounds prescribed in the PS Regulations);
 - 492.2 on a ground equivalent to any of these grounds;
 - 492.3 through voluntary retirement at or above the minimum retiring age applicable to the employee;
 - 492.4 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.
493. 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

494. For the purpose of calculating payment of a redundancy benefit, salary will include:
- 494.1 the employee's salary at the substantive work value level; and
 - 494.2 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 the employee is given notice of termination of employment; and
 - 494.3 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

495. 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).
496. 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 FW Act has obligations in relation to payments in lieu of notice.

Retention periods

497. 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:

- 497.1 56 weeks where the employee has 20 years or more service or is over 45 years of age; or
 - 497.2 30 weeks for all other employees.
498. If an employee is entitled to a redundancy payment under the NES, the retention period at clause 497 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).
499. The retention period commences on the day the Registrar advises the employee in writing that they are an excess employee.
500. During the retention period the Registrar:
- 500.1 will continue to take reasonable steps to find alternative employment for the excess employee; and
 - 500.2 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 497.
501. During the retention period the employee:
- 501.1 will take reasonable steps to find alternative employment for the excess employee; and
 - 501.2 actively participate in learning and development activities, trial placements or other agreed arrangements to assist in obtaining a permanent placement.
502. 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.
503. Where the Registrar is satisfied that there is insufficient productive work available for the employee within the Administrative Appeals Tribunal during the remainder of the retention period and that there is no reasonable redeployment prospects in the APS:
- 503.1 the Registrar may, with the agreement of the employee, terminate the employee's employment under section 29 of the *Public Service Act 1999*; and
 - 503.2 upon termination, the employee will be paid a lump sum comprising:
 - 503.2.1 the balance of the retention period (as shortened for the NES under clause 498) and this payment will be taken to include the payment in lieu of notice of termination of employment, plus
 - 503.2.2 the employee's NES entitlement to redundancy pay.
504. 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

- 505. During the retention period, the Administrative Appeals Tribunal will assist the employee to find alternate employment.
- 506. This assistance may be in the form of:
 - 506.1 access to competency assessment and learning training in generic job seeking skills;
 - 506.2 access to professional personal counselling via the Employee Assistance Program;
 - 506.3 reasonable assistance (including career counselling) and support in applying for positions both within and outside the APS;
 - 506.4 liaison with internal/external providers to facilitate early placement of employees to other APS agencies;
 - 506.5 where possible, temporary assignment to other APS agencies where ongoing placement options exist.

Attachment A – Base salaries

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Classification	Salary levels	As at 31 August 2023	From the later of commencement of the agreement or 14 March 2024	From 13 March 2025	From 12 March 2026
APS1	1	\$49,577	\$52,000	\$54,516	\$57,497
	2	\$52,188	\$54,276	\$56,338	\$58,253
	3	\$54,791	\$56,983	\$59,148	\$61,159
APS2	1	\$56,106	\$58,350	\$60,567	\$62,775
	2	\$59,612	\$61,996	\$64,352	\$66,540
	3	\$63,116	\$65,641	\$68,135	\$70,452
APS3	1	\$66,437	\$69,094	\$71,720	\$74,158
	2	\$68,975	\$71,734	\$74,460	\$76,992
APS4	1	\$71,223	\$74,072	\$76,887	\$79,501
	2	\$74,358	\$77,332	\$80,271	\$83,000
	3	\$77,331	\$80,424	\$83,480	\$86,318
APS5	1	\$79,438	\$82,616	\$85,755	\$88,834
	2	\$81,929	\$85,206	\$88,444	\$91,451
	3	\$84,238	\$87,608	\$91,809	\$96,829
APS6	1	\$86,055	\$90,199	\$94,563	\$99,734
	2	\$90,343	\$93,957	\$97,527	\$100,843
	3	\$98,557	\$102,499	\$106,394	\$111,701
Executive Level 1	1	\$108,997	\$113,357	\$117,665	\$121,755
	2	\$115,741	\$120,371	\$124,945	\$129,193
	3	\$128,291	\$133,423	\$138,493	\$143,202
Executive Level 2	1	\$130,512	\$135,732	\$140,890	\$145,680
	2	\$139,933	\$145,530	\$151,060	\$156,196
	3	\$148,377	\$154,312	\$160,176	\$165,622

Attachment B – Supported Wage System

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

Definitions

2. In this schedule:

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

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

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

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

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

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

Eligibility criteria

3. Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the 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.
4. The schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this agreement relating to the rehabilitation of employees who are injured in the course of their employment.

Supported wage rates

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

Table 2 Applicable percentage of relevant minimum wage paid to applicable employees

Assessed capacity [sub-clause (d)]	Percentage of agreement rate
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

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

Assessment of capacity

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

Lodgement of SWS wage assessment agreement

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

Review of assessment

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

Other terms and conditions of employment

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

Workplace adjustment

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

Trial period

15. In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a Trial Period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.
16. During that Trial Period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
17. The minimum amount payable to the employee during the Trial Period must be no less than the current weekly rate, as determined by the Fair Work Commission.
18. Work trials should include induction or training as appropriate to the job being trialled.
19. Where the employer and employee wish to establish a continuing employment relationship following the completion of the Trial Period, a further contract of employment will be entered into based on the outcome of assessment under clause 8 and 9 in this attachment.

Attachment C – Allowances

Column 1	Column 2	Column 3	Column 4	Column 5
Allowance type	Fortnightly allowance as at 31 August 2023	Fortnightly allowance from the later of commencement of the agreement or 14 March 2024	Fortnightly allowance from 13 March 2025	Fortnightly allowance from 12 March 2026
First Aid Officer	\$ 31.90	\$ 33.17	\$ 34.43	\$ 35.60
Health and Safety Representative	\$ 31.90	\$ 33.17	\$ 34.43	\$ 35.60
Emergency Warden	\$ 31.90	\$ 33.17	\$ 34.43	\$ 35.60
Harassment Contact Officer	\$ 15.95	\$ 30.51	\$ 31.67	\$ 32.75
Mental Health First Aid Officer	NA	\$ 33.17	\$ 34.43	\$ 35.60
Secure Room Custodian	\$ 58.00	\$ 60.32	\$ 62.61	\$ 64.74

Signatories and formal acceptance

Employer

Signed for, and on behalf of, the Commonwealth of Australia represented by the Administrative Appeals Tribunal

Signed:



Full name: Michael Hawkins AM

Title: Registrar, Administrative Appeals Tribunal
Agency Head for the purposes of the *Public Service Act 1999* in accordance with s 24N(2)(b) of the *Administrative Appeals Tribunal Act 1975*

Address: Level 6, 295 Anne Street, Brisbane 4000

Employee 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 Payne

Title: Deputy National President, Community and Public Sector Union

Address: Level 2, 54-58 Foveaux Street, Surry Hills 4000