



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Australian Capital Territory
(AG2021/9006)

ACT LEGISLATIVE ASSEMBLY MEMBERS' STAFF ENTERPRISE AGREEMENT 2021-2022

State and Territory government administration

DEPUTY PRESIDENT DEAN

CANBERRA, 12 JANUARY 2022

Application for approval of the ACT Legislative Assembly Members' Staff Enterprise Agreement 2021-2022.

[1] An application has been made for approval of an enterprise agreement known as the *ACT Legislative Assembly Members' Staff Enterprise Agreement 2021-2022* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Australian Capital Territory (Employer). The Agreement is a single enterprise agreement.

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

[3] The Agreement has a National Employment Standards (NES) precedence clause at clause A5.4 of the Agreement. I am therefore satisfied that the more beneficial entitlements of the NES will prevail where there is an inconsistency between the Agreement and the NES.

[4] CPSU, the Community and Public Sector Union, the Association of Professional Engineers, Scientists and Managers, Australia, the Media, Entertainment and Arts Alliance and the United Services Union, being bargaining representatives for the Agreement, have given notice under s.183 of the Act that they want the Agreement to cover them. In accordance with s.201(2) I note that the Agreement covers the organisations.

[5] The Employer has also made an application pursuant to s.217 to vary the Agreement to remove ambiguity and uncertainty. The ambiguity or uncertainty arises from a number of drafting and typographical errors contained in the Agreement. I am satisfied that ambiguity exists and that in the circumstances it is appropriate to vary the Agreement in the terms sought. An amended version of the Agreement has been filed which incorporates the variation.

[6] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 19 January 2022. The nominal expiry date of the Agreement is 31 October 2022.

The image shows a handwritten signature in cursive script, followed by the official seal of the Fair Work Commission. The seal is circular with the text "THE SEAL OF THE FAIR WORK COMMISSION" around the perimeter and the Australian coat of arms in the center, with the word "AUSTRALIA" below it.

DEPUTY PRESIDENT

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**ACT LEGISLATIVE ASSEMBLY MEMBERS'
STAFF ENTERPRISE AGREEMENT
2021 – 2022**

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Section A Scope of Agreement

A1 Title

- A1.1 This Agreement made under section 172 of the *Fair Work Act 2009*, will be known as the *ACT Legislative Assembly Members' Staff Enterprise Agreement 2021-2022*.

A2 Main Purpose

- A2.1 The main purpose of this Agreement is to provide for terms and conditions that reflect the particular operational and business requirements of the Legislative Assembly.
- A2.2 The further purpose of this Agreement is to provide a fast-tracked interim Agreement for a period of twelve months in recognition of the added burdens imposed on the ACT Public Sector workforce as a consequence of the COVID pandemic. The Agreement provides a mechanism for continuing existing terms and conditions while providing for further wage increases during the twelve-month period.

A3 Application and Coverage

- A3.1 This Agreement applies to and covers:
- A3.1.1 the Chief Minister of the ACT on behalf of the Australian Capital Territory;
 - A3.1.2 persons engaged under the *Legislative Assembly (Members' Staff) Act 1989* at any time when the Agreement is in operation in one of the classifications in Annex A, except persons engaged as Executive Chief of Staff; and
 - A3.1.3 Members of the ACT Legislative Assembly.
- A3.2 Subject to the Fair Work Commission (FWC) noting in its decision to approve this Agreement that it covers these unions, this Agreement covers:
- A3.2.1 Community and Public Sector Union (CPSU)
 - A3.2.2 Media, Entertainment and Arts Alliance (MEAA)
 - A3.2.3 The Association of Professional Engineers, Scientists and Managers, Australia (APESMA, also known as Professionals Australia (PA))
 - A3.2.4 United Services Union (USU)

A4 Commencement and Duration

- A4.1 This Agreement will commence operation seven days after it is approved by the FWC.
- A4.2 The nominal expiry date of this Agreement is 31 October 2022.
- A4.3 The Chief Minister and unions covered by this Agreement agree to commence bargaining for a new replacement Agreement no later than eight months prior to the nominal expiry date of this Agreement.
- A4.4 Copies of this Agreement will be made available, in paper or electronic form, to all employees covered by the Agreement.

A5 Operation of the Agreement

- A5.1 This Agreement is comprehensive and provides the terms and conditions of employment of employees covered by this Agreement, other than terms and conditions applying under applicable legislation.

- A5.2 Applicable legislation includes:
- A5.2.1 *Fair Work Act 2009 (Cth) (FW Act);*
 - A5.2.2 *Legislative Assembly (Members' Staff) Act 1989 (ACT) (LAMS Act);*
 - A5.2.3 *Chief Minister's Determinations and Directions made under A5.2.2;*
 - A5.2.4 *Public Sector Management Act 1994 (ACT) (PSM Act);*
 - A5.2.5 *Public Sector Management Standards (PSM Standards);*
 - A5.2.6 *Financial Management Act 1996 (ACT)(FM Act);*
 - A5.2.7 *Work Health and Safety Act 2011 (ACT) (WHS Act);*
 - A5.2.8 *Holidays Act 1958 (ACT) (Holidays Act);*
 - A5.2.9 *Territory Records Act 2002 (ACT) (TR Act);*
 - A5.2.10 *Safety, Rehabilitation and Compensation Act, 1988 (Cth) (SRC Act); and*
 - A5.2.11 *Superannuation Guarantee (Administration) Act 1992.*
 - A5.2.12 *Superannuation Industry (Supervision) Act 1993.*
 - A5.2.13 *Superannuation (Resolution of Complaints) Act 1993.*
 - A5.2.14 *Discrimination Act 1991.*
 - A5.2.15 *Public Health Act 1997.*
 - A5.2.16 *Human Rights Act 2004.*
 - A5.2.17 *Children and Young People Act 2008.*
- A5.3 This Agreement constitutes a closed agreement in settlement of all claims for its duration. Therefore, during the life of this Agreement, there will be no further claims that affect the provisions of this Agreement, except where these claims are consistent with the terms of this Agreement. This clause does not limit the rights to vary an agreement under the FW Act.
- A5.4 This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES) of the FW Act. Where there is inconsistency between this Agreement and the NES, and the NES provides greater benefit, the NES provision will apply to the extent of the inconsistency.
- A5.5 This Agreement prevails over ACT legislation, including the PSM Act and the PSM Standards and relevant policy statements and guidelines to the extent of any inconsistency.

A6 Authority of the Chief Minister

- A6.1 Nothing in this Agreement limits the power of the Chief Minister or the relevant Member to authorise a person to act for and on the Chief Minister's or the relevant Member's behalf.

A7 Flexibility Term

- A7.1 The Member and an individual employee may agree to vary the application of certain provisions of this Agreement to meet the particular needs of the Member's office and of the individual employee (an individual flexibility arrangement).
- A7.2 The provisions of this Agreement that the Member and an individual employee may agree to vary through an individual flexibility arrangement are:

- A7.2.1 vacation childcare subsidy (subclause E9.1);
 - A7.2.2 family care costs (subclause E10.1); and
 - A7.2.3 Specialist Duty Payment (subclause C8.3).
- A7.3 The Member must ensure that the terms of the individual flexibility arrangement:
- A7.3.1 are about matters that would be permitted if the arrangement were an enterprise agreement;
 - A7.3.2 does not include a term that would be an unlawful term if the arrangement were an enterprise agreement; and
 - A7.3.3 will result in the employee being better off overall than the employee would have been if no individual flexibility arrangement were agreed to.
- A7.4 The Member must ensure that the individual flexibility arrangement:
- A7.4.1 identifies the subclause in A7.2 of this Agreement that the Member and the employee have agreed to vary;
 - A7.4.2 sets out details of how the arrangement will vary the effect of the clause;
 - A7.4.3 includes details of how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
 - A7.4.4 states the day the arrangement commences.
- A7.5 An individual flexibility arrangement made under this clause must be genuinely agreed to by the Member and the individual employee.
- A7.6 Except as provided in paragraph A7.7.2, an individual flexibility arrangement made under this clause must not include a provision that requires the individual flexibility arrangement to be approved, or consented to, by another person.
- A7.7 The Member must ensure that an individual flexibility arrangement made under this clause must be in writing and signed:
- A7.7.1 in all cases - by the employee and the Member; and
 - A7.7.2 if the employee is under eighteen – by a parent or guardian of the employee.
- A7.8 The Member must give the employee a copy of an individual flexibility arrangement made under this clause within fourteen days after it is agreed to.
- A7.9 The Member or the employee may terminate the individual flexibility arrangement:
- A7.9.1 by giving written notice of no more than twenty-eight days to the other party to the arrangement; or
 - A7.9.2 if the Member and the employee agree in writing – at any time.
- A7.10 The right to make an individual flexibility arrangement under this clause is in addition to, and is not intended to otherwise affect, the right of the Member and an individual employee to make an agreement under any other provision of this Agreement.

A8 Work Organisation

- A8.1 An employee agrees to carry out all lawful and reasonable directions of the Member according to the requirements of the work and the employee's skill, experience and competence, in accordance with this Agreement, and without deskilling the employee.

- A8.2 An employee will not, unless this is done in the course of the employee's duties or as required by law or by the Member or the Assembly, use or disclose to any person any confidential information about the Members' of the Assembly's business that becomes known to the employee during the employee's employment.
- A8.3 The employer will not reveal to any person any medical, financial or personal details of the employee that the employer may have obtained, except with the permission of the employee or where the employer is under a legal obligation to do so.
- A8.4 Subject to subclauses A8.5 to A8.8 and limited to new employees of the Assembly whose employment with the Assembly commences on or after the commencement of this Agreement (new employee), the relevant corporate area will provide details of the new employee's employment to the relevant Union(s) (irrespective of whether the employee has elected to become a member of the Union).
- A8.5 The details of the new employee's employment which the relevant corporate area may provide to a relevant Union is limited to the new employee's first name and surname, the ACT Government contact information for the new employee (email address and contact phone number), and the position and work area in which the new employee is engaged. The relevant corporate area will not provide the information to the Union(s) until at least twenty-one (21) days after the new employee has commenced employment.
- A8.6 Subclause A8.4 does not apply if the Member has received written notification from the new employee, either prior to their commencement of employment, or within fourteen (14) days after their commencement, that he or she does not consent to the information specified in subclause A8.5 being shared with the relevant Union(s).
- A8.7 Each of the Unions referred to in subclause A3.2 who wish to receive the information referred to in subclause A8.5 must advise the ACTPS of the classifications covered by this Agreement which, in accordance with its rules, the Union is entitled to represent. Upon receipt of that advice from the Unions, the ACTPS will compile a schedule and provide it to the Unions (Union Representation Schedule).
- A8.8 The relevant corporate area will only provide new employee information to the relevant Union(s) under subclause A8.4 in accordance with the Union Representation Schedule and will do so on a monthly basis.

A9 Ensuring Fairness

- A9.1 The Territory recognises and encourages the contribution that people with diverse backgrounds, experiences and skills can make to the workplace. The Territory aims to ensure that this diversity is able to contribute to effective decision making and delivery of client service.
- A9.2 The Territory will work with employees to prevent and eliminate discrimination on the basis of sex, sexuality, gender identity, relationship status, status as a parent or carer, pregnancy, breastfeeding, race, religious or political conviction, disability, industrial activity, age, profession, trade, occupation or calling, association, or a spent conviction, in accordance with the *Discrimination Act 1991*.

A10 Promoting a Healthy and Safe Working Environment

- A10.1 The Territory is committed to promoting, achieving and maintaining the highest levels of health and safety for all employees.
- A10.2 The Territory will take all reasonable steps and precautions to provide a healthy, safe and secure workplace for the employee. The Territory and all employees will act in a manner that is consistent with the *Work Health and Safety Act 2011*.

A10.3 Further, given the clear evidence of the benefits and cost effectiveness of workplace health initiatives for both employers and employees, the Work Safety Committee will develop health and wellbeing policies and programs that promote healthy lifestyles and help maintain a high standard of physical and mental health, along with supporting individual workplace safety and general wellbeing. Such policies and programs may include:

A10.3.1 organisational/environmental policies and programs;

A10.3.2 awareness, training and education programs that promote healthy lifestyles, assist employees to identify and reduce risk factors; and

A10.3.3 traditional and non-traditional physical activity programs.

A11 Developing Our People

A11.1 This Agreement supports a performance culture that promotes ethical workplace conduct and rewards employees for their contribution towards the achievement of objectives.

A11.2 It is acknowledged that performance management is important to employee development and to ensuring the relationship between Members', team and individual responsibilities are aligned to individual, team and organisational objectives.

A11.3 Any performance management schemes will not include performance pay and will not be used for disciplinary purposes.

A12 Courses and Seminars

A12.1 Responsibility for identifying and attending relevant courses and seminars rests with employees, subject to the prior approval of the employing Member. Overall funding for training will be subject to the available budget.

A12.2 Training may be available to employees in areas including, but not limited to, communications, office management, constituent management, and electorate business.

A12.3 Computer systems training is available to all employees as necessary including, but not limited to, word processing, spreadsheets, information management, database management, graphics and internet based training.

A12.4 Professional development may be available, with the agreement of the employing Member, and may include attendance at work-related professional development courses, seminars, workshops or conferences within Australia.

A12.5 Studies assistance may be available for study at educational institutions in courses that are considered to be relevant to the employee's employment, in accordance with guidelines issued by the relevant corporate area.

A13 Termination of Agreement

A13.1 The Territory and the union(s) covered by this Agreement agree that the maintenance of, and adherence to, agreed terms and conditions of employment is a key component of good workplace relations and a dispute free workplace. They therefore agree that they will not exercise their right to terminate this Agreement under the FW Act.

Section B Working in the ACT Legislative Assembly

B1 Types of Employment

- B1.1 A person will be engaged under the LAMS Act in one of the following categories:
- B1.1.1 fixed term *temporary* employment on a full-time or regular part-time basis, engaged for a specified period of time or for a specified task, or as a trainee or cadet; or
 - B1.1.2 *casual* temporary employment on an irregular and non-systematic basis.
- B1.2 Persons engaged on a part-time basis will receive, on a proportionate basis, equivalent pay and conditions to those of full-time employees unless specifically stated elsewhere in this Agreement.

B2 Probation

- B2.1 Where a person is employed on probation under the LAMS Act, the period of probation will ordinarily be no more than six months.
- B2.1.1 The probation period can only be longer than six months if it is in accordance with approved Training Scheme employment arrangements or where the period of probation has been extended following an assessment of performance.
- B2.2 The Member will, at the time an offer of employment on probation, inform the person in writing of the period of probation that will apply.
- B2.3 A decision of the Member to terminate the employment of an employee on probation is excluded from the Internal Review Procedures (Section I) of this Agreement.
- B2.3.1 To avoid doubt, an employee on probation is able to seek a review of the employee's probation under the Internal Review Procedures, (Section I), except in relation to a decision to terminate the employee's employment.

B3 Hours of Work

- B3.1 In this clause employee refers to an employee, other than a casual employee.

Ordinary Hours of Work

- B3.2 The ordinary daily hours are seven hours and twenty-one minutes for a full-time employee. The ordinary weekly hours are thirty-six hours and forty-five minutes for a full-time employee.
- B3.3 A part-time employee will work less than the ordinary weekly hours of work for a full-time employee.
- B3.4 A Member will, after consultation with the employee, fix the commencing and finishing times of an employee's ordinary daily hours having regard to the employee's work and life responsibilities.
- B3.5 As far as practicable, ordinary daily hours must be worked within the span of hours limits of 7:00 am to 7:00 pm Monday to Friday.
- B3.6 At the request of an employee, and with the agreement of the Member, the employee may work outside the span of hours stipulated at subclause B3.5. This provision is designed to add flexibility in exceptional circumstances and is not to be used to replace normal overtime provisions.
- B3.6.1 Where an employee requests to work outside the span of hours in accordance with subclause B3.6, these hours will be considered normal hours of duty and will not attract overtime payments or time off in lieu provisions on an hour for hour basis, unless otherwise agreed between the employee and the Member prior to the work being performed.

Meal Break

- B3.7 Unless there are exceptional and unforeseen circumstances, an employee will not be required to work for more than five hours without a meal break of at least thirty minutes' duration. Meal breaks will not count as time worked unless specifically provided for in this Agreement.
- B3.8 The term 'meal break' does not require the employee to partake of a meal during the break period.
- B3.9 An employee who works up to six hours in a day may, with the agreement of the Member, work up to six hours without a meal break to accommodate the employee's personal circumstances and work/life balance.

Rest Relief after Extra Duty

- B3.10 Unless a Member directs an employee to report for duty earlier, the employee must have a continuous period of eight hours, plus reasonable travel time, off duty between ceasing extra duty following normal duty one day, and commencing normal daily hours of work the following day.
- B3.11 An employee is entitled to be absent from duty, without loss of pay, until the employee has been off duty for a continuous period of eight hours plus reasonable travel time.
- B3.12 Where a Member directs an employee to return to duty without having had eight consecutive hours off duty, plus reasonable travelling time, the employee must:
- B3.12.1 be paid at double the ordinary hourly rate of pay until the employee is released from duty for that period; and
 - B3.12.2 the employee will then be entitled to be absent until the employee has had eight consecutive hours off duty plus reasonable travelling time, without loss of pay for any ordinary working time occurring during that absence.

B4 Time Off In Lieu (TOIL)

- B4.1 TOIL will provide the framework for an employee's, other than a casual employee's, pattern of attendance at work to be varied according to the needs of the employee and the requirements of the Member's office. It is not a system that is designed to increase or reduce the total number of hours that must be worked.
- B4.2 For TOIL arrangements to work effectively Members and employees have a responsibility to manage hours of work to ensure that individuals are not building up excessive TOIL credits without:
- B4.2.1 the opportunity to access TOIL credit; and
 - B4.2.2 being productively employed, i.e. a Member may require an employee not to accumulate TOIL credits before 8:30 am or after 4:51 pm where there is insufficient work or an employee cannot be sufficiently managed.
- B4.3 TOIL will only accrue on those hours worked in excess of thirty-eight hours and forty-five minutes in a week for a full-time employee, and proportionate hours for a part-time employee.
- B4.4 A Member may authorise an employee who has accrued TOIL credits to be absent during the hours specified for the performance of ordinary daily hours in subclause B3.5 without deduction from pay, and without additional payment, on an hour-for-hour basis, at ordinary time rates of pay.
- B4.5 Accrued TOIL credits will be taken at such times and in such a period or periods as are agreed between the employee and the Member and approved prior to taking accrued TOIL. It is the responsibility of both the employee and the relevant Member to take steps to ensure that accrued TOIL credits can be taken as time off, in accordance with this clause.

- B4.6 TOIL will, subject to operational requirements, be granted as soon as practicable after it is accrued, unless the employee requests otherwise.
- B4.7 If a Member does not grant an employee's request to take TOIL because of operational requirements, the Member will consult with the employee to determine a mutually convenient alternative time for the employee to take TOIL.
- B4.8 A Member must not approve TOIL where the employee has failed to keep suitable records of attendance for duty and absence from duty.
- B4.9 At the end of the settlement period, an employee can only accrue:
- B4.9.1 a maximum TOIL credit equal to one hundred hours. Any TOIL accrued in excess of the maximum credit, at the end of the settlement period, will be forfeited.
 - B4.9.2 a maximum TOIL debit equal to ten hours. Any debit in excess of the maximum debit, at the end of a settlement period, will be considered to be leave without pay and deducted in accordance with the overpayment process at clause D4.
- B4.10 A settlement period will comprise two weeks.
- B4.11 Where an employee has accrued eighty hours TOIL credit the employee and relevant Member must agree, and implement a TOIL usage plan to ensure the employee's accrued TOIL credit will not one hundred exceed a maximum of hours.
- B4.12 There is no provision to cash out TOIL credits either during a period of employment with the Member, or upon separation.
- B4.13 An employee not complying with these TOIL provisions may be directed to work standard hours or the employee's standard working pattern. Standard hours are from 8.30am to 12.30pm and from 1.30pm to 4.51pm, Monday to Friday, unless otherwise agreed in writing by the employee and the Member.

B5 Record Keeping

- B5.1 The employer will keep records relating to the employees' work, including records about attendance and pay, in accordance with the requirements of the FW Act, FW Regulations and the *Territory Records Act 2002*.
- B5.2 The employee will record the time of commencing and ceasing duty for each day. These records will require certification by the employing Member, or other nominated supervisor, and lodgement with the relevant corporate area in a timely fashion.

B6 Notice of Termination

- B6.1 Where an employee's employment is to be terminated at the initiative of the employee, the employee will provide written notice of their resignation to the Member at least two weeks prior to the proposed date of the resignation.
- B6.2 The period of notice required in subclause B6.1 may be reduced by agreement in writing between the employee and the Member.
- B6.3 Where an employee's employment is to be terminated at the initiative of the Member, the employee may be paid a termination payment as set out in clause B7.
- B6.4 The termination payment under clause B7 will constitute payment or part payment of compensation in lieu of notice for the purposes of section 117 of the Fair Work Act.

- B6.5 If the payment to which the employee is entitled to under clause B7 is less than that to which the employee would be entitled to under section 117 of the Fair Work Act, the employee will be entitled to be paid compensation in lieu of notice equal to the difference between the termination payment in subclause B7.1 and the employee's entitlement under section 117 of the Fair Work Act.
- B6.6 Where an employee is not entitled to a termination payment under subclause B7.1, the employee may be entitled to notice, or pay in lieu of notice, in accordance with section 117 of the Fair Work Act.

B7 Termination Payment

- B7.1 Subject to this clause and subclause B7.2, an employee whose employment is terminated by the operation of sections 8(1), 8(2), 8(4), 13(1) and 13(3) of the LAMS Act is entitled to be paid:
- B7.1.1 a sum equal to four weeks salary irrespective of length of service; plus
 - B7.1.2 a sum equal to two weeks salary for each completed year of continuous service; plus
 - B7.1.3 a pro-rata payment for additional completed months of service, up to a maximum of forty-eight weeks' salary.
- B7.2 The following employees are not entitled to a termination payment under subclause B7.1:
- B7.2.1 an employee whose employment is terminated by resignation or dismissal for misconduct;
 - B7.2.2 an employee who has a right of return to secure employment in the public sector;
 - B7.2.3 an employee who is engaged for a fixed period, to fill a vacancy caused by a staff member being absent on leave;
 - B7.2.4 an employee who is engaged to undertake a specified project, where the project has been completed;
 - B7.2.5 a probationary employee;
 - B7.2.6 a casual employee;
 - B7.2.7 an employee who is immediately re-employed under the LAMS Act.
- B7.3 Where an employee is entitled to be paid redundancy pay under clause 119 of the Fair Work Act, any termination payment made under subclause B7.1 will be reduced by an amount equal to that redundancy payment.

B8 Payment on Death

- B8.1 Where an employee dies, or the Member has directed that an employee will be presumed to have died on a particular date, the relevant corporate area may make a payment or partial payment for unused leave credits and other entitlements directly to the dependants or the domestic partner, or to the legal personal representative, or to the estate, of the former employee of an amount that would have been paid had the employee ceased employment otherwise than because of the employee's death. The payment in respect of unused LSL will be calculated in accordance with subclause F25.9.

Section C Rates of Pay and Allowances

C1 Part-Time Employment

- C1.1 Persons engaged on a part-time basis will receive, on a proportionate basis, equivalent pay and conditions to those of full-time employees, unless specifically stated elsewhere in this Agreement.

C2 Casual Employment Arrangements

- C2.1 A casual employee is an employee who is employed by a Member to perform work:
- C2.1.1 By the hour or on an irregular or non-systematic basis, or to provide temporary assistance on such days as the Member may require.
 - C2.1.2 With no firm advance commitment to continuing and indefinite work according to an agreed pattern of work.

Minimum Attendance

- C2.2 The minimum payment on each occasion when a casual employee is called for and attends for duty will be three hours, whether or not the casual employee is required to work for those three hours.

Rate of Pay

- C2.3 A person engaged as a casual employee will be paid at the same rate of pay as would be applicable to a fixed term employee performing the duties and hours of that role. In addition the casual employee will receive a loading of twenty-five percent of the ordinary hourly rate of pay set out in Annex A to this Agreement for the employee's classification, in lieu of paid leave entitlements, other than long service leave, and in lieu of payment for public holidays on which the employee did not work.

Overtime

- C2.4 Subject to subclause C2.5, a casual employee is eligible to receive payment for overtime in accordance with this provision in respect of all hours worked in excess of seven hours and twenty-one minutes on any day, and for all duty required to be performed on a Saturday or Sunday that is in addition to the employee's ordinary weekly hours of work.
- C2.5 Except with the approval of the Member, an employee whose minimum annual pay is equal to or greater than the minimum annual pay of a Senior Adviser Level 1 is not eligible to receive payment for overtime worked.
- C2.6 In determining a claim or claims for overtime from an employee whose minimum annual pay is equal to or greater than the minimum annual pay of a Senior Adviser Level 1, the Member will take into account such records of attendance that may demonstrate that the employee has worked regular and/or excessive overtime.
- C2.7 The loading paid under subclause C2.3 is not taken into account in the calculation of overtime payments.
- C2.8 A casual employee who is required to work overtime will be paid as follows:
- C2.8.1 for overtime worked at any time from Monday to Saturday inclusive, at the rate of time and a half at the employee's ordinary hourly rate of pay for the first three hours, and at the rate of double time at the employee's ordinary hourly rate of pay for all hours thereafter.
 - C2.8.2 for overtime worked at any time on a Sunday, at the rate of double time at the employee's ordinary hourly rate of pay for all hours worked.

C2.8.3 for overtime worked on a public holiday or on a substituted public holiday as defined in clause F10 of this Agreement, at the rate of double time and a half at the employee's ordinary hourly rate of pay for all hours worked.

C2.9 For the purposes of calculating overtime payments, each day's work will stand alone.

C2.10 Overtime is to be calculated to the nearest quarter of an hour of the total amount of overtime to be claimed in each fortnightly period.

C2.11 Overtime will not be paid, unless it is performed at the direction or approval of a Member. Any payment will be met from within the Member's salary cap.

C2.12 A Member will not authorise payment for overtime where the employee has failed to keep suitable records of attendance for duty and absence from duty.

Overtime Meal Allowance

C2.13 A casual employee is eligible to receive payment of overtime meal allowances in accordance with Annex B.

C2.14 The term 'meal break' does not require the employee to partake of a meal during the break period.

Payment for Public Holidays

C2.15 A casual employee is not eligible for payment in respect of public holidays, unless the employee works on a public holiday.

C2.16 Where a casual employee does work on a public holiday, the casual employee is entitled to the appropriate overtime payments described in paragraph C2.8.3 for all hours worked on the public holiday.

Leave

C2.17 A casual employee is not eligible for paid leave other than long service leave.

Salary Progression

C2.18 A casual employee is not eligible for salary progression as referred to in clause C6, however the Member may determine that the person should be paid at any of the pay points in the salary range prescribed for the employee's classification.

C3 Pay Increases

C3.1 Employees will be paid in accordance with the employee's classification and rates of pay set out in Annex A to this Agreement.

C3.2 Pay increases that will apply to pay rates for all classifications set out in Annex A of this Agreement will be:

C3.2.1 1.35% from the commencement of the first full pay period on or after 1 December 2021;

C3.2.2 1.35% from the commencement of the first full pay period on or after 1 June 2022.

C3.3 The increase under paragraph C3.2.1 will be paid no later than the second pay day following the commencement of this Agreement and any back pay will be paid as soon as reasonably possible.

C4 Method of Payment

- C4.1 Employees will be paid fortnightly in arrears and by electronic funds transfer into a financial institution account of the employee's choice.
- C4.2 The relevant corporate area commits to paying employees their ordinary fortnightly pay on the appropriate payday.
- C4.3 The ordinary fortnightly pay will be based on the following formula:
 - C4.3.1 Fortnightly pay = annual rate of pay x 12 / 313.
- C4.4 A part-time employee will be paid pro-rata based on the employee's agreed ordinary hours.
- C4.5 An employee will, with the approval of the relevant corporate area, be advanced the pay due for any period of approved paid annual or long service leave. Advancement of pay will be subject to payroll processing timeframes. The approval of the relevant corporate area will not be unreasonably withheld.

C5 Payroll Deduction for Union Fees

- C5.1 Upon request by the union, the relevant corporate area will facilitate arrangements for payroll deductions for union fees. The relevant corporate area agrees that it will not impose any limitations or impediments to an employee utilising payroll deductions for union fees that do not apply to other regular payroll deductions.

C6 Pay Points and Progression

- C6.1 On commencement an employee is entitled to be paid at the first pay point for the classification level.
- C6.2 Despite subclause C6.1, the Member may approve an employee on commencement to be paid at a higher pay point within that classification level. In considering the appropriate rate of payment the Member will take into account such factors as:
 - C6.2.1 The employee's qualifications.
 - C6.2.2 The employee's relevant work and personal experience.
 - C6.2.3 The employee's current pay.
 - C6.2.4 The employee's ability to make an immediate contribution.
 - C6.2.5 Difficulties in attracting and retaining suitable employees.
- C6.3 The relevant Member may, following a review under subclause C6.5, or at any other time, agree to pay the employee at a higher rate of pay applicable to the employee's classification level, provided the employee's current rate of pay is less than the maximum rate payable for that classification.
- C6.4 The higher rate of pay will be specified in a new Employment Agreement and paid to the employee from the date of commencement of the new Employment Agreement.
- C6.5 An employee's performance and total remuneration will be reviewed in April each year by the relevant Member in consultation with the employee.
- C6.6 At the time of the review, the relevant Member will take into consideration the employee's work performance as well as the employee's attendance, diligence and efficiency in determining whether to pay the employee a higher rate of pay.

- C6.7 The relevant Member will inform the employee whether the employee's work performance, attendance, diligence and efficiency have been satisfactory or unsatisfactory.
- C6.8 Where the employee is informed that the employee's work performance, attendance, diligence and efficiency have not been satisfactory, the relevant Member will:
 - C6.8.1 provide details to the employee; and
 - C6.8.2 discuss with the employee what is required to achieve satisfactory work performance, attendance, diligence and/or efficiency in accordance with subclause H4.3.

C7 Temporary Performance

- C7.1 The Member may temporarily increase an employee's salary to a point in the salary range of a higher classification to recognise a requirement for the employee to perform higher level work in the workplace for a specified period. For example, temporary performance may be used to cover the absence of an employee on birth leave or long service leave.
- C7.2 Temporary performance will only be available where the requirement to perform higher level work in the workplace is for a period of five consecutive days or more and the payment can be met within the Member's approved salary cap. This payment will occur from day 1, provided the total period of temporary performance is five days or more.
- C7.3 The Member will make any such determination of salary under this clause in writing by issuing a new Employment Agreement for the relevant period.

C8 Specialist Duties Payment

- C8.1 The Specialist Duties Payment which is aimed at:
 - C8.1.1 providing a mechanism for remunerating employees for specialist duties regularly performed (referred to in this clause as "identified duties") that are above those normally performed at the employee's classification and pay;
 - C8.1.2 facilitating the retention of employees with specialist skills and qualifications that are in high demand in the market place; and
 - C8.1.3 providing greater flexibility to Members in the use of the Member's salary cap.
- C8.2 A Member may pay an employee a Specialist Duties Payment only where:
 - C8.2.1 the employee regularly performs identified duties that are critical to the operation of the Member's office;
 - C8.2.2 the identified duties require specialist qualifications or specialist or high level skills;
 - C8.2.3 the skills required by the employee who performs the identified duties are in high demand in the market place;
 - C8.2.4 the employee would incur significant costs to replace.

The identified duties may include being available to work outside standard hours.

- C8.3 The amount payable to an employee under subclause C8.2 will be up to a maximum of ten percent of the rate of pay for the employee's classification level, calculated on the employee's ordinary fortnightly hours of work and paid fortnightly.
- C8.4 The Specialist Duties Payment will not count as pay for any other purpose.
- C8.5 The identified duties will be specified in the employee's Employment Agreement, together with the amount of the payment.

- C8.6 The Specialist Duties Payment will be reviewed by the Member annually, and will cease when the employee ceases to perform the identified duties.
- C8.7 Any payment made under this clause will be met from within the Member's salary cap.

C9 LAMS Allowance

- C9.1 In this clause *employee* refers to employees other than casual employees. Overtime worked by casual employees will be remunerated in accordance with subclause C2.4.
- C9.2 An employee may be required or requested to work reasonable additional hours for duty at any time that the employee is required, subject to the payment of an allowance in accordance with the conditions set out in this clause and the accrual of TOIL in accordance with the conditions set out in clause B4, and the reasonable additional hours provisions of the FW Act.
- C9.3 Employees will be paid a LAMS Allowance instead of payment for all hours worked between the normal working hours of thirty-six hours and forty-five minutes and thirty-eight hours and forty-five minutes in a week for a full-time employee, and proportionate hours for a part-time employee. The allowance is aimed at recognising and remunerating reasonable additional hours worked and other special features of the employment.
- C9.4 Employees will accrue Time off in Lieu (TOIL) only for those hours worked in excess of thirty-eight hours and forty-five minutes in a week for a full-time employee, and proportionate hours for a part-time employee, in accordance with clause B4.
- C9.5 Employees will not be entitled to any other payment for overtime worked, including work performed on a Saturday, Sunday or public holiday, except as provided under subclause C2.4.
- C9.6 The LAMS Allowance will be fixed at seven percent of the fortnightly rate of pay for the employee's classification calculated on ordinary hours worked in that fortnight, and will be paid fortnightly in arrears.
- C9.7 The LAMS Allowance will not be paid on any period of paid or unpaid leave of any type.
- C9.8 The LAMS Allowance will not count as salary for any other purpose.

C10 Payment for Public Holiday Duty

- C10.1 An employee, other than a casual employee, who works on a public holiday for a period that is:
- C10.1.1 not in excess of the employee's ordinary weekly hours; and
 - C10.1.2 not outside of the employee's limit of daily hours; and
 - C10.1.3 not in excess of the employee's ordinary daily hours,
- will be entitled to an additional payment of one hundred and fifty percent of the employee's ordinary hourly rate of pay.

C11 Other Allowances

- C11.1 The Member may approve the payment of expense, disability and skill related allowances as provided for in this Agreement at Annex B.
- C11.2 The rates for all allowances provided for in Annex B of this Agreement will be adjusted by the same percentage amounts and on the same dates as the pay increases set out in subclause C3.2, unless the contrary intention is stated for a specific allowance in Annex B.

- C11.3 Despite clause C1 - part-time and casual employees who satisfy the requirements for payment of an expense-related allowance will receive the full amount of allowance or payment prescribed in Annex B.
- C11.4 Part-time and casual employees who satisfy the requirements for payment of a disability or skill related allowance under this Agreement will receive the allowance on a proportional basis.
- C11.5 Allowances payable to casual employees under this Agreement are not subject to the loading prescribed in subclause C2.3.
- C11.6 Unless the contrary intention is specifically provided, an allowance payable on leave is also payable on payments in lieu of leave for credits of the same leave type in accordance with the FW Act.

Note, this includes the 'cash out' of leave credits where available under this Agreement, and the payment of leave credits on separation from the ACTPS.

C12 Work Related Expenses

- C12.1 An employee will be entitled to be paid an allowance, or be reimbursed for expenses, in connection with the employee's employment in accordance with this clause.

Travel Expenses

- C12.2 Where, under local arrangements, approval is given for an employee to travel on Assembly or official business and that travel involves an absence overnight, the employee will be entitled to have the costs of reasonable transport, accommodation, meal and incidental expenses met.
- C12.3 The preferred arrangement for the payment of expenses under subclause C12.2 is by the agreed charging arrangements with the ACT public sector travel manager. Other payment options that may be available for the payment of expenses under subclause C12.2, subject to substantiation by receipted tax invoices or other acceptable documentation, are:
- C12.3.1 reimbursement of reasonable travel expenses;
 - C12.3.2 use of corporate credit card by the relevant corporate area;
 - C12.3.3 cash advance; and
 - C12.3.4 use of cabcharge.

Motor Vehicle Allowance

- C12.4 If, during the course of the employee's employment, an employee is required by the Member to use their private motor vehicle, the employee will be entitled to be paid a Motor Vehicle Allowance.
- C12.5 The rate of payment for the Motor Vehicle Allowance is set out in Annex B.
- C12.6 To be eligible for payment of the allowance, an employee must seek prior approval to use their private motor vehicle from the relevant corporate area, and any request must be supported by the Member, including an undertaking from the Member that:
- C12.6.1 the Member's Assembly vehicle will be used wherever possible; and
 - C12.6.2 where the Member's Assembly vehicle is not available and the employee is required to use their own vehicle, there is funding available to meet the allowance that will be paid to the employee.

Taxi Vouchers

C12.7 Transport from the Assembly to an employee's usual place of residence will be provided, on request, by taxi where the employee is required by the employee's Member to work after 8.00pm.

Mobile Phones

C12.8 If, during the course of the employee's employment, an employee is required by the Member to use their private mobile phone, the employee will be entitled to be reimbursed for the reasonable cost of work-related calls and emails, data usage charges and other associated fees.

C12.9 The employee must obtain the prior approval of the Member before using their private mobile phone during the course of their employment and, following use, must submit to the relevant corporate area requested supporting documentation.

C13 Reimbursement of Reasonable Relocation Expenses

C13.1 Any payments made under this clause require the prior approval, and are at the discretion, of the Chief Minister.

C13.2 The purpose of this reimbursement is to provide financial assistance to employees recruited from interstate or overseas with the reasonable costs of relocation.

C13.3 The Chief Minister may approve a reimbursement payment to a prospective employee as the Chief Minister considers is reasonable in the prospective employee's circumstances. The relevant pre-determined ceiling is set out below:

Single with no dependants	\$12,000
Additional payment per dependant (first six dependants)	\$2,000
Additional payment per dependant (seventh and further dependants)	\$1,750

C13.4 The relevant Member will inform the prospective employee of the predetermined ceiling prior to the prospective employee's relocation.

C13.5 In order for a prospective employee to be reimbursed costs, valid receipts must be provided.

C13.6 For the purposes of this clause, dependant does not require actual financial dependency and includes members of the prospective employee's immediate household including a domestic partner, parent, parent of domestic partner, brother, sister, guardian, foster parent, step-parent, step-brother, half-brother, step-sister, half-sister, child, foster child or step child residing with the employee at the time the offer is made.

C13.7 The Chief Minister may approve payment in excess of the approved amount or ceiling in exceptional circumstances.

C13.8 In the event that the employee terminates their employment with the Territory within twenty-four months of the date of commencement of employment and does not commence employment with another Member or an ACTPS business unit within one month, the employee may be required by the Chief Minister to repay:

C13.8.1 in the case the employee terminates employment within twelve months from the date of commencement of employment – one hundred percent of the relocation reimbursement; or

C13.8.2 in the case the employee terminates employment more than twelve months and less than twenty-four months from the date of commencement of employment – fifty percent of the relocation reimbursement.

C14 Health and Wellbeing Initiative

- C14.1 In recognition of the benefits of maintaining a healthy and productive workforce, all employees who undertake, in their own time, health promotion activities will be entitled to reimbursement of expenses not exceeding two hundred dollars per annum in accordance with the relevant policy.
- C14.2 The reimbursement will be subject to an original receipt(s) being provided and only one claim may be made in a Fringe Benefit year (1 April to 31 March). The health promotion activity must have been purchased in the same Fringe Benefit year of the claim being made.

Section D Pay Related Matters

D1 Salary Sacrifice Arrangements

- D1.1 Voluntary access to salary sacrifice arrangements will be made available to employees in accordance with relevant policies and guidelines.
- D1.2 The employee will meet all costs incurred as a result of the salary sacrifice arrangements under these provisions.
- D1.3 The employee's pay for superannuation purposes and severance and termination payments will be the gross pay that the employee would receive if the employee were not taking part in salary sacrifice arrangements.
- D1.4 Changes to salary sacrifice arrangements, including taxation changes, will not be a cause for further claims against the employer.
- D1.5 The relevant corporate area will continue to provide appropriate information to employees concerning salary sacrifice arrangements.

D2 Classification/Work Value Review

- D2.1 An employee, or a group of employees, or the union(s) or other employee representatives ("the applicant"), may present a case to request the Chief Minister, Treasury and Economic Development Directorate to undertake a classification/work value review of a position or group of positions.
- D2.2 The Chief Minister, Treasury and Economic Development Directorate will undertake the review in consultation with the employee(s) and/or the union(s) or other employee representatives.
- D2.3 If the Chief Minister, Treasury and Economic Development Directorate determines that the case presented under subclause D2.1 is frivolous or vexatious, the Chief Minister, Treasury and Economic Development Directorate will refuse to undertake the review.
- D2.4 If the Chief Minister, Treasury and Economic Development Directorate determines that the case presented under subclause D2.1 does not contain enough information for the Chief Minister, Treasury and Economic Development Directorate to make an assessment on whether the review is warranted, the Chief Minister, Treasury and Economic Development Directorate will provide the applicant an opportunity to make further submissions. If, following such further submissions, or if no such submissions are made, the Chief Minister, Treasury and Economic Development Directorate still does not have enough information to make an assessment on whether or not the review is warranted, the Chief Minister, Treasury and Economic Development Directorate may refuse to undertake the review.
- D2.5 Any classification/work value review will take into account the relevant work level standards, position descriptions, market and other relevant comparators, including comparators that are considered pertinent to the skills, competencies and general responsibilities required of the position(s).
- D2.6 These provisions do not affect the right of the Chief Minister, Treasury and Economic Development Directorate to undertake a classification/work value review at its own initiative.
- D2.7 Where agreement cannot be reached on the need to conduct the review then the disagreement may be resolved in accordance with the dispute resolution procedure.

D3 Supported Wage System

- D3.1 Employees who are assessed as eligible to receive a supported wage under subclause D3.2 are to be paid the percentage of pay that corresponds to the employee's assessed productive capacity and the class of work which the person is performing, provided that the minimum amount payable is not to be less than ten percent of the first pay point of the Adviser Level 1 (lower) pay range per week.
- D3.2 The relevant corporate area will arrange for an assessment of the productive capacity of an employee in accordance with the processes contained in the National Minimum Wage Order issued annually by the FWC, except that the minimum rate payable will be as set out in subclause D3.1.

D4 Overpayments

- D4.1 An overpayment is any payment in respect of pay, allowance or leave, whether the overpayment is by accident or otherwise, to which the employee is not entitled.
- D4.2 An overpayment is a debt owed to the Territory.
- D4.3 In the event that an employee has received an overpayment, the relevant corporate area will recover the overpayment in accordance with this clause.
- D4.4 Where the relevant corporate area believes that an overpayment has occurred the relevant corporate area will work with the employee to establish the:
- D4.4.1 pay period(s) in which the overpayment occurred; and
 - D4.4.2 nature of the overpayment; and
 - D4.4.3 reasons why the overpayment occurred; and
 - D4.4.4 gross and net components of the overpayment.
- D4.5 Once the overpayment has been established in accordance with subclause D4.4 the relevant corporate area will provide the details of the overpayment, as per subclause D4.4, to the employee in writing and will consider whether it would be appropriate in the circumstances to waive part or all of the overpayment in accordance with section 131 of the Financial Management Act.
- D4.6 For the purposes of these provisions, when considering whether a waiver is appropriate, the relevant corporate area will consider all the following compelling circumstances:
- D4.6.1 Financial hardship.
 - D4.6.2 The circumstances under which the debt arose.
 - D4.6.3 Other exceptional circumstances.
- D4.7 The relevant corporate area will provide the employee or their representative with an opportunity to respond or request a waiver within ten working days from the date the information at subclause D4.4 was provided. If the relevant corporate area does not receive a response within this timeframe, the overpayment process will continue in accordance with the following provisions in this clause.
- D4.8 Subsequent to the decision of whether to waive the overpayment or not in accordance with subclause D4.5 the relevant corporate area will advise the employee in writing, as soon as practicable, of the:
- D4.8.1 decision as to what if any part of the overpayment will be waived;
 - D4.8.2 amount of the overpayment that is to be recovered if any;
 - D4.8.3 process for recovery of the overpayment, if any; and
 - D4.8.4 proposed recovery rate, if any.

- D4.9 The relevant corporate area and the employee must make genuine efforts to agree on a reasonable recovery rate having regard for all of the circumstances prior to any recovery being made. Where agreement cannot be reached subclause D4.12 will apply.
- D4.10 Any such agreement in accordance with subclause D4.9 may include recovery of the overpayment by the relevant corporate area:
- D4.10.1 as a lump sum payment by the employee;
 - D4.10.2 by payroll deduction from the employee's pay.
- D4.11 In respect to recovery action it may be agreed with the employee to adjust their leave credits instead of, or in combination with, a cash recovery under subclause D4.10, subject to the cashing out of leave limitation provisions in this Agreement.
- D4.12 Where the relevant corporate area and the employee cannot agree about the arrangements for recovery of an overpayment, the overpayment will be recovered in accordance with an arrangement as determined by the relevant corporate area in accordance with section 246 of the PSM Act.
- D4.12.1 Where recovery occurs in accordance with subclause D4.12 the overpayment will be recovered at the rate of up to ten percent of the employee's gross fortnightly pay, or such other rate determined by the relevant corporate area having regard for all of the circumstances.
- D4.13 Despite subclauses D4.9 and D4.12, the recovery period will not usually exceed twenty-six pay periods.
- D4.14 Despite subclause D4.1, an amount paid to an employee to which they are not entitled is not considered an overpayment but a "discrepancy" and the amount may be deducted from the employee's pay in the following pay period if all the following apply:
- D4.14.1 It is the result of an amendment to, or late submission of, a time sheet, evidence, material or other forms.
 - D4.14.2 It is not more than ten percent of the employee's gross fortnightly pay.
 - D4.14.3 No more than two pay periods have passed since the amount was paid.
 - D4.14.4 The employee has been notified accordingly.
- D4.15 Further to subclause D4.14, if more than two pay periods have passed since the discrepancy was paid, or the discrepancy exceeds ten percent of the employee's gross fortnightly pay, the discrepancy will be considered a debt and the provisions of this clause D4 will apply, unless the employee agrees in writing to the adjustment being made.
- D4.16 Any outstanding money owing to the Territory when an employee ceases employment is to be recovered by deduction from any final entitlements payable to the employee. If a debt still exists further debt recovery action is to be taken by the relevant corporate area unless the relevant delegate under the *Financial Management Act 1996*:
- D4.16.1 directs the recovery be waived, in part or in full, based on evidence provided by the employee of exceptional circumstance or that such recovery would cause undue hardship; or
 - D4.16.2 determines that an overpayment is not recoverable.
- D4.17 Where the relevant delegate under the *Financial Management Act 1996* determines that an overpayment is not recoverable, the provisions of the relevant Financial Instructions, relating to the write-off of monies, will apply.

- D4.18 Any disputes about the application of these provisions should be addressed through the Dispute Avoidance/Settlement Procedures outlined at clause G6. Unless the employee agrees, recovery of monies will not occur while a dispute is in process.

D5 Underpayments

- D5.1 Where the relevant corporate area agrees that an employee has been underpaid on the employee's ordinary hourly rate of pay, and the employee requests, an offline payment for the amount owing will be made to the employee within three business days of the relevant corporate area receiving the request.

D6 Backfill

- D6.1 The approval of a request for a Member to exceed the Member's salary cap will not be unreasonably withheld, where the Clerk of the Legislative Assembly is satisfied that:
- D6.1.1 an employee on the Member's staff takes, or is to take, a period of paid leave exceeding four continuous weeks; and
 - D6.1.2 the requirement for the leave is beyond the Member's control; and
 - D6.1.3 the Member will be unable to exercise the Member's parliamentary duties without hiring a replacement during the period of the employee's absence.

D7 Superannuation

- D7.1 The Territory will provide employer superannuation contributions in accordance with the relevant legislative requirements.
- D7.2 In this clause, complying superannuation fund means a superannuation fund as defined by Section 45 of the *Superannuation Industry (Supervision) Act 1993*.
- D7.3 This Agreement provides for an employer funded superannuation contribution equal to sixteen percent of the employee's gross annual pay to be paid to a complying superannuation fund nominated by the employee, where the employee:
- D7.3.1 was employed under the LAMS Act on 5 September 2007 and the employee's employment under the LAMS Act has been continuous since that date; and
 - D7.3.2 is not a member of the CSS or PSS defined benefit fund.
- D7.4 Where the employment of an employee under subclause D7.3 is terminated by the operation of subsections 8(1), 8(2), 8(4), 13(1) or 13(3) of the LAMS Act and the employee's employment under the LAMS Act recommences within a period up to and including the date that is ten weeks from the date the employee's employment was terminated, the employee's employment under the LAMS Act will, for the purposes of paragraph D7.3.1, be deemed to have continued.
- D7.5 An employee who commences employment under the LAMS Act after 5 September 2007, other than:
- D7.5.1 a former member of the CSS or PSS defined benefit fund with an entitlement to rejoin that fund, or
 - D7.5.2 employees who are members of the Public Sector Superannuation Accumulation Plan (PSSap), unless they are eligible to be members of the PSSap as a fund of choice,
- will have an employer funded superannuation contribution, as set out in subclause D7.7, paid to a complying superannuation fund nominated by the employee.

- D7.6 An employee may choose any approved superannuation fund as long as the fund can accept employer contributions by EFT. If the employee's chosen fund cannot or will not accept additional contributions as outlined in subclauses D7.7 and D7.12, then the employee will be advised of their right to change funds, to enable such contributions to be made.
- D7.7 The Territory's employer contribution will be:
- D7.7.1 the Superannuation Guarantee contribution in accordance with the *Superannuation Guarantee (Administration) Act 1992*, (which at the commencement of this Agreement is 10.0%); and
 - D7.7.2 an additional 1.5%; and
 - D7.7.3 a further 1% per pay, based on the employee's gross fortnightly Ordinary Time Earnings (OTE), for each pay period where the employee contributes 3% or more of their fortnightly OTE to their nominated superannuation fund (either in pre or post tax dollars) and where it is processed through the ACT Governments' payroll system.
- D7.8 If the legislated minimum Superannuation Guarantee rate is increased during the life of this Agreement, the increase will be absorbed by the additional contribution provided under paragraph D7.7.2, but will not affect the "3 for 1" arrangement in paragraph D7.7.3.
- D7.9 The salary for Superannuation Guarantee purposes will be calculated on the employee's Ordinary Time Earnings (OTE) within the meaning of the *Superannuation Guarantee (Administration) Act 1992*.
- D7.10 An employee who is a member of the CSS or PSS defined benefit fund, or a former member with an entitlement to rejoin the CSS or PSS defined benefit fund, or a member of the PSSap, will receive the employer contributions specified by the fund rules for the relevant Superannuation plan.
- D7.11 Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements.
- D7.12 For employees who take paid or unpaid parental leave (which includes birth, parental, grandparental, and foster care leave), employer contributions (which will be calculated using the same formula as prescribed in subclause F14.22) will be made for a period equal to a maximum of fifty-two weeks, in accordance with the rules of the appropriate superannuation scheme.
- D7.13 The Government will, through the Chief Minister, Treasury and Economic Development Directorate, consult with unions and employees on changes to superannuation legislation that may be proposed by the Commonwealth.

Section E Flexible Working Arrangements and Employee Support

E1 Work and Life Balance

- E1.1 The ACT Government is committed to the concept of work and life balance and recognises the importance of employees managing their work and personal commitments.
- E1.2 The Territory recognises the need to provide sufficient support and flexibility at the workplace to assist employees in achieving work and life balance and to meet their caring responsibilities, balanced against the operational requirements of the Member's office. While family friendly initiatives are important aspects of work and life balance, it is also important that all employees, at all stages in their working lives, are supported through this Agreement.

E2 Request for Flexible Working Arrangements

- E2.1 In addition to the circumstances provided at subclause E2.3 and subclause E2.4, an employee may apply to their Member for flexible working arrangements to support their work and life balance. The request by the employee must, set out in writing, the details of the change sought and the reasons for that change. The Member will respond to the employee's request within twenty-one calendar days of receiving the request, stating whether the request is approved and the reasons if the request is refused.
- E2.2 Nothing in this clause diminishes any provisions expressed elsewhere in this Agreement, where those entitlements are entitlements in their own right.
- E2.3 Notwithstanding the entitlement under subclause E2.1, an employee may request flexible working arrangements, in accordance with the FW Act, in the following circumstances. The employee:
- E2.3.1 seeks working arrangements to suit their personal circumstances; or
 - E2.3.2 has a parental or other caring responsibility for a child of school age or younger; or
 - E2.3.3 has a caring responsibility for an individual with a disability, a terminal or chronic medical condition, mental illness or is frail and aged; or
 - E2.3.4 has a disability; or
 - E2.3.5 is over the age of 55; or
 - E2.3.6 is experiencing family violence; or
 - E2.3.7 is providing personal care, support and assistance to a member of their immediate family or household because they are experiencing family violence.
- E2.4 To assist employees in balancing work and personal commitments, flexible working and leave arrangements are provided throughout this Agreement. Examples of these flexible working and leave arrangements include, but are not limited to:
- E2.4.1 flexible starting and finishing times (including at B3.4, B4);
 - E2.4.2 ability to take a few hours off work, and make it up later (F2);
 - E2.4.3 access to breast feeding facilities (E11);
 - E2.4.4 access to personal leave for caring purposes for members of immediate family or household (F4);
 - E2.4.5 home based work on a short or long term basis (E7);
 - E2.4.6 part-time work (E4, E6);
 - E2.4.7 job sharing (E5);

- E2.4.8 purchased leave (F9);
 - E2.4.9 annual leave (F7);
 - E2.4.10 long service leave (F25);
 - E2.4.11 leave without pay (F24);
 - E2.4.12 leave not provided for elsewhere (F24);
 - E2.4.13 scheduling of meetings (E3).
- E2.5 The flexible working arrangement will be recorded in writing and run for a specified duration of up to three years. At the end of the flexible working arrangement's period of operation, unless a new flexible working arrangement is entered into, the default will be that the employee returns to their nominal status.
- E2.6 Approved flexible working arrangements may be reviewed annually at which time the circumstances under which the flexible working arrangements were originally granted will be examined and reassessed.
- E2.7 Employees that have an existing flexible working arrangement at the commencement of this Agreement will have that arrangement reviewed within twelve months of commencement of this Agreement.
- E2.8 The Member may only deny an employee's request for flexible working arrangements or a variation to existing flexible working arrangements where there are reasonable business grounds for doing so.
- E2.9 Reasonable business grounds to deny a request are that:
- E2.9.1 the new working arrangements requested by the employee would be too costly to implement, or would likely result in a significant loss in efficiency or productivity, or would likely have a significant negative impact on service;
 - E2.9.2 there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested by the employee;
 - E2.9.3 it would be impractical to change the working arrangements of other employees or recruit new employees to accommodate the new working arrangements requested by the employee;
 - E2.9.4 it would be a genuine risk to the health and safety of an employee(s); or
 - E2.9.5 demonstrable exceptional circumstances have arisen that mean the request cannot be approved.
- E2.10 Where a request is not approved the Member will consult with the employee to explore alternative arrangements.

E3 Scheduling of Meetings

- E3.1 To assist employees to meet the employees' personal responsibilities, where possible, all meetings requiring the attendance of employees are to be scheduled at times that take into account those responsibilities.

E4 Regular Part-Time Employment

- E4.1 A person may be employed in any classification as a part-time employee for an agreed number of regular hours that is less than the ordinary weekly hours specified at subclause B3.2.

- E4.2 Proposals to reduce hours below full-time employment may be initiated by the Member for operational reasons.
- E4.3 No variation will be made to an employee's hours of duty unless there is an agreement between the employee and the relevant Member.
- E4.4 The agreed period, pattern of hours and days and commencement and cessation times for part-time work will be agreed between the employee and the relevant Member and recorded in the employee's Employment Agreement.

Note: An employee who wishes to work part-time may apply for a flexible working arrangement in accordance with subclause E2.1.

Variation to Part-Time Hours

- E4.5 Proposals to vary a part-time employment arrangement may be initiated by the Member for operational reasons or by an employee for personal reasons.
- E4.6 Where an employee initiates a proposal the Member will have regard to the personal reasons put by the employee in support of the proposal and to their office's operational requirements.
- E4.7 The Member will obtain the written agreement of the employee before the employee's hours are varied.
- E4.8 The agreed period, pattern of hours and days and commencement and cessation times for part-time work will be agreed between the employee and the relevant Member and recorded in the employee's Employment Agreement.

E5 Job Sharing

- E5.1 In this clause employee refers to employees other than casual employees.
- E5.2 Job sharing arrangements may be introduced by agreement between the Member and the employees involved, subject to operational requirements. Employees working under job sharing arrangements share one job and will be considered to be part-time with each working part-time on a regular, continuing basis.
- E5.3 An employee must request in writing permission to work in a job sharing arrangement. The Member will agree to reasonable requests for regular job sharing arrangements, subject to operational requirements.
- E5.4 The pattern of hours for the job sharing arrangement will be agreed between the employee and the Member. However, any single attendance at the office-based worksite will be for no less than three consecutive hours.
- E5.5 The employee who is in a job sharing arrangement and who was previously working full-time may revert to full-time employment before the expiry of the agreed period of job sharing if all parties to the arrangement agree.
- E5.6 In the event that either employee ceases to participate in the job sharing arrangement, the arrangement will terminate.

E6 Part-Time Employment Following Birth Leave, Primary Caregiver Leave, Adoption or Permanent Care Leave or Parental Leave

- E6.1 Subject to this clause, an employee employed on a full-time basis who returns to work after accessing birth leave under clause F14, primary care giver leave under clause F16, adoption or permanent care leave under clause F20 or parental leave under clause F17 will, on application by the employee, be given access to part-time employment for a period of up to three years from the date of birth or adoption of a child, or from the date of granting of parental responsibility of a foster child, provided the employee's employment under the LAMS Act is continuous during this period.
- E6.2 The maximum aggregate period of part-time employment that may be approved for an employee under subclause E6.1 is seven years, provided the employee's employment under the LAMS Act is continuous during this period.
- E6.3 The agreed period, pattern of hours and days and commencement and cessation times for part-time work will be agreed between the employee and the relevant Member and recorded in the employee's Employment Agreement.

E7 Home-Based Work

- E7.1 The diverse nature of work conducted in the Assembly lends itself to a range of working environments. From time to time workplaces will include work undertaken in the field and in the home.
- E7.2 Home-based work, on a regular basis, is a voluntary arrangement that requires the agreement of both the Member and the employee. Following consultation with the relevant corporate area, employee initiated requests will be considered, having regard to operational requirements and the suitability of the work.
- E7.3 In determining appropriate home-based work arrangements, Members and employees will consider a range of matters, including:
- E7.3.1 appropriate and effective communication with office-based employees;
 - E7.3.2 the need to ensure adequate interaction with colleagues;
 - E7.3.3 the nature of the job and operational requirements;
 - E7.3.4 privacy and security considerations;
 - E7.3.5 health and safety considerations;
 - E7.3.6 the effect on clients; and
 - E7.3.7 adequate performance monitoring arrangements.
- E7.4 Home-based work arrangements may be terminated by the Member on the basis of operational requirements, inefficiency of the arrangements, or failure of the employee to comply with the arrangements.
- E7.5 An employee may terminate home-based work arrangements at any time by giving reasonable notice to the Member.
- E7.6 There may also be occasions where it is appropriate for an employee to work from home on an ad hoc basis. In these circumstances, arrangements to work from home are to be negotiated on a case-by-case basis between the employee and the Member.

- E7.7 Home computing facilities may be provided where the need for such facilities is agreed between the employee and the Member. Provision of equipment by the Territory will be subject to occupational health and safety requirements and to an assessment of technical needs by the Member with the assistance of the relevant corporate area.

E8 Employee Assistance Program

- E8.1 As a benefit to employees, the Territory will provide employees and employees' immediate families with access to an independent, confidential and professional counselling service at no cost to the employee.

E9 Vacation Childcare Subsidy

- E9.1 This clause applies to an employee (other than a casual employee or a fixed term employee who has been engaged by the Member for a period of less than twelve months) with school age children who makes a timely application, based on their accrued annual leave, purchased leave or long service leave during school holidays that is rejected. In these circumstances the relevant corporate area will make payment to the employee for each calendar year based on:

- E9.1.1 fifty-two dollars per day towards the cost of each school child enrolled in an accredited school holiday program;
- E9.1.2 up to a maximum of \$260 per child per five days;
- E9.1.3 up to a maximum of ten days per child per year;
- E9.1.4 up to a maximum of three children; and
- E9.1.5 reimbursement on production of a receipt.

- E9.2 An accredited school holiday program is a program approved and/or subsidised by a State, Territory or Local Government.

- E9.3 The payment will apply only on the days when the employee is at work.

- E9.4 The payment will be made regardless of the length of time the child is in the program each day, but it cannot exceed the actual cost incurred.

- E9.5 An employee whose domestic partner receives a similar benefit from the partner's employer is not eligible for the payment.

E10 Family Care Costs

- E10.1 Where an employee is directed by their Member to work outside the employee's regular pattern of work, the relevant corporate area will authorise reimbursement to the employee, by receipted tax invoices, for some or all of the costs of additional family care arrangements.

E11 Nursing Employees

- E11.1 Employees who are breastfeeding will be provided with the facilities and support necessary to enable such employees to combine a continuation of such breastfeeding with the employee's employment.

- E11.2 Where practicable the Assembly will establish and maintain a room for nursing employees. Where there is no room available another appropriate space may be used.

- E11.3 Up to one hour, per day, paid lactation breaks that are non-cumulative will be available for nursing employees.

E12 Transfer to a Safe Job during Pregnancy

Purpose

E12.1 This clause provides arrangements to enable a pregnant employee to have their duties modified or to be transferred to an appropriate safe job during their pregnancy or enable them to be absent from their workplace if an appropriate safe job is not available.

Eligibility

E12.2 In accordance with the National Employment Standards of the FW Act (NES), this clause applies to pregnant employees when they:

E12.2.1 have given notice that they will be applying for birth leave; and

E12.2.2 provide evidence from a registered health professional or registered medical professional to the Member that they are fit for work but that it is inadvisable for the employee to continue with some or all of their duties in their present position during a stated period because of illness or risks arising out of the pregnancy or hazards connected with that position.

E12.3 In these circumstances, the employee is entitled to have their duties modified or to be transferred to an appropriate safe job for the stated period with no detriment to their current terms and conditions of employment.

Paid Absence for 'No Safe Job' Purposes

E12.4 If an appropriate safe job is not available, and when the employee has completed twelve months of continuous service, the employee is entitled to take paid absence for 'no safe job' purposes for the stated period at a rate of payment that is the same rate as would be paid if the employee was granted personal leave. This period of paid absence will count as service for all purposes.

E12.5 If an appropriate safe job is not available, and the employee has not completed twelve months of continuous service, the employee is entitled to take unpaid absence for 'no safe job' purposes. This period of absence will not count as service for any purposes but will not break continuity of service.

E12.6 The employee's entitlements under this clause cease when the employee's pregnancy ends before the end of the stated period.

E13 Management of Excessive Hours

E13.1 The Territory recognises the importance of employees balancing work and personal life. The appropriate balance is a critical element in developing and maintaining healthy and productive workplaces. While it is acknowledged that peak workload periods may necessitate some extra hours being worked by some employees, this should be regarded as the exception rather than the rule. This subclause should be read in conjunction with subclause B4.2.

E13.2 Members and employees have a responsibility to minimise the extent to which excessive hours are worked. In the circumstances where work pressures result in the employee being required to work, or is likely to work, excessive hours over a significant period, the Member and employee together must review workloads and priorities and determine appropriate strategies to address the situation. In doing so, the Member will consider and implement one or more of the following strategies to reduce the amount of excessive hours being accumulated:

E13.2.1 review of workloads and priorities;

E13.2.2 re-allocation of resources;

E13.2.3 consideration of appropriate arrangements for time off in lieu or other recompense;

E13.2.4 review of staffing levels and/or classifications within the work group.

E13.3 The relevant corporate area will consult with the LAMS Consultative Committee (LAMS CC) about the development and implementation of appropriate strategies to deal with issues associated with excessive work hours.

Section F Leave

F1 Part-Time Employees

F1.1 Part-time employees are credited and debited leave on a pro-rata basis.

F2 Leave Below One Day

F2.1 Employees with access to TOIL will use TOIL for all absences of less than one day wherever practicable; however personal leave may still be accessed for these absences.

F3 Non-approval of Leave

F3.1 Where a request is not approved the Member will, if so requested in writing by the employee, provide the reasons for that decision to the employee in writing. Where a request is not approved the Member will consult with the employee to determine mutually convenient alternative arrangements.

F4 Personal Leave

Purpose

- F4.1 Personal leave is available to employees to enable them to be absent from duty:
- F4.1.1 because the employee is unfit for work because of a personal illness, or personal injury;
 - F4.1.2 to provide care or support to a member of the employee's immediate family, or a member of the employee's household:
 - (a) who is ill or injured; or
 - (b) who is affected by an unexpected emergency; or
 - F4.1.3 in extraordinary and unforeseen circumstances in accordance with clause F5.
- F4.2 Personal leave supports the Territory's commitment to a healthy workplace and workforce.

Eligibility

F4.3 Personal leave is available to employees other than casual employees.

Entitlement

- F4.4 An employee may be granted personal leave up to their available credit from the first day of service.
- F4.5 Personal leave is cumulative and there is no cap on the personal leave balance an employee may accrue.
- F4.6 Subject to the approval of the Member, on engagement under the LAMS Act, employees who have prior service recognised for personal leave purposes, will be credited with any personal leave balance accrued with that service. In order to be recognised for personal leave purposes, the previous service must have terminated no more than two months prior to the commencement of employment under the LAMS Act. Previous service for which a payment has, or should have, been made will not be recognised except in relation to relevant qualifying periods.
- F4.7 Where personal leave is recognised under subclause F4.6, on the employee's normal accrual date, the employee will then receive personal leave in accordance with subclause F4.9. Where the employee's personal leave prior to engagement under the LAMS Act was accrued on a progressive basis, rather than credited prospectively, upon engagement the employee will also be credited with an amount of personal leave which is the difference between 3.6 weeks and any personal leave already accrued with the previous employer for their current accrual year.

Note: For the purposes of this clause 'normal accrual date' means the accrual date with the previous employer as recognised as part of the prior service.

- F4.8 Except for a short-term temporary employee, and an employee to whom subclauses F4.6 and F4.7 applies, an employee engaged for a period of greater than twelve months will be credited with an equivalent of 3.6 weeks of personal leave on the day they commence employment with the Territory.
- F4.9 An additional credit of 3.6 weeks personal leave will be made on the anniversary of the employee's commencement during each year of service.
- F4.10 Where the HR system permits, subclauses F4.7, F4.8, F4.9, F4.13 and F4.14 will not apply, and instead an employee's personal leave will accrue and be credited progressively, from the date of commencement of their employment under the LAMS Act, in accordance with the following formula:
- (A x B x D) / C = total hours of personal leave accrued per calendar day, where:
- A = the number of ordinary hours per week worked;
B = one where the day counts as service, or zero where the day does not count as service;
C = the number of calendar days in the year; and
D = the number of weeks of personal leave an employee is entitled to a year (i.e. 3.6 weeks)
- F4.11 The accrual date for personal leave will be deferred by one day for every calendar day of unauthorised absence or leave without pay that does not count for service.
- F4.12 A part-time employee will accrue personal leave calculated on a pro-rata basis.

Short-term Temporary Employees

- F4.13 A fixed-term employee engaged for a period of twelve months or less will be credited with 0.2 weeks of personal leave on commencement and a further 0.8 weeks of personal leave after four weeks continuous service. Thereafter the employee will be credited with 0.2 weeks of personal leave for each subsequent four weeks of continuous service up to a maximum of two weeks in the employee's first twelve months of service.
- F4.14 After twelve months continuous service an employee referred to in subclause F4.13 will receive 5.2 weeks of personal leave with pay. For every subsequent twelve months of service, the employee will receive personal leave in accordance with subclause F4.9.

When Personal Leave Credits Have Been Exhausted

- F4.15 Where personal leave credits have been exhausted, the Member may, subject to the production of documentary evidence, grant an employee a period of unpaid personal leave for personal illness or injury or for the care or support of a member of the employee's immediate family or household who is ill or injured or affected by an unexpected emergency. This is in addition to the entitlement to unpaid carer's leave that employees have under the National Employment Standards.

NOTE: In such circumstances, alternative arrangements are also provided for at subclause F4.42.

- F4.16 Fixed-term employees are not entitled to anticipate personal leave, but may be granted up to an aggregate of twenty days without pay in the first twelve months.

Other Provisions

- F4.17 An employee in receipt of workers compensation for more than forty-five weeks will accrue personal leave on the basis of hours actually worked.
- F4.18 Unused personal leave credit will not be paid out on cessation of employment.

Evidence and Conditions

- F4.19 An employee must give notice of the intention to take personal leave. The notice must be provided to their Member as soon as practicable (which in the case of personal illness or injury may be a time immediately after the leave has commenced) and must advise the duration, or expected duration, of the leave.
- F4.20 The Member may grant personal leave if they are satisfied there is sufficient cause, having considered any requested or required documentary evidence.
- F4.21 An employee must provide requested or required documentary evidence in a timely manner. To unduly withhold the provision of documentary evidence may result in the personal leave application not being approved for payment.
- F4.22 The Member will accept the following documentary evidence as proof of personal illness or injury or the need to care for or support a member of the employee's immediate family or household who is ill or injured or who is affected by an unexpected emergency:
- F4.22.1 a certificate from a registered medical practitioner or registered health professional who is operating within their scope of practice; or
 - F4.22.2 a statutory declaration made by the employee if it is not reasonably practicable for the employee to give the employer a certificate.
- F4.23 Applications for personal leave requiring an employee to care for a member of the employee's immediate family or household who is sick will need any required documentary evidence to clearly state the caring requirement.
- F4.24 Unless otherwise approved by the Member, an employee may only access a maximum of three consecutive days of paid personal leave on each occasion up to an accumulated maximum of seven days in any accrual year, without providing documentary evidence. Absences for personal leave without documentary evidence in excess of three consecutive days, or seven days in any accrual year, will be without pay.
- F4.25 Notwithstanding subclause F4.24 the Member may, with reasonable cause, request the employee to provide a medical certificate from a registered medical practitioner or registered health professional operating within their scope of practice, or a statutory declaration, for any absence from duty on personal leave at the time of notification of the absence.
- F4.26 Any personal leave without pay that goes beyond a maximum continuous period of combined paid and unpaid personal leave of 78 weeks will not count as service for any purpose.
- F4.27 The Member must approve an application for up to five days of personal leave for the purpose of bonding leave in accordance with subclause F18.4.
- F4.28 The Member may refer an employee for a medical examination by a nominated registered medical practitioner or registered health professional, or nominated panel of registered medical practitioners or registered health professionals, at any time for reasons including where:
- F4.28.1 the Member is concerned about the wellbeing of an employee and considers that the health of the employee is affecting, or has a reasonable expectation that it may affect, the employee's ability to adequately perform their duties;
 - F4.28.2 the Member considers that documentary evidence supplied in support of an absence due to personal illness or injury is inadequate; or
 - F4.28.3 the employee has been absent on account of illness for a total of thirteen weeks in any twenty-six week period.
- F4.29 The Member may require the employee to take personal leave after considering the results of a medical examination requested by the Member.

Rate of Payment

F4.30 Personal leave will be granted with pay except where it is granted without pay under subclauses F4.15, F4.16 or F4.24.

F4.31 Subject to the approval of the Member, an employee may request to use personal leave at half pay for absences of at least one week. Such absences will be deducted from the employee's accrued credits at a rate of fifty percent of the period of absence.

F4.32 Any personal leave taken must be deducted from the employee's credit.

Effect on Other Entitlements

F4.33 Personal leave with pay will count as service for all purposes.

F4.34 Personal leave without pay, other than provided for at subclause F4.26, will count as service for all purposes.

F4.35 Where an employee is absent on paid personal leave and a public holiday for which the employee is entitled to be paid falls within that period of absence:

F4.35.1 the employee will be paid as a normal public holiday for that day; and

F4.35.2 the public holiday will not be deducted from the employee's personal leave credits.

F4.36 Where the personal leave under subclause F4.35 is without pay both sides of the public holiday or Christmas shutdown period, the public holiday, or the Christmas shutdown period, will also be without pay.

F4.37 While personal leave will not be deducted over the Christmas shutdown period, the Christmas shutdown does not break continuity of the period of absence in relation to the maximum period/s of leave under subclause F4.26.

Interaction with Other Leave Types

F4.38 An employee who suffers personal illness or injury, or provides care or support for a member of the employee's immediate family or household who is ill or injured or who is experiencing an unexpected emergency, for one day or longer while on:

F4.38.1 annual leave; or

F4.38.2 purchased leave; or

F4.38.3 long service leave; or

F4.38.4 unpaid birth leave; or

F4.38.5 unpaid parental leave; or

F4.38.6 grandparental leave, and

who produces a certificate from a registered medical practitioner or a registered health professional operating within their scope of practice, or in the case of an unexpected emergency other satisfactory evidence, may apply for personal leave.

F4.39 Where an employee is on a form of leave specified in subclause F4.38 and:

F4.39.1 the employee is subsequently granted personal leave in accordance with subclause F4.38; and

F4.39.2 the personal leave falls within a part or all of the period of the other form of leave,

then that other leave will be re-credited for that period of the personal leave that falls within the period of the other leave.

- F4.40 An employee cannot access paid personal leave while on paid birth leave, or primary care giver's leave, or adoption or permanent care leave, but can apply for personal leave during unpaid birth leave or parental leave.
- F4.41 If the employee has exhausted all paid personal leave, personal leave without pay cannot be substituted for unpaid birth leave.
- F4.42 If an employee exhausts the employee's paid personal leave entitlement and produces documentary evidence, as per subclause F4.22, as evidence of continuing personal illness or injury, or requirement to care or provide support to a member of the employee's immediate family or household, the employee may apply to the Member for approval to take annual leave or long service leave. If approved, this leave will not break the continuity of the 78 weeks under subclause F4.26.

F5 Personal Leave in Extraordinary and Unforeseen Circumstances

- F5.1 Employees, other than casual employees, are eligible for personal leave in extraordinary and unforeseen circumstances.
- F5.2 Personal leave in extraordinary and unforeseen circumstances, is non-cumulative and if granted is deducted from the employee's personal leave balance.
- F5.3 The Member may grant a maximum of four days of personal leave, other than for personal illness or the care of a member of the employee's immediate household who is sick or requires support, in an accrual year, in extraordinary, unforeseen or unexpected circumstances and where it is essential that the employee have leave from the workplace. These four days are in addition to the seven days personal leave without documentary evidence.
- F5.4 While personal leave in extraordinary and unforeseen circumstances does not normally require documentary evidence, the Member may request reasonable evidence before granting the leave.
- F5.5 Personal leave in extraordinary and unforeseen circumstances will be granted with pay.

F6 Infectious Disease Circumstances

- F6.1 Where an employee is prevented from attending for duty under the *Public Health Act 1997*, the Member may grant that employee personal leave during that period.
- F6.2 The employee may also apply for the absence, or a part of it, to be deducted from their annual leave credit.

F7 Annual Leave

Purpose

- F7.1 Annual leave is available to employees to enable them to be absent from duty for the purposes of rest and recreation.

Eligibility

- F7.2 Annual leave is available to employees other than casual employees.

Entitlement

- F7.3 An employee may be granted annual leave up to their available credit from the first day of service.
- F7.4 Annual leave is cumulative.

- F7.5 An employee's annual leave credit accrues on a daily basis according to the formula set out below:
- F7.5.1 $(A \times B \times D) / C$ = total hours of leave accrued per day, where:
- F7.5.2 A = number of ordinary hours per week worked; and
- F7.5.3 B = one where the day counts as service or zero where the day does not count as service or is an unauthorised absence;
- F7.5.4 C = number of calendar days in the year; and
- F7.5.5 D = number of weeks of annual leave an employee is entitled to a year.
- F7.6 For the purpose of subclause F7.5 the basic leave entitlement is 147 hours annual leave for each full year worked.
- F7.7 If an employee moves from one Member's office to another Member's office, annual leave accrued with the first Member will transfer to the second Member, provided the employee's employment is continuous.
- F7.8 An annual leave credit does not accrue to an employee if the employee is absent from duty on leave for specified defence service, or full-time defence service. If the employee resumes duty after a period of specified defence service, annual leave will accrue from the date the employee resumes duty.
- F7.9 Employees will receive payment on separation of any unused annual leave entitlement.

Evidence and Conditions

- F7.10 Employees are encouraged to use their annual leave in the year that it accrues, and to this end should discuss their leave intentions with their Member as soon as practicable.
- F7.11 An employee must make an application to the Member to access their annual leave entitlement.
- F7.12 Having considered the requirements of this clause the Member may approve an employee's application to access annual leave.
- F7.13 The Member should approve an employee's application to take annual leave, subject to operational requirements.
- F7.14 If the Member does not approve an employee's application for annual leave because of operational requirements, the Member will consult with the employee to determine a mutually convenient alternative time (or times) for the employee to take the leave.
- F7.15 The Member must, unless there are exceptional operational circumstances, approve an application for annual leave if it would enable an employee to reduce their annual leave credit below two and a half years' worth of accrued annual leave credit. However, in the case of exceptional operational circumstances, the Member will consult with the employee to determine the time (or times) for the annual leave to be taken that is mutually convenient to both the Member's office and the employee.
- F7.16 If an employee's annual leave is cancelled without reasonable notice, or an employee is recalled to duty from leave, the employee will be entitled to be reimbursed reasonable travel costs and incidental expenses not otherwise recoverable under any insurance or from any other source.
- F7.17 If the operations of the Assembly are suspended at Christmas or another holiday period, the Member may direct an employee to take annual leave at a time that is convenient to the working of the Assembly, whether or not an application for leave has been made. However, this does not affect any other entitlements to leave under this Agreement.

- F7.18 If an employee has the equivalent of two years' accrued credit of annual leave and unless exceptional operational circumstances exist, the employee and relevant Member must agree, and implement an annual leave usage plan to ensure the employee's accrued leave credit will not exceed an accrued two and a half years' worth of annual leave credit.
- F7.19 If an employee does not agree to a reasonable annual leave usage plan the Member may direct an employee who has accrued two and a half years' worth of accrued annual leave credit to take enough annual leave to reduce the accrued leave credit to the equivalent of two years' accrued credit, subject to giving the employee one calendar month notice. This clause does not apply to an employee who is on graduated return to work following compensation leave.
- F7.20 An employee who has an annual leave credit in excess of two and a half years' accrued entitlement:
- F7.20.1 at the commencement of the Agreement; or
 - F7.20.2 on joining, or returning to, the Assembly; or
 - F7.20.3 on returning to duty from compensation leave,
- will have twelve months to reduce the employee's annual leave balance to two and a half years' accrued entitlement or below.
- F7.21 An employee may not be directed under subclause F7.19 to take annual leave where the employee has made an application for a period of annual leave equal to or greater than the period specified in subclause F7.19 in the past six months and the application was not approved. The Member and the employee may agree to vary an annual leave usage plan.

Rate of Payment

- F7.22 Annual leave will be granted with pay.
- F7.23 Payment for the annual leave will be based on the employee's ordinary hourly rate of pay, including allowances that count for all purposes for the time the leave is taken.
- F7.24 The Member may approve an application in accordance with clause E2 - for annual leave to be taken at half pay with credits to be deducted on the same basis.

Effect on Other Entitlements

- F7.25 Annual leave will count as service for all purposes.
- F7.26 Public holidays for which the employee is entitled to payment that fall during periods of absence on annual leave will be paid as a normal public holiday and will not be deducted from the employee's annual leave balance.

Interaction with Other Leave Types

- F7.27 If personal leave is granted to the employee, annual leave will be re-credited for the period of paid personal leave granted.
- F7.28 Subject to the approval of the Member, an employee who is on unpaid leave may be granted annual leave during that period, unless otherwise stated in this Agreement.
- F7.29 If an employee is prevented from attending for duty under the *Public Health Act 1997*, the Member may grant annual leave during that period.

Payment in Lieu of Annual Leave

- F7.30 An employee may request payment in lieu of their annual leave credit subject to the following:
- F7.30.1 the employee providing the Member with a written election to do so; and

- F7.30.2 the Member, in consultation with the relevant corporate area, authorising the election; and
- F7.30.3 the employee taking at least one week of annual leave in conjunction with this entitlement, or the employee has taken at least one week of annual leave in the past six months; and
- F7.30.4 the payment in lieu will not result in a reduction in the balance of an employee's remaining annual leave credit below one year's accrued entitlement.

F7.31 Payment in lieu of annual leave will be based on the employee's ordinary hourly rate of pay, including allowances that count for all purposes at the date of application. The payment in lieu will be based on the pay that the employee would have received for a notional period of leave equal to the credit being paid in lieu on the day the application is made.

F8 Annual Leave Loading

Purpose

F8.1 Annual leave loading is available to employees to provide monetary assistance while they are on annual leave.

Eligibility

F8.2 Employees who accrue annual leave under clause F7 - are entitled to an annual leave loading. Part-time employees will be paid the annual leave loading on a pro-rata basis.

Entitlement

F8.3 Where an employee's entitlement is based on subclause F8.7, the leave loading payable is subject to a maximum payment. This maximum payment is the equivalent of the Australian Bureau of Statistics' male average weekly total earnings for the May quarter of the year before the year in which the date of accrual occurs. Where the leave accrual is less than for a full year, this maximum is applied on a pro rata basis.

F8.4 An employee whose employment ceases and who is entitled to payment of accumulated annual leave, or pro rata annual leave, will be paid any accrued annual leave loading not yet paid, and leave loading on pro rata annual leave entitlement due on separation.

Evidence and Conditions

F8.5 Employees who are entitled to an annual leave loading, may elect to be paid the annual leave loading accrued by fortnightly instalments, or by lump sum payment at such a time as the employee nominates, by making a written request to the relevant corporate area.

F8.6 Any unpaid annual leave loading accrued by employees will be paid on the first payday in November following its accrual.

Rate of Payment

F8.7 The amount of an employee's entitlement under subclause F8.2 will, subject to subclause F8.3, be based on seventeen and a half percent of the employee's ordinary hourly rate of pay on 1 January multiplied by the number of hours of annual leave accrued during the preceding calendar year.

F9 Purchased Leave

Purpose

F9.1 Purchased leave is available to employees to enable them to be absent from duty to support their work/life balance.

Eligibility

F9.2 Employees, other than casual employees, are eligible to apply to purchase leave.

Entitlement

F9.3 Employees may purchase leave in addition to the employee's usual annual leave entitlement, up to a maximum of twelve weeks in any twelve-month period, subject to Member's approval.

F9.4 An employee may apply, at any time, to the Member for approval to participate in the purchased leave scheme.

F9.5 The application must specify the amount of leave to be purchased in whole weeks up to a maximum of twelve weeks in any twelve-month period, and the period over which the additional leave is to be acquitted.

F9.6 Approval by the Member for an employee to purchase and use purchased leave, is subject to both the operational requirements of the workplace and the personal responsibilities of the employee.

F9.7 Approval to purchase additional leave will not be given where an employee has an annual leave balance of two and a half years' worth of annual leave credit or more, except where the employee intends to use all excess annual leave credit before taking purchased leave.

F9.8 Once an employee commences participation in the scheme, the employee may only opt out of the scheme before the expiration of the agreed acquittal period, where:

F9.8.1 the employee can demonstrate, in writing, that exceptional circumstances exist, such as unforeseen financial hardship, and the Member agrees; or

F9.8.2 the employee's employment ceases before the expiration of the agreed acquittal period; or

F9.8.3 the employee proceeds on paid birth or primary care giver leave.

F9.9 If an employee who is participating in the scheme moves from one Member's office to another Member's office during the agreed acquittal period, the employee's continuation in the purchased leave scheme will be subject to the separate approval of the gaining Member. Where such approval is not given, any money owing to the employee in respect of purchased leave not taken will be refunded to the employee as soon as practicable. Any shortfall in payments will be deducted from monies owing to the employee.

Evidence and Conditions

F9.10 An employee should discuss with their Member, as soon practicable, their intention to be absent on purchased leave.

F9.11 An employee must make an application to the Member to access their purchased leave entitlement.

F9.12 Having considered the requirements of this clause the Member may approve an employee's application to access purchased leave. A decision not to approve the leave must be made in accordance with subclause F3.1.

F9.13 Approval by the Member to grant purchased leave will be subject to the operational requirements of the workplace, the personal responsibilities of the employee and appropriate periods of notice.

F9.14 A minimum of one week of purchased leave, or the pro-rata equivalent for part-time employees, must be taken at any one time unless the remaining balance is less than one week or the Member is satisfied, on evidence presented, there are exceptional circumstances which warrant purchased leave being taken in shorter periods.

F9.15 Purchased leave must be used within the agreed acquittal period, not exceeding twelve months from the date of commencement in the scheme. Purchased leave not taken within the agreed acquittal period will be forfeited and the value of the leave refunded to the employee at the end of the acquittal period, or the expiry of the employee's current Employment Agreement.

Rate of Payment

F9.16 While an employee is on a period of purchased leave the employee will be paid at the rate of pay used to calculate the employee's deduction.

F9.17 Purchased leave will be paid for by a fortnightly deduction from the employee's pay over an agreed acquittal period not exceeding twelve months from the date the employee commences participation in the scheme, or the expiry of the employee's current Employment Agreement, whichever occurs first.

F9.18 Fortnightly deductions, from the employee's pay, will commence as soon as practicable following approval of the employee's application to participate in the purchased leave scheme. The deductions will be calculated on the employee's pay at the date of commencement of participation in the scheme, the amount of leave to be purchased and the agreed acquittal period.

F9.19 Despite subclause F9.18, if the employee's pay changes during the acquittal period the employee may apply to the relevant corporate area for the deduction to be recalculated.

F9.20 Fortnightly tax deductions will be calculated on the employee's gross pay after the deduction has been made for purchased leave.

F9.21 Subject to subclause F9.22, allowances in the nature of pay may be included in the calculation of purchased leave payments where:

F9.21.1 advised appropriate by the relevant corporate area, and the employee agrees; and

F9.21.2 there is the likelihood the allowance will continue to be received over the duration of the acquittal period.

F9.22 The LAMS allowance cannot be included for the purposes of calculating purchased leave payments.

Effect on Other Entitlements

F9.23 Leave taken as purchased leave will count as service for all purposes.

F9.24 Public Holidays for which the employee is entitled to payment that fall during periods of absence on purchased leave will be paid as a normal public holiday and will not be deducted from the employee's purchased leave balance.

F9.25 Purchased leave will not affect the accrual of other forms of leave, such as personal leave, annual leave or long service leave.

F9.26 The purchase of additional leave under this clause will not affect the superannuation obligations of the employer and/or the employee involved.

Interaction with Other Leave Types

F9.27 Where an employee provides a certificate from a registered medical practitioner or registered health professional operating within their scope of practice for a personal illness or injury, or for the purpose of providing care or support for a member of the employee's family who is ill or injured or who is experiencing an unexpected emergency, during a period of absence on purchased leave, the employee will have the purchased leave re-credited for that period covered by the certificate, and substituted by personal leave.

- F9.28 An employee participating in the scheme who proceeds on paid birth or primary care giver's leave will elect to, either:
- F9.28.1 exit the purchased leave scheme and have any money owing refunded; or
 - F9.28.2 subject to subclause F9.29, remain in the scheme and have pay deductions continue during the period of paid birth or primary care giver's leave.
- F9.29 Purchased leave taken during an employee's absence on birth or primary care giver's leave will not extend the employee's total period of birth leave or primary care giver's leave.
- F9.30 An employee participating in the scheme who is in receipt of paid workers' compensation will have pay deductions for purchased leave continue. Normal conditions for purchased leave will apply for employees on graduated return to work programs; however entry into the scheme should be discussed with the rehabilitation case manager.

F10 Public Holidays

Eligibility

- F10.1 Public holidays are available to employees other than casual employees.

Entitlement

- F10.2 Employees are entitled to be absent from duty on a day, or part of a day, that is a public holiday, in accordance with the FW Act.
- F10.3 The following days will be observed as public holidays under this Agreement:
- F10.3.1 1 January (New Year's day), and, if that day falls on a Saturday or Sunday, the following Monday;
 - F10.3.2 26 January (Australia Day), or, if that day falls on a Saturday or Sunday, the following Monday;
 - F10.3.3 the second Monday in March (Canberra Day);
 - F10.3.4 Good Friday;
 - F10.3.5 the Saturday following Good Friday;
 - F10.3.6 Easter Sunday;
 - F10.3.7 the Monday following Good Friday;
 - F10.3.8 25 April (Anzac Day), or, if that day falls on a Saturday or Sunday, the following Monday;
 - F10.3.9 27 May (Reconciliation Day), or, if that day is not a Monday, the following Monday;
 - F10.3.10 the second Monday in June (the day for the observance of the anniversary of the birthday of the Sovereign);
 - F10.3.11 the first Monday in October (Labour Day);
 - F10.3.12 25 December (Christmas Day), and
 - (a) if that day falls on a Saturday, the following Monday; or
 - (b) if that day falls on a Sunday, the following Tuesday;
 - F10.3.13 26 December (Boxing Day), and
 - (a) if that day falls on a Saturday—the following Monday; or
 - (b) if that day falls on a Sunday—the following Tuesday;
- F10.4 In addition to the public holidays provided for under subclause F10.3, employees are entitled to be absent from duty on :

F10.4.1 the next business day after Boxing Day, or where:

- (a) Boxing Day falls on a Saturday, the following Tuesday; or
- (b) Boxing Day falls on a Sunday, the following Wednesday;

F10.4.2 any other day, or a part of any other day, that the Minister declares to be a public holiday in the ACT under the *Holidays Act 1958* (the Holidays Act); and

F10.4.3 any other day, or a part of any other day, that the Head of Service declares to be a holiday under the PSM Act.

F10.5 Where a day identified in subclause F10.3 is replaced by another day by an amendment to the Holidays Act, the replacement day will be observed as the public holiday in its place.

Rate of Payment

F10.6 Subject to subclauses F10.7 and F10.8, where an employee who is entitled to be absent from duty on a day, or a part of a day, that is a public holiday, and the employee is absent from duty, the employee will be paid at the employee's ordinary hourly rate for the employee's ordinary hours of work on that day or part-day.

F10.7 A part-time employee will be entitled to observe a public holiday without loss of pay if the employee would usually have been required to work on the day of the week on which the public holiday falls. To remove any doubt, a part-time employee whose regular part-time hours do not fall on a public holiday will not be paid for that public holiday.

F10.8 An employee will not be paid for a public holiday which occurs during a period of leave without pay.

F10.9 If a public holiday occurs on the day immediately before or immediately after an employee is on a period of leave without pay the employee is entitled to be paid for the public holiday.

F10.10 An employee who is required by the Member to work on a public holiday for a period that is:

F10.10.1 not in excess of the employee's ordinary weekly hours; and

F10.10.2 not outside of the employee's limit of daily hours; and

F10.10.3 not in excess of the employee's ordinary daily hours,

will be entitled to an additional payment of one hundred and fifty percent of the employee's ordinary hourly rate of pay, for the hours so worked.

Effect on Other Entitlements

F10.11 Subject to subclause F10.12, public holidays count as service for all purposes.

F10.12 A public holiday will not count as service if it occurs while the employee is on a period of leave not to count as service.

F11 Christmas Shutdown

Purpose

F11.1 Christmas shutdown is provided for operational efficiency and the wellbeing of employees.

Eligibility

F11.2 Christmas shutdown is available to employees other than casual employees.

Entitlement

F11.3 Employees are entitled to two days of paid absence during the Christmas shutdown period, which are the business days between 28 December and 31 December inclusive.

- F11.4 Only those employees who are directed or rostered to work during this period may attend for work over the Christmas shutdown period.
- F11.5 An employee who is directed to work during the Christmas shutdown period will, in addition to the entitlement under subclause F11.3, be entitled to either:
- F11.5.1 take paid absence, equivalent to the time worked at a time agreed between the employee and the relevant Member; or
 - F11.5.2 elect to receive a payment equivalent to the time worked at the employee's ordinary rate of pay.

Note: These days are not public holidays and therefore public holiday rates do not apply.

- F11.6 Nothing in this clause is intended to reduce or increase a part-time employee's pay entitlement for the pay period in which the Christmas shutdown period falls. Part-time employees whose regular part-time hours do not fall during the Christmas shutdown period will not be entitled to the additional two days of paid absence.
- F11.7 Notwithstanding subclause F11.6 part-time employees whose regular part-time hours do not fall during the Christmas shutdown period, but who are directed to work during the Christmas shutdown period, will be entitled to either:
- F11.7.1 the payment of overtime at the appropriate rate for the time worked; or
 - F11.7.2 elect to take paid absence, equivalent to the time worked, at a time agreed between the employee and the Member.

Rate of Payment

- F11.8 Christmas shutdown absence is granted with pay.

Effect on Other Entitlements

- F11.9 Christmas shutdown absence counts as service for all purposes.

F12 Compassionate Leave

Purpose

- F12.1 Compassionate leave is available to employees to enable them to be absent from duty when a member of an employee's immediate family or household:
- F12.1.1 has a personal illness or injury that poses a serious threat to the person's life; or
 - F12.1.2 dies, including where a child is stillborn.
- F12.2 Compassionate leave is available to enable an employee to be absent from duty when they experience a miscarriage or when the employee's domestic partner has experienced a miscarriage.

Eligibility

- F12.3 Compassionate leave is available to all employees.

Entitlement

- F12.4 An employee may be granted compassionate leave from the first day of service.
- F12.5 Compassionate leave is non-cumulative.
- F12.6 Employees are entitled to up to five days of compassionate leave on each occasion of the death of a member of the employee's immediate family or household. The Member may grant an additional paid or unpaid period of compassionate leave for this purpose.

F12.7 Employees are entitled to up to two days of compassionate leave on each occasion of personal illness or injury of a member of the employee's immediate family or household that poses a serious threat to the person's life. The Member may grant an additional paid or unpaid period of compassionate leave for this purpose.

Evidence and Conditions

F12.8 The employee should discuss with their Member, as soon as practicable, their absence or intention to be absent on compassionate leave.

F12.9 An employee must make an application to the Member to access compassionate leave.

F12.10 The Member may request evidence that would satisfy a reasonable person that an application for compassionate leave is for a purpose specified in subclauses F12.1 and F12.2.

F12.11 Having met the requirements of this clause, the Member will approve an employee's application to access compassionate leave.

F12.12 If the employee has not provided the evidence requested under subclause F12.10, a decision not to approve the leave may be taken in accordance with subclause F3.1.

Rate of Payment

F12.13 Compassionate leave will be granted with pay, except for casual employees and except where it is granted without pay under subclause F12.6 or F12.7.

F12.14 Compassionate leave is paid at the employee's base rate of pay, including relevant allowances for the ordinary hours the employee would have worked during the leave.

Effect on Other Entitlements

F12.15 Compassionate leave with pay will count as service for all purposes.

F12.16 Public Holidays for which the employee is entitled to payment that fall during periods of absence on paid compassionate leave will be paid as a normal public holiday and will not be considered an absence on compassionate leave.

Access to Other Leave Entitlements

F12.17 If compassionate leave of at least one day is granted while an employee is absent on another type of leave, the other type of leave will be re-credited for the period of the absence on compassionate leave.

F13 Community Service Leave

Purpose

F13.1 Community service leave is available to employees to allow them to be absent from the workplace to engage in the following three distinct types of community service activities:

F13.1.1 jury service (including attendance for jury selection) that is required by or under a law of the Commonwealth, a State or a Territory; or

F13.1.2 a voluntary emergency management activity; or

F13.1.3 other recognised voluntary community service activity.

Jury Service

Eligibility

F13.2 Community service leave for jury service is available to all employees.

Evidence and Conditions

- F13.3 Although the granting of community service leave for jury service is deemed to be approved, an employee must:
- F13.3.1 submit a leave application for the period of the absence; and
 - F13.3.2 provide sufficient documentary evidence of the reason for the absence.
- F13.4 The employee should discuss with their Member their intention to be absent on community service leave for jury service.

Rate of Payment

- F13.5 Community service leave for jury service will be granted with pay to employees other than casual employees.
- F13.6 If the employee is paid jury fees, this amount must be deducted from the employee's pay less reasonable out-of-pocket expenses.

Effect on Other Entitlements

- F13.7 Community service leave for jury service will count as service for all purposes.
- F13.8 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid community service leave for jury service will be paid as a normal public holiday and will not be considered to be community service leave for jury service.

Voluntary Emergency Management

Eligibility

- F13.9 An employee who is a member of a relevant emergency service, including a:
- F13.9.1 State or Territory Emergency Service;
 - F13.9.2 fire-fighting service;
 - F13.9.3 search and rescue unit; or
 - F13.9.4 other volunteer service performing similar functions,
- is eligible for community service leave for voluntary emergency management.
- F13.10 A casual employee who is a member of a relevant emergency service is eligible to unpaid community service leave for voluntary emergency management service.

Entitlement

- F13.11 Eligible employees are entitled to be absent on unpaid leave to engage in a voluntary emergency management activities, subject to operational requirements in the workplace.
- F13.12 Eligible employees, other than casual employees, are eligible for up to four days paid community service leave for voluntary emergency management per emergency.
- F13.13 Community service leave for voluntary emergency management is non-cumulative.

Evidence and Conditions

- F13.14 An employee should discuss their intention to be absent on paid or unpaid community service leave for voluntary emergency management with their Member as soon as practicable, which may be at a time after the absence has started. The employee must advise the Member of the period, or expected period, of the absence.

- F13.15 An employee must make an application to the Member to access their community service leave entitlement for voluntary emergency management.
- F13.16 The employee must, if requested by the Member, provide sufficient documentary evidence of the reason for the absence.
- F13.17 The Member may grant paid community service leave for voluntary emergency management to enable the employee to fulfil an obligation in the event of a civil emergency.
- F13.18 Having considered the requirements of this clause the Member may approve an employee's application to access paid community service leave for voluntary emergency management. A decision not to approve the leave will be taken in accordance with subclause F3.1.

Rate of Payment

- F13.19 Where paid leave is granted for community service leave for voluntary emergency management, it is paid at the employee's ordinary hourly rate of pay.

Effect on Other Entitlements

- F13.20 A period of approved community service leave for voluntary emergency management will count as service for all purposes.
- F13.21 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid community service leave for voluntary emergency management will be paid as a normal public holiday and will not be considered to be community service leave for voluntary emergency management.

Additional Leave

- F13.22 Additional paid leave may be approved by the Member for any voluntary emergency management duties required to be performed by an employee who is a member of a State or Territory Emergency Service.

Voluntary Community Service

Eligibility

- F13.23 Community service leave for voluntary community service is available to all employees.

Entitlement

- F13.24 Employees, other than casual employees, are entitled to up to three days of paid leave for community service leave to engage in a recognised voluntary community service activity within a twelve-month period.
- F13.25 Community service leave for voluntary community service is non-cumulative.
- F13.26 An employee may be granted unpaid community service leave to engage in a recognised voluntary community service activity, subject to operational requirements in the workplace.

Evidence and Conditions

- F13.27 An employee should discuss their intention to be absent on community service leave for voluntary community service, as soon as practicable, with their Member.
- F13.28 An employee must make an application to the Member to access their community service leave for voluntary community service entitlement.
- F13.29 The Member may request sufficient documentary evidence of the reason for the absence.

- F13.30 In considering an application from an employee for paid leave to engage in a voluntary community service activity, the Member must consider whether:
- F13.30.1 the activity is a recognised voluntary activity and benefits the local community; and/or
 - F13.30.2 the community organisation or project is an acceptable organisation or project as defined in Whole-of-Government policy or guidelines; and
 - F13.30.3 there is a risk the activity would place the employee in a real or perceived conflict of interest.
- F13.31 Leave for a voluntary community service activity must not be approved for activities which:
- F13.31.1 involve any payment in cash or kind for the duties performed by the employee; or
 - F13.31.2 replace work ordinarily undertaken by a paid worker; or
 - F13.31.3 are undertaken solely for direct personal benefit of the employee; or
 - F13.31.4 place the employee in a conflict of interest situation; or
 - F13.31.5 are primarily focussed on promoting particular religious or political views; or
 - F13.31.6 involves work which does not have a local community focus.
- F13.32 Having considered the requirements of this clause the Member may approve an employee's application to access paid or unpaid community service leave for voluntary community service.
- F13.33 A decision not to approve the leave must be made in accordance with subclause F3.1.

Rate of Payment

- F13.34 Community service leave for voluntary community service is granted with pay for the first three days leave in a twelve-month period to all employees except casual employees.

Effect on Other Entitlements

- F13.35 Community service leave for voluntary community service will count as service for all purposes up to a maximum of twenty three days in any twelve-month period.
- F13.36 Where the Member has approved a request for unpaid community service leave for voluntary community service exceeding twenty days in a twelve-month period, this leave in excess of twenty days will not count as service.
- F13.37 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid community service leave for voluntary community service will be paid as a normal public holiday and will not be considered to be community service leave for voluntary community service.

Access to Other Leave Entitlements

- F13.38 Leave granted under this provision may be taken in combination with approved annual or long service leave.

F14 Birth Leave

Purpose

- F14.1 Birth leave is available to pregnant employees to enable them to be absent from duty to:
- F14.1.1 support their own wellbeing and to care for and bond with a new born child; and
 - F14.1.2 support the protection of the family and children under the *Human Rights Act 2004*; and
 - F14.1.3 support the employee's right to continuity of service.

Eligibility

- F14.2 An employee who is pregnant is eligible to be absent on birth leave, unless they are eligible for surrogacy leave under clause F28.
- F14.3 An employee is eligible for birth leave where:
- F14.3.1 The employee gives birth to a living child;
 - F14.3.2 The employee's pregnancy ends at or within twenty weeks of the estimated date of delivery other than by the birth of a living child, including where a child is stillborn.
- F14.4 Where an employee's pregnancy ends by miscarriage, any birth leave which has been prospectively approved will be cancelled. In this circumstance, the employee may become eligible for compassionate leave in accordance with clause F12 and/or special birth leave in accordance with clause F15

Eligibility – Paid Birth Leave

- F14.5 An employee, other than a casual employee, who is eligible for birth leave and who has completed twelve months of continuous service, including recognised prior service, immediately prior to commencing a period of birth leave, is eligible for paid birth leave.
- F14.6 An employee, other than a casual employee, who is eligible for birth leave and who completes twelve months of continuous service within the first eighteen weeks of birth leave is eligible for paid birth leave for the period between completing twelve months of service and the end of the first eighteen weeks of birth leave.
- F14.7 An employee who is eligible for paid birth leave and who is on approved leave without pay is eligible for paid birth leave for the period between completing the approved period of leave without pay and the end of the first eighteen weeks of birth leave.

Entitlement

- F14.8 An eligible employee is entitled to be absent for up to fifty-two weeks birth leave for each pregnancy. To avoid doubt, the entitlement under this clause does not increase in cases of multiple births.
- F14.9 Subject to subclause F14.5, an employee who is eligible for paid birth leave is entitled to be paid for the first eighteen weeks of birth leave and this entitlement is in addition to the Federal paid parental leave scheme.
- F14.10 Birth leave is non-cumulative.
- F14.11 Subject to subclauses F14.13 and F14.14, an employee who is eligible for birth leave must absent themselves from duty for a period commencing six weeks prior to the estimated date of delivery of the child and ending six weeks after the actual date of birth of the child.
- F14.12 An eligible employee's period of birth leave will commence:
- F14.12.1 subject to subclause F14.13, six weeks prior to the estimated date of delivery; or
 - F14.12.2 on the date recommended by the medical practitioner where the employee is approved a later commencement date under subclause F14.13; or
 - F14.12.3 on the birth of the child (including where this occurs earlier than six weeks prior to the estimated date of delivery of the child); or
 - F14.12.4 on the date the pregnancy ends if that occurs within twenty weeks of the estimated date of delivery of the child, including where a child is stillborn; or
 - F14.12.5 for all other eligible employees, on the first day of birth leave.

- F14.13 An employee who produces medical evidence from a registered medical practitioner that they are fit for duty until a date less than six weeks prior to the estimated date of delivery of the child may continue to work up until a date recommended by the medical practitioner, subject to the approval of the Member.
- F14.14 An employee who has given birth to a child and produces medical evidence from a registered medical practitioner that they are fit for duty from a date less than six weeks after the date of birth of the child may resume duty on a date recommended by the medical practitioner, subject to the approval of the Member.
- F14.15 An employee who has given birth to a child may resume duty following the end of the six week period after the birth of the child and earlier than the end of the approved period of birth leave subject to the approval of the Member.
- F14.16 An employee is entitled to return to work in accordance with the provisions in the National Employment Standards of the FW Act.

Evidence and Conditions

- F14.17 An employee must give notice to their Member as soon as practicable of their intention to be absent on birth leave.
- F14.18 Birth leave is deemed to be approved; however an employee must submit an application to the Member for any period of birth leave. Having considered the requirements of this clause the Member will approve an employee's application to access birth leave.
- F14.19 Prior to commencing birth leave an employee will provide the Member with evidence of the pregnancy and the estimated date of delivery from a registered medical practitioner or a registered health professional who is operating within their scope of practice.
- F14.20 If requested by the Member, an employee will provide the Member with evidence of the birth and the date of the birth of the child as soon as possible after the birth of the child. Such evidence may include a copy of the birth certificate or documents provided by a registered medical practitioner or a registered health professional who is operating within their scope of practice.

Rate of Payment

- F14.21 The rate of payment to be paid to the employee during a paid period of birth leave is the same rate as would be paid if the employee was granted paid personal leave.
- F14.22 Despite subclause F14.21, where an employee varies their ordinary hours of work, either from part-time to full-time, from part-time to different part-time, or from full-time to part-time, during the twelve-month period directly preceding birth leave, the rate of payment for the paid component of their birth leave, which will be capped at full-time rates, will be calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the twelve-month period immediately before the period of birth leave commences.
- F14.23 To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of subclause F14.22.
- F14.24 Paid birth leave may be taken with full or half pay, or a combination of full and half pay, with credits to be deducted on the same basis. The maximum paid period is up to thirty-six weeks at half pay.
- F14.25 The Member may approve, subject to a medical certificate from a registered medical practitioner, an employee taking paid birth leave in a non-continuous manner, provided any other form of paid leave will not be approved until the employee has used all of the employee's paid birth leave entitlement.

F14.26 A period of paid birth leave does not extend the maximum fifty-two week period of birth leave available to an eligible employee.

F14.27 An employee's period of absence on birth leave between the paid period of birth leave and the maximum fifty-two week period of birth leave will be without pay, unless other paid leave entitlements are accessed.

Effect on Other Entitlements

F14.28 Birth leave with pay will count as service for all purposes.

F14.29 Any period of unpaid birth leave taken by an employee during the period commencing six weeks prior to the estimated date of delivery of the child and ending six weeks after the actual date of birth of the child will count as service for all purposes.

F14.30 Subject to subclause F14.29 any period of unpaid birth leave taken by an employee will not count as service for any purpose, but does not break continuity of service.

F14.31 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on birth leave will not be paid as a normal public holiday.

Access to Other Leave Entitlements

F14.32 An application by an employee for long service leave or annual leave during a period that would otherwise be an unpaid period of birth leave will be granted to the extent of available entitlements.

F14.33 Subject to subclause F4.39, an application by an employee for personal leave during a period that would otherwise be an unpaid period of birth leave will be granted subject to the employee providing a certificate from a registered medical practitioner or a registered health professional operating within their scope of practice to the extent of available entitlements.

Keep in Touch Arrangements (Birth Leave)

F14.34 At any time after six weeks from the child's date of birth, an employee may, following an invitation from an authorised person, agree to attend the workplace on up to ten separate occasions of up to one day each so as to keep in touch with developments in the workplace (for meetings and training etc.).

F14.35 The employee will be paid at their ordinary hourly rate of pay for the hours they attend the workplace in accordance with subclause F14.34 during unpaid birth leave. Keep in touch attendance will count as service for all purposes, but does not extend the period of leave and does not end or reduce the entitlement to birth leave.

F14.36 For the purpose of subclause F14.34, a medical certificate is not required.

F15 Special Birth Leave

Purpose

F15.1 Special birth leave is available to employees where:

- F15.1.1 the employee is not fit for work due to a pregnancy-related illness, or
- F15.1.2 the pregnancy of the employee ends between twenty-eight weeks and twenty weeks of the estimated date of delivery, other than by the birth of a living child.

Note: If a pregnancy ends within twenty weeks of the estimated date of delivery of the child the employee may be entitled to paid or unpaid birth leave as per subclauses F14.3.

Eligibility

F15.2 Special birth leave is available to all employees and eligible casual employees.

Entitlement

F15.3 An employee is entitled to a period of unpaid special birth leave for the duration certified by a registered medical practitioner or registered health professional operating within their scope of practice as necessary.

Evidence and Conditions

F15.4 The employee must provide the Member with notice that they are taking special birth leave. The notice must be given as soon as practicable (which may be after the leave has started); and should include the period, or expected period, of the leave.

F15.5 An employee must submit an application to the Member for any period of special birth leave. Having considered the requirements of this clause the Member will approve an employee's application to access special birth leave.

F15.6 An employee who has given notice that special birth leave will be (or is being) taken must provide reasonable evidence of the purpose for taking leave. This evidence may include a medical certificate from a registered medical practitioner or registered health professional operating within their scope of practice.

Rate of Payment

F15.7 Special birth leave is granted without pay.

Effect on Other Entitlements

F15.8 Special birth leave does not count as service for any purpose.

F15.9 Special birth leave does not break continuity of service.

F15.10 Special birth leave accessed due to pregnancy related illness is not deducted from the entitlement for unpaid birth leave accessed after the birth of the child.

Access to Other Leave Entitlements

F15.11 Special birth leave is in addition to any accrued personal leave entitlement.

F15.12 Special birth leave is in addition to compassionate leave.

Purpose

- F16.1 Primary care giver leave is available to employees to enable them to be absent from duty to:
- F16.1.1 care for and bond with a newborn child; and
 - F16.1.2 support the protection of the family and children under the *Human Rights Act 2004*.

Eligibility

- F16.2 Primary care giver leave is available to employees other than casual employees who are the primary care giver of a newborn child.
- F16.3 An employee who has completed at least twelve months continuous service, including recognised prior service, immediately prior to commencing a period of primary care giver leave, is eligible for primary care giver leave.
- F16.4 An employee who is eligible for paid birth leave, foster and short-term care leave, or adoption or permanent care leave is not eligible for primary care giver leave.
- F16.5 An employee who completes twelve months of continuous service within eighteen weeks of becoming the primary care giver for a child is eligible for primary care giver leave for the period between completing twelve months of qualifying service and the end of the first eighteen weeks of becoming the primary care giver of the child.

Entitlement

- F16.6 An eligible employee is entitled to eighteen weeks of paid leave in relation to each birth and this entitlement is in addition to the Federal paid parental leave scheme. To avoid doubt, the entitlement under this clause does not increase in cases of multiple births, adoptions or care and protection orders that apply to more than one child.
- F16.7 Primary care giver leave is non-cumulative.
- F16.8 An employee is entitled to return to work in accordance with the provisions in the National Employment Standards.

Evidence and Conditions

- F16.9 An employee should discuss with their Member, as soon practicable, their intention to be absent on primary care giver leave.
- F16.10 An employee must make an application to the Member to access their primary care giver leave.
- F16.11 The employee must provide the Member with appropriate evidence concerning the reasons for and circumstances under which the primary care giver leave application is made, which may include:
- F16.11.1 a certificate from a registered medical practitioner or a registered health professional operating within their scope of practice relating to the estimated date of delivery of a child; or
 - F16.11.2 a birth certificate.
- F16.12 In all cases details of leave being taken by other persons in relation to the same child (or children in the case of multiple births) must be provided.
- F16.13 Before granting primary care giver leave, the Member must be satisfied that the employee demonstrates that they are the primary care giver.

- F16.14 For the purposes of this clause a newborn is considered to be a baby of up to fourteen weeks old. In extenuating circumstances, the Member may approve primary care giver leave when a newborn is more than fourteen weeks old.
- F16.15 For the purposes of clause F16.14, the primary care giver is entitled to access up to eighteen weeks primary care givers leave where the leave has commence before the baby was fourteen weeks old, subject to subclause F16.11
- F16.16 Having considered the requirements of this clause the Member will approve an employee's application to access primary care giver leave.
- F16.17 The total combined entitlement under this clause and the birth leave clause, and equivalent clauses in any other ACTPS enterprise agreement, is eighteen weeks of paid leave in relation to the birth.
- F16.18 Primary care giver leave may be taken in any combination with birth leave provided that the person who has given birth and the other employee entitled to primary care giver leave do not take these forms of paid leave concurrently.
- F16.19 Subclause F16.11.2 does not apply where the person giving birth is an ACTPS employee entitled to surrogacy leave in accordance with clause F28.

Rate of Payment

- F16.20 Primary care giver leave will be granted with pay.
- F16.21 The rate of payment to be paid to the employee during a paid period of primary care giver leave is the same rate as would be paid if the employee was granted personal leave.
- F16.22 Despite subclause F16.21, where an employee varies their ordinary hours of work, either from part-time to full-time, from part-time to different part-time, or from full-time to part-time, during the twelve-month period directly preceding primary care giver leave, the rate of payment for the paid component of their primary care giver leave, which will be capped at full-time rates, will be calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the twelve-month period immediately before the period of primary care giver leave commences.
- F16.23 To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of subclause F16.22.
- F16.24 Primary care giver leave may be granted with full or half pay, or a combination of full or half pay, with credits to be deducted on the same basis. The maximum paid period is up to thirty-six weeks at half pay.
- F16.25 The Member may approve an employee taking primary care giver leave in a non-continuous manner, provided a period of annual leave or long service leave in between the periods of primary care giver leave will not be approved until the employee has used all of the employee's paid primary care giver leave entitlement within fifty-two weeks of the birth of the child.

Effect on Other Entitlements

- F16.26 Primary care giver leave will count as service for all purposes.
- F16.27 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on primary caregiver leave will not be paid as a normal public holiday.

Interaction with Other Leave Types

- F16.28 Primary care giver leave does not extend the maximum period of unpaid parental leave available to an employee.

Keep in Touch Arrangements (Primary Care Giver Leave)

- F16.29 An employee on primary care giver leave may, following an invitation from an authorised person, agree to attend the workplace on up to ten separate occasions of up to one day each so as to keep in touch with developments in the workplace (for meetings and training etc.).
- F16.30 The employee will be paid at their ordinary hourly rate of pay for the hours they attend work in accordance with subclause F16.29 during paid or unpaid primary care giver leave. Keep in touch attendance will count as service for all purposes, but does not extend the period of leave and does not end or reduce the entitlement to primary care giver leave.

F17 Parental Leave

Purpose

- F17.1 Parental leave without pay is in addition to the provisions available in birth leave, primary care giver leave, and adoption or permanent care leave and is available to employees to enable them to be absent from duty following the birth or adoption of a child, or the commencement of a permanent caring arrangement for a child.

Eligibility

- F17.2 Parental leave is available to an employee, or an eligible casual employee, who is the primary care giver of a child following the birth or adoption of a child or the commencement of a permanent caring arrangement for a child.

Entitlement

- F17.3 An employee is entitled to up to two years of parental leave following the child's birth, adoption or commencement of a permanent caring arrangement, less any period of birth leave, primary care giver leave or adoption or permanent care leave which the employee has taken in relation to the same child, provided the employee's employment under the LAMS Act is continuous during this period.
- F17.4 To avoid doubt, the entitlement under this clause does not increase in cases of multiple births, adoptions or permanent caring arrangements that apply to more than one child at any one time.
- F17.5 At the end of this time the employee is entitled to return to work in accordance with the provisions in the National Employment Standards.
- F17.6 An employee is entitled to apply and will be granted an additional year of parental leave for up to two occasions of birth, adoption or commencement of a permanent caring arrangement, provided:
- F17.6.1 The parental leave is taken within three years following the child's birth, adoption or commencement of a permanent caring arrangement.
 - F17.6.2 The parental leave is taken in periods of one week or more.
 - F17.6.3 The employee's employment under the LAMS Act is continuous during this period.

Evidence and Conditions

- F17.7 An employee should discuss with their Member, as soon as practicable, their intention to be absent on parental leave.
- F17.8 An employee must make an application to the Member to access their unpaid parental leave entitlement.
- F17.9 Having considered the requirements of this clause the Member will approve an employee's application to access parental leave.

- F17.10 The employee must provide the Member with appropriate evidence concerning the reasons for and circumstances under which the unpaid parental leave application is made, which may include:
- F17.10.1 a birth certificate; or
 - F17.10.2 documents from an adoption authority concerning the adoption of a child; or
 - F17.10.3 documents relating to a permanent caring arrangement.
- F17.11 The Member will not grant parental leave if the employee's domestic partner is on parental leave and is an employee of the Territory.

Rate of Payment

F17.12 Parental leave will be granted without pay.

Effect on Other Entitlements

- F17.13 Parental leave does not count as service for any purpose.
- F17.14 Parental leave does not break continuity of service.
- F17.15 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on parental leave will not be paid as a normal public holiday.

Interaction with Other Leave Types

- F17.16 An employee on parental leave may access annual and long service leave on full or half pay to the extent of available entitlements.
- F17.17 An application by an employee for personal leave during a period that would otherwise be a period of parental leave will be granted subject to the employee providing a certificate from a registered medical practitioner or a registered health professional operating within their scope of practice, in accordance with subclause F4.38.

Keep in Touch Arrangements (Parental Leave)

- F17.18 An employee may, following an invitation from an authorised person, agree to attend the workplace on up to ten separate occasions of up to one day each so as to keep in touch with developments in the workplace (for meetings and training etc.), less any Keep In Touch time approved during birth or primary caregiver leave as per subclauses F14.34 or F16.29.
- F17.19 The employee will be paid at their ordinary hourly rate of pay for the hours that they attend the workplace in accordance with subclause F17.18. Keep in touch attendance will count as service for all purposes, but does not extend the period of leave and does not end or reduce the entitlement to parental leave.

F18 Bonding Leave

Purpose

- F18.1 Bonding leave is available to employees to enable them to be absent from duty to:
- F18.1.1 bond with their newborn child, adopted child or a child for whom the employee's domestic partner has commenced a primary care giving role under a permanent caring arrangement;
 - F18.1.2 support the protection of the family and children under the *Human Rights Act 2004*.

Eligibility

- F18.2 Bonding leave is available to employees, other than casual employees, at the time of the child's birth, adoption or the commencement of a permanent caring arrangement when the employee is not the primary care giver to the child.

F18.3 An employee who is eligible for paid birth leave, adoption or permanent care leave, or primary care giver leave is not entitled to bonding leave. If, however, bonding leave has been taken by the employee, and the employee later becomes entitled to primary care giver's leave due to unforeseen circumstances, the Member may agree to convert the bonding leave and personal leave taken in accordance with this clause to primary care giver's leave.

Entitlement

F18.4 Under this clause, an employee is entitled to be absent on paid leave for a maximum of two weeks (ten working days) at, or near, the time of the birth, adoption or commencement of the permanent caring arrangement. The maximum absence may be increased by a further five days of personal leave for bonding purposes as per subclause F4.27.

F18.5 In accordance with the National Employment Standards, an eligible employee is entitled to be absent up to a maximum of eight weeks of concurrent unpaid bonding leave in the first twelve months following the birth or adoption, or commencement of a permanent caring arrangement for a child, subject to a minimum period of two weeks at a time unless a shorter period is agreed by the Member.

F18.6 The entitlement under subclause F18.5 will be reduced by the extent of the entitlement accessed by an employee under subclause F18.4.

F18.7 To avoid doubt, the entitlement under this clause does not increase in cases of multiple births, adoptions or permanent caring arrangements that apply to more than one child at the one time.

F18.8 Bonding leave is non-cumulative.

F18.9 Paid bonding leave must be taken within fourteen weeks from the date of birth, adoption or commencement of the permanent caring arrangements, unless there are exceptional circumstances and the Member agrees to a longer period.

F18.10 The five days of personal leave accessed as per subclause F4.27 may be taken at any time up to fourteen weeks from the date of the birth, adoption or commencement of the permanent caring arrangement.

F18.11 Where an employee's domestic partner is also an employee of the Territory this leave may be taken concurrently with the domestic partner receiving birth leave, adoption or permanent care leave, or primary care giver leave.

Evidence and Conditions

F18.12 An employee should discuss with their Member, as soon as practicable, their intention to be absent on bonding leave.

F18.13 Bonding leave will be approved subject only to the Member being satisfied that the eligibility requirements have been met; however an employee must submit an application to the Member for any period of bonding leave.

F18.14 The employee must provide the Member with appropriate evidence concerning the circumstances under which the bonding leave application is made, which may include:

F18.14.1 a medical certificate relating to the estimated date of delivery of a child; or

F18.14.2 a birth certificate; or

F18.14.3 documents from an adoption authority concerning the proposed adoption of a child; or

F18.14.4 documents relating to a permanent caring arrangement until the child reaches the age of eighteen years.

F18.15 Unless the Member determines that exceptional circumstances apply, bonding leave will not be approved to care for:

F18.15.1 a baby over the age of fourteen weeks (not applicable in cases of adoption or permanent caring arrangements); or

F18.15.2 an adopted adult or adult who is the subject of a permanent caring arrangement over the age of eighteen years on the day of placement.

Rate of Payment

F18.16 Bonding leave will be granted with or without pay.

F18.17 The rate of payment to be paid to the employee during a period of paid bonding leave is the same rate as would be paid if the employee was granted personal leave.

Effect on Other Entitlements

F18.18 Paid bonding leave will count as service for all purposes and unpaid bonding leave will not count as service for any purposes, but will not break continuity of service.

F18.19 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid bonding leave will be paid as a normal public holiday and will not extend the maximum period of bonding leave.

F19 Grandparental Leave

Purpose

F19.1 Grandparental leave is available to employees to enable them to be absent from duty to undertake a primary care giving role to their grandchild during normal business hours.

Eligibility

F19.2 Grandparental leave is available to employees, other than casual employees and employees on probation.

F19.3 To be eligible for grandparental leave, the baby or child whom the employee is providing care for must be:

F19.3.1 their grandchild; or

F19.3.2 their step-grandchild; or

F19.3.3 their adopted grandchild; or

F19.3.4 a child for whom the employee's child has parental or caring responsibility authorised under a law of a State or Territory.

Entitlement

F19.4 An eligible employee may be granted up to fifty-two weeks of grandparental leave, in relation to each grandchild under care. This leave may be taken over a period not exceeding five years.

F19.5 Grandparental leave is available up until the fifth birthday of the grandchild for whom the employee is the primary care giver.

F19.6 Grandparental leave is non-cumulative.

F19.7 The length of a period of absence on grandparental leave must be agreed between the eligible employee and the Member.

Example 1: A day or part-day on an occasional basis.

Example 2: A regular period of leave each week, fortnight or month.

Example 3: A larger block of leave such as six or twelve months.

F19.8 If an employee is absent on grandparental leave and becomes a grandparent to another grandchild, for whom they are the primary care giver, a new application must be made as per subclause F19.10.

Evidence and Conditions

F19.9 An employee should discuss with their Member, as soon as practicable, their intention to be absent on grandparental leave.

F19.10 An employee must make an application to the Member to access their grandparental leave entitlement, and must include details of the period, or expected period, of the absence.

F19.11 Having considered the requirements of this clause the Member may approve an employee's application to access grandparental leave. A decision not to approve the leave will be taken in accordance with subclause F3.1.

F19.12 The Member should not approve an application for grandparental leave where an employee has an annual leave balance in excess of eight weeks.

F19.13 An application for grandparental leave must include evidence in the form of:

F19.13.1 a statutory declaration or a medical certificate confirming the birth or the estimated date of delivery of the grandchild; or

F19.13.2 the grandchild's adoption certificate or a statutory declaration confirming the adoption of the grandchild; or

F19.13.3 a letter or a statutory declaration confirming that there is an authorised care situation.

F19.14 If both grandparents are employees of the Territory either grandparent may be granted leave but the leave may not be taken concurrently.

Rate of Payment

F19.15 Grandparental leave will be granted without pay.

Effect on Other Entitlements

F19.16 Employees cannot engage in outside employment during a period of grandparental leave without the prior approval of the Member.

F19.17 Grandparental leave will count as service for all purposes except the accrual of annual leave and personal leave.

F19.18 Grandparental leave will not break continuity of service.

F19.19 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on grandparental leave will not be paid as a normal public holiday.

Access to Other Leave Entitlements

F19.20 An employee on grandparental leave may access annual leave, purchased leave or long service leave.

F19.21 An application by an employee for personal leave during a period that would otherwise be grandparental leave will be granted subject to the employee providing a certificate from a registered medical practitioner, or a registered health professional who is operating within their scope of practice.

Purpose

- F20.1 Adoption or Permanent Care leave is available to employees to enable them to be absent from duty to:
- F20.1.1 care for and bond with an adopted child or a child for whom the employee has a permanent caring responsibility, including kinship arrangements, where the child is under the age of eighteen years; and
 - F20.1.2 support the protection of the family and children under the *Human Rights Act 2004* and the *Children and Young People Act 2008*.

Eligibility

- F20.2 Paid adoption or permanent care leave is available to an employee, other than a casual employee, who is the primary care giver of:
- F20.2.1 an adopted child; or
 - F20.2.2 a child for whom the employee has a permanent caring responsibility, where the child is under the age of eighteen years.
- F20.3 An employee providing foster care under a Concurrency Care Foster Care Program described in clause F22 - will be treated as having a permanent caring responsibility, and be eligible for Adoption or Permanent Care leave subject to the terms of this clause.
- F20.4 An employee who:
- F20.4.1 is granted adoption or permanent care leave in respect of a child being cared for under a Concurrency Care Foster Care Program; and
 - F20.4.2 subsequently enters into an adoption or permanent care arrangement for that child,
- will not be eligible for any further grant of adoption or permanent care leave for that child.
- F20.5 An employee who has completed at least twelve months continuous service, including recognised prior service, immediately prior to commencing a period of adoption or permanent care leave, is eligible for adoption or permanent care leave.
- F20.6 An employee who is eligible for paid primary care giver leave is not eligible for adoption or permanent care leave.
- F20.7 An employee who completes twelve months of continuous service within eighteen weeks of becoming the primary care giver for an adopted child, or a child for whom the employee has a permanent caring responsibility, is eligible for adoption or permanent care leave for the period between completing twelve months of qualifying service and the end of the first eighteen weeks of becoming the primary care giver of the child.

Entitlement

- F20.8 An eligible employee is entitled to eighteen weeks of paid leave in relation to each occasion of adoption or commencement of a permanent caring responsibility, less any leave taken in accordance with clause F21 - in the same twelve-month period in relation to the same child.
- F20.9 A casual employee is entitled to unpaid pre-adoption leave in accordance with the provisions of the National Employment Standards.
- F20.10 To avoid doubt, the entitlement under subclause F20.8 does not increase when the adoption or permanent caring responsibility involves more than one child at the time of application.

F20.11 Adoption and permanent care leave is non-cumulative.

F20.12 An employee is entitled to return to work in accordance with the provisions in the National Employment Standards.

Evidence and Conditions

F20.13 An employee should discuss with their Member, as soon practicable, their intention to be absent on adoption or permanent carer leave.

F20.14 An employee must make an application to the Member to access their adoption or permanent care leave.

F20.15 The employee must provide the Member with appropriate evidence concerning the reasons for and circumstances under which the adoption or permanent care leave application is made, which may include:

F20.15.1 documents from an adoption authority concerning the adoption; or

F20.15.2 an authorisation as a kinship carer made under the *Children and Young Peoples Act 2008*; or

F20.15.3 documents confirming that an arrangement consistent with the terms set out in clause F22 - applies.

F20.16 In all cases details of leave being taken by other persons in relation to the same child must be provided.

F20.17 Leave under this clause will not be approved for employees in circumstances where the child has lived continuously with the employee for a period of six months or more at the date of placement or in cases where the child is a child of the employee or employee's spouse or partner.

F20.18 Before granting leave the Member must be satisfied that the employee is the primary care giver.

F20.19 Adoption or permanent care leave may commence up to one week prior to the date the employee assumes permanent caring responsibility for the child but not later than the formal commencement of the adoption or permanent caring responsibility, unless exceptional circumstances apply.

F20.20 In all cases, the child must be under the age of eighteen years on the date the employee assumes permanent responsibility for the child for leave to be approved.

Rate of Payment

F20.21 Adoption or permanent care leave will be granted with pay, except for unpaid pre-adoption leave for casual employees.

F20.22 The rate of payment to be paid to the employee during a paid period of adoption or permanent care leave is the same rate as would be paid if the employee was granted personal leave.

F20.23 Despite subclause F20.22 where an employee varies their ordinary hours of work, either from part-time to full-time, from part-time to different part-time, or from full-time to part-time, during the twelve-month period directly preceding adoption or permanent care leave, the rate of payment for the paid component of their adoption or permanent care leave, which will be capped at full-time rates, will be calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the twelve-month period immediately before the period of adoption or permanent care leave commences.

F20.24 To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of subclause F20.23.

F20.25 The Member may approve an employee taking adoption and permanent care leave in a non-continuous manner, provided a period of annual leave or long service leave in between the periods of adoption and permanent care leave will not be approved until the employee has used all of the employee's paid adoption and permanent care leave entitlement within fifty-two weeks of the commencement of the adoption or permanent caring responsibility.

F20.26 Leave may be granted with full or half pay, or a combination of full or half pay, with credits to be deducted on the same basis. The maximum paid period is up to thirty-six weeks at half pay.

Effect on Other Entitlements

F20.27 Paid adoption or permanent care leave will count as service for all purposes.

F20.28 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on adoption or permanent care leave will not be paid as a normal public holiday.

Interaction with Other Leave Types

F20.29 Adoption or permanent care leave does not extend the maximum period of unpaid parental leave available to an employee.

F21 Foster and Short-Term Care Leave

Purpose

F21.1 Foster and Short-Term Care leave is available to employees to enable them to be absent from duty to:

F21.1.1 care for a child in an emergency or other short term out of home care placement, including kinship arrangements and respite care, that has not been determined to be permanent; and

F21.1.2 support the protection of the family and children under the *Human Rights Act 2004* and the *Children and Young People Act 2008*.

Eligibility

F21.2 Foster and Short-Term Care leave is available to employees, other than casual employees, who are the primary care giver of a child in an emergency or other out of home care placement that has not been determined as permanent.

F21.3 An employee who has completed at least twelve months continuous service, including recognised prior service, immediately prior to commencing a period of Foster and Short-Term Care leave, is eligible for Foster and Short-Term Care leave.

Entitlement

F21.4 An eligible employee will be entitled to a period of paid leave proportionate to the duration of the caring arrangement per application, up to a maximum of ten working days per calendar year.

F21.5 Where the duration of the existing arrangement is subsequently altered, for example, a change from an emergency placement to a short-term placement, the employee may, subject to further application and approval, have their leave extended up to a maximum period of ten working days.

F21.6 An eligible employee will be entitled to paid leave as per subclause F21.4 to undertake accreditation towards an enduring parental authority to care for the child to whom the current short term caring arrangement applies.

F21.7 The entitlement under subclause F21.4 does not increase when the short-term caring arrangement involves more than one child at the time of application.

F21.8 Foster and Short-Term Care leave is non-cumulative.

F21.9 Where an employee exhausts their paid leave entitlement under this clause the employee may seek approval for further unpaid leave.

Evidence and Conditions

F21.10 An employee should discuss with their Member, as soon practicable, their intention to be absent on Foster and Short-Term Care leave.

F21.11 An employee must make an application, as soon as practicable, to the Member to access their Foster and Short-Term Care leave.

F21.12 The employee must provide the Member with appropriate evidence concerning the reasons for and circumstances under which each Foster and Short-Term Care leave application is made, which may include:

F21.12.1 documents relating to current and previous court orders granting responsibility for a foster child; or

F21.12.2 documents from a registered health professional or a registered medical practitioner.

Rate of Payment

F21.13 Foster and Short-Term Care leave will be granted with pay or without pay.

F21.14 The rate of payment during absence on a period of paid Foster and Short-Term Care leave is the same rate as would be paid if the employee was granted personal leave.

F21.15 The approved leave period may be taken at full pay in a single block, or as single or part-days.

Effect on Other Entitlements

F21.16 Paid Foster and Short-Term Care leave will count as service for all purposes, and unpaid Foster and Short-Term Care leave will not count as service for any purposes but will not break continuity of service.

F21.17 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid Foster and Short-Term Care leave will be paid as a normal public holiday and will not be considered to be Foster and Short-Term Care leave.

Interaction with Other Leave Types

F21.18 An eligible employee will be required to have exhausted their entitlement under this leave clause before accessing their personal leave credit to care for a child, for whom they are responsible under a short-term caring arrangement, who is ill or injured.

F22 Concurrency Care Entitlement to Adoption or Permanent Care Leave

F22.1 For the purpose of subclause F22.2, a Community Organisation is an organisation involved with out-of-home care and adoption of children and young people, such as:

F22.1.1 a member of the ACT Together consortium;

F22.1.2 Marymead; or

F22.1.3 similar organisations based outside the ACT.

F22.2 For the purposes of subclause F22.3, a Concurrency Care Foster Care Program involves a Community Organisation placing a child with foster carers while restoration to the birth family is explored. If restoration is not achieved, the foster carers have an opportunity to care for the child permanently. The primary care giver in such an arrangement is required by the Community Organisation to take a minimum of twelve months leave to stabilise the placement of the child.

F22.3 Notwithstanding clause F21 -, an employee who provides foster care under a Concurrency Care Foster Care Program, in accordance with arrangements approved by the Community Services Directorate, will be entitled to apply for Adoption or Permanent Care leave under clause F20 -, as if they had a permanent caring responsibility. Such employees will not be entitled to leave under clause F21 -.

F23 Leave for Family Violence Purpose

Purpose

F23.1 Leave for family violence purposes is available to employees who are experiencing family violence to allow them to be absent from the workplace to attend counselling appointments, legal proceedings and other activities related to, and as a consequence of, family violence.

Eligibility

F23.2 Leave for family violence purposes is available to all employees, with the exception of casual employees.

F23.3 Casual employees are entitled to access leave without pay for family violence purposes.

Entitlement

F23.4 An employee experiencing family violence will have access up to a maximum of twenty days per calendar year paid leave, subject to the provision of appropriate evidence. Leave for family violence purposes is non-accumulative.

F23.5 Leave for family violence purposes is in addition to other leave entitlements and is not to be used as a substitute for personal leave. However, where supporting evidence is not immediately available the Member will grant paid leave under clause F5 - of this Agreement (Personal Leave in Extraordinary and Unforeseen Circumstances), subject to available credit. If the employee subsequently produces supporting evidence, the personal leave will be re-credited and the leave taken will be converted to leave for family violence purposes.

F23.6 Leave for family violence purposes is to be used, including, but not limited to:

F23.6.1 attend appropriate medical appointments for referral to other appropriate counselling or support services;

F23.6.2 obtain legal advice;

F23.6.3 attend counselling appointments;

F23.6.4 seek assistance from other relevant support services;

F23.6.5 attend court proceedings;

F23.6.6 attend prosecution appointments;

F23.6.7 attend police appointments;

F23.6.8 attend to Protection Order matters and Domestic Violence Order matters however termed;

F23.6.9 attend to issues arising through urgent property damage that is a consequence of family violence;

F23.6.10 seek veterinary assistance for pets injured through family violence;

F23.6.11 access alternative accommodation;

F23.6.12 access alternative childcare or schooling for children;

the need for which is as a consequence of family violence occurring.

Note: It may be necessary under this provision for the employee to use additional time to the duration of appointments, proceedings etc. in order to facilitate travel and recovery.

- F23.7 Leave for family violence purposes may be taken as consecutive or single days, or as part-days.
- F23.8 For confidentiality and privacy reasons leave for family violence purposes will be attributed as coming under “where leave cannot be granted under any other provision” which is included and identified within “Other Leave Types” in Annex C of this Agreement.

Evidence and Conditions

- F23.9 Employees wishing to access leave for family violence purposes should discuss making an application with their Member or an appropriate HR Manager as soon as reasonably practical.
- F23.10 As a general rule, a leave application should be submitted by an employee for approval by the Member before the commencement of the leave. However, retrospective applications may be approved provided that appropriate evidence is provided as soon as reasonably practicable upon the employee’s return to the workplace.
- F23.11 Evidence of the occurrence of family violence will be required to access leave for family violence purposes.
- F23.12 Evidence may include:
- F23.12.1 a document issued by the Police;
 - F23.12.2 a written referral, issued by a registered medical practitioner or registered nurse, to a counsellor trained in providing support in family violence situations;
 - F23.12.3 a document issued by a Court, or a counsellor trained in providing support to people experiencing the effects of family violence;
 - F23.12.4 written confirmation from an Employee Assistance Program provider, or from a family violence support service that the employee is experiencing family violence issues.
- F23.13 Members are to keep all information concerning the leave application strictly confidential. This includes, after sighting any supporting documentation, returning that documentation to the employee.

Rate of Payment

- F23.14 Leave for family violence purposes is granted with pay. Casual employees are entitled to access leave without pay for family violence purposes.
- F23.15 Leave for family violence purposes will not be granted at half pay, unless there are extenuating circumstances.

Effect on Other Entitlements

- F23.16 Leave with pay for family violence purposes will count as service for all purposes. Leave without pay for family violence purposes will not count as service for any purpose, but will not break an employee’s continuity of service.

Interaction with Other Leave Types

- F23.17 Where leave for family violence purposes credits have been exhausted the Member may grant an employee leave without pay or other forms of paid leave, such as annual leave or long service leave.
- F23.18 Employees should utilise personal leave for an illness or injury, or to seek treatment for an illness or injury, caused by family violence.
- F23.19 Leave entitlements under clause F5 - of this Agreement (Personal Leave in Extraordinary and Unforeseen Circumstances) may be used by an employee who is seeking leave to support a person who is experiencing family violence.

Purpose

- F24.1 Other leave is available to employees to enable them to be absent from duty for a variety of purposes as set out in Annex C.
- F24.2 Other leave may be granted in the interests of:
- F24.2.1 the Assembly, a State, a Territory or the Commonwealth; or
 - F24.2.2 the community in general; or
 - F24.2.3 the employee.

Note: Separate provisions apply for community service leave which includes jury service, voluntary emergency management and voluntary community service.

Eligibility

- F24.3 An employee who meets the eligibility requirements specified in Annex C is eligible to apply for that form of other leave.

Entitlement

- F24.4 An employee may, subject to subclause F24.8, be granted other leave to the maximum period set out in Annex C.

Evidence and Conditions

- F24.5 An employee should discuss with their Member, as soon as practicable, their intention to be absent on a form of other leave, including the reasons for the absence and the period, or expected period, of the absence.
- F24.6 An employee must make an application to the Member to access a form of other leave.
- F24.7 Having considered the requirements of this clause the Member may approve an employee's application to access a form of other leave. A decision not to approve the leave must be made in accordance with subclause F3.1.
- F24.8 Any period of leave approved under this clause must not extend beyond the life of the current Assembly, or the expiry date of an employee's Employment Agreement, whichever occurs first.
- F24.9 The employee must, if requested by the Member, provide sufficient documentary evidence supporting the reason for the absence.
- F24.10 When considering requests for other leave, the Member will take into account:
- F24.10.1 the employee's circumstances;
 - F24.10.2 community norms and obligations;
 - F24.10.3 the operational requirements of the workplace;
 - F24.10.4 other available leave options;
 - F24.10.5 any conditions on the entitlement as defined in Annex C.

Rate of Payment

- F24.11 Other leave may be granted with or without pay in accordance with Annex C.

Effect on Other Entitlements

- F24.12 A period of other leave will, or will not, count as service in accordance with Annex C.

F24.13 Public holidays for which the employee is entitled to payment that fall during periods of absence on other paid leave will be paid as a normal public holiday and will not reduce an entitlement of the employee to other leave under Annex C.

Access to Other Leave Entitlements

F24.14 Leave will not be granted under this provision if another form of leave is more appropriate.

F25 Long Service Leave

Purpose

F25.1 Long service leave is available to employees to enable them to be absent from duty in recognition of their length of service in the public sector.

Eligibility

F25.2 The eligibility requirements and entitlements for long service leave under the relevant determination made under the LAMS Act apply, subject to the provisions of this clause.

Entitlement

F25.3 An employee may elect to receive an annual allowance calculated at two and a half percent of the employee's annual salary instead of the accrual of long service leave. If an employee elects to receive an annual allowance instead of long service leave the entitlement to accrue long service leave is forgone during the employee's period of employment.

F25.4 An Employee who makes no election under subclause F25.3 will accrue long service leave at the rate of three months for each ten years of completed eligible employment, or an equivalent period of employment for casual employees, subject to:

F25.4.1 a period without pay not to count as service of one day or more will not count towards long service accrual, but does not break a period of employment for the purpose of determining an employee's eligibility for long service leave; and

F25.4.2 long service leave accrues according to the employee's ordinary hours of work.

F25.5 The Member may grant long service leave to an employee who accrues long service leave under subclause F25.4 to the extent of that employee's pro-rata long service leave credits after seven years of completed eligible employment.

F25.6 Pursuant to subclause F25.5, to encourage the flexible use of long service leave:

F25.6.1 long service leave may be taken on double, full or half pay when approved by the Member and subject to operational requirements, with credits to be deducted on the same basis; or

F25.6.2 an employee may, in writing, request the approval of the Member to the partial or full payment in lieu (cash out) of their accrued long service leave credit. The payment in lieu is subject to a minimum payment of one week and will be based on the rate of pay the employee would have received had the employee taken the leave.

F25.7 If the employee is on higher duties at the time of taking long service leave under paragraph F25.6.1, or cashing out long service leave under paragraph F25.6.2, payment for the leave at the higher duties rate will only be approved if the higher duties would have continued for the entire period of the leave taken, or the entire period of the leave is cashed out.

F25.8 An employee who accrues long service leave under subclause F25.4, whose employment under the LAMS Act ceases otherwise than because of the employee's death, will receive payment on separation of any pro-rata long service leave entitlement, provided the employee has completed not less than one year of eligible employment, including any recognised service.

F25.9 If an employee whose period of eligible employment is not less than one year dies, the approving authority may authorise payment of an amount equal to the amount that would have been payable to the employee if the employee had, on the day the employee died, ceased to be an employee otherwise than because of death, on or after, the employee attaining the minimum retiring age.

Evidence and Conditions

F25.10 An employee should discuss with the Member as soon as practicable their intention to be absent on long service leave.

F25.11 An employee must make an application to the Member to access their long service leave entitlement.

F25.12 Having considered the requirements of this section the Member may approve an employee's application to access long service leave.

F25.13 If the Member does not approve an application by an employee for long service leave because of operational requirements the Member must consult with the employee to determine a mutually convenient alternative time (or times) for the employee to take the leave.

Effect on Other Entitlements

F25.14 Long service leave will count as service for all purposes.

F25.15 When applying for long service leave an employee must seek approval if they propose to engage in outside employment during the leave.

F26 Disability Leave

Purpose

F26.1 Disability leave is available to employees to enable them to be absent from duty for the purposes of activities associated with an employee's diagnosed permanent or ongoing physical or psychological disability.

F26.2 Disability leave supports the Territory's commitment to being an equitable employer and to support employees with disability to balance their work commitments with appointments or activities associated with their disability.

Eligibility

F26.3 Disability leave is available to employees, other than casual employees, who have a disability. For the purposes of this clause, disability is defined as a permanent or ongoing physical or psychological disability attributable to one or more intellectual, cognitive, neurological, sensory or physical impairments or to one or more impairments attributable to a psychiatric condition.

Entitlement

F26.4 Employees eligible for disability leave will be entitled up to a maximum of five days of disability leave per calendar year, subject to the provision of appropriate evidence. Disability leave is non-cumulative.

F26.5 An employee may be granted disability leave from the first day of service.

F26.6 The use of disability leave is restricted to activities associated with an employee's disability, and is not to be used as a substitute for personal leave entitlements available under clause F4

- F26.7 Disability leave is to be used for activities or appointments associated with the employee's disability, including, but not limited to any of the following:
- F26.7.1 To attend appointments with medical practitioners.
 - F26.7.2 To attend treatment, rehabilitation, therapy or counselling.
 - F26.7.3 To attend tests or assessments.
 - F26.7.4 To receive delivery of, fitting, repairing, maintaining and undergoing training in use of orthoses, prostheses, adaptive equipment, or other aids.
 - F26.7.5 To obtain wheelchair or other equipment maintenance or replacement.

Evidence and Conditions

- F26.8 Employees wishing to access disability leave should discuss their intention to take leave with the Member as soon as practical.
- F26.9 An employee must make an application to the Member to access disability leave accompanied by supporting documentary evidence.
- F26.10 Documentary evidence may include any of the following:
- F26.10.1 A medical certificate from a registered medical practitioner or registered health professional operating within their scope of practice.
 - F26.10.2 A written referral, issued by a registered medical practitioner.
 - F26.10.3 A statutory declaration.
 - F26.10.4 Other reasonable forms of documentation.
- F26.11 Having considered the requirements of this clause the Member may approve an employee's application to access disability leave, subject to operational requirements in the workplace.
- F26.12 If the Member does not approve an employee's application for disability leave because of operational requirements, the Member must consult with the employee to determine a mutually convenient alternative time (or times) for the employee to take the leave. A decision not to approve the leave must be made in accordance with subclause F3.1

Management of the Disability

- F26.13 An employee may initiate a request to establish an individual disability management plan.
- F26.14 Following a request made under 0, the Member and employee will jointly prepare and agree to a disability management plan.

Rate of Payment

- F26.15 Disability leave must be granted with pay.
- F26.16 The rate of payment to be paid to the employee during a paid period of disability leave is the same rate as would be paid if the employee was granted paid personal leave.

Effect on Other Entitlements

- F26.17 Employees who are unable to attend work due to illness related to their disability may utilise personal leave.
- F26.18 Disability leave will count as service for all purposes.
- F26.19 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on disability leave must be paid as a normal public holiday.

Interaction with Other Leave Entitlements

F26.20 Where an employee has exhausted their disability leave entitlement, they may apply to the Member for approval to take personal leave, or other forms of paid leave such as annual leave or long service leave.

F27 Surrogacy Leave

Purpose

F27.1 Surrogacy leave is available to pregnant employees who have entered into a valid surrogacy arrangement to enable them to be absent from duty to do both of the following:

F27.1.1 Support their own wellbeing.

F27.1.2 Support the employee's right to continuity of service.

Eligibility

F27.2 An employee who is pregnant as part of a valid Australian surrogacy agreement is eligible to be absent on surrogacy leave.

F27.3 An employee who is eligible for surrogacy leave is not entitled to birth leave under clause F14.

F27.4 An employee is eligible for surrogacy leave where one of the following applies:

F27.4.1 The employee gives birth to a living child as part of a valid surrogacy agreement.

F27.4.2 The employee's pregnancy as part of a valid surrogacy agreement ends at or within twenty weeks of the estimated date of delivery other than by the birth of a living child, including where a child is stillborn.

F27.5 Where an employee's pregnancy ends more than twenty weeks before the estimated date of delivery of the child any surrogacy leave which has been prospectively approved must be cancelled. In this circumstance the employee may become eligible for compassionate leave in accordance with clause F12 and/or special birth leave in accordance with clause F15.

Eligibility – paid surrogacy leave

F27.6 An employee, other than a casual employee, who is eligible for surrogacy leave and who has completed twelve months of continuous service, including recognised prior service, immediately prior to commencing a period of surrogacy leave is eligible for paid surrogacy leave.

F27.7 An employee, other than a casual employee, who is eligible for surrogacy leave and who completes twelve months of continuous service within the first twelve weeks of surrogacy leave is eligible for paid surrogacy leave for the period between completing twelve months of service and the end of the first twelve weeks of surrogacy leave.

F27.8 An employee who is eligible for paid surrogacy leave and who is on approved leave without pay is eligible for paid surrogacy leave for the period between completing the approved period of leave without pay and the end of the first twelve weeks of surrogacy leave.

Entitlement

F27.9 Subject to subclause 0, an employee who is eligible for paid surrogacy leave is entitled to twelve weeks of paid leave in relation to each birth.

F27.10 To avoid doubt, the entitlement under this clause does not increase in cases of multiple births.

F27.11 Surrogacy leave is non-cumulative.

- F27.12 Subject to subclauses 0 and 0, a surrogate who is eligible for surrogacy leave must absent themselves from duty for a period commencing six weeks prior to the estimated date of delivery of the child and ending six weeks after the actual date of birth of the child.
- F27.13 A surrogate who produces medical evidence from a registered medical practitioner stating they are fit for duty until a date less than six weeks prior to the estimated date of delivery of the child may continue to work up until a date recommended by the medical practitioner, subject to the approval of the Member.
- F27.14 A surrogate who has given birth to a child and produces medical evidence from a registered medical practitioner stating they are fit for duty from a date less than six weeks after the date of birth of the child may resume duty on a date recommended by the medical practitioner, subject to the approval of the Member.
- F27.15 A surrogate who has given birth to a child may resume duty following the end of the six-week period after the birth of the child, and earlier than the end of the approved period of surrogacy leave subject to the approval of the Member.
- F27.16 An employee who has given birth to a child is entitled to return to work in accordance with the provisions in the National Employment Standards of the FW Act.

Evidence and conditions

- F27.17 An employee must give notice to the Member as soon as practicable of their intention to be absent on surrogacy leave.
- F27.18 Surrogacy leave is deemed to be approved, however, an employee must submit an application to the Member for any period of surrogacy leave.
- F27.19 Having considered the requirements of this clause the Member must approve an employee's application to access surrogacy leave.
- F27.20 Prior to commencing surrogacy leave an employee will provide the Member with documentary evidence of both the following:
- F27.20.1 The pregnancy and the estimated date of delivery from a registered medical practitioner or registered health professional who is operating within their scope of practice.
 - F27.20.2 Evidence of the valid surrogacy arrangement.
- F27.21 If requested by the Member, an employee must provide the Member with documentary evidence of the birth and the date of the birth of the child as soon as possible after the birth of the child. Such documentary evidence may include a copy of the birth certificate or documents provided by a registered medical practitioner or registered health professional who is operating within their scope of practice.

Rate of payment

- F27.22 The rate of payment to the employee during a paid period of surrogacy leave is the same rate as would be paid if the employee was granted paid personal leave.
- F27.23 Despite 0, where an employee varies their ordinary hours of work, either from part-time to full-time, from part-time to different part-time, or from full-time to part-time, during the twelve-month period directly preceding surrogacy leave, the rate of payment for the paid component of their surrogacy leave, which will be capped at full-time rates, will be calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the twelve-month period immediately before the period of surrogacy leave commences.

F27.24 To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of subclause 0.

Effect on other entitlements

F27.25 Surrogacy leave with pay will count as service for all purposes.

F27.26 Any period of unpaid surrogacy leave taken by an employee during the period commencing six weeks prior to the estimated date of delivery of the child and ending six weeks after the actual date of birth of the child will count as service for all purposes.

F27.27 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on surrogacy leave will not be paid as a normal public holiday.

Interaction with other leave entitlements

F27.28 An employee who is eligible for surrogacy leave is not entitled to birth leave under clause F14.

F28 Gender Transition Leave

Purpose

F28.1 Gender transition leave is available to employees to enable them to be absent from duty for the purposes of activities associated with affirming an employee's gender.

Eligibility

F28.2 Gender transition leave is available to employees, other than casual employees, who are undergoing transition to another gender.

Entitlement

F28.3 Gender transition leave is available to an employee for the first fifty-two weeks after commencement of living as a member of another gender.

F28.4 An employee undergoing gender transition is entitled, subject to the provision of appropriate evidence, to both the following:

F28.4.1 Up to four weeks (twenty days) paid leave, or up to eight weeks (forty days) at half pay.

F28.4.2 Up to forty-eight weeks unpaid leave.

F28.5 Leave for gender transition purposes is in addition to other leave entitlements, and is to be used for activities associated with affirming an employee's gender, including, but not limited to any of the following:

F28.5.1 To attend appropriate medical or psychological appointments.

F28.5.2 To attend counselling appointments.

F28.5.3 To obtain legal advice.

F28.5.4 To obtain hormonal treatments.

F28.5.5 To undergo gender transition surgery or to attend surgery-related appointments.

Note: it may be necessary under this provision for the employee to use additional time to the duration of appointments in order to facilitate travel and recovery.

F28.6 Leave for gender transition purposes may be taken as consecutive or single days, or as part-days.

Evidence and conditions

F28.7 Employees wishing to access gender transition leave should discuss their intention to take leave with the Member, or an appropriate HR Manager, as soon as practical.

F28.8 An employee must make an application to the Member to access gender transition leave. As far as practicable an employee will provide at least four weeks' written notice of their intended commencement date together with supporting documentary evidence.

F28.9 Evidence may include any of the following:

F28.9.1 A medical certificate from a registered medical practitioner or registered professional operating within their scope of practice.

F28.9.2 A written referral, issued by a registered medical practitioner, to a counsellor.

F28.9.3 A document issued by a counsellor.

F28.9.4 A legal or other document issued by a State, Territory, or Federal Government organisation.

F28.9.5 A statutory declaration.

F28.10 Having considered the requirements of this clause the Member may approve an employee's application to access gender transition leave.

Rate of payment

F28.11 Gender transition leave will be granted with pay for the first four weeks, or eight weeks at half pay.

F28.12 Paid gender transition leave may be taken with full or half pay, or a combination of full and half pay, with credits to be deducted on the same basis. The maximum paid period is up to eight weeks at half pay.

F28.13 The rate of payment to be paid to the employee during a paid period of gender transition leave is the same rate as would be paid if the employee was granted paid personal leave.

Effect on other entitlements

F28.14 Leave with pay for gender transition purposes will count as service for all purposes. Leave without pay for gender transition purposes will not count as service for any purpose, but will not break an employee's continuity of service.

F28.15 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on gender transition leave will be paid as a normal public holiday.

Interaction with other leave entitlements

F28.16 An application by an employee for long service leave or annual leave during a period that would otherwise be an unpaid period of gender transition leave will be granted to the extent of available entitlements.

F28.17 An application by an employee for personal leave during a period that would otherwise be an unpaid period of gender transition leave will be granted subject to the employee providing a certificate from a registered medical practitioner or registered health professional operating within their scope of practice to the extent of available entitlements.

Section G Communication and Consultation

G1 Consultation

- G1.1 There should be effective consultation with an employee(s) and their representatives on, and employee participation in, decisions that affect them. This is essential to the successful management of change.
- G1.2 Where there are proposals by the Chief Minister or a Member to introduce changes that would have a significant effect on an employee or a group of employees, the Chief Minister or Member will consult with the affected employees and the union(s). Consultation means a genuine opportunity to contribute to and influence the decision-making process prior to decisions being made.
- G1.2.1 Significant effect includes, but is not limited to, effects of proposals that deal with:
- (a) the termination of the employment of employees through redundancy; or
 - (b) changes to the composition, operation or size of the office workforce or the skills required of employees; or
 - (c) the alteration of hours of work; or
 - (d) the need to retrain employees; or
 - (e) the need to physically relocate employees; or
 - (f) the restructuring of job-roles, positions or structures; or
 - (g) changes to employment policies; or
 - (h) anything likely to materially affect workloads.
- G1.3 An employee(s) and/or their representatives may also initiate consultation on any matters or proposals if such consultation hasn't already been initiated under subclause G1.2.
- G1.4 The Chief Minister or Member will provide relevant information to assist the employee(s) and the union(s) to understand the reasons for the proposed changes and the likely impact of these changes so that the employee(s) and union(s) are able to contribute to the decision making process.
- G1.5 In addition to the consultation outlined in subclauses G1.1 to G1.3, for the purpose of providing effective consultation:
- G1.5.1 adequate time will be provided to employees and the union(s) to consult with management;
 - G1.5.2 a LAMS Consultative Committee (LAMS CC) will be established, with membership to be agreed by the Chief Minister and the union(s) following commencement of this Agreement; and
 - G1.5.3 additional levels of consultation, such as a Workplace Consultative Committee, may be established to operate at the local level.
- G1.6 The purpose of the LAMS CC is to:
- G1.6.1 monitor the operation and implementation of this Agreement;
 - G1.6.2 consider any proposed new or proposed significant changes to Assembly policy statements and guidelines that relate to the provisions of this Agreement; and
 - G1.6.3 consult on workplace matters significantly affecting employees.

G1.7 The LAMS CC will meet within two months of the commencement of this Agreement. The purpose of this meeting is to agree on the terms of reference, which will include the consultative structure to operate during the term of this Agreement.

G1.7.1 The LAMS CC will meet no less than once in any twelve-month period thereafter, unless a different period is agreed in the Terms of Reference.

G1.7.2 Additional meetings of the LAMS CC may also be convened if requested by any member of the LAMS CC, or as determined by the Terms of Reference.

Consultation on Changes to Regular Rosters or Ordinary Hours of Work

G1.8 Where the Member proposes to introduce a change to the regular roster or ordinary hours of work of employees, the following will apply:

G1.8.1 the Member must notify the relevant employees of the proposed change;

G1.8.2 the Member must recognise the affected employee(s) union or other representative;

G1.8.3 as soon as practicable after proposing to introduce the change, the Member must:

(a) discuss with the relevant employees the introduction of the change; and

(b) for the purposes of the discussion, provide to the relevant employees:

i. all relevant information about the change, including the nature of the change; and

ii. information about what the Member reasonably believes will be the effects of the change on the employees; and

iii. information about any other matters that the Member reasonably believes are likely to affect the employees; and

(c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

G1.9 However, the Member is not required to disclose confidential or commercially sensitive information to the relevant employees.

G1.10 The Member must give prompt and genuine consideration to matters raised about the change by the relevant employees.

G1.11 These provisions are to be read in conjunction with other consultative obligations detailed in the Agreement.

Note: In this term "**relevant employees**" means the employees who may be affected by a change referred to in subclause G1.8.

G1.12 In addition, the employer undertakes that, for the purposes of subclause G1.2, the Member will recognise and consult with the affected employee(s), their union or other representative.

G2 Freedom of Association

G2.1 The Territory recognises that employees are free to choose whether or not to join a union. Irrespective of that choice, employees will not be disadvantaged or discriminated against in respect of the employees' employment under this Agreement. The Territory recognises that employees who choose to be members of a union have the right to choose to have their industrial interests represented by the union.

G2.2 Employees in negotiations of any kind are entitled to negotiate collectively where they so choose.

- G2.3 Employees engaging in negotiations of any kind are entitled to be represented by a representative of their choice. The Territory will deal with any such representative in good faith.

G3 Right of Existing and New Employees to Representation in the Workplace

- G3.1 The Territory acknowledges the rights of its employees to be represented on any workplace relations matter and to meet with their representatives in the workplace. The Territory recognises the legitimate right of the union(s) to represent its employees who are members, or eligible to become members of the union(s).
- G3.2 The FW Act prescribes the purpose and manner under which the union(s) may exercise right of entry in the workplace. The Territory will grant the union(s) access in accordance with the FW Act.
- G3.3 In addition, the Territory will:
- G3.3.1 allow union officials and employees, who are permit holders, to enter the workplace for normal union business or to represent employees, to meet with management or members and to distribute or post material, provided that work is not disrupted;
 - G3.3.2 allow the union(s) to meet with new employees who are members, or who are eligible to become members, of the union(s), at a time during normal working hours which the union(s) and the Member agree upon, and of which the relevant corporate area will advise the employees;
 - G3.3.3 provide all new employees with some form of induction program, including an induction package containing information about the union(s) which the union(s) has given the relevant corporate area; and
 - G3.3.4 invite the union(s) to attend any face-to-face induction of new employees, the details of which the relevant corporate area will advise to the union(s) contact officer or other nominated person with reasonable notice. Such attendance will be included as an integral part of the induction process and be for the purpose of delivering an information presentation including recruitment information to new employees.
- G3.4 For the avoidance of doubt, nothing in subclause G3.3 should be taken as conferring a right of entry that is contrary to, or for which there is otherwise, a right of entry under the FW Act.

G4 Co-operation and Facilities for Unions and Other Employee Representatives

- G4.1 For the purpose of ensuring that union(s) and other employee representatives who are employees of the Territory can effectively fulfil their employee representative role under this Agreement, the following provisions will apply.
- G4.2 Reasonable access to Assembly facilities, including the internal courier service, access to the ACT Government communication systems, telephone, facsimile, photocopying, access to meeting rooms and storage space, will be provided to union(s) and other employee representatives to assist them to fulfil their representative obligations, duties and responsibilities having regard to the Assembly's statutory obligations, operational requirements and resources.
- G4.3 In addition to the Assembly facilities outlined in subclause G4.2, where available, a union or employee representative who is an employee of the Territory will be able to establish designated Microsoft Outlook public folders which will provide a collaborative electronic workspace to improve the flow of information. The use of Assembly facilities will be in accordance with published policies and for matters other than for industrial action.

- G4.4 A union or other employee representative who is an employee of the Territory will be provided with adequate paid time off from their usual working hours, to undertake duties to represent other employees.
- G4.5 While the representative duties would normally be expected to be performed within the workplace, on occasions the union or employee representative may be required to conduct these duties external to the workplace.
- G4.6 The role of union workplace delegates and other recognised union representatives is to be respected and facilitated. The Territory and union workplace delegates must deal with each other in good faith.
- G4.7 In addition to other provisions in this Agreement, in discharging their representative roles at the workplace level, the rights of union workplace delegates include, but are not limited to:
- G4.7.1 the right to be treated fairly and perform their role as workplace delegate without any discrimination in their employment;
 - G4.7.2 recognition by the Territory that endorsed workplace delegates speak on behalf of their members in the workplace;
 - G4.7.3 the right to participate in collective bargaining on behalf of those who they represent, as per the FW Act;
 - G4.7.4 the right to reasonable paid time off from their usual working hours to:
 - (a) provide information and seek feedback from employees in the workplace on workplace relations matters in the Assembly during normal working hours;
 - (b) represent the interests of members to the employer and industrial tribunals;
 - (c) consult with other delegates and union officials in the workplace, and receive advice and assistance from union staff and officials in the workplace;
 - G4.7.5 the right to email employees in their workplace to provide information to and seek feedback, subject to individual employees exercising a right to 'opt out';
 - G4.7.6 the right to consultation, and access to relevant information about the workplace and the Assembly, subject to privacy legislation and other relevant legislation;
 - G4.7.7 the right to undertake their role as union representatives on Assembly workplace relations consultative committee(s);
 - G4.7.8 reasonable access to Assembly facilities (including internet and email facilities, meeting rooms, lunch rooms, tea rooms and other areas where employees meet) for the purpose of carrying out work as a delegate and consulting with members and other interested employees and the union;
 - G4.7.9 the right to address new employees about union membership at the time they enter employment in their workplace;
 - G4.7.10 the right to access appropriate training in workplace relations matters including training provided by a union in accordance with clause G5.
- G4.8 In exercising their rights under subclause G4.7, workplace delegates and unions will adhere to Assembly policies and guidelines and consider operational issues and the likely effect on the efficient operation of the Assembly and the provision of services.

G5 Attendance at Industrial Relations Courses and Seminars

- G5.1 For the purpose of assisting employees in gaining a better understanding of industrial relations issues relating to this Agreement, leave will be granted to employees to attend recognised short training courses or seminars on the following conditions:

- G5.1.1 that operating requirements permit the granting of leave;
 - G5.1.2 that the scope, content and level of the short courses contribute to the better understanding of industrial relations issues;
 - G5.1.3 leave granted under this clause will be with full pay, not including the LAMS Allowance or overtime; and
 - G5.1.4 each employee will not be granted more than fifteen days leave in any calendar year.
- G5.2 If the employee has applied for leave under subclause G5.1 and the Member rejected the application because of operational requirements, approval of any subsequent application for leave by the employee under subclause G5.1 will not be withheld unreasonably, provided that the employee gives the Member at least fourteen days' notice in writing.
- G5.3 Courses to which subclause G5.1 applies include any short course conducted or accredited by a relevant employee organisation (for example union(s), the Australian Council of Trade Unions or the ACT Trades and Labour Council).
- G5.4 Leave granted for this purpose will count as service for all purposes.

G6 Dispute Avoidance/Settlement Procedures

- G6.1 The objective of these procedures is the prevention and resolution of disputes about:
- G6.1.1 matters arising in the workplace, including disputes about the interpretation or implementation of this Agreement; and
 - G6.1.2 the application of the National Employment Standards.
- G6.2 For the purposes of this clause, except where the contrary intention appears, the term 'parties' refers to 'parties to the dispute'.
- G6.3 All persons covered by this Agreement agree to take reasonable internal steps to prevent, and explore all avenues to seek resolution of, disputes.
- G6.4 An employee who is a party to the dispute may appoint a representative, which may be a relevant union, for the purposes of the procedures of this clause.
- G6.5 In the event there is a dispute, the following processes will apply.
- G6.6 Where appropriate, the relevant employee or the employee's representative will discuss the matter with the Member.
- G6.7 In instances where the dispute remains unresolved, the employee, the union or other employee representative will be notified and a meeting will be arranged at which a course of action for resolution of the dispute will be discussed.
- G6.8 If the dispute remains unresolved after this procedure, a party to the dispute may refer the matter to the FWC.
- G6.9 The FWC may deal with the dispute in two stages:
- G6.9.1 the FWC will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
 - G6.9.2 if the FWC is unable to resolve the dispute at this first stage, the FWC may then:
 - (a) arbitrate the dispute; and
 - (b) make a determination that is binding on the parties.

- G6.10 The FWC may exercise any powers it has under the FW Act as are necessary for the just resolution or determination of the dispute.
- G6.11 A person may be assisted and represented at any stage in the dispute process in the FWC on the same basis as applies to representation before the FWC under section 596 of the FW Act.
- G6.12 All persons involved in the proceedings under subclause G6.9 will participate in good faith.
- G6.13 Unless the parties agree to the contrary, the FWC will, in responding to the matter, have regard to whether a party has applied the procedures under this term and acted in good faith.
- G6.14 The parties agree to be bound by a decision made by the FWC in accordance with this clause.
- G6.15 Notwithstanding subclause G6.14, any party may appeal a decision made by the FWC in accordance with the FW Act.
- G6.16 Despite the above, the parties may agree to submit the dispute to a body or person other than the FWC. Where the parties agree to submit the dispute to another body or person:
- G6.16.1 all of the above provisions apply, unless the parties agree otherwise; and
 - G6.16.2 references to the FWC in the above provisions will be read as a reference to the agreed body or person;
 - G6.16.3 all obligations and requirements on the parties and other relevant persons under the above provisions will be complied with; and
 - G6.16.4 the agreed body or person must deal with the dispute in a manner that is consistent with section 740 of the FW Act.
- G6.17 While the parties are trying to resolve the dispute using procedures in this clause:
- G6.17.1 an employee must continue to perform their work as they would normally unless they have a reasonable concern about an imminent risk to their health or safety; and
 - G6.17.2 an employee must comply with a direction given by the Member to perform other available work at the same workplace, or at another workplace, unless:
 - (a) the work is not safe; or
 - (b) applicable occupational health and safety legislation would not permit the work to be performed; or
 - (c) the work is not appropriate for the employee to perform; or
 - (d) there are other reasonable grounds for the employee to refuse to comply with the direction.
- G6.18 Any dispute formally commenced in accordance with clause G6 under *the ACT Legislative Assembly Members' Staff Enterprise Agreement 2018 – 2021*, but not concluded before the commencement of this Agreement, shall continue to be dealt with in accordance with the dispute settlement provisions in this Agreement. Any steps already taken in that process will be recognised and accepted by parties and the FWC as steps taken for the purpose of this clause.

Section H Workplace Values and Behaviours

H1 Introduction

- H1.1 Members and employees have a common interest in ensuring that workplace behaviours are consistent with, and apply the obligations set out in the relevant Code of Conduct and in the employee's Employment Agreement. This involves the development of an ethical and safe workplace in which Members and employees act responsibly and are accountable for their actions and decisions. Bullying, harassment and discrimination of any kind will not be tolerated in the Assembly. It is recognised that bullying, harassment and discrimination in the workplace has both emotional and financial costs and that both systemic and individual instances of bullying and harassment are not acceptable.
- H1.2 The following provisions of Section H contain procedures for managing workplace behaviours that do not meet expected standards, including the management of cases of unsatisfactory work performance and misconduct.
- H1.3 These procedures in this Section account for the principles of natural justice and procedural fairness.
- H1.4 Any misconduct, underperformance or internal review process under the previous enterprise agreement that is not completed as at the date of commencement of this enterprise agreement will be completed under the previous enterprise agreement. Any right of review from that process will also be set out in the previous enterprise agreement.
- H1.5 Noting that the provisions of this Section H are in similar terms to Section H (however described) of other ACTPS enterprise agreements. If an employee moves to the ACT Public Service, either on a permanent or temporary basis, while a misconduct process is on foot, and irrespective of whether this Agreement or another ACTPS Enterprise Agreement applied to the employee at the time the misconduct process commenced, the misconduct process may continue and, if the process continues, the employee is required to continue to participate in the process.
- H1.5.1 Any disciplinary action and sanction which is determined to be applied under clause H11 - will be applied to the employee in their new position, where the relevant delegate determines it is appropriate and necessary and having due regard to the nature of the misconduct and the changes in employment circumstances including any material bearing on the employee's duties and responsibilities in their new position.
- H1.6 If an employee resigns while a misconduct process is on foot, the employing Member may:
- H1.6.1 determine to complete the misconduct process under Section H of this Agreement, including inviting the employee to participate in the process, such that the outcome of the process can be taken into account with any application by the employee to subsequently re-enter employment with the Territory; or
- H1.6.2 determine to stay the process upon the employee's resignation and communicate to the employee that the misconduct process may recommence if the employee subsequently re-enters, or seeks to re-enter, employment with a Member of the Legislative Assembly. Any disciplinary action and sanction which is determined as a consequence of a resumed misconduct process may be imposed on the employee in their new position in accordance with H1.5.1 or taken into account with any application by the employee to subsequently re-enter employment with a Member of the Legislative Assembly.

H2 Preliminary Assessment

- H2.1 In cases where an allegation of inappropriate behaviour or alleged misconduct is made, or an incident occurs which may be deemed to be inappropriate behaviour or alleged misconduct, the Member will initiate an assessment process to determine whether the matter can be resolved, or whether further action is required or not.
- H2.2 The Member may inform and/or seek advice from, or the assistance of, an appropriate Human Resources adviser.
- H2.3 The assessment should be done in an expedient manner and generally be limited to having communication (either verbal or written) about the allegation or incident, with relevant employees, and, if requested, their representatives.
- H2.4 Although the principles of procedural fairness apply, this assessment is not a formal investigation (as this may occur after the assessment is undertaken) and is designed to enable a Member to quickly determine whether formal investigation or other action is needed or not to resolve the issues.
- H2.5 Following this process, if the Member determines that the allegation:
- H2.5.1 requires no further action, then no further action needs to be taken;
 - H2.5.2 can be resolved through counselling, other remedial action, or assistance to the employee then the Member will implement such action;
 - H2.5.3 are better resolved through Internal Review procedures set out in this Agreement or appropriate external mechanisms, the Member will refer the matter accordingly;
 - H2.5.4 relate to underperformance processes, the Member will commence an underperformance process where this is warranted;
 - H2.5.5 require investigation, the Member will conduct an investigation;
 - H2.5.6 may be vexatious or knowingly false, the Member will consider whether further action needs to be taken in relation to the person who made the allegations.
- H2.6 If it is appropriate to do so, the Member will inform the relevant employees where a preliminary assessment process is commenced under subclause H2.1, and will communicate the outcomes to relevant employees and their representatives if any.
- H2.7 In performing the preliminary assessment the relevant authorising officer may authorise access to relevant Territory information and communication technology (ICT) records including email, computer, work phone records, or building access logs if, in the opinion of the Member, access is necessary to determine whether further action is necessary.
- H2.8 The Member may determine that no investigation is necessary where the employee admits to the alleged misconduct and the employee agrees that there is no need for an investigation. The employee must fully understand the misconduct they are admitting to and make an admission statement.
- H2.9 Where an employee makes an admission in accordance with subclause H2.8 the Member may determine the appropriate disciplinary action/sanction in accordance with clause H11 -. The Member must ensure that they have sufficient information concerning the nature and full circumstances of the misconduct, any mitigating factors, and details of the employee's prior service record and performance to enable a fair and reasonable determination under clause H11 - to be made.

H3 Counselling

- H3.1 Counselling may happen outside of the misconduct and underperformance processes. This is an opportunity for the employee and the Member to discuss possible causes and remedies for identified workplace problems. All parties have an obligation to participate in counselling in good faith.
- H3.2 In cases where counselling is considered to be appropriate, the employee will be informed what the discussion will be about and be invited to have a support person, who may be the employee's union or other employee representative, present at the counselling and will allow reasonable opportunity for this to be arranged.
- H3.3 The Member will create a formal record of the counselling which will include details about the ways in which the employee's conduct needs to change or improve, the time frames within which these changes or improvements must occur and may include a written direction about future expectations, standards and behaviours.
- H3.4 The record of the counselling will be provided to the employee and the employee given an opportunity to correct any inaccuracies and provide comments before signing the record. The employee's signature is taken as representing their full agreement that the record accurately reflects the discussion. If the employee elects not to sign the record, then details of the offer and any reasons given for refusal will be clearly noted.
- H3.5 Where the Member considers that the employee's conduct has not improved following counselling, an underperformance or misconduct process may be undertaken in relation to continued and/or subsequent behaviour, following a preliminary assessment being undertaken in accordance with clause H2 -.

H4 Underperformance

- H4.1 Under this clause, procedures are established for managing underperformance by an employee.
- H4.2 The objectives of these procedures are to:
- H4.2.1 provide advice and support to an employee whose performance is below the standard required; and
 - H4.2.2 provide a fair, prompt and transparent framework for action to be taken where an employee continues to perform below expected standard.

Underperformance Discussions

- H4.3 Consistent with good management practice, concerns about underperformance should be raised by the Member with the employee at the time that the concerns arise or are identified. The Member should offer advice and support to the employee to overcome these concerns. The Member should inform the employee that the underperformance procedures in subclauses H4.6 to H4.13 might be invoked if the underperformance continues.
- H4.4 In order to ensure that these procedures operate in a fair and transparent manner, the Member will be responsible for documenting all relevant discussions. The employee must be given the opportunity to comment on any records before signing them. In circumstances where the employee refuses to sign such a record, the refusal will be noted on the relevant record.
- H4.5 All parties have an obligation to participate in underperformance processes in good faith.

Underperformance Process

Step One:

- H4.6 Where a Member assesses that an employee's work performance is demonstrated as being below expected standards, after having previously discussed concerns with the employee in line with subclause H4.3, the Member will inform the employee in writing of this assessment and the reasons for it. The employee will be invited by the Member to provide written comments on this assessment, including any reasons that in the employee's view may have contributed to their recent work performance.
- H4.7 After taking into account the comments from the employee, the Member will inform the employee in writing of:
- H4.7.1 the expected standards of work required of the employee on an on-going basis;
 - H4.7.2 any learning and development strategies that the employee should undertake;
 - H4.7.3 the potential underperformance actions that may be taken if the employee does not meet the expected standards; and
 - H4.7.4 the assessment criteria to be measured and the period during which a further review of the employee's work performance will be conducted.
- H4.8 The Member will invite the employee to have a support person, who may be the employee's union or other employee representative, present at discussions and will allow reasonable opportunity for this to be arranged.

Step Two:

- H4.9 If at the end of the review period, the Member assesses the work performance of the employee as satisfactory, no further action will be taken under these procedures at that time. The Member will inform the employee in writing of this decision.
- H4.10 If at the end of the review period, the Member assesses the work performance of the employee as not satisfactory, the Member will advise the employee in writing of:
- H4.10.1 the assessment and reasons for the Member's assessment;
 - H4.10.2 the underperformance action(s) (subclause H4.11) proposed to be taken and the reasons for proposing this action; and
 - H4.10.3 the employee's right to respond in writing to the proposed action within a period of not more than seven calendar days.
- H4.11 After considering any response from the employee, the Member may decide to take one or more of the following underperformance actions:
- H4.11.1 alter the employee's duties;
 - H4.11.2 reduce the employee's incremental pay point;
 - H4.11.3 temporarily or permanently reduce the employee's classification and pay;
 - H4.11.4 remove any monetary benefit derived through an existing Specialist Duties Payment;
 - H4.11.5 terminate the employee's employment.
- H4.12 The Member will inform the employee in writing of the decision made under subclause H4.11, the reasons for the decision and the review mechanisms available under this Agreement.

- H4.13 At any time after seven calendar days from the date the Member advised the employee under subclause H4.10, the Member may take one or more of the under-performance actions outlined in the information provided to the employee under subclause H4.10.

H5 Review Rights

- H5.1 The employee has the right under Section I to seek a review of any underperformance action taken under subclause H4.11, except action to terminate the employee's employment.
- H5.2 The employee may have an entitlement to bring an action under the FW Act in respect of any termination of employment under this Agreement. This will be the sole right of review of such an action.

H6 Misconduct and Discipline

Objectives and Application

- H6.1 This clause establishes procedures for managing misconduct or alleged misconduct by an employee.
- H6.2 The objective of these procedures is to encourage the practical and expeditious resolution of misconduct issues in the workplace.
- H6.3 All parties have an obligation to participate in misconduct processes in good faith.

What is Misconduct

- H6.4 For the purposes of this Section, misconduct includes any of the following:
- H6.4.1 the employee fails to meet the obligations set out in the employee's Employment Agreement or the relevant Code of Conduct;
 - H6.4.2 the employee engages in conduct that the Member is satisfied has brought, or is likely to bring, the Assembly or the Territory into disrepute;
 - H6.4.3 a period of unauthorised absence and the employee does not offer a satisfactory reason on return to work;
 - H6.4.4 the employee is found guilty of, or is convicted of a criminal offence or where a court finds that an employee has committed an offence but a conviction is not recorded, taking into account the circumstances and seriousness of the offence, the duties of the employee and the interests of the Assembly and/or the Member;
 - H6.4.5 the employee fails to notify the Member of criminal charges in accordance with clause H12; or
 - H6.4.6 the employee makes a vexatious or knowingly false allegation against another employee.

What is Serious Misconduct

- H6.5 Serious misconduct means conduct that is so serious that it may be inconsistent with the continuation of the employee's employment with the Territory. Serious misconduct includes but is not limited to the kinds of serious misconduct defined within the Fair Work Regulations.

H7 Dealing with Allegations of Misconduct

- H7.1 Where the Member is of the opinion that an investigation is required, the Member will:
- H7.1.1 inform the appropriate Human Resources Manager that an investigation is to take place;

- H7.1.2 with the assistance of the appropriate Human Resource Manager, investigate, or make arrangements for an appropriately trained or experienced person (the investigating officer) to investigate, the alleged misconduct in accordance with clause H9; and
 - H7.1.3 inform the employee of the alleged misconduct and that the matter is to be investigated, unless it is inappropriate to do so.
- H7.2 Depending on the nature of the alleged misconduct the Member may, in accordance with clause H8, immediately or at any stage of dealing with the alleged misconduct:
- H7.2.1 transfer the employee to other duties;
 - H7.2.2 re-allocate duties away from the employee;
 - H7.2.3 suspend the employee with pay while the alleged misconduct is being investigated;
 - H7.2.4 suspend the employee without pay where serious misconduct is alleged.
- H7.3 Notwithstanding the provisions of this section, the Member may summarily terminate the employment of an employee without notice for serious misconduct as defined within the Fair Work Regulations.

H8 Suspension or Reassignment

- H8.1 This clause applies to all employees including eligible casual employees and employees on probation.
- H8.2 Subject to these procedures, the Member may suspend with or without pay, or reassign an employee where the Member is satisfied that it is in the public interest, the Member's interests or the interests of the Assembly to do so while the alleged misconduct is being investigated.
- H8.3 The Member will not normally suspend or reassign an employee without first informing the employee of the reasons for the proposed suspension or reassignment and giving the employee the opportunity to be heard. However, the Member may suspend an employee first and then give the employee the reasons for the suspension and an opportunity to be heard, where, in the Member's opinion, this is appropriate in the circumstances.
- H8.4 While suspended with pay an employee will be paid:
- H8.4.1 the employee's ordinary hourly rate of pay that would have been paid to the employee for the period they would otherwise have been on duty; and
 - H8.4.2 any other allowance or payment of a regular or on-going nature that is not conditional on performance of duties.
- H8.5 Where a decision is made to suspend an employee with pay no review of that decision is available.
- H8.6 Unless the employee is on authorised leave an employee who is suspended must be available to attend work and participate in the disciplinary process as directed within forty-eight hours of the direction being given.
- H8.7 Suspension without pay is usually only appropriate where serious misconduct is alleged or where the employee is charged with a criminal offence that would in the opinion of the Member be incompatible with the continuation of the employee's employment.
- H8.8 While suspended without pay:
- H8.8.1 the period of suspension without pay will not be for more than thirty calendar days, unless exceptional circumstances apply;

- H8.8.2 the employee may apply to the Member for permission to seek alternate employment for the period of the suspension, or until the permission is revoked. Any such permission given to the employee is granted on the condition that the employee remains available to attend work and participate in the disciplinary process as per subclause H8.6;
 - H8.8.3 in cases of demonstrated hardship, the Member may determine that the employee may cash out accrued long service leave and/or annual leave;
 - H8.8.4 the employee may apply to the Member for the suspension to be with pay on the grounds of demonstrated hardship.
- H8.9 If the period of suspension without pay extends beyond thirty calendar days as per subclause H8.8, the suspension should be reviewed every thirty calendar days unless the Member considers that, in the circumstances, a longer period is appropriate.
- H8.10 An employee suspended without pay, and who is later acquitted of the criminal offence (which is the subject of the allegation(s) of misconduct which caused the employee to be suspended), or is found not to have been guilty of the misconduct:
- H8.10.1 is entitled to be repaid the amount by which the employee's pay was reduced; and
 - H8.10.2 is entitled to be credited with any period of long service or annual leave that was cashed out in accordance with paragraph H8.8.3.
- H8.11 Where an employee is suspended and later found guilty of a criminal offence (whether or not a conviction is recorded), or is found guilty of misconduct and whose employment is terminated because of the offence or misconduct, a period of suspension under this clause does not count as service for any purpose, unless the Member determines otherwise.

H9 Investigations

- H9.1 The role of the investigating officer is to establish the facts of the allegations and to provide a report of those facts to the Member.
- H9.2 The investigating officer will:
- H9.2.1 inform the employee in writing of the particulars of the alleged misconduct, and details concerning the investigative process; and
 - H9.2.2 give the employee a reasonable opportunity to respond to allegations, which the employee may do in writing and/or at a scheduled interview or in a different manner as agreed with the investigating officer, before making a finding of fact; and
 - H9.2.3 for written responses the timeframe for response will be as communicated by the investigator and be reasonable under the circumstances; and
 - H9.2.4 where the response includes an interview, provide the employee with at least twenty-four hours written notice prior to conducting an interview, and advise the employee if the interview is to be recorded electronically; and
 - H9.2.5 advise the employee that the employee may have a second person present during the interview, who may be the employee's union representative or other individual acting as support person, and will allow reasonable opportunity for this to be arranged; and
 - H9.2.6 provide a record of the interview to the employee; and
 - H9.2.7 give the employee an opportunity to supplement the record of an interview with a written submission, if the employee so chooses, before signing the record. If the employee elects not to sign the record, then details of the offer will be noted; and

- H9.2.8 as soon as practicable, take any further steps considered necessary to establish the facts of the allegations; and
- H9.2.9 provide a written report to the Member setting out the investigating officer's findings of fact.
- H9.3 If the employee fails to, or chooses not to, respond to the allegations in accordance with subclause H9.2 within a reasonable timeframe, the investigating officer will prepare the report and set out the findings of fact on the information available.
- H9.4 The investigating officer's findings of fact will be made on the balance of probabilities.
- H9.5 The relevant authorising officer may authorise access to relevant Territory information and communication technology (ICT) records including email, computer, work phone records, or building access logs if, in the opinion of the Member, the investigating officer requires access in order to establish the facts of the allegations.

H10 Findings of Misconduct

- H10.1 After considering the report from the investigating officer, the Member will make a determination on the balance of probabilities as to whether misconduct has occurred.
- H10.2 If the Member determines that the misconduct has not occurred, the Member will notify the employee of this finding and advise that no sanctions will be imposed.

H11 Disciplinary Action and Sanctions

- H11.1 The Member will, following an investigation of alleged misconduct or full admission by the employee, consider whether or not disciplinary action is appropriate, and whether or not one or more of the following sanctions may be taken in relation to the employee:
- H11.1.1 a written warning or reprimand;
 - H11.1.2 a financial penalty which can:
 - (a) reduce the employee's incremental pay level;
 - (b) reduce, temporarily or permanently, the employee's classification;
 - (c) impose a fine on the employee;
 - (d) require the employee to fully or partially reimburse the employer for damage that the employee has wilfully incurred to property or equipment
 - H11.1.3 alter the employee's duties at level, or reassign the employee to another position at level or to a lower classification level;
 - H11.1.4 remove any monetary benefit derived through an existing Specialist Duties Payment;
 - H11.1.5 termination of employment.
- H11.2 Nothing in this section limits the ability of the Member to require an employee to participate in formal remedial programs and sessions aimed at assisting the employee with addressing the behaviour that was the subject of the misconduct process.
- H11.3 Sanctions imposed under these procedures must be proportionate to the degree of misconduct concerned. In determining the appropriate sanction, the following factors must be considered:
- H11.3.1 the nature and seriousness of the misconduct;
 - H11.3.2 the degree of relevance to the employee's duties or to the reputation of the Member or the Assembly;

- H11.3.3 the circumstances of the misconduct;
 - H11.3.4 any mitigating factors, including any full admission of guilt; and
 - H11.3.5 the previous employment history and the general conduct of the employee.
- H11.4 If the employee has moved to a new position, other than as a result of a decision in accordance with clause H7 -, during the course of the misconduct process, the changes in employment circumstances will be taken into account as appropriate in accordance with paragraph H1.5.1.
- H11.5 Before taking disciplinary action under subclause H11.1, the Member will advise the employee in writing of:
- H11.5.1 the determination that misconduct has been found to have occurred; and
 - H11.5.2 the reasons for arriving at this determination; and
 - H11.5.3 the sanction proposed; and
 - H11.5.4 the period during which the employee has to respond to the proposed disciplinary action (which must be a minimum of seven calendar days).
- H11.6 After considering the employee's response in accordance with subclause H11.5, or if the employee does not respond, at any time after the period set out in paragraph H11.5.4 has passed, the Member will inform the employee in writing of:
- H11.6.1 the final decision regarding disciplinary action to be taken; and
 - H11.6.2 the disciplinary action to be taken, if any; and
 - H11.6.3 the date of effect and/or, if relevant, the cessation of any disciplinary action; and
 - H11.6.4 the review mechanisms that are available under Section I of this Agreement.

H12 Criminal Charges

- H12.1 An employee must advise the Member in writing within forty-eight hours where practicable, but no longer than seven calendar days, of any criminal charges laid against the employee. in circumstances where the interests of the Member or of the Assembly may be adversely affected, taking into account:
- H12.1.1 the circumstances and seriousness of the alleged criminal offence; and
 - H12.1.2 the employee's obligations under the employee's Employment Agreement and relevant Code of Conduct; and
 - H12.1.3 the effective management of the employee's work area; and
 - H12.1.4 the integrity and good reputation of the Member and the Assembly; and
 - H12.1.5 the relevance of the offence to the employee's duties.
- H12.2 Where criminal charges are laid against an employee and the interests of the Member or of the Assembly may be adversely affected, the Member may suspend the employee in accordance with the suspension arrangements under clause H8 -.
- H12.3 If an employee is found guilty of, or convicted of a criminal offence (including if a non-conviction order is made) the employee will provide a written statement regarding the circumstances of the offence to the Member within seven calendar days of the conviction or the finding.
- H12.4 Where an employee is convicted of a criminal offence and the conviction or finding has adversely affected the interests of the Member or the Assembly, the Member may impose a sanction for misconduct against the employee in accordance with clause H11 -.

H13 Right of Review

- H13.1 An employee has the right under Section I to seek a review of any decision to take disciplinary action, or to apply a sanction under clause H11 -, or against any decision taken under clause H8 - to suspend the employee without pay, except action to terminate the employee's employment.
- H13.2 An employee may have an entitlement to bring an action under the FW Act in respect of any decision under this Section to terminate the employee's employment. This will be the sole right of review of such a decision.

Section I Internal Review Procedures

11 Objectives and Application

- 11.1 Under this Section, procedures are established for employees to seek a review of management actions that affect their employment with the Member.
- 11.2 The procedures in this Section account for the principles of natural justice and procedural fairness.
- 11.3 These procedures apply to all employees covered by this Agreement.
- 11.4 For the purposes of this Section, an action includes a decision and a refusal or failure to make a decision.
- 11.5 The power(s) and function(s) of the Chief Minister under this Section can only be delegated in regard to procedural matters.

12 Decisions and Actions Excluded

- 12.1 The following decisions and actions are excluded from the rights of an employee to seek a review under procedures set out in this Section:
 - 12.1.1 actions regarding the policy, strategy, nature, scope, resourcing or direction of the Government and the Assembly (see clause G1 - of this Agreement for consultation on these actions);
 - 12.1.2 actions arising under Commonwealth or ACT legislation that concern domestic or international security matters;
 - 12.1.3 actions regarding superannuation (see relevant superannuation legislation for complaints and appeals on these actions, in particular the *Superannuation Industry (Supervision) Act 1993* and the *Superannuation (Resolution of Complaints) Act 1993*);
 - 12.1.4 actions regarding workers' compensation (see the *Safety, Rehabilitation and Compensation Act 1988* for reviews and appeals on these actions);
 - 12.1.5 decisions to terminate the employment of an employee on probation;
 - 12.1.6 decisions on classification of an employee (see clause D2 - of this Agreement for reviews on classifications);
 - 12.1.7 any action arising from the preliminary assessment process under clause H2 -;
 - 12.1.8 actions regarding the setting of rates of pay or conditions of employment under an award or agreement made under the FW Act, or under the LAMS Act, or under Determinations or Directions made under the LAMS Act (this includes a Specialist Duties Payment);
 - 12.1.9 actions arising from the internal review procedures of this Agreement.

13 Initiating a Review

- 13.1 Unless it would not be appropriate, an employee should first discuss their concerns about an action or decision with the relevant Member with a view to resolving the matter within the workplace before initiating a review under these procedures.
- 13.2 An employee, or the employee's union or other employee representative on the employee's behalf, has the right to apply for a review of any action or decision that directly affects the employee's employment, unless the action or decision is specifically excluded under this Section.

- 13.3 An employee, or the employee's union or other employee representative on the employee's behalf, may initiate a review under this Section by making an application to the Chief Minister that:
- 13.3.1 is in writing; and
 - 13.3.2 is made no more than twenty-eight calendar days after the employee was advised of the decision that is the subject of the application for review, unless the Chief Minister agrees that extenuating circumstances exist; and
 - 13.3.3 identifies the action and/or decision which the employee seeks a review of; and
 - 13.3.4 does not concern a decision or action that is excluded under subclause 12.1;
 - 13.3.5 identifies the reasons the review is sought including, in the employee's view, the effect(s) that the action or decision has or is having on the employee's employment; and
 - 13.3.6 outlines the extenuating circumstances, if any, where the application is made outside the timeframe specified in paragraph 13.3.2; and
 - 13.3.7 describes the outcome sought.
- 13.4 If the review relates to a failure or refusal to make a decision in accordance with subclause 11.4, the twenty-eight day time period outlined in paragraph 13.3.2 will be taken to commence on the day it was apparent that there was a failure or refusal to make a decision.
- 13.5 The Chief Minister will, provided that the requirements under subclause 13.3 have been met, refer the matter for review in accordance with clause 14 -.

14 Review Process

- 14.1 Notwithstanding subclause 13.5, where appropriate, and agreed by the relevant Member and the employee who made the application under subclause 13.3 (for the purposes of this Section I "the applicant"), or the applicant's union or other employee representative on the applicant's behalf, the Chief Minister must consider mediation as an option before arranging for a review under subclause 14.3. The mediator will be agreed between the applicant and the relevant Member.
- 14.2 In the event that mediation does take place and that it resolves the issues raised in the application, then no further action is required under these procedures. In that event a formal written statement that the issue has been resolved must be signed by the applicant and the relevant Member.
- 14.3 Subject to subclauses 13.5, 14.1 and 14.2, the Chief Minister must arrange for an application made under subclause 13.3 to be reviewed by an independent person (the reviewer), who should be a suitably skilled person who was not involved in the original action.
- 14.4 The Chief Minister may determine the process under which an application is reviewed, subject to the principles set out in subclause 14.5.
- 14.5 The reviewer must have due regard to the principles of natural justice and procedural fairness and act as quickly as practicable consistent with a fair and proper consideration of the issues. This includes but is not limited to:
- 14.5.1 fully informing the applicant of all relevant issues and providing access to all relevant documents; and
 - 14.5.2 providing reasonable opportunity for the applicant to respond; and
 - 14.5.3 advising the applicant of the applicant's rights to representation.

- 14.6 Notwithstanding subclause 14.5, the reviewer may recommend to the Chief Minister that an application should not be considered on any of the following grounds:
- 14.6.1 the application concerns a decision or action that is excluded under subclause 12.1; or
 - 14.6.2 a period of twenty-eight calendar days has elapsed since the applicant was advised of the decision or action, except where extenuating circumstances exist; or
 - 14.6.3 the applicant has made an application regarding the decision or action to a court or tribunal, or where the reviewer believes it is more appropriate that such an application be made; or
 - 14.6.4 the reviewer believes on reasonable grounds that the application:
 - (a) is frivolous or vexatious; or
 - (b) is misconceived or lacks substance; or
 - (c) should not be heard for some other compelling reason.
- 14.7 The Chief Minister must either confirm a recommendation made by the reviewer under subclause 14.6 that an application should not be considered or arrange for another reviewer to consider the application.
- 14.8 The Chief Minister will inform the applicant in writing, within fourteen calendar days of the date of any decision under subclause 14.7, including, the reasons for any decision not to consider the application.
- 14.9 If the reviewer does not make a recommendation under subclause 14.6, then the reviewer will conduct a procedural review on the papers to determine:
- 14.9.1 whether it was open to the decision-maker to take the action that he or she did;
 - 14.9.2 whether the principles of procedural fairness and natural justice were complied with in taking the original action; and
 - 14.9.3 whether the final decision of the decision-maker was fair and equitable in all of the circumstances.
- 14.10 The reviewer will be provided with all relevant information and evidence that was available to the relevant decision-maker in the making of the original decision or in taking the original action. To ensure efficiency and timeliness, the reviewer should not undertake to collect the same information or new evidence which was not available at the time the original action or decision was made.
- 14.11 If the reviewer is of the view that there is doubt over the veracity and/or validity of the information or evidence or processes used in making the initial decision or action, or that significant information or evidence was not considered in the making of the original decision or action, the reviewer will inform the Chief Minister of that doubt and the reasons for it in the written report in accordance with subclause 14.12.
- 14.12 After reviewing any action or decision the reviewer will make a written report to the Chief Minister recommending that:
- 14.12.1 the original decision/action be confirmed; or
 - 14.12.2 the original decision/action be varied; or
 - 14.12.3 other action be taken.
- 14.13 A copy of the report under subclause 14.12 will be provided to the applicant and the applicant will be given the opportunity to provide a response.

- I4.14 The applicant may respond to any aspects of the report. Such a response must be in writing and be provided to the Chief Minister within fourteen calendar days of the applicant receiving the report.
- I4.15 Upon receiving the report from the reviewer, the Chief Minister will inform the relevant Member in writing, within fourteen calendar days, of the recommendations under subclause I4.12.
- I4.16 The relevant Member, after considering the report from the reviewer, and any response from the applicant to the report of the reviewer, may:
- I4.16.1 confirm the original action; or
 - I4.16.2 vary the original action; or
 - I4.16.3 take any other action the Member believes is reasonable.
- I4.17 The relevant Member will inform the applicant, and the Chief Minister, in writing, within fourteen calendar days of the date of any decision under subclause I4.16, including the reasons for the action.

I5 Right of External Review

- I5.1 The applicant, or the applicant's union or other employee representative on the applicant's behalf, may seek a review of a decision or action under subclause I4.16 by an external tribunal or body, including the FWC.
- I5.2 The FWC will be empowered to resolve the matter in accordance with the powers and functions set out in clause G6 - of this Agreement. The decision of the FWC will be binding, subject to any rights of appeal against the decision to a Full Bench of the FWC in accordance with subclause G6.15.

DICTIONARY

ACTPS means the Sector established by the PSM Act.

Agreement means the *ACT Legislative Assembly Members' Staff Enterprise Agreement 2021-2022* and includes all Annexes and Schedules.

Assembly means the Legislative Assembly of the Australian Capital Territory.

Business Day means any day of the week that is a Monday to Friday, which is not a Public Holiday.

Carer means an employee who provides in addition to the employee's normal family responsibilities, care and support on a regular basis to other family members or other persons who are sick or ageing, have an injury, have a physical or mental illness or a disability.

Casual Employee means a person engaged by a Member under the LAMS Act to perform work with no firm advance commitment to continuing and indefinite work according to an agreed pattern of work.

Chief Minister means the Chief Minister for the Territory elected under section 40 of the *Australian Capital Territory (Self-Government) Act 1988*.

Child includes children in the case of multiple births.

Consultation means providing relevant information to employees and their union or other employee representatives. It means more than a mere exchange of information. For consultation to be effective the participants must be contributing to the decision-making process not only in appearance but in fact.

Counts as service for all purposes means also the provision of employer superannuation contributions to the extent of an employee's superannuation fund rules.

Disability means a permanent or ongoing physical or psychological disability attributable to one or more intellectual, cognitive, neurological, sensory or physical impairments or to one or more impairments attributable to a psychiatric condition.

Domestic Partnership means a relationship between two people, whether of a different or the same sex, living together as a couple on a genuine domestic basis.

Eligible Casual Employee means:

- (a) an employee who has been employed as a casual employee; and
- (b) the employee has been employed by the Member on a regular and systematic basis for a sequence of periods of employment during a period of at least twelve months; and
- (c) who has a reasonable expectation of continuing employment by the Member on a regular and systematic basis.

Employee means (unless there is a clear intention in this Agreement to restrict the meaning) a person employed or engaged by a Member on behalf of the Territory under Section 5 or Section 10 of the LAMS Act in a classification set out in Annex A, excluding a person engaged as Executive Chief of Staff.

Employee Representative means any person chosen by an employee, or a group of employees, to represent the employee(s).

Employer means the Australian Capital Territory and includes a Member acting on behalf of the Territory.

Engaged for a specified period of time includes employment for a period of time stated to end when the Member ceases to be a Member of the Assembly.

Family Violence is as defined under the *Family Violence Act (ACT) 2016*.

Fixed term employee means a person employed by a Member under the LAMS Act for a specified period of time or for a specified task, on a full-time or part-time basis.

FW Act means the *Fair Work Act 2009*.

FWC means Fair Work Commission.

FW Regulations means the *Fair Work Regulations 2009*.

Household Member means a person (other than the employee's immediate family) residing in the employee's normal place of residence at the time of their illness, injury, emergency or death.

Immediate Family means a person who is:

- (a) a domestic partner (including a former domestic partner); or
- (b) a child or an adult child, parent, grandparent, grandchild or sibling of the employee or domestic partner of the employee; or
- (c) a person related to the employee by Aboriginal and/or Torres Strait Islander kinship structures; or
- (d) a child who is the subject of a permanent caring arrangement; or
- (e) an adopted child.

'Immediate family' includes adopted, step-, fostered or ex-nuptial immediate family where these circumstances exist. Additionally, the Member may consider that the definition of 'immediate family' be extended for a particular decision involving an employee where exceptional circumstances exist. This might include other close family members or an employee who lives alone and has no-one to nominate as 'immediate family', may nominate one person, in similar circumstances, for the purpose of caring responsibilities.

LAMS Act means the *Legislative Assembly (Members' Staff) Act 1989* as varied.

LAMS CC means the Legislative Assembly Members' Staff Consultative Committee established under subclause G1.5 of this Agreement.

Life of the current Assembly means the date of cessation of employment in accordance with the relevant Chief Minister's Determination or Direction made under the LAMS Act.

Member means a Member or Office-Holder of the Legislative Assembly of the Australian Capital Territory as defined in the LAMS Act.

Miscarriage is as defined under the *Fair Work Act 2009 (Cth)*.

National Employment Standards means Part 2-2 of the *Fair Work Act 2009 (Cth)*, as amended from time to time.

Permanent Caring Responsibility means an out of home care placement for a child until the child turns eighteen as defined by the *Children and Young People Act 2008*.

Primary Care Giver is a person who is the primary carer of a child in the person's reference period if the child is in the person's care in that period and the person meets the child's physical needs more than anyone else in that period.

PSM Act means the *Public Sector Management Act 1994* as varied or replaced.

PSM Standards means the Public Sector Management Standards as varied made under the PSM Act.

Registered Health Professional means a health professional registered, or licensed, as a health professional (or as a health professional of a particular type) under a law of a State or Territory that provides for the registration or licensing of health professionals (or health professionals of that type).

Registered Medical Practitioner means a person registered, or licensed as a medical practitioner under a law of a State or Territory that provides for the registration or licensing of medical practitioners.

Regular part-time hours means an agreed number of regular hours per week that is less than the ordinary weekly hours specified in this Agreement.

Short-Term Care means an out of home care placement for a child (or children) of up to two years duration as defined by the *Children and Young People Act 2008*.

Stillbirth/Stillborn child is as defined under the *Fair Work Act 2009 (Cth)*.

Supervisor means a person who has direct supervisory responsibility for one or more employees.

Union(s) means a union or unions which are covered by this Agreement, who are registered under the *Fair Work (Registered Organisations) Act 2009 (Cth)*.

Working Day means any day of the week that is a Monday to Friday, which is not a Public Holiday.

ANNEX A – CLASSIFICATIONS AND RATES OF PAY

CLASSIFICATION	Pay Rates as at 10.6.2021	1.35% from 9/12/2021	1.35% from 9/6/2022
Adviser Level 1 (lower)	\$70,206	\$71,154	\$72,115
	\$71,963	\$72,935	\$73,920
	\$73,698	\$74,693	\$75,701
Adviser Level 1 (upper)	\$80,381	\$81,466	\$82,566
	\$82,328	\$83,439	\$84,565
	\$84,323	\$85,461	\$86,615
Adviser Level 2	\$101,743	\$103,117	\$104,509
	\$104,226	\$105,633	\$107,059
	\$106,767	\$108,208	\$109,669
Senior Adviser Level 1	\$120,436	\$122,062	\$123,710
	\$123,386	\$125,052	\$126,740
	\$126,404	\$128,110	\$129,839
Senior Adviser Level 2	\$148,344	\$150,347	\$152,377
	\$152,053	\$154,106	\$156,186
	\$155,853	\$157,957	\$160,089
Chief Adviser	\$198,954	\$201,640	\$204,362
	\$203,930	\$206,683	\$209,473
	\$209,030	\$211,852	\$214,712
Cadet - practical training	\$52,442	\$53,150	\$53,868
	\$54,114	\$54,845	\$55,585
	\$55,518	\$56,267	\$57,027
	\$57,690	\$58,469	\$59,258
Trainee	\$52,442	\$53,150	\$53,868
	\$54,114	\$54,845	\$55,585
	\$55,518	\$56,267	\$57,027
	\$57,690	\$58,469	\$59,258

ANNEX B – ALLOWANCES

First Aid	Classification	Any	Rates as at 10/6/2021	1.35% from 9/12/2021	1.35% from 9/6/2022
	Employee Type	Any			
	Description	<p>An employee who is suitably qualified and who is designated as the primary contact for First Aid and who performs the duties of a First Aid Officer in a workplace or work group, will be paid an allowance determined by their current level of qualification:</p> <ol style="list-style-type: none"> 1. A Base Level qualification is a nationally recognised Statement of Attainment in Providing First Aid issued by a Registered Training Organisation that is accredited to deliver First Aid training and to issue qualifications for nationally endorsed First Aid unit/s of competency. This would normally provide competencies required to recognise and respond to common life-threatening injuries or illnesses including: life-support using Cardiopulmonary resuscitation (CPR), and management of the casualty and incident until the arrival of medical or other assistance, as well as treatment of minor illnesses and injuries. 2. An Advanced Level qualification provides additional competencies required to apply Advanced First Aid procedures and Advanced First Aid response in a workplace environment. 3. An Occupational or Specialist level required to meet this level will include the ability to completely render first aid in the workplace in the context of Work Health and Safety legislation- 			
	Rate/Frequency	Per fortnight (1) Base Level:	\$28.54	\$28.93	\$29.32
		Per fortnight (2) Advanced Level:	\$35.75	\$36.23	\$36.72
		Per fortnight (3) Occupational or Specialist Level:	\$42.42	\$42.99	\$43.57

**First Aid
(cont.)**

<p>Payment on Leave</p>	<p>The allowance is payable during:</p> <p>(a) long service leave, paid birth or primary care giver's leave or annual leave;</p> <p>(b) paid personal leave or other leave with pay for up to one month.</p> <p>Where leave is on reduced pay, or without pay, the allowance must be proportionately reduced or withdrawn accordingly. The allowance is included in salary for payment in lieu of long service leave and annual leave.</p>
<p>Notes</p>	<ol style="list-style-type: none"> 1. The above rates will be paid in full to part-time employees 2. Where the qualification of an employee who is in receipt of the allowance is no longer current, the relevant corporate area may allow a short period to allow for re-qualification. 3. The relevant corporate area may reimburse fees for renewal of qualification and/or relevant courses incurred by an employee who is eligible to be paid a First Aid allowance. 4. Where an employee holds more than one First Aid qualification, the employee will be paid an allowance only for the qualification which attracts the higher payment. 5. The allowance must not be included in salary for overtime or penalty payments. 6. Where an employee who normally undertakes First Aid functions is absent and another employee who is qualified in First Aid undertakes all the duties for which the allowance is paid, the relieving employee is entitled to be paid the allowance appropriate to that employee's qualifications.
<p>Exclusions</p>	<p>The First Aid allowance is not payable to employees who, as part of their normal duties, are required to maintain a First Aid qualification.</p>
<p>Allowance Type</p>	<p>Qualification</p>

Community Language	Classification	Any	Rates as at 10/6/2021	1.35% from 9/12/2021	1.35% from 9/6/2022
	Employee Type	Any			
	Description	Employees whose duties involve communication on a regular basis in languages other than English, including Deaf Oral language, Deaf Sign language and Aboriginal languages, will be paid an allowance if their language competence meets the required level, as follows:			
	Rate/Frequency	Per annum (paid in equal fortnightly instalments) (1) Community Language Aide (formerly NAATI Level 1):	\$1,254	\$1,271	\$1,288
		Per annum (paid in equal fortnightly instalments) (2) Certified Provisional Interpreter (formerly NAATI L. 2 or higher):	\$2,505	\$2,539	\$2,573
	Payment on Leave	The allowance is payable during paid personal leave, annual leave and long service leave, pro-rata where appropriate, but not during any other period of leave.			
	Exclusions	Employees who are classified as an Interpreter or Translator are not eligible for the allowance.			
	Notes	<ol style="list-style-type: none"> 1. Eligible part-time employees are entitled to receive the allowance on a pro-rata basis. 2. The minimum required standard of language competence for receipt of the allowance is accreditation at National Accreditation Authority for Translators and Interpreters (NAATI) Level 1. 3. Where assessment in a language is not offered by NAATI, the relevant corporate area may approve assessment by another individual or body that has the necessary expertise to assess the language skills and has sufficient knowledge of NAATI levels and competencies required to determine the appropriate rate of allowance. 4. The relevant corporate area should arrange accreditation testing, and pay associated fees. 			

Community Language (cont.)	Notes	<p>5. Until such time as recognition by NAATI, or an alternative provider, is available, the relevant corporate area may approve the payment at Level 1 to an employee on certification of the employee's supervisor.</p> <p>6. The allowance may be paid from the date of an employee's application for payment, or from the date at which the relevant corporate area determines the need for the language is demonstrated.</p> <p>7. Payment of the allowance should be reviewed annually, or whenever the employment status of a recipient changes (e.g. upon the recipient's promotion or temporary transfer). Such reviews should address whether there is a continuing need for communication in a language other than English.</p>
	Allowance Type	Qualification


Motor Vehicle	Classification	Any
	Employee Type	Any
	Description	<p>The Member may authorise an employee to use a motor vehicle they own or hire:</p> <ol style="list-style-type: none"> 1. For official purposes, where the Member is satisfied this use would: <ul style="list-style-type: none"> (a) result in greater efficiency; or (b) involve the ACT Government in less expense than if public transport or a vehicle owned by the ACT Government were used. 2. For specified journeys, where the Member is satisfied that: <ul style="list-style-type: none"> (a) the use will not result in the employee taking more time on the journey than they would otherwise take; or (b) it would not be contrary to the interest of the ACT Government.

Motor Vehicle (cont.)

	<p>3. Travel between normal headquarters and a temporary work station, or between the employee's home and a temporary work station, where the Member is satisfied that:</p> <p>(a) there is no public transport available for travel to the temporary station; or</p> <p>(b) although public transport is available, the work program makes its use impossible.</p>	
Rate/Frequency	Per km (1) Small Car: 1600cc non-rotary 800cc rotary	\$0.78
	Per km (2) Medium Car: 1601-2600cc non-rotary 801-1300cc rotary	\$0.90
	Per km (3) Large Car: over 2600cc non-rotary over 1300cc rotary	\$0.91
Payment on Leave	Not paid during any type of paid or unpaid leave.	
Notes	<p>1. The amount of the allowance is to be reduced by the amount of any Isolated Establishments (or equivalent) allowance that is payable. If the amount of any Isolated Establishments (or equivalent) allowance payable exceeds the amount of motor vehicle allowance that would otherwise be payable, then no motor vehicle allowance may be authorised.</p> <p>2. If an employee satisfies the relevant corporate area that the allowance is insufficient to meet the amount of the expenses reasonably incurred and paid by the employee in using a motor vehicle for official purposes, the relevant corporate area may grant an additional allowance equal to the amount by which those expenses exceed the amount of the allowance or allowances.</p> <p>3. If, as a consequence of using a motor vehicle an employee is required to pay a higher insurance premium than would otherwise be the case, they are entitled to be reimbursed the additional cost.</p>	

	4. Employees who use a private motor vehicle under the motor vehicle allowance conditions may be reimbursed parking fees, bridge and car-ferry tolls incurred whilst on duty, but not fines.	
Allowance Type	Expense	

Overtime Meal	Classification	All classifications	Rates as at 10/6/2021	1.35% from 9/12/2021	1.35% from 9/6/2022
	Employee Type	Any			
	Description	<p>An employee who works overtime is entitled to payment of an allowance, in addition to any overtime payment, where:</p> <ol style="list-style-type: none"> 1. After the completion of, and continuous with, the employee's ordinary hours of duty for the day, a period of at least one and a half hours overtime is worked prior to an unpaid meal break being taken, which is followed by a further period of overtime of at least half an hour; or 2. Before the commencement of the employee's ordinary hours of duty for the day, a period of at least one and a half hours overtime is worked prior to an unpaid meal break being taken, which is followed by a further period of overtime of at least half an hour; or 3. On a Saturday, Sunday or public holiday, a period of at least five hours overtime is worked, in addition to the employee's normal weekly hours of duty, prior to an unpaid meal break being taken, which is followed by a further period of overtime of at least half an hour. 			
	Rate/Frequency	Per occasion	\$30.76	\$31.18	\$31.60
	Payment on Leave	Not paid during any type of paid or unpaid leave.			
	Exception	Where an appropriate meal is obtainable by the employee at a canteen, cafeteria or dining room conducted, controlled, or assisted by the Directorate, the amount of meal allowance will be the maximum amount for which an appropriate meal is obtainable at the canteen,			

	cafeteria or dining room. This rate is in substitution for the rate above.	
Allowance Type	Disability	

ANNEX C – OTHER LEAVE

Leave to:	1. Accompany a domestic partner on a posting
Purpose	To enable an employee to accompany the employee's domestic partner for the period, or part of the period, of a posting.
Eligibility	An employee.
Entitlement	The maximum period is the period during which the domestic partner of the employee is required to perform duties overseas, or interstate.
Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	Will not count for any purpose.

Leave to:	2. Attend Aboriginal or Torres Strait Islander Ceremonies
Purpose	To attend a ceremony associated with the death of an immediate or extended family member or for other ceremonial obligations under Aboriginal and Torres Strait Islander law.
Eligibility	An employee who is of Aboriginal or Torres Strait Islander descent.
Entitlement	A maximum period of ten days in any two-year period, in addition to bereavement leave.
Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	Will not count for any purpose.

Leave to:	3. Attend Aboriginal and Torres Strait Islander meetings
Purpose	For attending representative meetings in the capacity of an elected representative of the Aboriginal and Torres Strait Islander peak body.
Eligibility	An employee who is an elected representative of the ACT Aboriginal and Torres Strait Islander peak body.
Entitlement	Paid time to attend recognised meetings.
Conditions	If an employee accepts any fee for attendance at the meeting, leave will be granted without pay. An employee may accept reimbursement for out-of-pocket expenses.
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.

Leave to:	4. Attend NAIDOC week activities
Purpose	To enable an employee to attend and participate in NAIDOC Week activities.
Eligibility	An employee, other than a casual employee.
Entitlement	This leave may be granted for one complete day or for varying periods over the week's activities, totalling the equivalent of one complete day.
Conditions	Subject to operational requirements.
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.

Leave to:	5. Attend proceedings at the Fair Work Commission
Purpose	To enable the employee to give evidence on behalf of a staff organisation in proceedings at the Fair Work Commission.
Eligibility	An employee who is a representative of a staff organisation.
Entitlement	The time necessary to present a case or to give evidence or to attend inspections conducted by the Fair Work Commission, plus reasonable travel time.
Conditions	Leave with pay cannot be granted to more than two representatives for the same period.
Rate of payment	With pay or Without pay.
Effect on other entitlements	With pay will count as service for all purposes. Without pay will not count as service for any purpose, but does not break continuity of service for long service leave purposes.

Leave to:	6. Attend sporting events as an accredited competitor or official
Purpose	To enable an employee to attend sporting events as an accredited competitor or official.
Eligibility	An employee who is selected by an official sporting body to participate as an accredited official or competitor with national or international sporting status.
Entitlement	To attend training for, or to attend, a major national or international sporting or other recognised event in the capacity of an accredited official or competitor.
Conditions	Leave will be with pay unless otherwise agreed by the employee.
Rate of payment	With pay or without pay.
Effect on other entitlements	With pay will count as service for all purposes. Without pay will not count as service for any purpose.

Leave to:	7. Attend as a witness
Purpose	To enable an employee to give evidence before a body or person before whom evidence may be taken on oath.
Eligibility	An employee.
Entitlement	Refer to rate of payment.
Conditions	If an employee is required to travel to give evidence, they may be reimbursed for reasonable travel expenses as if the employee had travelled in the course of the employee's duties, less any amount received as witnesses' expenses.
Rate of payment	<p>With pay where the employee is to give evidence:</p> <ul style="list-style-type: none"> (a) on behalf of a Territory, a State or the Commonwealth; or (b) on behalf of an authority established by or under a law of a Territory, State or the Commonwealth; or (c) in a judicial review or administrative review proceeding where the matter being reviewed relates to the work of the employee; or (d) before a Royal Commission appointed under a law of the Commonwealth; or (e) before a person conducting an inquiry under a law of a Territory, a State or the Commonwealth; or (f) before a person or authority exercising arbitral functions under a law of a Territory, a State or the Commonwealth. <p>Without pay where the leave to give evidence is for any other purpose.</p>
Effect on other entitlements	Will count as service for all purposes.

Leave to:	8. Campaign for election
Purpose	To enable the employee to campaign for election.
Eligibility	An employee who is standing for election to the ACT Legislative Assembly, Commonwealth or State House of Parliament, or other approved legislative or advisory body.
Entitlement	A maximum period of three months.
Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	Will not count for any purpose.

Leave to:	9. Cope with a disaster
Purpose	Where an employee is affected by a disaster which has destroyed or significantly damaged the employee's usual place of residence or its contents.
Eligibility	An employee whose home is wholly or partly uninhabitable associated with health or safety reasons.
Entitlement	A maximum period of three days in each consecutive period of twelve months.
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Counts as service for all purposes.

Leave for:	10. Defence Reserve
Purpose	To enable an employee to undertake specified defence service and, also, enlistment, training and/or deployment with the Australian Defence Force Reserve (ADFR).
Eligibility	Available to employees other than casual employees.
Entitlement	<p>The entitlement to leave for Reserve Service is prescribed under the <i>Defence Reserve Service (Protection) Act 2001</i>.</p> <p>An employee may be granted leave (with or without pay) to enable the employee to fulfil Australian Defence Force (ADF) Reserve and Continuous Full-Time Service (CFTS) or Cadet Force obligations.</p> <p>An employee is entitled to ADF Reserve Leave with pay, for up to four weeks during each financial year for the purpose of fulfilling service in the ADF Reserve. These purposes include training and operational duty as required.</p> <p>During an employee's first year of ADF Reserve service, a further two weeks paid leave may be granted by the Member to facilitate participation in additional ADF Reserve training, including induction requirements.</p> <p>With the exception of the additional two weeks in the first year of service, leave can be accumulated and taken over a period of two years, to enable the employee to undertake training as a member of the ADF Reserves.</p> <p>Employees are not required to pay their tax-free ADF Reserve salary to the ACTPS in any circumstances.</p> <p>An employee who is an officer or instructor of cadets in a Cadet Force may be granted paid leave of up to three weeks each financial year to perform duties as an officer or instructor of Cadets. For these purposes 'Cadet Force' means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.</p> <p>Defence Reserve Leave counts as service for all purposes, except for unpaid leave to undertake CFTS. Unpaid leave for the purpose of CFTS counts for all purposes except Annual Leave.</p> <p>An eligible employee may also apply for Annual Leave, Long Service Leave, leave without pay, or they may use TOIL (where available) to make up time for the purpose of fulfilling ADF Reserve, CFTS or Cadet Force obligations.</p>
Conditions	An eligible employee must give notice to the Member as soon as practicable of their absence or intention to be absent for Defence Reserve Leave, including documentary evidence.
Rate of payment	With pay or without pay.
Effect on other entitlements	As per entitlement.

Leave to:	11. Donate an organ
Purpose	To enable an employee to donate an organ.
Eligibility	An employee who volunteers as an organ donor.
Entitlement	A maximum period of three months in any twelve-month period.
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.

Leave to:	12. Donate blood
Purpose	To enable an employee to donate blood.
Eligibility	An employee, who volunteers as a blood donor.
Entitlement	The time necessary to attend to give blood, including travel and reasonable recovery time.
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.

Leave to:	13. Engage in employment associated with compensation
Purpose	To enable an employee to engage in employment outside the Assembly as part of a rehabilitation process under the <i>Safety, Rehabilitation and Compensation Act 1988</i> .
Eligibility	An employee who is, or was, entitled to compensation leave under the <i>Safety, Rehabilitation and Compensation Act 1988</i> and the employment is part of a rehabilitation process under that Act.
Entitlement	A maximum period of three years.
Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	Will count as service for all purposes.

Leave to:	14. Engage in employment in the interests of defence or public safety
Purpose	To enable the employee to engage in work or employment that the Member considers is in the interests of the defence or public safety of the Commonwealth or the Territories.
Eligibility	An employee.
Entitlement	A maximum period of two years.
Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	The first twelve months will count as service for all purposes. Subsequent leave will count as service for all purposes except annual leave. If an employee does not return to duty with the Territory the leave will not count as service for any purpose.

Leave to:	15. Hold a full-time office in a staff organisation
Purpose	To enable an employee to hold a full-time office in a staff organisation; council of staff organisations, or credit union, co-operative society, building co-operative or similar body.
Eligibility	An employee.
Entitlement	The maximum period of leave that may be granted is the period for which the employee is elected to office, or in the case of a non-elected office, three years.
Conditions	To be eligible for leave to hold a non-elected office the employee must have been employed in the Territory or in the Australian Public Service for at least four years, at the date at which the leave is proposed to begin. Leave may only be granted for this purpose where the relevant body is incorporated and is conducted by, or on behalf of, a staff organisation for the benefit of the members of the staff organisation or all persons employed in the ACTPS.
Rate of payment	Without pay.
Effect on other entitlements	Will count as service for accruing personal leave and calculating the period of service for long service, except where the leave is to enable the employee to take up an honorary office. Where leave is granted to enable the employee to take up an honorary office, the first two months leave in each calendar year will count as service for all purposes. Leave in excess of two months in a calendar year will not count as service for any purpose other than ongoing eligibility to access birth leave as provided by subclause F14.7.

Leave for:	16. Operational Service Personal Leave
Purpose	To enable employees who have rendered operational service to be absent from duty when they are unfit for work because of war-caused injuries or diseases.
Eligibility	An employee, other than a casual employee, who has rendered operational service.
Entitlement	<p>Operational service personal leave is cumulative and is additional to personal leave entitlements contained in clause F4.</p> <p>On engagement, an eligible employee is entitled to nine days operational service personal leave.</p> <p>An eligible employee is entitled to receive an additional credit of three days operational service personal leave:</p> <p>twelve months after the date of engagement; and</p> <p>twenty-four months after the date of engagement; and</p> <p>thirty-six months after the date of engagement.</p> <p>The maximum operational service personal leave balance that an eligible employee may have is eighteen days.</p> <p>Where operational service personal leave credits have been exhausted, the Member may grant an employee personal leave or a period of unpaid operational service personal leave.</p>
Evidence and Conditions	<p>An eligible employee should discuss with their Member, as soon as practicable, of their absence or intention to be absent on operational service personal leave.</p> <p>An eligible employee must make an application to the Member to access their operational service personal leave entitlement.</p> <p>Having considered the requirements of this clause the Member may approve an eligible employee's application to access operational service personal leave. A decision not to approve the leave will be taken in accordance with subclause F3.1.</p>
	<p>Operational service personal leave may be granted by the Member:</p> <p>(a) to cover absences resulting from war-caused injury or diseases; and</p> <p>(b) following a written request from an eligible employee, which must include documentary evidence that the absence is due to the war-caused injury or disease, including evidence that the injury or disease is a the war-caused injury or disease in accordance with the requirements of the <i>Veterans' Entitlement Act 1986</i> (Commonwealth).</p>
Rate of payment	With pay. The rate of payment to be paid to the employee during a period of operational service personal leave is the same rate as would be paid if the employee was granted personal leave, except where it is granted without pay.
Effect on other entitlements	<p>Operational service personal leave with pay will count as service for all purposes.</p> <p>Operational service personal leave without pay will not count as service.</p>
Interpretation	<p>operational service has the same meaning as in the <i>Veterans' Entitlement Act 1986</i> (Commonwealth).</p> <p>war-caused injuries or diseases has the same meaning as in the <i>Veterans' Entitlement Act 1986</i> (Commonwealth).</p>

Leave for:	17. Religious purposes
Purpose	To enable an employee to attend a ceremony integral to the practice of the employee's religious faith.
Eligibility	An employee who is an adherent to the particular religious faith and who is a practising member of that religious faith.
Entitlement	A maximum period of ten days in any two-year period.
Conditions	Religious leave is only available for ceremonies that are of significant importance to the particular faith that are generally observed by the entire faith. Leave is not available for ceremonies that are only of significance to the individual member of the particular religious faith.
Rate of payment	Without pay.
Effect on other entitlements	Will not count for any purpose.

Leave for:	18. Returned soldiers for medical purposes
Purpose	To enable an employee to attend an appointment for treatment or review as a returned soldier under the <i>Veterans' Entitlement Act 1986</i> (Commonwealth).
Eligibility	An employee who is a returned soldier.
Entitlement	A maximum period of two weeks in any twelve-month period.
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.

Leave to:	19. Take leave where leave cannot be granted under any other provision
Purpose	To enable an employee to be absent from duty where the leave cannot be provided for elsewhere.
Eligibility	An employee.
Entitlement	A maximum period of twelve months.
Conditions	-
Rate of payment	<p>Without pay, except where the Member determines there are special circumstances, having regard to:</p> <ul style="list-style-type: none"> (a) the purpose for which the leave is being taken; and (b) the length of service of the employee; and (c) the length of the period for which the leave is being taken. <p>In special circumstances the Member determines whether leave is at full pay or half pay.</p>
Effect on other entitlements	Leave without pay will not count as service for any purpose. However where the Member determines there are special circumstances and that the period of leave granted is to be with pay then the paid leave will count as service for all purposes.

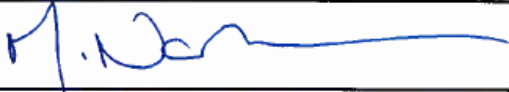
SIGNATORY PAGE

ACT Legislative Assembly Members' Staff ENTERPRISE AGREEMENT 2021-2022

ACT Public Sector


REPRESENTATIVE OF EMPLOYER	
SIGNATURE:	
NAME	Kathy Leigh
ADDRESS	1 Constitution Avenue, Canberra City ACT 2601
AUTHORITY TO SIGN THE AGREEMENT	Signatory holds the Office of Head of Service, ACT Public Sector

Community and Public Sector Union

REPRESENTATIVE OF EMPLOYEES	
SIGNATURE:	
NAME	Maddy Northam
ADDRESS	40 Brisbane Ave, Barton
AUTHORITY TO SIGN THE AGREEMENT	Regional Secretary


ACT Legislative Assembly Members' Staff
ENTERPRISE AGREEMENT 2021-2022

The Association of Professional Engineers, Scientists and Managers, Australia (APESMA, also known as Professionals Australia (PA))

REPRESENTATIVE OF EMPLOYEES	
SIGNATURE:	
NAME	Christopher Dyer
ADDRESS	4/7 Napier Close, Deakin, ACT 2600
AUTHORITY TO SIGN THE AGREEMENT	APESMA Constitution and Rules, r32.6

Signatory Page

ACT Legislative Assembly Members' Staff Enterprise Agreement 2021-2022

REPRESENTATIVE OF EMPLOYEES	
SIGNATURE:	
NAME	Graeme Kelly
ADDRESS	Level 7, 321 Pitt Street, Sydney NSW 2000
AUTHORITY TO SIGN THE AGREEMENT	United Services Union - Branch Secretary