



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Australian Capital Territory
(AG2023/4279)

ACT PUBLIC SECTOR LEGAL PROFESSIONALS ENTERPRISE AGREEMENT 2023-2026

State and Territory government administration

COMMISSIONER LEE

MELBOURNE, 28 NOVEMBER 2023

Application for approval of the ACT Public Sector Legal Professionals Enterprise Agreement 2023-2026

[1] An application has been made for approval of an enterprise agreement known as the *ACT Public Sector Legal Professionals Enterprise Agreement 2023-2026* (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. The Agreement is a single enterprise agreement.

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

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

[4] I observe that the following provisions is likely to be inconsistent with the National Employment Standards (NES):

- Clause E7.6 – Annual Leave

However, noting clause A5.4 of the Agreement, I am satisfied the more beneficial entitlements of the NES will prevail where there is an inconsistency between the Agreement and the NES.

[5] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 5 December 2023. The nominal expiry date of the Agreement is 31 March 2026.



COMMISSIONER

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<AE522504 PR768772>



DECISION

Fair Work Act 2009

s.218A - application to vary an agreement to correct or amend errors, defects or irregularities

Australian Capital Territory Government T/A ACT Public Sector
(AG2024/74)

ACT PUBLIC SECTOR LEGAL PROFESSIONALS ENTERPRISE AGREEMENT 2023-2026

State and Territory government administration

COMMISSIONER JOHNS

MELBOURNE, 17 JANUARY 2024

Application for variation of the ACT Public Sector Legal Professionals Enterprise Agreement 2023-2026

[1] Australian Capital Territory Government T/A ACT Public Sector (**Applicant**) has made an application pursuant to s.218A of the *Fair Work Act 2009* (**the Act**) to vary the *ACT Public Sector Legal Professionals Enterprise Agreement 2023-2026* (**Agreement**) to correct or amend an error, defect or irregularity in the Agreement (**Application**).

[2] The Agreement was approved by the Fair Work Commission (**Commission**) on 28 November 2023 and commenced operation on 5 December 2023.¹ The Applicant is the employer covered by the Agreement.² The Community and Public Sector Union (**CPSU**) is covered by the Agreement. The Applicant submits that the Agreement contains a typographical error.

[3] On 17 January 2024, the CPSU confirmed via an email to my Chambers that it does not oppose the application.

Statutory Provisions

[4] Section 218A, which came into effect on 7 December 2022 as part of the reforms contained within the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill 2022*, provides for the variation of enterprise agreements to correct or amend an obvious error, defect or irregularity and relevantly provides as follows:

(1) The FWC may vary an enterprise agreement to correct or amend an obvious error, defect or irregularity (whether in substance or form).

(2) The FWC may vary an enterprise agreement under subsection (1);

(a) on its own initiative; or

(b) on application by any of the following:

- (i) one or more of the employers covered by the agreement;
- (ii) an employee covered by the agreement;
- (iii) an employee organisation covered by the agreement.

(3) If the FWC varies an enterprise agreement under subsection (1), the variation operates from the day specified in the decision to vary the agreement.'

[5] The Explanatory Memorandum (EM) that supports the above-referred Bill relevantly states as follows:

'772. This part would remove unnecessary complexity in the agreement-making process by amending the FW Act to:

- simplify the process for correcting any obvious errors, defects or irregularities in enterprise agreements; and
- provide a simple remedy to address the situation where the wrong version of an enterprise agreement or variation has been inadvertently submitted to, and approved by, the FWC.'

Consideration

[6] The Applicant seeks to vary Annexure A, page 204 so that the pay rates and the subsequent pay increases correctly reflect pay rates as at 9 June 2022 instead of 10 June 2021. In other words, page 204 of the Agreement lists salaries that are lower than they should be.

[7] The Applicant submits that the incorrect pay rates create an ambiguity because correct salaries are noted in Annexure A, page 205 and clause R4.2 of the Agreement. The Applicant noted that employees have been renumeralated as per the correct pay rates and thus there is no detriment to employees. The Applicant submits that therefore the Agreement contains a drafting error of the kind contemplated by s.218A of the Act, as the pay rates have been transposed incorrectly.

[8] It is apparent from the text of s.218A and the supporting EM that s.218A is intended to overcome the statutory limitation imposed by s.602 of the Act that was identified by the Full Bench in *Advantaged Care Pty Ltd v Health Services Union*³ (**Advantaged Care**). In that decision the Full Bench confirmed that the Commission could not amend the text of an agreement to correct an obvious error, defect or irregularity pursuant to s.602 of the Act and that other provisions within the Act, ss. 210 or 217, might be used to rectify such error, defect or irregularity.

[9] There are limitations to the use of ss. 210 and 217 of the Act in varying an agreement to address an obvious error, defect or irregularity. For example, it may be considered costly and impractical to conduct a ballot of employees for the purpose of obtaining approval for the variation of an agreement pursuant to s.210 of the Act, where the variation sought is not substantive. Section 217 might also not be amenable to correcting an obvious error, defect or irregularity where the error does not create uncertainty or ambiguity. It is accepted that s.218A confers an additional discretion for the Commission to amend an error, defect, or irregularity in an agreement, be that in form or substance.

[10] In the present case the contended error is that of incorrectly transposing the pay rates during the Agreement drafting process.

[11] The contended error which was not identified until after the Agreement was approved is arguably an error of substance. I am satisfied that the typographical error could significantly disadvantage employees in respect of their salaries. While such disadvantage is not in my view a pre-requisite for the exercise of the Commission's discretion to vary the Agreement, it is a matter I have taken into account in the present matter.

Conclusion

[12] For the reasons set out above, I am satisfied that the error contained in Annexure A, page 204 is an error within the meaning of s.218A(1) of the Act. I am further satisfied that the application to vary the Agreement has been made by the employer covered by the Agreement, thus satisfying the requirements of s.218A(2)(b)(i) of the Act. The variation sought will operate from 17 January 2024. An order giving effect to this decision will be separately issued [PR770331].



COMMISSIONER

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<AE522504 PR770330>

¹ [2023] FWCA 4018.

² Agreement, clause A3.1.

³ [2021] FWCFB 453.



ORDER

Fair Work Act 2009
s.218A - application to vary an agreement to correct or amend errors, defects or irregularities

Australian Capital Territory Government T/A ACT Public Sector
(AG2024/74)

ACT PUBLIC SECTOR LEGAL PROFESSIONALS ENTERPRISE
AGREEMENT 2023-2026
(ODN AG2023/4279) [AE522504]

State and Territory government administration

COMMISSIONER JOHNS MELBOURNE, 17 JANUARY 2024

Application for variation of the ACT Public Sector Legal Professionals Enterprise Agreement 2023-2026

- [1] Pursuant to the decision [2024] FWCA 190, I order that the *ACT Public Sector Legal Professionals Enterprise Agreement 2023-2026 (Agreement)* be varied.
- [2] Annexure A, page 204 of the Agreement is varied accordingly:

ASSOCIATE (ACTCT)	Pay Rate as at 09.06.2022	\$1,750 from 05/01/2023	1% from 08/06/2023	\$1,750 from 07/12/2023	1.5% from 06/06/2024	1% + \$1,500 from 05/12/2024	1% from 05/06/2025	1% + \$1,000 from 04/12/2025
Associate Level 1	\$68,685 \$70,403	\$70,435 \$72,153	\$71,139 \$72,875	\$72,889 \$74,625	\$73,982 \$75,744	\$76,222 \$78,001	\$76,984 \$78,781	\$78,754 \$80,569
Associate Level 2	\$76,255 \$78,591	\$78,005 \$80,341	\$78,785 \$81,144	\$80,535 \$82,894	\$81,743 \$84,137	\$84,060 \$86,478	\$84,901 \$87,343	\$86,750 \$89,216
Associate Level 3	\$84,749	\$86,499	\$87,364	\$89,114	\$90,451	\$92,856	\$93,785	\$95,723
Associate Level 4	\$87,315	\$89,065	\$89,956	\$91,706	\$93,082	\$95,513	\$96,468	\$98,433

Note: The above Associate (ACTCT) classification structure and rates of pay are not to be used post the date of effect of this Agreement.

[3] The variation will operate from 17 January 2024.



COMMISSIONER

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ACT
Government

**ACT PUBLIC SECTOR
LEGAL PROFESSIONALS
ENTERPRISE AGREEMENT
2023-2026**

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DICTIONARY

Accrued Day Off (ADO) means a day or shift off duty for an employee using bankable leave accrued as a result of increasing the employee's daily hours of work – e.g. from 7 hours 36 minutes to 8 hours.

ACTPS means the public sector established by the PSM Act. To avoid doubt, this includes Calvary Health Care ACT Limited.

Agreement means the ACT Public Sector Legal Professionals Enterprise Agreement 2023–2026 and includes all Annexes and Schedules.

Appointed means an appointment in accordance with Part 5 Division 5.3 of the PSM Act.

Assisted Reproductive Leave means the following assisted reproductive treatments: Intrauterine insemination (IUI), In vitro fertilisation (IVF) and Intracytoplasmic sperm injection (ICSI) and related medical appointments.

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

Business/Work Unit means any particular work unit in the ACTPS; e.g. a section, branch, division, project team or administrative unit.

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 under section 111 of the PSM Act to perform work with no firm advance commitment to continuing and indefinite work according to an agreed pattern of work.

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.

Directorate means an administrative unit so named or other government agency within the meaning of the PSM Act and Calvary Health Care ACT Limited.

DCC means the Directorate Consultative Committee established under clause F1 - of this Agreement.

Director-general means a person engaged under subsection 31(2) of the PSM Act as the director-general of the directorate and includes a person who exercises head of service powers in relation to the appointment, engagement and employment of staff in a government agency in accordance with the PSM Act or other Territory law, but only in relation to staff of that government agency.

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 2 people, whether of a different or the same sex, living together as a couple on a genuine domestic basis.

Eligible Casual Employee means an employee for which all of the following apply:

- (a) They have been employed as a casual employee.
- (b) They have been employed by the ACTPS on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months.
- (c) They have a reasonable expectation of continuing to be employed by the ACTPS on a regular and systematic basis.

Employee means (unless there is a clear intention in this Agreement to restrict the meaning) an officer or a casual employee or a temporary employee who is employed or engaged under the PSM Act in a classification set out in Annex A, excluding a person engaged as head of service under subsection 31(1) of the PSM Act, persons engaged as directors-general under subsection 31(2) of the PSM Act, or persons engaged as executives under subsection 31(2) of the PSM Act.

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

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

FW Act means the *Fair Work Act 2009*.

FWC means Fair Work Commission.

Fair work Regulations or **FW Regulations** mean the Fair Work Regulations 2009.

Head of service means a person engaged under subsection 31(1) of the PSM Act as the head of service and the head of service for the ACT Long Service Leave Authority or a person who exercises head of service powers in relation to the appointment, engagement and employment of staff in a government agency in accordance with the PSM Act or other territory law, but only in relation to staff of that government agency.

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 any of the following:

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

'Immediate family' includes adopted, step-, fostered or ex-nuptial immediate family where these circumstances exist. Additionally, the head of service 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.

Long-term Temporary means a person who is engaged under the PSM Act for a period of 12 months or more.

Manager means a person who has responsibility for planning, organising and leading a work unit or group activity.

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.

Officer means a person who is appointed as an officer under Division 5.3 of the PSM Act. Note: Permanent staff are officers.

Permanent or Long Term Caring Responsibility means an out of home care placement for a child until the child turns 18 as defined by the *Children and Young People Act 2008* (ACT) or as defined under equivalent legislation within other Australian states or territories.

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.

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

Public Sector Management Standards or (PSM Standards) means the Public Sector Management Standards as varied made under section 251 of the PSM Act.

Public sector standards commissioner means a person appointed under section 142 of 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.

Registered Midwife means a person whose name is included in the Register of Midwives kept by the National Board for midwifery.

Rostered Day Off or (RDO) means any one or more days rostered off duty without pay.

Service or ACT Public Service means the ACT Public Service established by the PSM Act.

Short Term Care means an out of home care placement for a child (or children) of up to 2 years duration as defined by the *Children and Young People Act 2008* (ACT) or as defined under equivalent legislation within other Australian states or territories.

Short-term Temporary Employee means an employee engaged under the PSM Act for a period of less than 12 months.

Standard Hours are the hours used for calculating salary and leave entitlements. For a 36.75 hours per week position standard hours are from 8:30 am to 12:30 pm and from 1:30 pm to 4:51 pm Monday to Friday and for a 38 hours per week position standard hours are from 8:30 am to 12:30 pm and from 1:30 pm to 5:06pm pm Monday to Friday (unless otherwise agreed in writing by the employee and the manager or supervisor).

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

Strategic Board means the senior management team, comprising the head of service and the 8 directors-general, responsible for providing whole-of-government leadership and strategic direction to the ACT Public Service.

Supervisor means a person who has direct supervisory responsibility for one or more employees in a business unit or group activity.

Temporary Employee means a person engaged under the PSM Act for a specific period of time or for a specified task under Division 5.8 of the PSM Act, excluding a person engaged under section 31(1) of the PSM Act as head of service, persons engaged as directors-general under section 31(2) of the PSM Act or persons engaged as executives under section 31(2) of the PSM Act.

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).

WHS Act means the *Work Health and Safety Act 2011*.

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 Public Sector Legal Professionals Enterprise Agreement 2023-2026.

A2 - Main Purpose

- A2.1 The main purpose of this Agreement is to provide for common terms and conditions that apply across the Australian Capital Territory Public Sector (ACTPS) and terms and conditions that reflect the operational and business requirements of particular business units and occupational groups.

Retaining our people

- A2.2 In order to promote permanent employment and job security for employees, the ACTPS will endeavour to minimise the use of temporary and casual employment.
- A2.3 The ACTPS agrees to the use of temporary employees only where there is no officer available with the expertise, skills or qualifications required for the duties to be performed or the assistance of a temporary nature is required for the performance of urgent or specialised work within a particular business unit of the ACTPS and it is not practical in the circumstances to use the services of an existing officer.
- A2.4 Casual employment may be utilised to meet short-term work demands or specialist skill requirements which are not continuing and would not be anticipated to be met by existing employee levels. Casual employment must not be utilised for the purpose of undermining the job security of temporary and permanent employees.
- A2.5 In respect of casual employment, a conversion to full-time or part-time permanent employment will be considered in accordance with the ACT Government's Secure Workforce Conversion Process where: regular and systematic patterns of work have existed in the 6 month period prior to the employee's 12 month anniversary; and where there is a reasonable expectation that such arrangements can continue, on a part-time or full-time permanent basis without significant changes.
- Note: This is in addition to the FW Act right to request conversion.
- A2.6 The ACTPS will continue to consult with unions and employees on the development of strategies and initiatives that may assist in the successful recruitment and retention of mature age employees. Such strategies and initiatives will be the subject of discussion and agreement between the employee and the head of service.
- A2.7 These strategies and initiatives may include any of the following:
- A2.7.1 Developing flexible working arrangements, such as variable employment, part-year employment, job sharing and purchased leave.

- A2.7.2 Planning phased retirement arrangements for individual mature age employees who are considering retirement within 4 to 5 years, including through reducing the employee's management or higher level responsibilities during a phased retirement period.
- A2.7.3 Examining the implications of current superannuation legislation for using such flexible employment and working arrangements and informing affected employees how such implications may be addressed.
- A2.7.4 Arranging training to assist the employee in any changing roles the employee may have as part of the employee's phased retirement.
- A2.7.5 Developing arrangements to facilitate the return of former mature age employees, including by engaging such persons for a short period in a mentoring capacity.
- A2.7.6 At the discretion of the head of service, contributing to the cost to an employee of financial advice received as part of planning for a phased retirement period.

Attracting future employees

- A2.8 The ACTPS will consult with the union(s) through the Directorate Consultative Committee (DCC) to develop strategies to assist in attracting and retaining suitable employees. This will involve development of appropriate strategies and processes, including the conduct of surveys of staff, to assist this objective.

Developing our people

- A2.9 The ACTPS will consult and agree with the union(s) on the development and finalisation of Learning and Development Plans and on the annual key learning and development priorities. The ACTPS and the union(s) will also agree on the equitable use of resources to address these priorities and strategies appropriate for the different categories of employees. For the purposes of this clause, "resources" includes, but is not limited to, employees, time, funding (where required) and equipment.
- A2.10 This Agreement supports a performance culture within the ACTPS that promotes ethical workplace conduct and rewards employees for their contribution towards the achievement of the ACTPS's objectives.
- A2.11 It is acknowledged that performance management is important to employee development and to ensuring that the relationship between corporate, team and individual responsibilities is aligned to individual, team and organisational objectives.
- A2.12 Any performance management schemes in the ACTPS will not include performance pay and will not be used for disciplinary purposes.

Recognising our people

- A2.13 The ACTPS is committed to achieving an environment where employees feel valued for the contribution they make to achieving organisational goals. The most effective form of recognition is timely and appropriate feedback. The ACTPS will consult with the union(s) on other effective ways of recognising and rewarding the achievement of individuals and work groups.

- A2.14 Any outcomes of this consultation will only be implemented by agreement of the ACTPS and the union(s).

Ensuring fairness

- A2.15 The ACTPS recognises and encourages the contribution that people with diverse backgrounds, experiences and skills can make to the workplace. The ACTPS aims to ensure that this diversity is able to contribute to effective decision making and delivery of client service.
- A2.16 The ACTPS 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*.

Achieving a better work and life balance

- A2.17 The ACTPS is committed to providing employees with a work-life balance that recognises the family and other personal commitments of employees.
- A2.18 The ACTPS acknowledges the commitment and responsibilities that Aboriginal and Torres Strait Islander employees have to their community, and that Aboriginal or Torres Strait Islander identity is not left at the door when entering the workplace. The ACTPS recognises that Aboriginal and Torres Strait Islander employees have the capacity to make a unique and important contribution and bring a strength to the operations of the Australian Capital Territory and Public Sector.
- A2.19 This Enterprise Agreement provides a number of entitlements specific to Aboriginal and Torres Strait Islander employees in recognition of their community and cultural responsibilities, and in this statement expressly recognises the roles that Aboriginal and Torres Strait Islander employees may be required to undertake as part of their community. Involvement in community is an on-going function for Aboriginal and Torres Strait Islander peoples and is not tied to 'office hours'.
- A2.20 It is recognised that commitment to community can result in expectations being placed on Aboriginal and Torres Strait Islander employees that may not be expected of other employees, and that Aboriginal and Torres Strait Islander employees may be culturally bound to the performance of specific functions for their community. It is also recognised that Aboriginal and Torres Strait Islander employees may be impacted in their lives by a variety and accumulation of cultural factors.
- A2.21 Within and subject to operational requirements, supervisors and managers should seek to work with Aboriginal and Torres Strait Islander employees to support utilising the appropriate entitlements contained in this Agreement and achieve an appropriate balance between cultural and community responsibilities, and workplace duties.

Promoting a healthy and safe working environment

- A2.22 The ACTPS is committed to promoting, achieving and maintaining the highest levels of health and safety for all employees.

- A2.23 The ACTPS is committed to facilitating workforce participation at a level that meets the needs of each individual and accounts for their particular circumstances.
- A2.24 The ACTPS will take all reasonable steps and precautions to provide a healthy, safe and secure workplace for the employee. The ACTPS and all employees will act in a manner that is consistent with the Work Health and Safety Act (WHS Act).
- A2.25 Further, given the clear evidence of the benefits and cost effectiveness of workplace health initiatives for both employers and employees, the ACTPS 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 any of the following:
- A2.25.1 Organisational and environmental policies and programs.
 - A2.25.2 Awareness, training and education programs that promote healthy lifestyles, assist employees to identify and reduce risk factors.
 - A2.25.3 Traditional and non-traditional physical activity programs.

Climate change mitigation and sustainability

- A2.26 The parties acknowledge all of the following:
- A2.26.1 That climate is changing and this affects residents of the ACT.
 - A2.26.2 The ACT has a long-term emissions reduction target of net zero greenhouse gas emissions by the year 2050 with a series of interim targets to achieve that goal.
 - A2.26.3 Education, discussion, information sharing and cooperation in the workplace is an important part of supporting the achievement of the emissions target.

A3 - Application and Coverage

- A3.1 This Agreement applies to and covers all of the following:
- A3.1.1 The head of service on behalf of the Australian Capital Territory
 - A3.1.2 The Chief Executive of Calvary Health Care ACT Limited (ABN 74 105 304 989) (Calvary) on behalf of the Australian Capital Territory
 - A3.1.3 Persons engaged under *the Public Sector Management Act 1994* (PSM Act) or engaged by Calvary at any time when the Agreement is in operation in one of the classifications in Annex A, except a person engaged as head of service under section 31(1) of the PSM Act, persons engaged as directors-general under section 31(2) of the PSM Act, or persons engaged as executives under section 31(2) of the PSM Act, or persons covered by the ACTION Enterprise Agreement 2018-2021, the ACT Public Sector Canberra Institute of Technology Enterprise Agreement 2018-2021, the ACT Public Sector Cultural Facilities Corporation Enterprise Agreement 2018-2021, and the ACT Public Sector Office of the Legislative Assembly Enterprise Agreement 2018-2021, or where these have been superseded the relevant enterprise agreement in force at the time.

A3.1.4 ACT Territory Authorities and Instrumentalities that engage persons under the PSM Act in classifications listed in Annex A of this Agreement.

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 all of the following:

A3.2.1 Community and Public Sector Union (CPSU).

A4 - Commencement and Duration

A4.1 This Agreement will commence operation 7 days after it is approved by the FWC.

A4.2 The nominal expiry date of this Agreement is 31 March 2026.

A4.3 The head of service and unions covered by this Agreement agree to commence bargaining for a new replacement Agreement no later than 8 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 all of the following:

A5.2.1 *Fair Work Act 2009 (Cth) (FW Act)*

A5.2.2 *Public Sector Management Act 1994 (ACT) (PSM Act)*

A5.2.3 *Public Sector Management Standards (PSM Standards)*

A5.2.4 *Financial Management Act 1996 (ACT) (FM Act)*

A5.2.5 *Work Health and Safety Act 2011 (ACT) (WHS Act)*

A5.2.6 *Holidays Act 1958 (ACT) (Holidays Act)*

A5.2.7 *Territory Records Act 2002 (ACT) (TR Act)*

A5.2.8 *Safety, Rehabilitation and Compensation Act, 1988 (Cth) (SRC Act)*

A5.2.9 *Superannuation Guarantee (Administration) Act 1992 (Cth)*

A5.2.10 *Integrity Commission Act 2018 (ACT) (IC Act)*

A5.2.11 *Public Interest Disclosure Act 2012 (ACT) (PID Act)*

A5.2.12 *Labour Hire Licensing Act 2020 (ACT) (LHL Act)*

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. If 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.
- A5.6 To the extent of any inconsistency between a provision in one of the schedules to this Agreement and sections A to M of this Agreement, the provision in the schedule will prevail.

A6 - Authority of the Head of Service (and Public Sector Employers with Head of Service Powers)

- A6.1 The head of service may, in writing, delegate any power or function that the head of service has under this Agreement to another person or position within the ACTPS, subject to directions, except for this power of delegation and the powers under:
- A6.1.1 A3.1.1
 - A6.1.2 A3.1.3
 - A6.1.3 A4.3
 - A6.1.4 B9.3
 - A6.1.5 B9.4
 - A6.1.6 E10.4.3
 - A6.1.7 I4.13
 - A6.1.8 I4.15
 - A6.1.9 I4.16
 - A6.1.10 I4.17
 - A6.1.11 J1.2
 - A6.1.12 K2.1
 - A6.1.13 L15 -
 - A6.1.14 Annex B
 - A6.1.15 Annex D, section 16 (Campaign for election)
- A6.2 This does not limit the power of the head of service to authorise a person to act for and on the head of service's behalf.
- A6.3 Only directors-general may, in writing, sub-delegate a power or function delegated to them by the head of service.

Public sector employers and Calvary Health Care Limited ACT Limited

- A6.4 Certain statutory office-holders and chief executive officers are defined by section 152 of the PSM Act to be a public sector employer where a territory law states both of the following:
- A6.4.1 They may employ staff.

A6.4.2 The staff must be employed under the PSM Act.

A6.5 Calvary Health Care Limited ACT Limited (Calvary) is defined by section 157 of the PSM Act to be an employer of a public hospital employee where a services agreement is in force between the Australian Capital Territory and Calvary for a public hospital employee to be employed by Calvary to provide public health services to the Australian Capital Territory.

A6.6 Where a statutory office-holder or chief executive officer is a public sector employer, or where Calvary is an employer of a public hospital employee, then a reference to the head of service in this Agreement will be taken to mean the public sector employer or Calvary (as applicable) such that the public sector employer or Calvary (as applicable) may exercise any power or function that the head of service has under this Agreement, except for the powers under subclause J1.2 and subclause K2.1.

A6.7 A public sector employer or Calvary (as applicable) may, in writing, delegate any power or function they have under this Agreement to another person or position within the ACTPS (or Calvary as applicable), subject to directions, except for this power of delegation.

A6.8 This does not limit the power of a public sector employer or Calvary (as applicable) to authorise a person to act for and on behalf of the public sector employer, or Calvary (as applicable).

A6.9 In this Agreement, reference to the head of service may be taken to mean delegate of the public sector employer or Calvary (as applicable) where the public sector employer or Calvary (as applicable) had delegated the particular power or function under subclause A6.7.

A7 - Authority of the Public Sector Standards Commissioner

A7.1 Where the Public Sector Standards Commissioner has express powers under this Agreement, only the Public Sector Standards Commissioner may delegate, in writing, those powers to another person or position within the ACTPS, subject to directions, except for this power of delegation.

A7.2 This does not limit the power of the Public Sector Standards Commissioner to authorise a person to act for and on behalf of the Public Sector Standards Commissioner.

A7.3 Where the Public Sector Standards Commissioner is conducting investigations by reference to section 144(1)(a)(i) of the PSM Act about a matter declared by the Chief Minister in the way prescribed, the Public Sector Standards Commissioner is not limited to or bound by the investigation procedures contained in clause G7 - and clause G8 - of this Agreement.

A8 - Flexibility Term

A8.1 The head of service and an individual employee may agree to vary the application of certain provisions of this Agreement to meet the particular needs of a business unit in the ACTPS and of the individual employee (an individual flexibility arrangement).

A8.2 The head of service and an individual employee may agree to vary, through an individual flexibility arrangement, any of the following provisions of this Agreement:

- A8.2.1 Vacation childcare subsidy (clause B26 -)
- A8.2.2 Family care costs (clause B27 -)
- A8.2.3 Emergency duty (clause C16 -).
- A8.3 The head of service must ensure that the terms of an individual flexibility arrangement meet all of the following:
 - A8.3.1 They would be permitted if the arrangement were an enterprise agreement.
 - A8.3.2 They do not include a term that would be an unlawful term if the arrangement were an enterprise agreement.
 - A8.3.3 They will result in the employee being better off overall than the employee would have been if no individual flexibility arrangement were agreed to.
- A8.4 The head of service must ensure that the individual flexibility arrangement meets all of the following:
 - A8.4.1 It identifies the clause in A8.2 of this Agreement that the head of service and the employee have agreed to vary.
 - A8.4.2 It sets out details of how the arrangement will vary the effect of the clause.
 - A8.4.3 It 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.
 - A8.4.4 It states the day the arrangement commences.
- A8.5 An individual flexibility arrangement made under this clause must be genuinely agreed to by the head of service and the individual employee.
- A8.6 Except as provided in paragraph A8.7.2, 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.
- A8.7 The head of service must ensure that an individual flexibility arrangement made under this clause is made in writing and signed by the following:
 - A8.7.1 In all cases – by the employee and the head of service.
 - A8.7.2 If the employee is under 18 – by a parent or guardian of the employee.
- A8.8 The head of service must give the employee a copy of an individual flexibility arrangement made under this clause within 14 days after it is agreed to.
- A8.9 The head of service or the employee may terminate the individual flexibility arrangement by doing either of the following:
 - A8.9.1 Giving written notice of no more than 28 days to the other party to the arrangement.
 - A8.9.2 Both parties agree in writing – at any time.
- A8.10 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 head of

service and an individual employee to make an agreement under any other provision of this Agreement.

A9 - Work Organisation

- A9.1 An employee agrees to carry out all lawful and reasonable directions of the head of service 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.
- A9.2 An employee will not, unless this is done in the course of the employee's duties or as required by law or by the ACTPS, use or disclose to any person any confidential information about the ACTPS's business that becomes known to the employee during the employee's employment.
- A9.3 The ACTPS will not reveal to any person any medical, financial or personal details of the employee that the ACTPS may have obtained, except with the permission of the employee or where the ACTPS is under a legal obligation to do so.
- A9.4 Subject to subclauses A9.5 to A9.8 and limited to new employees of the ACTPS whose employment with the ACTPS commences on or after the commencement of this Agreement (new employee), the ACTPS 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).
- A9.5 The details of the new employee's employment which the ACTPS 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 directorate in which the new employee is engaged. The ACTPS will not provide the information to the union(s) until at least 21 days after the new employee has commenced employment.
- A9.6 Subclause A9.4 does not apply if the head of service has received written notification from the new employee, either prior to their commencement of employment, or within 14 days after their commencement, that the employee does not consent to the information specified in subclause A9.5 being shared with the relevant union(s).
- A9.7 Each of the unions referred to in subclause A3.2 who wish to receive the information referred to in subclause A9.5 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).
- A9.8 The ACTPS will only provide new employee information to the relevant union(s) under subclause A9.4 in accordance with the Union Representation Schedule and will do so on a monthly basis.

A10 - Termination of Agreement

- A10.1 The ACTPS 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 Public Sector

B1 - Achieving a Better Work and Life Balance

- B1.1 The ACTPS is committed to a healthy work-life balance, supporting employees to reconcile work with their family and other personal commitments.
- B1.2 The ACTPS will promote a healthy work-life balance through facilitating flexible working arrangements, including hybrid work, in accordance with the provisions in this section.
- B1.3 Hybrid work is a flexible working arrangement whereby employees have the option to work in various locations as agreed with the head of service. This arrangement will differ across the Service and for individual employees and will recognise the operational and business requirements of the directorate or business unit.

B2 - Types of Employment

- B2.1 A person will be engaged under the PSM Act in one of the following categories:
- B2.1.1 *Permanent* employment as an officer on a full-time or permanent part-time basis, including appointment with or without probation.
- B2.1.2 Short-term *temporary* employment for a period not exceeding 12 months on a full-time or part-time basis, engaged for a specified period of time or for a specified task or as an apprentice, trainee; or cadet.
- B2.1.3 Long-term *temporary* employment for a period greater than 12 months but not exceeding 5 years on a full-time or part-time basis, engaged for a specified period of time or for a specified task or as an apprentice, seasonal employee, trainee, or cadet.
- B2.1.4 *Casual* employment.
- B2.2 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.

B3 - Fixed Term Employment for Seasonal Employees

- B3.1 Seasonal employees employed under paragraph B2.1.3 may be employed for a 3 year period on a temporary basis under which they work for certain periods during consecutive seasons (the “active employment periods”). Prior to the end of the 3 year contract the head of service may offer the seasonal employee a further 2 year contract without the need for the position to be advertised.
- B3.2 The active employment period will be specified in the contract and fixed for the contract term, and will be no less than 22 weeks per 12 month period. The start and end dates of each active employment period will be specified in the contract.

- B3.3 In respect of the active employment periods, seasonal employees must, unless otherwise specified, be entitled to the same benefits as employees working throughout the year, calculated on a pro rata basis.
- B3.4 Notwithstanding any other provision of this Agreement, outside the active employment periods (other than during periods of paid annual leave) seasonal employees will be regarded as being on unpaid leave and they will not accrue leave or any other entitlements under this Agreement while on unpaid leave.
- B3.5 The start and end dates of the active employment period as specified in the contract may be varied by agreement between the head of service and the employee, provided that this will not shorten the active employment period.
- B3.6 The active employment period can be extended up to 12 months in any contract year with agreement between the head of service and the employee.
- B3.7 Notwithstanding subclause B3.2 if there is a demonstrated need for a shorter active employment period for a particular type of seasonal employee, the head of service may determine that a shorter minimum active employment period applies for that particular group of employees, provided the minimum period is no less than 16 weeks.
- B3.8 A seasonal employee is not required to obtain prior permission for secondary employment in periods outside the active employment period, provided that there is no conflict of interest.

B4 - Joint Selection Committees

- B4.1 A Joint Selection Committee must consist of a minimum of the following:
- B4.1.1 A chairperson who has appropriate skills and experience, nominated by the head of service.
 - B4.1.2 A person who has appropriate skills and experience, nominated by the union(s).
 - B4.1.3 A person who has appropriate skills and experience, nominated by the head of service from a list of employees, and agreed by the head of service and the principal union.
- B4.2 The ACTPS must as far as practicable ensure that employees who are Joint Selection Committee members have access to appropriate training to assist them in performing their role.
- Note: 1 Provisions relating to the use of Joint Selection Committees are located in the PSM Standards.
- 2 For every JSC the relevant union(s) must be contacted to ascertain the union nominee and to seek agreement for the third JSC member.

B5 - Probation

- B5.1 Where an officer is appointed on probation under the PSM Act, the period of probation will ordinarily be no more than 6 months.
- B5.1.1 The probation period can only be longer than 6 months if it is in accordance with approved Training Scheme employment arrangements (for example at C6 -) or where the period of

probation has been extended following an assessment of performance.

- B5.2 The head of service must, at the time an officer is appointed on probation, inform the officer in writing of the period of probation and the criteria and objectives to be met for the appointment to be confirmed.
- B5.3 Probation provides a supportive process for the officer during which mutual evaluation and decisions about permanent appointment can be made.
- B5.4 There must be at least 2 formal assessments of an officer's performance at appropriate and reasonable points of the probationary period. The head of service must provide the officer with a copy of each assessment report and provide the officer an opportunity to respond within 7 business days.
- B5.4.1 If the assessment warrants the manager or supervisor's recommendation that the head of service terminate the officer's employment, that recommendation must be included in the assessment report.
- B5.4.2 Where an employee's employment is to be terminated at the initiative of the head of service, the employee must be given at least 14 days written notice in accordance with section 70(5) of the PSM Act.
- B5.5 If the period of probation is extended in accordance with the PSM Act (s71B), the head of service must inform the officer in writing of the period of the extension, the reasons for the extension, and what the officer must do by the end of the period of extension for their permanent appointment to be confirmed.
- B5.6 A period of extension is not to be longer than 6 months unless it is for extraordinary circumstances and has been approved by the head of service.
- B5.7 A decision of the head of service to accept the recommendation to terminate the appointment of an officer on probation, as per paragraph B5.4.1, is excluded from the Internal Review Procedures (Section I) and Appeal Mechanism (Section J) of this Agreement.
- B5.7.1 To avoid doubt, an officer on probation is able to seek a review of the officer's probation under the Internal Review Procedures, (Section I), except in relation to a decision to terminate the officer's employment.

B6 - Record Keeping

- B6.1 The ACTPS must 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.
- B6.2 The employee must record the time of commencing and ceasing duty for each day. These records must be provided to the manager or supervisor where the manager or supervisor so requests.

B7 - Review of Employment Status

- B7.1 In order to promote permanent employment and job security for employees in the ACTPS, temporary and non-ongoing employees, as well as eligible casual

employees who have been engaged on a regular and systematic basis for at least 12 months and who have a reasonable expectation that such arrangements will continue, may, by application in writing to their manager or supervisor, request an examination of their employment status.

Note: This is in addition to the FW Act right to request conversion.

- B7.2 Having considered the request the manager or supervisor must respond in writing, giving reasons, within a 6 week timeframe.
- B7.3 To avoid doubt, decisions stemming from such reviews are subject to the application of selection and appointment processes applying in the ACTPS. These processes include the application of the merit principle and the application of a probation period on appointment. These processes are also subject to there being no excess officers who would be eligible for redeployment to the office.
- B7.4 A selection process initiated under this clause must be conducted with the use of a joint selection committee in accordance with clause B4 - of this Agreement.

B8 - Secure Employment

- B8.1 The ACTPS is committed to promoting permanent employment and job security for employees within the ACTPS and accordingly agrees to the provisions in this clause.
- B8.2 The ACTPS is committed to establishing an Insourcing and Secure Employment Framework for assessing if applicable procured work should be provided by the public sector.
- B8.3 The ACTPS is committed to all of the following:
 - B8.3.1 Minimising the use of consultants and contractors and labour-hire across the ACTPS.
 - B8.3.2 Minimising the use of sub-contractors and increase the use of direct employment of workers across the ACTPS.
 - B8.3.3 Supporting direct employment relationships, but where sub-contractors are operating, that industrial and legal mechanisms to protect their rights, be developed and implemented.
- B8.4 As part of the introduction of the Secure Employment Framework and to assist in the promotion of permanent employment for employees, the ACTPS will ensure that the employees of any consultants or contractors the ACTPS proposes to engage, receive pay and conditions at least equivalent in overall terms to ACTPS pay and conditions.
- B8.5 Prior to making decisions about matters covered by this clause, appropriate consultation must be undertaken with relevant employees and unions in accordance with clause F1 - of this Agreement.

B9 - Secure Workforce Conversion Process

- B9.1 The ACTPS is committed to promoting permanent employment and job security for employees within the ACTPS.
- B9.2 For the purposes of giving effect to this commitment, which is further outlined in this Agreement, including at subclauses A2.2 to A2.5, a Joint Union and ACT

Government Secure Workforce Conversion Process has been established by the ACT Government. The Secure Workforce Conversion Process delivers important outcomes regarding secure work for temporary and casual employees.

- B9.3 In accordance with subclauses A2.2 to A2.5, assessments will occur through the Secure Workforce Conversion Process which will facilitate recommendations to the head of service as to whether a position, or group of positions, or a temporary or casual employee, should be converted to permanency. Where such a recommendation has been made, the head of service will endeavour to convert the position(s) or employee(s) to permanent employment. The head of service may appoint the employee(s) currently in the relevant positions without a further merit selection process, if the head of service is satisfied that the relevant employee(s) meets the requirements of the proposed position and the criteria of the secure work conversion process.
- B9.4 Where the Secure Workforce Conversion Process has made a recommendation to the head of service that a position or group of positions, or an employee with temporary or casual employment should be converted to permanency and the head of service decides not to appoint the relevant employee(s) in accordance with subclause B9.3, the head of service must provide written reasons for their decision.

B10 - Notice of Termination

- B10.1 Where an employee's employment is to be terminated at the initiative of the head of service, other than in accordance with subclause G5.8 or Section L, the notice periods set out in the Fair Work Act will apply.
- B10.2 Where an employee's employment ceases at the initiative of the employee, the employee must provide written notice of their resignation from the ACTPS to the head of service at least 2 weeks prior to the proposed date of the resignation.
- B10.3 The period of notice required in subclause B10.2 may be reduced by agreement in writing between the employee and the head of service.

B11 - Flexible Working Arrangements and Employee Support

- B11.1 The ACTPS is committed to providing flexible working arrangements which allow employees to manage their work and personal commitments. This must be balanced against the operational requirements for the ACTPS to deliver services to the Canberra community.
- B11.2 The ACTPS 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. 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.
- B11.3 This Agreement provides a range of flexible working arrangement provisions which include:
- B11.3.1 Provisions to vary ordinary hours:
- B11.3.1 (a) a default of standard hours (as defined in the Dictionary)

- B11.3.1 (b) the employee's work pattern of attendance (B17.12.5)
- B11.3.2 an averaging approach to ordinary hours (B15.5 and B17.16)
- B11.3.3 Provisions to vary the Span of Hours (B17.8)
- B11.3.4 Flextime provisions (B18 -) for eligible employees.
- B11.3.5 A Flexible Working Arrangement (B19 -).

B12 - Management of Working Hours

- B12.1 The ACTPS 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 B18.4 and clause E24 -.
- B12.2 Managers, supervisors 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 manager, supervisor and employee together must review workloads and priorities and determine appropriate strategies to address the situation.
- B12.3 Complying with clause B12.2 requires the manager or supervisor to consider and implement one or more of the following strategies to reduce the amount of excessive hours being accumulated:
 - B12.3.1 Review of workloads and priorities.
 - B12.3.2 Re-allocation of resources.
 - B12.3.3 Consideration of appropriate arrangements for time off in lieu or other recompense.
 - B12.3.4 Review of staffing levels and classifications within the work group.
- B12.4 The head of service must consult with DCC's about the development and implementation of appropriate strategies to deal with issues associated with both paid and unpaid overtime.

B13 - Scheduling of Meetings

- B13.1 To assist employees to meet their personal responsibilities, where possible, all meetings in the ACTPS are to be scheduled at times that take into account those responsibilities.

B14 - Casual Employment Arrangements

Minimum attendance

- B14.1 The minimum payment on each occasion when a casual employee is called for and attends for duty is 3 hours, whether or not the casual employee is required to work for those 3 hours.

Rate of pay

- B14.2 A person engaged as a casual employee will be paid at the same rate of pay as would be applicable to an employee performing the duties and hours of that role. In addition the casual employee will receive a loading of 25% of the ordinary hourly rate of pay set out in Annex A to this Agreement 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.

Payment for shift work

- B14.3 A casual employee is eligible to receive payment of shift-penalties in accordance with clause C8 -.
- B14.4 The loading paid under subclause B14.2 is not taken into account in the calculation of shift work penalty payments.

Overtime

- B14.5 A casual employee is eligible to receive payment for overtime in accordance with clause C9 -.
- B14.6 A casual employee is eligible for payment of overtime in respect of all hours worked in excess of either 7 hours and 21 minutes or 7 hours and 36 minutes, as applicable, on any day or shift.
- B14.7 The loading paid under subclause B14.2 is not taken into account in the calculation of overtime payments.

Overtime meal allowance

- B14.8 A casual employee is eligible to receive payment of overtime meal allowances in accordance with Annex C.
- B14.9 The term 'meal break' does not require the employee to partake of a meal during the break period.

Payment for public holidays

- B14.10 A casual employee is not eligible for payment in respect of public holidays, unless the employee works on a public holiday provided under clause E10 -.
- B14.11 Where a casual employee does work on a public holiday, the casual employee is entitled to the appropriate shift penalties or overtime payments described in subclauses C8.7 and C9.14.

Leave

- B14.12 A casual employee is not eligible for paid leave other than long service leave.

B15 - Hours of Work for Shift Workers

- B15.1 An employee (other than a casual employee) is a shift worker if both of the following apply:
- B15.1.1 The employee is rostered.
 - B15.1.2 The roster may require the employee to perform ordinary daily hours on a shift when some or all of a shift in the roster falls on one or both of the following:

B15.1.2 (a) Outside the span of hours as set out in subclause B17.7.

B15.1.2 (b) On Saturdays or Sundays on a regular and ongoing basis.

Note: A shift worker may be required, as a part of their regular roster, to work public holidays.

Shift workers - ordinary hours of work

- B15.2 A shift work position may have ordinary weekly hours of either 36.75 or 38.00 hours per week.
- B15.3 For a 36.75 hours per week position, the ordinary daily hours are 7 hours and 21 minutes for a full-time employee. The ordinary weekly hours are 36.75 hours for a full-time employee, performed in any of the following ways:
- B15.3.1 36.75 hours within a period not exceeding 7 consecutive days.
 - B15.3.2 73.5 hours within a period not exceeding 14 consecutive days.
 - B15.3.3 147 hours within a period not exceeding 28 consecutive days.
 - B15.3.4 Any other period of 12 months or less and agreed in writing between the manager or supervisor and the employee to provide for an average weekly hours of 36.75 hours per week over the agreed period.
- B15.4 For a 38.00 hours per week position, the ordinary daily hours are 7 hours and 36 minutes for a full-time employee. The ordinary weekly hours are 38.00 hours for a full-time employee, performed in any of the following ways:
- B15.4.1 38.00 hours within a period not exceeding 7 consecutive days.
 - B15.4.2 76.00 hours within a period not exceeding 14 consecutive days.
 - B15.4.3 152 hours within a period not exceeding 28 consecutive days.
 - B15.4.4 Any other period of 12 months or less and agreed in writing between the manager or supervisor and the employee to provide for an average weekly hours of 38.00 hours per week over the agreed period.
- B15.5 The ordinary weekly hours may be averaged over a period of up to 4 weeks (28 calendar days), or a longer period of no more than 12 months as agreed in writing between the manager or supervisor and the employee affected.
- B15.6 A part-time employee will work less than the ordinary weekly hours of work for a full-time employee.
- B15.7 After consulting with the employees affected and the employees' representatives and following agreement of a majority of employees affected, the head of service may introduce any of the following:
- B15.7.1 Shift work.
 - B15.7.2 A new roster.
 - B15.7.3 An arrangement of shift cycles.

- B15.8 Subject to subclause B15.9 rosters setting out the start times, finish times, and rotation of shifts over at least a 28 day period must be posted at least 14 calendar days prior to the commencement of the roster.
- B15.9 Amendments may be made to rosters to meet the operational or business needs of a particular business unit. These amendments must be made available as soon as practicable.

Shift Workers - payment for an employee rostered off on a public holiday

- B15.10 An employee will be granted a day's leave in lieu of a public holiday if both of the following apply to the day on which the public holiday falls:
- B15.10.1 The employee is normally rostered to perform work on that day of the week.
 - B15.10.2 The employee is scheduled to be on a rostered day off.
- B15.11 The day in lieu provided for in subclause B15.10 must be granted within one month after the holiday, if practicable.
- B15.12 If it is not practicable to grant a day's leave in lieu in accordance with subclause B15.11, the employee will be paid one day's pay at the ordinary hourly rate of pay.
- B15.13 The day's leave in lieu of a public holiday occurring on a rostered day off provided under subclause B15.10, or the day's pay provided under subclause B15.12, is equivalent to the ordinary hours the employee would have worked had the employee been rostered to work on the public holiday, provided that the employee is not otherwise being compensated for the public holiday by any of the following:
- B15.13.1 The provision of additional paid annual leave in lieu of public holidays.
 - B15.13.2 The payment of a composite rate of pay that includes payment for public holidays.
 - B15.13.3 The accrual of additional rostered hours of work towards an Accrued Day Off.
 - B15.13.4 Any other means.

Shift Workers - flexible work arrangements

- B15.14 A shift worker may apply for access to flexible working arrangements in accordance with B20 -.

Shift Workers - meal break

- B15.15 Unless there are exceptional and unforeseen circumstances, an employee is not required to work for more than 5 hours without a meal break of at least 30 minutes' duration. Meal breaks do not count as time worked unless specific provisions are made for in this Agreement.
- B15.16 The term 'meal break' does not require the employee to partake of a meal during the break period.
- B15.17 The provisions of subclause B15.15 may be varied by agreement between the manager or supervisor and a majority of employees concerned in a workplace.

- B15.18 An employee who works up to 6 hours in a day may, at the employee's discretion, work up to 6 hours without a meal break to accommodate the employee's personal circumstances and work-life balance.
- B15.19 An employee who is required by the head of service, due to operational reasons, to continue working through the employee's meal break will be paid an additional 50% of the employee's ordinary hourly rate of pay from the scheduled time of commencement of the break until the employee is provided a break or commencement of a period of overtime following completion of ordinary hours of work.

B16 - Accrued Days Off (ADOs)

- B16.1 An employee to whom this clause applies is entitled to a day/shift off duty using bankable leave accrued as a result of increasing the employee's daily hours of work – e.g. increasing from 7 hours 36 minutes to 8 hours.
- B16.2 An employee may apply to take an ADO as a whole day or part of a day by agreement with the manager or supervisor. ADOs must be approved by the manager or supervisor if they consider the approval will not affect operational requirements. If the manager or supervisor does not approve an ADO because of operational requirements, the manager or supervisor must consult with the employee to determine a mutually convenient alternative time (or times) for the employee to take the leave.
- B16.3 Accrual towards an ADO does not occur when an employee is on any form of leave with the exception of annual leave, paid personal leave and compassionate leave.
- B16.4 ADOs will not be taken in advance and must only be taken when the equivalent time has been accrued.
- B16.5 An employee may bank a maximum of 6 ADOs with the approval of the employee's manager or supervisor.
- B16.6 For each day or shift an employee is absent on annual leave, paid personal leave or compassionate leave, leave credits are reduced by the number of ordinary hours that the employee would have worked on that day or shift (including time accrued for the ADO). Each day or shift of paid annual leave, paid personal leave or paid compassionate leave taken during the cycle of shifts will therefore be regarded as a day worked for accrual towards an ADO.
- B16.7 Where an employee, who has accrued credit towards an ADO, ceases employment with the ACTPS and it is not practical for the employee to utilise that credit, the employee will have the accrued ADO credit paid on separation. The rate at which any unused ADO credit will be paid is the rate of pay, including any applicable higher duties allowance, that is in effect on the date of separation.

B17 - Hours of Work for Non-Shift Workers

- B17.1 In this clause employee refers to an employee (other than a casual employee) who is employed in a position identified by the head of service as having ordinary weekly hours of either 36:75 or 38:00 hours per week.

Non-shift workers - ordinary hours of work

- B17.2 A non-shift work position may have ordinary weekly hours of either 36.75 or 38.00 hours per week.
- B17.3 The standard hours of work in this agreement are only for the purposes of calculating salary and leave entitlements.
- B17.4 For a 36.75 hours per week position the following applies:
- B17.4.1 The ordinary daily hours are 7 hours and 21 minutes for a full-time employee.
- B17.5 For a 38.00 hours per week position the following applies:
- B17.5.1 The ordinary daily hours are 7 hours and 36 minutes for a full-time employee.
- B17.6 A part-time employee will work less than the ordinary weekly hours of work for a full-time employee.

Non-shift workers - span of hours

- B17.7 Ordinary daily hours must be worked within the span of hours limits of 7:00 am to 7:00 pm Monday to Friday.
- B17.8 The span of hours worked in a day (subclause B17.7) may be varied by agreement between the manager or supervisor and a majority of employees concerned in a workplace.
- B17.9 At the request of an employee and with the agreement of the head of service, the employee may work outside the span of hours stipulated at subclause B17.7. This provision is designed to add flexibility and is not to be used to replace normal overtime provisions.
- B17.9.1 Where an employee requests to work outside the span of hours in accordance with subclause B17.9, these hours are considered normal hours of duty and do not attract overtime payments or time off in lieu provisions on an hour for hour basis, unless otherwise agreed between the employee and the head of service prior to the work being performed.

Non-shift workers – operational service hours for work areas

- B17.10 Starting and finishing times within the span of hours are to be determined for individual work areas by the head of service based on operational needs.
- B17.11 Where the head of service proposes to change the operational service hours of a work area, reasonable notice periods and subclauses F1.9 to F1.13 will apply. If a dispute is raised under clause F6 -, subclause F6.16 will apply while the dispute is on foot.

Non-shift workers – pattern of attendance at work for an individual employee

- B17.12 For a non-shift work position all the following apply:
- B17.12.1 An employee and their manager or supervisor will together design and reach written agreement on the employee's pattern of attendance at work.

- B17.12.2 In designing or negotiating a pattern of attendance at work, the manager or supervisor and employee will make reasonable efforts to balance both of the following:
- B17.12.2 (a) The employee's needs and preferences.
- B17.12.2 (b) The capacity and needs of a team, workplace, or business line to meet its internal and external service delivery requirements.
- B17.12.3 Where an employee and their manager or supervisor cannot reach agreement in relation to an employee's pattern of work, either party may apply for an internal review under Section I.
- B17.12.4 While a review under subclause B17.12.3 is underway, subject to any work health and safety concerns, the employee's pattern of work must be in accordance with one of the following:
- B17.12.4 (a) For an any employee with an agreed pattern of work—the pattern of work that applied to the employee immediately before there was a disagreement about the employee's pattern of work.
- B17.12.4 (b) For an employee for whom an agreed pattern of work is yet to be established—the existing operational service hours in their work area.
- B17.12.5 An employee may request changes to their pattern of attendance at work at any time.

B17.13 Flextime arrangements will continue to apply in accordance with B18 - for eligible employees.

B17.14 Hours of work arrangements must be in accordance with operational service requirements and work health and safety requirements.

Non-shift workers – hours of work and flexible options

- B17.15 An employee's entitlement to request individual flexible work arrangements in accordance with clause B20 - of this Agreement remains available despite these provisions.
- B17.16 Ordinary weekly hours may be averaged over a period of up to 4 weeks (28 calendar days), or a longer period of no more than 12 months as agreed in writing between the manager or supervisor and the employee.

Non-shift workers - meal break

- B17.17 Unless there are exceptional and unforeseen circumstances, an employee is not required to work for more than 5 hours without a meal break of at least 30 minutes' duration. Meal breaks do not count as time worked unless specifically provided for in this Agreement.
- B17.18 The provisions of subclause B17.17 may be varied by agreement between the manager or supervisor and a majority of employees concerned in a workplace.
- B17.19 The term 'meal break' does not require the employee to partake of a meal during the break period.

- B17.20 An employee who works up to 6 hours in a day may, with the agreement of the manager or supervisor, work up to 6 hours without a meal break to accommodate the employee's personal circumstances and work-life balance.

B18 - Flextime

- B18.1 Flextime provides the framework for an employee's pattern of attendance at work to be varied according to the needs of the employee and the requirements of the work unit. It is not a system that is designed to increase or reduce the total number of hours that must be worked. Flextime is a system that operates on an honesty and trust basis, where an employee and manager must ensure the employee's hours of work are accurately recorded on a timesheet.
- B18.2 Flextime arrangements must be in accordance with operational service requirements and work health and safety principles.
- B18.3 Flextime is not available to any of the following:
- B18.3.1 Casual employees.
 - B18.3.2 Shift workers whose hours of work are provided for in clause B15 -.
 - B18.3.3 Employees who are entitled to accrued days off in accordance with subclause B16 -.
 - B18.3.4 Employees who are entitled to recovery leave in accordance with clause E24 -.
- B18.4 For flextime arrangements to work effectively, managers and employees have a responsibility to manage hours of work to ensure that individuals are not building up excessive flex credits while either of the following apply:
- B18.4.1 The employee does not have the opportunity to access flextime accrued.
 - B18.4.2 The employee is not being productively employed i.e., the head of service may require an employee not to accumulate flex credits before or after their operational service hours where there is insufficient work or an employee cannot be sufficiently managed.
- B18.5 A settlement period comprises 2 pay periods (i.e. 4 weeks).
- B18.6 An employee may have a maximum flextime credit equal to the employee's normal weekly hours of duty, at the end of the settlement period. This may be varied by agreement between the head of service and the employee in exceptional circumstances.
- B18.7 Where an employee has a flextime credit in excess of the employee's normal weekly hours of duty for more than one settlement period, the employee and manager must agree and implement a flextime usage plan. This plan must ensure the flextime credit will not exceed the maximum flextime credit and will facilitate time off in the next settlement period, unless otherwise approved by the head of service where there are exceptional circumstances.
- B18.8 If an employee does not agree to a reasonable flextime usage plan, the head of service may direct an employee to take enough flextime to reduce the accrued flextime credits to the equivalent of the employee's maximum flextime credit.

- B18.9** Flextime credits of up to an employee's normal weekly hours will be paid out to an employee on the cessation of their employment. Flextime credits of up to an employee's ordinary weekly hours will be paid out at any time during the course of a person's employment and only in exceptional circumstances with head of service approval.
- B18.10** The maximum flextime debit that may accrue is 10 hours measured at the end of any settlement period. Part-time employees may accrue a flex debit on a pro rata basis. At the end of a settlement period, any debit in excess of the maximum debit may be considered to be leave without pay, and the manager and employee must agree and implement a plan to do both of the following:
- B18.10.1** Prevent any further debit accruing.
- B18.10.2** Reach a zero flextime balance.
- B18.11** If an employee does not agree to a reasonable plan and reduce their flextime debit in accordance with B18.10, the head of service may commence overpayment processes in accordance with clause D5 -. The maximum flextime debit may be varied in exceptional circumstances by agreement between the head of service and the employee.
- B18.12** Any flextime debits an employee has if the employee ceases employment with the ACTPS will be treated as a debt in accordance with clause D5 -. The employee may nominate to use any available annual leave credits to cover the debt, or the debt will be recovered from any termination payment owing to the employee, except in the case of death.
- B18.13** Accrued flextime credits will be taken at such times and in such a period or periods as are agreed between the employee and the head of service and approved prior to taking accrued flextime. It is the responsibility of both the employee and the head of service to take steps to ensure that accrued flextime credits can be taken as time off, in accordance with this clause. Approval of a request by the employee to utilise flextime credits will not unreasonably be withheld.
- B18.14** An employee not complying with these flextime provisions may be directed by the head of service to work operational service hours. This arrangement must be reviewed no less than every 90 calendar days to assess if a return to flextime arrangement is suitable.

B19 - Flexible Working Arrangements

- B19.1** The ACTPS offers a wide range of options to provide or facilitate flexible employment which are summarised in the table below. The specific provisions set out the terms and conditions of each option.

Clause	Arrangement	Eligibility
Section E and Annexure D leave entitlements	Leave	Varies. Please refer to the relevant leave type for more details.
B15 - and B17 -	Hours of work	All employees other than casual employees

B21 -	Regular Part-Time Employment	Full-time employees and existing part-time employees
B22 -	Job Sharing	All employees other than casual employees
B23 -	Part-Time Employment Following Birth Leave, Primary Caregiver Leave, Adoption, Permanent or Long Term Care Leave or Parental Leave	Full-time employees and existing part-time employees who return to work after accessing birth leave, primary caregiver leave, adoption, permanent or long term care leave or parental leave
B24 -	Home-based Work	All employees
B13 -	Scheduling of Meetings	All employees
B26 -	Vacation Childcare Subsidy	All employees other than a casual employee or a temporary employee who has been engaged by the ACTPS for a period of less than 12 months
B27 -	Family Care Costs	All employees
B28 -	Nursing Employees	All employees
B29 -	Transfer of Medically Unfit Staff	All employees other than casual employees
B30 -	Transfer to a Safe Job during Pregnancy	All employees

B20 - Making a Request for a Flexible Working Arrangement

- B20.1 An employee may apply to the head of service for a flexible working arrangement to support their work and life balance. The head of service must give the employee a written response to the request within 21 calendar days of receiving the request, stating whether the request is approved and the reasons if the request is refused.
- B20.2 An employee may request a flexible working arrangement, in accordance with the FW Act, in any of the following circumstances relating to the employee:
- B20.2.1 They seek working arrangements to suit their personal circumstances.
 - B20.2.2 The employee has a parental or other caring responsibility for a child of school age or younger.

- B20.2.3 They have a caring responsibility for an individual with a disability, a terminal or chronic medical condition, mental illness or is frail and aged.
- B20.2.4 They have a disability.
- B20.2.5 They are 55 or older.
- B20.2.6 They are experiencing family or domestic violence.
- B20.2.7 They are providing personal care, support and assistance to a member of their immediate family or household because they are experiencing family or domestic violence.
- B20.2.8 They are pregnant.
- B20.3 Nothing in this clause diminishes any provisions expressed elsewhere in this Agreement, where those entitlements are entitlements in their own right.
- B20.4 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 the following:

Clause	Arrangement	Summary of entitlement
B17 -	Flexible starting and finishing time	An employee may request to work their ordinary hours flexibly within a daily span of hours between 7am-7pm.
B18 -	Ability to take a few hours off work, and make it up later	An employee's pattern of attendance at work may be varied according to the needs of the employee and the requirements of the work unit.
B24 -	Home-based work on a short-term or long-term basis	An employee may request to work from home or split working time between the workplace and home.
B21 -	Part-time work	A proposal to vary part-time employment arrangements may be made by the employee or head of service.
B22 -	Job sharing	Job sharing arrangements may be introduced by agreement between the head of service and the employees involved.
E9 -	Purchased leave	Employees may purchase leave in addition to the employee's usual annual leave entitlement to support their work life balance.
E7 -	Annual leave	Annual leave is available to employees to enable them to be absent from duty for the purposes of rest and recreation.

E25 -	Long service leave	Long service leave is available to employees to enable them to be absent from duty in recognition of their length of service.
Annex D	Leave not provided for elsewhere, with or without pay (Other Leave)	An employee may be eligible for additional leave types specified in Annex D to enable them to be absent from duty for a variety of purposes.
B23 -	Part-Time employment following birth leave, primary caregiver leave, adoption, permanent or long term care leave or parental leave	An employee returning to work after birth leave, primary caregiver leave, adoption, permanent or long term care leave or parental leave is entitled to choose to work on a part time basis within the first three years. Subject to approval, this may be extended to an aggregate total of seven (7) years.

- B20.5 The flexible working arrangement must be recorded in writing and run for a specified duration of up to 3 years. At the end of the flexible working arrangement's period of operation, unless a new flexible working arrangement is entered into, the default is that the employee returns to their nominal working arrangements.
- B20.6 Where a request for a flexible working arrangement is received, the head of service must consult with the employee and provide a written response to the request within 21 days.
- B20.7 The head of service may only deny an employee's request for a flexible working arrangement or a variation to an existing flexible working arrangement where there are reasonable business grounds for doing so and where all the following apply:
- B20.7.1 The head of service has discussed the request with the employee.
 - B20.7.2 The head of service has genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's particular circumstances.
 - B20.7.3 An agreement has not been reached between the head of service and employee.
 - B20.7.4 The head of service has considered the consequences of the refusal for the employee.
- B20.8 Reasonable business grounds to deny a request include any of the following:
- B20.8.1 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.
 - B20.8.2 There is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested by the employee.

- B20.8.3 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.
- B20.8.4 It would be a genuine risk to the health and safety of an employee(s).
- B20.8.5 Demonstrable exceptional circumstances have arisen that mean the request cannot be approved.
- B20.9 The head of service must inform the employee in writing of the decision to refuse the flexible working arrangement and the response must include all the following:
 - B20.9.1 Details of the reasons for the refusal.
 - B20.9.2 The reasonable business grounds for refusing the request.
 - B20.9.3 How the reasonable business grounds apply to the request.
 - B20.9.4 One of the following:
 - B20.9.4 (a) Provide alternative proposals for changes in the employee's working arrangements that would accommodate, to any extent, the employee's circumstances.
 - B20.9.4 (b) State that there are no alternative changes available that would accommodate, to any extent, the employee's circumstances.
 - B20.9.5 The dispute mechanisms available under subclause F6 - and the ability to refer the dispute to the FWC for resolution.
- B20.10 Approved flexible working arrangements may be reviewed annually, or earlier where the employee's relevant circumstances have changed or where there are reasonable business grounds that require a review to be undertaken. During this review the circumstances under which the flexible working arrangements were originally granted will be examined and reassessed.
- B20.11 The intent of locking in a flexible working arrangement for a period of up to 3 years is to provide certainty to both the employee and manager concerned. A flexible working arrangement may be revoked by either the employee or manager:
 - B20.11.1 at the annual review; or
 - B20.11.2 in exceptional circumstances between annual reviews.
- B20.12 3 months notice must be given to amend or cease the flexible working arrangement, unless a lesser period is agreed by both parties or where there are extenuating circumstances.
- B20.13 Reasonable grounds to amend or revoke a flexible working arrangement may include but are not limited to the following:
 - B20.13.1 Employee's role has changed significantly and the current flexible arrangement is no longer suitable.
 - B20.13.2 There is the increased risk of injury or illness or where there are other work health and safety concerns.

- B20.13.3 History of underperformance as documented in an underperformance plan or behaviour concerns.
- B20.14 Revoking a flexible work arrangement should not be considered until after efforts to amend arrangements have been attempted.
- B20.15 Employees that have an existing flexible working arrangement at the commencement of this Agreement must have that arrangement reviewed within 12 months of commencement of this Agreement.

B21 - Regular Part-Time Employment

- B21.1 A person may be employed in any classification as a part-time officer for an agreed number of regular hours that is less than the ordinary weekly hours specified at subclause B17.1 or subclause B15.2.
- B21.2 Proposals to reduce hours below full-time employment may be initiated by the head of service for operational reasons.
- B21.3 The head of service must obtain the written agreement of a full-time officer before the officer converts to part-time.
- B21.4 No pressure is to be exerted on full-time officers to convert to part-time employment or to transfer to another position to make way for part-time employment.
- B21.5 The agreed period, pattern of hours and days and commencement and cessation times for part-time work must be agreed between the officer and the officer's manager or supervisor and recorded in writing.

Note: An employee who wishes to work part-time may apply for a flexible working arrangement in accordance with clause B20 -.

Variation to part-time hours

- B21.6 Proposals to vary a part-time employment arrangement may be initiated by the head of service for operational reasons or by an officer for personal reasons.
- B21.7 Where an officer initiates a proposal the head of service must have regard to the personal reasons put by the officer in support of the proposal and to their business unit's operational requirements.
- B21.8 The head of service must obtain the written agreement of the officer before the officer's hours are varied.
- B21.9 No pressure is to be exerted on an officer to vary the officer's hours of employment or to transfer to another position to make way for part-time employment.
- B21.10 The agreed period, pattern of hours and days and commencement and cessation times for part-time work must be agreed between the officer and the officer's manager or supervisor and recorded in writing.

B22 - Job Sharing

- B22.1 In this clause employee refers to employees other than casual employees.
- B22.2 Job sharing arrangements may be introduced by agreement between the head of service and the employees involved, subject to operational requirements.

Employees working under job sharing arrangements share one job and are considered to be part-time with each working part-time on a regular, continuing basis.

- B22.3 An employee must request in writing permission to work in a job sharing arrangement. The head of service must agree to reasonable requests for regular job sharing arrangements, subject to operational requirements.
- B22.4 The pattern of hours for the job sharing arrangement must be agreed between the employee and the head of service. However, any single attendance at the office-based worksite must be for no less than 3 consecutive hours.
- B22.5 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.
- B22.6 In the event that either employee ceases to participate in the job sharing arrangement, the arrangement must be terminated.

B23 - Part-Time Employment Following Birth Leave, Primary Care Giver Leave, Adoption, Permanent or Long Term Care Leave or Parental Leave

- B23.1 Subject to this clause, the head of service must approve an application by an officer employed on a full-time basis who returns to work after accessing birth leave, primary care giver leave, adoption, permanent or long term care leave or parental leave, to work on a part-time basis up until the date which is 3 years from the birth or adoption of a child or the granting of parental responsibility of a foster child.
- B23.2 If the head of service deems that an application by an officer to access part-time work under this clause can only be accommodated if the officer agrees to become unattached, then the application must only be approved if the officer so agrees.
- B23.3 The maximum aggregate period of part-time employment that may be approved for an officer under subclause B23.1 is 7 years.
- B23.4 Either the officer who accesses primary care giver leave under clause E16 -, or adoption, permanent or long term care leave under clause E20 -, or the employee who is entitled to or accesses birth leave under clause E14 - is entitled to access part-time employment as provided in subclause B23.1.
- B23.5 The agreed period, pattern of hours and days and commencement and cessation times for part-time work must be agreed between the officer and the officer's manager or supervisor and recorded in writing.

B24 - Home Based Work

- B24.1 The diverse nature of work conducted in the ACTPS lends itself to a range of working environments. Employees may be supported to undertake hybrid work which may include work undertaken in the field and in the home or other agreed alternative location.
- B24.2 Home-based work, on a regular basis, is a voluntary arrangement that requires the agreement of both the head of service and the employee. The

head of service must consider requests by employees for home based work, having regard to operational requirements and the suitability of the work.

- B24.3 In determining appropriate home based work arrangements, the head of service and the employee must consider the following range of matters:
- B24.3.1 Appropriate and effective communication with office based employees.
 - B24.3.2 The need to ensure adequate interaction with colleagues.
 - B24.3.3 The nature of the job and operational requirements.
 - B24.3.4 Privacy and security considerations.
 - B24.3.5 Health and safety considerations.
 - B24.3.6 The effect on clients.
 - B24.3.7 Adequate performance monitoring arrangements.
- B24.4 Home based work arrangements may be terminated by the head of service on the basis of operational requirements, inefficiency of the arrangements, or failure of the employee to comply with the arrangements.
- B24.5 An employee may terminate home-based work arrangements at any time by giving reasonable notice to the head of service.
- B24.6 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 manager or supervisor.
- B24.7 The ACTPS must provide home computing facilities where an employee and the employee's manager or supervisor agree there is a need for such facilities. Provision of equipment by the ACTPS is subject to work health and safety requirements and to an assessment of technical needs by the manager or supervisor.

B25 - Employee Assistance Program

- B25.1 As a benefit to employees, the ACTPS must provide employees and employees' immediate families with access to an independent, confidential and professional counselling service at no cost to the employee.

B26 - Vacation Childcare Subsidy

- B26.1 This clause applies to an employee (other than a casual employee or a temporary employee who has been engaged by the ACTPS for a period of less than 12 months) with school age children who makes a timely application, with regard to work and rostering arrangements applying in their particular business unit, based on their accrued annual leave, purchased leave or long service leave during school holidays that is rejected. The head of service must make a payment to the employee of \$52.00 per day towards the cost of each school child enrolled in an accredited school holiday program for each calendar year subject to all the following conditions:
- B26.1.1 The maximum payable per child over a 5-day period is \$260.

- B26.1.2 The maximum payable days per child per year is 10.
- B26.1.3 The maximum number of children the benefit is payable for is 3.
- B26.1.4 Payment will not be made without the production of a receipt(s).
- B26.2 An accredited school holiday program is a program approved, subsidised or approved and subsidised by a State, Territory or Local Government.
- B26.3 The payment applies only on the days when the employee is at work.
- B26.4 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.
- B26.5 An employee whose domestic partner receives a similar benefit from the partner's employer is not eligible for the payment.

B27 - Family Care Costs

- B27.1 Where an employee is directed to work outside the employee's regular pattern of work, the head of service must authorise reimbursement to the employee by receipt for some or all of the costs of additional family care arrangements.

B28 - Nursing Employees

- B28.1 The ACTPS is committed to supporting employees who are breastfeeding or expressing milk for a baby or young child (nursing employees).
- B28.2 Nursing employees must be provided with the facilities and support necessary to enable such employees to combine a continuation of such nursing activity with the employee's employment.
- B28.3 Where practicable the work area must establish and maintain a suitable private room for nursing employees. Where there is no room available another appropriate space may be used.
- B28.4 Up to one hour, per day or shift, paid lactation breaks that are non-cumulative must be available for nursing employees.

B29 - Transfer of Medically Unfit Staff

- B29.1 This clause does not apply to casual employees.
- B29.2 A medically unfit employee is an employee who is considered by the head of service to be an employee who is unable to perform duties appropriate to the employee's role because of physical or mental incapacity following recommendation by an authorised doctor as defined under the PSM Act.
- B29.3 Despite the provision of section 27 of the PSM Act, a medically unfit employee may, by agreement with the employee, be transferred to any position within the employee's current skill level and experience, at either their substantive classification or equivalent classification. If the employee moves into an alternative classification stream, they may only be transferred to a classification that has a maximum salary which does not vary from the top increment of the employee's substantive classification by more than 10%, and penalties and allowances attached to the substantive position will not be taken into consideration in this calculation. Penalties and allowances may only continue to be paid where applicable in the new

position. For clarity this provision allows transfer between alternate classification streams, but does not allow for the transfer of an officer to a higher classification within the same classification stream e.g. a SOG B transfer to a SOG A.

- B29.4 An employee must not be redeployed in accordance with subclause B29.3 unless there is no suitable vacant position at the employee's substantive classification within their directorate.

B30 - Transfer to a Safe Job during Pregnancy

Purpose

- B30.1 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

- B30.2 In accordance with the NES, this clause applies to a pregnant employee when they do both the following:
- B30.2.1 Give notice that they will be applying for birth leave.
 - B30.2.2 Provide evidence from a registered health professional or registered medical professional to the head of service that they are fit for work but that it is inadvisable 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.
- B30.3 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

- B30.4 If the head of service determines that an appropriate safe job is not available, and when the employee has completed 12 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 counts as service for all purposes.
- B30.5 If the head of service determines that an appropriate safe job is not available, and the employee has not completed 12 months of continuous service, the employee is entitled to take unpaid absence for 'no safe job' purposes. This period of absence does not count as service for any purposes but does not break continuity of service.
- B30.6 The employee's entitlements under this clause cease when the employee's pregnancy ends before the end of the stated period.

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 - Pay Increases

- C2.1 Employees will be paid in accordance with the employee's classification and rates of pay set out in Annex A to this Agreement.
- C2.2 Increases to pay rates for all classifications set out in Annex A of this Agreement will be:
- C2.2.1 \$1,750 flat rate increase in the first full pay period on or after 1 January 2023.
 - C2.2.2 1% from the commencement of the first full pay period on or after 1 June 2023.
 - C2.2.3 \$1,750 flat rate increase in the first full pay period on or after 1 December 2023.
 - C2.2.4 1.5% from the commencement of the first full pay period on or after 1 June 2024.
 - C2.2.5 1% from the commencement of the first full pay period on or after 1 December 2024 and \$1,500 flat rate increase.
 - C2.2.6 1% from the commencement of the first full pay period on or after 1 June 2025.
 - C2.2.7 1% from the commencement of the first full pay period on or after 1 December 2025 and \$1,000 flat rate increase.

C3 - Method of Payment

- C3.1 Employees will be paid fortnightly in arrears and by electronic funds transfer into a financial institution account of the employee's choice.
- C3.2 The ACTPS commits to paying employees their ordinary fortnightly pay and allowances on the appropriate payday. The ACTPS also commits to paying any shift penalties, overtime payments and higher duties allowance as soon as reasonably possible, but not later than within 2 pay periods of the appropriate authorisation having been received by the relevant corporate area.
- C3.3 The ordinary fortnightly pay is based on the following formula:
- C3.3.1 $\text{Fortnightly pay} = \text{annual rate of pay} \times 12 / 313$.
- C3.4 A part-time employee is paid pro rata based on the employee's agreed ordinary hours.

- C3.5 An employee must, with the approval of the head of service, be advanced the pay due for any period of approved paid annual or long service leave. Advancement of pay is subject to payroll processing timeframes. The approval of the head of service must not be unreasonably withheld.

C4 - Payroll Deduction for Union Fees

- C4.1 Upon request by the union, the ACTPS must facilitate arrangements for payroll deductions for union fees. The ACTPS agrees that it must not impose any limitations or impediments to an employee utilising payroll deductions for union fees that do not apply to other regular payroll deductions, such as health insurance.

C5 - Pay Points and Increments

- C5.1 A person who is engaged by the ACTPS, or an employee who is promoted or is approved to perform the duties of a higher office, is entitled to be paid at the first pay point for the classification level.
- C5.2 Despite subclause C5.1, the head of service may approve a person who is engaged by the ACTPS, or an employee who is promoted or approved to receive higher duties allowance, to be paid at a higher pay point within that classification level.
- C5.3 Increments apply to both an employee's permanent and higher duties classification. When an employee has completed 12 months higher duties within a 24 month period an increment will be paid and all further instances of higher duties will be paid at this level.
- C5.4 Previous service at a higher duties pay must be considered when determining a pay point should the employee be promoted to that classification, and will be used to determine the date at which increments fall due.
- C5.5 An eligible employee is entitled (subject to there being no Underperformance or Discipline action undertaken in accordance with Section G– Workplace Values and Behaviours) to be paid an annual increment on and from the relevant anniversary of the date of commencement in the classification for the employee concerned.
- C5.6 Accelerated incremental advancement may occur as follows:
- C5.6.1 A person who is engaged by the ACTPS, or an employee who is promoted or approved to perform higher duties, may be paid at a higher pay point within that classification level.
- C5.6.2 Subject to a maximum of 2 additional increments within the classification range being awarded to the employee in a 12 month period (excluding any additional increments awarded to the employee on commencement in the position in accordance with subclause C5.2), the head of service may approve the payment of additional accelerated increments to the employee at one of the following times:
- C5.6.2 (a) At the time annual incremental advancement is due: i.e., at the time an employee is eligible for annual incremental advancement (either in the substantive or higher duties position).

- C5.6.2 (b) At any other time between periods of annual incremental advancement.
 - C5.6.3 Where an employee is awarded additional accelerated increments over the 12 month period between the payments of annual increments in accordance with paragraph C5.6.2, the employee is still eligible for the payment of an annual increment, and the date of effect of the annual increment will remain unchanged.
- C5.7 In considering whether to approve payment at a higher pay point (as per subclause C5.2), or accelerated advancement (as per subclause C5.6), the head of service must take into account all of the following factors:
 - C5.7.1 The employee's qualifications.
 - C5.7.2 The employee's relevant work and personal experience.
 - C5.7.3 The employee's current pay.
 - C5.7.4 The employee's ability to make an immediate contribution.
 - C5.7.5 Difficulties in attracting and retaining suitable employees.

C6 - Entry Level Programs

- C6.1 The ACTPS may run various entry level programs based on operational needs and available resources. All employment arrangements for entry level positions, including graduates, cadets, trainees and apprentices should be fair and attractive.
- C6.2 Rates of pay for employees engaged in Graduate and Cadet Programs, Traineeships, and Apprenticeships are set out at Annex A to this Agreement. Rates of pay for employees in other entry level programs will vary and be in accordance with classifications and rates of pay set out at Annex A to this Agreement, as determined by particular entry level program governance documentation or the PSM Standards.
- C6.3 Where an entry level program comprising work and structure training is introduced, all the following apply:
 - C6.3.1 The program must comply with the requirements of Australian Apprenticeships or Traineeships where relevant.
 - C6.3.2 Entry to the program must be by merit selection.
 - C6.3.3 In accordance with B5 - the length of the probation period, the associated assessment criteria and timeframe must be notified in writing to the participant in the entry level program prior to the commencement of the program.
 - C6.3.4 A person will be engaged either as a graduate, cadet, trainee, apprentice or other entry level program participant for the duration of the program.
 - C6.3.5 If, following the successful completion of the program and a rating of competent or better on their performance plan, a vacant funded position exists, participants in entry level programs will be appointed as an officer, or will have their appointment as an officer confirmed, or will be promoted into a classification that is

appropriate without the need for a further merit selection process.

C6.3.6 An internal merit selection process will be used where the number of participants in the relevant entry level program potentially suitable for appointment or promotion on completion of the program exceeds the number of available permanent funded positions.

C6.4 Where a program exceeds 12 months duration and there is provision in the applicable rates of pay, a participant is entitled, in accordance with clause C5 -and subject to there being no Underperformance or Discipline action undertaken in accordance with Section G-, to be paid an annual increment on and from the relevant anniversary of the date of commencement in the position concerned.

C7 - Higher Duties Allowance

C7.1 Higher Duties Allowance (HDA) is payable to an officer who is directed to temporarily perform the duties of a position with a higher classification.

Selection for HDA

C7.2 If a position is expected to be available for a period of 6 months or longer the position must be advertised in the gazette.

C7.3 Periods of higher duties should not normally extend beyond 12 months. If after 12 months the position is nominally vacant it must be advertised unless there are exceptional circumstances.

C7.4 Nothing in this clause restricts casual or temporary employees performing duties of a higher office in accordance with the PSM Act and the PSM Standards.

Periods of HDA

C7.5 An officer who is acting in a position with a higher classification for a period of one day or more, will be paid HDA for that period.

C7.6 Where an officer on temporary transfer is to perform the full duties of the higher position, HDA is calculated as the difference between the officer's current pay and a point in the pay range of the higher position determined by the head of service in accordance with clause C5 -.

C7.7 Where the officer is performing only part of the duties of the higher position and the higher position is at least 2 levels above the officer's current substantive level, payment of partial HDA may be agreed between the head of service and the officer, prior to the commencement of the temporary transfer.

C7.8 The rate of payment for partial HDA will be a point in the pay range(s) of the intervening level(s). The head of service's decision on the rate of payment of partial HDA must take into account the specified part of the duties of the higher position that the officer is to perform.

C7.9 An officer receiving HDA is entitled to normal incremental progression for the officer's substantive position and the HDA position in accordance with C5 -.

- C7.9.1 Increments gained while performing HDA are maintained upon the officer ceasing the higher duties.
- C7.10 Previous higher duties service will be considered in determining the appropriate pay point for future periods of higher duties.

C8 - Payment for Shift Workers

Payment of shift-penalties

- C8.1 An employee who is a shift worker and who is rostered to perform and performs ordinary duty on a shift, any part of which falls between the hours of 6:00 pm and 6:30 am, will be paid an additional 15% of the employee's ordinary hourly rate of pay, for that shift.
- C8.2 An employee who is a shift worker and who is required to work ordinary hours continuously for a period exceeding 4 weeks on a shift falling wholly within the hours of 6:00 pm and 8:00 am, will be paid an additional 30% of the ordinary hourly rate of pay for that shift.
- C8.3 The additional payment prescribed by this clause will not be taken into account in the computation of overtime or in the determination of any allowance based upon pay. The additional payment will not be paid for any shift for which any other form of penalty payment is made under this Agreement, or under the provisions of the PSM Act or the PSM Standards under which the employee is employed.

Payment while on annual leave

- C8.4 Additional payment for shift duty, as provided by this clause, is to be made in respect of any such duty that an employee would have performed had the employee not been on approved annual leave.

Payment for shift duty on a Saturday

- C8.5 An employee who is a shift worker is entitled to an additional payment of 50% of the employee's ordinary hourly rate of pay for all rostered time of ordinary duty performed between midnight on Friday and midnight on Saturday.

Payment for shift duty on a Sunday

- C8.6 An employee who is a shift worker is entitled to an additional payment of 100% of the employee's ordinary hourly rate of pay for all rostered time of ordinary duty performed between midnight on Saturday and midnight on Sunday.

Payment for shift duty on a public holiday

- C8.7 An employee who is a shift worker is entitled to an additional payment of 150% of the employee's ordinary hourly rate of pay for all rostered time of ordinary duty performed between midnight on the day before a public holiday, as described in clause E10 -, and midnight on the public holiday.

C9 - Overtime

Eligibility for payment of overtime

- C9.1 An employee may be required or requested to work reasonable additional hours of duty, subject to the payment for overtime in accordance with the

conditions set out in this clause, and the reasonable additional hours provisions of the FW Act.

- C9.2 Overtime rates are payable for duty that the head of service requires an employee to perform on any day from Monday to Friday inclusive, during the following times:
- C9.2.1 In the case of a non-shift employee only, before 7:00 am and/or after 7:00 pm (or such other span of hours as may have been agreed under subclause B17.8).
 - C9.2.2 In the case of a non-shift employee only, between 7:00 am and 7:00 pm (or such other span of hours as may have been agreed under subclause B17.8 but beyond the employee's ordinary daily hours, and which is not worked under the flextime provisions at clause B18 -).
 - C9.2.3 In the case of a shift worker only, beyond the employee's ordinary hours of work, and which is not worked under the provisions of clause B16 -.
- C9.3 Overtime rates are payable for all duty that the head of service requires an employee to perform on a Saturday, Sunday or Public Holiday that is in addition to the employee's ordinary weekly hours of work.
- C9.4 Except with the approval of the head of service, an employee who occupies a position with a classification having an annual pay of a Senior Officer Grade C (or equivalent) or higher is not eligible to receive payment under this clause.

Minimum attendance for overtime

- C9.5 Where an employee is required to perform overtime duty that is not continuous with ordinary duty the minimum period of overtime payable for each separate overtime attendance is 4 hours.
- C9.6 Where an employee is requested to perform overtime duty that is not continuous with ordinary duty and the employee's overtime duty has been cancelled within 1 hour of the commencement of the overtime duty, the employee will receive the same payment as the minimum overtime amount payable under this Agreement. For clarity, this clause does not apply when an employee is requested to perform overtime duty while the employee is in an on-call or close-call situation and the overtime duty is subsequently cancelled.
- C9.7 For the purposes of subclause C9.5 meal periods do not break continuity of duty.
- C9.8 Where an overtime attendance that is not continuous with ordinary duty involves duty both before and after midnight and a higher overtime rate applies on one of the days covered by the overtime attendance, the minimum payment is calculated at the higher rate.
- C9.9 Where an employee is in an on-call or close-call situation as provided for in clause C13 - or clause C14 -, the minimum payment for overtime is 3 hours or 1 hour in accordance with subclauses C13.4 or C14.6 or C13.8 or C14.10 respectively.

Payment of overtime

- C9.10 For the purposes of calculating overtime payments, each day or shift will stand alone.
- C9.11 An employee's annual pay for the purpose of calculating the overtime payment, includes higher duties allowance and any allowance that is payable for all purposes.
- C9.12 Overtime payment rates for overtime worked on any day from Monday to Saturday inclusive, are the following:
- C9.12.1 Time and a half: $\text{Annual Pay} \times 12/313 \times 3/2 \times 1/76$ for the first 3 hours worked on a day/shift.
- C9.12.2 Double time: $\text{Annual Pay} \times 12/313 \times 2/1 \times 1/76$ for any further overtime worked on that day/shift.

Sunday rate of payment

- C9.13 An employee who works overtime on a Sunday will be paid a rate of double time at the employee's ordinary hourly rate of pay for all time worked.

Public holiday rate of payment

- C9.14 An employee who works overtime on a public holiday or on a substituted public holiday as defined in clause E10 - of this Agreement will be paid a total rate of double time and a half at the employee's ordinary hourly rate of pay for all time worked.

Alternatives to payment of overtime

- C9.15 Where agreed between the manager or supervisor and the employee, the employee may be granted time off in lieu of overtime.

C10 - Rest Relief after Overtime

- C10.1 In this clause employee refers to employees other than casual employees.
- C10.2 Unless the head of service directs an employee to report for duty earlier, the employee must have a continuous period of 8 hours, plus reasonable travel time, off duty between ceasing overtime duty following ordinary hours of work one day, and commencing ordinary hours of work the following day.
- C10.3 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 8 hours plus reasonable travel time.
- C10.4 If an employee is required by the head of service to return to duty without having had 8 consecutive hours off duty, plus reasonable travel time, both the following apply:
- C10.4.1 The employee will be paid at double the ordinary hourly rate of pay until the employee is released from duty for that period.
- C10.4.2 The employee is then be entitled to be absent until the employee has had 8 consecutive hours off duty plus reasonable travel time, without loss of pay for any ordinary working time occurring during that absence.

- C10.5 The provisions of this clause do not apply to overtime worked in the circumstances covered by clause C16 - unless the actual time worked (excluding travel time) is at least 3 hours on each call.

C11 - Payment for Public Holiday Duty

- C11.1 An employee who is not a shift worker and who works on a public holiday is entitled to an additional payment of 150% of the employee's ordinary hourly rate of pay for the period of work that meets all of the following:

C11.1.1 It is not in excess of the employee's ordinary weekly hours.

C11.1.2 It is not outside of the employee's limit of daily hours.

C11.1.3 It is not in excess of the employee's ordinary daily hours.

Note: If an employee who is not a shift worker works on a public holiday for a period that does not satisfy the above conditions, the employee will have worked overtime and is eligible to a payment in accordance with clause C9 -.

C12 - Daylight Saving Arrangements

- C12.1 During the changes to and from Australian Eastern Standard Time and Australian Eastern Daylight Time employees will be paid by the clock, with the exception of casual employment arrangements under clause B14 - and overtime arrangements under clause C9 - which will be paid according to the hours actually worked. This means that at the beginning of daylight saving employees working an overnight shift will work one hour less but will still be paid for the full shift, and when daylight saving ends employees will work for an extra hour but will be paid according to the clock.

C13 - On-Call Allowances

- C13.1 Where an employee is required or directed, prior to ceasing duty, by the employee's manager or supervisor to be contactable and available to be recalled to duty within a reasonable time outside the employee's ordinary hours of duty (a restricted situation), the employee is entitled to be paid an on-call allowance at the following rates:
- C13.1.1 For each hour of on-call Monday to Friday—10% of the employee's hourly rate of pay.
- C13.1.2 For each hour of on-call on Saturday and Sunday—15% of the employee's hourly rate of pay.
- C13.1.3 For each hour of on-call on public holidays and accrued days off—20% of the employee's hourly rate of pay.
- C13.2 An employee's pay for the purpose of calculation of payment under this clause includes higher duties allowance and other allowances in the nature of pay.
- C13.3 The on-call allowance is not payable for any period that the employee does not hold himself or herself at the required degree of readiness to be recalled to duty.
- C13.4 Where an employee who had been placed in an on-call situation is recalled to duty at a designated place of work, the employee will be paid at the applicable

overtime rates, subject to a minimum payment of 3 hours overtime being made to the employee.

- C13.5 The provisions of clause C16 - do not apply where an employee is recalled to duty while on on-call.
- C13.6 The on-call allowance is not payable for any period of time where overtime payments are made. Therefore, if the employee performs a period of duty for which overtime is payable, the on-call allowance is not paid for a period equal to the overtime period.
- C13.7 “Recalled to duty at a designated place of work” means a recall to perform duty at any designated place of work and is not limited to a recall to perform at the employee’s usual place of work. For example, a tradesperson may have a usual place of work, but while the tradesperson is restricted the tradesperson might be recalled to perform duty at a number of different places of work.
- C13.8 Where an employee who has been placed in an on-call situation is recalled for duty, but is not required to be recalled to their usual place of work (for example, where an employee is able to access computer systems at home via remote access), the employee will be paid at the applicable overtime rates, subject to a minimum payment of one hour overtime being made to the employee.
- C13.9 If a recall to duty attracts a minimum overtime payment, subsequent recalls attract a further minimum overtime payment(s) only if the employee commences after the minimum payment period has elapsed. For the purposes of this clause, the minimum payment period is either 3 hours or 1 hour, as set out in subclause C13.4 and subclause C13.8, from the commencement of the recall to duty that attracts the overtime payment.

C14 - Close-Call Allowance

- C14.1 Where an employee is required or directed, prior to ceasing duty, by the employee's supervisor to be contactable and available for immediate recall to duty outside the employee’s ordinary hours of duty (a close-call situation), the employee is entitled to be paid a close-call allowance at the following rates:
- C14.1.1 For each hour of close-call Monday to Friday—20% of the employee’s hourly rate of pay.
- C14.1.2 For each hour of close-call on Saturday and Sunday—30% of the employee’s hourly rate of pay.
- C14.1.3 For each hour of close-call on public holidays and accrued days off—40% of the employee’s hourly rate of pay.
- C14.2 An employee placed in a close-call situation must do both of the following:
- C14.2.1 Remain within a radius of 30 minutes vehicle travelling time from the work site.
- C14.2.2 Commence the return to work journey immediately on being recalled, being within 5 minutes from time of recall.
- C14.3 The head of service may, in special circumstances, allow an employee who cannot meet these requirements to be deemed to be on close-call if the employee is able to return to the worksite within 45 minutes from the time of recall.

- C14.4 An employee's pay for the purpose of calculation of payment under this clause includes higher duties allowance and other allowances in the nature of pay.
- C14.5 The close-call allowance is not payable for any period that the employee does not hold himself or herself at the required degree of readiness to be recalled to duty.
- C14.6 Where an employee who has been in a close-call situation is recalled to duty at their place of work, the employee will be paid at the applicable overtime rates, subject to a minimum payment of 3 hours overtime being made to the employee.
- C14.7 The provisions of clause C16 - do not apply where an employee is recalled to duty while on close-call.
- C14.8 Where the employee performs a period of duty for which overtime is payable, the close-call allowance is not paid for a period equal to the overtime period.
- C14.9 "Recalled to duty at their place of work" means a recall to perform duty at any designated place of work and is not limited to a recall to perform at the employee's usual place of work. For example, a tradesperson may have a usual place of work, but while the tradesperson is in a close-call situation the tradesperson might be recalled to perform duty at a number of different places of work.
- C14.10 Where an employee who had been placed in a close-call situation is recalled for duty, but is not required to be recalled to their place of work (for example, where an employee is able to access computer systems at home via remote access), the employee will be paid at the applicable overtime rates, subject to a minimum payment of one hour being made to the employee.
- C14.11 If a recall to duty attracts a minimum overtime payment, subsequent recalls attract a further minimum overtime payment(s) only if the employee commences after the minimum payment period has elapsed. For the purposes of this clause, the minimum payment period is either 3 hours or 1 hour, as set out in subclause C14.6 and subclause C14.10, from the commencement of the recall to duty that attracts the overtime payment.

C15 - Rest Relief for On-Call or Close-Call Situations

- C15.1 Where an employee who had been placed in an on-call or close-call situation under clause C13 - or clause C14 - is recalled to duty, the employee must, other than in exceptional circumstances, be given a genuine opportunity for having 8 continuous hours rest in the 24 hour period where there is a recall to duty.
- C15.2 In addition to the 8 hours rest relief, the employee must be allowed reasonable time to travel to and from the employee's place of work.
- C15.3 In exceptional circumstances, if an employee is required by the head of service to resume or continue ordinary work time without having the rest relief as set out in subclause C15.1, plus reasonable travel time, both the following apply:
 - C15.3.1 The employee must be paid an additional single time at the employee's ordinary hourly rate of pay until the employee is released from duty for that period.

- C15.3.2 The employee is then entitled to be absent until the employee has had 8 consecutive hours off duty plus reasonable travel time, without loss of pay for any ordinary working time occurring during that absence.
- C15.4 There is a need for appropriate roster management processes to enable the effective implementation of subclause C15.1.

C16 - Emergency Duty

- C16.1 Where an employee is called on duty by the head of service to meet an emergency at a time when the employee would not ordinarily have been on duty, and no notice of such call was given to the employee prior to ceasing ordinary duty, the employee will be paid for such emergency duty.
- C16.2 Employees who are in on-call or close-call situations are not eligible to receive payment under this clause.
- C16.3 The time for which payment must be made under this clause includes time necessarily spent travelling to and from duty.
- C16.4 The minimum payment under this clause is 2 hours.
- C16.5 The rate of payment for emergency duty is double time at the employee's ordinary hourly rate of pay.
- C16.6 At any time following the finalisation of the initial period of emergency duty, the head of service may place an employee on to on-call or close-call duty in accordance with clause C13 - and C14 -.
- C16.7 This does not apply to employees whose duty for the day is varied by alteration of the commencement of the scheduled shift to meet an emergency.

C17 - Emergency Management Provision

- C17.1 The ACTPS and unions recognise the need to provide sufficient support and flexibility at the workplace to assist in delivering the government's emergency management response.

Application

- C17.2 This section applies to an employee who is directed to undertake shift work arrangements in response to an event or series of events, or activities declared to be a significant emergency event, in writing, by head of service.
- C17.3 The entitlements in this section are effective 7 days after the declaration is made.
- C17.4 This section does not apply to casual employees or an employee who already performs shift work as part of their designated role.
- C17.5 The head of service may implement shift arrangements in response to the declared significant emergency event. Effective consultation will take place where reasonably practicable during the significant emergency event in accordance with Section F.
- C17.6 The head of service may, in writing, activate, deactivate or specify the duration of a significant emergency event at any time.

Entitlement

- C17.7 All provisions for shift workers apply with the exception of the following :
- C17.7.1 The consultation provisions under subsection B15.7 do not apply.
 - C17.7.2 The 14-day minimum roster notification period under subsection B15.8 does not apply.
 - C17.7.3 The additional payment under subsection C8.1 is increased to 22%.
 - C17.7.4 The additional payment under subsection C8.2 is increased to 37%.
 - C17.7.5 The additional payment under subsection C8.5 is increased to 57%.
 - C17.7.6 The additional payment under subsection C8.6 is increased to 107%.
 - C17.7.7 The additional payment under subsection C8.7 is increased to 157%.
- C17.8 This section ceases to apply on the earlier of the following days:
- C17.8.1 The day 7 weeks from the day the emergency event is declared.
 - C17.8.2 The day the head of service declares the emergency event is ended.

C18 - Health and Wellbeing Payment**Purpose**

- C18.1 In recognition of the benefits of maintaining a healthy and productive workforce, employees who undertake, in their own time, health promotion activities are entitled to a health and wellbeing reimbursement payment.

Entitlement

- C18.2 Having considered the requirements of this clause, the head of service may approve a reimbursement payment not exceeding \$100 per annum.
- C18.3 The payment will be on a reimbursement basis subject to an original tax invoice 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.
- C18.4 In order for the employee to be reimbursed costs, a completed application form and valid tax invoice(s) must be provided as proof of purchase and must clearly display the item(s) and cost of the item to support the claim.

Eligibility

- C18.5 Permanent and temporary employees are eligible to claim the health and wellbeing reimbursement payment where the employee has completed at least 6 months continuous service and the tax invoice is dated during employment with the ACTPS. Casual employees are not eligible for this payment.

Approved Activities

- C18.6 An approved health and wellbeing activity is an activity, including a preventative activity or therapy, which is generally accepted as improving health, fitness and/or wellbeing.

- C18.7 The total amount that can be claimed will depend on the Fringe Benefit Tax (FBT) relating to the approved activity. All activities to be claimed must fall within the same category. The categories are specified in the application process.
- C18.8 Where the head of service approved a reimbursement payment in accordance with clause C18.2 the total reimbursed amount will be included in with the employees fortnightly pay and will not be subject to tax.

C19 - Directorate Liaison Officer (DLO) Allowance

- C19.1 In this clause employee refers to employees other than casuals who are engaged in the position of Directorate Liaison Officer (DLO).
- C19.2 The head of service may approve payment of a DLO allowance when an employee is engaged as a DLO. An employee may be required or requested to work reasonable additional hours for duty at any time, subject to the payment of the DLO allowance in accordance with the conditions set out in this clause, the accrual of flextime, in accordance with the conditions set out in B18 -, and the reasonable additional hours provisions of the FW Act.
- C19.3 Payment of the DLO allowance is in lieu of overtime to recognise additional hours worked as part of the position. The DLO allowance must not be used to justify excessive workloads for extended periods of time. Hours of work of DLOs must be managed in accordance with clause B12 - (Management of Working Hours).
- C19.4 Employees will be paid a DLO Allowance in addition to their 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 employees. The allowance is aimed at recognising and remunerating reasonable additional hours worked and other special features of the employment.
- C19.5 Employees will accrue flextime 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 employees, in accordance with clause B18 -.
- C19.6 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 B14.6.
- C19.7 The DLO 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.
- C19.8 The DLO Allowance will not be paid on any period of paid or unpaid leave of any type.
- C19.9 The DLO allowance cannot be included for the purposes of calculating purchased leave payments.
- C19.10 The DLO Allowance will not count as salary for any other purpose, except for superannuation.

C20 - Other Allowances

- C20.1 The head of service may approve the payment of expense-related, disability-related, functional-related and qualification-related allowances as provided for in this Agreement at Annex C.
- C20.2 The rates for all allowances provided for in Annex C of this Agreement will be adjusted by:
- C20.2.1 1.79% from the commencement of the first full pay period on or after 1 January 2023.
 - C20.2.2 1% from the commencement of the first full pay period on or after 1 June 2023.
 - C20.2.3 1.74% from the commencement of the first full pay period on or after 1 December 2023.
 - C20.2.4 1.5% from the commencement of the first full pay period on or after 1 June 2024.
 - C20.2.5 2.44% from the commencement of the first full pay period on or after 1 December 2024.
 - C20.2.6 1% from the commencement of the first full pay period on or after 1 June 2025.
 - C20.2.7 1.93% from the commencement of the first full pay period on or after 1 December 2025.
- unless the contrary intention is stated for a specific allowance in Annex C.
- C20.3 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 C.
- C20.3.1 Part-time and casual employees who satisfy the requirements for payment of an allowance that is not an expense-related allowance will receive the following amount of the allowance or payment prescribed in Annex C unless the contrary intention is stated for a specific allowance in Annex C:
 - C20.3.1 (a) If the allowance is payable by the hour, shift or occasion – the full amount.
 - C20.3.1 (b) If the allowance is payable by the day, week, fortnight or year – a prorated amount calculated according to the hours worked relative to full-time hours.
- C20.4 Allowances payable to casual employees under this Agreement are not subject to the loading prescribed in subclause B14.3.
- C20.5 Where an employee is in receipt of a shift penalty, any disability allowance the employee receives in accordance with Annex C, will not be included for the purpose of calculating the shift penalty.
- C20.6 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.

C20.7 The following allowances, detailed in Annex C, may apply to any ACTPS employee:

- C20.7.1 Overtime meal allowance
- C20.7.2 Advanced First aid allowance
- C20.7.3 Community language allowance
- C20.7.4 Corporate Citizens Allowance
- C20.7.5 Motor vehicle allowance.

Excess travel time

C20.8 An employee who is travelling or on duty away from the employee's usual place of work will be paid for time necessarily spent in travel or on duty (exclusive of overtime duty) in excess of both the following:

- C20.8.1 The employee's usual hours of duty for the day.
- C20.8.2 The time necessarily spent travelling to and from home and the usual place of work.

C20.9 Payment under subclause C20.8 is subject to all of the following:

- C20.9.1 The employee's annual salary must not exceed the rate of \$36,180 per annum.
- C20.9.2 The additional travel time must be at least 30 minutes in travel in any one day, or 2.5 hours in any fortnight.
- C20.9.3 The maximum payment is for 5 hours in any one day.

C20.10 The rate of payment under subclause C20.8, with the exception of employees classified as General Service Officer, is single time on Mondays to Saturdays and time and a half on Sundays and Public Holidays.

C20.11 Where an employee classified as General Service Officer is directed to work away from a depot or centre on any day, the employee is entitled to be paid a Travel Relocation allowance in accordance with Annex C.

C20.12 Where an employee's normal place of work is variable within a specified district, the director-general will determine the usual place of work. In this case a minimum of 20 minutes travelling time each way applies where an employee is directed to work at another location before an employee is entitled to payment for the excess travel time.

Excess fares

C20.13 An employee is entitled to the reimbursement of excess fares incurred by the employee performing duty temporarily at a place other than the employee's usual place of work, when the cost of travelling to and from the temporary place of work is greater than the cost of travelling to and from the employee's usual place of work.

Allowances arising out of employee mobility occasioned by exceptional circumstances

C20.14 In circumstances where an employee is directed, or requested and agrees, to perform the work of a classification that is different to their substantive

classification and that other work attracts allowances which are not applicable to the employee's substantive classification, the head of service may, at their discretion, authorise payment to the employee of an allowance from the other classification that relates to the performance of that other work.

- C20.15 For the sake of clarity, subclause C20.14 does not give rise to an employee having an entitlement to the payment of such other allowance. Rather, the purpose of subclause C20.14 is to provide a mechanism for the payment of an allowance in extenuating circumstances where the head of service considers it is warranted.

C21 - Reimbursement of Reasonable Relocation Expenses

- C21.1 The purpose of this reimbursement is to provide financial assistance to employees recruited from interstate or overseas who are engaged on a permanent or long-term temporary basis.
- C21.2 The head of service may approve a reimbursement payment to a new employee as the head of service considers is reasonable in the new employee's circumstances. The relevant pre-determined ceiling is set out below:

Single with no dependants	\$12,000
Additional payment per dependant (first 6 dependants)	\$2,000
Additional payment per dependant (seventh and further dependants)	\$1,750

- C21.3 In order for a new employee to be reimbursed costs, valid receipts must be provided.
- C21.4 For the purposes of this clause, dependant does not require actual financial dependency and includes members of the new 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.
- C21.5 The head of service may approve payment in excess of the approved amount or ceiling in exceptional circumstances.
- C21.6 In the event that the employee terminates their employment with an ACTPS business unit within 24 months of the date of engagement and does not commence employment with another ACTPS business unit within one month, the employee may be required by the head of service to repay one of the following:
- C21.6.1 In the case the employee terminates employment within 12 months from the date of appointment – 100% of the relocation reimbursement.
- C21.6.2 In the case the employee terminates employment more than 12 months and less than 24 months from the date of appointment – 50% of the relocation reimbursement.

Section D Pay Related Matters

D1 - Salary Sacrifice Arrangements

- D1.1 Voluntary access to salary sacrifice arrangements are available to employees in accordance with ACTPS policies and guidelines.
- D1.2 The employee must 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 are 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, are not a cause for further claims against the ACTPS.
- D1.5 The head of service must continue to provide appropriate information to employees concerning salary sacrifice arrangements.

D2 - Attraction and Retention Incentives

- D2.1 In some special circumstances it may be necessary for the head of service to determine that an employee or group of employees who are covered by this Agreement and who occupy certain positions should be provided with attraction and retention incentives that may differ from some of the terms and conditions under this Agreement.
- D2.2 The framework under which attraction and retention incentives may apply during the life of this Agreement is set out in Annex B of this Agreement.

D3 - Classification and Work Value Review

- D3.1 An employee, or a group of employees, or the union(s) or other employee representatives ("the applicant"), may present a case to request the head of service to undertake a classification and work value review of a position or group of positions.
- D3.2 The head of service must undertake the review in consultation with the employee(s), the union(s) and other employee representatives
- D3.3 If the head of service determines that the case presented under subclause D3.1 is frivolous or vexatious, the head of service must refuse to undertake the review.
- D3.4 If the head of service determines that the case presented under subclause D3.1 does not contain enough information for the head of service to make an assessment on whether the review is warranted, the head of service must provide the applicant an opportunity to make further submissions. If, following such further submissions, or if no such submissions are made, the head of service still does not have enough information to make an assessment on whether or not the review is warranted, the head of service may refuse to undertake the review.
- D3.5 Any classification and work value review must 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).

- D3.6 These provisions do not affect the right of the head of service to undertake a classification and work value review at the initiative of the head of service.
- D3.7 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.

D4 - Supported Wage System

- D4.1 Employees who are assessed as eligible to receive a supported wage under subclause D4.2 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 10% of the second point of the ASO 1 pay range.
- D4.2 The ACTPS must 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 is as set out in subclause D4.1.

D5 - Overpayments

- D5.1 An overpayment is a debt owed to the Territory.
- D5.2 In the event that an employee has received an overpayment, the head of service may recover the overpayment in accordance with this clause.
- D5.3 Any disputes about the application of these provisions should be addressed through the Dispute Avoidance/Settlement Procedures outlined at F6 -. Unless the employee agrees, recovery of monies will not occur while a dispute is in process.
- D5.4 If the head of service believes that an overpayment has occurred, the head of service 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 FM Act.
- D5.5 For the purposes of these provisions, when considering whether a waiver is appropriate, the head of service will consider all the following compelling circumstances:
- D5.5.1 Financial hardship.
 - D5.5.2 The circumstances under which the debt arose.
 - D5.5.3 Other exceptional circumstances.
- D5.6 If the head of service considers that a waiver in accordance with subclause D5.4 is not appropriate in the circumstances, the head of service must provide the employee with all the following information:
- D5.6.1 The pay period(s) in which the overpayment occurred.
 - D5.6.2 The nature of the overpayment.
 - D5.6.3 The reasons why the overpayment occurred.
 - D5.6.4 The gross and net components of the overpayment.
- D5.7 The head of service will provide the employee or their representative with an opportunity to respond or request a waiver within 10 working days from the

date the information at D5.6 was provided. If the head of service does not receive a response within this timeframe, the overpayment process will continue in accordance with the following provisions in this clause.

- D5.8 Subsequent to the decision of whether to waive the overpayment in accordance with subclause D5.7 the head of service must advise the employee in writing, as soon as practicable, of all the following:
- D5.8.1 The decision to waive any, or part, of the overpayment, if applicable.
 - D5.8.2 The process for recovery of the overpayment, if any.
 - D5.8.3 The proposed recovery rate, if any.
- D5.9 The head of service 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 D5.12 applies.
- D5.10 Any such agreement in accordance with subclause D5.9 may include recovery of the overpayment by the head of service using one of the following methods:
- D5.10.1 A lump sum payment by the employee.
 - D5.10.2 A payroll deduction from the employee's pay.
- D5.11 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 D5.10, subject to the cashing out of leave limitation provisions in this Agreement.
- D5.12 Where the head of service and the employee cannot agree about the arrangements for recovery of an overpayment, the overpayment must be recovered in accordance with an arrangement as determined by the head of service under section 246 of the PSM Act.
- D5.12.1 Where recovery occurs in accordance with subclause D5.12 the overpayment will be recovered at the rate of up to 10% of the employee's gross fortnightly pay, or such other rate determined by the head of service having regard for all of the circumstances.
- D5.13 Despite subclause D5.9 and subclause D5.12, the recovery period will not usually exceed 26 pay periods.
- D5.14 Any outstanding money owing to the ACTPS 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 unless the head of service does one of the following:
- D5.14.1 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.
 - D5.14.2 Determines that an overpayment is not recoverable. If an overpayment is not recoverable, the provisions of the relevant directorate's Financial Instructions, relating to the write off of monies, will apply.

D6 - Underpayments

- D6.1 Where the head of service 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 3 business days of the head of service receiving the request.
- D6.2 Where a shift penalty, overtime payment or higher duties allowance is not made within 2 pay periods of the appropriate authorisation having been received by the relevant corporate area, and the employee requests, an offline payment for the amount owing will be made to the employee within 3 business days of the head of service receiving the request.

D7 - Superannuation

- D7.1 The head of service must provide employer superannuation contributions in accordance with the relevant legislative requirements.
- D7.2 This clause does not apply to 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.
- D7.3 This clause does not apply to preserved members of other superannuation plans, including CSS and PSSdb. Employees covered by those superannuation plans, must receive the employer contributions specified by the fund rules for the relevant superannuation plan.
- D7.4 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 subclause D7.5 and subclause D7.8, then the employee will be advised of their right to change funds, to enable such contributions to be made.
- D7.5 The employer contributions are all of the following:
- D7.5.1 From 1 July 2022 to 30 June 2025 is 11.5%.
 - D7.5.2 From 1 July 2025 to 31 December 2025 is 12%.
 - D7.5.3 From 1 January 2026 is 12.5%.
 - D7.5.4 A further 1% pro rata per pay, based on the employee's gross fortnightly Ordinary Time Earnings (OTE) (or other methods where prescribed by the nominated superannuation fund rules), 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 Government's payroll system.
- D7.6 The salary for superannuation purposes is calculated on the employee's Ordinary Time Earnings (OTE) within the meaning of the Superannuation Guarantee (Administration) Act 1992.
- D7.7 Employer contributions are not reduced by any other contributions made through salary sacrifice arrangements.
- D7.8 For employees who take paid or unpaid parental leave (which includes birth, parental, grandparental and foster care leave), employer

contributions (which are calculated using the same formula as prescribed in subclause E14.22) are made for an aggregate period equal to a maximum of 104 weeks of the parental leave (which includes birth, parental, grandparental and foster care leave), in accordance with the rules of the appropriate superannuation scheme. For clarification, the 104-week period includes separate shorter periods aggregating to 104 weeks, and does not need to be one continuous period.

- D7.9 The Government must, 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.

D8 - Payment on Death

- D8.1 Where an employee dies, or the head of service has directed that an employee is presumed to have died on a particular date, the head of service 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 long service leave is calculated in accordance with subclause E25.23.

Section E Leave

E1 - Part-time Employees

- E1.1 Part-time employees are credited and debited leave on a pro rata basis.

E2 - Leave Below One Day

- E2.1 Employees with access to flextime (or TOIL) must use flextime (or TOIL) for all absences of less than one day wherever practicable; however personal leave may still be accessed for these absences.

E3 - Non-approval of Leave

- E3.1 Where a request is not approved the head of service must, 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 head of service must consult with the employee to determine mutually convenient alternative arrangements.

E4 - Personal Leave

Purpose

- E4.1 Personal leave is available to employees to enable them to be absent from duty in any of the following circumstances:
- E4.1.1 The employee is unfit for work because of a personal illness, or personal injury.
 - E4.1.2 The employee must provide care or support to a member of the employee's immediate family, or a member of the employee's household who is in either of the following circumstances:
 - E4.1.2 (a) They are ill or injured.
 - E4.1.2 (b) They are affected by an unexpected emergency.
 - E4.1.3 The employee is attending a medical appointment for themselves, or a member of their immediate family or household, with a registered health professional who is operating within their scope of practice.
 - E4.1.4 There are special, extraordinary or unforeseen circumstances in accordance with clause E5 -.

Eligibility

- E4.2 Personal leave is available to employees other than casual employees.

Entitlement

- E4.3 An employee may be granted personal leave up to their available credit from the first day of service.
- E4.4 Personal leave is cumulative and there is no cap on the personal leave balance an employee may accrue.
- E4.5 If a person is retired from the Sector on grounds of invalidity, and is re-appointed as a result of action taken under the *Superannuation Act 1976* or

the *Superannuation Act 1990*, they are entitled to be re-credited with unused personal leave credit held prior to the invalidity retirement.

E4.6 Personal leave will not accrue during a period of unauthorised absence or a period of leave without pay that does not count for service.

E4.7 A part-time officer or part-time temporary employee will accrue personal leave calculated on a pro rata basis.

Interim Arrangements Until Daily Accrual is Implemented

E4.8 Except for a short-term temporary employee and an employee to whom subclause E4.9 applies, an employee's personal leave balance will be credited with an equivalent of 3.6 weeks of personal leave on the day they commence with the Territory.

E4.9 On engagement under the PSM Act, employees who have prior service recognised for personal leave purposes will be credited with any personal leave balance accrued with the previous employer. On the employee's normal accrual date, the employee will then receive personal leave in accordance with subclause E4.10. Where the employee's personal leave prior to engagement with the ACTPS was accrued on a progressive basis, rather than credited prospectively, 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.

E4.10 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.

E4.11 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.

Short-term temporary employees

E4.12 A short-term temporary employee will be credited with 0.2 weeks of personal leave on commencement and a further 0.8 weeks of personal leave after 4 weeks continuous service. Thereafter the employee will be credited with 0.2 weeks of personal leave for each subsequent 4 weeks of continuous service up to a maximum of 2 weeks in the employee's first 12 months of service.

E4.13 After 12 months continuous service short-term temporary employees will receive 5.2 weeks of personal leave with pay. For every subsequent 12 months of service, short-term temporary employees will receive personal leave in accordance with subclause E4.10.

E4.14 A short-term temporary employee subsequently appointed under the PSM Act prior to completing 12 months service will have their personal leave balance brought up to the equivalent of 3.6 weeks, less any personal leave with pay granted under subclause E4.3. For subsequent accruals that short-term temporary employee will receive personal leave on the same basis as an officer on the anniversary of the commencement of their employment.

Daily Accrual Implementation

- E4.15 Personal leave will move to daily accrual from 1 January 2024.
- E4.16 An employee's personal leave credit accrues daily according to the following formula:
Total hours of leave accrued per day = $(A \times B \times D) / C$, where:
- E4.16.1 A = number of ordinary hours per week worked.
 - E4.16.2 B = one where the day counts as service or zero where the day does not count as service or is an unauthorised absence.
 - E4.16.3 C = number of calendar days in the year.
 - E4.16.4 D = number of weeks of personal leave an employee is entitled to a year.
- E4.17 For the purpose of subclause E4.16 the basic leave entitlement is one of the following:
- E4.17.1 In the case of 36.75 hour workers, 132.3 hours leave (3.6 weeks) for each full year worked.
 - E4.17.2 In the case of 38 hour workers, 136.8 hours leave (3.6 weeks) for each full year worked.
- E4.18 Except for a short-term temporary employee and an employee to whom subclause E4.19 applies, an employee's personal leave balance will be credited with an equivalent of 3.6 weeks of personal leave on the day they commence with the Territory.
- E4.19 On engagement under the PSM Act, employees who have prior service recognised for personal leave purposes will be credited with any personal leave balance accrued with the previous employer.
- E4.20 For permanent and long-term temporary employees, if the personal leave balance brought over from the previous employer, in accordance with subclause E4.19, is less than 3.6 weeks, the employee will be credited with the difference between 3.6 weeks and the balance brought over.
- E4.21 For short-term temporary employees, if the personal leave balance brought over from the previous employer, in accordance with subclause E4.19, is less than 1.8 weeks, the employee will be credited with the difference between 1.8 weeks and the balance brought over.

Short-term temporary employees

- E4.22 A short-term temporary employee will be credited with 1.8 weeks of personal leave on commencement. On each day of service thereafter, the employee will receive a credit based on the formula in subclause E4.16.
- E4.23 After 12 months continuous service short-term temporary employees will receive 1.8 weeks of personal leave with pay.
- E4.24 A short-term temporary employee subsequently appointed under the PSM Act within 12 months of commencement will be credited with an additional 1.8 weeks of personal leave.

Transition period for daily accrual implementation

- E4.25 Current employees will transition from annual accrual to daily accrual of personal leave on the next accrual date for each employee within the transition year (1 January 2024 to 31 December 2024). On this date, and each day of service thereafter, the employee will receive a credit based on the formula in subclause E4.16.
- E4.26 Current employees will be credited with an equivalent of 3.6 weeks of personal leave on their accrual date in the transition year. On this date, and each day of service thereafter, the employee will receive a credit based on the formula in subclause E4.16.

When personal leave credits have been exhausted

- E4.27 The head of service may, for any reason including where personal leave credits have been exhausted, and 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 NES.
- NOTE: In such circumstances, alternative arrangements are also provided for at subclause E4.59.
- E4.28 Despite subclause E4.27, the head of service may allow an employee, when the employee provides documentary evidence that the employee has a personal illness or injury, or needs to provide care or support to a member of the employee's immediate family or household, to anticipate up to a maximum of 1 week paid personal leave where all full pay personal leave credits are exhausted.
- E4.29 Any personal leave debits that an employee has at the time they cease employment with the ACTPS will be treated as a debt in accordance with clause D5 -. The debt will be recovered from any termination payment owing to the employee, except in the case of death.
- E4.30 Temporary employees may be granted up to an aggregate of 20 days without pay in the first 12 months.
- E4.31 The head of service may, in exceptional circumstances and subject to the production of documentary evidence, grant an employee an additional period of paid personal leave for personal illness or injury, or for the employee to provide care or support to a member of the employee's immediate family who is ill or injured. This leave may be at either full or half pay. Such leave will not be granted if the absence is due to a condition for which the employee is receiving compensation under the *Safety, Rehabilitation and Compensation Act 1988*.

Other provisions

- E4.32 An employee in receipt of workers compensation for more than 45 weeks will accrue personal leave on the basis of hours actually worked.
- E4.33 Unused personal leave credit will not be paid out on cessation of employment.

Evidence and conditions

- E4.34 An employee must give notice of the intention to take personal leave. The notice must be provided to their manager or supervisor 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.
- E4.35 The head of service may grant personal leave if they are satisfied there is sufficient cause, having considered any requested or required documentary evidence.
- E4.36 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.
- E4.37 The head of service must accept either of 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:
- E4.37.1 A certificate from a registered medical practitioner or registered health professional who is operating within their scope of practice.
 - E4.37.2 A statutory declaration made by the employee if it is not reasonably practicable for the employee to give the head of service a certificate.
- E4.38 Unless otherwise approved by the head of service, an employee may only access a maximum of 3 consecutive days of paid personal leave on each occasion up to an accumulated maximum of 7 days in any accrual year, without providing documentary evidence. Absences for personal leave without documentary evidence in excess of 3 consecutive days, or 7 days in any accrual year is without pay.
- E4.39 Up until daily accrual implementation subclause E4.38 will apply. Following daily accrual implementation the maximum days without a certificate will reset on the next accrual/transition date for the employee and apply for the remaining part of the calendar year. From 1 January 2025, unless otherwise approved by the head of service, an employee may only access a maximum of 3 consecutive days of paid personal leave on each occasion up to an accumulated maximum of 7 days without providing documentary evidence. This will continue to reset on 1 January each year. Absences for personal leave without documentary evidence in excess of 3 consecutive days, or 7 days in any calendar year is without pay.
- E4.40 Notwithstanding subclause E4.38 the head of service 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.
- E4.41 Any personal leave without pay that goes beyond a maximum continuous period of combined paid and unpaid personal leave of 78 weeks does not count as service for any purpose.

- E4.42 For clarity, any other form of leave taken in lieu of unpaid personal leave that is intended to cover illness or injury will be considered as personal leave for the purpose of subclause E4.41.
- E4.43 The head of service must approve an application for up to 5 days of personal leave for the purpose of bonding leave in accordance with subclause E18.4.
- E4.44 The head of service 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 any of the following reasons:
- E4.44.1 The head of service 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.
 - E4.44.2 The head of service considers that documentary evidence supplied in support of an absence due to personal illness or injury is inadequate.
 - E4.44.3 The employee has been absent on account of illness for a total of 13 weeks in any 26 week period.
- E4.45 The head of service may require the employee to take personal leave after considering the results of a medical examination requested by the head of service.

Rate of payment

- E4.46 Personal leave is granted with pay except where it is granted without pay under subclause E4.27, subclause E4.30 or subclause E4.38.
- E4.47 Subject to the approval of the head of service, 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 50% of the period of absence.
- E4.48 Any personal leave taken must be deducted from the employee's credit.

Effect on other entitlements

- E4.49 Personal leave with pay counts as service for all purposes.
- E4.50 Personal leave without pay, other than provided for at subclause E4.41, counts as service for all purposes.
- E4.51 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, both the following apply:
- E4.51.1 The employee will be paid as a normal public holiday for that day.
 - E4.51.2 The public holiday will not be deducted from the employee's personal leave credits.
- E4.52 Where the personal leave under subclause E4.51 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.

- E4.53 While personal leave is not 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 E4.41.

Interaction with other leave types

- E4.54 This clause applies to 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 the employee is on one of the following types of leave:
- E4.54.1 Annual leave
 - E4.54.2 Purchased leave
 - E4.54.3 Long service leave
 - E4.54.4 Unpaid birth leave
 - E4.54.5 Unpaid parental leave
 - E4.54.6 Grandparental leave
 - E4.54.7 Accrued day off.
- E4.55 If the employee 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, the employee may apply for personal leave.
- E4.56 Where an employee is subsequently granted the personal leave, the other leave must be re-credited for the period of the personal leave that falls within the period of other leave.
- E4.57 An employee cannot access paid personal leave while on paid birth leave, or primary care giver's leave, or adoption, permanent or long term care leave, but can apply for personal leave during unpaid birth leave or unpaid parental leave.
- E4.58 If the employee has exhausted all paid personal leave, personal leave without pay cannot be substituted for unpaid birth leave.
- E4.59 If an employee exhausts the employee's paid personal leave entitlement and produces documentary evidence, as per subclause E4.37, 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 head of service 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 E4.41.

E5 - Personal Leave in Special, Extraordinary or Unforeseen Circumstances

- E5.1 Employees, other than casual employees, are eligible for personal leave in special, extraordinary or unforeseen circumstances.
- E5.2 Personal leave in special, extraordinary or unforeseen circumstances, is non-cumulative and if granted is deducted from the employee's personal leave balance.

- E5.3 The head of service may grant a maximum of 10 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 special, extraordinary, unforeseen or unexpected circumstances and where it is essential that the employee have leave from the workplace. These 10 days are in addition to the 7 days personal leave without documentary evidence.
- E5.4 While personal leave in special, extraordinary or unforeseen circumstances does not normally require documentary evidence, the head of service may request reasonable evidence before granting the leave.
- E5.5 Personal leave in special, extraordinary or unforeseen circumstances must be granted with pay.

E6 - Infectious Disease Circumstances

- E6.1 Where an employee is prevented from attending for duty under the *Public Health Act 1997*, the head of service may grant that employee personal leave during that period.
- E6.2 The employee may also apply for the absence or a part of it to be deducted from their annual leave credit.

E7 - Annual Leave

Purpose

- E7.1 Annual leave is available to employees to enable them to be absent from duty for the purposes of rest and recreation.

Eligibility

- E7.2 Annual leave is available to employees other than casual employees.

Entitlement

- E7.3 An employee may be granted annual leave up to their available credit from the first day of service.
- E7.4 Annual leave is cumulative.
- E7.5 An employee's annual leave credit accrues on a daily basis according to the following formula:
- Total hours of leave accrued per day = $(A \times B \times D) / C$, where:
- E7.5.1 A = number of ordinary hours per week worked.
- E7.5.2 B = one where the day counts as service or zero where the day does not count as service or is an unauthorised absence.
- E7.5.3 C = number of calendar days in the year.
- E7.5.4 D = number of weeks of annual leave an employee is entitled to a year.
- E7.6 For the purpose of subclause E7.5 the basic leave entitlement is one of the following:
- E7.6.1 In the case of 36.75 hour workers, 147 hours annual leave for each full year worked; or

- E7.6.2 In the case of 38 hour workers, 152 hours annual leave for each full year worked.
- E7.7 Shift workers who are regularly rostered to work on Sundays and work at least 10 Sundays in a year are entitled to an additional 5 days of paid annual leave per year.
- E7.8 Shift workers rostered to work on less than 10 Sundays during which annual leave will accrue are entitled to additional annual leave at the rate of one tenth of a working week for each Sunday so rostered.
- E7.9 If an employee moves from one ACTPS directorate to another, annual leave accrued with the first directorate will transfer to the second directorate.
- E7.10 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.
- E7.11 Employees will receive payment on separation from the ACTPS of any unused annual leave entitlement.

Evidence and conditions

- E7.12 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 manager or supervisor as soon as practicable.
- E7.13 An employee must make an application to the head of service to access their annual leave entitlement.
- E7.14 Having considered the requirements of this clause the head of service may approve an employee's application to access annual leave.
- E7.15 The head of service should approve an employee's application to take annual leave, subject to operational requirements.
- E7.16 If the head of service does not approve an employee's application for annual leave because of operational requirements, the head of service must consult with the employee to determine a mutually convenient alternative time (or times) for the employee to take the leave.
- E7.17 The head of service 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 2.5 years worth of accrued annual leave credit. However, in the case of exceptional operational circumstances, the head of service must consult with the employee to determine the time (or times) for the annual leave to be taken that is mutually convenient to both the administrative unit and the employee.
- E7.18 If an employee's annual leave is cancelled without reasonable notice, or an employee is recalled to duty from leave, the employee is entitled to be reimbursed reasonable travel costs and incidental expenses not otherwise recoverable under any insurance or from any other source.
- E7.19 If the operations of the ACTPS, or part of the ACTPS, are suspended at Christmas or another holiday period, the head of service may direct an employee to take annual leave at a time that is convenient to the working of

the ACTPS, whether or not an application for leave has been made. However, this does not affect any other entitlements to leave under this Agreement.

- E7.20 If an employee has the equivalent of 2 years' accrued credit of annual leave and unless exceptional operational circumstances exist, the employee and relevant manager or supervisor must agree, and implement an annual leave usage plan to ensure the employee's accrued leave credit will not exceed an accrued 2.5 years worth of annual leave credit.
- E7.21 If an employee does not agree to a reasonable annual leave usage plan the head of service may direct an employee who has accrued 2.5 years worth of accrued annual leave credit to take enough annual leave to reduce the accrued leave credit to the equivalent of 2 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.
- E7.22 An employee must reduce their annual leave credit to 2.5 years worth of entitlement or less within 12 months if their credit exceeds 2.5 years worth of entitlement at any of the following points in time:
- E7.22.1 At the commencement of the Agreement.
 - E7.22.2 On joining, or returning to the ACTPS.
 - E7.22.3 On returning to duty from compensation leave.
- E7.23 An employee may not be directed under subclause E7.21 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 E7.21 in the past 6 months and the application was not approved. The manager or supervisor and the employee may agree to vary an annual leave usage plan.

Rate of payment

- E7.24 Annual leave is granted with pay.
- E7.25 Payment for the annual leave is based on the employee's ordinary hourly rate of pay, including allowances that count for all purposes for the time the leave is taken. If an employee is being paid HDA before going on paid leave and would have continued to receive HDA had they not taken leave then the employee is entitled to payment of HDA during the leave.
- E7.26 The head of service may approve an application in accordance with clause B20 -for annual leave to be taken at half pay with credits to be deducted on the same basis.

Effect on other entitlements

- E7.27 Annual leave counts as service for all purposes.
- E7.28 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 must not be deducted from the employee's annual leave balance.

Interaction with other leave entitlements

- E7.29 If personal leave is granted to the employee while they are on a period of annual leave, the annual leave must be re-credited for the period of paid personal leave granted.

- E7.30 Subject to the approval of the head of service, an employee who is on unpaid leave may be granted annual leave during that period, unless otherwise stated in this Agreement.
- E7.31 If an employee is prevented from attending for duty under the *Public Health Act 1997*, the head of service may grant annual leave during that period.

Payment in lieu of annual leave

- E7.32 On receiving a request in writing from an employee, the head of service may approve payment in lieu of an employee using annual leave credit subject to all the following:
- E7.32.1 The employee must take at least one week of annual leave in conjunction with the payment in lieu of annual leave or the employee has taken at least one week of annual leave in the past 6 months.
 - E7.32.2 The payment in lieu must not result in a reduction in the balance of the employee's remaining annual leave credit to below one year's accrued entitlement.
- E7.33 Payment in lieu of annual leave is 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 is 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.

E8 - Annual Leave Loading

Purpose

- E8.1 Annual leave loading is available to employees to provide monetary assistance while they are on annual leave.

Eligibility

- E8.2 Employees who accrue annual leave under clause E7 - are entitled to an annual leave loading. Part-time employees are paid the annual leave loading on a pro rata basis.

Entitlement

- E8.3 Where an employee's entitlement is based on paragraph E8.7.1, 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.
- E8.4 An employee whose employment ceases and who is entitled to payment of accumulated annual leave or pro rata annual leave must 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

- E8.5 Annual leave loading accrued is paid at such a time as the employee nominates, by making a written request to the head of service.

- E8.6 Any unpaid annual leave loading accrued by employees must be paid on the first payday in November following its accrual.

Rate of payment

- E8.7 The amount of an employee's entitlement under subclause E8.2 is based on whichever is the greater of the following:
- E8.7.1 Subject to subclause E8.3, 17.5% 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 (excluding shift penalties).
 - E8.7.2 Any shift penalties that the employee would have received had the employee not been on approved annual leave.

E9 - Purchased Leave

Purpose

- E9.1 Purchased leave is available to employees to enable them to be absent from duty to support their work-life balance.

Eligibility

- E9.2 Employees, other than casual employees, are eligible to apply to purchase leave.

Entitlement

- E9.3 Employees may purchase leave in addition to the employee's usual annual leave entitlement, up to a maximum of 12 weeks in any 12 month period, subject to head of service approval.
- E9.4 An employee may apply, at any time, to the head of service for approval to participate in the purchased leave scheme.
- E9.5 The application must specify the amount of leave to be purchased in whole weeks up to a maximum of 12 weeks in any 12 month period, and the period over which the additional leave is to be acquitted.
- E9.6 Approval by the head of service 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.
- E9.7 Approval to purchase additional leave must not be given where an employee has an annual leave balance of 2.5 years worth of annual leave credit or more, except where the employee intends to use all excess annual leave credit before taking purchased leave.
- E9.8 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 if any of the following apply:
- E9.8.1 The employee can demonstrate in writing that exceptional circumstances exist and the head of service agrees. For example, unforeseen financial hardship.
 - E9.8.2 The employee's employment with the ACTPS ceases before the expiration of the agreed acquittal period.

E9.8.3 The employee proceeds on paid birth or primary care giver leave.

E9.9 If an employee transfers from one ACTPS directorate to another ACTPS directorate during the agreed acquittal period, the employee's continuation in the purchased leave scheme is subject to the separate approval of the gaining directorate. Where such approval is not given, any money owing to the employee in respect of purchased leave not taken must be refunded to the employee as soon as practicable. Any shortfall in payments must be deducted from monies owing to the employee.

Evidence and conditions

- E9.10 An employee should discuss with their manager or supervisor, as soon practicable, their intention to be absent on purchased leave.
- E9.11 An employee must make an application to the head of service to access their purchased leave entitlement.
- E9.12 Having considered the requirements of this clause the head of service may approve an employee's application to access purchased leave. A decision not to approve the leave must be made in accordance with subclause E3.1.
- E9.13 Approval by the head of service to grant purchased leave is subject to the operational requirements of the workplace, the personal responsibilities of the employee and appropriate periods of notice.
- E9.14 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 head of service is satisfied, on evidence presented, there are exceptional circumstances which warrant purchased leave being taken in shorter periods.
- E9.15 Purchased leave must be used within the agreed acquittal period, not exceeding 12 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.

Rate of payment

- E9.16 While an employee is on a period of purchased leave the employee must be paid at the rate of pay used to calculate the employee's deduction.
- E9.17 Purchased leave will be paid for by a fortnightly deduction from the employee's pay over an agreed acquittal period not exceeding 12 months from the date the employee commences participation in the scheme.
- E9.18 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.
- E9.19 Despite subclause E9.18, if the employee's pay changes during the acquittal period the employee may apply to the head of service for the deduction to be recalculated.
- E9.20 Fortnightly tax deductions are calculated on the employee's gross pay after the deduction has been made for purchased leave.

- E9.21 Subject to subclause E9.22, allowances in the nature of pay may be included in the calculation of purchased leave payments if both the following apply:
- E9.21.1 The head of service and the employee agree any or all of these allowances are appropriate.
- E9.21.2 There is the likelihood the allowance will continue to be received over the duration of the acquittal period.
- E9.22 Disability allowances, which are paid according to the hours worked, cannot be included for the purposes of calculating purchased leave payments.

Effect on other entitlements

- E9.23 Leave taken as purchased leave counts as service for all purposes.
- E9.24 Public Holidays for which the employee is entitled to payment that fall during periods of absence on purchased leave must be paid as a normal public holiday and not deducted from the employee's purchased leave balance.
- E9.25 Purchased leave does not affect the payment and timing of pay increments or the accrual of other forms of leave.
- E9.26 The purchase of additional leave under this clause does not affect the superannuation obligations of the ACTPS or the employee involved.

Interaction with other leave types

- E9.27 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.
- E9.28 An employee participating in the scheme who proceeds on paid birth or primary care giver's leave must elect to do one of the following:
- E9.28.1 Exit the purchased leave scheme and have any money owing refunded.
- E9.28.2 Subject to subclause E9.29, remain in the scheme and have pay deductions continue during the period of paid birth or primary care giver's leave.
- E9.29 Purchased leave taken during an employee's absence on birth or primary care giver's leave does not extend the employee's total period of birth leave or primary care giver's leave.
- E9.30 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.

E10 - Public Holidays

Eligibility

- E10.1 Public holidays are available to employees other than casual employees.

Entitlement

- E10.2 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 and this clause.
- E10.3 The following days are observed as public holidays under this Agreement:
- E10.3.1 The 1 January (New Year's Day), and, if that day falls on a Saturday or Sunday, the following Monday.
 - E10.3.2 The 26 January (Australia Day), or, if that day falls on a Saturday or Sunday, the following Monday.
 - E10.3.3 The 2nd Monday in March (Canberra Day).
 - E10.3.4 Good Friday.
 - E10.3.5 The Saturday following Good Friday.
 - E10.3.6 Easter Sunday.
 - E10.3.7 The Monday following Good Friday.
 - E10.3.8 The 25 April (Anzac Day), or, if that day falls on a Saturday or Sunday, the following Monday.
 - E10.3.9 The 27 May (Reconciliation Day), or, if that day is not a Monday, the following Monday.
 - E10.3.10 The 2nd Monday in June (the day for the observance of the anniversary of the birthday of the Sovereign).
 - E10.3.11 The 1st Monday in October (Labour Day).
 - E10.3.12 The 25 December (Christmas Day) or one of the following:
 - E10.3.12 (a) If Christmas Day falls on a Saturday, the following Monday.
 - E10.3.12 (b) If Christmas Day falls on a Sunday, the following Tuesday.
 - E10.3.13 The 26 December (Boxing Day) or one of the following:
 - E10.3.13 (a) If Boxing Day falls on a Saturday—the following Monday.
 - E10.3.13 (b) if that day falls on a Sunday—the following Tuesday.
- E10.4 In addition to the public holidays provided for under subclause E10.3, employees are entitled to be absent from duty as if it were a public holiday on all of the following:
- E10.4.1 The next business day after Boxing Day, or one of the following:
 - E10.4.1 (a) If Boxing Day falls on a Saturday, the following Tuesday.
 - E10.4.1 (b) If Boxing Day falls on a Sunday, the following Wednesday.

- E10.4.2 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).
- E10.4.3 Any other day, or a part of any other day, that the head of service declares to be a holiday under subsection 17(5) of the PSM Act.
- E10.5 Where a day identified in subclause E10.3 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.
- E10.6 An employee and the head of service may agree on the substitution of a day or part day that would otherwise be a public holiday, having regard to operational requirements.
- E10.7 If an arrangement described under clause E10.6 is not practical in relation to the operational and business requirements of the directorate or business unit, the employee may, with the approval of the head of service, observe a day of cultural or religious significance to the employee as a holiday and make up the equivalent hours at some other agreed time.

Rate of payment

- E10.8 Subject to subclause E10.9 and subclause E10.10, 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.
- E10.9 A part-time employee is 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.
- E10.10 An employee will not be paid for a public holiday which occurs during a period of leave without pay.
- E10.11 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.

Effect on other entitlements

- E10.12 Subject to subclause E10.13, public holidays count as service for all purposes.
- E10.13 A public holiday does not count as service if it occurs while the employee is on a period of leave not to count as service.

E11 - Christmas Shutdown

Purpose

- E11.1 Christmas shutdown is provided for operational efficiency and the wellbeing of employees.

Eligibility

- E11.2 Christmas shutdown is available to employees other than casual employees.

Entitlement

- E11.3 Employees are entitled to 2 days of paid absence during the Christmas shutdown period, which are the business days between 28 December and 31 December inclusive.
- E11.4 Only those employees who are directed or rostered to work during this period may attend for work over the Christmas shutdown period.
- E11.5 If an employee (other than an employee to whom subclause E11.6 or subclause E11.7 apply) is directed to work during the Christmas shutdown period the employee is, in addition to the entitlement under subclause E11.3, is entitled to one of the following:
- E11.5.1 A paid absence, equivalent to the time worked at a time agreed between the employee and the relevant manager or supervisor.
 - E11.5.2 A payment equivalent to the time worked at the employee's ordinary rate of pay.
- E11.6 Employees who are working under rostering arrangements during the Christmas shutdown period are entitled to one of the following:
- E11.6.1 A paid absence at a time agreed between the employee and the relevant manager or supervisor equivalent to the time worked, or the time the employee would have worked had the employee been rostered to work.
 - E11.6.2 A payment equivalent to the time worked, or the time the employee would have worked had the employee been rostered to work at the employee's ordinary rate of pay.
- E11.7 An employee who is working under rostering arrangements who is required to work on a rostered day off which falls on either of the Christmas shutdown days shall receive payment of overtime at the appropriate rate for the attendance. The payment of overtime is in addition to the entitlement under subclause E11.6. These days are not public holidays and therefore public holiday rates do not apply.
- E11.8 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 are not entitled to the additional 2 days of paid absence.
- E11.9 Notwithstanding subclause E11.8 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, are entitled to one of the following:
- E11.9.1 A paid absence, equivalent to the time worked, at a time agreed between the employee and the relevant manager or supervisor.
 - E11.9.2 A payment of overtime at the appropriate rate for the time worked.

Rate of payment

- E11.10 Christmas shutdown absence is granted with pay.

Effect on other entitlements

- E11.11 Christmas shutdown absence counts as service for all purposes.

E12 - Compassionate Leave

Purpose

- E12.1 Compassionate leave is available to employees to enable them to be absent from duty when one of the following applies to a member of an employee's immediate family or household:
- E12.1.1 They have a personal illness or injury that poses a serious threat to the person's life.
 - E12.1.2 They die, including where a child is stillborn.
- E12.2 Compassionate leave is available to enable them to be absent from duty when they experience a miscarriage or when an employee's domestic partner has experienced a miscarriage.

Eligibility

- E12.3 Compassionate leave is available to all employees.

Entitlement

- E12.4 An employee may be granted compassionate leave from the first day of service.
- E12.5 Compassionate leave is non-cumulative.
- E12.6 Employees are entitled to up to 5 days of compassionate leave on each occasion of the death of a member of the employee's immediate family or household. The head of service may grant an additional paid or unpaid period of compassionate leave for this purpose.
- E12.7 Employees are entitled to up to 2 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 head of service may grant an additional paid or unpaid period of compassionate leave for this purpose.

Evidence and conditions

- E12.8 The employee should discuss with their manager or supervisor, as soon as practicable, their absence or intention to be absent on compassionate leave.
- E12.9 An employee must make an application to the head of service to access compassionate leave.
- E12.10 The head of service may request evidence that would satisfy a reasonable person that an application for compassionate leave is for a purpose specified in subclause E12.1.
- E12.11 Having met the requirements of this clause, the head of service must approve an employee's application to access compassionate leave.
- E12.12 If the employee has not provided the evidence requested under subclause E12.10, a decision not to approve the leave may be taken in accordance with subclause E3.1.

Rate of payment

- E12.13 Compassionate leave must be granted with pay, except for casual employees and except where it is granted without pay under subclause E12.6 or subclause E12.7.
- E12.14 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

- E12.15 Compassionate leave with pay counts as service for all purposes.
- E12.16 Public Holidays for which the employee is entitled to payment that fall during periods of absence on paid compassionate leave must be paid as a normal public holiday and will not be considered an absence on compassionate leave.

Interaction with other leave types

- E12.17 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 must be re-credited for the period of the absence on compassionate leave.

E13 - Community Service Leave**Purpose**

- E13.1 Community service leave is available to employees to allow them to be absent from the workplace to engage in the following 3 distinct types of community service activities:
- E13.1.1 Jury service (including attendance for jury selection) that is required by or under a law of the Commonwealth, a State or a Territory.
 - E13.1.2 A voluntary emergency management activity.
 - E13.1.3 Other recognised voluntary community service activities.

Jury Service**Eligibility**

- E13.2 Community service leave for jury service is available to all employees.

Evidence and conditions

- E13.3 Although the granting of community service leave for jury service is deemed to be approved, an employee must do both the following:
- E13.3.1 Submit a leave application for the period of the absence.
 - E13.3.2 Provide sufficient documentary evidence of the reason for the absence.
- E13.4 The employee should discuss with their manager or supervisor their intention to be absent on community service leave for jury service.

Rate of payment

- E13.5 Community service leave for jury service must be granted with pay to employees other than casual employees.

- E13.6 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

- E13.7 Community service leave for jury service counts as service for all purposes.
- E13.8 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid community service leave for jury service must be paid as a normal public holiday and will not be considered to be community service leave for jury service.

Voluntary Emergency Management

Eligibility

- E13.9 An employee who is a member of a relevant voluntary emergency management service, including any of the following, is eligible for community service leave:
- E13.9.1 A state or territory emergency service.
 - E13.9.2 A fire-fighting service.
 - E13.9.3 A search and rescue unit.
 - E13.9.4 Another volunteer service that performs similar functions.
- E13.10 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

- E13.11 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.
- E13.12 Eligible employees, other than casual employees, are eligible for up to 4 days paid community service leave for voluntary emergency management per emergency.
- E13.13 Community service leave for voluntary emergency management is non-cumulative.

Evidence and conditions

- E13.14 An employee should discuss their intention to be absent on paid or unpaid community service leave for voluntary emergency management with their manager or supervisor as soon as practicable, which may be at a time after the absence has started. The employee must advise the manager or supervisor of the period, or expected period, of the absence.
- E13.15 An employee must make an application to the head of service to access their community service leave entitlement for voluntary emergency management.
- E13.16 The employee must, if requested by the head of service, provide sufficient documentary evidence of the reason for the absence.
- E13.17 The head of service 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.

- E13.18 Having considered the requirements of this clause the head of service may approve an employee's application to access paid community service leave for voluntary emergency management. A decision not to approve the leave must be taken in accordance with subclause E3.1.

Rate of payment

- E13.19 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

- E13.20 A period of approved community service leave for voluntary emergency management counts as service for all purposes.
- E13.21 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 must be paid as a normal public holiday and will not be considered to be community service leave for voluntary emergency management.

Additional leave

- E13.22 Additional paid leave may be approved by the head of service 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

- E13.23 Community service leave for voluntary community service is available to all employees.

Entitlement

- E13.24 Employees, other than casual employees, are entitled to up to 3 days of paid leave for community service leave to engage in a recognised voluntary community service activity within a 12 month period.
- E13.25 Community service leave for voluntary community service is non-cumulative.
- E13.26 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

- E13.27 An employee should discuss their intention to be absent on community service leave for voluntary community service, as soon as practicable, with their manager or supervisor.
- E13.28 An employee must make an application to the head of service to access their community service leave for voluntary community service entitlement.
- E13.29 The head of service may request sufficient documentary evidence of the reason for the absence.
- E13.30 In considering an application from an employee for paid leave to engage in a voluntary community service activity, the head of service must consider all of the following:

- E13.30.1 Whether the activity is a recognised voluntary activity and benefits the local community.
- E13.30.2 Whether the community organisation or project is an acceptable organisation or project as defined in whole-of-government policy or the employee's directorate guidelines.
- E13.30.3 Whether there is a risk the activity would place the employee in a real or perceived conflict of interest.
- E13.31 Leave for a voluntary community service activity must not be approved for activities that do any of the following:
 - E13.31.1 Involve any payment in cash or kind for the duties performed by the employee.
 - E13.31.2 Replace work ordinarily undertaken by a paid worker.
 - E13.31.3 Are undertaken solely for direct personal benefit of the employee.
 - E13.31.4 Place the employee in a conflict-of-interest situation.
 - E13.31.5 Primarily focus on promoting particular religious or political views.
 - E13.31.6 Involve work which does not have a local community focus.
- E13.32 Having considered the requirements of this clause the head of service may approve an employee's application to access paid or unpaid community service leave for voluntary community service.
- E13.33 A decision not to approve the leave must be made in accordance with subclause E3.1.

Rate of payment

- E13.34 Community service leave for voluntary community service is granted with pay for the first 3 days leave in a 12 month period to all employees except casual employees.

Effect on other entitlements

- E13.35 Community service leave for voluntary community service counts as service for all purposes up to a maximum of 23 days in any 12 month period.
- E13.36 Where the head of service has approved a request for unpaid community service leave for voluntary community service exceeding 20 days in a 12 month period, the leave in excess of 20 days does not count as service.
- E13.37 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 must be paid as a normal public holiday and will not be considered to be community service leave for voluntary community service.

Interaction with other leave entitlements

- E13.38 Leave granted under this provision may be taken in combination with approved annual or long service leave.

E14 - Birth Leave

Purpose

- E14.1 Birth leave is available to pregnant employees to enable them to be absent from duty to do any of the following:
- E14.1.1 Support their own wellbeing and to care for and bond with a newborn child.
 - E14.1.2 Support the protection of the family and children under the *Human Rights Act 2004*.
 - E14.1.3 Support the employee's right to continuity of service.

Eligibility

- E14.2 An employee who is pregnant is eligible to be absent on birth leave.
- E14.3 An employee is eligible for birth leave where any of the following applies:
- E14.3.1 The employee gives birth to a newborn child;
 - E14.3.2 the employee's pregnancy ends at or within 20 weeks of the estimated date of delivery of the child, including where a child is stillborn.
- E14.4 Where an employee's pregnancy ends by miscarriage, any birth leave which has been prospectively approved must be cancelled. In this circumstance, the employee may become eligible for compassionate leave in accordance with clause E12 - and special birth leave in accordance with clause E15 -.

Eligibility – paid birth leave

- E14.5 An employee (other than a casual employee) who is eligible for birth leave and who has completed 12 months of continuous service, including recognised prior service, immediately prior to commencing a period of birth leave, is eligible for paid birth leave.
- E14.6 An employee (other than a casual employee) who is eligible for birth leave and who completes 12 months of continuous service within the first 24 weeks of birth leave is eligible for paid birth leave for the period between completing 12 months of service and the end of the first 24 weeks of birth leave.
- E14.7 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 24 weeks of birth leave.

Entitlement

- E14.8 An eligible employee is entitled to be absent for up to 52 weeks birth leave for each pregnancy. To avoid doubt, the entitlement under this clause does not increase in cases of multiple births.
- E14.9 Subject to subclause E14.4, an employee who is eligible for paid birth leave is entitled to be paid for the first 24 weeks of birth leave and this entitlement is in addition to the federal paid parental leave scheme.
- E14.10 Birth leave is non-cumulative.

- E14.11 Subject to subclause E14.13 and subclause E14.14, an employee who is eligible for birth leave must absent themselves from duty for a period commencing 6 weeks prior to the estimated date of delivery of the child and ending 6 weeks after the actual date of birth of the child.
- E14.12 An eligible employee's period of birth leave commences 6 weeks prior to the estimated date of delivery unless one of the following applies:
- E14.12.1 The employee is approved a later commencement date under subclause E14.13. Birth leave will commence on the date recommended by the medical practitioner.
 - E14.12.2 The child is born more than 6 weeks before the estimated date of delivery. Birth leave will commence on the day the child is born.
 - E14.12.3 The pregnancy ends at or within 20 weeks of the estimated date of delivery of the child, including where a child is stillborn. Birth leave will commence on the day the pregnancy ends.
- E14.13 An employee who produces medical evidence from a registered medical practitioner or a registered midwife that they are fit for duty until a date less than 6 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 head of service.
- E14.14 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 6 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 head of service.
- E14.15 An employee who has given birth to a child may resume duty following the end of the 6 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 head of service.
- E14.16 An employee is entitled to return to work in accordance with the provisions in the NES.

Evidence and conditions

- E14.17 An employee must give notice to their manager or supervisor as soon as practicable of their intention to be absent on birth leave.
- E14.18 Birth leave is deemed to be approved; however an employee must submit an application to the head of service for any period of birth leave. Having considered the requirements of this clause the head of service must approve an employee's application to access birth leave.
- E14.19 Prior to commencing birth leave an employee must provide the head of service with evidence of 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.
- E14.20 If requested by the head of service, an employee must provide the head of service 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 registered health professional who is operating within their scope of practice.

Rate of payment

- E14.21 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.
- E14.22 Despite subclause E14.21, 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 12-month period directly preceding birth leave, the rate of payment for the paid component of their birth leave, which is capped at full-time rates, is calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the 12-month period immediately before the period of birth leave commences.
- E14.23 To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of subclause E14.22.
- E14.24 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 48 weeks at half pay.
- E14.25 The head of service may approve, subject to a medical certificate from a registered medical practitioner, an employee taking paid birth leave in a non-continuous manner, on the condition no other form of paid leave is approved before the employee has used all of their paid birth leave entitlement.
- E14.26 A period of paid birth leave does not extend the maximum 52 week period of birth leave available to an eligible employee.
- E14.27 An employee's period of absence on birth leave between the paid period of birth leave and the maximum 52 week period of birth leave must be without pay, unless other paid leave entitlements are accessed.

Effect on other entitlements

- E14.28 Birth leave with pay counts as service for all purposes.
- E14.29 Any period of unpaid birth leave taken by an employee during the period commencing 6 weeks prior to the estimated date of delivery of the child and ending 6 weeks after the actual date of birth of the child counts as service for all purposes.
- E14.30 Subject to subclause E14.29, any period of unpaid birth leave taken by an employee does not count as service for any purpose, but does not break continuity of service.
- E14.31 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.

Interaction with other leave entitlements

- E14.32 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 must be granted to the extent of available entitlements.

- E14.33 Subject to subclause E4.55, an application by an employee for personal leave during a period that would otherwise be an unpaid period of birth leave must 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.

Keep in touch arrangements (birth leave)

- E14.34 At any time after 6 weeks from the child's date of birth, an employee may, following an invitation from the head of service, agree to attend the workplace on up to 10 separate occasions of up to one day each so as to keep in touch with developments in the workplace (for meetings and training etc.).
- E14.35 The employee will be paid at their ordinary hourly rate of pay for the hours they attend the workplace in accordance with subclause E14.34 during unpaid birth leave. Keep in touch attendance counts as service for all purposes, but does not extend the period of leave and does not end or reduce the entitlement to birth leave.
- E14.36 For the purpose of subclause E14.34, a medical certificate is not required.

E15 - Special Birth Leave

Purpose

- E15.1 Special birth leave is available to employees where any of the following apply:
- E15.1.1 The employee is not fit for work due to a pregnancy-related illness.
- E15.1.2 The pregnancy of the employee ends between 28 weeks and 20 weeks of the estimated date of delivery, other than by the birth of a living child.
- Note: If a pregnancy ends within 20 of the estimated date of delivery of the child the employee may be entitled to paid or unpaid birth leave as per subclause E14.3.

Eligibility

- E15.2 Special birth leave is available to all employees and eligible casual employees.

Entitlement

- E15.3 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

- E15.4 The employee must provide the head of service 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.
- E15.5 An employee must submit an application to the head of service for any period of special birth leave. Having considered the requirements of this clause the head of service must approve an employee's application to access special birth leave.

- E15.6 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 a registered health professional operating within their scope of practice.

Rate of payment

- E15.7 Special birth leave is granted without pay.

Effect on other entitlements

- E15.8 Special birth leave does not count as service for any purpose.
- E15.9 Special birth leave does not break continuity of service.
- E15.10 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.

Interaction with other leave types

- E15.11 Special birth leave is in addition to any accrued personal leave entitlement.
- E15.12 Special birth leave is in addition to compassionate leave.

E16 - Primary Care Giver Leave

Purpose

- E16.1 Primary care giver leave is available to employees to enable them to be absent from duty to do both of the following:
- E16.1.1 Care for and bond with a newborn child.
 - E16.1.2 Support the protection of the family and children under the *Human Rights Act 2004*.

Eligibility

- E16.2 Primary care giver leave is available to employees (other than casual employees) who are the primary care giver of a newborn child.
- E16.3 An employee is eligible for primary care giver leave if they have completed at least 12 months continuous service, that may include recognised prior service, immediately prior to commencing a period of primary care giver leave.
- E16.4 An employee who is eligible for paid birth leave, foster and short-term care leave, or adoption, permanent or long term care leave is not eligible for primary care giver leave.
- E16.5 An employee who completes the 12 months of continuous service within 18 weeks of becoming the primary care giver for a child is eligible for primary care giver leave from the date they are eligible for the leave to the end of the first 18 weeks of becoming the primary care giver of the child.

Entitlement

- E16.6 An eligible employee is entitled to 18 weeks of paid primary care giver leave in relation to a 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.

E16.7 Primary care giver leave is non-cumulative.

E16.8 An employee is entitled to return to work in accordance with the provisions in the NES.

Evidence and conditions

E16.9 An employee should discuss with their manager or supervisor, as soon practicable, their intention to be absent on primary care giver leave.

E16.10 An employee must make an application to the head of service to access their primary care giver leave.

E16.11 The employee must provide the head of service with appropriate evidence concerning the reasons for and circumstances under which the primary care giver leave application is made, which may include any of the following:

E16.11.1 A certificate from a registered medical practitioner or registered health professional operating within their scope of practice relating to the estimated date of delivery of a child.

E16.11.2 A birth certificate.

E16.12 In all cases details of leave being taken by other persons who may be considered a primary care giver in relation to the same child (or children in the case of multiple births) must be provided.

E16.13 Before granting primary care giver leave, the head of service must be satisfied that the employee demonstrates that they are the primary care giver.

E16.14 For the purposes of this clause a newborn is considered to be a baby of up to 26 weeks old. In extenuating circumstances, the head of service may approve primary care giver leave when a newborn is more than 26 weeks old.

E16.15 For the purposes of clause E16.14, the primary care giver is entitled to access up to 18 weeks primary care givers leave where the leave has commenced before the baby was 26 weeks old, subject to subclause E16.16.

E16.16 Having considered the requirements of this clause the head of service may approve an employee's application to access primary care giver leave.

E16.17 The 18 weeks available as paid primary care giver leave includes any paid bonding leave (including the personal leave component of the bonding leave entitlement) previously taken by that employee in relation to the birth. For clarity, the total combined entitlement of paid bonding leave (including the personal leave component of the bonding leave entitlement) and paid primary care givers leave available is 18 weeks in relation to the birth.

E16.18 Primary care giver leave may be taken in any combination with birth leave provided that the person who has given birth and entitled to birth leave, and the other employee eligible for primary care giver leave do not take these forms of paid leave concurrently.

E16.19 Subclause E16.17 does not apply where the person giving birth is an ACTPS employee entitled to surrogacy leave in accordance with clause E27 -.

Rate of payment

- E16.20 Primary care giver leave is granted with pay.
- E16.21 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.
- E16.22 Despite subclause E16.21, 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 12-month period directly preceding primary care giver leave, the rate of payment for the paid component of their primary care giver leave, which is capped at full-time rates, is calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the 12-month period immediately before the period of primary care giver leave commences.
- E16.23 To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of subclause E16.22.
- E16.24 Primary care giver leave may be granted 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 36 weeks at half pay.
- E16.25 The head of service 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 caregiver leave will not be approved until the employee has used all of the employee's paid primary care giver leave entitlement within 72 weeks of the birth of the child.

Effect on other entitlements

- E16.26 Primary care giver leave counts as service for all purposes.
- E16.27 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 public holiday.

Interaction with other leave types

- E16.28 Primary care giver leave does not extend the maximum period of unpaid parental leave available to an employee. To avoid doubt, primary care giver leave is not extended by public holidays which fall during periods of primary care giver leave.

Keep in touch arrangements (primary care giver leave)

- E16.29 An employee on primary care giver leave may, following an invitation from the head of service agree to attend the workplace on up to 10 separate occasions of up to one day each so as to keep in touch with developments in the workplace (for meetings and training etc.).
- E16.30 The employee will be paid at their ordinary hourly rate of pay for the hours they attend work in accordance with subclause E16.29 during paid 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.

E17 - Parental Leave

Purpose

- E17.1 Parental leave without pay is in addition to the provisions available in birth leave, primary care giver leave and adoption, permanent or long term 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

- E17.2 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

- E17.3 An employee is entitled to up to 2 years of parental leave following the child's birth, adoption or commencement of a permanent or long term caring arrangement, less any period of birth leave, primary care giver leave or adoption, or permanent or long term care leave which the employee has taken in relation to the same child.
- E17.4 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.
- E17.5 At the end of this time the employee is entitled to return to work in accordance with the provisions in the National Employment Standards.
- E17.6 An employee may apply for up to 52 additional weeks of parental leave for up to 2 further occasions of birth. The leave must be granted if all the following apply:
- E17.6.1 The parental leave is taken within 3 years following the child's birth, adoption or commencement of a permanent or long term caring arrangement.
 - E17.6.2 That the employee agrees, where necessary, to become unattached.
 - E17.6.3 The parental leave is taken in periods of one week or more.

Evidence and conditions

- E17.7 An employee should discuss with their manager or supervisor, as soon as practicable, their intention to be absent on parental leave.
- E17.8 An employee must make an application to the head of service to access their unpaid parental leave entitlement.
- E17.9 The head of service must approve an employee's application to access parental leave if satisfied the employee has met the requirements under this clause.
- E17.10 The employee must provide the head of service with appropriate evidence concerning the reasons for and circumstances under which the unpaid parental leave application is made, which may include any of the following:
- E17.10.1 A birth certificate.

- E17.10.2 Documents from an adoption authority concerning the adoption of a child.
- E17.10.3 Documents relating to a permanent caring arrangement.
- E17.11 The head of service must not grant parental leave if the employee's domestic partner is on parental leave and is an employee of the ACTPS.

Rate of payment

- E17.12 Parental leave is granted without pay.

Effect on other entitlements

- E17.13 Parental leave does not count as service for any purpose.
- E17.14 Parental leave does not break continuity of service.
- E17.15 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

- E17.16 An employee on parental leave may access annual and long service leave on full or half pay to the extent of available entitlements.
- E17.17 An application by an employee for personal leave during a period that would otherwise be a period of parental leave must be granted subject to the employee providing a certificate from a registered medical practitioner or registered health professional operating within their scope of practice, in accordance with subclause E4.55.

Keep in touch arrangements (parental leave)

- E17.18 An employee may, following an invitation from the head of service, agree to attend the workplace on up to 10 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 subclause E14.34 or subclause E16.29.
- E17.19 The employee will be paid at their ordinary hourly rate of pay for the hours that they attend the workplace in accordance with subclause E17.18. Keep in touch attendance counts as service for all purposes, but does not extend the period of leave and does not end or reduce the entitlement to parental leave.

E18 - Bonding Leave

Purpose

- E18.1 Bonding leave is available to employees to enable them to be absent from duty to do the following:
 - E18.1.1 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.
 - E18.1.2 Support the protection of the family and children under the *Human Rights Act 2004*.

Eligibility

- E18.2 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 or long term caring arrangement when the employee is not the primary care giver to the child.
- E18.3 An employee who is eligible for paid birth leave, adoption, permanent or long term care leave or primary care giver leave is not entitled to bonding leave. If bonding leave has been taken by the employee, and the employee later becomes entitled to primary care giver leave, paid bonding leave and paid personal leave taken in accordance with this clause will reduce available primary care giver leave.

Entitlement

- E18.4 Under this clause, an employee is entitled to be absent on paid leave for a maximum of 5 weeks at, or near, the time of the birth, adoption or commencement of the permanent or long term caring arrangement. The maximum absence may be increased by a further 1 week of personal leave for bonding purposes as per subclause E4.43.
- E18.5 In accordance with the NES, an eligible employee is entitled to be absent up to a maximum of 8 weeks of concurrent unpaid bonding leave in the first 12 months following the birth or adoption or commencement of a permanent or long term caring arrangement for a child, subject to a minimum period of 2 weeks at a time unless a shorter period is agreed by the head of service.
- E18.6 The entitlement under subclause E18.5 is reduced by the extent of the entitlement accessed by an employee under subclause E18.4.
- E18.7 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.
- E18.8 Bonding leave is non-cumulative.
- E18.9 Paid bonding leave must be taken within 14 weeks from the date of birth, adoption or commencement of the permanent or long term caring arrangements, unless there are exceptional circumstances and the head of service agrees to a longer period.
- E18.10 The 1 week of personal leave accessed as per subclause E4.43 may be taken at any time up to 14 weeks from the date of the birth, adoption or commencement of the permanent or long term caring arrangement.
- E18.11 Where an employee's domestic partner is also an ACTPS employee this leave may be taken concurrently with the domestic partner receiving birth leave, adoption, permanent or long term care leave or primary care giver leave.

Evidence and conditions

- E18.12 An employee should discuss with their manager or supervisor, as soon as practicable, their intention to be absent on bonding leave.
- E18.13 Bonding leave must be approved subject only to the head of service being satisfied that the eligibility requirements have been met; however, an employee must submit an application to the head of service for any period of bonding leave.

- E18.14 The employee must provide the head of service with appropriate evidence concerning the circumstances under which the bonding leave application is made, which may include any of the following:
- E18.14.1 A medical certificate relating to the estimated date of delivery of a child.
 - E18.14.2 A birth certificate.
 - E18.14.3 Documents from an adoption authority concerning the proposed adoption of a child.
 - E18.14.4 Documents relating to a permanent caring arrangement until the child reaches 18 years old.
- E18.15 Unless the head of service determines that exceptional circumstances apply, bonding leave must not be approved to care for any of the following:
- E18.15.1 A baby over 14 weeks old (not applicable in cases of adoption, permanent or long term caring arrangements).
 - E18.15.2 An adopted adult or adult who is the subject of a permanent caring arrangement over 18 years old on the day of placement.

Rate of payment

- E18.16 Bonding leave is granted with or without pay.
- E18.17 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.
- E18.18 Bonding leave may be granted 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 10 weeks at half pay.

Effect on other entitlements

- E18.19 Paid bonding leave counts as service for all purposes and unpaid bonding leave does not count as service for any purposes, but does not break continuity of service.
- E18.20 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid bonding leave must be paid as a normal public holiday and will not extend the maximum period of bonding leave.

E19 - Grandparental Leave

Purpose

- E19.1 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

- E19.2 Grandparental leave is available to employees other than casual employees and employees on probation.
- E19.3 To be eligible for grandparental leave, the baby or child whom the employee is providing care for must be one of the following:
- E19.3.1 Their grandchild.

- E19.3.2 Their step-grandchild.
- E19.3.3 Their adopted grandchild.
- E19.3.4 A child for whom the employee's child has parental or caring responsibility authorised under a law of a State or Territory.

Entitlement

- E19.4 An eligible employee may be granted up to 52 weeks of grandparental leave, in relation to each grandchild under care. This leave may be taken over a period not exceeding 5 years.
- E19.5 Grandparental leave is available up until the fifth birthday of the grandchild for whom the employee is the primary care giver.
- E19.6 Grandparental leave is non-cumulative.
- E19.7 The length of a period of absence on grandparental leave must be agreed between the eligible employee and the head of service.
 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 6 or 12 months.
- E19.8 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 E19.10.

Evidence and conditions

- E19.9 An employee should discuss with their manager or supervisor, as soon as practicable, their intention to be absent on grandparental leave.
- E19.10 An employee must make an application to the head of service to access their grandparental leave entitlement, and must include details of the period, or expected period, of the absence.
- E19.11 Having considered the requirements of this clause the head of service may approve an employee's application to access grandparental leave. A decision not to approve the leave must be taken in accordance with subclause E3.1.
- E19.12 The head of service should not approve an application for grandparental leave where an employee has an annual leave balance in excess of 8 weeks.
- E19.13 An application for grandparental leave must include one of the following types of evidence:
 - E19.13.1 A statutory declaration or a medical certificate confirming the birth or the estimated date of delivery of the grandchild.
 - E19.13.2 The grandchild's adoption certificate or a statutory declaration confirming the adoption of the grandchild.
 - E19.13.3 A letter or a statutory declaration confirming that there is an authorised care situation.
- E19.14 If both grandparents are employees of the ACTPS either grandparent may be granted leave but the leave may not be taken concurrently.

Rate of payment

E19.15 Grandparental leave is granted without pay.

Effect on other entitlements

- E19.16 Employees cannot engage in outside employment during a period of grandparental leave without the prior approval of the head of service.
- E19.17 Grandparental leave counts as service for all purposes except the accrual of annual leave and personal leave.
- E19.18 Grandparental leave does not break continuity of service.
- E19.19 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.

Interaction with other leave entitlements

- E19.20 An employee on grandparental leave may access annual leave, purchased leave or long service leave.
- E19.21 An application by an employee for personal leave during a period that would otherwise be grandparental leave must be granted subject to the employee providing a certificate from a registered medical practitioner or registered health professional who is operating within their scope of practice.

Unattachment

- E19.22 During an employee's absence on grandparental leave, the head of service may, with the employee's written consent, declare the employee unattached.

E20 - Adoption, Permanent or Long Term Care Leave

Purpose

- E20.1 Adoption, permanent or long term care leave is available to employees to enable them to be absent from duty to do the following:
- E20.1.1 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 18 years old.
- E20.1.2 Support the protection of the family and children under the *Human Rights Act 2004* and the *Children and Young People Act 2008*.

Eligibility

- E20.2 Paid adoption, permanent or long term care leave is available to an employee (other than a casual employee) who is the primary care giver of one of the following:
- E20.2.1 An adopted child.
- E20.2.2 A child for whom the employee has a permanent caring responsibility, where the child is under 18 years old.
- E20.3 An employee providing foster care under a Concurrency Care Foster Care Program described in clause E22 - must be treated as having a permanent caring responsibility, and be eligible for adoption, permanent or long term care leave subject to the terms of this clause.

- E20.4 An employee is not eligible for any further grant of adoption, permanent or long term care leave for a child if both the following apply to the employee in relation to that child:
- E20.4.1 The employee is granted adoption, permanent or long term care leave in respect of the child being cared for under a Concurrency Care Foster Care Program.
 - E20.4.2 The employee subsequently enters into an adoption, permanent or long term care arrangement for that child.
- E20.5 An employee who has completed at least 12 months continuous service, including recognised prior service, immediately prior to commencing a period of adoption, permanent or long term care leave is eligible for adoption, permanent or long term care leave.
- E20.6 An employee who is eligible for paid primary care giver leave is not eligible for adoption, permanent or long term care leave.
- E20.7 An employee who completes 12 months of continuous service within 18 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, permanent or long term care leave for the period between completing 12 months of qualifying service and the end of the first 18 weeks of becoming the primary care giver of the child.

Entitlement

- E20.8 An eligible employee is entitled to 18 weeks of paid leave in relation to each occasion of adoption or commencement of a permanent or long term caring responsibility, less any leave taken in accordance with clause E21 - in the same 12 month period in relation to the same child.
- E20.9 A casual employee is entitled to unpaid pre-adoption leave in accordance with the provisions of the NES.
- E20.10 To avoid doubt, the entitlement under subclause E20.8 does not increase when the adoption, permanent or long term caring responsibility involves more than one child at the time of application.
- E20.11 Adoption, permanent or long term care leave is non-cumulative.
- E20.12 An employee is entitled to return to work in accordance with the provisions in the NES.

Evidence and conditions

- E20.13 An employee should discuss with their manager or supervisor, as soon practicable, their intention to be absent on adoption, permanent or long term care leave.
- E20.14 An employee must make an application to the head of service to access their adoption, permanent or long term care leave.
- E20.15 The employee must provide the head of service with appropriate evidence concerning the reasons for and circumstances under which the adoption, permanent or long term care leave application is made, which may include any of the following:
- E20.15.1 Documents from an adoption authority concerning the adoption.

- E20.15.2 An authorisation as a kinship carer made under the *Children and Young Peoples Act 2008*.
- E20.15.3 Documents confirming that an arrangement consistent with the terms set out in clause E22 - applies.
- E20.16 In all cases details of leave being taken by other persons in relation to the same child must be provided.
- E20.17 Leave under this clause must not be approved for employees in circumstances where the child has lived continuously with the employee for a period of 6 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.
- E20.18 Before granting leave the head of service must be satisfied that the employee is the primary care giver.
- E20.19 Adoption, permanent or long term 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 or long term caring responsibility, unless exceptional circumstances apply.
- E20.20 In all cases, the child must be under 18 years old on the date the employee assumes permanent responsibility for the child for leave to be approved.

Rate of payment

- E20.21 Adoption, permanent or long term care leave is granted with pay, except for unpaid pre-adoption leave for casual employees.
- E20.22 The rate of payment to be paid to the employee during a paid period of adoption, permanent or long term care leave is the same rate as would be paid if the employee was granted personal leave.
- E20.23 Despite subclause E20.22 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 12 month period directly preceding adoption, permanent or long term caring leave, the rate of payment for the paid component of their adoption, permanent or long term care leave, which is capped at full-time rates, is calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the 12-month period immediately before the period of adoption, permanent or long term care leave commences.
- E20.24 To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of subclause E20.23.
- E20.25 The head of service may approve an employee taking adoption, permanent or long term care leave in a non-continuous manner, provided a period of annual leave or long service leave in between the periods of adoption, permanent or long term care leave will not be approved until the employee has used all of the employee's paid adoption, permanent or long term care leave entitlement within 52 weeks of the commencement of the adoption, permanent or long term caring responsibility.

- E20.26 Leave may be granted 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 36 weeks at half pay.

Effect on other entitlements

- E20.27 Paid adoption, permanent or long term care leave counts as service for all purposes.
- E20.28 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on adoption, permanent or long term care leave will not be paid as a normal public holiday.

Interaction with other leave types

- E20.29 Adoption, permanent or long term care leave does not extend the maximum period of unpaid parental leave available to an employee.

E21 - Foster and Short-term Care Leave

Purpose

- E21.1 Foster and short-term care leave is available to employees to enable them to be absent from duty to do the following:
- E21.1.1 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.
 - E21.1.2 Support the protection of the family and children under the *Human Rights Act 2004* and the *Children and Young People Act 2008*.

Eligibility

- E21.2 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.
- E21.3 An employee who has completed at least 12 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

- E21.4 An eligible employee is entitled to a period of paid leave proportionate to the duration of the caring arrangement per application, up to a maximum of 10 working days or shifts per calendar year.
- E21.5 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 10 working days or shifts.
- E21.6 An eligible employee is entitled to paid leave as per subclause E21.4 to undertake accreditation towards an enduring parental authority to care for the child to whom the current short-term caring arrangement applies.
- E21.7 The entitlement under subclause E21.4 does not increase when the short-term caring arrangement involves more than one child at the time of application.

- E21.8 Foster and short-term care leave is non-cumulative.
- E21.9 Where an employee exhausts their paid leave entitlement under this clause the employee may seek approval for further unpaid leave.

Evidence and conditions

- E21.10 An employee should discuss with their manager or supervisor, as soon practicable, their intention to be absent on foster and short-term care leave.
- E21.11 An employee must make an application, as soon as practicable, to the head of service to access their foster and short-term care leave.
- E21.12 The employee must provide the head of service with appropriate evidence concerning the reasons for and circumstances under which each foster and short-term care leave application is made, which may include any of the following:
- E21.12.1 Documents *relating* to current and previous court orders granting responsibility for a foster child.
 - E21.12.2 Documents from a registered health professional or registered medical practitioner.
- E21.13 Having considered the requirements of this clause the head of service may approve an employee's application to access foster and short term care leave. A decision not to approve the leave must be taken in accordance with subclause E3.1.

Rate of payment

- E21.14 Foster and short-term care leave is granted with pay or without pay.
- E21.15 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.
- E21.16 The approved leave period may be taken at full pay in a single block or as single or part days.

Effect on other entitlements

- E21.17 Paid foster and short-term care leave counts as service for all purposes and unpaid foster and short-term care leave does not count as service for any purposes but does not break continuity of service.
- E21.18 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid foster and short-term care leave must 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

- E21.19 An eligible employee is 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.

E22 - Concurrency Care Entitlement to Adoption of Permanent Care Leave

- E22.1 For the purpose of subclause E22.2, a community organisation is an organisation involved with out of home care and adoption of children and young people such as the following:
- E22.1.1 A member of the ACT Together consortium.
 - E22.1.2 Marymead.
 - E22.1.3 A similar organisation based outside the ACT.
- E22.2 For the purposes of subclause E22.3, 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 12 month leave to stabilise the placement of the child.
- E22.3 Notwithstanding clause E21 -, an employee who provides foster care under a Concurrency Care Foster Care Program, in accordance with arrangements approved by the Community Services Directorate, is entitled to apply for adoption, permanent or long term care leave under clause E20 -, as if they had a permanent caring responsibility. Such employees are not entitled to leave under clause E21 -.

E23 - Family, Domestic or Sexual Violence Leave

Purpose

- E23.1 Leave under this clause is available to employees to enable them to deal with the impact caused by family, domestic or sexual violence. The ACTPS is committed to assisting employees experiencing family, domestic or sexual violence to remain in work, maintain their physical and financial security and access relevant services.

Eligibility

- E23.2 Family, domestic or sexual violence leave is available to all employees:
- E23.2.1 Experiencing family, domestic or sexual violence; or
 - E23.2.2 supporting an immediate family member experiencing family, domestic or sexual violence.

Entitlement

- E23.3 An employee experiencing family, domestic or sexual violence has access up to a maximum of 20 days or shifts per calendar year of paid leave. Family, domestic or sexual violence leave is non-cumulative.
- E23.4 Family, domestic or sexual violence leave 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 head or service must, grant paid leave under clause E5 - of this Agreement (Personal Leave in Special, Extraordinary or 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 family, domestic or sexual violence leave.

- E23.5 Family, domestic or sexual violence leave is to be used for, but not limited to, the following actions required as a consequence of family, domestic or sexual violence occurring:
- E23.5.1 Attendance at appropriate medical appointments for referral to other appropriate counselling or support services.
 - E23.5.2 Obtaining legal advice.
 - E23.5.3 Attending counselling appointments.
 - E23.5.4 Seeking assistance from other relevant support services.
 - E23.5.5 Attending court proceedings.
 - E23.5.6 Attending prosecution appointments.
 - E23.5.7 Attending police appointments.
 - E23.5.8 Attending to Protection Order matters and Domestic Violence Order matters however termed.
 - E23.5.9 Attending to issues arising through urgent property damage.
 - E23.5.10 Seeking veterinary assistance for pets injured.
 - E23.5.11 Accessing alternative accommodation.
 - E23.5.12 Accessing alternative childcare or schooling for children.
 - E23.5.13 Any other reason relating to recovering from the effects of experiencing family, domestic or sexual violence where personal leave is not applicable.
- Note: An employee, accessing leave under this provision, may require additional time for travel and recovery following attendance at appointments, proceedings etc.
- E23.6 Family, domestic or sexual violence leave may be taken as consecutive or single days, or as part days.
- E23.7 For confidentiality and privacy reasons family, domestic or sexual violence leave 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 D of this Agreement.

Evidence and conditions

- E23.8 Employees wishing to access family, domestic or sexual violence leave should discuss making an application with their manager or supervisor or an appropriate HR Manager as soon as reasonably practical.
- E23.9 As a general rule, a leave application should be submitted by an employee for approval by the head of service 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.
- E23.10 Evidence of the occurrence of family, domestic or sexual violence is required to access leave for family, domestic or sexual violence purposes.
- E23.11 Evidence may include any of the following:

- E23.11.1 A document issued by the Police or a court.
- E23.11.2 A written referral, issued by a registered medical practitioner or registered nurse, to a counsellor trained in providing support in family, domestic or sexual violence situations.
- E23.11.3 A document issued by a counsellor who is trained in providing support to people experiencing the effects of family, domestic or sexual violence.
- E23.11.4 Written confirmation from an Employee Assistance Program provider or from a family, domestic or sexual violence support service that the employee is experiencing family, domestic or sexual violence issues.
- E23.12 Managers are to keep all information concerning the leave application strictly confidential. This includes, after sighting any supporting documentation, returning that documentation to the employee.
- E23.13 Having considered the requirements of this clause the head of service may approve an employee's application to access family, domestic or sexual violence leave. A decision not to approve the leave must be taken in accordance with subclause E3.1.

Rate of payment

- E23.14 Family, domestic or sexual violence leave is granted with pay.
- E23.15 For an employee other than a casual employee, the rate of payment for family, domestic or sexual violence leave is the employee's full rate of pay, worked out as if the employee had not taken the period of leave.
- E23.16 For a casual employee, the rate of payment for family, domestic or sexual violence leave is the employee's full rate of pay, worked out as if the employee had worked the hours in the period for which the employee was rostered or expected to be rostered.
- E23.17 Family, domestic or sexual violence leave may be granted at half pay where there are extenuating circumstances.

Effect on other entitlements

- E23.18 Leave with pay for family, domestic or sexual violence purposes counts as service for all purposes.

Interaction with other leave types

- E23.19 Where family, domestic or sexual violence leave credits have been exhausted, the head of service may grant an employee leave without pay or other forms of paid leave, such as annual leave or long service leave.
- E23.20 Employees should utilise personal leave for an illness or injury, or to seek treatment for an illness or injury, caused by family, domestic or sexual violence.
- E23.21 Leave entitlements under clause E5 - of this Agreement (Personal Leave in Special, Extraordinary or Unforeseen Circumstances) may be used by an employee who is seeking leave to support a person who is experiencing family, domestic or sexual violence.

Employee Assistance

- E23.22 Reasonable adjustments must be facilitated to ensure the employee's individual safety in the workplace including different work locations, removal or change of phone listing, changes to their work email address and other practicable workplace adjustments.

E24 - Recovery Leave Arrangements for Employees above Senior Officer Grade A and Equivalent

- E24.1 The ACTPS has a responsibility to minimise the extent to which excessive hours are worked by employees engaged above Senior Officer Grade A (or equivalent). As far as practicable, directorates and business units must develop strategies to try to reduce the incidence of excessive hours being worked by this group of employees.
- E24.2 Clause E24 - applies to all employees engaged in the following classifications:
- E24.2.1 Legal Officer Grade 2.
 - E24.2.2 Government Solicitor 3.
 - E24.2.3 Assistant Parliamentary Counsel 2 and 3.
 - E24.2.4 ACT Courts and Tribunal Legal 2 and 3.
- E24.3 The working arrangements, including working hours, must be agreed between the employee and the manager or supervisor. In considering these working arrangements, the employee and the manager or supervisor must take into account both of the following:
- E24.3.1 The operational requirements and workload demands of the ACTPS and the relevant business unit.
 - E24.3.2 The interests of the employee in achieving a reasonable work-life balance.
- E24.4 Employees may be required to work extensive hours over a significant period because of the nature of their duties and responsibilities.
- E24.5 In recognition of extensive hours performed, recovery leave arrangements set out in subclause E24.6 apply. These arrangements do not apply to any of the following:
- E24.5.1 Casual employees.
 - E24.5.2 Employees who work shift work.
 - E24.5.3 Employees who have been, or will be, performing the duties of a position of a classification listed in E24.2 for a continuous period of less than 4 months.
- E24.6 An eligible employee will be provided with a credit of 5 days non-cumulative recovery leave on 1 April each year subject to all the following conditions:
- E24.6.1 Where possible the leave must be taken after a period of extensive hours performed or immediately before a period of anticipated extensive hours to be worked.

- E24.6.2 The leave is to be taken within 12 months of the credit being granted, at a time agreed between the employee and the manager or supervisor.
- E24.6.3 Those days not taken by the employee within 12 months of the credit being provided will lapse.
- E24.6.4 The credit is provided on the basis that the employee maintains appropriate attendance records and submits an application for leave on an approved form.
- E24.6.5 The leave taken at any given time must be in whole days up to a maximum of 2 consecutive working days.
- E24.7 Employees who become eligible for recovery leave part way through the 12 month period commencing on 1 April will be provided with a pro rata credit rounded up to the nearest whole day.
- E24.8 Recovery leave is not a substitute for flex time and an employee is not entitled to any or all of the credited 5 days recovery leave unless the employee can demonstrate that extensive hours have been worked.
- E24.9 Having considered the requirements of this clause the head of service may approve an employee's application to access recovery leave. A decision not to approve the leave must be taken in accordance with subclause E3.1.
- E24.10 If an employee's application for leave under this clause is not approved due to operational reasons, the employee and their manager or supervisor must determine a mutually convenient alternative time, or times, for the employee to take the leave. Where agreement cannot be reached, the employee must be allowed to take the leave subject to reasonable notice being given.
- E24.11 Employees must not receive payment on separation from the ACTPS of any unused recovery leave entitlement.

E25 - Long Service Leave

Definitions

- E25.1 The following definitions apply to long service leave:
 - E25.1.1 **Current rate of salary** means the salary an employee received on the relevant day.
 - E25.1.2 **Eligible employment** means:
 - E25.1.2 (a) continuous employment by the ACTPS; and
 - E25.1.2 (b) continuous recognised prior employment; and
 - E25.1.2 (c) a period of leave without pay to count as service (other than personal leave without pay in excess of 78 weeks and leave in relation to defence employment being employment in the Reserve Forces or of the Citizen Forces either on a continuous full-time basis or for a period fixed in accordance with the *Defence Act 1903*, or equivalent legislation as in force at the relevant time, or national service; and
 - E25.1.3 Eligible employment excludes:

- E25.1.3 (a) employment remunerated by fees, allowances or commission, honorarium or equivalent; and
- E25.1.3 (b) appointment or engagement for the sole purpose of overseas employment; and
- E25.1.3 (c) unauthorised absence.
- E25.1.4 **Prescribed average number of hours** in respect of part-time employment is the greater of:
 - E25.1.4 (a) the employee's average number of hours of employment per week:
 - E25.1.4 (b) during the 12 months of eligible part-time employment ending on the relevant day set out above; or
 - E25.1.4 (c) during the periods aggregating 12 months the employee was last employed on part-time hours before the relevant day set out above; or
 - E25.1.4 (d) if the employee has less than 12 months of eligible part-time employment, during the period or periods when the employee has been employed on part-time hours; or
 - E25.1.4 (e) the employee's average number of hours of employment per week during the entire period of their eligible employment.
- E25.1.5 **Relevant day** means:
 - E25.1.5 (a) In relation to an employee who has been granted long service leave, the day immediately before the date that leave commences; and
 - E25.1.5 (b) in relation to an employee who receives a payment in lieu of long service leave:
 - E25.1.5 (b) (i) the day immediately before the date they cease to be an employee; or
 - E25.1.5 (b) (ii) the nominated date to cash out accrued long service leave credit.
- E25.1.6 **Relevant rate per hour** means the rate per hour that salary would be payable to the employee on the relevant day.

Purpose

- E25.2 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.

Note: Historically and in other jurisdictions long service leave may have been, or be, known by other names, including long leave, furlough or extended leave.

Eligibility

- E25.3 Long service leave is available to all employees including casual employees.
- E25.4 This clause does not apply to a person who is:
- E25.4.1 seconded to the ACTPS from the Commonwealth, State or Territory government; or
 - E25.4.2 appointed or engaged for the sole purpose of employment outside Australia (overseas employment).
- E25.5 The eligibility requirements and entitlements for long service leave under the PSM Standards apply, subject to the provisions of this clause.
- E25.6 Chief Minister Treasury and Economic Development (CMTEDD) must consult with the unions and seek union agreement in relation to changes to long service leave entitlements provided under the PSM Standards.

Entitlement

- E25.7 Long service leave is measured in months.
- E25.8 Employees accrue long service leave at the rate of 3 months for each ten years of completed eligible employment, or an equivalent aggregate period of employment for casual employees.
- E25.9 For employees who take long service leave and return to duty following completion of their long service leave, or for employees who take payment in lieu of long service leave, their long service leave credit is calculated based on their aggregate completed years of eligible employment (e.g. the period 1 February 2009 to 31 July 2021 equates to 12 years for long service leave calculation).
- E25.10 For employees who will cease employment with the ACTPS following completion of their long service leave, or payment in lieu of long service leave, their long service leave credit is calculated based on their aggregate completed years and months of eligible employment (e.g. the period 1 February 2009 to 31 July 2021 equates to 12 years and 6 months for long service leave calculation).
- E25.11 Long service leave is cumulative and there is no limit on the long service leave balance an employee may accrue.
- E25.12 Employees accrue separate full-time and part-time long service leave credits according to the employee's ordinary hours of work and the following formula:

Full-time credit formula	Part-time credit formula
Full-time credit = $(3a/10 - b)$	Part-time credit = $(3c/10 - d)$
where: a = the aggregate number of years of eligible full-time employment b = the aggregate number of months of long service leave previously paid to the employee in relation to the employee's full-time employment at any time during their eligible employment.	where: c = the aggregate number of years of eligible part-time employment d = the aggregate number of months of long service leave previously paid to the employee in relation to the employee's part-time employment at any time during their eligible employment.

- E25.13 For calculating an employee's long service leave credit:

- E25.13.1 For permanent and temporary employees, a period of leave without pay of one day or more that does not count as service does 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.
- E25.13.2 Where an employee has a break in employment, or a break between other eligible employment and ACTPS employment, of longer than 12 months the prior employment will not be counted as employment that accrues long service leave.
- E25.13.3 On commencement, if during a period of eligible employment an employee received a payment in lieu of long service leave, or an equivalent type of leave, in the ACTPS or another jurisdiction, the employee is taken to have been granted a period of long service leave equal to the period of long service leave that payment was made for.

Evidence and conditions

- E25.14 An employee should discuss with the head of service as soon as practicable their intention to be absent on long service leave.
- E25.15 An employee or their legal representative must make an application to the head of service to access their long service leave entitlement.
- E25.16 Having considered the requirements of this section the head of service may approve an employee's application to access long service leave, or payment in lieu of long service leave, to the extent of that employee's pro-rata long service leave credits after an aggregated seven years of completed eligible employment.

Note: After seven years eligible employment the employee will have accrued 2.1 months of long service leave credit (i.e. $3 \times 7/10$).
- E25.17 The minimum period of long service leave an employee may request is one day.
- E25.18 If the head of service does not approve an application by an employee for long service leave because of operational requirements the head of service must consult with the employee to determine a mutually convenient alternative time (or times) for the employee to take the leave.

Payment in Lieu

- E25.19 To encourage the flexible use of long service leave, an employee may, in writing, request the approval of the head of service for payment in lieu (cash out) of long service leave.
- E25.20 The minimum period an employee may request a payment in lieu of long service leave is seven days.
- E25.21 The head of service may approve the partial or full payment in lieu of an employee's accrued long service leave credit on a relevant day, nominated by the employee in their application. The payment in lieu of long service leave will be based on the rate of pay the employee would have received had the employee taken the leave from the relevant day.
- E25.22 Employees will receive payment on separation of any pro-rata long service leave entitlements after an aggregated 7 years of completed eligible

employment, at their full rate of pay as if they had taken their entire long service leave credit on the day their employment ends .

- E25.23 Where an employee whose period of eligible employment is less than seven years but not less than one year ceases to be an employee:
- E25.23.1 otherwise than because of the employee's death, on, or after, the employee attaining the minimum retiring age; or
 - E25.23.2 because of the employee's redundancy; or
 - E25.23.3 satisfies the head of service that the employee so ceasing is due to ill health of such a nature as to justify the employee so ceasing
- the head of service will authorise payment to the employee under this subclause of an amount equal to the salary the employee would have received had they taken long service leave on the day their employment ends.
- E25.24 If an employee whose period of employment is not less than one year dies, the head of service 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.
- E25.25 A payment or pro rata payment in lieu of long service leave is paid:
- E25.25.1 if the officer was employed in the same capacities on the relevant day and the day immediately before the relevant day – at the officer's full rate of pay on the relevant day; or
 - E25.25.2 if the officer is employed in different capacities on the relevant day and on the day immediately before the relevant day – at the officer's full rate of pay on the day immediately before the relevant day.

Rate of Payment

- E25.26 Long service leave will be paid at:

Employment	Rate of Payment
Where an employee's accrued long service leave includes eligible full-time employment the payment in relation to full-time long service leave credit will be calculated.	At the employee's current rate of salary or relevant rate per week on the relevant day.
Where an employee's accrued long service leave includes eligible part-time employment with no change in ordinary hours the payment in relation to part-time long service leave credit will be calculated.	At the employee's current rate of salary or relevant rate per week on the relevant day.
Where an employee's accrued long service leave includes periods of part-time employment of varying weekly hours the payment in relation to any part-time long service leave credit will be calculated.	At the employee's relevant rate per hour for that part of the long service leave multiplied by the prescribed average number of hours. (PSMS 266(6) – Category A) At the lower of: (PSMS 266(7) – Category B)

	<p>(a) the employee's current rate of salary per week in relation to that part of leave; or</p> <p>(b) calculated as follows – $(a \times b)/c$ where:</p> <p>a = the employee's current rate of salary per week in relation to that part of the leave</p> <p>b = the prescribed average number of hours of the employee's employment</p> <p>c = the employee's number of hours of employment per week the employee worked on the relevant day</p>
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- E25.27 For periods of seven consecutive days or more, long service leave may be taken on double, full or half pay when approved by the head of service and subject to operational requirements, with credits to be deducted on the same basis.
- E25.28 Employees may be granted long service leave in blocks of less than seven days with the approval of the head of service. Each day taken will be deducted at the rate of 1.4 and this can be taken on double, full or half pay.
- E25.29 Despite subclause E25.28, where an employee requests 6 consecutive days of long service, 7 days will be deducted from the employee's long service leave balance.
- E25.30 If the employee is on higher duties at the time of taking, or cashing out, long service leave, 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 cashed out.
- E25.31 Payment in lieu of long service leave if an employee's employment with the ACTPS ceases will include an amount in respect of a higher duties allowance, if:
- E25.31.1 the officer has performed the duties of an office with a higher classification than their substantive office for a continuous period of 12 months or ending on the relevant day; or
- E25.31.2 immediately before the person ceased to be an officer, the officer had performed the duties of two or more offices with a higher classification than their substantive office for periods that were continuous with one another aggregating 12 months or more.
- E25.32 Payment in lieu of long service leave which includes an amount in respect of higher duties allowance is paid at the lowest rate at which higher duties allowance was paid to the officer during that period of higher duties.
- E25.33 Salary for long service leave includes allowances payable to the employee during long service leave in accordance with Annex C:
- E25.33.1 for the supply and maintenance by the employee of tools and equipment ordinarily required by them to perform the duties of their work.

- E25.34 Salary for long service leave does not include:
- E25.34.1 shift penalty payments; or
 - E25.34.2 overtime payments; or
 - E25.34.3 payments in the nature of an on-call or restriction allowance.

Effect on other entitlements

- E25.35 Long service leave counts as service for all purposes.
- E25.36 When applying for long service leave an employee must seek approval of the head of service if they propose to engage in outside employment during the leave.

Access to Other Entitlements

- E25.37 Public holidays, Christmas Shutdown, weekends and other relevant days an employee is entitled to be absent from duty under clause E10 - that fall during periods of absence on long service leave are deducted from the employee's long service leave balance.
- E25.38 An employee who is ill or injured or cares for a member of the employee's immediate family or household who is ill or injured, for one day or more while on long service leave and who produces a certificate from a registered health professional who is operating within their scope of practice may apply for personal leave.
- E25.39 If personal leave is granted to the employee, long service leave will be re-credited for the period of personal leave granted.
- E25.40 An employee may apply for and be granted long service leave during a period they would be eligible to be granted:
- E25.40.1 unpaid birth leave (captured at E14.32); or
 - E25.40.2 unpaid parental leave (captured at E17.16); or
 - E25.40.3 grandparental leave (captured at E19.20); or
 - E25.40.4 unpaid community service leave for voluntary community service (captured at E13.38); or
 - E25.40.5 unpaid personal leave (captured at E4.59); or
 - E25.40.6 Family, domestic or sexual violence leave (captured at E23.19).
- E25.41 An employee who is prevented from attending for duty under the *Public Health Act 1997*, part 6 may be granted long service leave during that period.

E26 - Disability Leave

Purpose

- E26.1 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.
- E26.2 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

- E26.3 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

- E26.4 Employees eligible for disability leave will be entitled up to a maximum of 5 days/shifts of disability leave per calendar year, subject to the provision of appropriate evidence. Disability leave is non-cumulative.
- E26.5 An employee may be granted disability leave from the first day of service.
- E26.6 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 E4 -.
- E26.7 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:
- E26.7.1 To attend appointments with medical practitioners.
 - E26.7.2 To attend treatment, rehabilitation, therapy or counselling.
 - E26.7.3 To attend tests or assessments.
 - E26.7.4 To receive delivery of, fitting, repairing, maintaining and undergoing training in use of orthoses, prostheses, adaptive equipment, or other aids.
 - E26.7.5 To obtain wheelchair or other equipment maintenance or replacement.
- E26.8 Disability leave may be taken as consecutive or single days, or as part days.

Evidence and conditions

- E26.9 Employees wishing to access disability leave should discuss their intention to take leave with their manager or supervisor as soon as practical.
- E26.10 An employee must make an application to the head of service to access disability leave accompanied by supporting documentary evidence.
- E26.11 Documentary evidence may include any of the following:
- E26.11.1 A medical certificate from a registered medical practitioner or registered health professional operating within their scope of practice.
 - E26.11.2 A written referral, issued by a registered medical practitioner.
 - E26.11.3 A statutory declaration.
 - E26.11.4 Other reasonable forms of documentation.
- E26.12 Having considered the requirements of this clause the head of service may approve an employee's application to access disability leave, subject to operational requirements in the workplace.

- E26.13 If the head of service does not approve an employee's application for disability leave because of operational requirements, the head of service must consult with the employee to determine a mutually convenient alternative time (or times) for the employee to take the leave.

Employee support

- E26.14 An employee may initiate a request to seek support through a flexible work arrangement and reasonable adjustments through an individual plan.
- E26.15 Following a request made under E26.140, the manager and employee will jointly prepare and agree to the individual plan.

Rate of payment

- E26.16 Disability leave must be granted with pay.
- E26.17 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

- E26.18 Employees who are unable to attend work due to illness related to their disability may utilise personal leave.
- E26.19 Disability leave will count as service for all purposes.
- E26.20 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

- E26.21 Where an employee has exhausted their disability leave entitlement, they may apply to the head of service for approval to take personal leave, or other forms of paid leave such as annual leave or long service leave.

E27 - Surrogacy Leave

Purpose

- E27.1 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:
- E27.1.1 Support their own wellbeing.
 - E27.1.2 Support the employee's right to continuity of service.

Eligibility

- E27.2 An employee who is pregnant as part of a valid Australian surrogacy agreement is eligible to be absent on surrogacy leave.
- E27.3 An employee who is eligible for surrogacy leave is not entitled to birth leave under clause E14 -.
- E27.4 An employee is eligible for surrogacy leave where one of the following applies:
- E27.4.1 The employee gives birth to a newborn child as part of a valid surrogacy agreement.

- E27.4.2 The employee's pregnancy as part of a valid surrogacy agreement ends at within 20 weeks of the estimated date of delivery other than by the birth of a living child (including stillbirth).
- E27.5 Where an employee's pregnancy ends more than 20 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 E12 - and/or special birth leave in accordance with clause E15 -.

Eligibility – paid surrogacy leave

- E27.6 An employee, other than a casual employee, who is eligible for surrogacy leave and who has completed 12 months of continuous service, including recognised prior service, immediately prior to commencing a period of surrogacy leave is eligible for paid surrogacy leave.
- E27.7 An employee, other than a casual employee, who is eligible for surrogacy leave and who completes 12 months of continuous service within the first 12 weeks of surrogacy leave is eligible for paid surrogacy leave for the period between completing 12 months of service and the end of the first 12 weeks of surrogacy leave.
- E27.8 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 12 weeks of surrogacy leave.

Entitlement

- E27.9 Subject to subclause E27.6, an employee who is eligible for paid surrogacy leave is entitled to 12 weeks of paid leave in relation to each birth.
- E27.10 To avoid doubt, the entitlement under this clause does not increase in cases of multiple births.
- E27.11 Surrogacy leave is non-cumulative.
- E27.12 Subject to subclauses E27.13 and E27.14, a surrogate who is eligible for surrogacy leave must absent themselves from duty for a period commencing 6 weeks prior to the estimated date of delivery of the child and ending 6 weeks after the actual date of birth of the child.
- E27.13 A surrogate who produces medical evidence from a registered medical practitioner stating they are fit for duty until a date less than 6 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 head of service.
- E27.14 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 6 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 head of service.
- E27.15 A surrogate who has given birth to a child may resume duty following the end of the 6 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 head of service.

- E27.16 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

- E27.17 An employee must give notice to their manager or supervisor as soon as practicable of their intention to be absent on surrogacy leave.
- E27.18 Surrogacy leave is deemed to be approved, however, an employee must submit an application to the head of service for any period of surrogacy leave.
- E27.19 Having considered the requirements of this clause the head of service must approve an employee's application to access surrogacy leave.
- E27.20 Prior to commencing surrogacy leave an employee will provide the head of service with documentary evidence of both the following:
- E27.20.1 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.
- E27.20.2 Evidence of the valid surrogacy arrangement.
- E27.21 If requested by the head of service, an employee must provide the head of service 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

- E27.22 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.
- E27.23 Despite E27.22, 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 12-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 12-month period immediately before the period of surrogacy leave commences.
- E27.24 To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of subclause E27.23.

Effect on other entitlements

- E27.25 Surrogacy leave with pay will count as service for all purposes.
- E27.26 Any period of unpaid surrogacy leave taken by an employee during the period commencing 6 weeks prior to the estimated date of delivery of the child and ending 6 weeks after the actual date of birth of the child will count as service for all purposes.

- E27.27 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

- E27.28 An employee who is eligible for surrogacy leave is not entitled to birth leave under clause E14 -.

E28 - Gender Affirmation Leave

Purpose

- E28.1 Gender affirmation 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

- E28.2 Gender affirmation leave is available to employees, other than casual employees, who are affirming their gender.

Entitlement

- E28.3 Gender affirmation leave is available to an employee during the course of their employment to undertake necessary gender affirmation steps and procedures.
- E28.4 An employee undergoing gender affirmation is entitled, subject to the provision of appropriate evidence, to both the following:
- E28.4.1 Up to 4 weeks (20 days) paid leave, or up to 8 weeks (40 days) at half pay.
 - E28.4.2 Up to 48 weeks unpaid leave.
- E28.5 Leave for gender affirmation 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:
- E28.5.1 To attend appropriate medical or psychological appointments.
 - E28.5.2 To attend counselling appointments.
 - E28.5.3 To obtain legal advice or attend documentation amendment appointments.
 - E28.5.4 To obtain hormonal treatments.
 - E28.5.5 To undergo gender affirmation 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.

- E28.6 Leave for gender affirmation purposes may be taken as consecutive or single days, or as part days.

Evidence and conditions

- E28.7 Employees wishing to access gender affirmation leave should discuss their intention to take leave with their manager or supervisor, or an appropriate HR Manager, as soon as practical.

- E28.8 An employee must make an application to the head of service to access gender affirmation leave. As far as practicable an employee will provide at least 4 weeks' written notice of their intended commencement date together with supporting documentary evidence.
- E28.9 Evidence may include any of the following:
- E28.9.1 A medical certificate from a registered medical practitioner or registered professional operating within their scope of practice.
 - E28.9.2 A written referral, issued by a registered medical practitioner, to a counsellor.
 - E28.9.3 A document issued by a counsellor.
 - E28.9.4 A legal or other document issued by a state, territory, or federal government organisation.
 - E28.9.5 A statutory declaration.
- E28.10 Having considered the requirements of this clause the head of service may approve an employee's application to access gender affirmation leave.

Rate of payment

- E28.11 Gender affirmation leave will be granted with pay for the first 4 weeks, or 8 weeks at half pay.
- E28.12 Paid gender affirmation 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 8 weeks at half pay.
- E28.13 The rate of payment to be paid to the employee during a paid period of gender affirmation leave is the same rate as would be paid if the employee was granted paid personal leave.

Effect on other entitlements

- E28.14 Leave with pay for gender affirmation purposes will count as service for all purposes. Leave without pay for gender affirmation purposes will not count as service for any purpose, but will not break an employee's continuity of service.
- E28.15 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on gender affirmation leave will be paid as a normal public holiday.

Interaction with other leave entitlements

- E28.16 An application by an employee for long service leave or annual leave during a period that would otherwise be an unpaid period of gender affirmation leave will be granted to the extent of available entitlements.
- E28.17 An application by an employee for personal leave during a period that would otherwise be an unpaid period of gender affirmation 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.

E29 - Assisted Reproductive Leave

Purpose

- E29.1 Assisted reproductive leave is available to employees, other than casual employees, to enable them to be absent from duty to undergo assisted reproductive treatments and attend medical appointments in relation to assisted reproductive treatments.

Eligibility

- E29.2 Paid assisted reproductive leave is available to an employee, other than a casual employee, who is to undergo assisted reproductive treatments.
- E29.3 An employee who has completed at least 12 months continuous service, including recognised prior service, immediately prior to commencing assisted reproductive treatments is eligible for assisted reproductive leave.
- E29.4 Assisted reproductive leave is not available to the partner of the person undergoing assisted reproductive treatments unless they are also undergoing assisted reproductive treatment.
- E29.5 These provisions do not apply in respect of the birth of a child of the employee's legal surrogate or the adoption of a child or children by the employee.

Entitlement

- E29.6 The employee is entitled to up to five days paid assisted reproductive leave per calendar year.
- E29.7 Leave is non-cumulative and may be taken as single or consecutive days.
- E29.8 Despite clause E2 -, assisted reproductive leave may be taken as part-days to facilitate the attendance of related medical appointments.

Evidence and Conditions

- E29.9 An employee should discuss with their manager or supervisor, as soon as practicable, their intention to be absent on assisted reproductive leave.
- E29.10 An employee must make an application to the head of service to access their assisted reproductive leave.
- E29.11 The head of service may request documentary evidence supporting the employee's request to access assisted reproductive leave. Documentary evidence may include a medical certificate from a registered medical practitioner or registered health professional operating within their scope of practice confirming reproductive leave treatments and associated appointments.
- E29.12 Having considered the requirements of this clause, the head of service may approve an employee's application to access assisted reproductive leave.

Rate of Payment

- E29.13 Assisted reproductive leave is granted with pay, and 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

- E29.14 Assisted reproductive leave will count as service for all purposes.
- E29.15 Public holidays for which the employee is entitled to payment that fall during periods of absence on assisted reproductive leave will be paid as a normal public holiday and must not be deducted from the employee's annual leave balance.

Interaction with Other Leave Types

- E29.16 Paid assisted reproductive leave must not be taken concurrently with any other forms of leave.
- E29.17 Employees who are unfit to attend work due to illness related to their assisted reproductive treatments must apply for personal leave and are not eligible for assisted reproductive leave.
- E29.18 Despite clause E29.17, where an employee has exhausted their personal leave credits, the head of service may consider approving an application for assisted reproductive leave where the employee is unfit to attend work due to illness related to their assisted reproductive treatments.

E30 - Other Leave

Purpose

- E30.1 Other leave is available to employees to enable them to be absent from duty for a variety of purposes as set out in Annex D.
- E30.2 Other leave may be granted in the interests of any of the following:
- E30.2.1 The ACTPS, a State, a Territory or the Commonwealth.
 - E30.2.2 The community in general.
 - E30.2.3 The employee.
- Note: Separate provisions apply for community service leave which includes jury service, voluntary emergency management and voluntary community service.

Eligibility

- E30.3 An employee who meets the eligibility requirements specified in Annex D is eligible to apply for that form of other leave.

Entitlement

- E30.4 An employee may be granted other leave to the maximum period set out in Annex D.

Evidence and conditions

- E30.5 An employee should discuss with their manager or supervisor, 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.
- E30.6 An employee must make an application to the head of service to access a form of other leave.

- E30.7 Having considered the requirements of this clause the head of service 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 E3.1.
- E30.8 The employee must, if requested by the head of service, provide sufficient documentary evidence supporting the reason for the absence.
- E30.9 When considering requests for other leave, the head of service must take into account all of the following:
- E30.9.1 The employee's circumstances.
 - E30.9.2 Community norms and obligations.
 - E30.9.3 The operational requirements of the workplace.
 - E30.9.4 Other available leave options.
 - E30.9.5 Any conditions on the entitlement as defined in Annex D.

Rate of payment

- E30.10 Other leave may be granted with or without pay in accordance with Annex D.

Effect on other entitlements

- E30.11 A period of other leave will, or will not, count as service in accordance with Annex D.
- E30.12 Public holidays for which the employee is entitled to payment that fall during periods of absence on other paid leave must be paid as a normal public holiday and will not reduce an entitlement of the employee to other leave under Annex D.

Interaction with other leave types

- E30.13 Leave must not be granted under this provision if another form of leave is more appropriate.

Unattachment

- E30.14 Where the leave is without pay for a period of more than 12 months the head of service may, with the employee's written consent, declare the employee unattached.

Leave entitlements provided for elsewhere

- E30.15 In addition to the leave entitlements available within section F, leave entitlements are provided throughout this Agreement and the PSM Standards, including:

Annex D – Other Leave	<ol style="list-style-type: none"> 1. Attend Aboriginal or Torres Strait Islander Ceremonies 2. Attend Aboriginal and Torres Strait Islander meetings 3. Attend NAIDOC week activities 4. Religious purposes 5. Defence Reserve 6. Operational Service Personal Leave
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	<ul style="list-style-type: none"> 7. Returned soldiers for medical purposes 8. Accompany a domestic partner on a posting 9. Engage in employment in the interests of defence or public safety 10. Attend as a witness 11. Attend proceedings at the Fair Work Commission 12. Donate an organ 13. Donate Blood 14. Hold a full-time office in a staff organisation 15. Local government purposes 16. Campaign for election 17. Attend sporting events as an accredited competitor or official 18. Cope with a disaster 19. Engage in employment associated with compensation 20. Engage in employment in the interests of the ACTPS 21. Take leave where leave cannot be granted under any other provision
F5 -	Attendance at Industrial Relations Courses and Seminars
L11 -	Leave and Expenses to Seek Employment
Public Sector Management Standards	Study assistance

Section F Communication and Consultation

F1 - Consultation

- F1.1 There must be effective consultation with an employee(s) and their representatives, including union representatives, on workplace matters. The ACTPS recognises that consultation and employee participation in decisions that affect them is essential to the successful management of change.
- F1.2 If there are proposals by the ACTPS to introduce changes that would have a significant effect on an employee or a group of employees, the head of service must 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.
- F1.2.1 Significant effect includes, but is not limited to, effects of proposals that deal with any of the following:
- F1.2.1 (a) The termination of the employment of employees through redundancy.
 - F1.2.1 (b) Changes to the composition, operation or size of the directorate workforce or the skills required of employees.
 - F1.2.1 (c) The elimination or diminution of job opportunities (including opportunities for promotion or tenure).
 - F1.2.1 (d) The alteration of hours of work.
 - F1.2.1 (e) The need to retrain employees.
 - F1.2.1 (f) The need to physically relocate employees.
 - F1.2.1 (g) The restructuring of job-roles, positions, structures or directorates.
 - F1.2.1 (h) Changes to employment policies.
 - F1.2.1 (i) Anything likely to materially affect workloads.
 - F1.2.1 (j) Any other matter deemed relevant by parties covered by this Agreement.
- F1.3 An employee(s) or their representative(s) may also initiate consultation on any matters or proposals if such consultation hasn't already been initiated under subclause F1.2.
- F1.4 The head of service must 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.
- F1.5 In addition to the consultation outlined in subclause F1.1 to subclause F1.3 all the following apply:
- F1.5.1 Directorate Consultative Committees (DCCs) must be established, with membership to be agreed by the head of

service and the union(s) following commencement of this Agreement and comprising representatives of both the following:

F1.5.1 (a) The head of service.

F1.5.1 (b) The union(s).

F1.5.2 Adequate time must be provided to employees and the union(s) to consult with the relevant directorate(s).

F1.5.3 A directorate may establish a DCC to cover one or more enterprise agreements that cover its employees.

F1.5.4 Additional levels of consultation, such as a Workplace Consultative Committee (WCC), may be established with the agreement of the relevant DCC to operate at the local level. Where established, these levels of consultation must deal with workplace specific issues before such issues may be raised with the DCC and have membership agreed by the DCC.

F1.6 The purpose of the DCC is to do all the following:

F1.6.1 Monitor the operation and implementation of this Agreement.

F1.6.2 Consider any proposed new or proposed significant changes to directorate policy statements and guidelines that relate to the provisions of this Agreement.

F1.6.3 Consult on workplace matters significantly affecting employees.

F1.7 The DCC must meet within 2 months of the commencement of this Agreement. The purpose of this meeting is to agree on the terms of reference, which must include the consultative structure to operate during the term of this Agreement.

F1.7.1 The DCC must meet no less than once in any 12 month period thereafter, unless a different period is agreed in the Terms of Reference.

F1.7.2 Additional meetings of the DCC may also be convened if requested by any member of the DCC, or as determined by the Terms of Reference.

F1.8 The Chief Minister, Treasury and Economic Development Directorate must consult with the union(s) and employees prior to the finalisation of any significant changes or any new provisions in the PSM Act and the PSM Standards and any new service wide policy statements or guidelines that relate to the provisions of this Agreement. This consultation may occur through the Joint Council.

Consultation on changes to regular rosters or ordinary hours of work

F1.9 If the ACTPS proposes to introduce a change to the regular roster or ordinary hours of work of employees, the head of service must do all the following:

F1.9.1 Notify the relevant employees of the proposed change.

F1.9.2 Recognise the affected employee's union or other representative.

- F1.9.3 As soon as practicable after proposing to introduce the change, all of the following:
- F1.9.3 (a) Discuss with the relevant employees the introduction of the change.
 - F1.9.3 (b) For the purposes of the discussion, provide to the relevant employees all of the following:
 - F1.9.3 (b) (i) All relevant information about the change, including the nature of the change.
 - F1.9.3 (b) (ii) Information about what the head of service reasonably believes will be the effects of the change on the employees.
 - F1.9.3 (b) (iii) Information about any other matters that the head of service reasonably believes are likely to affect the employees.
 - F1.9.3 (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).
- F1.10 The head of service is not required to disclose confidential or commercially sensitive information to the relevant employees.
- F1.11 The head of service must give prompt and genuine consideration to matters raised about the change by the relevant employees.
- F1.12 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 F1.9.
- F1.13 In addition, the employer undertakes that, for the purposes of subclause F1.2, the head of service must recognise and consult with the affected employee(s), their union or other representative.

F2 - Freedom of Association

- F2.1 The ACTPS recognises that employees are free to choose whether or not to join a union. Irrespective of that choice, employees must not be disadvantaged or discriminated against in respect of the employees' employment under this Agreement. The ACTPS 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.
- F2.2 Employees in negotiations of any kind are entitled to negotiate collectively where they so choose.
- F2.3 Employees engaging in negotiations of any kind are entitled to be represented by a representative of their choice. The ACT Government must deal with any such representative in good faith.

F3 - Right of Existing and New Employees to Representation in the Workplace

- F3.1 The ACTPS acknowledges the rights of its employees to be represented on any workplace relations matter and to meet with their representatives in the workplace. The ACTPS recognises the legitimate right of the union(s) to represent its employees who are members, or eligible to become members of the union(s).
- F3.2 The FW Act prescribes the purpose and manner under which the union(s) may exercise right of entry in the workplace. The ACTPS must grant the union(s) access in accordance with the FW Act.
- F3.3 In addition, the ACTPS must do all of the following:
- F3.3.1 Allow union officials and employees, who are permit holders, to enter ACTPS workplaces 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.
 - F3.3.2 Allow the union(s) to meet with new ACTPS 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 head of service agree upon, and of which the head of service must advise the employees.
 - F3.3.3 Provide all new ACTPS employees with some form of induction program, including an induction package containing information about the union(s) which the union(s) has given the ACTPS.
 - F3.3.4 Invite the union(s) to attend any face-to-face induction of new ACTPS employees, the details of which the head of service must provide to the union(s)' contact officer or other nominated person with reasonable notice. Such attendance must 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 ACTPS employees.
 - F3.3.5 Organise regular face to face meetings, which may be the face-to-face inductions of new ACTPS employees as per subclause F3.3.4, between new ACTPS employees and the relevant union(s), for the purpose of delivering an information presentation including recruitment information to new ACTPS employees. Such meetings must be held at regular intervals as agreed between the relevant directorate(s) and the relevant unions.
- F3.4 For the avoidance of doubt, nothing in subclause F3.3 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.

F4 - Co-operation and Facilities for Unions and Other Employee Representatives

- F4.1 For the purpose of ensuring that union(s) and other employee representatives who are employees of the ACTPS can effectively fulfil their

employee representative role under this Agreement, the following provisions apply.

- F4.2 Reasonable access to ACTPS facilities, including the internal courier service, access to the ACT Government communication systems, telephone, facsimile, photocopying, access to meeting rooms and storage space, must be provided to union(s) and other employee representatives to assist them to fulfil their representative obligations, duties and responsibilities having regard to the ACTPS's statutory obligations, operational requirements and resources.
- F4.3 In addition to the ACTPS facilities outlined in subclause F4.2, where available, a union or employee representative who is an employee of the ACTPS must 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 ACTPS facilities must be in accordance with published whole-of-government policies and for matters other than for industrial action.
- F4.4 A union or other employee representative who is an employee of the ACTPS must be provided with adequate paid time off from their usual working hours, to undertake duties to represent other employees.
- F4.5 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.
- F4.6 The role of union workplace delegates and other recognised union representatives is to be respected and facilitated. The ACTPS and union workplace delegates must deal with each other in good faith.
- F4.7 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, all of the following:
 - F4.7.1 To be treated fairly and perform their role as workplace delegate without any discrimination in their employment.
 - F4.7.2 To speak on behalf of their members in the workplace.
 - F4.7.3 To participate in collective bargaining on behalf of those who they represent, as per the FW Act.
 - F4.7.4 To reasonable paid time off from their usual working hours to do any of the following:
 - F4.7.4 (a) Provide information and seek feedback from employees in the workplace on workplace relations matters in the ACTPS during normal working hours.
 - F4.7.4 (b) Represent the interests of members to the employer and industrial tribunals.
 - F4.7.4 (c) Consult with other delegates and union officials in the workplace, and receive advice and assistance from union staff and officials in the workplace.

- F4.7.5 To email employees in their workplace to provide information to and seek feedback, subject to individual employees exercising a right to 'opt out'.
- F4.7.6 To consultation, and access to relevant information about the workplace and the ACTPS, subject to privacy legislation and other relevant legislation.
- F4.7.7 To undertake their role as union representatives on directorate workplace relations consultative committee(s).
- F4.7.8 To have reasonable access to ACTPS 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.
- F4.7.9 To address new employees about union membership at the time they enter employment in their workplace.
- F4.7.10 To access appropriate training in workplace relations matters including training provided by a union in accordance with clause F5 -.
- F4.8 In exercising their rights under subclause F4.7, workplace delegates and unions must adhere to ACTPS policies and guidelines and consider operational issues and the likely effect on the efficient operation of the ACTPS and the provision of services.

F5 - Attendance at Industrial Relations Courses and Seminars

- F5.1 For the purpose of assisting employees in gaining a better understanding of industrial relations issues relating to this Agreement, the head of service must grant leave to employees to attend recognised short training courses or seminars subject to all of the following conditions:
 - F5.1.1 Operating requirements permit the granting of leave.
 - F5.1.2 The scope, content and level of the short courses will contribute to the better understanding of industrial relations issues.
 - F5.1.3 Leave granted under this clause is at full pay, not including shift and penalty payments or overtime.
 - F5.1.4 Each employee will not be granted more than 15 days or shifts leave in any calendar year.
- F5.2 If the employee has applied for leave under subclause F5.1 and the head of service rejected the application because of operational requirements, approval of any subsequent application for leave by the employee under subclause F5.1 must not be withheld unreasonably, provided that the employee gives the head of service at least 14 days or shifts notice in writing.
- F5.3 The ACTPS must accept 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) as a course to which subclause F5.1 applies.
- F5.4 Leave granted for this purpose counts as service for all purposes.

F6 - Dispute Avoidance and Settlement Procedures

- F6.1 The objective of these procedures is the prevention and resolution of disputes about both of the following:
- F6.1.1 Matters arising in the workplace, including disputes about the interpretation or implementation of this Agreement.
 - F6.1.2 The application of the NES.
- F6.2 For the purposes of this clause, except where the contrary intention appears, the term 'parties' refers to 'parties to the dispute'.
- F6.3 All persons covered by this Agreement agree to take reasonable internal steps to prevent, and explore all avenues to seek resolution of, disputes.
- F6.4 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.
- F6.5 In the event there is a dispute, all the following processes apply.
- F6.5.1 Where appropriate, the relevant employee or the employee's representative must discuss the matter with the employee's supervisor. Should the dispute not be resolved, it must proceed to the appropriate management level for resolution.
- F6.6 In instances where the dispute remains unresolved, the next appropriate level of management, the employee, the union or other employee representative must be notified and a meeting be arranged at which a course of action for resolution of the dispute will be discussed.
- F6.7 If the dispute remains unresolved after this procedure, a party to the dispute may refer the matter to the FWC.
- F6.8 The FWC may deal with the dispute in the following 2 stages:
- F6.8.1 The FWC must first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation.
 - F6.8.2 If the FWC is unable to resolve the dispute at this first stage, the FWC may then do both the following:
 - F6.8.2 (a) Arbitrate the dispute.
 - F6.8.2 (b) Make a determination that is binding on the parties.
- F6.9 The FWC may exercise any powers it has under the FW Act as are necessary for the just resolution or determination of the dispute.
- F6.10 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.
- F6.11 All persons involved in the proceedings under subclause F6.8 must participate in good faith.
- F6.12 Unless the parties agree to the contrary, the FWC must, in responding to the matter, have regard to whether a party has applied the procedures under this term and acted in good faith.

- F6.13 The parties agree to be bound by a decision made by the FWC in accordance with this clause.
- F6.14 Notwithstanding subclause F6.13, any party may appeal a decision made by the FWC in accordance with the FW Act.
- F6.15 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, all the following apply:
- F6.15.1 References to the FWC in the above provisions must be read as a reference to the agreed body or person.
 - F6.15.2 All obligations and requirements on the parties and other relevant persons under the provisions in this clause must be complied with unless the parties agree otherwise.
 - F6.15.3 The agreed body or person must deal with the dispute in a manner that is consistent with section 740 of the FW Act.
- F6.16 While the parties are trying to resolve the dispute using procedures in this clause the employee must do all of the following:
- F6.16.1 Continue to perform their work as they would normally unless they have a reasonable concern about an imminent risk to their health or safety.
 - F6.16.2 Comply with a direction given by the head of service to perform other available work at the same workplace, or at another workplace, unless any of the following apply:
 - F6.16.2 (a) The work is not safe.
 - F6.16.2 (b) Applicable work health and safety legislation would not permit the work to be performed.
 - F6.16.2 (c) The work is not appropriate for the employee to perform.
 - F6.16.2 (d) There are other reasonable grounds for the employee to refuse to comply with the direction.
- F6.17 Any dispute formally commenced in accordance with F6.7 under the ACT Public Sector Legal Professionals Enterprise Agreement 2021-2022, 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.

F7 - Privatisation

- F7.1 In order to promote job security it is agreed that the privatisation of a government entity may only occur if all of the following apply:
- F7.1.1 The entity does not perform a role central to the functions of government.
 - F7.1.2 Disadvantaged groups would not be negatively affected by the privatisation.

- F7.1.3 A social impact statement has been completed which indicates that there is a demonstrated public benefit from the sale.
- F7.2 In the event that privatisation of an ACTPS directorate or a service or services currently supplied by an ACTPS directorate is under consideration, consultation must occur on the implications for employees and the relevant directorate from these proposals.
- F7.3 Where such privatisation is under consideration, the ACTPS must provide the necessary reasonable resources to develop an in-house bid and this bid must be prepared either off site or on site as determined by the head of service and subject to consideration on equal terms to any other bid. An independent probity auditor must be appointed by the head of service to oversee the assessment of the in-house bid.

Section G Workplace Values and Behaviours

G1 - Introduction

- G1.1 All employees have a common interest in ensuring that workplace behaviours are consistent with, and apply the values and general principles set out in Division 2.1 of the PSM Act and the ACT Public Service Code of Conduct and Signature Behaviours. This involves the development of an ethical and safe workplace in which all employees act responsibly and are accountable for their actions and decisions.
- G1.2 Behaviours that are not consistent with public sector values, principles and conduct including but not limited to bullying, harassment and discrimination of any kind will not be tolerated in ACTPS workplaces. 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.
- G1.3 The following provisions of Section G contain procedures for managing workplace behaviours that do not meet expected standards and management of misconduct.
- G1.4 These provisions for managing workplace behaviours and values promote the principles of natural justice and procedural fairness.
- G1.5 Any misconduct, underperformance, internal review or appeal 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 appeal from that process will also be set out in the previous enterprise agreement.
- G1.6 Noting that the provisions of this Section G are in identical terms to provisions (however described) of other ACTPS Enterprise Agreements: If an employee moves from one directorate or Agreement to another 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 will continue and the employee is required to continue to participate in the process.
- G1.6.1 Any disciplinary action and sanction which is determined to be applied under clause G9 - will be applied to the employee in their new position, where the head of service 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.
- G1.7 If an employee's employment has ended with the ACTPS while a misconduct process is on foot, the public sector standards commissioner will do one of the following:
- G1.7.1 Determine to complete the misconduct process under Section G 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 the ACTPS.

G1.7.2 Determine to stay the misconduct process under Section G of this agreement, upon the employee's end of employment and communicate to the employee that the misconduct process may recommence if the employee subsequently re-enters, or seeks to re-enter, the service.

G1.7.3 Determine to discontinue the matter.

G1.8 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 G1.6.1 or taken into account with any application by the employee to subsequently re-enter the ACTPS.

G2 - Preliminary Assessment

G2.1 The preliminary assessment is a means of determining if there is a workplace issue, and the most appropriate way to resolve it. The preliminary assessment must be conducted expeditiously. The outcome should be focused on the workplace issue and an appropriate response that addresses the issue in context. The preferred approach whenever possible is to resolve the issues through a local and low level approach, and in a non-disciplinary way.

G2.2 In cases where a workplace issue arises such as an allegation of inappropriate behaviour or alleged misconduct, the appropriate manager must undertake an assessment to determine whether the matter can be resolved locally or whether further action is required or not.

G2.3 When undertaking an assessment, the nature, circumstances and context of the issue should be considered when forming the response.

G2.4 The preliminary assessment may result in the following outcomes (this is not an exhaustive list):

G2.4.1 If the manager is satisfied that no further action is necessary, no further action needs to be taken.

G2.4.2 If the manager is of the view that formal or informal counselling or other alternative remedial or restorative action is appropriate, the manager will implement that action.

G2.4.3 If the manager considers the issue related to performance issues, the manager may commence an underperformance process in accordance with H2 - (underperformance).

G2.4.4 If the manager determines that there are allegations of potential misconduct that require investigation, the manager will recommend to the relevant referral delegate that the matter should be referred in accordance with G2.8.

G2.5 The manager may seek the assistance of an appropriate Human Resources adviser from within the Directorate or Professional Standards Unit, however the manager is responsible for undertaking the assessment unless an actual or perceived conflict of interest exists.

- G2.6 The assessment must be done in an expeditious manner and generally be limited to having discussions (either verbal or written) about the issue, with relevant employees, and, if requested, their representatives.
- G2.7 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 manager to quickly determine whether other action or formal investigation is needed or not to resolve the issues. The manager must communicate the outcomes to relevant employees and their representatives if any.
- G2.8 If the manager determines that the issue requires investigation the manager must recommend to the head of service that the matter be investigated.
- G2.9 The head of service 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 taken by the public sector standards commissioner.
- G2.10 Where an employee makes an admission in accordance with subclause G2.9 the public sector standards commissioner will provide the admission statement to the head of service who will determine the appropriate outcome. This may include disciplinary action or sanction in accordance with clause G9 -. The head of service 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 G9 - to be made.

G3 - Counselling

- G3.1 Counselling may happen outside of the preliminary assessment and misconduct processes. This is an opportunity for the employee and the manager to discuss possible causes and remedies for identified workplace problems. All parties have an obligation to participate in counselling in good faith.
- G3.2 Counselling can be conducted either informally through coaching and feedback or formally.
- G3.3 Informal counselling is a non-disciplinary method utilised to resolve a workplace issue. It should be used as a supportive, feedback type mechanism. Coaching and feedback should encourage and support the employee in understanding the requirements and expectations of a public servant in their role.
- G3.4 Formal counselling is counselling that an employee is required to participate in and is available as remedial action following the outcome of a preliminary process under clause G2 -. An employee may be directed to participate in formal counselling.
- G3.5 Where an employee refuses or fails to follow a direction to participate in formal counselling, the head of service may refer the matter to the Public Sector Standards Commissioner for investigation.

- G3.6 Where the employee disagrees with a direction to participate in formal counselling, the employee may provide a written request to the head of service seeking a formal investigation of the alleged inappropriate behaviour or alleged misconduct that required the formal counselling. Where a request is received, the head of service must refer the matter to the Public Sector Standards Commissioner for review.
- G3.7 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. The employee must be advised whether the counselling is considered a formal or informal process.
- G3.8 In the cases where the counselling is considered to be formal, the manager or the head of service must create a formal record of the counselling which must 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.
- G3.9 The record of formal counselling must 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 must be clearly noted.
- G3.10 Where the manager or supervisor or the head of service considers that the employee's conduct has not improved following informal or formal counselling, a misconduct process may be undertaken in relation to continued or subsequent behaviour, following a preliminary assessment being undertaken in accordance with clause G2 -.

G4 - Misconduct and Discipline

Objectives and application

- G4.1 This clause establishes procedures for managing misconduct or alleged misconduct by an employee.
- G4.2 This clause applies to all employees, except casual employees who are not eligible casual employees. In applying these procedures to officers on probation, temporary employees or eligible casual employees, the head of service may determine that procedures and practices throughout clause G8 - and clause G9 - apply on a proportionate basis according to the circumstances of the case and in accordance with the principles of procedural fairness and natural justice.
- G4.2.1 If the process is to be applied on a proportionate basis in accordance with this subclause the content of that process, along with any estimated timeframes, must be communicated to the employee when the process commences.
- G4.3 The objective of these procedures is to encourage the practical and expeditious resolution of misconduct issues in the workplace.

- G4.4 All parties have an obligation to participate in misconduct processes in good faith.

What is misconduct

- G4.5 For the purposes of this section, misconduct includes any of the following:
- G4.5.1 The employee fails to meet the obligations set out in section 9 of the PSM Act.
 - G4.5.2 The employee engages in conduct that the head of service or the public sector standards commissioner is satisfied may bring, or has brought, the directorate or the ACTPS into disrepute.
 - G4.5.3 A period of unauthorised absence and the employee does not offer a satisfactory reason on return to work.
 - G4.5.4 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 ACTPS and the directorate.
 - G4.5.5 The employee fails to notify the head of service of criminal charges in accordance with clause G10 -.
 - G4.5.6 The employee makes a vexatious or knowingly false allegation against another employee.

What is serious misconduct

- G4.6 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 is defined within the Fair Work Regulations.

G5 - Dealing with Allegations of Misconduct

- G5.1 Upon becoming aware of a matter of alleged misconduct the head of service must determine whether or not the matter needs to be investigated. Where the head of service determines that investigation is required the head of service must refer the matter to the public sector standards commissioner for investigation.
- G5.2 At any stage of dealing with alleged misconduct the head of service may, in accordance with clause G6 - do any of the following:
- G5.2.1 Re-assign other duties to the employee.
 - G5.2.2 Transfer the employee to other duties.
 - G5.2.3 Suspend the employee with pay.
 - G5.2.4 Suspend the employee without pay where serious misconduct is alleged.
- G5.3 In considering the appropriate action under G5.2, the employer should give preference to retaining the employee in the workplace where possible.

- G5.4 Upon receiving a referral in accordance with subclause G5.1 the public sector standards commissioner must do one of the following:
- G5.4.1 Make arrangements for an appropriately trained or experienced person (the investigating officer) to investigate the alleged misconduct in accordance with clause G7 -
 - G5.4.2 Decline to investigate the matter, or any part of the matter, if the public sector standards commissioner decides that an investigation will not resolve the matter and refer it back to the head of service for resolution or further consideration.
- G5.5 The public sector standards commissioner 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 have their admission statement taken by the public sector standards commissioner.
- G5.6 Where an employee makes an admission in accordance with subclause G5.5 the head of service may determine the appropriate disciplinary action or sanction in accordance with clause G9 -. The head of service 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 G9 - to be made.
- G5.7 The public sector standards commissioner may at any time decide to instigate an investigation of alleged misconduct, in the absence of a referral under subclause G5.1, if satisfied that the matter warrants investigation.
- G5.8 Notwithstanding the provisions of this section, the head of service may summarily terminate the employment of an employee without notice for serious misconduct as defined within the Fair Work Regulations.

G6 - Reassignment, Transfer or Suspension

- G6.1 This clause applies to all employees.
- G6.2 In accordance with subclause G5.2 the head of service may reassign, transfer or suspend an employee with or without pay where the head of service is satisfied that the action taken is reasonable and it is in the public interest, the interests of the ACTPS or the interests of the directorate to do so while the alleged misconduct is being dealt with.
- G6.3 Suspension with pay should only be considered where it is inappropriate for the employee to remain in their current position and reassignment of duties or transfer is not appropriate. Suspension without pay should only be considered where cases of serious misconduct is alleged in accordance with G5.2.
- G6.4 The requirements under subclauses G6.5, G6.6 and G6.11 also apply in circumstances where an employee has been reassigned or transferred with pay to other duties following an allegation of misconduct, to the extent that the employee is no better off financially than if they had not been reassigned or transferred.

- G6.5 The head of service must not reassign, transfer or suspend an employee without first informing the employee of the reasons for the proposed reassignment, transfer or suspension and giving the employee the opportunity to be heard. Despite this, the head of service may suspend an employee first and then give the employee the reasons for the suspension and an opportunity to be heard, where, in the head of service's opinion, this is appropriate in the circumstances.
- G6.6 While suspended with pay an employee is paid in accordance with all of the following:
- G6.6.1 The employee's ordinary hourly rate of pay and any higher duties allowances that would have been paid to the employee for the period they would otherwise have been on duty.
 - G6.6.2 Overtime (but not overtime meal allowance) and shift penalty payments where there is a regular and consistent pattern of extra duty or shift work being performed over the previous 6 months which would have been expected to continue but for the suspension from duty.
 - G6.6.3 Any other allowance or payment (including under an Attraction and Retention Incentive entered into in accordance with Annex B to this Agreement) of a regular or on-going nature that is not conditional on performance of duties.
- G6.7 Where a decision is made to suspend an employee with pay, no appeal or internal review of that decision is available.
- G6.8 Unless the employee is on authorised leave an employee who is suspended must be available to attend work and participate in the disciplinary process within 48 hours of receiving notice.
- G6.9 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 head of service be incompatible with the continuation of the employee's employment.
- G6.10 A period of suspension with or without pay must not be more than 30 calendar days unless exceptional circumstances apply.
- G6.11 If the period of suspension with or without pay extends beyond 30 calendar days as per subclause G6.10, the suspension should be reviewed every 30 calendar days unless the head of service considers that, in the circumstances, a longer period is appropriate.
- G6.12 While suspended without pay all of the following apply:
- G6.12.1 The employee may apply to the head of service for permission to seek alternate employment outside the ACTPS 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 G6.8.
 - G6.12.2 In cases of demonstrated hardship, the head of service may determine that the employee may cash out accrued long service leave and annual leave.

- G6.12.3 The employee may apply to the head of service for the suspension to be with pay on the grounds of demonstrated hardship.
- G6.13 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 is entitled to both the following:
 - G6.13.1 Repaid the amount by which the employee's pay was reduced.
 - G6.13.2 Credited with any period of long service or annual leave that was cashed out in accordance with paragraph G6.12.2.
- G6.14 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 head of service determines otherwise.

G7 - Investigations

- G7.1 The role of the investigating officer is to establish the facts of the allegations and to provide a report of those facts to the public sector standards commissioner.
- G7.2 The investigating officer must do all the following:
 - G7.2.1 Inform the employee in writing of the particulars of the alleged misconduct, and details concerning the investigative process.
 - G7.2.2 Give the employee a reasonable opportunity to respond to allegations, which the employee may do in writing or at a scheduled interview or in a different manner as agreed with the investigating officer, before making a finding of fact.
 - G7.2.3 For written responses provide the timeframe for response which must be reasonable under the circumstances.
 - G7.2.4 If the response includes an interview, provide the employee with at least 24 hours written notice prior to conducting an interview, and advise the employee if the interview is to be recorded electronically.
 - G7.2.5 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 must allow reasonable opportunity for this to be arranged; and provide a record of the interview to the employee.
 - G7.2.6 Give the employee an opportunity to supplement the record of an interview with a written submission, if the employee so chooses.
 - G7.2.7 As soon as practicable take any further steps considered necessary to establish the facts of the allegations.

- G7.2.8 Provide a written report to the public sector standards commissioner setting out the investigating officer's findings of fact.
- G7.3 If the employee fails to, or chooses not to, respond to the allegations in accordance with subclause G7.2 within a reasonable timeframe, the investigating officer must prepare the report and set out the findings of fact on the information available.
- G7.4 The investigating officer's findings of fact must be made on the balance of probabilities.
- G7.5 The head of service must provide access to relevant ACTPS information and communication technology (ICT) records including email, computer, work phone records, or building access logs in order for the public sector standards commissioner to establish the facts of the allegations.

G8 - Findings of misconduct

- G8.1 After considering the report from the investigating officer, the public sector standards commissioner must make a proposed determination on the balance of probabilities as to whether misconduct has occurred.
- G8.2 If the public sector standards commissioner determines that the misconduct has not occurred, the public sector standards commissioner must notify the employee of this finding and advise that no sanctions will be imposed.
- G8.3 If the public sector standards commissioner makes a proposed determination that misconduct has occurred, in accordance with subclause G8.1 the public sector standards commissioner must do all of the following:
 - G8.3.1 Advise the employee in writing of the proposed determination that misconduct has been found to have occurred.
 - G8.3.2 Provide written reasons for arriving at this proposed determination.
 - G8.3.3 Provide a copy of the investigation report unless this would be inappropriate in the circumstances.
 - G8.3.4 Advise the employee of the period during which the employee has to respond to the proposed determination that misconduct has occurred. This period must be no less than 14 calendar days.
- G8.4 After considering the employee's response or, if the employee has not responded, at any time after the period outlined in paragraph G8.3.4 has lapsed, the public sector standards commissioner must make a final determination as to whether or not misconduct has occurred and will do the following:
 - G8.4.1 Inform the employee in writing of the final determination of whether or not misconduct has occurred; and if the determination is that misconduct has occurred do both the following:
 - G8.4.1 (a) Refer the matter to the head of service for consideration of whether or not disciplinary action is to be taken in accordance with clause G9 -.

- G8.4.1 (b) Inform the employee that the matter has been referred to the head of service in accordance with subparagraph G8.4.1 (a).

G9 - Disciplinary Action and Sanctions

- G9.1 This clause applies to circumstances in which one of the following applies:
- G9.1.1 The head of service receives a determination from the public sector standards commissioner in accordance with paragraph G8.4.1.
 - G9.1.2 An admission is made by the employee under subclause G2.9 and G5.5.
 - G9.1.3 An employee has been convicted of a criminal offence and the conviction or finding has adversely affected the interests of the Directorate or the ACTPS under subclause G10.4.
- G9.2 The head of service must 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:
- G9.2.1 A written reprimand.
 - G9.2.2 A financial penalty in the form of one or more of the following:
 - G9.2.2 (a) Reduce the employee's incremental level.
 - G9.2.2 (b) Defer the employee's incremental advancement.
 - G9.2.2 (c) Impose a fine on the employee.
 - G9.2.2 (d) Require the employee to fully or partially reimburse the employer for damage that the employee has wilfully incurred to property or equipment.
 - G9.2.3 Transfer the employee temporarily or permanently to another position at level or to a lower classification level.
 - G9.2.4 Remove any benefit derived through an existing Attraction and Retention Incentive.
 - G9.2.5 Termination of employment.
- G9.3 Nothing in this section limits the ability of the head of service 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.
- G9.4 In relation to paragraph G9.2.3, if an employee's classification is reduced as a result of disciplinary action, service before the demotion is not counted towards an increment for any higher duties the employee performs after demotion.
- G9.5 Sanctions imposed under these procedures must be proportionate to the degree of misconduct concerned. In determining the appropriate sanction, all the following factors must be considered:
- G9.5.1 The nature and seriousness of the misconduct.
 - G9.5.2 The degree of relevance to the employee's duties or to the reputation of the directorate or the ACTPS.

- G9.5.3 The circumstances of the misconduct.
- G9.5.4 Any mitigating factors, including any full admission of guilt.
- G9.5.5 The previous employment history and the general conduct of the employee.
- G9.6 If the employee has moved to a new position (other than as a result of a decision in accordance with clause G5 -) during the course of the misconduct process, the changes in employment circumstances must be taken into account as appropriate in accordance with paragraph G1.6.1.
- G9.7 Unless there are exceptional circumstances, the head of service must within 14 calendar days of receiving the referral or admission statement from the public sector standards commissioner under subparagraphs G8.4.1 (a) or G2.10 or G5.6 inform the employee in writing of the proposed disciplinary action to be taken, if any, and provide the employee with 7 calendar days to respond.
- G9.8 The timeframes stipulated in G9.7 may be extended if the head of service and the public sector standards commissioner agree that extenuating circumstances warrant the extension.
- G9.9 After considering the employee's response in accordance with subclause G9.7, or if the employee does not respond, at any time after the 7 calendar days as set out in clause G9.7 have passed, the head of service must make their final decision and inform the employee in writing of all the following:
 - G9.9.1 The final decision.
 - G9.9.2 The disciplinary action to be taken, if any.
 - G9.9.3 The date of effect and, if relevant, the cessation of any disciplinary action.
 - G9.9.4 The appeal mechanisms that are available under Section J of this Agreement.

G10 - Criminal Charges

- G10.1 An employee must advise the head of service in writing within 48 hours where practicable, but no longer than 7 calendar days, of any criminal charges laid against the employee in circumstances where the interests of the directorate or of the ACTPS may be adversely affected, taking into account all of the following:
 - G10.1.1 The circumstances and seriousness of the alleged criminal offence.
 - G10.1.2 The employee's obligations under section 9 of the PSM Act.
 - G10.1.3 The effective management of the employee's work area.
 - G10.1.4 The integrity and good reputation of the ACTPS and the directorate.
 - G10.1.5 The relevance of the offence to the employee's duties.
- G10.2 Where criminal charges are laid against an employee and the interests of the directorate or the ACTPS may be adversely affected, the head of service may suspend the employee in accordance with the suspension arrangements under clause G6 -.

- G10.3 If an employee is found guilty of, or convicted of a criminal offence (including if a non-conviction order is made) the employee must provide a written statement regarding the circumstances of the offence to the head of service within 7 calendar days of the conviction or the finding.
- G10.4 Where an employee is convicted of a criminal offence and the conviction or finding has adversely affected the interests of the directorate or the ACTPS, the head of service may impose a sanction for misconduct against the employee in accordance with clause G9 -.

G11 - Right of Appeal

- G11.1 An employee has the right under Section J to appeal against any finding of misconduct under clause G8 -, any decision to take disciplinary action or to apply a sanction under clause G9 -, or against any decision taken under clause G6 - to suspend the employee without pay, or to transfer the employee at reduced pay, except action to terminate the employee's employment.
- G11.2 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 is the sole right of review of such a decision.
- G11.3 The appeal procedures under Section J apply to the exclusion of the rights of appeal and review under the PSM Act and the internal review procedures contained in Section I of this Agreement.

Section H Underperformance

H1 - Introduction

- H1.1 All employees have an obligation to exercise the functions of an office in accordance with the best practice principle. These responsibilities and standards are established in accordance with Division 2.1 of the PSM Act and the ACT Public Service Code of Conduct and Signature Behaviours.
- H1.2 These provisions for managing cases of unsatisfactory work performance promote the principles of natural justice and procedural fairness.
- H1.3 Any underperformance 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 appeal from that process will also be set out in the previous enterprise agreement.

H2 - Underperformance

- H2.1 Under this clause, procedures are established for managing underperformance by an employee.
- H2.2 This clause applies to all employees, except casual employees who are not eligible casual employees. In applying these procedures to officers on probation, temporary employees, or eligible casual employees, the head of service may determine that procedures and practices throughout this clause H2 - may be applied on a proportionate basis according to the circumstances of the case, and in accordance with the principles of procedural fairness and natural justice.
 - H2.2.1 If the process is to be applied on a proportionate basis in accordance with this subclause the content of that process, along with any estimated timeframes, must be communicated to the employee when the process commences.
- H2.3 The objectives of these procedures are to do both the following:
 - H2.3.1 Provide advice and support to an employee whose performance is below the standard required.
 - H2.3.2 Provide a fair, prompt and transparent framework for action to be taken where an employee continues to perform below expected standard.

Underperformance discussions

- H2.4 Consistent with good management practice, concerns about underperformance should be raised by the manager or supervisor with the employee at the time that the concerns arise or are identified. The manager or supervisor should offer advice and support to the employee to overcome these concerns. The manager or supervisor should inform the employee that the underperformance procedures in subclause H2.7 to subclause H2.20 might be invoked if the underperformance continues.

- H2.5 In order to ensure that these procedures operate in a fair and transparent manner, the manager or supervisor is responsible for documenting all relevant discussions. This includes making a record of all relevant discussions under this clause, to be signed by both the manager or supervisor and the employee. 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 must be noted on the relevant record.
- H2.6 All parties have an obligation to participate in underperformance processes in good faith.

Underperformance process

Step One: Action Plan

- H2.7 Where a manager or supervisor 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 H2.4, the manager or supervisor must inform the employee in writing of this assessment and the reasons for it. The employee must be invited by the manager or supervisor to provide written comments on this assessment, including any reasons that in the employee's view may have contributed to their recent work performance.
- H2.8 After taking into account the comments from the employee, the manager or supervisor must prepare an action plan in consultation with the employee.
- H2.9 The manager or supervisor must invite the employee to have a support person, who may be the employee's union or other employee representative, present at discussions to develop the action plan and must allow reasonable opportunity for this to be arranged.
- H2.10 The action plan must provide all of the following:
- H2.10.1 Identify the expected standards of work required of the employee on an on-going basis.
 - H2.10.2 Identify any learning and development strategies that the employee should undertake.
 - H2.10.3 Outline the potential underperformance actions that may be taken if the employee does not meet the expected standards.
 - H2.10.4 Specify the action plan period, which should not normally be less than one month and should not exceed 6 months to allow the employee sufficient opportunity to achieve the expected standard.
 - H2.10.5 Specify the assessment criteria to be measured within the action plan period.
- H2.11 Any current performance agreement must be suspended during the period of the action plan. Any incremental advancement action for the employee must be suspended during the action plan period.

Step Two: Regular Assessment

- H2.12 During the action plan period, the manager or supervisor must make regular written assessments (desirably every fortnight) of the employee's work

performance under the action plan. The employee must be given an opportunity to provide written comments on these assessments.

- H2.13 If the manager or supervisor considers that further assessment time is needed the manager or supervisor may extend the action plan period. However, the extended assessment time must not result in the action plan exceeding 6 months' duration. The manager or supervisor must inform the employee in writing of the decision to extend the assessment time and the duration of the action plan.

Step Three: Final Assessment Report

- H2.14 If at the end of the action plan period, the manager or supervisor assesses the work performance of the employee as satisfactory, no further action can be taken under these procedures at that time. The manager or supervisor must inform the employee in writing of this decision.
- H2.15 If at the end of the action plan period, the manager or supervisor assesses the work performance of the employee as not satisfactory, the manager or supervisor must provide a report including the assessment and reasons for the assessment to the head of service.

Step Four: Underperformance Action

- H2.16 The head of service must advise the employee in writing of all the following:
- H2.16.1 The assessment and reasons for the manager's or supervisor's assessment.
 - H2.16.2 The underperformance action(s) (subclause H2.17) proposed to be taken and the reasons for proposing this action.
 - H2.16.3 The employee's right to respond in writing to the proposed action within a period of not more than 7 calendar days.
- H2.17 At any time after 7 calendar days from the date the head of service advised the employee under subclause H2.16, and after considering any response from the employee, the head of service may decide to take one or more of the following underperformance actions:
- H2.17.1 Transfer the employee to other duties (at or below current pay).
 - H2.17.2 Defer the employee's incremental advancement.
 - H2.17.3 Reduce the employee's incremental point.
 - H2.17.4 Temporarily or permanently reduce the employee's classification and pay.
 - H2.17.5 Remove any benefit derived through an existing Attraction and Retention Incentive.
 - H2.17.6 Terminate the employee's employment.
- H2.18 If an employee's incremental point is reduced in accordance with paragraph H2.17.3, or the employee's classification is permanently reduced in accordance with paragraph H2.17.4 the date the sanction takes effect will become the new anniversary date for the purpose of future incremental advancement. Any higher duties worked prior to the date of sanction do not count towards incremental advancement at a higher level.

- H2.19 The head of service must inform the employee in writing of the decision made under subclause H2.17, the reasons for the decision and the appeal mechanisms available under this Agreement.
- H2.20 At any time in these procedures, the employee may elect to be retired on the grounds of inefficiency.

H3 - Appeal Rights

- H3.1 The employee has the right under Section J to appeal any underperformance action taken under subclause H2.17, except action to terminate the employee's employment.
- H3.2 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 is the sole right of review of such an action.

Section I Internal Review Procedures

I1 - Objectives and Application

- I1.1 Under this section, procedures are established for employees to seek a review of management actions that affect their employment with the ACTPS.
- I1.2 The procedures in this section promote the values and general principles of the ACTPS and account for the principles of natural justice and procedural fairness.
- I1.3 These procedures apply to all employees covered by this Agreement.
- I1.4 For the purposes of this section, an action includes a decision and a refusal or failure to make a decision.

I2 - Decisions and Actions Excluded

- I2.1 All the following decisions and actions are excluded from the rights of an employee to seek a review under procedures set out in this section:
 - I2.1.1 Actions regarding the policy, strategy, nature, scope, resourcing or direction of the ACTPS and agencies (see clause F1 - of this Agreement for consultation on these actions).
 - I2.1.2 Actions arising under Commonwealth or ACT legislation that concern domestic or international security matters.
 - I2.1.3 Actions regarding superannuation (see relevant superannuation legislation for complaints and appeals on these actions, in particular the *Superannuation Industry (Supervision) Act 1993*).
 - I2.1.4 Actions regarding workers' compensation (see the *Safety, Rehabilitation and Compensation Act 1988* for reviews and appeals on these actions).
 - I2.1.5 Decisions to terminate the appointment of an officer on probation.
 - I2.1.6 Decisions on classification of an office (see clause D3 - of this Agreement for reviews on classifications).
 - I2.1.7 Any action to which the employee has an appeal or review right under Section K of this Agreement.
 - I2.1.8 Any action to which the employee has an appeal right under subclause J1.3 of this Agreement.
 - I2.1.9 Any action arising from the preliminary assessment process under clause G2 -.
 - I2.1.10 Actions arising from the misconduct procedures of this Agreement.
 - I2.1.11 Actions arising from the underperformance procedures of this Agreement.
 - I2.1.12 Any decisions under subclauses G5.1, G5.4 and G5.7 of this Agreement.
 - I2.1.13 Any decisions under subclause J2.2 of this Agreement.

- 12.1.14 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 PSM Act or the PSM Standards (this includes an Attraction and Retention Incentive (ARINs) or a pre FW Act Australian Workplace Agreement (AWA)).
- 12.1.15 Decisions to appoint or not appoint a person as an officer to a vacant position.
- 12.1.16 Decisions that another officer perform the duties of a higher office or role for periods up to and including 6 months.
- 12.1.17 Decisions to transfer another employee or promote another officer to an advertised vacancy where the officer or employee seeking the review was not an applicant.
- 12.1.18 Actions arising from the internal review procedures or appeal panel procedures of this Agreement, including the review and appeals procedures under Section K of this Agreement.

I3 - Initiating a Review

- 13.1 An employee should first discuss their concerns about an action or decision with the relevant decision-maker 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 head of service in accordance with all of the following:
 - 13.3.1 It is in writing.
 - 13.3.2 It is made no more than 28 calendar days after the employee was advised of the decision that is the subject of the application for review, unless the head of service agrees that extenuating circumstances exist.
 - 13.3.3 It identifies the action or decision or both to which the employee seeks a review of.
 - 13.3.4 It does not concern a decision or action that is excluded under subclause 12.1.
 - 13.3.5 It 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.
 - 13.3.6 It outlines the extenuating circumstances, if any, where the application is made outside the timeframe specified in paragraph 13.3.2.
 - 13.3.7 It 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 28 day time period outlined in paragraph 13.3.2 is taken to commence on the day it was apparent that there was a failure or refusal to make a decision.
- 13.5 The head of service must, 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 employee who made the application under clause 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 head of service must consider mediation as an option before arranging for a review under subclause 14.3. The mediator must be agreed between the applicant and the head of service.
- 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 head of service.
- 14.3 Subject to subclauses 13.5, 14.1 and 14.2, the head of service must arrange for an application made under clause 13.3 to be reviewed by an independent person (the reviewer) who may be one of the following:
- 14.3.1 A suitably skilled person who was not involved in the original action.
 - 14.3.2 A person chosen from a panel of providers.
- 14.4 The reviewer must be provided with all relevant information and evidence that was available to the delegate in the making of the original decision or in taking the original action.
- 14.5 The reviewer may recommend to the head of service that an application should not be considered on any of the following grounds:
- 14.5.1 The application concerns a decision or action that is excluded under subclause 12.1.
 - 14.5.2 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.
 - 14.5.3 The reviewer believes on reasonable grounds that the application is any of the following:
 - 14.5.3 (a) Frivolous or vexatious.
 - 14.5.3 (b) Misconceived or lacks substance.
 - 14.5.3 (c) Should not be heard for some other compelling reason.
- 14.6 The head of service must either confirm a recommendation made by the reviewer under subclause 14.5 that an application should not be considered or arrange for another reviewer to consider the application.

- 14.7 The head of service must inform the applicant in writing, within 14 calendar days of the date of any decision under subclause 14.6, including, the reasons for any decision not to consider the application.
- 14.8 If the reviewer does not make a recommendation under subclause 14.5, then the reviewer must conduct a procedural review on the papers to determine all of the following:
- 14.8.1 Whether it was open to the head of service to take the action that they did.
 - 14.8.2 Whether the principles of procedural fairness and natural justice were complied with in taking the original action.
 - 14.8.3 Whether the final decision of the head of service was fair and equitable in all of the circumstances. If the reviewer has any doubt over the reliability or validity of the information, evidence or processes used in making the original decision or action, or that significant information or evidence was not considered in the making of the original decision or action, the reviewer must inform the head of service of that doubt and the reasons for it in the written report in accordance with 14.9.
- 14.9 After reviewing any action or decision the reviewer must, subject to subclause 14.13, make a written report to the head of service recommending one of the following:
- 14.9.1 The original decision or action be confirmed.
 - 14.9.2 The original decision or action be varied.
 - 14.9.3 Other action be taken.
- 14.10 A copy of the report under subclause 14.9 must be provided to the applicant and the applicant must be given the opportunity to provide a response. The applicant may respond to any aspects of the report. Such a response must be in writing and be provided to the head of service within 14 calendar days of the applicant receiving the report.
- 14.11 The head of service, after considering the report from the reviewer and any response from the applicant to the report of the reviewer, may do one of the following:
- 14.11.1 Confirm the original action.
 - 14.11.2 Vary the original action.
 - 14.11.3 Take any other action the head of service believes is reasonable.
- 14.12 The head of service must inform the applicant in writing, within 14 calendar days of the date of any decision under subclause 14.11, including the reasons for the action.

Review of head of service decisions

- 14.13 Where the subject of the application is an action or decision of the head of service or the director-general (in person) as the delegate of the head of service, the written report of the reviewer must be made to the public sector standards commissioner. A copy of this report must be provided to the applicant.

- I4.14 The public sector standards commissioner may, after considering the report from the reviewer, recommend to the head of service one of the following:
- I4.14.1 The original action be confirmed.
 - I4.14.2 The original action be varied.
 - I4.14.3 Other action be taken that the public sector standards commissioner believes is reasonable.
- I4.15 The head of service or the director-general (in person) as the delegate of the head of service, after considering the report from the public sector standards commissioner, may do one of the following:
- I4.15.1 Accept any or all of the report's recommendation(s) and take such action as necessary to implement the recommendation(s).
 - I4.15.2 Not accept the report's recommendation(s) and confirm the original action.
- I4.16 If the head of service or the director-general (in person) as the delegate of the head of service does not accept any one of the recommendation(s) of the public sector standards commissioner under subclause I4.14, they must do both the following:
- I4.16.1 Provide written reasons to the public sector standards commissioner for not accepting the recommendation(s).
 - I4.16.2 Provide the applicant, within 14 calendar days, with written reasons for not accepting the recommendation(s).
- I4.17 If the head of service or the director-general (in person) as the delegate of the head of service does not accept any one of the recommendation(s) of the public sector standards commissioner under subclause I4.14, the public sector standards commissioner must report on this outcome.

I5 - Right of External Review

- I5.1 The applicant, or the applicant's union or other employee representative on the employee's behalf, may seek a review of a decision or action under subclause I4.11 or subclause I4.15 by an external tribunal or body, including the FWC.
- I5.2 The FWC is empowered to resolve the matter in accordance with the powers and functions set out in clause F6 - of this Agreement. The decision of the FWC is binding, subject to any rights of appeal against the decision to a Full Bench of the FWC in accordance with clause G6.14.

Section J Appeal Mechanism for Misconduct, Underperformance and Other Matters

J1 - Objective and Application

- J1.1 This section sets out an appeal mechanism for an employee where the employee (referred to in this section as “the appellant”) is not satisfied with the outcome of decisions described in the following clause.
- J1.2 The head of service must nominate a person, or position, to be the Convenor of Appeals (“the Convenor”).
- J1.3 This appeal mechanism applies to all the following decisions:
- J1.3.1 Decisions to suspend the employee without pay under clause G6 - of this Agreement.
 - J1.3.2 Decisions relating to findings of misconduct under clause G8 -, provided that such an appeal can only be made after a decision about disciplinary action under clause G9 - has been made, except a decision to terminate the employee’s employment.
 - J1.3.3 Decisions to take disciplinary action under subclause G9 - of this Agreement, except a decision to terminate the employee’s employment.
 - J1.3.4 Decisions to take underperformance action under subclause H2.17 of this Agreement, except a decision to terminate the employee’s employment.
 - J1.3.5 Decisions taken in relation to an employee’s eligibility for benefits under clauses L6 - of this Agreement and the amount of such benefits, the amount payable by way of income maintenance under clause L10 -, and the giving of a notice of involuntary redundancy under clause L9 -.
 - J1.3.6 Any other decision that is subject to appeal under the PSM Act.
- J1.4 In relation to appeals about misconduct findings and disciplinary action in accordance with subclause J1.3.2 and subclause J1.3.3, only one application for appeal can be made in relation to the same misconduct matter. The application must state which one of the following the application relates to:
- J1.4.1 The finding of misconduct under clause G8 -.
 - J1.4.2 The disciplinary action under clause G9 -.
 - J1.4.3 Both the finding of misconduct under clause G8 - and the disciplinary action under clause G9 -.
- J1.5 An employee may have an entitlement to bring an action under the FW Act in respect of any termination of employment under this Agreement. This is the sole right of review of such an action.

J2 - Initiating an Appeal

- J2.1 The appellant, or the appellant's union or other employee representative on the appellant's behalf, may initiate an appeal under these procedures by making an application to the Convenor in accordance with all of the following:
- J2.1.1 It is in writing.
 - J2.1.2 It describes the decision or action taken or to be taken, the reasons for the application and the outcome sought.
 - J2.1.3 It is received by the Convenor within 14 calendar days of being notified, or the appellant becoming aware, of the decision to take the action.
 - J2.1.4 It seeks to appeal an appellable decision as set out in subclause J1.3.
- J2.2 Notwithstanding any other provisions in this section, the Convenor has the authority to dismiss an appeal if the appellant obstructs, unreasonably delays or fails to co-operate with the process.

J3 - Independent Appeal Members

- J3.1 The public sector standards commissioner must keep a list of approved independent appeal members.
- J3.2 Where an application is received by the Convenor in accordance with the requirements set out in subclause J2.1 and subclause J2.2 the Convenor must select a person from the approved list of independent appeal members to conduct a single member determinative appeal.

J4 - Powers and Role of the Independent Appeal Member

- J4.1 In considering an application, the independent appeal member must have due regard to the principles of natural justice and procedural fairness. Proceedings of the appeal are to be conducted as quickly as practicable and consistent with a fair and proper consideration of the issues.
- J4.2 The Convenor must invite the appellant to have a support person, who may be the appellant's union or other employee representative, present at any meetings held between the independent appeal member and the appellant and must allow reasonable opportunity for this to be arranged.
- J4.3 The independent appeal member must be provided with all relevant information and evidence that was available to the decision-maker in the making of the original decision or in taking the original action.
- J4.4 The independent appeal member has the discretion to decide not to conduct a review of the appeal application, or, if it has commenced reviewing the application, to decide not to proceed further if the independent appeal member believes any of the following apply:
- J4.4.1 The application is frivolous or vexatious, or not made in good faith.
 - J4.4.2 The appellant making the appeal may apply to another person or authority about the application who may more appropriately deal with the application.

J4.4.3 Further review of the application is not warranted.

Conducting an appeal

- J4.5 Where the independent appeal member determines that an application for appeal should proceed, the independent appeal member must conduct a procedural review on the papers provided under subclause J4.3 to determine whether all of the following apply:
- J4.5.1 It was open to the head of service to take the action they did.
 - J4.5.2 The principles of procedural fairness and natural justice were complied with in taking the original action or decision.
 - J4.5.3 The final decision of the head of service, the Public Sector Standards Commissioner or both was appropriate in all of the circumstances.
- J4.6 Where the independent appeal member is satisfied that a fundamental piece of evidence was not considered in the original process, the independent appeal member may request that the Convenor refer the matter back to the head of service, Public Sector Standards Commissioner or both for further investigation.
- J4.7 The head of service or Public Sector Standards Commissioner, after considering the referral from the Convenor under subclause J4.6, must do one of the following:
- J4.7.1 As soon as possible, arrange for a further investigation to be conducted, in line with the referral of the Convenor, and must provide any further information, evidence or outcomes of the further investigation to the independent appeal member in order that they may complete their review.
 - J4.7.2 Provide written reasons to the independent appeal member, within 14 calendar days, for not accepting their referral for further investigation.
- J4.8 After reviewing any application under this section, the independent appeal member must, subject to subclause J4.6, make a determination of the appeal and do one of the following:
- J4.8.1 Confirm the original decision.
 - J4.8.2 Vary the original decision.
 - J4.8.3 Prescribe that other action be taken.
- J4.9 The independent appeal member must provide a report to the Public Sector Standards Commissioner and the head of service which must include the determination and the reasons for the determination. A copy of the report must also be provided to the appellant.

J5 - Costs

- J5.1 The Territory are not liable for any costs associated with representing an appellant in these procedures.

J6 - Right of External Review

- J6.1 The employee, or the employee's union or other employee representative on the employee's behalf, may seek a review by the FWC of a decision under subclause J4.8.
- J6.2 The FWC is empowered to resolve the matter in accordance with the powers and functions set out in clause F6 - of this Agreement. The decision of the FWC is binding, subject to any rights of appeal against the decision to a Full Bench in accordance with subclause F6.14.

Section K Appeal and Process Reviews of certain recruitment decisions

K1 - Application

- K1.1 Under this section, procedures are established for officers to seek a review of recruitment processes or appeal certain recruitment decisions.
- K1.2 These procedures for appeals and reviews account for the principles of procedural fairness and natural justice in this context.
- K1.3 For the purposes of this section, an action includes a decision and a refusal or failure to make a decision.
- K1.4 Decisions made by Joint Selection Committees in accordance with clause B4 - cannot be reviewed or appealed.

K2 - Appeals about Promotions and Temporary Transfer to Higher Office

- K2.1 The head of service must nominate a person, or position, to be the Convenor of Appeals ("the Convenor"), which may or may not be the same person, or position, nominated under subclause J1.2.
- K2.2 This appeal mechanism applies to both the following:
 - K2.2.1 Decisions about promotion or temporary transfer to a higher office or role (for periods in excess of 6 months) affecting the officer where the officer was an applicant for the position, except decisions made on the unanimous recommendation of a joint selection committee (see PSM Act and PSM Standards).
 - K2.2.2 Decisions to promote an officer after acting for a period of 12 months or more in a position at or below Administrative Services Officer Class 6 (or equivalent classification).
- K2.3 For the purposes of subclause K2.2, an appeal may only be made in relation to promotions or temporary transfer to a higher office or role where the pay applicable is any classification with a maximum pay that is less than the minimum pay of a classification equivalent to a Senior Officer Grade C, or unless otherwise specified in the PSM Act. For positions above Administrative Services Officer Class 6 (or equivalent classification) an application may be made for a process review in accordance with clause K3 - of this Agreement.
- K2.4 For the purposes of paragraph K2.2.2, any suitably qualified officer may appeal the decision.
- K2.5 For appeals concerning promotion or transfer to a higher office or role under subclause K2.2, the only ground on which the independent appeal member can review the decision is that the officer making the appeal would be more efficient in performing the duties of the position than the person promoted or selected for temporary transfer.

Initiating an appeal

- K2.6 An officer ("the appellant" for the purposes of this section) or the appellant's union or other employee representative on the appellant's behalf, may initiate an appeal under these procedures by making an application to the Convenor in accordance with all of the following:
 - K2.6.1 It is in writing.

- K2.6.2 It is received by the Convenor within 14 calendar days of the decision to take the action being notified in the Gazette. For decisions relating to the temporary transfer to a higher office or role for periods in excess of 6 months that are not required to be notified in the gazette, it is received by the Convenor within 14 calendar days of the applicant being notified or becoming aware of the outcome of the process.
- K2.6.3 It seeks to appeal an appellable decision as set out in subclause K2.2.
- K2.7 Notwithstanding any other provisions in this section, the Convenor has the authority to dismiss an appeal if the appellant obstructs, unreasonably delays or fails to co-operate with the process.

Independent Appeal Members

- K2.8 Where an application is received by the Convenor in accordance with the requirements set out in subclause K2.6, subject to subclause K2.7 the Convenor must select a person from the approved list of independent appeal members held by the Public Sector Standards Commissioner to conduct a single member determinative appeal.

Independent Appeal Member Recommendations

- K2.9 After reviewing an application about promotion or temporary transfer to a higher office or role affecting the appellant, the independent appeal member must recommend to the head of service to do one of the following with regard to the decision that is the subject of the application:
 - K2.9.1 Confirm the original decision.
 - K2.9.2 Vary the original decision.
 - K2.9.3 Prescribe that other action be taken.
- K2.10 The head of service must inform the appellant and affected parties in writing of their decision and the reasons for the decision, within 28 calendar days.

K3 - Process Review

- K3.1 An officer may seek a review of the process leading up to a decision about any of the following:
 - K3.1.1 Decisions that another officer perform the duties of a higher office or role (with a pay less than that of a Senior Officer Grade C or equivalent classification) for periods greater than 6 months if the vacancy was advertised.
 - K3.1.2 Decisions to promote or not promote an officer.
 - K3.1.3 Decisions to appoint or not appoint an employee, or to engage or not engage an employee, on a temporary contract.
 - K3.1.4 Decisions to transfer, or not to transfer, an employee.
 - K3.1.5 Decisions under the PSM Standards to promote an officer after acting for a period of 12 months or more in a position above Administrative Services Officer Class 6 or equivalent classification.

- K3.2 The findings of a review under this clause do not alter the outcome of the original decision, but may be used to inform similar processes conducted in the future, or address any failings on the part of employees involved in the process under review.

Initiating a review

- K3.3 An officer (“the applicant” for the purposes of this section), or the applicant’s union or other employee representative on the applicant’s behalf, may initiate a review under these procedures by making an application to the head of service in accordance with all of the following:
- K3.3.1 It is in writing.
 - K3.3.2 It describes how the applicant believes the process was not conducted properly and provides reasons for this.
 - K3.3.3 It is received by the head of service within 14 calendar days of the employee being advised of the decision, or becoming aware of the decision.
 - K3.3.4 It seeks to review a reviewable process as set out in subclause K3.1.

Conducting a process review

- K3.4 Subject to subclause K3.3 the head of service must arrange for an application to be reviewed by an independent person (the reviewer) who may be one of the following:
- K3.4.1 A suitably skilled person who was not involved in the original action.
 - K3.4.2 A person chosen from a panel of providers.
- K3.5 The independent reviewer must be provided with all relevant information and evidence that was available to the decision-maker in the making of the original decision.
- K3.6 The reviewer must make an assessment whether relevant processes contained in this Agreement, the PSM Act and PSM Standards were followed, and to what extent.
- K3.7 After reviewing the information and evidence provided under subclause K3.5, the independent reviewer must provide a report to the head of service, which does one of the following:
- K3.7.1 Confirms that the process was conducted in accordance with the provisions of this Agreement, the PSM Act, and PSM Standards.
 - K3.7.2 Finds that there were deficiencies in the process. Such findings must be supported by reasons and the report may include recommendations for how similar processes may be conducted in future.

Section L Redeployment and Redundancy

L1 - Definitions

- L1.1 Excess officer means an officer who has been notified in writing by the head of service that they are excess to an ACTPS directorate's requirements because one of the following applies:
- L1.1.1 The officer is included in a class of officers employed in an ACTPS directorate, which class comprises a greater number of officers than is necessary for the efficient and economical working of the directorate.
 - L1.1.2 The services of the officer cannot be effectively used because of technological or other changes in the work methods of the relevant directorate or changes in the nature, extent or organisation of the functions of the relevant directorate.
- L1.2 Potentially excess officer means an officer who is formally notified they are likely to become an excess officer in a foreseeable space of time.

L2 - Application

- L2.1 The ACTPS recognises the need to make the most effective use of the skills, abilities and qualifications of its officers in a changing environment. When positions become excess, the relevant directorate must seek to redeploy permanent officers within the directorate or the ACTPS in order to avoid or minimise an excess officer situation. Should redeployment not be possible, voluntary redundancy, reduction in classification and involuntary redundancy must be considered in that order. Throughout these procedures the relevant directorate must, where practicable, take into consideration the personal and career aspirations and family responsibilities of affected officers.

L3 - Consultation

- L3.1 Where it appears to the head of service that a position is likely to be either potentially excess or excess to an ACTPS directorate's requirements, and prior to any individual officer(s) being identified, the head of service must, at the earliest practicable time, advise and discuss with the union(s), the following issues (as appropriate in each case):
- L3.1.1 The number and classification of officers in the part of the directorate affected.
 - L3.1.2 The reasons an officer is or officers are likely to be excess to requirements.
 - L3.1.3 The method of identifying officers as excess, having regard to the efficient and economical working of the relevant directorate and the relative efficiency of officers.
 - L3.1.4 The number, classification, location and details of the officers likely to be excess.
 - L3.1.5 The number and classification of officers expected to be required for the performance of any continuing functions in the part of the directorate affected.

- L3.1.6 Measures that could be taken to remove or reduce the incidence of officers becoming excess.
 - L3.1.7 Redeployment prospects for the officers concerned.
 - L3.1.8 The appropriateness of using voluntary retirement.
 - L3.1.9 Whether it is appropriate for involuntary retirement to be used if necessary.
- L3.2 The discussions under subclause L3.1 must take place over such time as is reasonable, taking into account the complexity of the restructuring and need for potential excess officer situations to be resolved quickly and must comply with the consultation requirements of F1 -. Any use of involuntary redundancy must be agreed between the head of service and the union(s) at this stage and must not be used without the written agreement of the head of service and the union(s).
- L3.3 The head of service must comply with the notification and consultation requirements for union(s) and Centrelink about terminations set out in the FW Act.
- L3.4 The head of service must, at the first available opportunity, inform all officers likely to be affected by an excess staffing situation of the terms and operation of this section.
- L3.5 Where a redundancy situation affects a number of officers engaged in the same work at the same level, elections to be made voluntarily redundant may be invited.
- L3.6 Nothing in this Agreement prevents the head of service inviting officers who are not in a redundancy situation to express interest in voluntary redundancy, where such redundancies would permit the redeployment of potentially excess and excess officers who do not wish to accept voluntary redundancy.

L4 - Notification

- L4.1 Except where a lesser period is agreed between the head of service and the officer, the officer must not, within one month after the union(s) has been advised under subclause L3.1 be invited to volunteer for retirement nor be advised in writing in accordance with subclause L4.4 that the officer is excess to the relevant directorate's requirements.

Potentially excess officers

- L4.2 At the point where individual employees can be identified, the head of service must advise the officer(s) that a position(s) is likely to become excess and that the employee may be affected. In that advice the officer(s) must also be advised that the officer may be represented by a union or other employee representative at subsequent discussions. The head of service must discuss with the officer(s) and, where chosen, the union or other employee representative(s) the issues dealt with in paragraphs L3.1.1 through L3.1.9 (as appropriate in each case).
- L4.3 Potentially excess officers who have not been invited to be voluntarily retired, or who have declined to elect to be voluntarily retired, are subject to the redeployment provisions in clause L4.6.

Excess officers

- L4.4 Subject to subclause L4.1 the notification of an officer's excess status may only be given when the consultation required under clause L3 - and the consultation required under subclause L4.2 has taken place. Following such consultation, where the head of service is aware that an officer is excess, the head of service must advise the officer in writing.
- L4.5 An excess officer is subject to the redeployment provisions in subclause L4.6.
- L4.6 An excess officer who is offered a voluntary redundancy, but who does not accept the offer, is entitled to a 7 month retention period in accordance with paragraph L6.10.3.

L5 - Redeployment

- L5.1 Redeployment of potentially excess and excess officers must be in accordance with the officer's experience, ability and, as far as possible, the officer's career aspirations and wishes.
- L5.2 Once an officer has been notified that they are potentially excess or excess in accordance with subclause L4.2 and subclause L4.4 respectively, the officer must be registered by their directorate on the redeployment register.
- L5.3 The head of service must consider a potentially excess or excess officer from other ACT Public Service agencies in isolation for vacancies at the officer's substantive level.
- L5.4 An excess officer (or potentially excess) has absolute preference for transfer to positions at the officer's substantive level and must be considered in isolation from other applicants for any vacancy, which is to be advertised for permanent filling or for a temporary period of 6 months or more, within the ACTPS. For the purposes of this clause substantive level means the same classification or an alternative equivalent classification in another classification stream where the maximum pay does not exceed the top increment of the officer's current classification by more than 10%. For clarity this does not allow for the transfer of an officer within the same classification stream e.g a SOG B to transfer to a SOG A.
- L5.5 Under this clause an excess officer must be given preference over a potentially excess officer.
- L5.6 An excess officer need only be found suitable, or suitable within a reasonable time (generally 3 to 6 months) to be transferred to a position in accordance with subclause L5.4.
- L5.7 The head of service must make every effort to facilitate the placement of an excess officer, within the service.
- L5.8 The head of service must arrange reasonable training that would assist the excess officer's prospects for redeployment.
- L5.9 The head of service must provide appropriate internal assistance and career counselling and assist as necessary with the preparation of job applications.

L6 - Voluntary Redundancy

- L6.1 Subject to subclause L4.1, at the completion of the discussions in accordance with clause L3 -, the head of service may invite officers to elect to be made voluntarily redundant under this clause.
- L6.2 Where the head of service invites an officer to elect to be made voluntarily redundant, the officer must be provided a consideration period of a maximum of one month from the date of the offer in which to advise the head of service of the officer's election, and the head of service must not give notice of redundancy before the end of the one month consideration period.
- L6.3 To allow an officer to make an informed decision on whether to submit an election to be made voluntarily redundant, the head of service must provide the officer with advice on all of the following:
- L6.3.1 The sums of money the officer would receive by way of severance pay, pay instead of notice, and paid up leave credits.
 - L6.3.2 The career transition and development opportunities within the ACTPS.
- L6.4 The officer should seek independent advice on all of the following:
- L6.4.1 The amount of accumulated superannuation contributions.
 - L6.4.2 The options open to the officer concerning superannuation.
 - L6.4.3 The taxation rules applicable to the various payments.
- L6.5 The relevant directorate must supplement the costs of independent, accredited financial counselling incurred by each officer who has been offered voluntary redundancy up to a maximum of \$1000. The head of service must authorise the accredited financial counsellors to invoice the relevant directorate directly.
- L6.6 Subject to subclause L6.7, where the head of service approves an election to be made redundant and gives the notice of retirement in accordance with the PSM Act, the period of notice is one month, or 5 weeks if the officer is over 45 years old and has completed at least 2 years continuous service.
- L6.7 Where the head of service so directs, or the officer so requests, the officer will be retired at any time within the period of notice under subclause L6.6, and the officer must be paid in lieu of pay for the unexpired portion of the notice period.

Severance benefit

- L6.8 An officer who elects to be made redundant in accordance with this clause is entitled to be paid the greater of the following amounts:
- L6.8.1 An amount equal to 2 weeks of the officer's pay for each completed year of continuous service, plus a pro rata payment for completed months of continuous service since the last year of continuous service. The maximum sum payable under this paragraph is 48 weeks' pay.
 - L6.8.2 An amount equal to 26 weeks of the officer's pay.
- L6.9 For the purpose of calculating any payment instead of notice or part payment, the pay an officer would have received had they been on annual

leave during the notice period, or the unexpired portion of the notice period as appropriate, is used.

L6.10 For the purpose of calculating payment under subclause L6.8 all the following apply:

- L6.10.1 If an officer has been acting in a higher position for a continuous period of at least 12 months immediately preceding the date on which they receive a notice of retirement, the pay level is the officer's pay in the higher position at that date.
- L6.10.2 If an officer has, during 50% or more of pay periods in the 12 months immediately preceding the date on which they receive a notice of retirement, been paid a loading for shift-work or are paid a composite pay, the weekly average amount of shift loading received during that 12 month period is counted as part of "weeks pay".
- L6.10.3 The inclusion of other allowances, being allowances in the nature of pay, will be subject to the approval of the head of service.
- L6.10.4 Redundancy pay will be calculated on a proportionate basis where the employee has worked part-time hours during the period of service and the employee has less than 24 years full-time service.

L7 - Retention Period for Excess Officers

L7.1 An excess officer who does not accept voluntary redundancy is entitled to a 7 month retention period.

L7.2 The retention period will commence on one of the following days:

- L7.2.1 On the day the officer is advised in writing by the head of service that the officer is an excess officer.
- L7.2.2 In the case of an officer who is invited by the head of service to submit an election to be retired - one month after the day on which the election is invited.

L7.3 At the end of the retention period, if the officer has not been redeployed, the officer must be offered a choice of the following:

- L7.3.1 A suitable vacant position at the officer's substantive level, to be transferred to in accordance with the PSM Act.
- L7.3.2 Retirement from the ACTPS with a severance payment which is the equivalent to what the officer would have received had the officer accepted the voluntary redundancy, less the amount of salary that the officer received during the retention period.

L7.4 To be transferred to a suitable position in accordance with paragraph L7.3.1 an excess officer need only be found suitable, or suitable within a reasonable time (generally 3 to 6 months) to be transferred to the position.

L8 - Reduction in Classification

L8.1 Where efforts to redeploy at level have failed and where the officer has refused the offer of voluntary redundancy, the head of service with the agreement of

the officer may reduce the officer in classification and place the officer in a specific position.

- L8.2 Reduction in classification is to occur in accordance with the PSM Act.

L9 - Involuntary Retirement

- L9.1 An excess officer may be made involuntarily redundant, subject to the agreement of the union(s). This clause applies to excess officers who are not any of the following:

- L9.1.1 Retired with consent.
- L9.1.2 Redeployed to another position.
- L9.1.3 Reduced in classification.

- L9.2 An officer may be involuntarily retired subject to the agreement of the union(s). Such agreement must not be withheld if, during or after 6 months from the date the officer was declared excess, the officer does one of the following:

- L9.2.1 Does not accept a transfer in accordance with the PSM Act.
- L9.2.2 Refuses to apply for, or be considered for, a position for which the officer could reasonably be expected to be qualified to perform, either immediately or in a reasonable time.

- L9.3 Where the head of service believes that there is insufficient productive work available for an excess officer during the retention period, the head of service may make the officer involuntarily redundant before the end of the retention period.

- L9.4 An excess officer must not be involuntarily retired if they have not been invited to elect to be voluntarily retired with benefits, or have made such an election and the head of service refuses to approve it.

- L9.5 Where the head of service involuntarily retires an excess officer, the officer must be given no less than 4 weeks' notice of the action proposed; or 5 weeks if the officer is over 45 years old and has completed at least 2 years of continuous service. This notice period must, as far as practicable, be concurrent with the 7 month retention period.

L10 - Income Maintenance Payment

- L10.1 An officer who has been receiving a higher rate of pay for a continuous period of at least 12 months and who would have continued to receive that pay rate, except for the excess officer declaration, must be considered to have the higher pay rate.

- L10.2 This pay is known as the income maintenance pay. The income maintenance pay, where applicable, is used for the calculation of all conditions and entitlements under this clause.

- L10.3 The income maintenance pay exists for the retention period or the balance of the retention period.

- L10.4 If an officer is involuntarily retired, the entitlements, including paying out the balance of the retention periods, where applicable, must be calculated

on the income maintenance pay rate. If an officer is involuntarily retired during the retention periods the officer's date of retirement is the date that the officer would have retired after the retention period ceased, not the date of the involuntary retirement. All final entitlements must be calculated from the latter date.

L10.5 If an officer is involuntarily reduced in classification during the retention period, the officer is entitled to be paid at the income maintenance pay rate for the balance of the retention period.

L10.6 All allowances in the nature of pay must be included in determining the income maintenance pay rate.

L11 - Leave and Expenses to Seek Employment

L11.1 At any time after the officer has been advised under subclause L4.2 of being potentially excess, the officer is entitled to paid leave to seek alternative employment. Leave granted under this clause is for periods of time to examine the job and to attend interviews. Reasonable travelling time must also be granted.

L11.2 The officer is entitled to any reasonable fares and other incidental expenses if these are not met by the prospective employer.

L12 - Use of Personal Leave

L12.1 The use of personal leave must not extend the retention periods of an officer unless these periods are supported by a medical certificate or are of such a nature as to make the seeking of employment during certificated personal leave inappropriate.

L12.2 An officer who is receiving income maintenance must have those payments continued during certified personal leave periods of up to a total of 6 months.

L13 - Appeals

L13.1 Without affecting the officer's rights under the FW Act, an excess officer has the right under Section J to appeal any decision taken in relation to the officer's eligibility for benefits under subclause L4.6, L9 - and, the amount of such benefits, or the amount payable by way of income maintenance under clause L10 -.

L13.2 An excess officer who received a notice of involuntary redundancy under clause L9.5 has the right under section J to appeal the decision.

L14 - Agreement Not to Prevent Other Action

L14.1 Nothing in this Agreement prevents the reduction in classification of an officer or the retirement of an officer as a result of action relating to discipline, invalidity, inefficiency or loss of essential qualifications.

L15 - Re-engagement of Previously Retrenched Officers

L15.1 Despite the PSM Act, officers who are involuntarily retired from the ACTPS can be engaged at any time by the head of service.

- L15.2 Officers who elect to be made voluntarily redundant under L6 - cannot be re-engaged in the ACTPS until a period has expired, which is equivalent in weeks and days to the termination payment received under subclause L6.8 or paragraph L7.3.2, except with the written consent of the head of service.

Section M Fire Related Activities

M1 - Application

- M1.1 Section M applies to 'fire trained employees' from the ACT Parks and Conservation Service (PCS) that have the potential to be called on as part of the operational fire-related activities of the PCS or employees outside of the PCS who have been nominated, and approved by the Director of PCS, to undertake fire management duties as directed.

M2 - Fire Trained Employees

- M2.1 The head of service must, upon recommendation from the Director PCS, approve a list of employees as 'fire trained employees'. Employees who have been trained as 'fire trained employees' are required to undertake fire management duties as directed. An employee's career opportunities must not be disadvantaged as a result of undertaking these fire-related activities.
- M2.2 A 'fire trained employee' must provide assurance to the head of service to undertake fire management duties as directed.
- M2.3 PCS must maintain a fire readiness roster based on a minimum of 140 'fire trained employees' to undertake fire-related activities. All nominated employees must be available to meet the fitness and training requirements and meet the roster requirements.
- M2.4 The head of service must authorise employees (as agreed by the Director PCS), to undertake fire management duties and to undertake all requisite training and fitness assessments.
- M2.5 The roster must take account of family responsibilities and other relevant factors brought to the attention of PCS by the employee or the employee's representative. Those factors must be taken into account to the extent possible, provided the agreed standard of coverage, as contained in the Memorandum of Understanding (MOU) between the director-general (EPSDD) and the director-general (JaCS), is maintained at all times.

M3 - Training

- M3.1 All nominated employees are required to complete minimum competency based fire training. This includes an annual fire preparedness session to update employees' knowledge of fire behaviour and safety, as well as an annual fitness assessment and a current Working With Vulnerable People (WWVP) registration.

M4 - Fitness Standards

- M4.1 All 'fire trained employees' must demonstrate one of the following specified fitness standards on an annual basis:
- M4.1.1 Arduous: ability to complete a 4.8km hike with a 20kg pack in 45 minutes.
 - M4.1.2 Moderate: ability to complete a 3.2km hike with an 11kg pack in 30 minutes.

- M4.2 'Fire trained employees' who are required to undertake fire suppression tasks on an active fire ground and who are unable to meet the specified fitness standard may be required to participate in a fitness improvement program funded and approved by PCS.
- M4.3 'Fire trained employees' who do not meet the fitness standard must be given adequate support and encouragement to meet the fitness standard but are not eligible to participate in fire suppression tasks until they are able to meet the fitness standard. If possible, these employees must be assigned non fire suppression tasks until they are able to demonstrate the specified fitness standard. If non fire suppression tasks are not available they must be excluded from the readiness roster.

M5 - Rostering and Duty Allocation

- M5.1 All 'fire trained employees' who are approved to undertake fire management tasks must be included on a readiness roster during each bush fire season. The roster must be prepared to take account of employees' leave requirements to the extent possible, provided that all positions on the roster are filled at all times during the bushfire season.
- M5.2 'Fire trained employees' on the readiness roster must undertake nominated duties during regular work hours as directed by the rostered fire duty officer. In the event of a fire, suppression tasks will take priority over the nominated duties.
- M5.3 'Fire trained employees' on the readiness roster must remain on duty (possibly beyond the end of their regular shift) until the end of the standby period for each day.

M6 - Definition of Incident Levels, Commencement and Cessation

- M6.1 An incident is defined as an unplanned fire (wildfire) requiring the attendance of an authorised employee or appliance, where that employee or appliance has been directed to attend by a suitably authorised ACT PCS member or the ACT Rural Fire Service (RFS).
- M6.2 For the purposes of Incident Rate of Pay (IROP), the following 3 levels are defined:
- M6.2.1 Level 1 Incident: A small and comparatively simple wildfire that is contained by first response crews without the requirement for a second shift and the incident controller is based in the field. There is no formal declaration of Level 1 Incidents.
 - M6.2.2 Level 2 Incident: A larger or more complex incident where sectors and an incident management team have been established to effectively manage resources, is attended by more than one agency, may involve more than one shift and has been declared a Level 2 Incident by the Senior Manager, Fire PCS.
 - M6.2.3 Level 3 Incident: A large or complex incident where divisions, sectors and an incident management team have been established to effectively manage resources, is attended by more than one agency, involves more than one shift and has been declared a Level 3 Incident by the Senior Manager, Fire PCS.

M7 - Definitions for Fire-related activities

- M7.1 The following definitions apply to fire-related activities:
- M7.1.1 Standby – means to be ready or available to act and be prepared for advice to proceed.
 - M7.1.2 Stand down – means to end a period of standby, return to normal duty.
 - M7.1.3 Readiness roster – means a roster detailing employees available for standby.

M8 - Incident Rate of Pay (IROP)

- M8.1 IROP is payable from when a 'fire trained employee' is deployed to an incident from their depot or overnight accommodation by a suitably authorised ACT PCS member or the ACT RFS, until they return to their depot or overnight accommodation. IROP is not payable in the event that an employee is deployed to an incident but the deployment is cancelled before they arrive at the incident.
- M8.2 An incident can be physically located either within or outside the Australian Capital Territory (ACT). IROP is not payable during the travel stage both from and back to the ACT.
- M8.3 IROP is not payable during periods of standby, or for prescribed burning activities.
- M8.4 IROP payments do not count as salary for any other purpose. Payment must be made as higher duties allowance (HDA) at the top increment of the pay scale as provided for in this clause.
- M8.5 The IROP Payments are (Incident Position, Rate of Pay (Paid at Top Increment)):
- M8.5.1 Level 1 Incident
 - M8.5.1 (a) Crew Member, GSO 5
 - M8.5.1 (b) Crew Leader (light unit, tanker, RAFT), GSO 6
 - M8.5.1 (c) Sector Leader (Incident Controller for Level 1), GSO 8
 - M8.5.2 Level 2 Incident
 - M8.5.2 (a) Crew Member, GSO 6
 - M8.5.2 (b) Crew Leader (light unit, tanker, RAFT), GSO 7
 - M8.5.2 (c) Sector Leader, GSO 9
 - M8.5.2 (d) Divisional Commander, GSO 10
 - M8.5.2 (e) Incident Management Team (IMT) member, ASO 6
 - M8.5.2 (f) Operations Officer, Logistics Officer, Planning Officer (IMT), SOG C
 - M8.5.2 (g) Fire Behaviour Analyst, SOG C
 - M8.5.2 (h) Incident Controller, SOG B
 - M8.5.3 Level 3 Incident

- M8.5.3 (a) Crew Member, GSO 7
- M8.5.3 (b) Crew Leader (light unit, tanker, RAFT), GSO 9
- M8.5.3 (c) Sector Leader, GSO 10
- M8.5.3 (d) Divisional Commander, SOG C
- M8.5.3 (e) Incident Management Team (IMT) member, SOG C
- M8.5.3 (f) Task Force Leader, SOG C
- M8.5.3 (g) Liaison Officer, SOG C
- M8.5.3 (h) Fire Behaviour Analyst, SOG B
- M8.5.3 (i) Operations Officer, Logistics Officer, Planning Officer (IMT), SOG B
- M8.5.3 (j) Incident Controller, SOG A

M8.6 Where an employee's ordinary hourly rate of pay exceeds the IROP payable, the employee will be paid at their ordinary hourly rate of pay.

M9 - Other Payments and Benefits

- M9.1 The travel allowance provided at Annex C of this Agreement is paid for travel between work locations where an employee is directed to undertake fire standby duties at a location other than their normal work location and is required to travel to the standby location in their own motor vehicle.
- M9.2 'Fire Fighters leave' accrues (pro rata) at the rate of half a day for each Saturday or Sunday worked in a fire season, to a total of 5 days leave. That is, for each Saturday or Sunday that an employee works, an employee will accrue a half day of leave, so if they work a whole weekend they will have accrued one full day of leave. If there are any changes to the Fire Danger and Readiness levels, as set by the ACT PCS, this will trigger a review of the above agreed terms.
- M9.3 The maximum total additional leave under subclause M9.2 and subclause E7.7 and subclause E7.8 is 5 days of paid annual leave per year.
- M9.4 'Fire trained employees' who undertake fire management duties, attend the fire preparedness day, satisfy the fire competency at the arduous fitness standard and are registered under WWVP, must be paid a Training and Fitness payment of \$200. Where a 'fire trained employee' otherwise meets the above criteria but only satisfies the fire competency at the moderate fitness standard, a payment of \$100 must be made.

N1 - APPLICATION

- N1.1 Section N applies to legal professionals employed within the Office of the Director of Public Prosecutions (DPP) only, encompassing employees classified as Prosecutors, Para Legals and Graduate Legal Officers.

N2 - CRIMINAL OFFENCES

- N2.1 This clause applies to the exclusion of clause G10 -.
- N2.2 An employee must advise the Director of Public Prosecutions in writing of:
- N2.2.1 any criminal charges laid;
 - N2.2.2 any criminal charges likely to be laid; or
 - N2.2.3 any investigation being undertaken by the Police or other investigative agency, which may result in a prosecution, as soon as they become aware of such matters.
- N2.3 This clause does not apply to traffic or regulatory offences for which an infringement notice is issued unless:
- N2.3.1 the infringement notice is a Simple Cannabis Notice under section 171 A of the Drugs of Dependence Act 1989; or
 - N2.3.2 the infringement is not paid and action is taken to enforce the notice.
- N2.4 Where criminal charges are laid against an employee and the interests of the Office of the DPP or of the ACTPS may be adversely affected, the Director of Public Prosecutions may suspend the employee in accordance with the suspension arrangements under clause G6 -.
- N2.5 If an employee is convicted of a criminal offence, or a court finds that an employee has committed such an offence but a conviction is not recorded, the employee will provide a written statement regarding the circumstances of the offence to the Director of Public Prosecutions within seven calendar days of the conviction or the finding.
- N2.6 Where an employee is convicted of a criminal offence, or a court finds that an employee has committed such an offence but a conviction is not recorded, and the conviction or finding has adversely affected the interests of the Office of the DPP or the ACTPS, the Director of Public Prosecutions may take discipline action against the employee in accordance with clause G9 -.

N3 - PERFORMANCE MANAGEMENT

- N3.1 In accordance with clause A2.10, all members of staff of the Office of the DPP will participate in performance management as provided in the Performance Management policy of the Office. The Director of Public Prosecutions will consult with staff of the Office on any proposed changes to the Performance Management policy of the Office.

N4 - PROSECUTOR TITLES

- N4.1 Prosecutors engaged or appointed within the Office of the Director of Public Prosecutions, will have access to the following position titles based on classification:

Column A - Classification	Column B – Position Title
Prosecutor Grade 1 - 2	Prosecutor
Prosecutor Grade 3	Senior Prosecutor
Prosecutor Grade 4	Practice Manager – Supreme Court Practice Manager – Magistrate’s Court Supervising Prosecutor – Family Violence Supervising Prosecutor – Sex Offences Supervising Prosecutor – Work Safety Unit Advocate
Prosecutor Grade 5	Crown Advocate

N5 - PROSECUTOR ASSOCIATE CLASSIFICATION

- N5.1 This Agreement introduces a new classification within the Office of the Director of Public Prosecutions of Prosecutor Associate.
- N5.2 The salary range for Prosecutor Associates is set out in Annex A.
- N5.3 Incremental advancement for Prosecutor Associates will be in accordance with clause C5 -.
- N5.4 The parties to this Agreement will develop eligibility requirements and Work Level Standards for the new Prosecutor Associate classification within 12 months of the date of commencement of this Agreement.

N6 - BROADBANDED PROSECUTOR GRADE 1 AND 2

- N6.1 Broadbanding of the Prosecutor Grade 1 and Prosecutor Grade 2 will be implemented within the Office of the Director of Public Prosecutions with effect from the date of commencement of this Agreement.
- N6.2 On engagement to temporary employment or appointment to permanent employment as Prosecutor Grade 1-2, the Director of Public Prosecutions will determine an appropriate pay point within the salary range based on:
- N6.2.1 the occupant’s experience, skills and qualifications.
- N6.3 Incremental advancement within the broadband of Prosecutor Grade 1 - 2 will be in accordance with the provisions of clause C5 -.

N7 - PARA LEGAL EMPLOYEES - QUALIFICATIONS

- N7.1 The Para Legal classification structure provides a career path and professional development framework that recognises the unique role and responsibilities of these staff.
- N7.2 The minimum qualification appropriate to each level is as follows:
- N7.2.1 Para Legal Grade 1 - Certificate III in Business Administration (Legal).
 - N7.2.2 Para Legal Grade 2 - Certificate IV in Legal Services.
 - N7.2.3 Para Legal Grade 3 - Certificate IV in Legal Services.
 - N7.2.4 Para Legal Grade 4 - Diploma of Legal Services.
 - N7.2.5 Para Legal Grade 5 - Diploma of Legal Services.
- N7.3 The Office of the DPP will support and encourage Para Legal staff to undertake these qualifications, and expects that they will make a concerted effort to complete them.
- N7.4 Temporary and casual employees may be engaged in Para Legal Grade 1 or 2 without having completed the mandatory minimum qualifications.
- N7.5 Para Legals may be progressed on higher duties without having completed the mandatory qualifications for the Para Legal classification.
- N7.6 On appointment, engagement or promotion to Para Legal Grade 1 or 2 employees will be expected to achieve the mandatory qualification standards in 12 months from the date of appointment, engagement or promotion. Where this does not occur the head of service may take action to terminate their employment. However, before taking any action the head of service must consider any extenuating circumstances that have impacted the employee's capacity to complete the qualification within the timeframe specified.

N8 - PARA LEGAL EMPLOYEES UNDERTAKING A LAW DEGREE

- N8.1 The minimum qualification requirements described in clause N7 - do not apply to Para Legal employees who are currently studying a law degree.

N9 - ACCESS TO FLEXTIME AND RECOVERY LEAVE

- N9.1 Staff employed as Prosecutors, Prosecutor Associates or Graduate Legal Officers will not participate in flextime under clause B18 - or Recovery Leave Arrangements under clause E24 -.
- N9.2 Staff employed as Para Legals have access to flextime in accordance with clause B18 -.

N10 - RECORDING OF HOURS

- N10.1 Staff employed as Prosecutors, Prosecutor Associates and Graduate Legal Officers will notify the Director of Public Prosecutions of the number of hours they work above their normal weekly hours of 36.75 at the end of the week the hours are worked.

- N10.2 The DPP will keep a record of hours recorded in accordance with N10.1, as well as hours granted as TOIL in accordance with subclause N11.4. The aggregated data will be shared with employees and their representatives in a de-identified manner to inform ongoing consultation about workloads and staffing needs.
- N10.3 Unless required by the Director of Public Prosecutions, staff employed as Prosecutors, Prosecutor Associate and Graduate Legal Officers will not need to meet the requirements of clause B6 - of this Agreement in relation to recording of hours.

N11 - ODPF WORKLOAD MANAGEMENT FRAMEWORK

- N11.1 It is recognised that the work of employees in ODPF can be demanding and may be of a confronting nature. It is incumbent on all employees and managers to work actively to manage workloads and pressures. The Director of Public Prosecutions is committed to work with employees and their representatives to monitor workloads during the life of the agreement to ensure that adequate processes are in place to mitigate against onerous hours and to safeguard employees' health and wellbeing.
- N11.2 Employees are encouraged to raise any issues and concerns about workload and work pressures as soon as possible and no employee will be adversely affected as a result of raising such issues or concerns.
- N11.3 Consistent with clause B12 - of this Agreement - Management of excessive hours, the Director of Public Prosecutions will provide time off in lieu (TOIL) to staff employed as Prosecutors, Prosecutor Associate and Graduate Legal Officers who have been required to work longer than standard hours or have been required to engage in unusually demanding work.
- N11.4 TOIL will be administered in line with:
- N11.4.1 The Director of Public Prosecutions will use the information received in accordance with subclause N10.1 to monitor the need to provide staff with TOIL;
 - N11.4.2 TOIL is intended to be used to manage excessive hours and to ensure the health and wellbeing of staff;
 - N11.4.3 TOIL is a limited entitlement and is not intended to compensate for additional hours worked on a one-for-one basis;
 - N11.4.4 Notwithstanding subclause N11.4.3, where an employee works additional hours as a result of a request from a supervisor/manager, TOIL will be granted on a one-for-one basis; and
 - N11.4.5 TOIL will be administered in accordance with a transparent and equitable process, which will include an escalation mechanism for addressing disputes.

N12 - REIMBURSEMENT OF PROFESSIONAL FEES

- N12.1 The Director of Public Prosecutions may approve the reimbursement of fees incurred by an employee for professional affiliations that the Director of

Public Prosecutions deems necessary and/or relevant for the employee to hold in order to undertake their duties.

N12.2 The employee will require prior approval from the Director of Public Prosecutions before incurring any expenses in relation to professional fees for which reimbursement will subsequently be sought.

N12.3 Nothing in this clause prohibits the fees payable under this clause being paid directly to the issuing body rather than on a reimbursement basis.

N13 - WORKPLACE BEHAVIOURS

N13.1 This clause applies to the exclusion of subclause G1.7.

N13.2 If a DPP employee's employment has ended with the ACTPS while a misconduct process is on foot, the Public Sector Standards Commissioner will consult with the DPP and may:

N13.2.1 determine to complete the misconduct process under Section G 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 former employee to subsequently re-enter the ACTPS; or

N13.2.2 determine to stay the process upon the employee's resignation and communicate to the employee that the misconduct process may recommence if the former employee subsequently re-enters, or seeks to re-enter, the service. 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 G1.6.1 or taken into account with any application by the former employee to subsequently re-enter the ACTPS.

N14 - MISCONDUCT AND DISCIPLINE

N14.1 This clause applies to the exclusion of subclause G5.1.

N14.1.1 Upon becoming aware of a matter of alleged misconduct the DPP as head of service will determine whether or not the matter needs to be investigated. Where the DPP as head of service determines that investigation is required the DPP as head of service will refer the matter to the Public Sector Standards Commissioner for investigation - except for where the matter relates to alleged professional misconduct of legal staff.

N14.1.2 Where the matter relates to alleged professional misconduct of legal staff, the DPP as head of service will take appropriate action as required, including in accordance with the professional conduct requirements as outlined in the DPP Prosecution Policy and associated Director's Directions.

N14.1.3 Where the misconduct or discipline issue/s involves matters related to an employee(s) that is the subject of criminal prosecutions being conducted by the office of the DPP the matter will be dealt with by the DPP as head of service and will not be referred to the Public Sector Standards Commissioner.

- N14.2 This clause applies to the exclusion of clause G5.4
- N14.2.1 Upon receiving a referral in accordance with sub clause G5.1 the Public Sector Standards Commissioner will notify the DPP of the arrangements for an appropriately trained or experienced person (the investigating officer) to investigate the alleged misconduct in accordance with clause G7 - and provide the DPP with an opportunity to raise any potential concerns about conflicts of interest. If the Public Sector Standards Commissioner is of the view that an investigation will not resolve the matter the Public Sector Standards Commissioner will consult with the DPP and refer the matter back to the DPP as head of service for resolution or further consideration.
- N14.3 This clause applies to the exclusion of clause G5.7
- N14.3.1 Where the Public Sector Standards Commissioner determines to instigate an investigation of alleged misconduct in the absence of a referral under sub clause G5.1, the Public Sector Standards Commissioner will discuss the matter with the DPP prior to implementing any investigation.
- N14.3.2 The Public Sector Standards Commissioner will not investigate matters which include alleged professional misconduct of legal staff and will refer any such matters to the DPP as head of service for consideration.
- N14.3.3 The Public Sector Standards Commissioner will not investigate matters related to non-legal staff that are the subject of criminal prosecutions on foot.

N15 - INTERNAL REVIEW PROCEDURES

- N15.1 This clause applies to the exclusion of subclauses I4.13 to I4.17 inclusive (review process).
- N15.1.1 Where the subject of the application is an action or decision in relation to the DPP (in person) this will be referred to the relevant minister.
- N15.1.2 Where the subject of the application is an action or decision related to professional conduct of legal staff these are not matters which are the subject of this agreement.

O1 - APPLICATION

- O1.1 Section O applies to legal professionals employed within the ACT Government Solicitor (ACTGS) who have been admitted as an Australian Legal practitioner.

O2 - GOVERNMENT SOLICITOR – ELIGIBILITY

- O2.1 No person will be appointed as a Government Solicitor without having previously been admitted as an Australian Legal practitioner.

O3 - PARTICIPATION IN PERFORMANCE MANAGEMENT PROGRAM

- O3.1 All employees described at O1.1 must participate in the performance management program determined by the Solicitor-General. The Solicitor-General will consult with staff on any proposed changes to the ACTGS Performance Management program.
- O3.2 For new and promoted employees, the performance management cycle will commence on engagement or promotion and continue thereafter on an annual basis.
- O3.3 If, in an annual performance management cycle, an employee applies for and is approved to take leave for more than a total of 3 months, the following will apply:
- O3.3.1 if an employee's annual performance management assessment is due within 3 months of the employee commencing on leave, the assessment will be undertaken prior to the employee commencing on leave; or
 - O3.3.2 in any other circumstances, the assessment will be deferred by the period of leave and undertaken following the employee's return to work and once the employee has worked for a period of 12 months (excluding the period of leave). For the purposes of the assessment, the period preceding the employee's leave will be taken into consideration.

O4 - PERFORMANCE RATING SYSTEM

- O4.1 The following performance rating categories must be used as part of ACTGS guidelines for assessing the performance of the employee.
- O4.1.1 Superior – an employee whose performance against the objectives in their Performance Agreement is well above that required, resulting in consistently high performance which usually exceeds standard (Satisfactory) competency expectations.
 - O4.1.2 Satisfactory (the standard) – an employee who meets the objectives in their Performance Agreement, resulting in consistent and competent performance.
 - O4.1.3 Needs development – an employee who has not met the objectives in their Performance Agreement at an appropriate level; resulting in performance being consistently below standard expectations.

Underperformance measures will commence as per Section H – Underperformance.

O5 - PAY POINTS AND INCREMENTS

- O5.1 Prior to the commencement of this agreement, salary advancement was in accordance with the salary advancement provisions in clause O6 of the ACTPS Legal Professionals Enterprise Agreement 2021-2022 (previous provisions).
- O5.2 From commencement of this agreement, salary advancement will cease and incremental progression and accelerated advancement for an employee as described at O1.1 will be in accordance with provisions in clause C5 -.
- O5.3 Where an eligible employee has received salary advancement in accordance with the previous provisions, subject to clause C5 - an increment may be payable at the 12 month anniversary of the last salary advancement at that classification.
- O5.4 Where an eligible employee has not received a salary advancement at the classification in accordance with the previous provisions, the employee is entitled (subject to clause C5 -) to be paid an annual increment on and from the relevant anniversary of the date of commencement in the classification for the employee concerned.

O6 - GOVERNMENT SOLICITOR FLEXIBLE WORKING ARRANGEMENTS

- O6.1 Staff employed as Government Solicitor level 1 and 2 have access to flextime in accordance with clause B18 -.
- O6.2 Staff employed as Government Solicitor level 3 are entitled to Recovery Leave Arrangements as detailed in clause E24 -.
- O6.3 Staff employed as Government Solicitor level 4 will not participate in either the flextime or Recovery Leave schemes.
- O6.4 Within this context, the ACTGS executive fully appreciates the importance of maintaining a positive and healthy workplace culture that recognises employees' family and other personal commitments.

O7 - REIMBURSEMENT OF PROFESSIONAL FEES

- O7.1 The Solicitor-General may approve the reimbursement of fees incurred by an employee for professional affiliations that the Solicitor-General deems necessary and/or relevant for the employee to hold in order to undertake their duties.
- O7.2 The employee will require prior approval from the Solicitor-General before incurring any expenses in relation to professional fees for which reimbursement will subsequently be sought.
- O7.3 Nothing in this clause prohibits the fees payable under this clause being paid directly to the issuing body rather than on a reimbursement basis.

P1 - APPLICATION

- P1.1 Section P applies to legal professionals employed within the Parliamentary Counsel's Office (PCO) only.

P2 - PARTICIPATION IN PERFORMANCE MANAGEMENT PROGRAM

- P2.1 To participate in salary advancement procedures, all employees described at P1.1 must participate in the performance management program determined by the Head of Service. The head of service will consult with staff on any proposed changes to the PCO Performance Management program.
- P2.2 For new and promoted employees, the performance management cycle will commence on engagement or promotion and continue thereafter on an annual basis.
- P2.3 If, in an annual performance management cycle, an employee is on leave for more than a total of 3 months, the assessment of the employee's performance and determination of the appropriate level of salary advancement (if any) in the circumstances, will be as agreed with the employee's manager.

P3 - PERFORMANCE RATING SYSTEM

- P3.1 The following performance rating categories must be used as part of PCO guidelines for assessing the performance of the employee and determining the appropriate level of salary advancement.
- P3.1.1 Superior – an employee whose performance against the objectives in their Performance Agreement is well above that required, resulting in consistently high performance which usually exceeds standard (Satisfactory) competency expectations.
- P3.1.2 Satisfactory (the standard) – an employee who meets the objectives in their Performance Agreement, resulting in consistent and competent performance.
- P3.1.3 Needs development – an employee who has not met the objectives in their Performance Agreement at an appropriate level; resulting in performance being consistently below standard expectations. Underperformance measures will commence as per Section H – Underperformance.

P4 - SALARY ADVANCEMENT FOR ASSISTANT PARLIAMENTARY COUNSEL STAFF

- P4.1 The provisions of this section will apply to the exclusion of the incremental progression and accelerated advancement provisions in clause C5 -.

P5 - SALARY ADVANCEMENT RATES – ASSISTANT PARLIAMENTARY COUNSEL 1

- P5.1 The following salary advancement rates apply to Assistant Parliamentary Counsel 1 employees (other than those at the top pay point of the classification).

P5.2 Following the completion of a performance appraisal, the level of salary advancement for each performance rating category will be as follows:

P5.2.1 Superior – Two pay points

P5.2.2 Satisfactory – One pay point

P5.2.3 Needs development – No advancement

P5.3 Employees who have reached the top of the salary range will be rated Superior/Satisfactory/Needs development, in accordance with the performance management program determined by their Directorate, but with no change to salary.

P6 - SALARY ADVANCEMENT RATES – ASSISTANT PARLIAMENTARY COUNSEL 2 AND 3

P6.1 Following the completion of a performance appraisal, the level of salary advancement for employees for each performance criteria rating category will be as follows:

P6.1.1 Superior/Satisfactory – One pay point

P6.1.2 Needs development – No advancement

P6.2 Employees who have reached the top of the salary range will be rated Superior/Satisfactory/Needs development, in accordance with the performance management program determined by their Directorate, but with no change to salary.

P7 - ASSISTANT PARLIAMENTARY COUNSEL FLEXIBLE WORKING ARRANGEMENTS

P7.1 Staff employed as Assistant Parliamentary Counsel 1 have access to flextime in accordance with clause B18 -.

P7.2 Staff employed as Assistant Parliamentary Counsel 2 or 3 are entitled to Recovery Leave Arrangements as detailed in clause E24 -.

P7.3 Working arrangements within the PCO will take into consideration the provisions of clause B12 -.

P8 - REIMBURSEMENT OF PROFESSIONAL FEES

P8.1 The head of service may approve the reimbursement of fees incurred by an employee for professional affiliations that the head of service deems necessary and/or relevant for the employee to hold in order to undertake their duties.

P8.2 The employee will require prior approval from the head of service before incurring any expenses in relation to professional fees for which reimbursement will subsequently be sought.

P8.3 Nothing in this clause prohibits the fees payable under this clause being paid directly to the issuing body rather than on a reimbursement basis.

Section Q Directorate Specific Provisions – Legal Classification employees

Q1 - APPLICATION

- Q1.1 Section Q outlines provisions that apply to Legal Professionals employed at the Legal Officer Grade 1 and 2 in specified Directorates

Q2 - ENVIRONMENT, PLANNING AND SUSTAINABLE DEVELOPMENT DIRECTORATE SPECIFIC MATTERS

- Q2.1 Clause Q3 -applies to Legal Professionals employed in the Environment, Planning and Sustainable Development Directorate (EPSDD).

Q3 - WORKPLACE HEALTH AND SAFETY INITIATIVE

- Q3.1 EPSDD and its workers will continue to promote a safe and healthy workplace through its Workplace Health and Safety Committee in accordance with applicable legislative and policy obligations.
- Q3.2 EPSDD will:
- Q3.2.1 work with its employees to foster a healthy workplace by promoting safe work practices and encouraging a strong safety culture to thrive; this will include, but not be limited to, providing relevant Work Health and Safety accredited training and refresher courses;
 - Q3.2.2 in consultation with employees, and/or their representatives, monitor WHS issues and develop, maintain and enforce policies and strategies;
 - Q3.2.3 monitor WHS issues and make available funding within budget for activities which address prevailing issues including but not limited to personal protective equipment, ergonomic workplace assessments and preventative exercises to minimise risk of musculoskeletal injuries arising from manual handling; and
 - Q3.2.4 make available annual influenza vaccinations to all employees.

Q4 - HEALTH DIRECTORATE SPECIFIC MATTERS

- Q4.1 Clauses Q5 - to Q9 - apply to Legal Professionals employed in the Health Directorate.

Q5 - INFECTION CONTROL

- Q5.1 Where an employee has presented for work and is identified by a duly authorised Public Health Officer or Infection Control Officer to be a potential infection control risk to patients, or the staff member may be at risk in their normal work area, the head of service may temporarily transfer the employee to another work area, or direct the employee to be absent from duty until they are approved to return by the duly authorised Public Health Officer or Infection Control Officer.
- Q5.2 Where an employee is transferred or absent consistent with these arrangements the following will apply:

- Q5.2.1 the employee will be advised in writing; and
- Q5.2.2 will receive all entitlements that they would otherwise have received were they at work; and
- Q5.2.3 there will be no deduction from accrued leave entitlements for an absence under this clause.

Q6 - HEALTH ASSESSMENT

- Q6.1 The relevant head of service must direct an officer to attend a health assessment if the officer has been absent on account of illness, as a continuous period or in separate periods, for a total of thirteen weeks in any 26-week period. The other provisions of subclause E4.44 will continue to apply.

Q7 - SAFE TRAVEL

- Q7.1 The Directorate is committed to providing all employees with a safe workplace. Therefore, in extraordinary circumstances, including planned and unplanned overtime, which render the employee's normal transport unavailable or unsafe, the supervisor may arrange alternate transport. This may include, but is not limited to, payment for, or reimbursement of, taxi fares.
- Q7.2 Where an employee is re-called for duty for the second and subsequent times in a 24 hour period, they may elect to use a taxi to travel to and from work. Payment for, or reimbursement of, this taxi fare will be provided by the Directorate.

Q8 - OVERTIME ARRANGEMENTS FOR CASUAL EMPLOYEES

- Q8.1 Despite subclause B14 - the minimum attendance before overtime is payable for a casual employee is 8 hours, or the length of the shift, whichever is the greater.
- Q8.2 All overtime worked by casual employees in excess of the ordinary fortnightly hours of work for full-time employees (i.e. 73.5 hours or 76 hours per fortnight dependent upon the ordinary fortnightly hours identified by the Directorate for the position) will be paid at the rate described in clause C9 -.
- Q8.3 For the purposes of this clause the ordinary shift length will be considered to be 8 hours, except where the employee has agreed to work a shift of another length.

Q9 - OVERTIME ARRANGEMENTS FOR PART-TIME EMPLOYEES

- Q9.1 Despite clause C9 - the minimum attendance before overtime is payable for a part-time employee is 7:21 or 7:36, or the length of the shift, whichever is the greater.
- Q9.2 Despite clause C9 - a part-time employee will be paid at the rate of 125% of the employee's ordinary rate of pay in respect of all hours worked:
 - Q9.2.1 in excess of their rostered hours; and
 - Q9.2.2 less than 7:21 or 7:36, as applicable, or the length of the shift, whichever is the greater; and

Q9.2.3 on any day/shift, as applicable.

Q9.3 All overtime worked by a part time employee in excess of the ordinary fortnightly hours of work for a full-time employee (i.e. 73.5 hours or 76 hours per fortnight dependent upon the ordinary fortnightly hours identified by the Directorate for the position) will be paid at the rate described in clause C9 -.

Q10 - JUSTICE AND COMMUNITY SAFETY DIRECTORATE SPECIFIC MATTERS

Q10.1 Clauses Q11 - to Q16 - apply to Legal Officer Grade 1 and 2 employees in the Justice and Community Safety Directorate.

Q11 - PARTICIPATION IN PERFORMANCE MANAGEMENT PROGRAM

Q11.1 To participate in salary advancement procedures, all employees described at subclause Q10.1 must participate in the performance management program determined by their business unit.

Q11.2 For new and promoted employees, the performance management cycle will commence on engagement or promotion and continue thereafter on an annual basis.

Q11.3 If, in an annual performance management cycle, an employee is on leave for more than a total of 3 months, the assessment of the employee's performance and determination of the appropriate level of salary advancement (if any) in the circumstances, will be as agreed with the employee's manager.

Q12 - PERFORMANCE RATING SYSTEM

Q12.1 The following performance rating categories must be used as part of business unit guidelines for assessing the performance of the employee and determining the appropriate level of salary advancement.

Q12.1.1 Superior – an employee whose performance against the objectives in their Performance Agreement is well above that required, resulting in consistently high performance which usually exceeds standard (Satisfactory) competency expectations.

Q12.1.2 Satisfactory (the standard) – an employee who meets the objectives in their Performance Agreement, resulting in consistent and competent performance.

Q12.1.3 Needs development – an employee who has not met the objectives in their Performance Agreement at an appropriate level, resulting in performance being consistently below standard expectations. Underperformance measures will commence as per Section H– Underperformance.

Q13 - SALARY ADVANCEMENT

Q13.1 The provisions of clauses Q14 - and Q15 - will apply to the exclusion of the incremental progression and accelerated advancement provisions in clause C5 - of this Agreement and the Public Sector Management Act and Standards on Salary Advancement for Legal employees.

Q14 - SALARY ADVANCEMENT RATES – LEGAL 1 EMPLOYEES

- Q14.1 The following salary advancement rates apply to Legal 1 employees (other than those at the top pay point of the classification).
- Q14.2 Following the completion of a performance appraisal, the level of salary advancement for each performance rating category will be as follows:
- Q14.2.1 Superior – Two pay points
 - Q14.2.2 Satisfactory – One pay point
 - Q14.2.3 Needs development– No advancement
- Q14.3 Employees who have reached the top of the salary range will be rated Superior/Satisfactory/Needs development, in accordance with the performance management program determined by their Directorate, but with no change to salary.

Q15 - SALARY ADVANCEMENT RATES – LEGAL 2 EMPLOYEES

- Q15.1 Following the completion of a performance appraisal, the level of salary advancement for employees for each performance criteria rating category will be as follows:
- Q15.1.1 Superior/Satisfactory – One pay point
 - Q15.1.2 Needs development – No advancement
- Q15.2 Employees who have reached the top of the salary range will be rated Superior/Satisfactory/Needs development, in accordance with the performance management program determined by their Directorate, but with no change to salary.

Q16 - REIMBURSEMENT OF PROFESSIONAL FEES

- Q16.1 The head of service may approve the reimbursement of fees incurred by an employee for the maintenance of professional affiliations that the head of service deems necessary and/or relevant for the employee to hold in order to undertake their duties.
- Q16.2 The employee will require prior approval from the head of service before incurring any expenses in relation to trade and technical licences or professional fees for which reimbursement will subsequently be sought.
- Q16.3 Nothing in this clause prohibits the fees and licences payable under this clause being paid directly to the issuing body rather than on a reimbursement basis.

Section R ACT Courts and Tribunal

R1 - APPLICATION

- R1.1 Section R only applies to employees of the ACT Courts and Tribunal ("ACTCT") employed under this Agreement .
- R1.2 For the purposes of this Section (Section R) a Judicial Officer is a person who is:
- R1.2.1 a Judge of the Supreme Court, other than a person who is an Additional Judge appointed under the Supreme Court Act 1933 (or its successor Act), section 4A, or an Acting Judge appointed under the Supreme Court Act 1933 (or its successor Act), section 4B; or
 - R1.2.2 the Associate Judge of the Supreme Court; or
 - R1.2.3 a Magistrate; or
 - R1.2.4 the President, a full-time Presidential Member or a full-time Senior Member of the ACT Civil and Administrative Tribunal.

R2 - PARTICIPATION IN PERFORMANCE MANAGEMENT PROGRAM

- R2.1 To participate in salary advancement procedures, all employees described at subclause R1.1 must participate in the performance management program determined by their business unit.
- R2.2 For new and promoted employees, the performance management cycle will commence on engagement or promotion and continue thereafter on an annual basis.
- R2.3 If, in an annual performance management cycle, an employee is on leave for more than a total of 3 months, the assessment of the employee's performance and determination of the appropriate level of salary advancement (if any) in the circumstances, will be as agreed with the employee's manager.

R3 - PERFORMANCE RATING SYSTEM

- R3.1 The following performance rating categories must be used as part of the ACTCT guidelines for assessing the performance of the employee and determining the appropriate level of salary advancement.
- R3.1.1 Superior – an employee whose performance against the objectives in their Performance Agreement is well above that required, resulting in consistently high performance which usually exceeds standard (Satisfactory) competency expectations.
 - R3.1.2 Satisfactory (the standard) – an employee who meets the objectives in their Performance Agreement, resulting in consistent and competent performance.
 - R3.1.3 Needs development – an employee who has not met the objectives in their Performance Agreement at an appropriate level, resulting in performance being consistently below standard expectations. Underperformance measures will commence as per Section H – Underperformance.

R4 - ASSOCIATE TO A JUDICIAL OFFICER

R4.1 An Associate is a person employed to assist a Judicial Officer to perform their judicial or tribunal functions.

R4.2 Effective from the operation of this agreement, the Associate Classification will reduce to 3 levels from 4. The new classification levels and pay points are set out in the below table.

Classification Level	Pay Rate from the date of operation of this agreement if prior to 7/12/2023	Pay Rate from 7/12/2023
Associate Level 1	\$71,139	\$72,889
	\$72,875	\$74,625
Associate Level 2	\$83,351	\$85,101
	\$84,184	\$85,934
	\$87,364	\$89,114
Associate Level 3	\$89,956	\$91,706
	\$91,658	\$93,408

R4.3 Amended work level standards and position descriptions for the new Associate classification structure will be developed in consultation with staff and the union within six months of the commencement of this Agreement.

R4.4 Employment as an Associate shall be on a temporary basis. The period of temporary employment will normally be 12 months, however, at the absolute discretion of the head of service, employment at a particular Associate classification may be extended to a total of 18 months.

R4.5 Notwithstanding that Associates take direction from their individual Judicial Officer in relation to the performance of their duties, unless specified otherwise in this schedule they are subject to the conditions of employment including standards of conduct as a permanent ACTPS employee. The salary for these classifications is detailed at Annex A of this Agreement.

R4.6 Information packages on engagement as an Associate can be obtained from the relevant court or tribunal and will be available on their web sites. A court or tribunal may also advertise for Associates from time to time. Candidates seeking engagement must lodge their applications in accordance with the instructions in the information package.

R4.7 To be considered for engagement as an Associate to a Judicial Officer, a person must have or be undertaking a Bachelor or higher degree in law.

- R4.8 In recognition of the unique role that Associates have in supporting an individual Judicial Officer, any performance feedback scheme for Associates will be agreed between the Principal Registrar and CEO and:
- R4.8.1 In the case of Associates in the Supreme Court - the Chief Justice; or
 - R4.8.2 In the case of Associates in the Magistrates Court – the Chief Magistrate; or
 - R4.8.3 In the case of Associates in ACAT – the President.
- R4.9 The following provisions regarding flex time apply to all Associates and the ACTCT affirms its commitment to employees balancing work and private lives, as stated in B11 -.
- R4.9.1 An Associate may accrue flextime subject to their Judicial Officer being satisfied, on the basis of the record of time worked, that the time worked in excess of ordinary hours was a requirement of the Court or Tribunal. The Associate must maintain a time sheet, or other permanent record of times worked and attendance. These documents must be available for audit purposes where required.
 - R4.9.2 Accrued flextime credits will be taken at such times and in such a period or periods as are agreed between the Associate and their Judicial Officer and approved prior to taking accrued flextime.
 - R4.9.3 Due to the exigencies of chambers' workload and the duration of Court and Tribunal hearings, it may not be practicable for flextime to be granted within a reasonable period following its accrual. Subject to the convenience of the Judicial Officer, any accrued excess time which is not utilised pursuant to paragraph R4.9.2 may be taken in blocks from 1 day up to a maximum of 12 days at an appropriate agreed time and where operationally the time off can be facilitated.

R5 - ASSOCIATE TRANSLATION ARRANGEMENTS

- R5.1 Upon commencement of this Agreement, existing employees employed as an Associate will be translated to the new Associate classification and pay points outlined in Column B and at the relevant rate of pay as detailed in Annex A. The translation will occur without the need for a merit selection process under the PSM Act, and on a point to point basis from the classification and pay point identified in Column A to the corresponding classification and pay point in Column B of the following table.

Column A Previous classification and pay point	Column B New classification and pay point
Associate Level 1.1	Associate Level 1.1
Associate Level 1.2	Associate Level 1.2
Associate Level 2.1	Associate Level 2.1
Associate Level 2.2	Associate Level 2.1

Associate Level 3	Associate Level 2.3
Associate Level 4	Associate Level 3.1

- R5.2 Only individuals employed as an Associate at the time of this Agreement coming into operation will have access to the third pay point of an Associate Level 2 in Column B above. To be clear, any new employees engaged as an Associate after the commencement of this Agreement will have access to the first and second pay points of an Associate Level 2 only.

R6 - SALARY ADVANCEMENT

- R6.1 The provisions of clauses R7 - and R8 - will apply to the exclusion of the incremental progression and accelerated advancement provisions in clause C5 - of this Agreement and the Public Sector Management Act and Standards on Salary Advancement for Legal employees.

R7 - SALARY ADVANCEMENT RATES – ACTCT LEGAL 1 EMPLOYEES

- R7.1 The following salary advancement rates apply to ACTCT Legal 1 employees (other than those at the top pay point of the classification).
- R7.2 Following the completion of a performance appraisal, the level of salary advancement for each performance rating category will be as follows:
- R7.2.1 Superior – Two pay points
 - R7.2.2 Satisfactory – One pay point
 - R7.2.3 Needs development– No advancement
- R7.3 Employees who have reached the top of the salary range will be rated Superior/Satisfactory/Needs development, in accordance with the performance management program determined by their Directorate, but with no change to salary.

R8 - SALARY ADVANCEMENT RATES – ACTCT LEGAL 2 AND LEGAL 3 EMPLOYEES

- R8.1 Following the completion of a performance appraisal, the level of salary advancement for ACTCT Legal 2 and ACTCT Legal 3 employees for each performance criteria rating category will be as follows:
- R8.1.1 Superior/Satisfactory – One pay point
 - R8.1.2 Needs development – No advancement
- R8.2 Employees who have reached the top of the salary range will be rated Superior/Satisfactory/Needs development, in accordance with the performance management program determined by their Directorate, but with no change to salary.

R9 - ACCESS TO FLEXTIME AND RECOVERY LEAVE

- R9.1 Staff employed at the ACTCT Legal 1 classification have access to flextime in accordance with clause B18 -.
- R9.2 Staff employed at the ACTCT Legal 2 and 3 classification are entitled to Recovery Leave Arrangements as detailed in clause E24 -.

- R9.3 Subclause R9.2 only applies to employees engaged after the date of commencement of this Agreement.

R10 - REIMBURSEMENT OF PROFESSIONAL FEES

- R10.1 The Principal Registrar may approve the reimbursement of fees incurred by an employee for professional affiliations that the Principal Registrar deems necessary and/or relevant for the employee to hold in order to undertake their duties.
- R10.2 The employee will require prior approval from the Principal Registrar before incurring any expenses in relation to professional fees for which reimbursement will subsequently be sought.
- R10.3 Nothing in this clause prohibits the fees payable under this clause being paid directly to the issuing body rather than on a reimbursement basis.

R11 - CRIMINAL OFFENCES

- R11.1 This clause applies to the exclusion of clause G10 -:
- R11.2 An employee must advise the Principal Registrar in writing of:
- R11.2.1 any criminal charges laid;
 - R11.2.2 any criminal charges likely to be laid; or
 - R11.2.3 any investigation being undertaken by the Police or other investigative agency, which may result in a prosecution, as soon as they become aware of such matters.
- R11.3 This clause does not apply to traffic or regulatory offences for which an infringement notice is issued unless:
- R11.3.1 the infringement notice is a Simple Cannabis Notice under section 171 A of the Drugs of Dependence Act 1989; or
 - R11.3.2 the infringement is not paid and action is taken to enforce the notice.
- R11.4 Where an investigation is being undertaken by the Police or other investigative agency against an employee and the interest of the ACTCT, a court, ACAT or of the ACTPS may be adversely affected, the Principal Registrar may reassign, transfer or suspend the employee in accordance with arrangements under clause G6 -.
- R11.5 Where criminal charges are laid against an employee and the interests of the ACTCT, a court, ACAT or of the ACTPS may be adversely affected, the Principal Registrar may suspend the employee in accordance with the suspension arrangements under clause G6 -.
- R11.6 If an employee is convicted of a criminal offence, or a court finds that an employee has committed such an offence but a conviction is not recorded, the employee will provide a written statement regarding the circumstances of the offence to the Principal Registrar within seven calendar days of the conviction or the finding.
- R11.7 Where an employee is convicted of a criminal offence, or a court finds that an employee has committed such an offence but a conviction is not recorded,

and the conviction or finding has adversely affected the interests of the ACTCT, a court, ACAT or the ACTPS, the Principal Registrar may take discipline action against the employee in accordance with clause G4 -.

R12 - WORKPLACE BEHAVIOURS

- R12.1 This clause applies to the exclusion of subclause G1.7.
- R12.2 If an ACTCT employee's employment has ended with the ACTPS while a misconduct process is on foot, the Public Sector Standards Commissioner will consult with the Principal Registrar and may:
- R12.2.1 determine to complete the misconduct process under Section G 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 former employee to subsequently re-enter the ACTPS; or
 - R12.2.2 determine to stay the process upon the employee's resignation and communicate to the employee that the misconduct process may recommence if the former employee subsequently re-enters, or seeks to re-enter, the service. 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 paragraph G1.6.1 or taken into account with any application by the former employee to subsequently re-enter the ACTPS.

R13 - MISCONDUCT AND DISCIPLINE

- R13.1 This clause applies to the exclusion of sub clause G5.4:
- R13.1.1 Upon receiving a referral in accordance with subclause G5.1 the Public Sector Standards Commissioner will notify the Principal Registrar of the arrangements for an appropriately trained or experienced person (the investigating officer) to investigate the alleged misconduct in accordance with clause G7 - and provide the Principal Registrar with an opportunity to raise any potential concerns about conflicts of interest. If the Public Sector Standards Commissioner is of the view that an investigation will not resolve the matter the Public Sector Standards Commissioner will consult with the Principal Registrar and refer the matter back to the Principal Registrar as head of service for resolution or further consideration.
- R13.2 This clause applies to the exclusion of sub clause G5.7:
- R13.2.1 Where the Public Sector Standards Commissioner determines to instigate an investigation of alleged misconduct in the absence of a referral under sub clause G5.1, the Public Sector Standards Commissioner will discuss the matter with the Principal Registrar prior to implementing any investigation.

R14 - SUSPENSION, REASSIGNMENT OR TRANSFER

- R14.1 This clause applies to sub clause G6.2:

- R14.1.1 The Principal Registrar as head of service may, in addition to the matters set out in sub clause G6.2, have regard to the interests of a court, ACAT or the ACTCT and whether the employee continues to have the delegated powers necessary for them to perform the employee's duties.

R15 - DISCIPLINARY ACTION AND SANCTIONS

- R15.1 This clause applies to sub clause G9.4:

- R15.1.1 The Principal Registrar as head of service may, in addition to the matters set out in sub clause G9.4, have regard to the interests of a court, ACAT or the ACTCT and whether the employee continues to have the delegated powers necessary for them to perform the employee's duties.

Section S ACT Integrity Commission

S1 - APPLICATION

- S1.1 Section S applies to Para Legals employed within the ACT Integrity Commission.

S2 - PARA LEGAL EMPLOYEES - QUALIFICATIONS

- S2.1 The Para Legal classification structure provides a career path and professional development framework that recognises the unique role and responsibilities of these staff.
- S2.2 The minimum qualification appropriate to each level is as follows:
- S2.2.1 Para Legal Grade 1 - Certificate III in Business Administration (Legal).
 - S2.2.2 Para Legal Grade 2 - Certificate IV in Legal Services.
 - S2.2.3 Para Legal Grade 3 - Certificate IV in Legal Services.
 - S2.2.4 Para Legal Grade 4 - Diploma of Legal Services.
 - S2.2.5 Para Legal Grade 5 - Diploma of Legal Services.
- S2.3 The ACT Integrity Commission will support and encourage Para Legal staff to undertake these qualifications, and expects that they will make a concerted effort to complete them.
- S2.4 Temporary and casual employees may be engaged in Para Legal Grade 1 or 2 without having completed the mandatory minimum qualifications.
- S2.5 Para Legals may be progressed on higher duties without having completed the mandatory qualifications for the Para Legal classification.
- S2.6 On appointment, engagement or promotion to Para Legal Grade 1 or 2 employees will be expected to achieve the mandatory qualification standards in 12 months from the date of appointment, engagement or promotion. Where this does not occur the head of service may take action to terminate their employment. However, before taking any action the head of service must consider any extenuating circumstances that have impacted the employee's capacity to complete the qualification within the timeframe specified.

S3 - PARA LEGAL EMPLOYEES UNDERTAKING A LAW DEGREE

- S3.1 The minimum qualification requirements described in clause S2 - do not apply to Para Legal employees who are currently studying a law degree.

ANNEX A – CLASSIFICATIONS AND RATES OF PAY

CLASSIFICATION	Pay Rate as at 9.06.2022	\$1,750 from 5/01/2023	1% from 8/06/2023	\$1,750 from 7/12/2023	1.5% from 6/06/2024	1% + \$1,500 from 5/12/2024	1% from 5/06/2025	1% + \$1,000 from 4/12/2025
<u>LEGAL OFFICERS</u> <u>(WHOLE OF</u> <u>GOVERNMENT)</u>								
Legal Officer Grade 1	\$70,680	\$72,430	\$73,154	\$74,904	\$76,028	\$78,288	\$79,071	\$80,862
	\$75,224	\$76,974	\$77,744	\$79,494	\$80,686	\$82,993	\$83,823	\$85,661
	\$80,303	\$82,053	\$82,874	\$84,624	\$85,893	\$88,252	\$89,135	\$91,026
	\$85,285	\$87,035	\$87,905	\$89,655	\$91,000	\$93,410	\$94,344	\$96,287
	\$91,315	\$93,065	\$93,996	\$95,746	\$97,182	\$99,654	\$100,651	\$102,658
	\$96,569	\$98,319	\$99,302	\$101,052	\$102,568	\$105,094	\$106,145	\$108,206
	\$101,748	\$103,498	\$104,533	\$106,283	\$107,877	\$110,456	\$111,561	\$113,677
	\$114,928	\$116,678	\$117,845	\$119,595	\$121,389	\$124,103	\$125,344	\$127,597
	\$123,710	\$125,460	\$126,715	\$128,465	\$130,392	\$133,196	\$134,528	\$136,873
	\$142,352	\$144,102	\$145,543	\$147,293	\$149,502	\$152,497	\$154,022	\$156,562
Legal Officer Grade 2	\$154,663	\$156,413	\$157,977	\$159,727	\$162,123	\$165,244	\$166,896	\$169,565
	\$161,019	\$162,769	\$164,397	\$166,147	\$168,639	\$171,825	\$173,543	\$176,278

<u>ACT COURTS AND TRIBUNAL (ACTCT) LEGAL OFFICERS</u>	Pay Rate as at	\$1,750 from	1% from	\$1,750 from	1.5% from	1% + \$1,500 from	1% from	1% + \$1,000 from
	9.06.2022	5/01/2023	8/06/2023	7/12/2023	6/06/2024	5/12/2024	5/06/2025	4/12/2025
ACT Courts and Tribunal Legal 1	\$70,680	\$72,430	\$73,154	\$74,904	\$76,028	\$78,288	\$79,071	\$80,862
	\$75,224	\$76,974	\$77,744	\$79,494	\$80,686	\$82,993	\$83,823	\$85,661
	\$80,303	\$82,053	\$82,874	\$84,624	\$85,893	\$88,252	\$89,135	\$91,026
	\$85,285	\$87,035	\$87,905	\$89,655	\$91,000	\$93,410	\$94,344	\$96,287
	\$91,315	\$93,065	\$93,996	\$95,746	\$97,182	\$99,654	\$100,651	\$102,658
	\$96,569	\$98,319	\$99,302	\$101,052	\$102,568	\$105,094	\$106,145	\$108,206
	\$101,748	\$103,498	\$104,533	\$106,283	\$107,877	\$110,456	\$111,561	\$113,677
	\$114,928	\$116,678	\$117,845	\$119,595	\$121,389	\$124,103	\$125,344	\$127,597
	\$123,710	\$125,460	\$126,715	\$128,465	\$130,392	\$133,196	\$134,528	\$136,873
	\$142,352	\$144,102	\$145,543	\$147,293	\$149,502	\$152,497	\$154,022	\$156,562
ACT Courts and Tribunal Legal 2	\$154,663	\$156,413	\$157,977	\$159,727	\$162,123	\$165,244	\$166,896	\$169,565
	\$161,019	\$162,769	\$164,397	\$166,147	\$168,639	\$171,825	\$173,543	\$176,278
ACT Courts and Tribunal Legal 3	\$172,620	\$174,370	\$176,114	\$177,864	\$180,532	\$183,837	\$185,675	\$188,532
	\$180,081	\$181,831	\$183,649	\$185,399	\$188,180	\$191,562	\$193,478	\$196,413

<u>ASSOCIATE (ACTCT)</u>	Pay Rate as at 09.06.2022	\$1,750 from 05/01/2023	1% from 08/06/2023	\$1,750 from 07/12/2023
Associate Level 1	\$66,867 \$68,540	\$68,617 \$70,290	\$69,303 \$70,993	\$71,053 \$72,743
Associate Level 2	\$74,237 \$76,511	\$75,987 \$78,261	\$76,747 \$79,044	\$78,497 \$80,794
Associate Level 3	\$82,506	\$84,256	\$85,099	\$86,849
Associate Level 4	\$85,044	\$86,794	\$87,662	\$89,412

Note: The above Associate (ACTCT) classification structure and rates of pay are not to be used post the date of effect of this Agreement.

<u>ASSOCIATE (ACTCT)</u>	From operation of this agreement if prior to 7/12/2023	\$1,750 from 7/12/2023	1.5% from 6/06/2024	1% + \$1,500 from 5/12/2024	1% from 5/06/2025	1% + \$1,000 from 4/12/2025
Associate Level 1	\$71,139	\$72,889	\$73,982	\$76,222	\$76,984	\$78,754
	\$72,875	\$74,625	\$75,744	\$78,001	\$78,781	\$80,569
Associate Level 2	\$83,351	\$85,101	\$86,378	\$88,742	\$89,629	\$91,525
	\$84,184	\$85,934	\$87,223	\$89,595	\$90,491	\$92,396
	\$87,364	\$89,114	\$90,451	\$92,856	\$93,785	\$95,723
Associate Level 3	\$89,956	\$91,706	\$93,082	\$95,513	\$96,468	\$98,433
	\$91,658	\$93,408	\$94,809	\$97,257	\$98,230	\$100,212

DPP AND
ACT INTEGRITY
COMMISSION
PARA LEGALS

	Pay Rate as at	\$1,750 from	1% from	\$1,750 from	1.5% from	1% + \$1,500 from	1% from	1% + \$1,000 from
	9.06.2022	5/01/2023	8/06/2023	7/12/2023	6/06/2024	5/12/2024	5/06/2025	4/12/2025
Para Legal Grade 1	\$60,620	\$62,370	\$62,994	\$64,744	\$65,715	\$67,872	\$68,551	\$70,237
	\$63,781	\$65,531	\$66,186	\$67,936	\$68,955	\$71,145	\$71,856	\$73,575
	\$66,939	\$68,689	\$69,376	\$71,126	\$72,193	\$74,415	\$75,159	\$76,911
Para Legal Grade 2	\$70,403	\$72,153	\$72,875	\$74,625	\$75,744	\$78,001	\$78,781	\$80,569
	\$73,920	\$75,670	\$76,427	\$78,177	\$79,350	\$81,644	\$82,460	\$84,285
	\$76,255	\$78,005	\$78,785	\$80,535	\$81,743	\$84,060	\$84,901	\$86,750
Para Legal Grade 3	\$78,591	\$80,341	\$81,144	\$82,894	\$84,137	\$86,478	\$87,343	\$89,216
	\$80,566	\$82,316	\$83,139	\$84,889	\$86,162	\$88,524	\$89,409	\$91,303
	\$82,566	\$84,316	\$85,159	\$86,909	\$88,213	\$90,595	\$91,501	\$93,416
Para Legal Grade 4	\$84,749	\$86,499	\$87,364	\$89,114	\$90,451	\$92,856	\$93,785	\$95,723
	\$87,315	\$89,065	\$89,956	\$91,706	\$93,082	\$95,513	\$96,468	\$98,433
	\$89,705	\$91,455	\$92,370	\$94,120	\$95,532	\$97,987	\$98,967	\$100,957
Retention Point DPP only	\$92,802	\$94,552	\$95,498	\$97,248	\$98,707	\$101,194	\$102,206	\$104,228
Para Legal Grade 5	\$91,315	\$93,065	\$93,996	\$95,746	\$97,182	\$99,654	\$100,651	\$102,658
	\$93,530	\$95,280	\$96,233	\$97,983	\$99,453	\$101,948	\$102,967	\$104,997
	\$96,016	\$97,766	\$98,744	\$100,494	\$102,001	\$104,521	\$105,566	\$107,622
	\$100,714	\$102,464	\$103,489	\$105,239	\$106,818	\$109,386	\$110,480	\$112,585
	\$104,509	\$106,259	\$107,322	\$109,072	\$110,708	\$113,315	\$114,448	\$116,592

<u>DPP</u> <u>PROSECUTORS</u>	Pay Rate as at	\$1,750 from	1% from	\$1,750 from	1.5% from	1% + \$1,500 from	1% from	1% + \$1,000 from
	9.06.2022	5/01/2023	8/06/2023	7/12/2023	6/06/2024	5/12/2024	5/06/2025	4/12/2025
Graduate Legal Officer	\$76,255	\$78,005	\$78,785	\$80,535	\$81,743	\$84,060	\$84,901	\$86,750
	\$78,591	\$80,341	\$81,144	\$82,894	\$84,137	\$86,478	\$87,343	\$89,216
Prosecutor Associate	\$76,255	\$78,005	\$78,785	\$80,535	\$81,743	\$84,060	\$84,901	\$86,750
	\$78,591	\$80,341	\$81,144	\$82,894	\$84,137	\$86,478	\$87,343	\$89,216
Prosecutor Grade 1 – 2 (Broadband)	\$82,812	\$84,562	\$85,408	\$87,158	\$88,465	\$90,850	\$91,759	\$93,677
	\$88,423	\$90,173	\$91,075	\$92,825	\$94,217	\$96,659	\$97,626	\$99,602
	\$93,925	\$95,675	\$96,632	\$98,382	\$99,858	\$102,357	\$103,381	\$105,415
	\$106,388	\$108,138	\$109,219	\$110,969	\$112,634	\$115,260	\$116,413	\$118,577
	\$112,109	\$113,859	\$114,998	\$116,748	\$118,499	\$121,184	\$122,396	\$124,620
	\$117,852	\$119,602	\$120,798	\$122,548	\$124,386	\$127,130	\$128,401	\$130,685
	\$123,640	\$125,390	\$126,644	\$128,394	\$130,320	\$133,123	\$134,454	\$136,799
	\$129,452	\$131,202	\$132,514	\$134,264	\$136,278	\$139,141	\$140,532	\$142,937
Prosecutor Grade 3	\$135,088	\$136,838	\$138,206	\$139,956	\$142,055	\$144,976	\$146,426	\$148,890
	\$142,227	\$143,977	\$145,417	\$147,167	\$149,375	\$152,369	\$153,893	\$156,432
	\$149,380	\$151,130	\$152,641	\$154,391	\$156,707	\$159,774	\$161,372	\$163,986
Prosecutor Grade 4	\$155,509	\$157,259	\$158,832	\$160,582	\$162,991	\$166,121	\$167,782	\$170,460
	\$161,095	\$162,845	\$164,473	\$166,223	\$168,716	\$171,903	\$173,622	\$176,358
	\$166,721	\$168,471	\$170,156	\$171,906	\$174,485	\$177,730	\$179,507	\$182,302
Prosecutor Grade 5	\$182,406	\$184,156	\$185,998	\$187,748	\$190,564	\$193,970	\$195,910	\$198,869
	\$187,881	\$189,631	\$191,527	\$193,277	\$196,176	\$199,638	\$201,634	\$204,650
	\$193,395	\$195,145	\$197,096	\$198,846	\$201,829	\$205,347	\$207,400	\$210,474

<u>GOVERNMENT SOLICITORS</u>	Pay Rate as at	\$1,750 from	1% from	\$1,750 from	1.5% from	1% + \$1,500 from	1% from	1% + \$1,000 from
	9.06.2022	5/01/2023	8/06/2023	7/12/2023	6/06/2024	5/12/2024	5/06/2025	4/12/2025
Government Solicitor 1	\$80,822	\$82,572	\$83,398	\$85,148	\$86,425	\$88,789	\$89,677	\$91,574
	\$85,812	\$87,562	\$88,438	\$90,188	\$91,541	\$93,956	\$94,896	\$96,845
	\$91,937	\$93,687	\$94,624	\$96,374	\$97,820	\$100,298	\$101,301	\$103,314
	\$97,544	\$99,294	\$100,287	\$102,037	\$103,568	\$106,104	\$107,165	\$109,237
	\$103,775	\$105,525	\$106,580	\$108,330	\$109,955	\$112,555	\$113,681	\$115,818
	\$109,497	\$111,247	\$112,359	\$114,109	\$115,821	\$118,479	\$119,664	\$121,861
	\$115,238	\$116,988	\$118,158	\$119,908	\$121,707	\$124,424	\$125,668	\$127,925
	\$121,026	\$122,776	\$124,004	\$125,754	\$127,640	\$130,416	\$131,720	\$134,037
Government Solicitor 2	\$126,839	\$128,589	\$129,875	\$131,625	\$133,599	\$136,435	\$137,799	\$140,177
	\$132,441	\$134,191	\$135,533	\$137,283	\$139,342	\$142,235	\$143,657	\$146,094
	\$137,346	\$139,096	\$140,487	\$142,237	\$144,371	\$147,315	\$148,788	\$151,276
	\$142,538	\$144,288	\$145,731	\$147,481	\$149,693	\$152,690	\$154,217	\$156,759
	\$147,335	\$149,085	\$150,576	\$152,326	\$154,611	\$157,657	\$159,234	\$161,826
	\$152,194	\$153,944	\$155,483	\$157,233	\$159,591	\$162,687	\$164,314	\$166,957
Government Solicitor 3	\$159,186	\$160,936	\$162,545	\$164,295	\$166,759	\$169,927	\$171,626	\$174,342
	\$165,365	\$167,115	\$168,786	\$170,536	\$173,094	\$176,325	\$178,088	\$180,869
	\$169,815	\$171,565	\$173,281	\$175,031	\$177,656	\$180,933	\$182,742	\$185,569
	\$174,930	\$176,680	\$178,447	\$180,197	\$182,900	\$186,229	\$188,091	\$190,972
	\$180,081	\$181,831	\$183,649	\$185,399	\$188,180	\$191,562	\$193,478	\$196,413
Government Solicitor 4	\$189,604	\$191,354	\$193,268	\$195,018	\$197,943	\$201,422	\$203,436	\$206,470
	\$195,054	\$196,804	\$198,772	\$200,522	\$203,530	\$207,065	\$209,136	\$212,227
	\$200,574	\$202,324	\$204,347	\$206,097	\$209,188	\$212,780	\$214,908	\$218,057
	\$206,169	\$207,919	\$209,998	\$211,748	\$214,924	\$218,573	\$220,759	\$223,967
	\$210,564	\$212,314	\$214,437	\$216,187	\$219,430	\$223,124	\$225,355	\$228,609

<u>PARLIAMENTARY COUNSEL</u>	Pay Rate as at	\$1,750 from	1% from	\$1,750 from	1.5% from	1% + \$1,500 from	1% from	1% + \$1,000 from
	9.06.2022	5/01/2023	8/06/2023	7/12/2023	6/06/2024	5/12/2024	5/06/2025	4/12/2025
Assistant Parliamentary Counsel 1	\$70,680	\$72,430	\$73,154	\$74,904	\$76,028	\$78,288	\$79,071	\$80,862
	\$75,224	\$76,974	\$77,744	\$79,494	\$80,686	\$82,993	\$83,823	\$85,661
	\$80,303	\$82,053	\$82,874	\$84,624	\$85,893	\$88,252	\$89,135	\$91,026
	\$85,285	\$87,035	\$87,905	\$89,655	\$91,000	\$93,410	\$94,344	\$96,287
	\$91,315	\$93,065	\$93,996	\$95,746	\$97,182	\$99,654	\$100,651	\$102,658
	\$96,569	\$98,319	\$99,302	\$101,052	\$102,568	\$105,094	\$106,145	\$108,206
	\$101,748	\$103,498	\$104,533	\$106,283	\$107,877	\$110,456	\$111,561	\$113,677
	\$114,928	\$116,678	\$117,845	\$119,595	\$121,389	\$124,103	\$125,344	\$127,597
	\$123,710	\$125,460	\$126,715	\$128,465	\$130,392	\$133,196	\$134,528	\$136,873
	\$142,352	\$144,102	\$145,543	\$147,293	\$149,502	\$152,497	\$154,022	\$156,562
Assistant Parliamentary Counsel 2	\$154,663	\$156,413	\$157,977	\$159,727	\$162,123	\$165,244	\$166,896	\$169,565
	\$161,019	\$162,769	\$164,397	\$166,147	\$168,639	\$171,825	\$173,543	\$176,278
Assistant Parliamentary Counsel 3	\$172,620	\$174,370	\$176,114	\$177,864	\$180,532	\$183,837	\$185,675	\$188,532
	\$180,081	\$181,831	\$183,649	\$185,399	\$188,180	\$191,562	\$193,478	\$196,413

ANNEX B – ATTRACTION AND RETENTION INCENTIVES

1. Introduction

- 1.1. This Section ('the Framework') sets out the provisions that apply to Attraction and Retention Incentives (ARIns).
- 1.2. An ARIn may only be agreed and approved in accordance with this Framework.
- 1.3. ARIns apply to all employee types employed in classifications covered by this Agreement.
- 1.4. Subject to the terms of this Framework, it is a matter for the director-general's sole discretion (in consultation with the head of service) as to whether an ARIn will be offered or continued.
- 1.5. In assessing whether an ARIn should be offered or continued to an employee, the director-general will consider the consequences the provision of the ARIn may have on the Territory's ability to recruit and/or retain employees to Executive positions.
- 1.6. In this Framework, unless the contrary intention appears:
 - 1.6.1. 'Attraction and Retention Incentives' (ARIns) means additional pay and/or conditions of employment, provided in recognition of the additional requirements of a position that are set out in paragraph 2.3 and recorded through a written agreement between the director-general and the employee occupying the position to which the ARIn is to apply.
 - 1.6.2. 'Base rate of pay' in relation to an employee is the rate of pay payable under Annex A of this Agreement for the employee's classification on the date the ARIn commences, or for a review, on the date that the ARIn is approved, or renewed, following a review.
 - 1.6.3. 'Director-general' means the person occupying the position of director-general of the relevant directorate, or their nominated delegate.
 - 1.6.4. 'Group ARIn' means an ARIn approved by the Director-General, after consideration by the head of service, for a number of related positions with the same classification performing an identical function in a directorate, which is applied to the employees in those positions.
 - 1.6.5. 'Head of service' means the person occupying the position and exercising the powers of the head of service.
 - 1.6.6. A reference to 'position, employee, occupant or union' includes 'positions, employees, occupants or unions'.
 - 1.6.7. 'Relevant market data' may include but is not limited to job sizing assessments, recruitment experience, market surveys and job advertisements.
 - 1.6.8. The 'rates of pay component' of an ARIn refers to enhanced pay rates as per subparagraph 2.4.1 only and does not include any additional lump sum or periodic component of an ARIn or any additional provision approved per subparagraph 2.4.2 or subparagraph 2.4.3.

2. ARIn Requirements

- 2.1. The terms and conditions of employment of this Agreement will continue to form the basis for employees covered by this Agreement. Accordingly, where an ARIn applies to an employee, the terms and conditions of the employee is a combination of both of the following:
 - 2.1.1. the terms and conditions contained in this Agreement; and
 - 2.1.2. the terms and conditions contained in the ARIn.
- 2.2. The terms and conditions of employment contained in an ARIn prevail over the terms and conditions of employment contained in this Agreement to the extent of any inconsistency.
- 2.3. In determining whether to offer or continue an ARIn to an employee, the director-general will have regard to all the following relevant matters:
 - 2.3.1. whether the position is critical to the operation of the Directorate or to a business unit in the Directorate;

- 2.3.2. whether an employee who occupies the position requires specialised qualifications, skill set and/or experience to perform the requirements of the position;
 - 2.3.3. whether the role and skills required by the employee who occupies the position are in high demand;
 - 2.3.4. the level at which comparable individuals with skills and qualifications for the role are remunerated in the marketplace;
 - 2.3.5. the difficulty and cost associated with recruiting to the position;
 - 2.3.6. any other matter considered relevant to determining whether or not an ARIn would be appropriate in the circumstances.
- 2.4. An ARIn may contain:
- 2.4.1. enhanced pay rates;
 - 2.4.2. enhanced superannuation contribution rates;
 - 2.4.3. other terms and conditions of employment where the Director-General considers there is a clear, unambiguous, and exceptional need.
- 2.5. The terms of the ARIn instrument must contain provisions setting out
- 2.5.1. the expiry date of the ARIn;
 - 2.5.2. the level of the employee's base rate of pay;
 - 2.5.3. the pay component, any other terms and conditions of employment that are to apply under the ARIn, and the total dollar value of the ARIn;
 - 2.5.4. the requirement that the terms and conditions of the employee will revert to the applicable rates of pay and terms and conditions of employment under this Agreement in the event the ARIn ceases to operate or is terminated; and
 - 2.5.5. the terms of this Framework are included by reference.

3. No Overall Reduction in Terms and Conditions

- 3.1. An ARIn must not be agreed where it would result, when assessed as a whole, in a reduction in the overall terms and conditions of employment provided for the employee under this Agreement.
- 3.2. An ARIn cannot provide terms and conditions that are less favourable than the National Employment Standards or the rates of pay set out in this Agreement for the same work at the same classification level.
- 3.3. Where it is proposed that an ARIn will replace or reduce a condition of employment contained in this Agreement, the director-general will consult with the relevant union with coverage of the position through the Office of Industrial Relations and Workplace Strategy ('OIRWS') about the proposed change prior to the provision of a written submission to the head of service for consideration.
- 3.4. In consulting with the OIRWS and union in accordance with paragraph 3.3, the director-general will:
 - 3.4.1. provide the OIRWS and union with relevant information about the position and the proposed change;
 - 3.4.2. give the union a reasonable opportunity to consider this information and, if the union wishes, provide written views to the director-general within fourteen days; and
 - 3.4.3. consider any views offered by the union before deciding to enter into the ARIn.
- 3.5. Information that the director-general provides to the union under this section will not include information that might directly or indirectly disclose the identity of the particular employee unless the employee consents to its release.

4. ARIn Requirements During a Recruitment Process

Advertising with an ARIn

- 4.1. Where a proposed ARIn is not within the scope of a Group ARIn, a recruitment selection process may incorporate an ARIn by advertising the position at a higher package value, comprising the relevant Agreement rate of pay plus an identified ARIn amount.
- 4.2. In these circumstances pre-approval of the ARIn through a Comprehensive Submission is required prior to advertising. When the ARIn is implemented (after the employee commences), a second Comprehensive Submission to the head of service is not required.

Offering an ARIn as part of a job offer

- 4.3. Where a proposed ARIn is not within the scope of a Group ARIn, a recruitment selection process at the offer stage may incorporate an ARIn as part of the offer of employment.
- 4.4. In such circumstances the recruitment material and advertisement must state the position rate of pay set out in this Agreement, and state that an ARIn may be available to the successful applicant.
 - 4.4.1. This approach is not recommended as a better field of applicants may be attracted when a position is advertised with a higher package identified up front.
- 4.5. In these circumstances pre-approval of the ARIn through a Comprehensive Submission is not required prior to advertising, but if an ARIn is ultimately proposed to be offered to the successful applicant, approval is required through a Comprehensive Submission prior to the offer being made. Time for the review process to occur must be anticipated in the recruitment process.

Advertising Group ARIns

- 4.6. When a position to be advertised is covered by a current Group ARIn, there is no need for a further Comprehensive Submission (as it has already been completed as part of the Group ARIn approval process). As such, while the position remains covered by the scope of a Group ARIn, it will automatically apply and should be included in the advertisement.

ARIn Requirements

- 4.7. Where an ARIn is used as part of a recruitment process:
 - 4.7.1. the total package (excluding superannuation) should be disclosed and disaggregated to show:
 - 4.7.1.1. the relevant Agreement rate; and
 - 4.7.1.2. the content of the ARIn, which is reviewable under the terms of this Agreement.
- 4.8. The nature of the information disclosed at the point of advertising will depend on the type of ARIn used, but applicants should be made aware the ARIn:
 - 4.8.1. is reviewable in accordance with the ARIn Framework;
 - 4.8.2. may be terminated, or have its value adjusted (either up or down); and
 - 4.8.3. must continue to meet the eligibility criteria, including consideration of relevant market rates and/or changes to the operational requirements of the business unit.

5. Deeming

- 5.1. An ARIn that is applied to a position, and to the employee occupying the position to which the ARIn applies, which is covered by this Agreement on the day before the Agreement commenced operation will continue in accordance with the provisions of this Framework.

6. Types of ARIns

- 6.1. The director-general may approve an ARIn as follows.

Project ARIns

- 6.2. A Project ARIn requires:
 - 6.2.1. the additional remuneration meets the criteria in paragraph 2.1 of this Framework;
 - 6.2.2. a term no longer than 36 months; and

- 6.2.3. the employee's work to which the ARIn is attached is associated with the employee's role in a specified project with a finite term.
- 6.3. A Project ARIn cannot be renewed and will cease to operate on the date specified in the ARIn for cessation of the position's involvement in the project, or the date of completion of the project, whichever date is the earlier.
- 6.4. A Comprehensive Submission is required to establish a Project ARIn, but no further reviews are required.
- 6.5. Where required, a subsequent new Project ARIn may be offered once only. Where this occurs, a Comprehensive Submission is required.

Fixed Term ARIns

- 6.6. A Fixed Term ARIn requires:
 - 6.6.1. that the additional remuneration meets the criteria in paragraph 2.3 of this Framework;
 - 6.6.2. a term no longer than 12 months.
- 6.7. A Comprehensive Submission is required to establish a Fixed Term ARIn, but no further reviews are required.
- 6.8. A Fixed Term ARIn cannot be varied or renewed and will automatically cease on its specified expiry date.

Renewable ARIns

- 6.9. A Renewable ARIn requires:
 - 6.9.1. the additional remuneration to meet the criteria in paragraph 2.3 of this Framework;
 - 6.9.2. a term no longer than 36 months.
- 6.10. A Renewable Term ARIn will cease to operate on the date specified in the ARIn.
- 6.11. A Renewable ARIn will cease to operate where the ARIn is reviewed in accordance with section 7 of this Framework and the director-general determines following the review that the ARIn should no longer apply. The date of effect of the ARIn cessation is the date that is at least ninety days after the date notice is provided to the employee of cessation of the ARIn, or on an earlier date if agreed by the employee.
- 6.12. A Comprehensive Submission is required to establish a Renewable ARIn.
- 6.13. A Renewable ARIn requires a Renewal Submission no more than 18 months from commencement or from the last Renewal or Comprehensive Submission.
 - 6.13.1. The purpose of the Renewal Submission is to determine whether the director-general continues to consider that it is appropriate to provide an employee occupying the position to which the ARIn applies with the terms and conditions of employment provided by the ARIn.

Group ARIns

- 6.14. Where it is proposed that identical ARIns are to apply to a group of positions performing identical functions at the same classification level within a Directorate, this may be done as a single 'block' approval giving rise to a Group ARIn.
- 6.15. A Group ARIn requires:
 - 6.15.1. the additional remuneration to meet the criteria in paragraph 2.3 of this Framework; and
 - 6.15.2. a term no longer than three years; and
 - 6.15.3. a group of positions and employees performing identical functions at the same classification level, approved in a block in accordance with paragraph 6.14 for a period of up to three years.
- 6.16. A Comprehensive Submission is required to:
 - 6.16.1. establish a Group ARIn;
 - 6.16.2. at the midpoint of this Agreement term; and
 - 6.16.3. prior to the nominal expiry date of this Agreement.
- 6.17. Following a review and consultation with the head of service, the director-general will determine whether:

- 6.17.1. the ARIn should be renewed (in the same or different terms);
- 6.17.2. ceased in accordance with paragraph 6.21 or
- 6.17.3. in the case of a review conducted in accordance with paragraph 6.16.3, the additional pay component of the ARIn should be incorporated into base rates of pay in any subsequent Agreement.
- 6.18. To establish a Group ARIn only one Comprehensive Submission needs to be made in accordance with section 7 of this Framework in relation to the group of positions as identified in the submission to the head of service.
- 6.19. If following a review under section 7 the director-general determines that the ARIn should be renewed (on the same or different terms) the revised ARIn will apply to all employees in the specified positions or class of positions.
- 6.20. Employees may be offered a Group ARIn during the term the Group ARIn is in effect. Each employee in a position covered by the Group ARIn will be provided with an individual ARIn providing the same benefits and expiration date.
- 6.21. A Group ARIn will cease to operate where the ARIn is reviewed in accordance with section 7 of this Framework and the director-general determines following the review that the ARIn should no longer apply. The date of effect of the ARIn cessation is the date that is at least ninety days after the date notice is provided to the employee of cessation of the ARIn, or on an earlier date if agreed by the employee.

7. Review

Comprehensive Submission

- 7.1. In reviewing an ARIn, the director-general must have regard to the matters to be considered at paragraph 2.3. The director-general must also take into consideration relevant market data.
- 7.2. To commence, cease or change any ARIn, a Comprehensive Submission to the head of service is required. Specifically, a Comprehensive Submission is required to be submitted where:
 - 7.2.1. a preliminary view is formed by the director-general that the position ceases to be critical to the operation of the Directorate or business unit in the Directorate;
 - 7.2.2. a preliminary view is formed by the director-general that the employee ceases to hold the required specialist qualifications or specialist attributes;
 - 7.2.3. a new ARIn (Project ARIn, Fixed Term ARIn, Renewable ARIn or Group ARIn) is being proposed for an existing employee or group of employees;
 - 7.2.4. in relation to a Renewable ARIn, three years have elapsed since the last Comprehensive Submission;
 - 7.2.5. in relation to a Group ARIn, to establish a Group ARIn and no more than three years from either commencement or from the last Comprehensive Submission and prior to the date of expiry of this Agreement;
 - 7.2.6. a position is to be advertised with a rate of pay which includes the proposed ARIn amount; or
 - 7.2.7. a variation is being proposed to an existing Renewable ARIn or Group ARIn.
- 7.3. A Comprehensive Submission must:
 - 7.3.1. address the matters to be considered at paragraph 2.3 of this Framework; and
 - 7.3.2. address whether the substantive position is correctly classified; and
 - 7.3.3. address whether the position's job description and/or organisation structure of the business unit can be adjusted to mitigate the need for an ARIn; and
 - 7.3.4. where the director-general considers that there is a compelling reason for the Directorate to pay enhanced rates of pay in excess of 50% of the base rate of pay for the position's classification, the director-general will provide the OIRWS details of that compelling reason, including appropriate evidence and supporting remuneration data.
- 7.4. When a recruitment selection process is proposed to include a pre-approved ARIn, the Comprehensive Submission must:

- 7.4.1. address the circumstances of the recruitment selection process (i.e., why an ARIn is necessary to be included in the advertised rate);
- 7.4.2. demonstrate the position (or a similar position) has recently been advertised without an ARIn and did not attract a suitable field or provide evidence that advertising at the Agreement rate will not attract a suitable field; and
- 7.4.3. set out the reasons in support of the ARIn itself (i.e., why the position meets the ARIn eligibility criteria).

Renewal Submission

- 7.5. Where, following head of service consideration of a Comprehensive Submission and a Renewable ARIn is approved by the director-general, it must be reassessed no more than 18 months later through a Renewal Submission.
- 7.6. A Renewal Submission is required to be completed where:
 - 7.6.1. it is proposed that a Renewable ARIn should be renewed on the same terms;
 - 7.6.2. an employee who is party to a Fixed Term, Renewable or Project ARIn temporarily vacates the position to which the ARIn relates, and it is being proposed that the ARIn be provided to the employee who is acting in the vacated position; or
 - 7.6.3. an employee who is party to a Fixed Term, Renewable or Project ARIn temporarily vacates the position to which the ARIn relates for a period of ninety days or more, and it is being proposed that the ARIn apply to the employee upon the employee's return to the position.

Overdue Submissions

- 7.7. A Comprehensive or Renewal Submission due under this Agreement must be completed before the due date.
- 7.8. Where a Comprehensive or Renewal Submission is not completed before the due date, the responsible Directorate will within one week of the due date passing:
 - 7.8.1. notify the employee(s) covered by the ARIn of the delay;
 - 7.8.2. provide reasons for the delay to the head of service; and
 - 7.8.3. develop and implement a plan to ensure the review is completed within three months.
- 7.9. If the review is not completed within the three-month period, the head of service will arrange for the review to be completed expeditiously.
- 7.10. The ARIn will continue until the review is completed in accordance with either subparagraph 7.8.3 or paragraph 7.9.

8. Consultation Requirements

- 8.1. Nothing in this section is intended to reduce overall terms and conditions.
- 8.2. The employee may invite a union or other employee representative to assist or represent their interests during consultation.

Establishment

- 8.3. The director-general must consult on the proposed terms of an ARIn with the employee to whom the ARIn is to apply, prior to the ARIn being approved; except where the ARIn is to be included as part of a recruitment process and there is no retrospective employee recruited at that stage.

Renewal or Cessation

- 8.4. If the position to which the ARIn applies is occupied when undertaking a review of the ARIn, the director-general will consult with the employee occupying the position to which the ARIn applies.
- 8.5. Where the employee occupying the position for which the ARIn is being reviewed is on long-term leave or is not responsive, reasonable attempts must be made to consult with the employee, or the employee's

representative. If such reasonable attempts to consult with the employee are unsuccessful, then the director-general may proceed with the review without the input of the employee.

- 8.6. Upon completion of the review the director-general will notify the affected employee(s) in writing, and where relevant their representative(s), of the preliminary outcomes and reasons for the decision. The director-general will provide the employee(s) and their representative(s) 14 days in which to provide a written response for consideration by the director-general before making a final decision.

No Overall Reduction in Terms and Conditions

- 8.7. Where the terms of paragraph 3.3 are met, the director-general must consult with the relevant union in accordance with paragraph 3.3.

9. Approval Requirements

- 9.1. The director-general may only approve an ARIn when the following has occurred:
- 9.1.1. Taking into account the matters to be considered under paragraph 2.1 of this Framework, the director-general in his or her sole discretion considers that it is appropriate to provide an employee with terms and conditions of employment that are in excess of those which are ordinarily provided for under this Agreement.
 - 9.1.2. The consultation requirements in section 8 of this Framework have been met.
 - 9.1.3. The review requirements in section 7 of this Framework have been met.
- 9.2. Before approving an ARIn the director-general must consider the views of the head of service.

10. Operation

- 10.1. The rates of pay component of an ARIn will count as pay for all purposes including superannuation and for the purposes of calculating the rate of pay for annual leave, long service leave, paid personal leave, paid maternity leave, redundancy payments and other paid leave granted under this Agreement. If leave is on reduced pay or without pay, the pay component of the ARIn must be reduced proportionately.
- 10.2. Normal incremental advancement (where available) and pay and superannuation increases contained in Section C of this Agreement will continue to apply in relation to the substantive classification of the employee in receipt of an ARIn. Pay increase percentages will not apply to the pay component of an ARIn unless specified in the ARIn.
- 10.3. Any payments made pursuant to paragraph 10.2 of this Framework are paid in addition to the ARIn i.e. this means the ARIn payment does not absorb increases paid pursuant to paragraph 10.2.
- 10.4. The rates of pay component of an ARIn is payable by fortnightly instalment or lump sum.
- 10.5. The additional pay component provided under an ARIn may be used for the purposes of salary sacrifice arrangements in accordance with the Salary Sacrifice Arrangement provisions of this Agreement. Where an employee salary sacrifices any part of the terms of an ARIn and, in accordance with this Framework, the ARIn ceases to apply, the employee must notify the salary sacrifice arrangement provider that the terms of the ARIn can no longer be packaged.
- 10.5.1. The pay component of an ARIn cannot be directly linked to performance pay.
- 10.6. An ARIn will be paid proportionately on a pro-rata basis where the employee is part time. Where the scheduled part time hours worked by an employee to which the ARIn applies are amended the ARIn reduces (or increases) proportionately.
- 10.7. ARIn's are generally not paid retrospectively, but with the approval of the head of service may be for up to 3 months.
- 10.8. The ARIn will commence from whichever is the latter (unless an earlier date has been agreed by the head of service in accordance with paragraph 10.7):
- 10.8.1. the date specified in the ARIn; or
 - 10.8.2. the date of final approval by the director-general after the requirements of section 6 are met.

- 10.9. An ARIn will cease to apply to an employee on the date that employee vacates the position to which the ARIn applies, including when the employee becomes unattached or is temporarily transferred to another position.
- 10.9.1. A Renewal Submission is required to be completed where an ARIn is to apply to another employee who occupies the vacated position, unless the position and the other employee are covered by the same Group ARIn. A renewal submission will be required in these circumstances.
- 10.9.2. The ARIn will automatically apply to the employee upon their return to the vacated position. A renewal submission will not be required in these circumstances.
- 10.10. An ARIn will cease to apply to an employee in relation to a sanction arising from a misconduct or underperformance matter, on the date the sanction is to apply where the delegate determines that the sanction to be applied to the employee is termination of the application of the ARIn.
- 10.11. An ARIn will cease to apply to an employee on the date an employee loses the qualification, or registration which allows them to perform the duties of the position to which the ARIn relates.

ANNEX C – EXPENSE, DISABILITY AND SKILL RELATED ALLOWANCES

Advanced First Aid		Pay rate at 9/6/22	1.79% from 05/01/2023	1% from 08/06/2023	1.74% from 07/12/2023	1.5% from 06/06/2024	2.44% from 05/12/2024	1% from 05/06/2025	1.93% from 04/12/2025
Classification	Any								
Employee Type	Any								
Description	An employee is eligible for an allowance relevant to their qualification for any day or part-day they are on duty in the workplace to perform the duties of a first aid officer if all the following apply: <ol style="list-style-type: none"> 1. They are designated as the primary contact for first aid to perform the duties of a first aid officer. 2. They hold one of the following qualifications required for that role. <ol style="list-style-type: none"> a. Advanced level qualification which provides competencies required to apply advanced first aid procedures and advanced first aid response in a workplace environment. b. Occupational or specialist level qualification which provides the employee with the ability to completely render first aid in the workplace in the context of work health and safety legislation. 								
Conditions	All the following conditions apply: <ol style="list-style-type: none"> 1. Where the qualification of an employee who is in receipt of the allowance is no longer current, the 								

	<p>head of service may allow the continued payment of the allowance for a short period to allow for re-qualification.</p> <p>2. The head of service may reimburse fees for renewal of qualifications and relevant courses incurred by an employee who is eligible to be paid a first aid allowance.</p> <p>3. 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.</p> <p>4. The allowance must not be included in salary for overtime or penalty payments.</p> <p>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>									
	Per day (1) Advanced level:	\$3.67	\$3.74	\$3.77	\$3.84	\$3.90	\$3.99	\$4.03	\$4.11	
	Per day (2) Occupational or specialist:	\$4.36	\$4.44	\$4.48	\$4.56	\$4.63	\$4.74	\$4.79	\$4.88	
Payment on Leave	Not paid during any type of unpaid leave									
Exclusions	<p>The allowance is not payable to either of the following:</p> <p>1. An employee who, as part of their normal duties, is required to maintain a first aid qualification.</p> <p>2. An employee who receives Corporate Citizens allowance for</p>									

	their role as a First Aid Officer or Fire Warden.	
Definitions	Workplace means a work location at which the employee, and one or more work colleagues, performs duty. Note: It does not include the home location when working from home.	
Allowance Type	Qualification	

Community Language		Pay rate at 9/6/22	1.79% from 05/01/2023	1% from 08/06/2023	1.74% from 07/12/2023	1.5% from 06/06/2024	2.44% from 05/12/2024	1% from 05/06/2025	1.93% from 04/12/2025
Classification	Any								
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 National Accreditation Authority for Translators and Interpreters (NAATI) level, as follows:								
Rate/Frequency	Per annum (paid in equal fortnightly instalments) (1) Community Language Aide (NAATI Level 1):	\$1,288	\$1,311.06	\$1,324.17	\$1,347.21	\$1,367.41	\$1,400.78	\$1,414.79	\$1,442.09
	Per annum (paid in equal fortnightly instalments) (2) Certified Provisional Interpreter (NAATI Level 2):	\$2,573	\$2,619.06	\$2,645.25	\$2,691.27	\$2,731.64	\$2,798.30	\$2,826.28	\$2,880.83

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.
Notes	<p>1. Eligible part-time employees are entitled to receive the allowance on a pro-rata basis.</p> <p>2. Where assessment in a language is not offered by NAATI, the head of service 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.</p> <p>3. The head of service should arrange accreditation testing, and pay any associated fees.</p>
	<p>4. Until such time as recognition by NAATI, or an alternative provider, is available, the head of service may approve the payment at Community Language Aide (NAATI Level 1) to an employee on the certification of the employee's supervisor.</p> <p>5. The allowance may be paid from the date of an employee's application for payment, or from the date at which the head of service determines the need for the language has been demonstrated.</p> <p>6. Payment of the allowance should be reviewed annually, or whenever</p>

	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.	
Allowance Type	Qualification	

Corporate Citizens		On agreement effective date	1% from 08/06/2023	1.74% from 07/12/2023	1.5% from 06/06/2024	2.44% from 05/12/2024	1% from 05/06/2025	1.93% from 04/12/2025
Classification	Any							
Employee Type	Any							
Description	An employee is eligible for an allowance for any day or part-day they are designated and available to perform the duties of one of the following roles: 1. First Aid Officer. The employee must be designated as the primary contact for first aid and perform the duties of a first aid officer in a workplace or work group. They must hold a base level or higher first aid qualification that 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.

If the qualification of an employee who is in receipt of the allowance is no longer current, the head of service may allow the continued payment of the allowance for a short period to allow for re-qualification.

The head of service may reimburse fees for renewal of an employee's first aid qualification.

2. **Fire Warden.** The employee must be a designated fire warden in a workplace or work group who has completed the appropriate training. All Fire Warden training will be provided at no cost to the employee.
3. **Elected and Trained Health and Safety Representative (HSR).** The employee must be a member of a work group, elected by that work group as an HSR in accordance with Part 5 of the *Work Health and Safety Act 2011* and must have successfully completed a recognised HSR training program approved by WorkSafe ACT. An employee elected as a Deputy HSR is not eligible for the allowance unless they are performing the duties of the HSR in the HSR's absence.

Conditions	<p>All the following conditions apply:</p> <ol style="list-style-type: none"> 1. The allowance must not be included in salary for overtime or penalty payments. 2. If an employee who normally undertakes a role is absent and another employee who is qualified to perform all the duties for which the allowance is paid takes over those duties, the relieving employee is entitled to be paid the allowance. 3. An employee who holds a combination of First Aid Officer, Fire Warden or HSR roles is eligible for one payment of the allowance only. 							
Rate/Frequency Payment on Leave	Per day	\$2.98	\$3.01	\$3.06	\$3.11	\$3.18	\$3.22	\$3.28
	Not paid during any type of unpaid leave.							
Exclusions	<p>The allowance is not payable to any of the following:</p> <ol style="list-style-type: none"> 1. An employee who is not an HSR and is paid Advanced First Aid allowance. 2. An employee who is not an HSR or Fire Warden and is required to maintain a first aid qualification as part of their normal duties. 							
Definition	<p>“Workplace” means a work location at which the employee, and one or more work colleagues, performs duty. Note: It does not include the home location when working from home.</p>							
Allowance Type	Functional							

Motor Vehicle

Classification	Any
Employee Type	Any
Description	<p>The head of service may authorise an employee to use a motor vehicle they own or hire in any of the following situations:</p> <ol style="list-style-type: none">1. For official purposes, where the head of service is satisfied this use would do any of the following:<ol style="list-style-type: none">(a) Result in greater efficiency.(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 head of service is satisfied that any of the following apply:<ol 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.(b) It would not be contrary to the interest of the ACT Government.3. Travel between normal headquarters and a temporary work station, or between the employee's home and a temporary work station, where

	<p>the head of service is satisfied that any of the following apply:</p> <p>a) There is no public transport available for travel to temporary station.</p> <p>b) Although public transport is available, the work program makes its use impossible.</p>	
Rate/Frequency	<p>Per km (1) Small car - 1600cc non-rotary,</p> <p>800cc rotary:</p>	0.78
	<p>Per km (2) Medium car - 1601-2600cc non-rotary</p> <p>801-1300cc rotary:</p>	0.90
	<p>Per km (3) Large car – over 2600cc non-rotary</p> <p>over 1300cc rotary:</p>	0.91
Payment on Leave	Not paid during any type of paid or unpaid leave.	
Notes	For electric, hybrid and liquified petroleum gas (LPG) vehicles and any type of motorcycle, the rates payable per kilometre are the rates determined by the Australian Tax Office as in force from time to time.	
Notes	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	

	<p>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 head of service 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 head of service 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> <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 while on duty, but not fines.</p>
Allowance Type	Expense

Overtime Meal		Pay rate at 9/6/22	1.79% from 05/01/2023	1% from 08/06/2023	1.74% from 07/12/2023	1.5% from 06/06/2024	2.44% from 05/12/2024	1% from 05/06/2025	1.93% from 04/12/2025
Classification	All classifications								
Employee Type	Any								
Description	<p>An employee who works overtime is entitled to payment of an allowance, in addition to any overtime payment in any of the following circumstances:</p> <ol style="list-style-type: none"> 1. Immediately after the completion of the employee's ordinary hours of duty for the day, a period of at least 1.5 hours overtime is worked prior to an unpaid meal break being taken, which is followed by a further period of overtime of at least 0.5 hours. 2. Before the commencement of the employee's ordinary hours of duty for the day, a period of at least 1.5 hours overtime is worked prior to an unpaid meal break being taken, which is followed by a further period of overtime of at least 0.5 hours. 3. On a Saturday, Sunday or public holiday, a period of at least 5 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 0.5 hours.									
Rate/Frequency	Per occasion	\$31.60	\$32.17	\$32.49	\$33.05	\$33.55	\$34.37	\$34.71	\$35.38	
Payment on Leave	Not paid during any type of paid or unpaid leave.									
Exclusions	The allowance is not payable in any of the following circumstances: 1. 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 is 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 D – OTHER LEAVE

Leave to:	1. Attend Aboriginal or Torres Strait Islander Ceremonies
Purpose	The head of service may approve an employee's application to access leave 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 10 days in any 2-year period, in addition to bereavement leave.
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.
Leave to:	2. Attend Aboriginal and Torres Strait Islander meetings
Purpose	The head of service may approve an employee's application to access leave to attend 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 is 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:	3. Attend NAIDOC week activities
Purpose	The head of service may approve an employee's application to access leave 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:	4. Religious purposes
Purpose	The head of service may approve an employee's application to access leave 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 10 days in any 2 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 as service for any purpose.

Leave to:	5. Defence Reserve
Purpose	The head of service may approve an employee's application to access leave to enable an employee to undertake specified defence service and, also, enlistment, training 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 4 weeks during each financial year for the purpose of fulfilling service in the ADF Reserve. These purposes include training and operational duty as required.</p> <p>During an employee's first year of ADF Reserve service, a further 2 weeks paid leave may be granted by the head of service to facilitate participation in additional ADF Reserve training, including induction requirements.</p> <p>With the exception of the additional 2 weeks in the first year of service, leave can be accumulated and taken over a period of 2 years, to enable the employee to undertake training as a member of the ADF Reserves.</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 3 weeks each financial year to perform duties as an officer or instructor of Cadets. For these purposes 'Cadet Force' means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.</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 ADOs or flextime (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 head of service 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:	6. Operational Service Personal Leave
Purpose	The head of service may approve an employee's application to access leave to enable officers and 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 officer or 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 E4.</p> <p>Officers:</p> <p>On appointment, an eligible officer is entitled to 9 weeks operational service personal leave.</p> <p>An eligible officer is entitled to receive an additional credit of 3 weeks operational service personal leave at all of the following times:</p> <ul style="list-style-type: none"> 12 months after the date of appointment. 24 months after the date of appointment. 36 months after the date of appointment. <p>The maximum operational service personal leave balance that an eligible officer may have is 18 weeks.</p> <p>Employees (other than Officers):</p> <p>On engagement, an eligible employee is entitled to 9 days operational service personal leave.</p> <p>An eligible employee is entitled to receive an additional credit of 3 days operational service personal leave at all of the following times:</p> <ul style="list-style-type: none"> 12 months after the date of engagement. 24 months after the date of engagement. 36 months after the date of engagement. <p>The maximum operational service personal leave balance that an eligible employee may have is 18 days.</p> <p>Where operational service personal leave credits have been exhausted, the head of service may grant an employee personal leave or a period of unpaid operational service personal leave.</p>

Evidence and Conditions	<p>An eligible officer or employee should discuss with their manager or supervisor, as soon as practicable, of their absence or intention to be absent on operational service personal leave.</p> <p>An eligible officer or employee must make an application to the head of service to access their operational service personal leave entitlement.</p> <p>Having considered the requirements of this clause the head of service may approve an eligible officer or employee's application to access operational service personal leave. A decision not to approve the leave will be taken in accordance with subclause E3.1.</p>
	<p>Operational service personal leave may be granted by the head of service for any of the following:</p> <p>(a) To cover absences resulting from war-caused injury or diseases.</p> <p>Following a written request from an eligible officer or 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 war-caused injury or disease in accordance with the requirements of the <i>Veterans' Entitlement Act 1986 (Commonwealth)</i>.</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 (Commonwealth)</i>.</p> <p>War-caused injuries or diseases has the same meaning as in the <i>Veterans' Entitlement Act 1986 (Commonwealth)</i>.</p>

Leave to:	7. Returned soldiers for medical purposes
Purpose	The head of service may approve an employee's application to access leave 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 2 weeks in any 12 month period.
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.
Leave to:	8. Accompany a domestic partner on a posting
Purpose	The head of service may approve an employee's application to access leave to enable an employee to accompany the employee's domestic partner for the period, or part of the period, of an interstate or overseas posting.
Eligibility	<p>An employee whose domestic partner is posted to interstate or overseas employment by their employer, and the employer is one of the following:</p> <ul style="list-style-type: none"> • the ACTPS, • the APS, • Calvary Hospital Incorporated, • A statutory authority established under a Federal, state or territory law. <p>or the domestic partner is employed in a capacity that is directly relevant to representing Australia's national interest.</p> <p>For the purpose of this leave, 'post' means any office or other establishment of the employers above, where an employee's domestic partner is required by the employer to serve interstate or overseas, for any purpose. This includes a mission, appointment, station or place in a country overseas.</p>

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 as service for any purpose.
Leave for:	9. Engage in employment in the interests of defence or public safety
Purpose	The head of service may approve an employee's application to access leave to enable the employee to engage in work or employment that the head of service 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 2 years.
Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	The first 12 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 ACTPS the leave will not count as service for any purpose.
Leave to:	10. Attend as a witness
Purpose	The head of service may approve an employee's application to access leave 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 for any of the following:</p> <ul style="list-style-type: none"> (a) On behalf of a Territory, a State or the Commonwealth. (b) On behalf of an authority established by or under a law of a Territory, State or the Commonwealth. (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. (e) Before a person conducting an inquiry under a law of a Territory, a State or the Commonwealth. (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:	11. Attend proceedings at the Fair Work Commission
Purpose	The head of service may approve an employee's application to access leave to enable the employee to give evidence on behalf of a staff organisation in proceedings at the Fair Work Commission. <i>An employee may be granted a period of leave as required in the circumstances and may be with or without pay depending on the circumstances.</i>
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 2 representatives for the same period.

Rate of payment	With pay or without pay.
Effect on other entitlements	With pay does count as service for all purposes. Without pay does not count as service for any purpose, but does not break continuity of service for long service leave purposes.
Leave to:	12. Donate an organ
Purpose	The head of service may approve an employee's application to access leave to enable an employee to donate an organ.
Eligibility	An employee who volunteers as an organ donor.
Entitlement	A maximum period of 3 months in any 12 month period.
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.
Leave to:	13. Donate blood
Purpose	The head of service may approve an employee's application to access leave 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:	14. Hold a full-time office in a staff organisation
Purpose	The head of service may approve an employee's application to access leave 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, 3 years.
Conditions	To be eligible for leave to hold a non-elected office the employee must have been employed in the ACTPS or in the Australian Public Service for at least 4 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 2 months leave in each calendar year will count as service for all purposes. Leave in excess of 2 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 E14.7.
Leave to:	15. Local government purposes
Purpose	The head of service may approve an employee's application to access leave to enable the employee to attend formal meetings, in the capacity of an elected office holder, of a local government council.
Eligibility	An employee who is a duly elected office holder of a local government council.
Entitlement	A maximum period of one of the following: (a) In the case of an employee who is mayor or president of the council, 5 days in any 12 month period. (b) In any other case 3 days in any 12 month period
Conditions	-
Rate of payment	Full pay.


Effect on other entitlements	Will count as service for all purposes.
Leave for:	16. Campaign for election
Purpose	The head of service may approve an employee's application to access leave 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 approved by the head of service.
Entitlement	A maximum period of 3 months.
Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	Will not count as service for any purpose.
Leave for:	17. Attend sporting events as an accredited competitor or official
Purpose	The head of service may approve an employee's application to access leave 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 is with pay unless otherwise agreed by the employee.
Rate of payment	With pay or without pay.
Effect on other entitlements	With pay does count as service for all purposes. Without pay does not count as service for any purpose.
Leave for:	18. Cope with a disaster
Purpose	The head of service may approve an employee's application to access leave when 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 3 days in each consecutive period 12 months.
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.
Leave for:	19. Engage in employment associated with compensation
Purpose	The head of service may approve an employee's application to access leave to enable an employee to engage in employment outside the ACTPS 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 3 years.
Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	Will count as service for all purposes.
Leave for:	20. Engage in employment in the interests of the ACTPS
Purpose	The head of service may approve an employee's application to access leave to enable an employee to engage in work or employment outside the ACTPS where the head of service is satisfied that the employment is in the interests of the ACTPS.
Eligibility	An employee, (other than an employee) who meets one of the following: (a) They are a probationary employee. (b) They have 6 months or less continuous employment.

Entitlement	A maximum period of 5 years.
Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	Will count as service for all purposes except for annual leave. If an employee does not return to duty with the ACTPS the leave will not count as service for any purpose.
Leave to:	21. Take leave where leave cannot be granted under any other provision
Purpose	The head of service may approve an employee's application to access leave 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 12 months.
Conditions	-
Rate of payment	Without pay, except where the head of service determines there are special circumstances, having regard to: (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. In special circumstances the head of service determines whether leave is at full pay or half pay.
Effect on other entitlements	Leave without pay will not count as service for any purpose. However where the head of service 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 Public Sector Legal Professionals Enterprise Agreement 2023-2026

REPRESENTATIVE OF EMPLOYER	
SIGNATURE:	
NAME	Kathy Leigh
ADDRESS	220 London Circuit, Canberra City ACT 2601
AUTHORITY TO SIGN THE AGREEMENT	Signatory holds the Office of Head of Service, ACT Public Sector

REPRESENTATIVE OF EMPLOYEES	
SIGNATURE:	
NAME	Madeleine Northam
ADDRESS	Level 4 224 Bunda St Canberra
AUTHORITY TO SIGN THE AGREEMENT	CPSU Regional Secretary