# Emergency Response - ACTPS Staff Entitlements and Access to Leave During Emergencies

## Purpose

1. The purpose of this document is to provide a summary outlining ACT Public Sector (ACTPS) employee entitlements and access to leave during emergencies provided under the relevant Enterprise Agreements.
2. This policy applies to all ACT Government Directorates and ACTPS employees covered by an Enterprise Agreement.

## Background

1. Before, during and after an emergency, there are a number of entitlements and leave provisions that ACTPS employees have available to them under their relevant [Enterprise Agreements](https://www.jobs.act.gov.au/about-the-actps/agreements).
2. Part 1 of this document sets out the entitlements for ACTPS employees who are required as part of their role to undertake additional duties and form part of an ACT Government emergency response team. This includes where the Emergency Coordination Centre (ECC), the Public Information Co-ordination Centre (PICC) and the Incident Management Team (IMT) are stood up. It also includes where ‘fire trained employees’ are directed to undertake fire management tasks. There are some variations across agreements and not all employees will have access to these entitlements. Please refer to the relevant Enterprise Agreement for further information.
3. Part 2 of the document sets out situations where an ACTPS employee may require access to leave or allowances during a variety of emergency situations including as emergency services volunteers, Australian Defence Reservists and where an employee may need leave for other unexpected emergency situations.

## PART 1: ACTPS Employees Undertaking ACT Emergency Management duties

### Entitlements for ECC/PICC Personnel

1. The ACTPS Emergency Coordination Centre Operations Plan stands up the Emergency Coordination Centre (ECC) and Public Information Centre (PICC) to coordinate support before, after and during emergencies in the Territory.
2. The ECC will support the operations of the lead response agency before, during and after the emergency in the Territory. When activated, the ECC will include several representatives from ACT Government Directorates.
3. The PICC coordinates the development, clearance and delivery of information to the community during the emergency. The PICC will include ACTPS personnel who are required to provide availability during the emergency. Where ACTPS employees are called upon to assist in emergency management, the provisions of the relevant Enterprise Agreement will apply. Depending on the circumstances, including the nature and duration of the emergency, entitlements that may be relevant include:
	1. Emergency Duty (C16);
	2. Overtime (C9);
	3. Overtime Meal Allowance (C17.7.1);
	4. Rest Relief after Overtime (C10);
	5. Payment for Public Holiday Duty (C11);
	6. On-Call Allowance (C13);
	7. Close Call Allowance (C14); and
	8. Rest Relief for On-Call or Close Call Situations (C15).
4. Further information about the application of these entitlements can be found in the annexure [‘Emergency Response - Remuneration Provisions for ACTPS Emergency Coordination Committee and Public Information Co-Ordination Members’](#_REMUNERATION_PROVISIONS_FOR_1).

### Entitlements for Justice and Community Safety (JACS) Directorate Incident Management Positions

1. An unplanned incident may establish an Incident Management Team (IMT) comprised of employees from the ACT Emergency Services Agency (ESA).
2. Where an IMT is established for a Level 2 or 3 incident (as described in subclauses V27.2.2 and V27.2.3), the Administrative and Related Classifications Enterprise Agreement provides that staff undertaking the roles in the team defined in subclause V28.4 are paid at the associated classification for the period an employee is undertaking that role.
3. Payment will be made as HDA at the top increment of the associated classification set out in clause V28 of the relevant Enterprise Agreement. Overtime payments are paid at the top increment of the Incident Management Position as provided for in clause V28 or at the employee’s ordinary hourly rate of pay, whichever is the greater. In all other regards, overtime payments will be in accordance with subclauses C9.11 to C.15 inclusive.

### Entitlements for Fire Trained Employees

1. Section M of the relevant Enterprise Agreements applies to ‘fire trained employees’, mostly from the ACT Parks and Conservation Service (PCS) and some employees outside the PCS who have been nominated, and approved by the Director of PCS, to undertake fire management duties as directed. Fire trained employees are not full-time firefighters but are employees who are identified and trained that can be called on as part of the operational fire related activities of the PCS and provide essential support and resources to the Territory during incidents.
2. The Enterprise Agreements set out three levels of incident, for the purposes of Incident Rate of Pay (IROP), which is payable from when the employee is deployed to an emergency incident within or outside the ACT from their depot or overnight accommodation. Payment will be made as higher duties allowance (HDA) at the top increment of the pay scale as provided for in clause M8. Overtime payments will be paid at the top increment of the Incident Position as provided for in clause M8 or at the employee’s ordinary hourly rate of pay, whichever is greater. Where an employee’s ordinary hourly rate of pay exceeds the IROP payable, the employee will be paid at their ordinary rate of pay.
3. Depending on the circumstances and nature of the emergency, the fire trained employee may be entitled to the following entitlements:
	1. Overtime (C9.11 to C9.15 inclusive);
	2. Emergency Duty (C16);
	3. Overtime (C9);
	4. Overtime Meal Allowance (C17.7.1);
	5. Rest Relief after Overtime (C10);
	6. Payment for Public Holiday Duty (C11);
	7. On-Call Allowance (C13);
	8. Close Call Allowance (C14);
	9. Rest Relief for On-Call or Close Call Situations (C15);
	10. Travel allowance (M9 and Annex C) - 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; and
	11. “Fire Fighters leave” will accrue (pro-rata) at the rate of half a day for each Saturday or Sunday worked in a fire season, to a total of five days leave (the maximum total of additional leave is five days including leave accrued through clauses F7.7 and F7.8 where an employee is a shift worker regularly rostered to work on Sundays and works at least ten Sundays a year).

## PART 2: ACTPS Employees Requiring Access to Leave and Allowances during Emergencies

### Emergency Services Volunteers – Community Service Leave

1. The ACT Government recognises the vital contribution made by volunteers in the community during emergencies. An ACTPS employee who is a member of a State or Territory Emergency Service may access community service leave provisions under the relevant Enterprise Agreement in order to fulfil their required voluntary emergency management duties during an emergency.

#### Factors that must be taken into Consideration

1. Any ACTPS employee may volunteer for the emergency services. As with any volunteering arrangement, the employee is under an obligation to perform their normal workplace duties and will need to balance their volunteering work with the requirement to perform competently and be safe in their paid ACTPS role.
2. The employee should refrain from undertaking volunteer activities that may impact on their ability to perform their role in the ACTPS. An employee should not undertake volunteer activities which result in them returning to work fatigued as they will be unable to meet the workplace health and safety requirements of their position.
3. Managers should remind the employees of their obligation to attend the workplace rested and ready to perform their duties. Whilst recognising that there is no ability to control an employee’s off-duty conduct, legal exceptions exist where the behaviour outside of work poses a risk to the operation of the employer’s business, other employees or to the employee them self. An employee who is unable to perform their duties due to fatigue may invoke an underperformance or misconduct process under section H of the relevant enterprise agreement.
4. Whilst recognising the valuable contribution to the Australian community when volunteering interstate, the manager must first weigh this against the operational requirements of having firefighting trained employees rested and ready to perform firefighting duties in the Territory at short notice. An employee who wishes to deploy their volunteer services, especially where it may be for a prolonged period or may take time for the employee to return to their role (e.g. an interstate deployment), must discuss it with their manager first. The manager will take into account the abovementioned occupational health and safety considerations as well as ensuring the need to protect the Territory as paramount importance.
5. Further information can be found in the [‘Guidelines for the granting of leave to ACT Public Servants who apply to do volunteering work’](https://www.cmtedd.act.gov.au/__data/assets/pdf_file/0013/117022/in082006.pdf).

#### Provisions in the Enterprise Agreeement

1. An employee, other than a casual employee, who is a member of a relevant emergency service, including a:
	1. State or Territory Emergence Service;
	2. Fire-fighting service;
	3. Search and rescue unit; or
	4. Other volunteer service performing similar functions,

is eligible for paid community service leave for voluntary emergency management under clause F13 of the relevant Enterprise Agreement.

1. A casual employee who is a member of a relevant emergence service is eligible to unpaid community service leave for voluntary emergency management.
2. The head of service has the authority to grant further paid and unpaid community service leave if the employee’s deployment is longer than the standard entitlement under the Enterprise Agreement.
3. Whilst operational requirements need to be considered when deciding whether to grant an employee additional community service leave, this should be strongly weighed against the necessity to protect and support the Territory during emergencies.
4. Where the head of service has agreed to grant employees additional community service leave during a civil emergency, it is preferable that the leave will be with pay and leave without pay will only be used in exceptional circumstances.
5. When approving employee leave arrangements, consideration should be given to workplace health and safety requirements, including fatigue management and the need for the employee to attend debriefing or counselling.

### Federal Payment for ACT Volunteer Firefighting

1. On 8 January 2020, the Commonwealth Government agreed to the Australian Capital Territory’s request for relief payments for ACT volunteer firefighters. These payments are funded by the Commonwealth Government. The ACT Government is administering the Australian Government's Volunteer Firefighters’ Financial Support Program, which is designed to help volunteer firefighters who have been called out for more than 10 days since 1 July 2019.
2. The purpose of the volunteer relief payments is to support volunteers involved in firefighting activities, who have contributed significant personal time assisting with the national bushfire crisis around the country and who have lost income as a result of volunteering to fight the fires.
3. The volunteer firefighter payment is for eligible volunteer firefighters who are self-employed or employed by small and medium businesses and have lost income.
4. Further information about this payment can be found in the ACT Emergency Services Agency document ‘Volunteer Firefighter Payment Guidelines’.

### Defence Reservists

1. The ACT Government recognises that Australia’s Defence Reserves make a vital contribution to the defence and security of Australia.
2. An employee, other than a casual employee, who is a member of the Australian Defence Force Reserve (ADFR) has Defence Reserve leave available, under the ‘Other Leave’ provisions in clause F25 of the relevant Enterprise Agreement, in addition to their rights under the [*Defence Reserve Service (Protection) Act 2001*](https://www.legislation.gov.au/Details/C2006C00054)*.* The leave is provided to enable an employee to undertake specified defence service and for enlistment, training and/or deployment with the ADFR.
3. During an emergency, an employee may be issued with a call out order to undertake continuous full-time service (CFTS) with their Australian Defence Force unit. If their paid defence reserve leave allocation is exhausted at or during their operational duty, their defence reserve leave will continue on an unpaid basis.
4. Defence Reserve Leave counts as service for all purposes, except where the employee has approved unpaid leave to undertake CFTS. Unpaid leave for the purpose of CFTS counts for all purposes except annual leave.
5. While an employee has the right to choose to access their accrued annual and long service leave entitlements during unpaid portions of Defence Reserve leave, they cannot be compelled to do so.

### Other Leave

#### Leave to Cope with a Disaster

1. Where an employee is affected by a disaster which has destroyed or significantly damaged the employee’s usual place of residence or its contents, ‘Leave to Cope with a Disaster’ is available to the employee under the ‘Other Leave’ provisions in clause F25 of the relevant Enterprise Agreement. This leave is at full pay and counts as service for all purposes.

#### Leave in Extraordinary and Unforseen Circumstances

1. Employees, other than casual employees, are eligible for ‘Personal Leave in Extraordinary and Unforeseen Circumstances’ under clause F5 of the relevant Enterprise Agreement. This provision is to provide leave for staff who are presented with unavoidable and immediate problems out of their control.
2. This could include leave to prepare and protect their home from imminent danger during an emergency, such as a bushfire or flood.
3. There may be circumstances during an emergency where schools are required to be closed. ACTPS employees with children attending these schools may require access to leave, in which case the employee would be eligible for personal leave in extraordinary and unforeseen circumstances.

#### Voluntary community service Leave

1. Community service leave is available to employees, other than casual employees, to support their engagement in a recognised voluntary community service activity, subject to operational requirements in the workplace.
2. During a civil emergency, an employee may wish to volunteer their time to support a recognised charitable organisation and subject to the conditions provided for in clause F13 of the relevant Enterprise Agreement, the head of service may grant them community service leave under the Voluntary Community Service provisions.

#### Personal Leave

1. In addition to using personal leave for illness or injury, personal leave is available to employees to enable them to be absent from duty to provide support to family members who are ill or injured or are affected by an unexpected emergency (clause F4.1). Managers are encouraged to use discretion when approving this type of leave, but may request evidence from the employee before approval is given.

#### When RELEVANT leave is exhausted

1. Where leave under the relevant provision is exhausted the possibility exists for use to be made of:
2. accumulated flex time, rostered days off and annual leave; or
3. the anticipation of personal leave for eligible employees where all full pay credits are exhausted (clause F4.15).

#### When AN Employeee Is Unable to Work due to Exceptional Circumstances

1. In the event of an emergency there may be circumstances where the employee cannot work due to a reason outside their control, such as a fire, flood or other emergency disaster. This may include where the employee’s place of work is inaccessible or where the workplace is not a safe environment to perform the employee’s usual duties. The usual course of action will be that the Directorate will make every attempt to redeploy the employee to another workplace or, where appropriate, the employee may work from their home.
2. If there is no ability for the employee to work in any capacity, it is appropriate that the employee be stood down on leave with full pay until they are able to return to work. This leave will be processed as ‘take leave where leave cannot be provided under any other provision’. It is noted that this leave should only be used in extreme and exceptional circumstances and will count as service for all purposes.
3. An employee who is unwell and unable to attend work in a workplace deemed safe for employees should utilise their personal leave and seek medical advice. They are not entitled to ‘take leave where leave cannot be provided under any other provision’.

### Workplace Health and Safety Considerations

1. The ACT Government recognises the impact that emergency events can have on the health and wellbeing of ACTPS employees. It is important for employees to prioritise wellbeing and practice good self-care during these times. Employees are encouraged to talk to their supervisor or HR area about supports that may be available during these times, such as flexible work arrangements where this is appropriate, and personal leave to manage well-being.
2. Employees should be reminded that the ACT Government Employment Portal provides links to [mental health and well-being supports](https://www.cmtedd.act.gov.au/employment-framework/wpsafety/health-and-wellbeing) for ACTPS employees and their families, including access to the [Employee Assistance Program](https://www.cmtedd.act.gov.au/employment-framework/resources-and-links/employee-assistance-program2).

## References

The key principles of this Policy are aligned with the following authorised sources:

* *ACT Emergency Plan (2014) at* [*https://legislation.act.gov.au/ni/2014-442/*](https://legislation.act.gov.au/ni/2014-442/)
* *Business Continuity and Disaster Recovery Framework and Policy Statement* at <https://actgovernment.sharepoint.com/sites/Intranet-CMTEDD/Documents/BCP-DRP-Framework.DOCX>
* *Defence Reserve Service (Protection) Act 2001* at <https://www.legislation.gov.au/Details/C2006C00054>
* *Employee Assistance Program* at[*https://www.cmtedd.act.gov.au/employment-framework/resources-and-links/employee-assistance-program2*](https://www.cmtedd.act.gov.au/employment-framework/resources-and-links/employee-assistance-program2)
* *Enterprise Agreements* at<https://www.jobs.act.gov.au/about-the-actps/agreements>
* *Guidelines for the granting of leave to ACT Public Servants who apply to do volunteer work at* [‘Guidelines for the granting of leave to ACT Public Servants who apply to do volunteering work’](https://www.cmtedd.act.gov.au/__data/assets/pdf_file/0013/117022/in082006.pdf).
* *Healthy Minds – Thriving Workplaces, An integrated mental health and wellbeing strategy 2019-2022* at <https://www.cmtedd.act.gov.au/__data/assets/pdf_file/0004/1428637/Healthy-Minds-Thriving-Workplaces-strategy.pdf>
* *Volunteer Firefighter Payment Guidelines* at (XXXXX insert link here)

# Annexure

# Emergency Response - REMUNERATION PROVISIONS FOR ACTPS EMERGENCY COORDINATION COMMITTEE AND PUBLIC INFORMATION COORDINATION MEMBERS

## Purpose

1. The ACTPS Emergency Coordination Centre (ECC) Operations Plan is a whole of government sub-plan of the ACT Emergency Plan, which falls under the mandate of the ACT Emergency Services Agency. The ECC Operations Plan outlines the coordination of support before, after and during emergencies in the Territory.
2. This policy advice provides ACTPS Directorates with information on how to remunerate staff who, in addition to their normal duties, form the ECC personnel compliment and who therefore may need to make themselves available in the event of an emergency. This additional availability may be protracted over days and/or weeks. This advice equally relates to when it is necessary to create and convene a Public Information Co-ordination Centre (PICC).
3. ACTPS Directorates with staff who form the ECC and/or PICC personnel compliment should read this advice in conjunction with the following clauses contained in their 2018-2021 Enterprise Agreements:
	1. Overtime (C9)
	2. Overtime Meal Allowance (C17.7.1)
	3. Rest Relief After Overtime (C10)
	4. Payment for Public Holiday Duty (C11)
	5. On-Call Allowance (C13)
	6. Close Call Allowance (C14)
	7. Emergency Duty (C16)
	8. Rest Relief for On-Call or Close Call Situations (C15)

## Entitlement and Usage

### Duty Without Notice:

In instances where an ECC or PICC member is called to duty to meet an emergency at a time where they would not ordinarily be on duty, *and where* *no notice of such call was given* to the employee prior to ceasing their ordinary duty, the ECC or PICC member will be paid at double time in accordance with the Emergency Duty clause of Enterprise Agreements. The clause currently reads:

*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.*

*Employees who are in on-call or close call situations are not eligible to receive payment under this clause.*

*The time for which payment will be made under this clause will include time necessarily spent in travelling to and from duty.*

*The minimum payment under this clause will be two hours.*

*The rate of payment for emergency duty will be double time at the employee’s ordinary hourly rate of pay.*

*At any time following the finalisation of the initial period of emergency duty, the head of service may place an employee onto on-call or close-call duty.*

*This clause 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.*

This rate of payment will occur regardless of the ECC or PICC member’s classification and whether the period of duty falls on a public holiday. Rest Relief After Overtime and Overtime Meal Allowances may be granted to ECC and PICC members depending on the nature and duration of the emergency.

### Emergency Duty With Notice:

In instances where an ECC or PICC member is called to duty to meet an emergency at a time where they would not ordinarily be on duty, *and prior notice of such call* was given to the ECC or PICC member prior to ceasing their ordinary duty, the ECC and/or PICC member will be paid at the relevant overtime rate as per the provisions outlined in Clause C9 of their Enterprise Agreement. The minimum period of overtime payable for each separate overtime attendance is four hours.

To avoid doubt, all ECC or PICC members of a Senior Officer Grade will require head of service (delegate) approval to be eligible to receive payment in this instance, and overtime approved will be calculated at the minimum hourly overtime rate for an ASO6 for any Senior Officer (SO) or employee whose substantive pay exceeds the highest pay point of an ASO6. At the request of the Senior Officer, hours worked outside normal working hours may instead be taken as time in lieu on an hour for hour basis.

For ECC or PICC members of an ASO1-6 classification, where agreed between the manager/supervisor and the employee, the ECC or PICC member will be granted time off in lieu of overtime.

If duty is performed on a weekend or on a public holiday time off in lieu will recognise and reflect the penalty normally associated with weekend or public holiday work attendance. In other words, an ASO6 who worked a Sunday would get the TOIL at double time.

Overtime Meal Allowances, Rest Relief After Overtime, Payment for Public Holiday Duty, On-Call Allowances, and Close-Call Allowances may be granted to ECC and PICC members depending on the nature and duration of the emergency where prior notice of such a call was given.

### Executives

While executives currently have access to the same leave entitlements given to ACT public servants under ACTPS enterprise agreements through PSM Standard section 63 (1) they are NOT afforded other entitlements such as emergency duty; overtime and rest relief after overtime; or on call/recall. It is expected that executives are always on call and this has been factored into their existing remuneration.

## Other related provisions

*Disaster leave*

Enterprise Agreements provide paid leave to employees affected by a disaster which has destroyed or significantly damaged the employee’s usual place of residence or its contents.

## FURTHER INFORMATION

**HR areas** that require further information can contact the Senior Director Public Sector Workplace Relations Group on telephone 6205 0695.