



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Workplace Gender Equality Agency
(AG2015/7688)

WORKPLACE GENDER EQUALITY AGENCY (WGEA) ENTERPRISE AGREEMENT 2015-2018

Commonwealth employment

COMMISSIONER LEE

MELBOURNE, 22 DECEMBER 2015

Application for approval of the Workplace Gender Equality Agency (WGEA) Enterprise Agreement 2015-2018.

[1] An application has been made for approval of an enterprise agreement known as the *Workplace Gender Equality Agency (WGEA) Enterprise Agreement 2015-2018* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by the Workplace Gender Equality Agency. The Agreement is a single enterprise agreement.

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

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

[4] The Agreement was approved on 22 December 2015 and, in accordance with s.54, will operate from 29 December 2015. The nominal expiry date of the Agreement is 21 December 2018.



COMMISSIONER

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<Price code G, AE417220 PR575316>

Workplace Gender Equality Agency

(WGEA)

ENTERPRISE AGREEMENT

2015 - 2018

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Section A – Technical matters

Title

1. This enterprise agreement shall be known as the '*Workplace Gender Equality Agency (WGEA) enterprise agreement 2015-2018*'.

Purpose

2. This Agreement provides the terms and conditions of employment for those employees it covers for its duration.

Application and coverage

3. In accordance with section 53 of the FW Act this Agreement covers:
 - 3.1 the Director, as the employing authority;
 - 3.2 all employees whose employment is, at any time when the Agreement is in operation, covered by the Agreement.
4. This agreement applies to all non-SES employees of the Agency employed under the *Public Service Act 1999* (PS Act) but does not apply to employees in WGEA whose salaries are not paid by WGEA.

Operation of agreement

5. This Agreement will come into operation seven days after approval by the Fair Work Commission and will nominally expire three years after date of commencement.
6. This Agreement states the terms and conditions of employment of the employees covered by this Agreement other than terms and conditions applying under a Commonwealth law or implied at common law.
7. It is acknowledged that employment is subject to the provisions of the following Acts (and regulations or instruments made under the Acts) including, but not limited to :
 - 7.1 *Fair Work Act 2009 (FW Act)*;
 - 7.2 *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*;
 - 7.3 *Long Service Leave (Commonwealth Employees) Act 1976*;
 - 7.4 *Maternity Leave (Commonwealth Employees) Act 1973*
 - 7.5 *Paid Parental Leave Act 2010 (and its successor)*
 - 7.6 *Superannuation Act 1976*;
 - 7.7 *Superannuation Act 1990*;
 - 7.8 *Superannuation Act 2005*;
 - 7.9 *Superannuation Productivity Benefit Act 1988*;
 - 7.10 *Superannuation Benefits (Supervisory Mechanisms) Act 1990*;
 - 7.11 *Safety Rehabilitation and Compensation Act 1988*;
 - 7.12 *Work Health and Safety Act 2011 (Cth)*;
 - 7.13 *Public Service Act 1999*.

Delegations

8. The Director may delegate any or all of his or her powers and functions under this Agreement to a suitably qualified person, including this power of delegation, and may do so subject to conditions.


WGEA policies and guidelines

9. References in this Agreement to WGEA policies, advices and guidelines are for the further information of staff and it is not intended for those policies and guidelines to form part of this Agreement. If there is any conflict between the policies, advices or guidelines and the enterprise agreement, the express terms of the enterprise agreement will prevail over the policies or guidelines to the extent of any inconsistencies. References to the names of policies referred to in the Agreement may change from time-to-time. The policies and guidelines will be reviewed and updated as necessary. Any substantive variations to the policies and guidelines will be made after reasonable consultation.


Formal acceptance of the Agreement and signatories

10. This Agreement is made under Part 2-4 of the FW Act.

By signing below, the employer and the bargaining representatives signify their agreement to its terms.

Signed  Date 15/12/2015
Full Name: Elizabeth Lyons
Agency: Workplace Gender Equality Agency
Address: Level 7, 309 Kent St, Sydney NSW 2001

Bargaining Representative: Community and Public Sector Union

Signed  Date 15th December 2015
Full Name: Beth Vincent-Pietsch DEPUTY SECRETARY OF THE CPSU
On behalf of: Community and Public Sector Union
Address: 40 BRISBANE AV BARTON ACT 2600

Employee Bargaining Representative:

Signed  Date 15th December 2015
Full Name: Sharon Parfait
Address: Level 7, 309 Kent St, Sydney NSW 2001

Section B – Remuneration

General salary increases

11. Employees will receive increases of 1.5% in base salary effective on and from the date of commencement of this Agreement, 1.0% in base salary to take effect 1 March 2016, 1.0% in base salary to take effect 1 March 2017 and a further increase of 1.5% in base salary to take effect 1 March 2018.

Salary rates

12. Salary rates and pay points to apply under this Agreement are set out in Attachment A.
13. Where an employee commences work or is promoted to a job with the Agency, salary will be payable at the minimum point of the salary range applicable to the classification of the job, unless the Director authorises, at their discretion or employee request, payment of salary above the minimum point in that salary range, having regard to the experience, qualifications and skills of the employee. Where, at the time of engagement, an employee's salary is set at an incorrect salary point within the applicable salary scale, the Director may determine the payment of the employee's salary at the correct salary point.
14. Non-ongoing employees engaged for duties that are irregular or intermittent will receive a loading of 20% of salary in lieu of public holidays on which the employee is not rostered to work and paid leave other than long service leave. Such employees will accrue long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

Individual flexibility arrangement

15. The Director and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of any of the terms of the Agreement, where the arrangement meets the genuine needs of the employee and agency.
16. The Director must ensure that a flexibility arrangement agreed to under this clause:
 - 16.1 is about permitted matters under section 172 of the FW Act;
 - 16.2 does not include unlawful terms under section 194 of the FW Act;
 - 16.3 results in the employee being better off overall than if no arrangement was agreed to;
 - 16.4 is in writing;
 - 16.5 is signed by both the employee and the Director, and, if the employee is under 18, is signed by their parent or guardian;
 - 16.6 is able to be terminated by either the employee or the Director giving not more than 28 days written notice, or at any time by agreement between the employee and the Director in writing; and
 - 16.7 is given to the employee within 14 days after it is agreed to.
17. A flexibility arrangement must be genuinely agreed between the employee and the Director.

Supported salary rates

18. Supported salary rates and conditions of employment as set out in Attachment B shall apply to an employee with a disability who is eligible for consideration under the supported wage system.

Salary on reduction

19. Where an employee agrees, in writing, to temporarily perform work at a lower work value level, the Director may determine [in writing] that the employee shall be paid a rate of salary applicable to the lower work value level.
 - 19.1 Where an employee permanently reduces to a lower classification, the Director will determine the salary having regard to the experience, qualifications and skills of the employee, previous salary, and the circumstances of the reduction.

Method of salary payment

20. Employees will have their fortnightly salary paid in arrears by electronic funds transfer into a financial institution account of their choice. The formula for calculating fortnightly salary is outlined in Attachment A.
 - 20.1 A manager may approve the pre-payment of salary to an employee where special circumstances exist, e.g. where the employee is taking leave to travel overseas.

Salary packaging

21. Employees may choose to sacrifice part of their salary from a menu of non-cash benefits consistent with Agency Salary Packaging guidelines. Participation in salary packaging will not affect salary for superannuation purposes or any other purpose.

Payments on death

22. Where an employee dies or is presumed to have died on a particular date, the Director may authorise the payment, to be made to the dependants or partner or the legal representative of the employee, of the amount that would have been paid if the employee had ceased employment by resignation or retirement. Long Service Leave credits will be paid out in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

Overpayments

23. Where an employee is overpaid an amount of salary or other benefits, the overpayment will be recovered in accordance with the provisions of the Accountable Authority Instructions.

Superannuation

24. The Agency will make compulsory employer contributions as required by the applicable legislation.
25. Where employer contributions are to an accumulation superannuation fund the employer contribution will be 15.4% of the fortnightly superannuation contribution salary (or ordinary time earnings). This will not be reduced by any other contributions made through salary sacrifice arrangements. This clause does not apply where a superannuation fund cannot accept contributions (e.g. unable to accept contributions for people aged over 75).
26. Employer superannuation contributions will not be paid on behalf of employees during periods of unpaid leave that does not count as service (with the exception of Maternity Leave and Primary Carers Leave where contribution will be made for a period equal to a maximum of 52 weeks from the commencement of paid Maternity or Primary Carers Leave), unless required under legislation.
27. The Director may choose to limit superannuation choice to complying superannuation funds that allow employee and/or employer contributions to be paid through fortnightly electronic funds transfer using a file generated by the Agency's payroll system.

Section C – Balancing work and personal life through working flexibly

Hours and pattern of work

Working flexibly

28. A manager and employee will usually work together to ensure that the employee's pattern of hours meets the operational needs of WGEA and balances the personal needs of the employee. Flexible working arrangements in this Agreement are used to achieve working patterns which provide a balance between work and personal lives, identify opportunities for improved productivity, and minimise the need for employees, including Executive Level employees, to work in excess of their normal hours.

Flexible work arrangements

29. By agreement with his or her manager, an employee may work a flexible working arrangement. Further information is available in the Agency's Flexible Working Arrangements Policy. An employee may also request flexible working arrangements in accordance with section 65 of the *Fair Work Act*.

Hours of work

30. An employee's Ordinary hours are 7 hours and 30 minutes per day, a total of 37 hours and 30 minutes per week. Standard hours of attendance are 9.00 am to 12.30 pm and 1.00 pm to 5.00 pm.
31. Part time employees will work hours agreed in their part time work agreement or designated for the job. A part-time employee and their manager may agree to vary the days and times that regular hours are worked.
32. Employees will be provided with paid time off for the afternoon of the working day immediately prior to Christmas Day and for the days in between Christmas and New Year's Day (or equivalent) which would otherwise be working days. In the exceptional cases where employees are directed to work on these days by the Director, they must be provided with the equivalent time off in lieu to be taken within 4 weeks or at an alternative time convenient to each employee and agreed with their manager.
33. In addition to the statutory public holidays set out in clause 126, employees will also observe an additional holiday each calendar year on the ordinary working day following the Boxing Day public holiday or its substitute. Conditions in relation to the additional holiday are those that apply to public holidays.

Span of hours

34. The span of hours during which an employee may work Ordinary hours are 7.00 am to 7.00 pm Monday to Friday.
35. Where an employee specifically requests to work outside this span of hours, he or she may do so with the agreement of his or her manager. Any hours worked on this basis will be considered Ordinary hours and not attract overtime rates.

36. Core time shall be 10.00 am to 12.00 noon and 2.00 pm to 4.00 pm. All employees must attend for work during core time unless they have prior approval of their supervisor to be absent on flex or other leave.
37. An employee must not work more than 5 consecutive hours without an unpaid meal break of at least 30 minutes.
38. An employee should not work more than 10 hours per day unless directed to do so.

Flexible hours

39. Flextime is a system of flexible working hours arrangements which enables full-time and part-time employees and managers to vary working hours, patterns and arrangements to provide maximum organisational flexibility with benefit to clients, employees and the Agency.
40. For the purposes of calculating flextime the working day will be 7 hours and 30 minutes or 150 hours (or pro-rata for part-time) per 4 week settlement period. The following flextime arrangements will apply:
 - 40.1 An employee may generally only carry over a maximum flextime credit of one standard week (37.5 hours or pro-rata for part-time), at the end of a settlement period;
 - 40.2 An employee may take up to 5 days flex leave in one settlement period;
 - 40.3 In those exceptional circumstances where, at the conclusion of the settlement period, flex credits have not been reduced to below one standard week and it is agreed that there is limited opportunity for the employee to reduce his or her flex credit over the next settlement period or other agreed period, the Director may approve that the employee cash out all of his or her flex credits in excess of one standard week hours at Ordinary time rates. An excess credit situation should not occur on a continuing basis;
 - 40.4 An employee may carry over a maximum of 10 hours flex debit accumulated in any one settlement period into the next settlement period. In circumstances where the maximum debit is exceeded at the end of the settlement period, the employee will endeavour to reduce the debit to the maximum allowable (or lower) over the next settlement period; and should this not occur, the amount by which the maximum debit is exceeded shall be treated as other leave without pay and an appropriate deduction made from the employee's pay.
41. An employee and their manager may agree on an alternative settlement period and pattern of hours, subject to hours of work averaging 7 hours 30 minutes per day.
42. An Executive Level employee (or equivalent) is not eligible to work flextime. Executive Level employee working arrangements are provided under clauses 62 to 63.
43. Where an employee is required to work additional hours, and they are not otherwise entitled to overtime, their manager may authorise that they be provided with paid time off.

Reversion to ordinary hours

44. Where an employee's manager considers the employee's attendance is unsatisfactory or that the employee is misusing flex, the employee will be required to work Ordinary hours each day for a period specified by the manager. Ordinary hours are 9.00 am to 12.30 pm and 1.00 pm to 5.00 pm (for part-time employees, the agreed hours of duty). The employee and manager may agree to alternative times that do not vary the total number of hours worked.

Regular part-time work

45. A part-time employee is one whose regular Standard hours of work are less than 150 hours over a four-week period, i.e. less than an average of 37.5 hours per week. Ordinary hours of work for part-time employees, unless otherwise agreed between the employee and his or her manager, will be continuous and no less than 3 hours per day on any day worked by the employee. Applications for regular part-time work or job sharing will be considered, subject to operational requirements, the personal needs of the employee and those considerations outlined in clauses 28 and 29.

46. Employees returning directly from maternity leave or primary carers leave will be provided with access to regular part-time work upon application. Remuneration and other benefits for part-time employees will be calculated on a pro rata basis apart from those allowances of an expense related nature, where part-time employees will receive the same amount as full-time employees.
47. A part-time employee and his or her manager may, by agreement, vary regular hours of work. Part-time employees will not be required to work outside their agreed hours and pattern of work without their prior agreement. Similarly, part-time working arrangements may, for other than designated part-time jobs, be terminated by agreement.
48. The Director may initiate the introduction of part-time employment. A full-time employee will not be required to convert to part-time hours without their agreement.
49. A part-time employee not working in a management initiated part-time job will revert to full time work at the conclusion of his or her part-time work agreement or earlier as agreed between the employee and the manager.

Telecommuting/Working from home

50. By agreement with his or her manager, an employee may work from home on either a regular or temporary basis. Further information is available in the Agency's Telecommuting Policy.
51. The arrangement between an employee and his or her manager can be varied as a result of operational requirements or the inefficiency and/or ineffectiveness of the arrangement and may be terminated by either party with a minimum notice period of 2 weeks or such shorter period as may be agreed between the parties.

Working Additional Hours

Overtime and Time Off In Lieu (TOIL)

52. Flextime will generally be used to meet operational requirements within the span of hours specified in Clause 34. However, an employee may be directed to work reasonable additional hours to meet operational requirements. In such circumstances, the overtime rates set out in Clauses 56 to 57 apply.
53. Overtime rates will apply to work performed at the direction of management, or with subsequent approval, by employees, other than Executive Level employees (or equivalent), that is outside the span of hours specified in Clause 34 when 7 hours 30 minutes has already been worked in a day, on a public holiday, or in excess of 10 hours on any one day.
54. For part-time employees, other than Executive Level employees (or equivalent), overtime is payable for work performed at the direction of management which is not continuous with the employee's agreed or specified hours of work or is beyond the total hours of work over the settlement period specified in the employee's part-time work agreement or designated for the job.
55. Time Off in Lieu (TOIL) is the standard form of recompense for overtime. However, managers may, at the request of the employee and/or where it is impractical for the employee to take TOIL within 3 months of overtime having been worked, authorise the payment of overtime.
56. Where overtime is worked, TOIL or the payment for overtime will be calculated at the following rates:
 - 56.1 Monday to Saturday: Time and one half for the first three hours each day and double time thereafter.
 - 56.2 Sunday: Double time.
57. Where overtime is worked on a public holiday, TOIL is calculated at double time and a half for duty outside the Ordinary hours specified in Clause 30. For duty within the Ordinary hours, TOIL will be calculated at time and a half additional to the single time payable for the public holiday.

58. Where a period of overtime is not continuous with Ordinary duty, the minimum period of TOIL or payment for such work will be 4 hours at the relevant overtime rate.
59. Notwithstanding clauses 53 and 54, in exceptional circumstances the Director may approve payment of overtime for an Executive Level employee.

Rest relief after overtime

60. Where an employee works overtime he or she will be entitled to an 8 hour break plus reasonable travelling time before recommencing work without incurring any loss of pay.
61. Where this break is not possible due to operational requirements, the employee will be paid double time until such times that an employee takes an 8 hour break.

Working arrangements for Executive Level employees

62. Managers may allow time off in recognition of additional hours worked by Executive Level employees, subject to operational requirements. Time off in lieu is not intended to be an hour for hour arrangement.
63. Executive Level employees do not have access to the flextime provisions under clauses 39 to 41 of this Agreement, however, they may access flexible working arrangements (including but not limited to patterns of ordinary hours or regular hours agreements, compressed hours or part-time arrangements).

Leave

Annual Leave

64. An employee is entitled to 20 days paid annual leave each calendar year, which accrues progressively and is credited monthly.
 - 64.1 Accrued entitlements may be taken at any time, subject to operational requirements and the approval of the manager;
 - 64.2 Annual leave counts as service for all purposes.
 - 64.3 Unused annual leave will accumulate.
65. Employees may cash out up to 10 days of their accrued annual leave entitlement once per calendar year. This cash out is subject to the:
 - 65.1 employee having taken 10 days annual leave during the 12 month period immediately preceding the application;
 - 65.2 employee's remaining annual leave balance being equal to or greater than four weeks; and
 - 65.3 the approval of the Director.
66. For each particular amount of annual leave the employee wishes to cash out, the employee and the Director must make a separate written agreement.
67. The employee must be paid at least the full amount that would have been payable had the employee taken the leave to be foregone.
68. An employee who has not used annual leave within 2 years and 3 months of its accrual (or equivalent of 45 days):
 - 68.1 may be directed by their manager or the Director to take at least 10 days annual leave to reduce their credits below 35 days (however, an employee will not be directed to take more than $\frac{1}{4}$ of their annual leave credit);
 - 68.2 Employees who commence with, or return to, the Agency and who carry over 45 days (or equivalent of two years and three months entitlements) annual leave credits or more, will have a 6 month period of grace from clause 68.1 during which they will be required to reduce their annual leave credits to below 35 days.

69. The Director may agree that, in particular circumstances, an employee with 45 days leave credit will not be directed to take leave in accordance with Clause 68.
70. Part time employees will accrue annual leave on a pro rata basis. Leave will be credited in respect of the average number of weekly hours worked over the accrual period.
71. Where an employee's annual leave is cancelled by their manager without reasonable notice or they are recalled to work from leave, reasonable travel costs, travelling time, incidental costs and any other unavoidable costs arising from the recall to duty will be reimbursed where they are not recoverable under any insurance or from any other source and all unused leave will be re-credited.
72. Where an employee ceases employment with the APS, the employee is to receive payment in lieu of unused annual leave accruals. Payment will be calculated using the employee's final rate of salary, including allowances that would have been paid during annual leave.

Purchased Leave

73. Employees may purchase from 1 to 8 weeks additional leave per year, subject to approval. If approved by their manager, employees will have an amount deducted from their fortnightly salary.
74. Unless otherwise agreed, purchased leave not taken during the nominated 12 month period will automatically be reimbursed as salary.
75. Where an employee who has taken purchased leave either proceeds on extended leave or leaves the Agency before having paid the full amount, the amount outstanding must be repaid in full before the employee's departure.
76. Purchased leave counts as service for all purposes. The employee's salary for superannuation purposes continues to be his or her full time salary.

Personal/carer's Leave

77. An employee accrues 18 days Personal/carer's Leave annually, which is credited in accordance with their ongoing or non-ongoing status.
78. Personal/carer's Leave is cumulative but will not be paid out on separation. Personal/carer's Leave counts as service for all purposes.
79. Paid Personal/carer's Leave is to be used, with the approval of their manager, when an employee is absent:
 - 79.1 Due to personal illness or injury; or
 - 79.2 To provide care or support to a family or household member who has a personal illness or injury or unexpected emergency; or
 - 79.3 As a result of special or exceptional circumstances; or
 - 79.4 To attend to matters relating to domestic violence issues.
80. Personal/carer's Leave must not be used where it would adversely affect the employee's entitlements under the National Employment Standards (NES).
81. Unless otherwise agreed by the Director, no more than 2 consecutive days of Personal/carer's Leave may be taken without satisfactory medical certificate (or personal declaration in the case of other circumstances). However, the Director may request that an employee provide satisfactory medical certificate for any period of Personal/carer's Leave.
82. There is no limit to the maximum continuous amount of Personal/carer's Leave which may be granted for absences, subject to available credits, medical certification or other evidence and, if required, the opinion of a medical practitioner nominated by the Agency.
83. An employee who is the secondary carer of a newborn baby, adopted child, or a foster child because of a long term fostering arrangement may access up to 5 days Personal/carer's Leave

within 6 months of the birth or placement of the child, provided the employee has sufficient Personal/carer's Leave credits to cover the period of leave.

84. The Director may allow an employee to anticipate 1 year's Personal/carer's Leave accrual where credits are exhausted.
85. Where an employee is on Annual Leave or Long Service Leave and applies for personal/carer's leave, compassionate leave or community service leave with supporting evidence or personal declaration, the annual leave or long service leave may be re-credited to the extent of the leave granted.
86. An employee receiving worker's compensation for more than 45 weeks will accrue Personal/carer's Leave on an hours actually worked basis.
87. An employee who has exhausted his or her Personal/carer's Leave credits or an employee engaged on an intermittent or irregular basis who does not have Personal/carer's Leave credits may take up to 2 days unpaid carer's leave in accordance with Subdivision B of Division of Part 2 of the FW Act on each occasion that a member of the employee's family or household requires care or support because of personal illness or injury or an unexpected emergency affecting the member.

Personal/carer's Leave Credits for Ongoing Employees

88. The full Personal/carer's Leave entitlement will be credited on commencement of employment in ongoing status and on each subsequent anniversary of their commencement.
89. Employees who become ongoing employees after a period of non-ongoing APS employment of less than 12 months will accrue 18 days Personal/carer's Leave credit on commencement less any Personal/carer's Leave with pay previously granted.

Personal/carer's Leave Credits for Non-Ongoing Employees

90. Non-ongoing employees (excluding non-ongoing employees engaged on an intermittent or irregular basis), will be entitled to 18 days Personal/carer's Leave per year accruing and credited progressively.
91. When a non-ongoing employee (excluding non-ongoing employees engaged on an intermittent or irregular basis), completes 12 months continuous service with the Agency, Personal/carer's Leave will then be credited as for ongoing employees.

Compassionate Leave

92. Three days paid leave for compassionate purposes will be granted to an employee on each occasion when;
 - 92.1 A family or household member contracts or develops a personal injury or illness that poses a serious threat to their life, or
 - 92.2 On the death of a family or household member.
93. Compassionate leave can be taken in a single unbroken period or as separate periods to the extent of the entitlement, as agreed by the employer and employee.
94. Irregular or Intermittent employees are entitled to 2 days unpaid Compassionate Leave per occasion.

Long Service Leave

95. Long service leave will be in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*. The Director may grant LSL for a minimum period of 7 calendar days at full pay (or 14 calendar days at half pay). Long Service Leave cannot be broken with other periods of leave, except as otherwise provided by legislation.

Parental Leave

Maternity Leave

96. Employees are entitled to maternity leave in accordance with the provisions of the *Maternity Leave (Commonwealth Employees) Act 1973* (Maternity Leave Act).
97. Under the Maternity Leave Act eligible employees are entitled to up to 52 weeks of maternity leave of which up to 12 weeks may be paid leave. An employee who is entitled to paid maternity leave under the Maternity Leave Act will also be entitled to an additional period of 5 weeks paid leave. In total up to 17 weeks paid leave may be accessed for maternity leave purposes. The additional 5 weeks paid leave is administered in the same manner as paid leave provided under the Maternity Leave Act (except where this Agreement expressly provides otherwise).
98. Employees who are eligible for paid maternity leave may elect to have the payment for that leave spread over a maximum of 34 weeks at a rate not less than half normal salary. Where payment is spread over a longer period, only the first 17 weeks will count as service.
99. On ending the initial 52 weeks of maternity leave, employees may request an extension of unpaid parental leave for a further period of up to 52 weeks. The second period of unpaid leave is to commence immediately following the initial 52 week leave period.

Primary Carers Leave

100. An employee who is the primary carer of a newborn baby (but not entitled to maternity leave), an adopted child, or a foster child because of a long term fostering arrangement is entitled to up to 52 weeks' primary carer's leave to commence around the time the child is born or placed in their care. An employee who has completed at least 12 months continuous service as defined by the Maternity Leave Act is entitled to take the first 17 weeks as paid leave. In addition the employee has the right to request up to 52 weeks' additional unpaid leave.
101. Unless this Agreement expressly provides otherwise, and to the extent possible, leave taken under this clause is administered as if it were maternity leave under clauses 96 - 99 of this Agreement and the Maternity Leave Act.
102. An employee is not entitled to leave under this clause if the Employee or the Employee's partner is accessing or has accessed paid maternity leave under the Maternity Leave Act in relation to the child.
103. Unpaid leave taken for the purpose of primary caring other than the first 12 weeks taken (paid or unpaid) does not count as service for any purpose.

Secondary Carers Leave

104. An employee who is the secondary carer of a newborn baby, an adopted child, or a foster child because of a long term fostering arrangement is entitled to:
 - 104.1 3 weeks paid leave which may be taken around the time of the birth or placement of the child but must finish within 6 months following the birth or placement of the child; and
 - 104.2 5 days personal leave which may be taken within 6 months following the birth or placement of the child, provided the employee has sufficient Personal/carers Leave credits to cover the period of leave (refer Clause 83).

Return to work after any type of parental leave

105. On ending maternity leave, primary carer's leave and/ or parental leave, an employee is entitled to the return to work guarantee equivalent to that provided by s.84 of the FW Act.

Defence Reserve & Australian Defence Force Leave

106. 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.
107. An employee is entitled to leave with pay, of up to 4 weeks during each financial year, and an additional 2 weeks paid leave in the first year of ADF Reserve Service, for the purpose of fulfilling service in the ADF Reserve.
108. 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.
109. 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.
110. 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.

War service sick leave

111. Employees may be eligible to be granted war service sick leave while unfit for duty because of a war or defence caused condition.
112. A war-caused condition means an injury or disease of an employee that has been determined under the relevant legislation to be war-caused or defence-caused.
113. Eligible employees will accrue a special credit of 9 weeks on commencement in the APS and an annual credit of 3 weeks for each year of APS service. Unused credits will accumulate to a maximum of 9 weeks.

Community service (emergency management and jury service) leave

114. In accordance with section 108 of the Fair Work Act, leave for participation in voluntary emergency management duties, including training, emergency service responses, reasonable recovery time, and ceremonial duties, will be approved. The Director may determine whether any or all of leave taken for participation in voluntary emergency management activities will be with pay.
115. An employee will continue to be paid by the Agency for any period of jury service, but will be required to pay to the Agency any amount of jury service pay received by the employee.

Leave to perform volunteer work

116. The Director may grant up to 2 days leave with pay per year to an employee to perform volunteer work.

Other Leave

117. The Director, having regard to operational needs of the Agency, may grant other leave with or without pay for a variety of reasons. The intention of other leave is to provide flexibility to managers and employees.
118. Other leave may be granted for the period requested or for another period with pay or without pay.
119. The Director may determine under Clause 117 that only a part of the period of leave will be with pay.
120. Clause 136 outlines the Agency's study support. Employees who have been approved to study part-time or full-time may be granted study leave. Further information is available in the Agency's Study Leave Guidelines.

Absence not counting as service

121. Unless the Director determines otherwise, any continuous period of leave without pay greater than 30 calendar days will not count as service for Annual and Personal/carer's Leave purposes.

Unauthorised absence

122. Where an employee is absent from work without approval, e.g. without the express approval of their supervisor, or not in accordance with a term of this agreement, the absence will be treated as an 'unauthorised absence' and will not count as service for any purpose under this agreement, including remuneration and leave accrual. Any amounts paid to an employee in respect of an unauthorised absence are overpayments and the Agency will seek to recover those amounts.

Portability of accrued leave

123. Where an employee moves (including on promotion or for an agreed period) from another agency where they were an ongoing APS employee, the employee's unused accrued Annual leave and Personal/carers leave (however described) will be transferred provided there is no break in continuity of service.
124. Where an employee is engaged as either an ongoing or non-ongoing APS employee immediately following a period of ongoing employment in the Parliamentary Service or the ACT Government Service, the employee's unused accrued Annual leave and Personal/carers leave (however described) will be recognised unless the employee received payment in lieu of those entitlements on termination of employment.
125. Where a person is engaged as an ongoing employee in the Agency, and immediately prior to the engagement the person was employed as a non-ongoing APS employee (whether in the Agency or another) the Agency Head may, at the employee's request, recognise any unused, accrued annual leave (excluding accrued leave paid out on termination of employment) and personal/carer's leave (however described). Any paid leave entitlement may only be recognised where this has not been paid out by the employee's previous agency and the relevant funds have been transferred from the agency to WGEA.

Public Holidays

126. Employees will be entitled to the following public holidays:
 - 126.1 New Year's Day (1 January);
 - 126.2 Australia Day (26 January);
 - 126.3 Good Friday;
 - 126.4 Easter Monday;
 - 126.5 Anzac Day (25 April);
 - 126.6 The Queen's birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
 - 126.7 Christmas Day (25 December);
 - 126.8 Boxing Day (26 December);
 - 126.9 Any other day, or part-day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part-day, or a kind of day or part-day, that is excluded by the Fair Work regulations from counting as a public holiday.
127. If under a state or territory law, a day or part day is substituted for one of the public holidays listed above, then the substituted day or part day is the public holiday.
128. The Agency Head and an employee may agree on the substitution of a day or part day that would otherwise be a public holiday, having regard to operational requirements.
129. An employee, who is absent on a day or part-day that is a public holiday in the place where the employee is based for work purposes, is entitled to be paid for the part or full day absence as if that

day or part-day was not a public holiday, except where that person would not normally have worked on that day.

- 129.1 Where a public holiday falls during a period when an employee is absent on a prevailing type of leave (such as leave without pay, long service leave, maternity leave) there is no entitlement to receive payment as a public holiday. Payment for that day will be in accordance with the entitlement for that form of leave (e.g., if on long service leave at half pay, payment is at half pay). Note that, in accordance with the NES, an employee is not taken to be on annual leave or personal/carer's leave on a public holiday).

Section D – Performance and development

Performance Management Framework

130. Employees, other than non-ongoing employees engaged for terms of less than 3 months, must develop an annual agreement with their manager outlining individual goals and development plans for the period January to December each year.
131. At the end of February each year, each employee will be assigned an overall evaluation of 'consistently exceeds', 'consistently achieves', 'mostly achieves' or 'unsatisfactory' by their manager for the previous January to December period.
132. Further information on performance management processes, including the responsibilities, rights and obligations of managers and employees in managing performance can be found in the Agency's Performance and Development Policy.

Training and development

133. Each employee, in consultation with his or her manager, will identify and plan their training and development needs and specific learning options.
134. From time to time, the Director may approve specific training and development programmes for employees designed to build essential Agency capabilities. The Director may also approve additional funding for employees to participate in such programs.
135. Support and resources will be provided so that employees can access those learning activities that can provide the most effective outcomes. These may include on and off the job training, work placements and formal study.
136. The Director may provide financial or other assistance to an employee to undertake formal courses of study at tertiary and higher education institutions and other vocational education courses where the study is agreed as part of an employee's learning and development agreement as part of the Performance Management Framework. Further information for employees undertaking studies is available in the Agency's Study Policy and Guidelines.

Managing under-performance

137. Underperformance issues will be addressed promptly and fairly, with discussion and feedback being the initial channel for resolving these issues
138. The underperformance process will not to be used for disciplinary or invalidity reasons.
139. Further information can be found in the Agency's Managing Under-performance Policy.

Eligibility for performance based salary advancement and top of salary range payment

140. Progression through pay points within each classification level and the payment of a bonus will be based on the annual performance evaluation due at the end of February each year.
141. Employees not yet at the top point of their classification level will be advanced a minimum of one pay point if they are evaluated 'consistently achieves' or 'consistently exceeds'.
142. Employees at the top pay point of their classification level will receive a 2.0% bonus payment calculated on their salary payable on 1 March each year if they are evaluated 'consistently achieves' or 'consistently exceeds'.

143. Salary advancement within a classification level as outlined in clauses 140 and 141 is available to employees who, after commencing in, or being promoted to, a job in the Agency, have performed duties at that classification level pay point for a period of at least 3 months, as at 28 February each year and will take effect on 1 March each year unless otherwise requested by the employee and agreed by the Director.
144. The bonus payment outlined in clauses 140 and 142 is available to employees who, after commencing in, or being promoted to, a job in the Agency, have performed duties at the top pay point of the classification level for a period of at least 3 months, as at 28 February each year and will take effect on 1 March each year unless otherwise requested by the employee and agreed by the Director.

Section E - Workforce planning

Classification structures

145. The Agency classification structure under the Agreement will consist of Executive Level 1 and 2, APS 1-6, Graduate APS and Trainee APS.

Trainee

146. The Director may engage a person as a Trainee APS (Administrative).
147. A Trainee APS (Administrative) Employee will be paid at the minimum salary point of APS 1 or such other salary point as the Director determines.
148. When the Director is satisfied that the course of training has been successfully completed, a Trainee APS (Administrative) Employee will be allocated a classification in accordance with the Classification Rules and the Director will determine a salary within the applicable range.

Graduate

149. The Director may engage a person as a Graduate APS.
150. A Graduate APS Employee will be required to undertake a course of training determined by the Director. While undertaking training, a Graduate APS Employee will be paid at a salary point within the APS 3 classification, as determined by the Director.
151. When the Director is satisfied that the course of training has been successfully completed, a Graduate APS Employee will be allocated a classification in accordance with the Classification Rules and the Director will determine a salary within the applicable range.

Temporary Performance Loading

152. Where an employee is temporarily assigned duties with a higher classification for a continuous period of 10 working days or more, or a shorter period which is then extended to or beyond 10 working days, the employee will be paid from the first day of the acting period at the minimum point of the salary range applicable to that classification unless determined otherwise by the Director.
153. These arrangements apply to each new period of temporary assignment.
154. The level of the loading will be determined by the Director and will be based on the level and scope of work to be performed and the employee's capacity to effectively undertake the higher level work.
155. The loading, as determined by the Director, will be the difference between the employee's substantive pay and a pay point within the classification level as determined by the Director.

Redeployment and Retrenchment

156. The provisions related to redeployment or redundancy situations are set out in Attachment C - Redeployment Retrenchment and Redundancy.

Resignation

157. An employee resigning from his/her employment shall give at least two weeks' notice of his/her intention to do so. The employee and WGEA may come to a mutually acceptable agreement on a shorter notice period. Resignations cannot take effect on a Public Holiday.

Section F – Assistance and allowances

Travelling assistance

158. The Director will approve payment of reasonable out of pocket expenses incurred by employees undertaking travel on official business. This includes the reasonable costs of accommodation, meals, incidentals and other expenses.
159. Managers may agree to reasonable compensatory time off in recognition of any additional time spent travelling outside normal working hours. Any such absences will be recorded for workers' compensation purposes.
160. Further information is available in the Agency's Travel Policy and Guidelines.

Motor Vehicle Allowance

161. Where a manager authorises an employee to use a private motor vehicle for official purposes, the employee will receive a Motor Vehicle Allowance in accordance with rates issued by the Australian Taxation Office.

Temporary relocation assistance

162. Where an employee is required to work in a different geographic location for a period of 3 weeks (i.e. 21 days) or less, he or she will be paid Travelling Allowance as set out clauses 158 to 160.
163. Where an employee is required to work in a different geographic location for a period in excess of 3 weeks from the day on which he or she commenced work at the new location, the Director will determine a package of assistance to appropriately meet the additional costs incurred as a result of the employee being temporarily relocated.
164. In the case of a permanent relocation initiated by the Agency, the employee shall be entitled to assistance as detailed in clause 163. Additionally a flat relocation allowance of \$900, and \$320 for each dependent child, will be paid. Any other additional costs relating to expenses incurred will be at the discretion of the Director.
165. Further information of the elements of assistance can be found in the Agency's Travel Policy and Guidelines.

Excess travelling time

166. Where an APS employee is temporarily relocated and this involves excess travelling time (ETT) (as defined) of between 30 minutes and 5 hours in any one day, he or she will receive TOIL for this excess travelling time. Executive level employees will be entitled to access the provisions of clauses 62 and 63 with the agreement of their manager.

Excess fares

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

Workplace responsibility allowances

168. An employee who possesses a current first aid certificate and who is designated by the Director to undertake first aid responsibilities within the Agency will receive an allowance, based on a rate of \$20 per fortnight
- 168.1 An employee may be reimbursed for First Aid training, including refresher training, if they are designated by the Director to undertake first aid responsibilities within the Agency.
169. Employees who undertake emergency warden, Harassment Contact Officer or Work Health and Safety (WH&S) Officer training and are designated by the Director to undertake emergency warden, Harassment Contact Officer or WH&S Officer responsibilities within the Agency will receive the following allowances per role:
- 169.1 Floor warden: an allowance based on a rate of \$20 per fortnight; and
- 169.2 Other wardens/Harassment Contact Officer/WH&S Officer: an allowance based on a rate of \$16 per fortnight.

Miscellaneous payments

170. The Director may reimburse an employee for loss or damage to clothing or personal effects which occurred in the course of his or her work.

Employee Assistance Program

171. Employees will have access to an Employee Assistance Program at the cost of the Agency.

Family care

172. Where staff are transferred to another geographical location at the Agency's initiative (i.e. another state or territory) within the Agency, additional costs arising for family care (aged and child) are to be paid by the Agency for an aggregate period of 1 month.
173. Where the Agency requires employees to be away from home outside standard hours (including normal travel time) or work outside their regular hours, the Director will approve reimbursement (net of government assistance) of the reasonable cost of additional family care arrangements on receipt of satisfactory evidence.
174. During the December/January school holiday period, the Agency will reimburse childcare costs up to \$30 per day for each child of an employee with childcare responsibilities who has requested leave, which is not approved because they are required to attend the Agency for operational reasons. The maximum payment that can be made is \$210 per week per employee.

Overtime meal allowance

175. Where an employee is required to work overtime for a continuous period to the completion of or beyond a meal period, he or she may claim reimbursement for a meal up to \$25.

Section G - Working together – Communication & Consultation

Participative work practices

176. The Agency uses a variety of mechanisms to communicate and consult with employees about workplace matters affecting them. The three key mechanisms for communication and consultation are:
- 176.1 Staff consultative forums in the form of all-staff meetings;
 - 176.2 Team and project level meetings; and
 - 176.3 Written communication via all-staff email.
177. All employees are encouraged to participate in these processes and to use the various channels provided to have their say on issues of concern to them.

Consultation

178. This term applies if the Agency:
- 178.1 has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
 - 178.2 proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Major Change

179. For a major change referred to in clause 178.1:
- 179.1 the Agency must notify the relevant employees of the decision to introduce the major change; and
 - 179.2 clause 180 to 184 apply.
180. The relevant employees may appoint a representative for the purposes of the procedures in this term.
181. If:
- 181.1 a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - 181.2 the employee or employees advise the Agency of the identity of the representative;
- the Agency must recognise the representative.
182. As soon as practicable after making its decision, the Agency must:
- 182.1 discuss with the relevant employees:
 - 182.1.1 the introduction of the change; and
 - 182.1.2 the effect the change is likely to have on the employees; and
 - 182.1.3 measures the Agency is taking to avert or mitigate the adverse effect of the change on the employees; and
 - 182.2 for the purposes of the discussion -- provide, in writing, to the relevant employees:
 - 182.2.1 all relevant information about the change including the nature of the change proposed; and
 - 182.2.2 information about the expected effects of the change on the employees; and
 - 182.2.3 any other matters likely to affect the employees.

- 183. However, the Agency is not required to disclose confidential or commercially sensitive information to the relevant employees.
- 184. The Agency must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- 185. If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in 178.1 and clauses 180 and 182 are taken not to apply.
- 186. In this term, a major change is likely to have a significant effect on employees if it results in:
 - 186.1 the termination of the employment of employees; or
 - 186.2 major change to the composition, operation or size of the Agency's workforce or to the skills required of employees; or
 - 186.3 the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - 186.4 the alteration of hours of work; or
 - 186.5 the need to retrain employees; or
 - 186.6 the need to relocate employees to another workplace; or
 - 186.7 the restructuring of jobs.

Change to regular roster or ordinary hours of work

- 187. For a change referred to in clause 178.2:
 - 187.1 the Agency must notify the relevant employees of the proposed change; and
 - 187.2 clauses 188 to 192 apply.
- 188. The relevant employees may appoint a representative for the purposes of the procedures in this term.
- 189. If:
 - 189.1 a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - 189.2 the employee or employees advise the Agency of the identity of the representative; the Agency must recognise the representative.
- 190. As soon as practicable after proposing to introduce the change, the Agency must:
 - 190.1 discuss with the relevant employees the introduction of the change; and
 - 190.2 for the purposes of the discussion - provide to the relevant employees;
 - 190.2.1 all relevant information about the change, including the nature of the change; and
 - 190.2.2 information about what the Agency reasonably believes will be the effects of the change on the employee; and
 - 190.2.3 information about any other matters that the Agency reasonably believes are likely to affect the employees; and
 - 190.3 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).
- 191. However, the Agency is not required to disclose confidential or commercially sensitive information to the relevant employees.
- 192. The Agency must give prompt and genuine consideration to matters raised about the change by the relevant employees.
- 193. In this term: "relevant employees" means the employees who may be affected by change referred to in clause 178.

Dispute settlement and resolving workplace issues

Resolving workplace issues

194. Where grievances arise over decisions or actions affecting an employee, every effort will be made to resolve the matter through discussions between the relevant manager and the employee concerned.
195. An employee may refer the matter to the Director for resolution where:
 - 195.1 discussions with the relevant manager fail to resolve the matter, or
 - 195.2 where the matter relates to the behaviour of the manager and it would be inappropriate to discuss the matter at that level.
196. Where an employee refers the matter to the Director in accordance with clause 195:
 - 196.1 the employee and Director may agree to appoint a mutually acceptable independent person from within or outside the Agency to assist in resolving the matter by mediation and/or to investigate the matter and make recommendations where necessary; and
 - 196.2 the Director will advise the employee in writing of his or her decision in respect of the matter and the reasons for that decision, including the outcome of any investigation of the matter.

Resolution of Agreement disputes

197. If a dispute relates to:
 - 197.1 a matter arising under the agreement; or
 - 197.2 the National Employment Standards;

this term sets out procedures to settle the dispute.
198. An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.
199. In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.
200. If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to Fair Work Commission.
201. The Fair Work Commission may deal with the dispute in 2 stages:
 - 201.1 the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
 - 201.2 if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
 - 201.2.1 arbitrate the dispute; and
 - 201.2.2 make a determination that is binding on the parties.

Note: If Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Act.

A decision that Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

202. While the parties are trying to resolve the dispute using the procedures in this term:
 - 202.1 an employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
 - 202.2 an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:

- 202.2.1 the work is not safe; or
- 202.2.2 applicable occupational health and safety legislation would not permit the work to be performed; or
- 202.2.3 the work is not appropriate for the employee to perform; or
- 202.2.4 there are other reasonable grounds for the employee to refuse to comply with the direction.

203. The parties to the dispute agree to be bound by a decision made by Fair Work Commission in accordance with this term.

Valuing Diversity

204. The Agency is committed to promoting and supporting diversity in the workplace and recognises that our success depends upon our people, with their diverse views, abilities, skills, languages, cultures, perspectives and experiences. The Agency is an inclusive organisation that values fairness, equity and diversity consistent with the APS Values, Employment Principles and APS Code of Conduct. This commitment is demonstrated in leadership and management behaviours, strategies to remove barriers to employment and fostering a culture and environment which eliminates discrimination and harassment whilst celebrating individual differences.

Termination of employment

205. The sole and exhaustive rights and remedies of an employee in relation to termination of employment are those that the employee enjoys under:

- 205.1 the FW Act;
- 205.2 Other Commonwealth laws (and the Constitution); and
- 205.3 common law.

206. Termination of, or a decision to terminate, employment cannot be reviewed under clauses 194 to 203 of this Agreement.

207. The Director will provide an employee with the required period of notice of termination of employment under the FW Act. The Director may elect to give an employee payment in lieu of notice. However, nothing in this agreement prevents the Director from terminating the employment of an employee for serious misconduct, without further notice or payment in lieu, in accordance with section 123 of the FW Act, subject to compliance with the procedures established by the Director, under section 15 of the *Public Service Act 1999*, for determining whether an employee has breached the Code of Conduct.

Definitions

Agency	The Workplace Gender Equality Agency.
APS	Australian Public Service.
Classification	An approved classification as defined in the <i>Public Service Classification Rules 2000</i> . At date of commencement of this Agreement, non-SES classifications in WGEA are Trainee APS, Graduate APS, APS Levels 1-6 and Executive Levels 1 and 2.
Dependant	In relation to an employee means: (i) the spouse of the employee; and/or (ii) a child or parent of the employee, or of the spouse of the employee, being a child or parent who ordinarily resides with the employee and who is wholly or substantially dependent upon the employee. For the purposes of eligibility for Agency allowances or assistance, an adult dependant is a person for whom the employee is eligible to claim a tax offset from the Australia Tax Office. A child dependant is a child less than 18 years of a full-time student less than 25 years.
Director	The Director of the Workplace Gender Equality Agency.
WGEA	Workplace Gender Equality Agency.
Employee	A person employed under the <i>Public Service Act 1999</i> who is covered by this agreement.
Excess Employee	An employee is an excess employee if: (i) they belong to a class of employees employed in the Agency whose services are no longer required for the efficient and economical working of the Agency, (ii) their services cannot be effectively used because of technological or other changes in work methods of the agency or changes in the nature, extent or organisation of the functions of the agency; or (iii) their work is to be performed in a different locality and they are not willing to relocate to that locality and the Director has determined that this definition applies to the employee.
Family	A person who is related by blood or marriage, a person the Director is satisfied has a strong affinity with the employee, or stands in a bona fide domestic relationship with the employee. Family includes a spouse (including a former spouse, a de facto spouse or a former de facto spouse), a child or an adult child (including an adopted child, a step or ex nuptial child), parent, grandparent, grandchild or sibling of the employee or the spouse of the employee.
FWC	Fair Work Commission
Household member	A person who normally lives at the employee's residence.
Manager	The person to whom an employee is responsible and who is authorised by the Director to exercise the powers and responsibilities of manager in

	relation to that employee.
Meal period	Means any of the following periods - 6.00am to 8.00am, 12.00pm to 2.00pm and 6.00pm to 8.00pm
Medical certificate	Means a certificate signed by a registered health practitioner.
Non-ongoing Employee	As defined in the <i>Public Service Act 1999</i> .
Non-ongoing employees engaged for duties that are irregular or intermittent	An employee engaged on an hourly basis to work on an ad hoc or irregular basis, usually less than full-time in any week. Each period of work is an episode and is a distinct period of service with no guarantee or expectation of work beyond the period of current employment.
Ongoing Employee	As defined in the <i>Public Service Act 1999</i> .
Partner	Means in relation to a person who is a member of a couple, the other member of the couple.
Redeployment	Reassignment of duties with WGEA or movement to another APS agency.
Salary	The employee's rate of pay (in accordance with the pay rates at Attachment A.1) will be salary for all purposes, including superannuation (subject to relevant superannuation scheme rules), overtime, and payment of excess flexitime, severance and termination payments and excludes loadings and allowances. Participation in salary sacrifice arrangements or purchase leave options will not affect salary for these purposes.

Attachment A – Salary

A.1 Salary Rates

Classification	Pay Point	Salary rate on commencement	1 March 2016	1 March 2017	1 March 2018
Executive Level 2	3	130,887	132,196	133,518	135,521
	2	125,269	126,522	127,787	129,704
	1	114,897	116,046	117,206	118,965
Executive Level 1	3	106,454	107,519	108,594	110,223
	2	102,379	103,403	104,437	106,003
	1	98,651	99,637	100,634	102,143
APS 6	3	87,133	88,004	88,884	90,217
	2	80,597	81,403	82,217	83,450
	1	76,275	77,038	77,808	78,975
APS 5	3	75,005	75,756	76,513	77,661
	2	72,987	73,716	74,454	75,570
	1	70,787	71,495	72,210	73,293
APS 4	3	68,568	69,254	69,947	70,996
	2	65,156	65,807	66,466	67,463
	1	63,176	63,807	64,445	65,412
APS 3	3	61,571	62,187	62,808	63,751
	2	58,538	59,123	59,715	60,610
	1	57,090	57,661	58,237	59,111
APS 2	3	55,288	55,841	56,399	57,245
	2	51,650	52,167	52,688	53,479
	1	50,164	50,666	51,173	51,940
APS 1	3	48,813	49,302	49,795	50,541
	2	45,734	46,191	46,653	47,353
	1	44,400	44,844	45,293	45,972

A.2 Training Classifications

APS Classification	Commencement	1 March 2016	1 March 2017	1 March 2018
Graduate APS	57,090	57,661	58,237	59,111
Trainee APS	44,400	44,844	45,293	45,972

Additional Salary Information

- (a) Ordinary Time Formula: the fortnightly rate of pay will be based on the following formula:

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

- (b) Overtime Formula: the hourly rate for overtime payment will be calculated using the following formula:

- (i) Time and a half rate:

$$\frac{\text{Annual Salary}}{313} \times \frac{6}{\text{prescribed weekly hours before overtime is payable}} \times \frac{3}{2}$$

- (j) Double time rate:

$$\frac{\text{Annual Salary}}{313} \times \frac{6}{\text{prescribed weekly hours before overtime is payable}} \times \frac{3}{1}$$

- (k) Double time and a half rate:

$$\frac{\text{Annual Salary}}{313} \times \frac{6}{\text{prescribed weekly hours before overtime is payable}} \times \frac{5}{2}$$

- (c) For the purpose of calculating the formula, prescribed weekly hours before overtime is payable will be 37.5.

Attachment B - Supported salary payments for employees with a disability

Workers eligible for a supported wage

- B.1 These provisions define the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this Agreement. In the context of these provisions, the following definitions will apply:
- (a) Supported wage system means the Commonwealth Government system to promote employment for people who cannot work at full wages because of a disability, as documented in a Supported Wage System: Guidelines and Assessment Processes.
 - (b) Accredited assessor means a person accredited by the managing unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.
 - (c) Disability support pension means the Commonwealth pension scheme to provide income security for persons with a disability as provided for under the Social Security Act 1991, as amended from time to time, or any successor to that scheme.
 - (d) Assessment instrument means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

Eligibility criteria

- B.2 Employees covered by these provisions will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this Agreement, because of the effects of a disability on their productive capacity and who meet the impairment criteria test for a Disability Support Pension.
- B.3 These provisions do not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers' compensation legislation or any provision of this agreement/award relating to the rehabilitation of employees who are injured in the course of their employment.
- B.4 These provisions also do not apply in respect of any facility, program, undertaking, service or the like which receives funding under the *Disability Services Act 1986* and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of or are eligible for a Disability Support Pension, except with respect to an organisation which has received recognition under s10 or s12A of the *Disability Services Act 1986*, or if a part only has received recognition, that part.
- B.5 Employees to whom these provisions apply shall be paid the applicable percentage of the salary prescribed by this Agreement for the class of work which the person is performing according to the following schedule, provided that the minimum amount payable shall be not less than that determined by the Fair Work Commission or its successor:

Schedule B5	
Assessed Capacity (Clause B.6) Salary	% of prescribed
10% (a)	10%
20%	20%
30%	30%

40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

- (a) Where a person's assessed capacity is 10%, they shall receive a high degree of assistance and support.

Assessment of capacity

- B.6 For the purpose of establishing the percentage of the salary rate to be paid to an employee under this Agreement, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument.

Lodgement of assessment instrument

- B.7 All assessment instruments under the conditions of these provisions, including the appropriate percentage of the Agreement wage to be paid to the employee, shall be:
- (a) lodged by the employer with the Registrar of FWC; and
 - (b) agreed and signed by the parties to the assessment.

Review of assessment

- B.8 The assessment of the applicable percentage should be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.

Other employment conditions

- B.9 Where an assessment has been made, the applicable percentage shall apply to the salary only. Employees covered by these provisions will be entitled to the same terms and conditions of employment as all other workers covered by this Agreement paid on a pro rata basis.

Workplace adjustment

- B.10 Where the Director employs a person under these provisions, he or she shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

Trial period

- B.11 In order for an adequate assessment of the employee's capacity to be made, the Director may employ a person under these provisions for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.
- B.12 During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined.
- B.13 The minimum amount payable to the employee during the trial period shall be no less than that determined by Fair Work Commission or its successor.
- B.14 Where the Director and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under Clause B.6.

Attachment C - Redeployment Retrenchment and Redundancy

- C.1 This attachment provides a structured process for the management of potentially excess and excess employee situations.
- C.2 These provisions only apply to ongoing APS employees in the Agency. These provisions do not apply to an ongoing employee who is serving a probationary period or a non-ongoing employee.
- C.3 Throughout the process:
- (a) the Director will take all reasonable steps, consistent with the efficient management of the Agency, to transfer a potentially excess or excess employee to a suitable vacancy at an equal classification level within the Agency or in another APS agency;
 - (b) potentially excess and excess employees will take all reasonable steps to identify and apply for suitable vacancies at an equal classification level; and
 - (c) an employee, or where the employee chooses his or her representative, may, consistent with clauses C.4 and C.5, raise issues concerning a redundancy situation directly with his or her manager.

Consultation process

- C.4 Employees who are likely to become excess will be advised by the Director at the earliest practicable time.
- C.5 Discussions with the potentially excess employee or, where an employee requests, with the employee's representative, will be held to consider:
- (a) measures which might be taken to reduce the incidence of an employee becoming excess;
 - (b) redeployment opportunities for the employee concerned, including identifying whether the employee seeks redeployment; and
 - (c) whether voluntary retrenchment might be appropriate and whether the employee(s) wants to be offered voluntary retrenchment.
- C.6 The Director may, prior to the conclusion of these discussions, invite employees who are not potentially excess to express interest in voluntary retrenchment, where those retrenchments would permit the redeployment of employees who are potentially excess.
- C.7 The Director will not advise an employee that he or she is excess until the discussions referred to in Clauses C.4 and C.5 have occurred. The period of these discussions will not exceed one month.
- C.8 Where 15 or more employees are likely to become excess, the Agency will comply with the relevant provisions of the *Fair Work Act 2009*. In circumstances where 15 or more employees are likely to become excess, the Director will not invite employees to express interest in voluntary retrenchment or advise an employee that he or she is excess within one month of advising employees that they are likely to become excess.

Voluntary redundancy

- C.9 Where the Director invites an excess employee to do so, the employee will have one month to elect for voluntary redundancy. The Director will not give notice of termination of employment under s 29 of the *Public Service Act* on the grounds that the employee is excess to the requirements of the Agency before the end of that period or until such election is received (in circumstances where the election is received before the end of that period).
- C.10 Within that month the employee must be given information on:
- (a) the amount of his or her severance pay, pay in lieu of notice and paid up leave credits;
 - (b) the amount of his or her accumulated superannuation contributions;

- (c) options open to him or her concerning superannuation;
- (d) the taxation rules applying to the various payments; and
- (e) the availability of financial assistance, on a reimbursement basis, towards obtaining independent financial advice (up to the value of \$500).

C.11 The information is provided for guidance purposes only, and is not an offer capable of forming a binding contract.

Period of notice

- C.12 Where the employee agrees to be voluntarily retrenched, the Director can terminate the employee's employment and upon approval will give the required notice of termination of employment under section 29 of the *Public Service Act 1999* on the grounds that the employee is excess to the requirements of the Agency. The period of notice will be 4 weeks (or 5 weeks for an employee over 45 with at least 5 years of continuous service).
- C.13 Where an employee is terminated at the beginning of, or within, the notice period, the employee will receive payment in lieu of notice for the unexpired portion of the notice period.

Severance benefit

- C.14 An employee who elects voluntary retrenchment and whose employment is terminated under section 29 of the *Public Service Act 1999* on the grounds that the employee is excess to the requirements of the Agency, is entitled to be paid a sum equal to 2 weeks salary for each completed year of service, plus a pro rata payment for completed months of service since the last completed year of service. For earlier periods of service to count there must be no breaks between the periods of service, except where:
- (a) the break is less than one month and occurred where an offer of employment in relation to the second period of service was made and accepted before the end of the first period of service (whether or not the period of service are with the same employer or agency);
 - (b) the earlier period of service was with the APS and ceased because the employee was deemed to have resigned from the APS on marriage under the repealed section 49 of the *Public Service Act 1922*.
- C.15 Subject to any minimum entitlements the employee would be entitled to under the National Employment Standards (NES), the minimum sum payable will be 4 weeks' salary and the maximum will be 48 weeks' salary.
- C.16 Where an employee has worked part-time hours during his or her period of service and the employee has less than 24 years full-time service, the 2 weeks per year of service that relates to the part-time service will be paid on pro-rata basis as follows:
- (a) current annual full-time equivalent salary (used for redundancy purposes), divided by full time hours, multiplied by the part-time hours for that part-time period worked.
- C.17 Subject to Clauses C.18 and C.19, service for severance pay purposes means:
- (a) service in the Agency;
 - (b) Government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
 - (c) service with the Commonwealth (other than service with a joint Commonwealth-State body corporate in which the Commonwealth does not have a controlling interest) which is recognised for long service leave purposes;
 - (d) service with the Australian Defence Forces;
 - (e) APS service immediately preceding deemed resignation (as defined), if the service has not previously been recognised for severance pay purposes; and
 - (f) service in another organisation where an employee was transferred from the APS to that organisation with a transfer of function or an employee engaged by that organisation on work

within a function is appointed as a result of the transfer of that function to the APS and such service is recognised for long service leave purposes.

C.18 Any period of service which ceased:

- (a) through termination on the following grounds: the employee lacks, or has lost, an essential qualification for performing his or her duties; non-performance, or unsatisfactory performance of duties; inability to perform duties because of physical or mental incapacity; failure to satisfactorily complete an entry level training course; failure to meet a condition imposed under subsection 22(6) of the *Public Service Act 1999*; or a breach of the Code of Conduct ; or
 - (b) on a ground equivalent to a ground listed in subparagraph C.18 (a) above under the repealed *Public Service Act 1922*; or
 - (c) through voluntary retirement at or above the minimum retiring age applicable to the employee; or
 - (d) with the payment of a redundancy benefit or similar payment or an employer-financed retirement benefit;
- will not count as service for severance pay purposes.

C.19 Absences from work which do not count as service for any purpose will not count as service for severance pay purposes.

Rate of payment - Severance benefit

C.20 For the purpose of calculating any payment under Clause C.14, salary will include:

- (a) the employee's salary; and
- (b) the loading, where the employee has been receiving the loading for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of retirement; and
- (c) other allowances in the nature of salary which are paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.

Retention periods

C.21 Unless the employee agrees, an excess employee will not be terminated involuntarily until the following retention periods have elapsed:

- (a) 13 months where an employee has 20 or more years of service or is over 45 years of age; or
- (b) 7 months for other employees.

C.22 However, the duration of the retention period will be reduced by the period equivalent to the employee's NES redundancy entitlement. For example, an employee who would otherwise be eligible for a retention period of 7 months and a NES redundancy payment equivalent to 12 weeks' salary, the employee's retention period will be 7 months minus 12 weeks.

C.23 The retention period will commence on the earlier of the following:

- (a) the day the employee is advised in writing by the Director that he or she is an excess employee; or
- (b) one month after the day on which the Director invites the employee to elect to be retired.

C.24 During the retention period the Director:

- (a) will continue to take reasonable steps to find alternative employment for the excess employee; and/or
- (b) may, with 4 weeks' notice, reduce the excess employee's classification as a means of securing alternative employment for the excess employee. Where an excess employee is reduced in classification before the end of the appropriate retention period, the employee will continue to be paid at their previous level for the balance of the retention period.

C.25 The excess employee may request assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment where the costs are not met by the prospective employer.

- C.26 The retention periods specified in Clause C.21 and the notice period specified in Clause C.23 will only be extended where the Director is satisfied that an employee is substantially incapacitated and unfit for work, based on the opinion of a medical practitioner nominated by the Agency. Unless exceptional circumstances exist, a retention period will not be extended on these grounds beyond an additional 8 weeks.
- C.27 Where the Director believes there is insufficient productive work available or prospect of redeployment for an excess employee during the retention period, the Director may, with the agreement of the employee, terminate the employee under section 29 of the *Public Service Act 1999* and pay the balance of the retention period as a lump sum.
- C.28 An excess employee will not be terminated involuntarily if the employee has not been invited to elect to be voluntarily retrenched as per clause C.9 or has elected to be voluntarily retrenched but the Director refuses to approve it.
- C.29 An excess employee will be given 4 weeks notice (or 5 weeks notice for an employee over 45 with at least 5 years of continuous service) where it is proposed that the employee be terminated involuntarily. This specified period of notice will as far as practicable be concurrent with the retention periods.