



NDIS Quality  
and Safeguards  
Commission

# NDIS Quality and Safeguards Commission

Enterprise Agreement

2019 - 2022

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## **PART 1 – SCOPE OF THE AGREEMENT**

### **AGREEMENT TITLE**

- 1.1 This Agreement will be known as the NDIS Quality and Safeguards Commission Enterprise Agreement 2019 to 2022 and is made under section 172 of the *Fair Work Act 2009*.

### **PARTIES BOUND**

- 1.2 This Agreement covers:
- the Commissioner of the NDIS Quality and Safeguards Commission Services (“the Commission”) (on behalf of the Commonwealth); and
  - all Commission employees other than Senior Executive Service employees.

### **COMMENCEMENT AND DURATION**

- 1.3 This Agreement commences seven days after it is approved by the Fair Work Commission. This Agreement shall nominally expire three years from the date of commencement.

### **GUIDELINES AND POLICIES**

- 1.4 Any guidelines, policies and procedures referred to in this Agreement are not incorporated into, and do not form part of, this Agreement. A term of this Agreement prevails to the extent of any inconsistency with a guideline, policy or procedure.

### **DELEGATION**

- 1.5 The Commissioner may, in writing, delegate to or authorise a person to perform any of the Commissioner’s powers or functions under this Agreement including the power to sub-delegate.

### **INTERACTION WITH THE NATIONAL EMPLOYMENT STANDARDS**

- 1.6 Nothing in this Agreement reduces the entitlement available to an employee under the National Employment Standards.

## **FAMILY AND DOMESTIC VIOLENCE SUPPORT**

- 1.7 The Commission is committed to supporting employees affected by domestic and family violence. The Commission will provide employees with leave and support in accordance with this Agreement. Further information can be found in the Family and Domestic Violence Policy.

## **PART 2 – PERFORMANCE AND CAPABILITY**

### **PERFORMANCE MANAGEMENT FRAMEWORK**

- 2.1 All employees and their managers will participate in the Commission performance management framework.
- 2.2 The principles of performance management are:
- a) Joint responsibility – employees and supervisors will participate in all aspects of the performance management process, including initiating reviews, and seeking and providing feedback as required.
  - b) No surprises – the performance process will ensure that employees are aware of how they are performing. Managers should identify and address performance concerns at the earliest opportunity.
  - c) Fair – the performance process will provide employees with an opportunity to respond to performance feedback, consistent with natural justice principles.
  - d) Holistic – work outcomes and performance measures will be realistic, within the employee’s control and consistent with their work level.
- 2.3 The performance cycle for all employees will run from 1 July each year to 30 June in the following year.
- 2.4 An employee and their supervisor will develop a performance agreement within four weeks (or a longer period as agreed) of:
- a) the commencement of a new performance cycle; and/or
  - b) starting in a new position, either temporarily or permanently, at the same or a higher level, where duties in that position are expected to be undertaken for at least 3 months.

### **STUDY ASSISTANCE**

- 2.5 The Commissioner may provide assistance of up to 5 hours study leave per week (10 hours for employees with a disability or who are Aboriginal and

Torres Strait Islander employees) during semester, 3 hours travel time per week during semester and \$1,500 reimbursement of fees per semester to a maximum of \$3,000 per annum (where study is across more than one semester) for employees undertaking a course of study that is considered to be of benefit to the Commission.

## **SUPPORT FOR PROFESSIONALS**

- 2.6 The Commissioner may approve reimbursement for the cost of annual membership fees of associations up to \$750 a year where membership of the association is essential to enable the employee to undertake their duties.
- 2.7 The Commissioner may approve reimbursement of up to \$42 a year per employee towards annual membership of other professional associations relevant to the work of the Commission.



## PART 3 – REMUNERATION

### SALARY RATES

- 3.1 The salary rates that will be paid under this Agreement are detailed in Appendix A of this Agreement.
- 3.2 All employees with a salary that falls within the salary range for their classification will receive an increase to their salary with effect from:
- a) the date of commencement of the agreement – increase of 2%
  - b) 12 months after the date of commencement – 2%
  - c) 24 months after the date of commencement – 2%
- 3.3 Employees who, on commencement of the Agreement, are in receipt of a salary above the top of the range increment point for their classification following the salary increases at Appendix A will not be eligible for the relevant salary increases. These employees will remain on their current salary and subject to satisfactory or higher performance in the previous performance assessment period, will be eligible for:
- on commencement of the Agreement, a one-off payment of 1% of their pre-Enterprise Agreement salary;
  - in year two, a one-off payment of 1.5% of their pre-Enterprise Agreement salary; and
  - in year three, a one-off payment of 0.5% of their pre-Enterprise Agreement salary.

The timing of these one-off payments will occur at the same time as the increase to salary rates outlined in clause 3.2. These payments will not count as salary for any purpose.

- 3.4 Employees who, on commencement of the Agreement, were in receipt of a salary above the top of the range increment point for their classification following the salary increases at Appendix A will transition to the salary structure when their salary no longer exceeds the top of the range increment point for their classification. Where an employee on transition to the structure

receives a salary increase less than the value of the one-off payment available at that time they will receive the one-off payment in addition to the salary adjustment.

### **ADJUSTMENT TO FIRST PAY INCREASE UNDER THIS AGREEMENT**

3.5 In this clause:

- (a) Commencement Date means the date this Agreement commences operation; and
- (b) Effective Date means the day which is 12 weeks after the date this Agreement was made in accordance with section 182 of the Fair Work Act 2009.

3.6 Subject to clause 3.5, if the Commencement Date occurs after the Effective Date, then, in the first available pay period after the Commencement Date, the Commission will make a salary adjustment payment calculated on the basis that the salary rates payable under this Agreement on the Commencement Date applied from the Effective Date.

3.7 The salary adjustment payment at clause 3.6 applies only to salary and does not apply to any allowance or other payments provided for in this Agreement.

### **INDIVIDUAL FLEXIBILITY ARRANGEMENTS**

3.8 The Commissioner and an employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:

- a) the arrangement deals with one or more of the following matters:
  - (i) arrangements about when work is performed;
  - (ii) overtime rates;
  - (iii) penalty rates;
  - (iv) allowances;
  - (v) remuneration; and/or
  - (vi) leave; and

- b) the arrangement meets the genuine needs of the Commission and the employee in relation to one or more of the matters mentioned in paragraph (a); and
- c) the arrangement is genuinely agreed to by the Commissioner and employee.

3.9 The Commissioner must ensure that the terms of the individual flexibility arrangement:

- a) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
- b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
- c) result in the employee being better off overall than the employee would be if no arrangement was made.

3.10 The Commissioner must ensure that the individual flexibility arrangement:

- a) is in writing; and
- b) includes the name of the employer and employee; and
- c) is signed by the Commissioner and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
- d) includes details of:
  - (i) the terms of the enterprise agreement that will be varied by the arrangement; and
  - (ii) how the arrangement will vary the effect of the terms; and
  - (iii) how the employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and
- e) states the day on which the arrangement commences and, where applicable, when the arrangement ceases.

3.11 The Commissioner must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

- 3.12 The Commissioner or employee may terminate the individual flexibility arrangement:
- by giving no more than 28 days written notice to the other party to the arrangement; or
  - if the Commissioner and employee agree in writing — at any time.

### **RECOVERY OF OVERPAYMENTS AND OTHER DEBTS**

- 3.13 Salary, salary related and other debts that an employee or former employee owes to the Commission will be recovered in accordance with the Commissioner's Instructions and section 324 of the *Fair Work Act 2009*.

### **SALARY ADVANCEMENT**

- 3.14 An on-going employee who is not on the top point of the salary range for the employee's base classification or within the same classification in a Commission Broadbanded Local Title, will be eligible to have their salary increased by one pay point effective 1 September each year, subject to meeting the following conditions:
- the employee has been continuously employed at that classification level or higher in the Commission for a period of 6 continuous months or more during the performance cycle; and
  - the employee having an agreed performance agreement in place and performed at a satisfactory or higher level.

### **Salary advancement – temporary assignment of duties to a higher classification**

- 3.15 An employee who is not on the top point of the salary range for the employee's temporary classification or within the same classification in a Commission Broadbanded Local Title and has temporarily performed duties at a higher level for a continuous period of 12 months as at the end of the performance cycle, or for a period of 12 months within a 24 month period as at the end of the performance cycle, will be eligible to have their temporary salary increased by one pay point at the higher classification level effective 1 September each year, subject to having met the following conditions:

- the employee has a performance agreement in place; and
- performed at a satisfactory or higher level.

3.16 If the employee meets the above requirements for salary advancement whilst on temporary assignment, the rating will be considered to apply equally to the employee's base classification.

3.17 Where advancement to a higher pay point has been attained, it is retained for future periods of temporary performance at the higher classification and on promotion. This is subject to any break in working at this higher classification or above, not exceeding 24 months from the date of cessation of the temporary assignment of duties.

### **Salary advancement for non-ongoing employees**

3.18 A non-ongoing employee who is not at the top of their salary range for the employee's classification or within the same classification in a Commission Broadbanded Local Title will be eligible to have their salary increased by one pay point effective 1 September each year, subject to the employee having met the following conditions:

- has been continuously employed in the Commission at their original contracted level or higher for a minimum period of 12 months on or before the end of the performance cycle; and
- has a performance agreement in place within a minimum of three months following their commencement and performed at a satisfactory or higher level.

### **SALARY ON ENGAGEMENT, PROMOTION AND ASSIGNMENT OF DUTIES**

3.19 An employee's salary on engagement, promotion and assignment of duties (including movement from another APS Agency) will be at the minimum salary point for the classification, except where:

- a) the Commissioner approves payment at a higher salary point in the classification's salary range; or
- b) an employee who moves at level from an APS Agency into the Commission and whose salary exceeds the current maximum salary for

that classification, the Commissioner may maintain their previous substantive salary until the employee's salary is at or below the maximum salary point for the relevant classification level and the employee can be transferred to a salary pay point within the classification's salary range.

For the purpose of a) above, the Commissioner may have regard to:

- previous relevant experience at or above the classification;
- the employee's previous salary
- shortage of required skills in the labour market.

3.20 Where an employee is assigned duties to a lower classification on a temporary or ongoing basis, the Commissioner may transfer the employee to any pay point within that range including the top pay point in the lower classification.

### **TEMPORARY RE-ASSIGNMENT TO A HIGHER CLASSIFICATION**

3.21 The Commissioner may approve payment of a Higher Duties Allowance (HDA) to an employee who is temporarily assigned to duties at a higher classification level.

3.22 The minimum period of temporary reassignment that can attract payment of HDA is two weeks. If the Commissioner determines there are special circumstances associated with the higher duties, including the requirement to exercise significant delegated authority, payment may be made for a shorter period.

3.23 An employee performing all of the duties of a position at a higher classification may be paid HDA equal to the difference between the employee's substantive salary and the base salary of the higher classification unless the Commissioner approves payment at a higher salary whilst on higher duties having regard to the employee's:

- previous periods of higher duties at or above the proposed higher duties classification;
- performance, including during previous periods of higher duties; and
- relevant experience and/or skills.

3.24 An employee performing part of the duties of a position at a higher classification, will receive payment at a rate determined by the Commissioner.

## **SUPERANNUATION**

3.25 The Commission will make compulsory employer contributions as required by the applicable legislation and fund requirements.

3.26 The Commission's default superannuation fund is the Public Sector Superannuation Accumulation Plan (PSSap). The Commission will provide employer superannuation to members of the PSSap of no less than 15.4% of an employee's fortnightly contribution salary.

3.27 Where an employee exercises superannuation choice to a fund other than the PSSap, employer superannuation contributions will be no less than 15.4% of an employee's Ordinary Time Earnings as defined in the *Superannuation Guarantee (Administration) Act 1992*. This will not be reduced by any other contributions made through salary sacrifice arrangements.

3.28 For employees who take paid and/or unpaid parental leave (which includes maternity, parental, adoption and foster and permanent care leave), employer contributions will be made for a period equal to a maximum of 52 weeks as if the entire period of leave was paid leave or in accordance with the rules of the appropriate superannuation scheme. Contributions will be based on the employer contribution amount in the full pay period immediately prior to commencing leave.

3.29 Employer superannuation contributions will not be paid on behalf of employees during other periods of unpaid leave not specified in clause 3.28 that do not count as service, unless otherwise required under legislation.

3.30 The Commissioner 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 Commission's payroll system.

3.31 Any fees applied by a chosen fund associated with the administration of superannuation contributions will be borne by the employee.

- 3.32 Existing Public Sector Superannuation (PSS) and Commonwealth Superannuation Scheme (CSS) arrangements will continue in accordance with the relevant legislation and requirements and based on an employee's fortnightly contribution salary.

### **LOADING FOR CASUAL EMPLOYEES**

- 3.33 Employees engaged on an irregular or intermittent basis (casual employees) will receive a loading of 20 per cent of salary in lieu of public holidays not worked and paid leave (except long service leave), which is provided in accordance with long service leave legislation.

### **SUPPORTED SALARY RATES**

- 3.34 Supported wage rates (Appendix B) apply to an employee with a disability who is eligible for consideration under the Supported Wage System.

### **SALARY PACKAGING**

- 3.35 All ongoing employees and non-ongoing employees with initial contracts of at least three months, will have access to salary packaging.
- 3.36 Where an employee takes up the option of salary packaging, the arrangements will not reduce the employee's salary for superannuation purposes or any other purpose.
- 3.37 The employee will meet the costs of any salary packaging arrangement, including any fringe benefits tax and administrative costs that the salary packaging provider may charge.

### **DEATH OF AN EMPLOYEE**

- 3.38 Where an employee dies, or the Commissioner has directed that an employee will be presumed to have died on a particular date, payment may be made to the dependants or partner or legal personal representative of the former employee of an amount that would have been paid if the employee had otherwise ceased employment either by resignation or age retirement on that day.



## **PART 4 – ALLOWANCES AND REIMBURSEMENTS**

### **WORKPLACE CONTACT OFFICER ALLOWANCE**

4.1 An employee appointed by the Commissioner to undertake any of the following roles:

- First Aid Officer;
- Emergency Warden;
- Health and Safety Representative; and/or
- Harassment Contact Officer;

will, subject to having undertaken the relevant training and/or possessing the required certification(s), be entitled to be paid an allowance of \$25.50 per fortnight. The rate of allowance will be updated in accordance with clauses 3.2(b) and 3.2(c)

4.2 The allowance is not payable during periods of leave greater than four weeks unless otherwise required by legislation.

4.3 An employee undertaking more than one Workplace Contact Officer role simultaneously will only receive a single allowance payment in respect of all roles undertaken. Part-time employees are entitled to a pro-rata payment.

### **COMMUNITY LANGUAGE ALLOWANCE**

4.4 Where, in providing client or employee services, the Commissioner determines there is a continuing need to utilise an employee's particular language skills for communication in languages other than English, (including Aboriginal and Torres Strait Islander languages and utilising deaf communication skills), the employee will be paid a community language allowance. The allowance is payable during periods of leave and paid fortnightly. The rate of allowance will be updated in accordance with clauses 3.2(b) and 3.2(c)

Standard	Level of Competence
<p>CLA Rate 1 (allowance of \$1,000 per annum)</p>	<p>An employee who:</p> <ul style="list-style-type: none"> <li>• passes the Language Aide Test conducted by the National Accreditation Authority for Translators and Interpreters (NAATI); or</li> <li>• is recognised by NAATI to possess equivalent proficiency; or</li> <li>• is waiting to be assessed by the above means and whose manager certifies that the employee uses the language skills to meet operating requirements of the workplace, until such time assessment is completed; or</li> <li>• is assessed to be at the equivalent level by the Commissioner or body approved by the Commissioner.</li> </ul>
<p>CLA Rate 2 (allowance of \$2,005 per annum)</p>	<p>An employee who is:</p> <ul style="list-style-type: none"> <li>• accredited or recognised by NAATI at the Para professional Interpreter /Translator level or above; or</li> <li>• assessed to be at the equivalent levels by the Commissioner or body approved by the Commissioner; and</li> <li>• required to undertake interpreting or translating services.</li> </ul>

## **MOTOR VEHICLE ALLOWANCE**

- 4.5 The Commissioner may authorise an employee to use a private vehicle, owned or hired by the employee at the employee's expense, for official purposes, where the Commissioner considers that it will result in greater efficiency or involve less expense for the Commission. Authorised employees will receive a motor vehicle allowance based on rates set periodically by the Australian Taxation Office. This allowance does not count as salary for any purpose.

## **EXTRA FAMILY CARE COSTS**

- 4.6 Where the Commission requires employees to be away from home outside bandwidth hours (including normal travel time) or to work outside their regular hours, the Commissioner may approve reimbursement (net of government assistance) of the reasonable cost of additional family care arrangements on receipt of satisfactory evidence.

## **ASSISTANCE WITH RELOCATION EXPENSES**

### **Employer initiated moves**

- 4.7 The Commissioner may reimburse employees on term transfer (confirmed in writing) or compulsory transfer, or pay third party provider(s) directly up to \$40,000 for reasonable expenses associated with the relocation. An employee on term transfer will not be eligible to receive travelling allowance during employment at that place of work.
- 4.8 The Commissioner may reimburse an employee on term transfer an amount equal to six reunion visits by economy class return travel by air in any one year from the date that the term transfer commences.
- 4.9 The provisions of clause 4.5 of this Agreement will apply should the Commissioner approve a mode of travel other than air.

### **Employee initiated moves**

- 4.10 The Commissioner may reimburse an eligible employee or pay a third party provider, up to \$10,000 for reasonable expenses associated with relocation.

This may be increased to \$20,000 where the Commissioner is satisfied the amount is reasonable and the relocation of the employee is critical.

- 4.11 The employee will be an eligible employee when they are promoted, or assigned duties on an ongoing basis that are deemed to be in the interests of the Commission, or engaged as either ongoing or non-ongoing and that engagement is deemed in the interests of the Commission.
- 4.12 Employees requesting a transfer to a new locality are generally not deemed to be eligible relocated employees.

### **LOSS OR DAMAGE TO CLOTHING OR PERSONAL EFFECTS**

- 4.13 The Commissioner may approve the payment of an amount up to the Comcover excess (currently \$250) to an employee per incident for loss or damage to clothing or personal effects in the following circumstances:
- the loss/damage was caused by a fault or defect in Commonwealth property.
  - the loss/damage resulted from an act or omission by another Commonwealth employee.
  - the loss/damage occurred while protecting or trying to protect Government property.
  - the loss/damage is causally connected to the employee's duties.
  - none of the above, but there are extenuating circumstances.

### **ALLOWANCE RATES - ADJUSTMENT**

- 4.14 The Commissioner may vary allowance rates from time to time where the rate of an allowance in this Agreement ceases to be updated by a provider.

## **PART 5 – HOURS OF WORK AND WORKING ARRANGEMENTS**

### **RECORDING HOURS WORKED**

- 5.1 All employees must record and retain an accurate record of their working hours.
- 5.2 Periods of leave other than approved flex leave or time off in lieu not authorised by a leave application may be treated as an unauthorised absence.
- 5.3 Where an employee is absent from duty without approval, all pay and other benefits provided under this Agreement, e.g. flextime, will cease to be available until the employee resumes duty or is granted leave.
- 5.4 The Commissioner can direct an employee to work standard hours if they fail to maintain a satisfactory pattern of attendance.

### **HOURS OF WORK**

- 5.5 The ordinary hours for a full time employee are 7 hours and 30 minutes per day, a total of 37 hours and 30 minutes per week and 150 hours per four week settlement period, worked within the bandwidth of 7.00am to 7.00pm Monday to Friday.
- 5.6 Standard hours of attendance for employees, other than shift workers, are 8.30am to 12.30pm and 1.30pm to 5.00pm.
- 5.7 All employees are required to take an unpaid break for at least 30 minutes after five hours of continuous work.
- 5.8 No employee can be compelled to work their hours outside the bandwidth unless as part of a shift work arrangement.
- 5.9 Unless there are exceptional circumstances, employees will not be required to work more than 10 hours in any one day.
- 5.10 Regular hours vary standard hours. An employee, other than a shift worker will generally perform their regular hours of work within a bandwidth of 7:00am to 7:00pm Monday to Friday.

5.11 The ordinary hours for salary calculations, including compensation leave will be 7 hours and 30 minutes per day or the hours specified in part-time agreements or shift rosters.

## **FLEXTIME**

5.12 Employees up to and including APS 6 and equivalent classification may:

- work flextime;
- request to work some, or all, of their hours outside of the 7.00am to 7.00pm Monday to Friday bandwidth, subject to operational requirements. Where an employee requests to work regular hours of duty outside of the bandwidth for personal reasons, any approved arrangement does not attract shift work conditions or the payment of overtime.

5.13 The maximum flex credit which can be carried from one settlement period to another is 37 hours and 30 minutes unless otherwise agreed in writing. The maximum flex debit which can be carried from one settlement period to another is 22.5 hours.

5.14 Prior approval and reasonable notice are required for any flex leave of a day or more, or for part days where predetermined operational requirements would be affected.

5.15 Employees may use up to five consecutive working days of flex leave.

## **Reversion to standard hours**

5.16 The Commissioner may revert an employee to standard hours of attendance where an employee fails to appropriately use flextime provisions.

## **Excess Flex Credits**

5.17 Where an employee has a flex balance in excess of 37 hours and 30 minutes, the Commissioner may, in exceptional circumstances, approve the cash out at the single hourly rate at the end of the settlement period of the flex credit in excess of 22.5 hours.

## **Excess Flex Debit**

- 5.18 The Commissioner may direct an employee who has a negative flex debit of more than 22.5 hours at the end of a settlement period to treat the debit as approved miscellaneous leave without pay not to count as service to cancel the excess debit.
- 5.19 Where an employee ceasing duty with the Commission has a flex credit, the amount owing for these credits will be paid to the employee at the single hourly rate at the date of cessation. Any outstanding debits (also calculated at the single hourly rate at the date of cessation) will be recovered from the employee's separation payment.

## **EXECUTIVE LEVEL EMPLOYEES – TIME OFF IN LIEU**

- 5.20 The Commission recognises that Executive Level employees because of their senior work roles and responsibilities will be required from time to time, to undertake additional hours of work.
- 5.21 The Commission does not support Executive Level employees working unreasonable additional hours. Managers and Executive Level employees should work together to manage workload requirements, working hours and work/life balance.
- 5.22 Where an Executive Level employee works additional hours, the Commissioner may grant access to Time Off In Lieu. In determining Time off in Lieu arrangements for an Executive Level employee, the Commissioner will consider the employee's work and personal circumstances. Time Off in Lieu is not an hour for hour arrangement.
- 5.23 Time Off in Lieu should be taken as soon as practical, subject to operational requirements. Agreed unused Time Off In Lieu up to a maximum amount of 37 hours and 30 minutes can be carried over from month to month.

## **PART-TIME EMPLOYMENT**

- 5.24 The Commissioner may engage employees on a part-time basis and/or approve arrangements for an employee to work as a part-time employee. A full-time employee cannot be compelled to work part-time.

- 5.25 A part-time employee is one whose hours of duty are less than 37 hours and 30 minutes per week averaged over a four week period.
- 5.26 Employees returning from maternity, adoption/foster or permanent care leave have a right to access part-time employment for a period of up to three years. The proposed pattern of work is subject to agreement of the Commissioner.

### HOME BASED WORK (HBW)

- 5.27 The Commissioner may agree to an employee working from home on a long term or casual basis. An employee cannot be compelled to work from home.

### SHIFTWORK

- 5.28 The Commissioner may approve shift work arrangements and payments.
- 5.29 A shiftworker will be paid the following penalty rates for all ordinary hours worked by the shift worker during the following periods:

Shift	Penalty Rate
Where any part of a shift falls between 7.00pm and 7.00 am Monday to Friday	15%
Where the shift falls wholly within 7.00pm and 7.00am Monday to Friday for at least 4 continuous weeks	30%
Where any part of a shift falls between midnight Friday and midnight Saturday	50%
Where any part of a shift falls between midnight Saturday and midnight Sunday*	100%
Where any part of a shift falls on a Public Holiday (except in South Australia, if the public holiday is a public holiday solely because it is a Sunday)*	150%

*\*NOTE: In South Australia The Holidays Act 1910 (SA) provides that Sundays are a public holiday. The public holiday rate will not apply to work undertaken in South Australia if the public holiday is a public holiday solely because it is a Sunday.*



- 5.30 Shift penalties or shift allowance are payable consistent with long service legislation, during periods of annual leave and not payable during other periods of leave. They may count as salary for some superannuation purposes subject to eligibility provisions in relevant superannuation legislation.
- 5.31 Where a public holiday occurs on a day when the employee who is regularly rostered to perform shiftwork on at least six days of the week, is rostered off duty, the employee is entitled to:
- a) leave for a day instead of the public holiday; or
  - b) an amount equal to salary for a day based on the single hourly rate on that day for the employee.

This clause will not apply in South Australia if the public holiday is a public holiday solely because it is a Sunday.

*\*NOTE: Sundays are a public holiday in South Australia due to the operation of the Holidays Act 1910 (SA)*

- 5.32 Where a shiftworker works to a roster including weekend days, the employee will be entitled to an additional half day's annual leave for each Sunday on rostered duty up to a maximum of an additional 5 days annual leave.

## **EXECUTIVE LEVEL EMPLOYEES – OVERTIME AND RELATED PAYMENTS**

- 5.33 Unless approved by the Commissioner in exceptional circumstances, Executive Level or equivalent employees are not eligible to receive overtime or other related payments, including emergency duty, restriction duty, and overtime meal allowance.

## **OVERTIME**

- 5.34 Overtime is only to be worked with the approval of the Commissioner for work performed in addition to an employee's ordinary hours. For part-time employees, approved overtime would relate to work required to be performed which is in addition to the employee's regular hours or is beyond the total hours of work over the settlement period specified for the employee in the employee's part-time agreement.

- 5.35 Where necessitated by operational requirements, the Commissioner may approve for an employee to work overtime outside regular hours (as described in clause 5.10).
- 5.36 An employee may refuse to work additional hours where such additional hours are considered to be unreasonable.
- 5.37 For an employee eligible to receive overtime payments, overtime hours worked will be paid or, where agreed, time off in lieu of overtime payments will accrue at the following penalty rates:
- overtime worked Monday to Saturday will be paid at time and a half for the first three hours each day and double time thereafter;
  - overtime worked on Sunday will be paid at the rate of double time; and
  - overtime worked on a public holiday will be paid at the rate of double time and a half, including the single time already paid for the public holiday, except in South Australia if the public holiday is a public holiday solely because it is a Sunday.\*
- \*NOTE: Sundays are a public holiday in South Australia due to the operation of the Holidays Act 1910 (SA).*
- 5.38 Where the Commissioner agrees, employees who are eligible for an overtime payment for time worked (including overtime payments while on restricted duty), may elect to take time off in lieu at the applicable penalty rate.
- 5.39 Where time off in lieu of payment has been agreed, but the employee has not been granted that time off within four weeks or another agreed period due to operational requirements, the employee may elect to receive payment of the original overtime or time worked whilst on restriction duty.
- 5.40 Salary rates for the purposes of calculating overtime include any allowance in the nature of salary.
- 5.41 Where overtime is continuous with ordinary hours, overtime payments will be made for hours actually worked. There will be no minimum period for which overtime will be paid. Where overtime is not continuous, payment will include payment for reasonable travelling time.

## **EMERGENCY DUTY**

5.42 Where the Commissioner approves for an employee to be called for duty to meet an emergency outside ordinary hours and the employee has received no notification prior to ceasing ordinary hours of work/duty, the employee will be paid at the rate of double time for a minimum of two hours, including time necessarily spent travelling to and from duty.

## **REST PERIOD**

5.43 Where the Commissioner approves an employee to work outside their ordinary (or regular hours if applicable), the employee will be entitled to an eight hour break plus reasonable travelling time before commencing work again, without any loss of pay. Where this is not possible due to operational requirements, the employee will be paid for subsequent periods of work at double the hourly rate for the hours worked, until the employee has taken an eight hour break.

## **RESTRICTION DUTY**

5.44 Where the Commissioner approves for an employee to be contactable and to be available to perform extra duty outside the bandwidth, for a period(s) of no less than 12 hours per period unless a reduced period is required and is approved by the Commissioner, the employee will be paid a Restriction Allowance at a flat rate of \$45 per weekday and \$55 for Saturdays, Sundays, public holidays and closedown days. That is, if an employee is on restriction for less than one day, they will still receive the daily rate.

5.45 Where an employee in receipt of a Restriction Allowance is recalled to duty at a place of work, a three hour minimum overtime payment will apply and where the employee is required to perform duty, but is not recalled to a place of work, a one hour minimum overtime payment will apply.

5.46 Restriction allowance will continue to be paid for periods of overtime worked while restricted.

5.47 Restriction Allowance is not payable to an employee while they are on leave.

## **OVERTIME MEAL ALLOWANCE**

5.48 The Commissioner will approve the payment of overtime meal allowance to an employee who works approved overtime before or after ordinary hours or for a period not continuous with their ordinary (or regular hours if applicable). This is on weekends or public holidays, or outside their regular hours. The overtime worked is to be up to the completion of, or beyond, a meal period specified below:

- 7.00am to 9.00am
- noon to 2.00pm
- 6.00pm to 7.00pm
- midnight to 1.00am.

5.49 Overtime meal allowance will be varied in accordance with rates published by the relevant subscription service. This allowance does not count as salary for any purpose.

## **PUBLIC HOLIDAYS**

5.50 Employees will be entitled to the following public holidays each year:

- 1 January (New Year's Day);
- 26 January (Australia Day);
- Good Friday;
- Easter Monday;
- 25 April (Anzac Day);
- The Queen's birthday holiday (the day on which it is celebrated in a State or Territory or a region of a State or Territory);
- 25 December (Christmas Day);
- 26 December (Boxing Day);
- Any other day, or part-day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday. Other than a day or

part-day, or a kind of day or part-day, that is excluded by the Fair Work Regulations 2009 from counting as a public holiday.

- 5.51 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.
- 5.52 The Commissioner 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.
- 5.53 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.
- 5.54 Where a public holiday falls during a period when an employee is absent on leave (other than annual or paid personal/carer's leave) there is no entitlement to receive payment as a public holiday. Payment for that day would be in accordance with the entitlement for that form of leave. Payment for an employee on long service leave will be in accordance with the applicable legislation.
- 5.55 If under a law of a State or Territory every Sunday is declared or prescribed by or under that law to be a public holiday, there is no entitlement to receive payment as a public holiday if the employee would have worked, or does perform work, on that day. In these circumstances, payment will only be made at the public holiday rate of pay if the employee performs work on that day, and the Sunday would otherwise be a public holiday under clauses 5.51 and 5.52.

## **CHRISTMAS AND EASTER CLOSEDOWNS**

- 5.56 The Commission will close its normal operations from 12:30 pm on the last working day before Christmas Day, with business resuming on the first working day after New Year's Day (close down).

- 5.57 All Commission workplaces will be closed for business from 3.00pm on Easter Thursday.
- 5.58 There will be no deduction from leave credits for the closedown days.
- 5.59 Employees will be provided with time off for the working days covered by the 'close down' period referred to in Clauses 5.56 and 5.57 and will be paid in accordance with their ordinary hours of work.
- 5.60 Where an employee is absent on paid leave, on both sides or on one side of the closedown period, payment for the closedown period will be in accordance with the employee's ordinary hours of work. To avoid doubt, if an employee is on leave at half pay on both sides of the closedown period, the employee will receive payment for the closedown period at half pay.
- 5.61 Employees on leave without pay on either side of the close down periods will not be paid for the closedown days.
- 5.62 Where the Commissioner approves for an employee to attend for duty during periods between Monday and Friday during the holiday closedown, the employee will be eligible for payment or time off in lieu, on the same basis as for duty on a Sunday for any days that are not public holidays. "Duty on a Sunday" means that employee will be paid at the rate of double time, which is inclusive of the single time already paid for the public holiday.

## PART 6 – LEAVE

### NOTIFICATION OF ABSENCE

6.1 Employees are required to notify their manager (or if unavailable, an agreed alternative person) of their intended absence as close as possible to the employee's normal commencement time. If the employee is unable to provide prior notification of their intended absence, the employee should contact the manager by phone (and not by email or text message) unless this is not practicable.

### PORTABILITY OF LEAVE

6.2 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.

6.3 Where an employee is engaged in the Commission as either an ongoing or non-ongoing employee immediately following a period of ongoing employment in the Parliamentary Service or the Australian Capital Territory 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.

6.4 For the purposes of this clause:

- 'employee' has the same meaning as under the *Public Service Act 1999* (PS Act).
- 'Parliamentary Service' refers to employment under the *Parliamentary Service Act 1999*.

6.5 Where a person is engaged as an ongoing employee, and immediately prior to the engagement the person was employed as a non-ongoing APS employee, the Commissioner may, at the employee's request, recognise any accrued annual leave and personal/carers leave (however described),

provided there is no break in continuity of service. Any recognised annual leave excludes any accrued leave paid out on separation.

### **UNAUTHORISED ABSENCE**

6.6 Where an employee is absent for any period without approval, the absence will be unpaid and will not count as service for any purpose.

### **REIMBURSEMENT OF COSTS ON CANCELLATION OF LEAVE**

6.7 Where an employee has leave cancelled by the Commission or is recalled to duty and will incur additional and/or unrecoverable costs as a direct result, reasonable costs as determined by the Commissioner will be reimbursed on submission of proof of expenditure. An employee will not be entitled to reimbursement if the costs incurred are otherwise recoverable.

### **SCHOOL HOLIDAY / FAMILYCARE REIMBURSEMENT**

6.8 Where an employee with school children has approved leave cancelled or is required to return from leave early because of the Commission's business requirements during school holidays, the Commissioner may reimburse the amount paid by the employee for each school child attending approved or registered care for the approved period of leave.

6.9 Where an employee has approved leave cancelled or is required to return from leave early because of Commission business requirements and where the employee can demonstrate that she or he would otherwise have taken personal responsibility for caring for other family members, the Commissioner may reimburse some or the entire amount paid by the employee for that family care.

6.10 Casual employees will not normally be eligible for the reimbursement.

6.11 Reimbursement will apply only for the days when the employee is at work, except in exceptional circumstances determined by the Commissioner.

6.12 Reimbursement will be net of any government subsidy provided to the employee.



## **ANNUAL LEAVE**

- 6.13 A full-time employee is entitled to 4 weeks paid annual leave accruing daily and credited monthly in arrears. Part-time employees accrue 4 weeks annual leave per annum calculated on a pro-rata basis.
- 6.14 The Commissioner may approve annual leave at either full or half pay. If leave is taken at half pay the deduction from an employee's annual leave credits will be half the period of leave taken.
- 6.15 Employees living in remote localities accrue additional annual leave credits as outlined in Part 8.
- 6.16 Where an employee has accrued more than 8 weeks annual leave or a pro-rata amount for part-time employees (or in the case of employees in remote localities who are entitled to additional annual leave - more than 2 years credit), the Commissioner may direct the employee to take a period of leave of not more than a quarter of the total leave accrued.
- 6.17 An employee will not be directed to take annual leave where the employee:
- has made an application for annual leave of a period greater than 2 weeks for full-time employees or a pro-rata amount for part-time employees in the previous 6 month period and the application was not approved; or
  - is following a management strategy to reduce the employee's amount of accrued leave, which has been agreed with their manager.
- 6.18 An employee's accrual of annual leave will be reduced where a period or periods of leave without pay that is not to count as service, exceeds 30 days in a calendar year. Where leave without pay not to count as service covers an entire calendar year, no annual leave credit accrues for that year.

## **PERSONAL/CARER'S LEAVE**

### **Accrual of personal/carer's leave credits**

- 6.19 Ongoing employees will receive a credit of 10 days personal/carer's leave (pro-rata for part-time employees) on engagement and then be entitled to accrue 8 days personal/carer's leave (pro-rata for part-time employees) in

their first year of employment. They will then accrue 18 days for each subsequent year of service accruing daily (pro-rata for part-time employees) and credited at the completion of each month.

6.20 Non-ongoing employees will accrue 18 days personal/carer's leave (pro-rata for part-time employees) per year of service, accruing daily and credited at the completion of each month.

6.21 An employee's accrual of personal/carer's leave will be reduced where a period or periods of leave without pay that is not to count as service exceeds 30 days in a calendar year. Where leave without pay not to count as service covers an entire calendar year, no personal/carer's leave credit accrues for that year.

### **Use of personal/carer's leave**

6.22 Subject to availability of credits and the evidentiary requirements of clause 6.25, an employee is entitled to use personal/carer's leave where they are required to be absent in the following circumstances:

- When an employee is unfit for duty due to personal illness or injury (sick leave), including attendance at preventative medical appointments;
- to provide care or support (carer's leave) to a member of the employee's family or household because of:
  - the member's personal illness or injury;
  - an unexpected emergency affecting the member.

6.23 The Commissioner may, in exceptional circumstances, approve an employee's request to convert their paid personal/carers leave credits to half pay to cover a period of leave in clause 6.22. If leave is taken at half pay, the deduction from an employee's personal/carer's leave will be half the period of leave taken.

### **Where an employee has insufficient personal/carer's leave credits**

6.24 Where an employee has insufficient paid leave entitlements, the Commissioner, in exceptional circumstances and subject to the provision of suitable evidence, may grant personal/carer's leave with or without pay (to

count or not to count as service). Where leave without pay is granted, the Commissioner will determine whether, or not, it counts as service and for which purpose. In the case of leave without pay granted for personal illness, the leave will count as service for the purposes of the LSL Act and may count as service for other purposes if the Commissioner determines it does. There is a maximum of 15 days additional paid leave to be used for caring purposes. This 15 day limit will be reduced by the amount of personal/carer's leave the employee has already utilised in the calendar year for caring purposes.

### **Evidence for taking personal/carer's leave**

6.25 An employee is required to provide evidence to be entitled to paid personal/carer's leave, where the employee is absent from work:

- for a period in excess of three consecutive work days; and/or
- for any absence taken in excess of eight days (pro-rata for part-time employees) paid personal/carer's leave without supporting evidence per calendar year.

6.26 Evidence for the purposes of personal/carer's leave means:

- a medical certificate from registered health practitioners and registered health providers;
- a statutory declaration, if it was not reasonably practicable for the employee to obtain a medical certificate (it must set out why the employee is or was unable to attend work, and why it was not reasonably practicable for them to obtain a medical certificate); and/or
- with the prior agreement or direction of the Commissioner another form of evidence, including no evidence. If an employee has a personal illness or injury which requires ongoing treatment, and/or may result in the employee taking personal/carer's leave for illness or injury on a regular or intermittent basis, and the Commissioner has received medical evidence confirming the ongoing condition, the Commissioner may approve future leave based on the initial medical evidence if that medical evidence supported the future absence.

6.27 The Commissioner may require an employee to provide evidence in other circumstances. This may include where repeated and frequent single day or short term absences occur; or the employee has a pattern of taking a particular day off (e.g. Mondays). If the employee does not provide the required evidence within a reasonable period, the absence will be treated as unauthorised leave.

### **Interaction with other leave types**

6.28 Employees who become eligible for leave that is required to be granted in accordance with the National Employment Standards, other legislation or this Agreement while on annual or long service leave, may apply for that leave. Annual and long service leave will be recredited to the extent of the other leave granted. Such non-discretionary leave includes for example, personal carer's leave, compassionate leave, community service leave and maternity leave.

### **COMPASSIONATE LEAVE**

6.29 An employee is entitled to 3 days of paid compassionate leave and a casual employee is entitled to 3 days unpaid leave not to count as service for each occasion to spend time with the member of the employee's family or household who has contracted or developed a personal illness or sustained a personal injury that poses a serious threat to his or her life, or after the death of the member of the employee's family or household.

6.30 An employee may be required to provide evidence to the Commissioner in support of an application for compassionate leave.

6.31 An employee on annual leave, purchased leave or long service leave can, on production of evidence, apply to take paid compassionate leave and have the annual leave, purchased leave or long service leave recredited.

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

### **LONG SERVICE LEAVE**

6.33 An employee is eligible for long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

6.34 The minimum period for which long service leave can be granted is 7 calendar days at full pay (or 14 days at half pay). Long service leave cannot be broken with other periods of leave, except as otherwise provided by legislation.

## **MATERNITY AND PARENTAL LEAVE**

6.35 Employees who are pregnant, or who give birth, are covered by the provisions of the Maternity Leave (Commonwealth Employees) Act 1973 (ML Act).

6.36 Employees with an entitlement to paid leave under the ML Act are provided with an additional two weeks (or 4 weeks if payment is spread) of paid leave under this Agreement, to be taken continuously with the period of paid maternity leave provided by the ML Act.

6.37 Employees who adopt/foster or are granted permanent care of a child are entitled to up to 52 weeks of parental leave, commencing from the time of placement of the child.

6.38 Up to the first 14 weeks of that adoption/foster/permanent care leave will be paid leave where an employee is the primary caregiver to the child and where they satisfy a qualifying service requirement the same as that expressed in the ML Act applicable to eligibility for paid maternity leave.

6.39 Employees are entitled to parental leave for adoption/foster/permanent care when that child has not, or will not have, lived continuously with the employee for a period of 3 months or more as at the day of placement.

6.40 Documentary evidence of approval for adoption/foster/permanent care must be provided when applying for adoption/foster/permanent care leave.

6.41 Employees who are eligible for paid maternity leave or parental leave may elect to have the payment for that leave spread over a maximum of 28 weeks at a rate of half normal salary. Where payment is spread over a longer period, a maximum of 14 week of the leave period will count as service.

6.42 On ending the initial period of up to 52 weeks of maternity or parental 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 leave period.

- 6.43 Periods of unpaid parental leave will not count as service for any purpose unless required by legislation.
- 6.44 Paid maternity, or parental leave is not extended by public holidays or any closedown period occurring during the first 12 week period of paid Maternity Leave, or 24 week period where maternity leave payment is spread.
- 6.45 Payment for the additional 2 weeks conferred by this Agreement in clause 6.36 (or 4 weeks where payment is spread) will be extended by any public holidays and/or closedown occurring during that additional 2 (or 4 weeks).
- 6.46 Where a fostered child is subsequently adopted by the employee, further leave is not available under clauses 6.37 to 6.42 in relation to the same child where adoption/foster leave has previously been granted.
- 6.47 An employee regardless of qualifying service is eligible for 2 days of unpaid pre-adoption leave to attend any interviews or examinations required for the adoption of the child. The employee may also take annual leave or purchased leave for this purpose.

### **SUPPORTING PARTNER LEAVE**

- 6.48 The Commissioner will grant 4 weeks paid supporting partner leave to an employee where the employee's partner has given, or is giving birth, to a child/ren or whose partner is the primary caregiver for an adopted, fostered or permanent care child/ren.
- 6.49 Supporting partner leave is available from one week prior to the expected date of birth or placement of the child/ren. This leave must be taken within 12 months of the birth or within 12 months from the date when the adoption/fostering/permanent care commences.
- 6.50 An employee may be required to provide evidence in support of their application for leave (e.g. evidence of the birth of a child/ren, or the placement of an adopted/fostered or permanent care child/ren).

- 6.51 An employee who is eligible for paid maternity or adoption/fostering/permanent care leave is not eligible for paid supporting partner leave.
- 6.52 The Commissioner may approve an application from an employee to take supporting partner leave at half pay. An application to take the leave at half pay will only be approved where the employee applies for the full four week entitlement to be taken in one continuous period of eight weeks.
- 6.53 Where the employee has approval to take leave at half pay, only the first 4 weeks of paid leave will count as service.

### **RETURN TO WORK**

- 6.54 The return to work guarantee provided by section 84 of the FWA applies in respect of employees ending maternity leave and parental leave.

### **DEFENCE RESERVE LEAVE**

- 6.55 The Commissioner will grant an employee leave (with or without pay) to enable the employee to fulfil Australian Defence Force (ADF) Reserve and Continuous Full Time Service (CTFS) or Cadet Force obligations.
- 6.56 An employee is entitled to leave with pay, for up to 4 weeks during each financial year for the purpose of fulfilling service in the ADF Reserve. These purposes include training and operational duty as required:
- During the employee's first year of ADF Reserve service, a further 2 weeks paid leave may be granted to facilitate participation in additional ADF Reserve training, including induction requirements.
  - With the exception of the additional two weeks in the first year of service, leave can be accumulated and taken over a period of 2 years, to enable the employee to undertake training as a member of the ADF Reserves.
  - Employees are not required to pay their tax free ADF Reserve salary to the Commission in any circumstances.

- 6.57 Defence Reserve leave counts as service for all purposes, except for unpaid leave to undertake Continuous Full Time Service (CFTS). Unpaid leave for the purpose of CFTS counts for all purposes except annual leave.
- 6.58 Eligible employees may also apply for annual leave, long service leave, leave without pay, top-up pay or they may use flextime or make up time for the purpose of fulfilling ADF Reserve, CFTS or Cadet Force obligations.
- 6.59 Employees are to notify managers at the earliest opportunity once the dates for ADF Reserve, CFTS or Cadet Force activities are known and/or changed.

### **MISCELLANEOUS LEAVE**

- 6.60 The Commissioner may grant leave to an employee, either with or without pay, to count as service or not to count as service; and subject to certain conditions, in circumstances not provided for elsewhere in this Agreement for a purpose that the Commissioner considers to be in the interests of the Agency and having regard to operational requirements. This includes leave for employees affected by Family and Domestic Violence.

### **COMMUNITY SERVICE LEAVE**

- 6.61 Paid leave will be provided for an employee engaging in community service activities including jury service and emergency management activities as defined in the *Fair Work Act 2009*.

### **CULTURAL AND CEREMONIAL LEAVE**

- 6.62 The Commissioner may grant an Aboriginal or Torres Strait Islander employee up to 3 days paid cultural and/or ceremonial leave to take part in activities associated with their culture, including NAIDOC week celebrations.

### **COMMUNITY VOLUNTEERING LEAVE**

- 6.63 The Commissioner may grant 2 days miscellaneous leave with pay and a reasonable amount of leave without pay to undertake community volunteering. Community Volunteering Leave can be taken in part days including in hours and minutes.



## **PURCHASED LEAVE**

- 6.64 The Commissioner may approve the purchase of up to 8 weeks leave funded by salary deductions over a maximum period of 12 months to ongoing employees. Non-ongoing employees require more than 12 months service with the Commission.
- 6.65 Only one election can be made to purchase this leave in a calendar year. The Commissioner may agree to vary an election in exceptional circumstances.
- 6.66 The minimum period of purchased leave that can be taken at any one time will be 1 day and purchased leave cannot be taken at half pay. Purchased leave cannot be used to substitute for part-time work arrangements, except if approved as part of a transition to retirement initiative for an employee 54 years or older. Purchased leave that is approved for single days for the purpose of transition to retirement, may be approved for a single period up to a maximum of 2 years and can be accessed once by an employee during their employment with the Commission.
- 6.67 Purchased leave will count as service for all purposes including superannuation purposes. Public holidays and close down periods occurring during a period of purchased leave will be treated in the same way as if they had occurred during a period of annual leave.
- 6.68 Where, due to exceptional circumstances, an employee requests cancellation of purchased leave before the leave has been taken and the Commissioner agrees to the request, a refund of the salary deductions made will be paid.
- 6.69 Where an employee leaves Commission employment, final payments will be adjusted to take account of deductions not yet made or for deductions made and leave not taken.

## **EXTENDED PURCHASED LEAVE**

- 6.70 The Commissioner may grant an employee who has a period of 3 years of continuous employment with the Commission, access to extended purchased leave.

- 6.71 A period of up to 6 months absence on extended purchased leave will be available following a further 2 years of continuous employment with the Commission.
- 6.72 Extended purchased leave does not count as service for any purpose. Payment during the period of extended purchased leave of up to 6 months will be based on the amount of money banked in the previous 2 years.

### **SABBATICAL LEAVE**

- 6.73 The Commissioner may grant an employee sabbatical leave. This is a flexible arrangement consisting of a 4 year work period followed by a 1 year sabbatical leave period, with salary paid over 4 years at a rate of 80% per year. Payment for the fifth year will be based on the amount of money banked in the previous four years converted to an annual salary.

### **DEFENCE SERVICE SICK LEAVE**

- 6.74 The Commissioner will grant Defence service sick leave to employees who are unfit for duty because of an accepted injury or disease. An accepted injury or disease means a condition accepted by the Department of Veteran's Affairs to be:

- a) a war caused or Defence-caused injury or disease meeting the requirements under the Veterans' Entitlement Act 1986; or
- b) a service injury or service disease that meets the requirements under the Military Rehabilitation Act 2004; or
- c) a Defence-related injury or Defence –related disease under the Safety, Rehabilitation and Compensation (Defence- related claims) Act 1988

- 6.75 An employee who is or becomes eligible for Defence service sick leave is entitled to:

- a) a one-off special credit of 9 weeks Defence Service Sick Leave from the latter of:
  - i. the date of their commencement in the Australian Public Service (APS); or

- ii. the date on which liability for their injury or disease is accepted under the relevant Act of Parliament; and
  - b) each year thereafter, and subject to 6.76, an annual credit of 3 weeks Defence Service Sick Leave.
- 6.76 An eligible employee can accrue Defence service sick leave up to a maximum annual credit balance of 9 weeks.
- 6.77 An eligible employee must use all of their special credit before their annual credit.
- 6.78 Where an employee's Defence service sick leave credits have been exhausted, personal leave provisions will apply.
- 6.79 Approval of Defence service sick leave is subject to:
  - a) the provision of a medical certificate stating the nature of the medical condition; and
  - b) written advice from the Department of Veterans' Affairs verifying that the medical condition constitutes an accepted injury or disease.
- 6.80 Defence service sick leave counts as service for all purposes.
- 6.81 Leave that counts as service for personal/carers' leave purposes will count as service for the accrual of Defence service sick leave.

## **PART 7 – TRAVELLING ON OFFICIAL BUSINESS**

### **TRAVEL ALLOWANCE**

- 7.1 An employee who is undertaking approved travel and required to be absent on official business overnight from their usual place of work for periods up to 21 days will be entitled to an allowance in respect of meals and incidentals. Employees may elect to stay in commercial or non-commercial accommodation. In the event of an emergency situation an employee will be reimbursed reasonable accommodation costs as determined by the Commissioner.
- 7.2 Allowances payable for meals and incidentals are those published by the approved subscription service and provide a guide to delegates approving expenditure.
- 7.3 Where an employee elects to stay in non-commercial accommodation, an allowance of \$50 per night will be payable through the payroll system in addition to any allowances payable for meals and incidentals.

### **Adjustment of allowances**

- 7.4 Where official travel arrangements are varied, the amount of allowance payable will reflect the revised itinerary. Employees will be required to repay and the Commission will recover, any resulting overpayment in travelling allowance in accordance with the Commissioner's Instructions regarding Debt Management.
- 7.5 Where meals and/or accommodation are otherwise provided at the Commission's expense or another organisation/entity's expense, the allowances payable under this Part will be reduced accordingly.

### **Excessive Costs**

- 7.6 The Commissioner may vary the amount of travel allowance payable if considered insufficient to meet the reasonable expenses of the employee.

## **REVIEWED TRAVELLING ALLOWANCE**

- 7.7 Where an employee travelling on Commission business will reside or has resided in the one locality for a period greater than 21 days, the Commissioner will negotiate payment of reasonable costs for the temporary relocation.

## **TIME OFF AFTER OFFICIAL TRAVEL**

- 7.8 Where employees are required to travel to work at a location other than their normal place of employment, and as a result spends more time travelling to their temporary place of work than they spent travelling to their usual place of work, flextime and time off in lieu provisions apply.

## **OVERSEAS TRAVEL**

- 7.9 The Commissioner will approve reasonable accommodation costs and an allowance in respect of meals and incidental expenses calculated in accordance with the rates published by the approved subscription service for employees travelling overseas on Commission business.

## PART 8 – REMOTE LOCALITY ASSISTANCE

- 8.1 The level of remote locality assistance varies according to the 'grading' of each individual remote locality.
- 8.2 Remote locality assistance will be approved by the Commissioner where an employee is residing in a locality which falls into Grade 1, 2, 3 or 4.
- 8.3 Remote Locality Assistance Allowance is payable to an employee living in a designated remote locality, in accordance with the Australian Standard Geographical Classification (ASGC) Remoteness Structure and the Criteria set out in clause 12.2 of the APS Award.
- 8.4 The annual rate of Remote Locality Assistance Allowance payable for each grade of remote locality is listed in the Remote Locality Assistance table at 8.9 below.
- 8.5 An employee and their eligible dependants stationed at a Commission designated remote locality are entitled to fares assistance based on 'lowest practical fare' to travel from the locality to the nearest capital city and return for leave of absence.
- 8.6 The accrual rate of the leave fare for employees stationed permanently for each grade of remote locality is indicated in Remote Locality Assistance table at 8.9 below.
- 8.7 The Commissioner may also approve fares reimbursement for employees and their dependants living in a Commission designated remote locality in the following circumstances:
- for medical, emergency dental or specialist medical treatment for the employee and any dependants or a spouse or partner residing with them; or
  - where a family member of the employee or the employee's spouse dies or becomes dangerously or critically ill; or

- for the cost of up to two student travel concession fares per 12 month period reasonably incurred for return travel by each child from the place where he or she attends school to the employee's locality.

8.8 Employees living in Commission designated remote localities will accrue additional annual leave as indicated for each grade of remote locality listed in the table at 8.9 below.

8.9 Remote Locality Assistance Table

<b>Grade</b>	<b>With dependants per year</b>	<b>Without dependants per year</b>	<b>Leave fare entitlement</b>	<b>Additional annual leave entitlement per year</b>
1	\$4,004	\$3,030	1 every two years	2 days
2	\$7,575	\$6,492	1 every two years	3 days
3	\$11,687	\$7,900	1 each year	5 days
4	\$15,474	\$10,605	1 each year	7 days

## **PART 9 – RESIGNATION, RETIREMENT, REDEPLOYMENT, REDUNDANCY AND REDUCTION**

### **RESIGNATION AND RETIREMENT**

- 9.1 Where practical, an employee should give the Commissioner at least 2 weeks' notice in writing or via email of their intention to resign or retire. The written notification of resignation or retirement should include the date and time of effect.

### **REDEPLOYMENT, REDUNDANCY AND REDUCTION**

- 9.2 The redeployment, redundancy and reduction provisions only apply to ongoing employees who are not on probation.
- 9.3 The Commission will take all reasonably practicable steps to avoid the use of compulsory redundancy or redeployment.
- 9.4 The Commission will assist employees to maximise their redeployment opportunities within the Commission and the wider APS and will fund relevant career and financial counselling.

### **Definition**

- 9.5 An employee will be considered excess where:
- the employee is part of a class of employees that is larger in size than is necessary for the efficient and economical working of the Commission; or
  - the services of the employee can no longer be used effectively because of technological or other changes in the Commission or changes in the nature, extent or organisation of the functions of the Commission; or
  - the duties usually performed by the employee are to be performed at a different locality, the employee is not willing to perform duties at the new locality and no suitable alternative duties can be identified at the current locality.



## **Notification and consultation**

- 9.6 The Commissioner will notify employees who are likely to become excess as early as possible and, where they choose to have a representative, their representatives will also be notified.
- 9.7 The initial notification will usually occur orally to maximise the time employees have to consider their options.
- 9.8 When the Commission becomes aware that a significant excess staffing situation may develop, the Commissioner will advise relevant employees, managers and employee representatives.

## **Discussion period**

- 9.9 Following the initial notification the Commissioner will write to the potentially excess employee(s) formally notifying them of the situation and advising them of the assistance available. At this stage potentially excess employees will be able to discuss their situation and options with Commission management, with this period not exceeding 1 month.
- 9.10 During the discussion period, the Commissioner may invite employees who are not potentially excess to express interest in voluntary redundancy where this would facilitate the redeployment of an employee who is potentially excess. An employee will not be made redundant voluntarily without Commissioner approval.
- 9.11 The discussion period may be shortened by agreement with the employee.

## **VOLUNTARY REDUNDANCY**

- 9.12 By the end of the 1 month discussion period, the Commissioner may formally offer a voluntary redundancy to the employee.
- 9.13 Excess employees will only be offered a voluntary redundancy once during the redundancy process.
- 9.14 Where a formal offer of voluntary redundancy is made, employees will have 1 month to consider the offer and advise the Commission that they are either

accepting or rejecting it. Employees who fail to advise the Commission of their decision by the end of the consideration period will be assumed to have rejected the offer of voluntary redundancy.

- 9.15 An employee's employment will not be terminated on the basis that the employee is an excess employee within this consideration period unless the employee has requested this to occur.
- 9.16 Prior to or during the consideration period, the employee will be provided with an estimate of their severance pay and pay in lieu of notice and leave entitlements, relevant taxation rules and the availability of career and financial counselling in addition to being advised about obtaining further information relating to superannuation and relevant taxation rules.
- 9.17 The Commission will reimburse (on production of receipt/s) an employee considering voluntary redundancy up to \$500 (including GST) for career and/or accredited financial counselling.
- 9.18 Employees not accepting an offer of voluntary redundancy will be covered by clauses 9.30–9.42 below.

### **Redundancy benefit**

- 9.19 An employee who elects for retrenchment with a redundancy benefit and whose employment is terminated by the Commissioner under s.29 of the PS Act on the grounds that he/she is excess to requirements, is entitled to payment of a redundancy benefit of an amount equal of two weeks' salary for each completed year of continuous service, plus a pro rata payment for completed months of service since the last completed year of service, subject to any minimum amount the employee is entitled to under the NES.
- 9.20 The minimum payment will be 4 weeks' salary and the maximum will be 48 weeks' salary.
- 9.21 The redundancy benefit will be calculated on a pro rata basis for any period where an employee has worked part-time hours during his or her period of

service and the employee has less than 24 years fulltime service, subject to any minimum amount the employee is entitled to under the NES.

9.22 For the purposes of calculating any payment, salary will include:

- the employee's salary at their ongoing (substantive) classification;
- higher duties allowance payments (HDA) where the employee has been receiving HDA continuously for a period of at least 12 months immediately preceding the employee's notification of termination date; and
- an allowance that has been paid during periods of annual leave and on a regular basis and is not a reimbursement for expenses incurred or a payment for disabilities associated with the performance of a duty.

### Calculating service for redundancy pay purposes

9.23 For the purpose of calculating redundancy pay entitlement (severance), service means:

- service in the Commission;
- Government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
- service with the Commonwealth (other than service with a joint Commonwealth-State body or a body corporate in which the Commonwealth does not have a controlling interest) which is recognised for long service leave purposes;
- service with the Australian Defence Forces; and
- service in another organisation where:
  - an employee was transferred from the APS to that organisation to give effect to an administrative re-arrangement; 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.

9.24 For earlier periods of service as defined above to count there must be no breaks between the periods except where:

- the break in service is less than 1 month and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer; or
- 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*.

### **Service not to count as service for redundancy pay purposes**

9.25 Absences from duty which do not count as service for long service leave purposes will not count as service for redundancy pay purposes.

9.26 Periods of service that will not count as service for redundancy pay purposes are periods of service that ceased by way of:

- termination under section 29 of the PS Act; or
- prior to the commencement of the PS Act, by way of redundancy; forfeiture of office, retirement on the grounds of invalidity, inefficiency or loss of qualifications; dismissal or termination of probationary appointment for reasons of unsatisfactory service; or
- voluntary retirement at or above the minimum retiring age applicable to the employee; or
- payment of a redundancy benefit or a similar payment or an employer-financed retirement benefit.

### **Period of notice – termination with a voluntary redundancy**

9.27 Employees over 45 years of age with at least 5 years continuous service will be given 5 weeks' notice. All other employees will be given four weeks' notice.

9.28 If an employee requests, and the Commissioner agrees, that their employment be terminated within this notice period, they will be paid compensation for the unexpired portion of the notice period equal to the hours they would have worked during the notice period had their employment not been terminated.

9.29 The Commissioner will approve reasonable time off with full pay for the employee to attend necessary employment interviews from the start of the

notice period. Where expenses to attend interviews are not met by the prospective employer, the Commissioner will reimburse agreed reasonable travel and incidental expenses.

## **INVOLUNTARY REDUNDANCY, RETENTION, REDEPLOYMENT AND REDUCTION**

### **Retention period**

9.30 An excess employee who does not agree to be retrenched with the payment of a redundancy benefit will be entitled to the following period of retention, commencing from the date 1 month after the employee received their offer of voluntary redundancy:

- 13 months where the employee has 20 or more years of service or is over 45 years of age; or
- 7 months for all other employees.

9.31 If an employee is entitled to a redundancy payment under the NES, the retention period at clause 9.30 will be reduced by the number of weeks redundancy pay that the employee will be entitled to under the NES on termination, as at the expiration of the retention period (as adjusted by this clause).

9.32 The retention period will not be extended by periods of leave taken by the excess employee unless, after considering the circumstances of the individual case, the Commissioner deems an extension as a result of a period of leave taken to be reasonable.

9.33 Where the Commissioner is satisfied that there is insufficient productive work available for the employee during the remainder of the retention period and that there are no reasonable redeployment prospects in the APS:

- the Commissioner can terminate the employee's employment under s.29 of the PS Act; and
- upon termination, the employee will be paid a lump sum comprising:

- the balance of the retention period (as shortened for the NES under clause 9.31) and this payment will be taken to include the payment in lieu of notice of termination of employment, plus
- the employee's NES entitlement to redundancy pay.

## **Redeployment**

9.34 Employees on a retention period will be considered in isolation from and not in competition with other applicants when seeking assignment to another position within the Commission.

9.35 During the retention period, the Commissioner:

- will take all reasonable steps to find alternative employment for the excess employee; and/or
- may reduce the excess employee's classification with the appropriate notice in order to secure them alternative employment, subject to the conditions set out in clauses 9.38 and 9.39 below.

9.36 During the retention period the employee will:

- take reasonable steps to find alternative employment; and
- actively participate in learning and development activities, trial placements or other agreed arrangements to assist in obtaining a permanent placement.

9.37 Excess employees are entitled to necessary leave with pay and assistance in meeting reasonable travel and incidental expenses when seeking alternative employment, where these are not met by the prospective employer.

## **Reduction in classification**

9.38 Where the Commissioner proposes to reduce an excess employee's classification as a means of securing alternative employment, the employee will be given 4 weeks' notice or, if over 45 years of age with at least 5 years' continuous service, will be given 5 weeks' notice.

9.39 If reduction occurs before the end of the retention period, the employee will receive payments to maintain the employee's salary level for the balance of the retention period.

**Period of notice – termination of the retention period**

9.40 An excess employee's employment will be terminated under s.29 of the PS Act at the end of their retention period.

9.41 Where an excess employee's employment is to be terminated they will be given 4 weeks' notice. Employees over 45 years of age with at least 5 years' continuous service will be given 5 weeks' notice. This notice period will, as far as practicable, be concurrent with the employee's retention period.

9.42 If an employee's employment is terminated within this notice period, they will be paid compensation for the unexpired portion of the notice period equal to the hours they would have worked during the notice period had their employment not been terminated.

## **PART 10 – CONSULTATION**

10.1 This Part applies if the Commission:

- a) has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to the Commission; and the change is likely to have a significant effect on employees; or
- b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

### **Major Change**

10.2 For a major change referred to in clause 10.1 (a):

- a) The Commission must notify the relevant employees of the decision to introduce the major change; and
- b) Clauses 10.3 to 10.9 apply.

10.3 The relevant employees may appoint a representative for the purposes of the procedures in this Part.

10.4 If:

- a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- b) the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

10.5 As soon as practicable after making its decision, the Commission must:

- a) discuss with the relevant employees:
  - (i) the introduction of the change; and
  - (ii) the effect the change is likely to have on the employees; and
  - (iii) measures the Commission is taking to avert or mitigate an adverse effect of the change on the employees; and
- b) for the purposes of the discussion – provide, in writing, to the relevant employees:



- (i) all relevant information about the change including the nature of the change proposed; and
- (ii) information about the expected effects of the change on the employees; and
- (iii) any other matters likely to affect the employees.

10.6 The Commission is not required to disclose confidential or commercially sensitive information to the relevant employees.

10.7 The Commission must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

10.8 If a Part in this Enterprise Agreement provides for a major change to production, program, organisation, structure, or technology in relation to the Commission, the requirements set out in clauses 10.2(a), 10.3 and 10.5 are taken not to apply.

10.9 In this Part, a major change is likely to have significant effect on employees if it results in:

- a) the termination of the employment of employees; or
- b) major change to the composition, operation or size of the Commission's workforce or to the skills required of employees; or
- c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
- d) the alteration of hours of work; or
- e) the need to retrain employees; or
- f) the need to relocate employees to another workplace; or
- g) the restructuring of jobs.

### **Change to regular roster or ordinary hours of work**

10.10 For a change referred to in clause 10.1 (b):

- a) the Commission must notify the employees of the proposed change; and
- b) clauses 10.11 to 10.15 apply.

10.11 The relevant employees may appoint a representative for the purposes of the procedures in this Part.

10.12 If:

- a) the relevant employee(s) appoint(s) a representative for the purposes of consultation; and
- b) the employee(s) advise(s) the Commission of the identity of the representative,

the employer must recognise the representative.

10.13 As soon as practicable after proposing to introduce the change, the employer must:

- a) discuss with the relevant employees the introduction of the change;
- b) for the purposes of the discussion – provide to the relevant employees:
  - (i) all relevant information about the change including the nature of the change proposed;
  - (ii) information about what the Commission reasonably believes will be the effects of the change on the employees; and
  - (iii) information about any other matters that the Commission reasonably believes are likely to affect the employees; and
- c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

10.14 The Commission is not required to disclose confidential or commercially sensitive information to the relevant employees.

10.15 The Commission must give prompt and genuine consideration to matters raised about major change by the employees.

10.16 In this Part the term: "relevant employees" means the employees who may be affected by a change referred to in clause 10.1.

## **WORKPLACE CONSULTATIVE COMMITTEE**

10.17 The Commission will establish a Workplace Consultative Committee to consult with employees and, where they choose, their representatives about workplace matters, consistent with Part 10.

10.18 The Workplace Consultative Committee will consist of:

- (a) a chairperson and management representatives appointed by the Commissioner;
- (b) employee representatives; and
- (c) a representative from the Commission's other staffing committees

10.19 The Commission will consult with employees, through the Workplace Consultative Committee, about proposed changes to workplace policies where the change is likely to have an impact on employees, before a final decision is made.

10.20 The Workplace Consultative Committee may establish subcommittees on an as needs basis to deal with issues that require specific attention.

## **EMPLOYEE REPRESENTATION**

10.21 The role of employee representatives, including union delegates and other non-union employee representatives, is to be respected and facilitated.

## PART 11 – DISPUTE RESOLUTION PROCEDURE

11.1 If a dispute relates to:

- a) a matter arising under this Agreement; or
- b) the National Employment Standards;

this Part sets out the procedures to settle the dispute.

11.2 An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.

11.3 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 supervisor and/or management.

11.4 If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the Fair Work Commission.

11.5 The Fair Work Commission may deal with the dispute in 2 stages:

- a) 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
- b) if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
  - (i) arbitrate the dispute; and
  - (ii) make a Agreement that is binding on the parties.

*Note:* If the Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the *Fair Work Act 2009*.

A decision that the FWC makes when arbitrating a dispute is a decision for the purpose of Division 3 of Part 5.1 of the *Fair Work Act 2009*. Therefore, an appeal may be made against the decision.

11.6 While the parties are trying to resolve the dispute using the procedures in this Part:

- a) An employee must continue to perform their work as they would normally unless they have a reasonable concern about imminent risk to their health or safety; and
- b) An employee must comply with a direction given by the Commission to perform other available work at the same workplace, or at another workplace, unless:
  - (i) the work is not safe; or
  - (ii) applicable occupational health and safety legislation would not permit the work to be performed; or
  - (iii) the work is not appropriate for the employee to perform; or
  - (iv) there are other reasonable grounds for the employee to refuse to comply with the direction.

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

## PART 12 – DEFINITIONS

12.1 In this Agreement the following definitions apply:

**"APS"** means Australian Public Service.

**"Casual employee"** means a non-ongoing employee who is engaged on an irregular or intermittent basis under section 22(2) (c) of the *Public Service Act 1999*.

**"Delegate"** means a person authorised by the Commissioner to be a delegate of the Commissioner under the terms of this Agreement.

**"Commission"** means the NDIS Quality and Safeguards Commission.

**"Dependant"** unless defined elsewhere means a spouse/partner of the employee or a child or parent of the employee or the spouse/partner of the employee and who is wholly or substantially dependent upon the employee.

**"Employee"** means a person employed by the Commission under the *Public Service Act 1999*, whether full-time or part-time, in an ongoing, non-ongoing or intermittent capacity.

**"Family"** means:

- a spouse, de facto, or partner of the employee irrespective of gender, including a former spouse, former de facto or partner; and/or
- a child (including an adopted child, a stepchild, a foster/permanent care child or an ex-nuptial child); and/or
- parent, grandparent, grandchild or sibling of the employee; and/or
- a child (including an adopted child, a step-child, a foster child, permanent care child or an ex-nuptial child) of the employee's spouse or partner; and/or
- parent, grandparent, grandchild or sibling of the employee's spouse or partner; and/or
- a member of the employee's household; and/or

- traditional kinship where there is a relationship or obligation, under the custom and traditions of the community or group to which the employee belongs.

**"Manager"** means a person who has operational and/or supervisory responsibility for another employee or a team of employees within the Commission, which may include another manager/employee (at, above or below the manager's level) and/or may be a Section, a Branch, a State Office, a Group or other work unit.

**"Non-ongoing employee"** means a person engaged as a non-ongoing APS employee under Section 22(2) (b) of the *Public Service Act 1999*.

**"Ongoing employee"** means a person engaged as an ongoing APS employee under Section 22(2) (a) of the *Public Service Act 1999*.

**"Partner"** or **"spouse"** means a person who resides with the employee in a bona fide domestic or household relationship (without discrimination as to sexual preference).

**"Professional Association"** means an organisation seeking to further a particular profession, the interests of individuals in that profession, and the public interest.

**"Commissioner"** means the person for the time being performing the duties of Commissioner of the NDIS Quality and Safeguards Commission.

**"Commissioner's Instructions"** are instructions issued by the Commissioner of the Commission, under the authority of section 20A of the *Public Governance, Performance and Accountability Act 2013*.

**"Shift worker"** means an employee rostered to perform duty outside the bandwidth hours of 7.00am to 7.00pm, Monday to Friday, and/or on a Saturday, Sunday, public holiday or a closedown period for an ongoing or fixed period.

**"Term transfer"** means the transfer, notified in writing, of an employee from one locality to another for a fixed period (usually 1 to 3 years) to undertake

specific duties. The written notification of such a transfer should specify both the date of effect of the transfer and its anticipated duration.



## APPENDIX A - SALARIES AND CLASSIFICATION STRUCTURES

A.1 The following annual salary rates will apply to Commission employees (pro-rata for part-time employees) employed in the classifications shown in the tables below. The fortnightly rate of salary is calculated using the following formula: annual rate of pay multiplied by 12 and divided by 313.

Classification	Previous Salary	2% On Commencement	2% 12 months after Commencement	2% 24 months after commencement
APS1-1	44,455	45,344	46,251	47,176
APS1-2	46,028	46,949	47,888	48,845
APS1-3	47,605	48,557	49,528	50,519
APS1-4	49,747	50,742	51,757	52,792
APS2-1	51,956	52,995	54,055	55,136
APS2-2	53,516	54,586	55,678	56,792
APS2-3	57,110	58,252	59,417	60,606
APS2-4	57,815	58,971	60,151	61,354
APS3-1	60,044	61,245	62,470	63,719

APS3-2	61,742	62,977	64,236	65,521
APS3-3	64,398	65,686	67,000	68,340
APS3-4	65,149	66,452	67,781	69,137
APS4-1	68,027	69,388	70,775	72,191
APS4-2	69,898	71,296	72,722	74,176
APS4-3	72,049	73,490	74,960	76,459
APS4-4	73,120	74,582	76,074	77,596
APS5-1	74,710	76,204	77,728	79,283
APS5-2	76,082	77,604	79,156	80,739
APS5-3	78,885	80,463	82,072	83,713
APS5-4	79,785	81,381	83,008	84,668
APS6-1	81,831	83,468	85,137	86,840
APS6-2	85,583	87,295	89,041	90,821
APS6-3	90,468	92,277	94,123	96,005

APS6-4	91,979	93,819	95,695	97,609
EL1-1	101,958	103,997	106,077	108,199
EL1-2	107,453	109,602	111,794	114,030
EL1-3	111,592	113,824	116,100	118,422
EL1-4	115,734	118,049	120,410	122,818
EL2-1	120,173	122,576	125,028	127,529
EL2-2	130,527	133,138	135,800	138,516
EL2-3	136,435	139,164	141,947	144,786
EL2-4	141,686	144,520	147,410	150,358

## COMMISSION ENTRY LEVEL BROADBAND

**A.2** The following local titles are included in the Commission Entry Level

Broadband:

- Trainees (T);
- Indigenous Australian Government Development Program (IAGDP) participants (I);
- Indigenous Apprenticeship Programme (A);
- Graduates (G);
- Cadet - Research Officer (R); and
- ICT Cadets (IT).

During the life of this Agreement the Commissioner may include other entry level local titles to this broadband.

Classification	Previous Salary	2% On Commencement	2% 12 months after Commencement	2% 24 months after commencement
APS1-1	44,455	45,344	46,251	47,176
APS1-2	46,028	46,949	47,888	48,845
APS1-3	47,605	48,557	49,528	50,519
APS1-4	49,747	50,742	51,757	52,792
APS2-1	51,956	52,995	54,055	55,136
APS2-2	53,516	54,586	55,678	56,792
APS2-3	57,110	58,252	59,417	60,606
APS2-4	57,815	58,971	60,151	61,354

APS3-1	60,044	61,245	62,470	63,719
APS3-2	61,742	62,977	64,236	65,521
APS3-3	64,398	65,686	67,000	68,340
APS3-4	65,149	66,452	67,781	69,137
APS4-1	68,027	69,388	70,775	72,191
APS4-2	69,898	71,296	72,722	74,176
APS4-3	72,049	73,490	74,960	76,459
APS4-4	73,120	74,582	76,074	77,596
APS5-1	74,710	76,204	77,728	79,283
APS5-2	76,082	77,604	79,156	80,739
APS5-3	78,885	80,463	82,072	83,713
APS5-4	79,785	81,381	83,008	84,668

## Entry

- A.3** Entry pay points will be assessed in accordance with the criteria in clause 3.19 of this Agreement having specific regard to the participant's qualifications, work experience, skills and abilities and the programme the employee is undertaking.
- A.4** Cadet – Research Officers will be paid 57% of their salary for the time during the year they study while on the cadetship.

- A.5** ICT Cadets will be employed on a part-time basis at a minimum of two full days per week during the University Semester with the option of full-time employment during University holidays for the approved period of study.
- A.6** The Commissioner will approve payment of an Academic Allowance to ICT Cadets of \$800 per successfully completed unit, capped at 4 units per semester. The allowance is taxable and will be paid through the payroll system.

In the event that a Cadet withdraws, or due to a breach of the conditions of the ICT Cadetship is removed from the Cadetship Program, the ICT Cadet may be required to repay the full amount of Academic Allowance payments received within 30 days of withdrawal or removal from the Program.

### **Advancement**

- A.7** Commission Entry Level employees are required to undertake a programme/course of training determined by the Commissioner.

On satisfactory completion of the programme/course of training the employees will be advanced through the soft barriers within the Entry Level broadband as set out in their Letter of Offer.

Advancement is subject to:

- a) sufficient work is available at the higher classification level; and
- b) they have gained the necessary skill and proficiencies to perform the more complex work; and
- c) performance is satisfactory.

## LEGAL BROADBAND

**A.8** The following annual salary rates (pro-rata for part-time employees) will apply to Commission employees employed in the Legal local titles.

APS Level	Local Title	Previous Salary	2% On Commencement	2% 12 months after Commencement	2% 24 months after Commencement
APS Level 4	Lawyer	72,049	73,490	74,960	76,459
APS Level 4	Lawyer	73,120	74,582	76,074	77,596
Soft Barrier - Work Value/Availability Barrier					
APS Level 5	Lawyer	78,885	80,463	82,072	83,713
APS Level 5	Lawyer	79,785	81,381	83,008	84,668
Soft Barrier - Work Value/Availability Barrier					
APS Level 6	Lawyer	81,831	83,468	85,137	86,840
APS Level 6	Lawyer	85,583	87,295	89,041	90,821
APS Level 6	Lawyer	91,979	93,819	95,695	97,609
APS Level 6	Lawyer	93,222	95,086	96,988	98,928
Hard Barrier – Advancement subject to a merit process					
Executive Level 1	Senior Lawyer	107,453	109,602	111,794	114,030
Executive Level 1	Senior Lawyer	114,267	116,552	118,883	121,261
Executive Level 1	Senior Lawyer	115,734	118,049	120,410	122,818

Executive Level 1	Senior Lawyer	124,124	126,606	129,139	131,721
Hard Barrier – Advancement subject to a merit process					
Executive Level 2	Principal Lawyer	130,527	133,138	135,800	138,516
Executive Level 2	Principal Lawyer	135,747	138,462	141,231	144,056
Executive Level 2	Principal Lawyer	141,628	144,461	147,350	150,297
Executive Level 2	Principal Lawyer	147,355	150,302	153,308	156,374
Work Value/Availability Barrier					
Executive Level 2	Special Counsel*	147,756	150,711	153,725	156,800

*\*Access to the Special Counsel designation can only be achieved where the Commissioner is satisfied that there is a need to undertake high level managerial responsibilities and/or high level technical legal skills in the Commission Legal Practice and the employee has the skills and experience to warrant movement to that local title.*

## Eligibility Requirement

**A.9** An employee is eligible for entry to the Legal Broadband if he or she is required to perform legal work and possesses a degree from an Australian tertiary institution or a comparable qualification and has been admitted, or is eligible for admission, as a legal practitioner of the High Court or the Supreme Court of an Australian State or Territory or the Commissioner decides that the employee's skills, qualifications and experience in relation to legal work are appropriate for entry.

Advancement through the soft barriers is subject to:

- a) sufficient work is available at the higher classification level; and



- b) they have gained the necessary skill and proficiencies to perform the more complex work; and
- c) performance is satisfactory.

## PUBLIC AFFAIRS OFFICERS (PAO) BROADBAND

**A.10** The following annual salary rates (pro-rata for part-time employees) will apply to Commission employees employed in the Public Affairs Officer local titles.

APS Level	Local Title	Previous Salary	2% On Commencement	2% 12 months after Commencement	2% 24 months after Commencement
APS Level 4	PAO1	68,027	69,388	70,775	72,191
APS Level 4	PAO1	69,898	71,296	72,722	74,176
APS Level 4	PAO1	72,049	73,490	74,960	76,459
APS Level 4	PAO1	73,120	74,582	76,074	77,596
Soft Barrier - Work Value/Availability Barrier					
APS Level 5	PAO1	74,710	76,204	77,728	79,283
APS Level 5	PAO1	76,082	77,604	79,156	80,739
APS Level 5	PAO1	78,885	80,463	82,072	83,713
APS Level 5	PAO1	79,785	81,381	83,008	84,668
Hard Barrier – Advancement subject to a merit process					
APS Level 6	PAO2	81,831	83,468	85,137	86,840
APS Level 6	PAO2	85,583	87,295	89,041	90,821
APS Level 6	PAO2	90,468	92,277	94,123	96,005
APS Level 6	PAO2	93,222	95,086	96,988	98,928

Hard Barrier – Advancement subject to a merit process					
Executive Level 1	PAO3	101,958	103,997	106,077	108,199
Executive Level 1	PAO3	107,453	109,602	111,794	114,030
Executive Level 1	PAO3	111,592	113,824	116,100	118,422
Executive Level 1	PAO3	115,734	118,049	120,410	122,818
Executive Level 1	PAO3	122,979	125,439	127,947	130,506
Hard Barrier – Advancement subject to a merit process					
Executive Level 2	SPAO	126,753	129,288	131,874	134,511
Executive Level 2	SPAO	130,527	133,138	135,800	138,516
Executive Level 2	SPAO	136,435	139,164	141,947	144,786
Executive Level 2	SPAO	141,686	144,520	147,410	150,358

### Eligibility Requirement

**A.11** An employee is eligible for entry to the above PAO Broadband if they possess a degree in journalism, communications, marketing and/or public relations from an Australian tertiary institution or qualifications and/or work experience determined as comparable by the Commissioner and they are performing public affairs duties.

Advancement through the soft barriers is subject to:

- a) sufficient work is available at the higher classification level; and
- b) they have gained the necessary skill and proficiencies to perform the more complex work; and
- c) performance is satisfactory.

## APPENDIX B - SUPPORTED WAGE SCHEDULE (Schedule)

**B.1** This schedule defines 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.

**B.2** In this schedule:

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

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

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

**relevant minimum wage** means the minimum wage prescribed in this Agreement for the class of work for which an employee is engaged.

**supported wage system** (SWS) means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website:  
[www.jobaccess.gov.au](http://www.jobaccess.gov.au)

**SWS wage assessment agreement** means the document in the form required by the relevant Commonwealth Government department that records the employee's productive capacity and agreed wage rate.

### **B.3 Eligibility criteria**

**B.3.1** Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class 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 for receipt of a disability support pension.

**B.3.2** This schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this Agreement relating to the rehabilitation of employees who are injured in the course of their employment.

### **B.4 Supported wage rates**

**B.4.1** Employees to whom this schedule applies will be paid the applicable percentage of the relevant minimum wage according to the following schedule:

- a) Provided that the minimum amount payable must be no less than the minimum weekly amount as prescribed by the Fair Work Commission.
- b) Where an employee's assessed capacity is 10%, they must receive a high degree of assistance and support.

### **B.5 Assessment of capacity**

**B.5.1** For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.

**B.5.2** All assessments made under this schedule must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the FWA.

Assessed capacity	% of relevant minimum wage
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

Table 1: Assessed Capacity (Clause B.5)

## **B.6 Lodgement of SWS wage assessment agreement**

**B.6.1** All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the FWC.

**B.6.2** All SWS wage assessment agreements must be agreed and signed by the employee and Commission parties to the assessment. Where a union which has an interest in the Agreement is not a party to the assessment, the assessment will be referred by the FWC to the union by certified mail and the agreement will take effect unless an objection is notified to the FWC within 10 working days.

## **B.7 Review of assessment**

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

## **B.8 Other terms and conditions of employment**

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

## **B.9 Workplace adjustment**

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

## **B.10 Trial period**

**B.10.1** In order for an adequate assessment of the employee's capacity to be made, the Commission may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

**B.10.2** During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.

**B.10.3** The minimum amount payable to the employee during the trial period must be no less than the minimum weekly amount as prescribed by the Fair Work Commission.

**B.10.4** Work trials should include induction or training as appropriate to the job being trialled.

**B.10.5** Where the Commission and the employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause B.5.

## SIGNATORIES

### Employer

Signed for, and on behalf of, the NDIS Quality and Safeguards Commission

Signed:



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Name: Graeme Head

Position: Commissioner

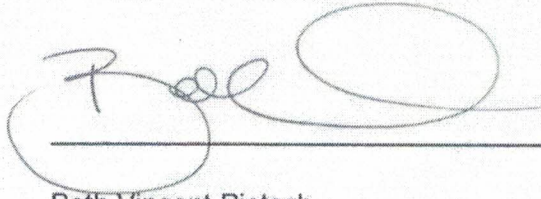
Agency: NDIS Quality and Safeguards Commission

Address: Unit 1, 121 Henry Street, Penrith, NSW 2750

### Employee Bargaining Representative: Community and Public Sector Union

Signed for, and on behalf of, the Community and Public Sector Union

Signed:



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Name: Beth Vincent-Pietsch

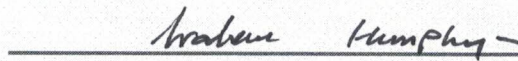
Position: Deputy Secretary

Agency: Community and Public Sector Union

Address: 1/40 Brisbane Venue, Barton, ACT 2600

### Employee Bargaining Representative

Signed:



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Name:

GRAHAM HUMPHREYS

Position:

DIRECTOR - NDIS COMMISSION

Agency: NDIS Quality and Safeguards Commission

Address: Unit 1, 121 Henry Street, Penrith, NSW 2750



## IN THE FAIR WORK COMMISSION

**FWC Matter No:** AG2019/3470

**Applicant:**

Commonwealth of Australia as represented by  
The NDIS Quality and Safeguards Commission

### Undertaking- section 190

I, Jason Stott, Chief Operating Officer of the NDIS Quality and Safeguards Commission, give the following undertakings with respect to the NDIS Quality and Safeguards Commission Enterprise Agreement 2019-2020 ("the Agreement"):

1. I have the authority given to me by the NDIS Quality and Safeguards Commission to provide this undertaking in relation to this application before the Fair Work Commission.
2. The minimum hours of duty for a part-time employee will be no less than 3 continuous hours per day.
3. In the event that casual employees are required to work shifts with an entitlement to penalty rates as per table 5.29 of the Agreement, these casual employees will also be entitled to the casual loading specified in clause 3.33.
4. This undertaking is provided based on matters raised by the Fair Work Commission in the application before the Fair Work Commission.

**Employer name:** NDIS Quality and Safeguards Commission

**Authority to sign:** Jason Stott

**Signature:**



**Date:**

2 October 2019