



DECISION

Fair Work Act 2009

s.185 - Application for approval of a single-enterprise agreement

Australian Fisheries Management Authority T/A Australian Fisheries Management Authority
(AG2024/606)

AUSTRALIAN FISHERIES MANAGEMENT AUTHORITY ENTERPRISE AGREEMENT 2024–2027

Commonwealth employment

COMMISSIONER PLATT

ADELAIDE, 27 MARCH 2024

Application for approval of the Australian Fisheries Management Authority Enterprise Agreement 2024-2027

[1] An application has been made for approval of an enterprise agreement known as the *Australian Fisheries Management Authority Enterprise Agreement 2024-2027* (the Agreement) pursuant to s.185 of the *Fair Work Act 2009* (the Act) by Australian Fisheries Management Authority T/A Australian Fisheries Management Authority (the Applicant). The agreement is a single enterprise agreement.

[2] The matter was allocated to my Chambers on 13 March 2024.

[3] On 22 March 2024, I emailed the parties advising of BOOT concerns with respect to Part Time Engagement & Higher Duties and invited the Applicant to address these matters through the provision of an undertaking.

[4] The Agreement contains a number of changes which when considered in isolation, are less advantageous than the Award. These include increased ordinary hours, an expanded spread of hours and some penalty rates. I note that the Agreement also confers benefits of universal application including paid leave between Christmas and New Year and increased Superannuation Contributions. I have not considered additional benefits which were conditional in their application and/or difficult to quantify in monetary terms. I find that the universal improvements offset the disadvantages referred to.

[5] The Applicant has submitted an undertaking in the required form dated 25 March 2024, a copy of which is attached to this Agreement. The undertaking deals with the following topics:

- The requirement to prescribe the agreed part time hours of working including the start and finish times so as to determine when overtime is payable has been inserted, consistent with the *Australian Public Service Enterprise Award 2015*.
- A Part-time minimum engagement has been inserted, consistent with the *Australian Public Service Enterprise Award 2015*.
- For BOOT issues relating to Higher Duties, the Applicant has implemented a reconciliation process in line with *Shop, Distributive and Allied Association v Beechworth Bakery Employee Co Pty Ltd T/A Beechworth Bakery*.ⁱ

[6] A copy of the undertaking has been provided to the bargaining representatives and I have sought their views in accordance with s.190(4) of the Act. The bargaining representatives did not express any view on the undertaking.

[7] The undertaking appears to meet the requirements of s.190(3) of the Act and I have accepted it. As a result, the undertakings are taken to be a term of the Agreement.

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

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

[10] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 7 days after the date of approval of the Agreement. The nominal expiry date is 28 February 2027.



COMMISSIONER

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ⁱ [2017] FWCFB 1664.

Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of this agreement.



Australian Government

Australian Fisheries Management Authority

Australian Fisheries Management Authority Enterprise Agreement

2024 — 2027

Securing Australia's fishing future

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Section 1: Technical matters

Title

1. This agreement will be known as the Australian Fisheries Management Authority Enterprise Agreement 2024–2027.

Parties to the agreement

2. The agreement covers:
 - 2.1 the Australian Fisheries Management Authority Chief Executive Officer, for and on behalf of the Commonwealth of Australia as the employer
 - 2.2 all employees in the Australian Fisheries Management Authority (AFMA) employed under the PS Act other than:
 - 2.2.1 Senior Executive Service employees or equivalent
 - 2.3 subject to notice being given in accordance with section 183 of the FW Act, and the following employee organisation/s which were a bargaining representative for this agreement:
 - 2.3.1 the Community and Public Sector Union (CPSU).

Operation of the agreement

3. This agreement will commence operation seven days after approval by the Fair Work Commission.
4. This agreement will nominally expire on 28 February 2027.

Delegations

5. The Agency Head may delegate to or authorise any person to perform any or all of the Agency Head's powers or functions under this agreement, including the power of delegation, and may do so subject to conditions.

National Employment Standards precedence

6. The terms of this agreement are intended to apply in a manner that does not derogate from the National Employment Standards (NES). The NES will continue to apply to the extent that any term of this agreement is detrimental to an employee of AFMA in any respect when compared with the NES.

Closed comprehensive agreement

7. This agreement states the terms and conditions of employment of employees covered by this agreement other than terms and conditions applying under relevant Commonwealth laws.

8. This agreement will be supported by policies and guidelines as implemented and varied from time to time, through AFMA's Workplace Consultative Committee.
9. Policies and guidelines are not incorporated into and do not form part of this agreement. To the extent that there is any inconsistency between policies and guidelines and the terms of this agreement, the terms of this agreement will prevail.

Individual flexibility arrangements

10. AFMA and an employee covered by this agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
 - 10.1 the agreement deals with one or more of the following matters:
 - 10.1.1 arrangements about when work is performed
 - 10.1.2 overtime rates
 - 10.1.3 penalty rates
 - 10.1.4 allowances
 - 10.1.5 remuneration
 - 10.1.6 leave and leave loading, and
 - 10.2 the arrangement meets the genuine needs of AFMA and the employee in relation to one or more of the matters mentioned in clause 10.1, and
 - 10.3 the arrangement is genuinely agreed to by AFMA and employee.
11. AFMA must ensure that the terms of the individual flexibility arrangement:
 - 11.1 are about permitted matters under section 172 of the FW Act
 - 11.2 are not unlawful terms under section 194 of the FW Act, and
 - 11.3 result in the employee being better off overall than the employee would be if no arrangement were made.
12. AFMA must ensure that the individual flexibility arrangement:
 - 12.1 is in writing
 - 12.2 includes the name of the AFMA and employee
 - 12.3 is signed by AFMA and employee and, if the employee is under 18 years of age, signed by a parent or guardian of the employee, and
 - 12.4 includes details of:
 - 12.4.1 the terms of the enterprise agreement that will be varied by the arrangement
 - 12.4.2 how the arrangement will vary the effect of the terms
 - 12.4.3 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

12.4.4 states the day on which the arrangement commences.

13. AFMA must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
14. AFMA or the employee may terminate the individual flexibility arrangement:
 - 14.1 by giving no more than 28 days written notice to the other party to the arrangement, or
 - 14.2 if AFMA and employee agree in writing at any time.
15. AFMA and the employee are to review the individual flexibility arrangement at least every 12 months.

Definitions

16. The following definitions apply to this agreement:

Accrual date means the date on which leave entitlements accrue. An employee's accrual date will generally fall on the anniversary of commencement with AFMA but may differ where prior service is recognised or if leave without pay has been used.

Accrual year means the period of 12 months following an employee's accrual date.

AFMA means Australian Fisheries Management Authority.

Agency Head means the Chief Executive Officer of the Australian Fisheries Management Authority or the Chief Executive Officer's delegate.

Agreement means the Australian Fisheries Management Authority Enterprise Agreement 2024–2027.

APS agency means an agency whose employees are employed under the PS Act, including an agency as defined in section 7 of the PS Act whose employees are employed under that Act.

APS consultative committee means the committee established by the APS Commissioner to consider matters pertaining to the (APS) employment relationship and of interest to the APS as a whole.

APS means the Australian Public Service.

Australian Defence Force Cadets means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.

Bandwidth means the span of hours during which an employee can perform ordinary hours.

Broadband refers to the allocation of more than one approved classification by the Agency Head to a group of duties involving work value applying to more than one classification under sub-rule 9(4) of the *Public Service Classification Rules 2000*. A broadband encompasses the full range of work value of the classifications contained within it.

Casual employee (irregular or intermittent employee) means an employee engaged under section 22(2)(c) of the PS Act who:

- a. is a casual employee as defined by the FW Act, and
- b. works on an irregular or intermittent basis.

Child means a biological child, adopted child, foster child, stepchild, or ward.

Classification or classification level means the approved classifications as set out in rule 5 of the *Public Service Classification Rules 2000*.

De facto partner means a person who, regardless of gender, is living in a common household with the employee in a bona fide, domestic, interdependent partnership, although not legally married to the employee. This includes a previous de facto partner.

Delegate means someone to whom a power or function has been delegated.

Dependant means the employee's spouse or de facto partner, a child, parent or aged relative of the employee or the employee's spouse or de facto partner, who ordinarily lives with the employee and who is substantially dependant on the employee. Dependant also includes a child of the employee who does not ordinarily live with the employee but for whom the employee provides substantial financial support.

Duty at sea means the period when Fisheries Compliance Officers board a patrol vessel for the purpose of heading to sea, until the time the patrol vessel is deemed to have completed the patrol and the fisheries officer disembarks.

Employee means an employee of the Commonwealth engaged under section 22(2) of the PS Act who is covered by this agreement (whether full-time, part time or casual, ongoing, or non-ongoing).

Employee representative means a person (whether an employee or not) elected or chosen by an employee or elected or chosen by a group of employees in a workplace, to represent the individual and/or collective views of those employees in relation to a matter under this agreement.

Family and domestic violence has the same meaning as in section 106B(2) of the FW Act.

Family means:

- a. a spouse, former spouse, de facto partner, or former de facto partner of the employee
- b. a child, parent, grandparent, grandchild, or sibling of the employee
- c. a child, parent, grandparent, grandchild, or sibling of a spouse, former spouse, de facto partner, or former de facto partner of the employee
- d. a member of the employee's household
- e. a person with whom the employee has a relationship of traditional kinship where there is a relationship or obligation, under customs and traditions of the community or group to which the employee belongs, or

- f. a person who has significant involvement in the upbringing of the employee or the partner of the employee.

Full-time employee means an employee employed to work an average of 37 hours and 30 minutes per week in accordance with this agreement.

FW Act means the *Fair Work Act 2009* as amended from time to time.

Manager means an employee's direct manager who is usually the person to whom an employee reports to on a day-to-day basis for work related matters and may include a person referred to as a supervisor.

ML Act means the *Maternity Leave (Commonwealth Employees) Act 1973* as amended from time to time and any successor legislation.

NES means the National Employment Standards at Part 2-2 of the FW Act.

Non-ongoing employee means an employee engaged for a specified term or for the duration of a specified task in accordance with section 22(2)(b) of the PS Act, consistent with the FW Act.

Ongoing employee means an employee engaged under section 22(2)(a) of the PS Act.

Ordinary hours, duty or work means an employee's usual hours worked in accordance with this agreement and does not include additional hours.

Parliamentary service means employment under the *Parliamentary Service Act 1999*.

Partner means a spouse or de facto partner including former spouse or de facto partner.

Part-time employee means an employee employed to work less than an average of 37 hours and 30 minutes per week in accordance with this agreement.

Pay period means regular fortnight pay period.

Primary caregiver for the purposes of the parental leave clause means a pregnant employee with an entitlement under the ML Act, or an employee other than a casual employee who has primary care responsibility for a child who is born to them or who is adopted or in long-term foster care as per the clauses on adoption and long-term foster care in this agreement.

PS Act means the Public Service Act 1999 as amended from time to time.

Relevant employee means an affected employee.

Secondary caregiver for the purposes of the parental leave clause means an employee, other than a pregnant employee or casual employee, who has secondary care responsibility for a child who is born to them, or for a child who is adopted or in long-term foster care as per the clauses on adoption and long-term foster care in this agreement.

Settlement period means the ordinary working days over which calculations are made to determine flex credit and/or flex debit carry over, or TOIL limits (i.e., four weeks over two consecutive pay periods).

Section 2: Remuneration

Salary increase

17. Salary rates will be as set out in Attachment A to this agreement.
18. The base salary rates in Attachment A include the following increases:
 - 18.1 4.0 per cent from the first full pay period on or after 1 March 2024 (the 14 March 2024)
 - 18.2 3.8 per cent from the first full pay period on or after 1 March 2025 (the 13 March 2025) and
 - 18.3 3.4 per cent from the first full pay period on or after 1 March 2026 (the 12 March 2026).
19. In recognition of a common alignment date of the first full pay period on or after 1 March each year, the payments in Attachment A were calculated based on base salary rates as of 31 August 2023.

Payment of salary

20. Employees will be paid fortnightly in arrears by electronic funds transfer into a financial institution account of the employee's choice, based on their annual salary using the following formula:

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

Note: This formula is designed to achieve a consistent fortnightly pay rate without significant variability year-to-year. It reflects that the calendar year is not neatly divisible into 26 fortnightly periods. There are 313 fortnightly pay cycles within a 12-year period.

Salary setting

21. Where an employee is engaged, moves to, or is promoted in the agency, the employee's salary will be paid at the minimum of the salary range of the relevant classification, unless the Agency Head determines a higher salary within the relevant salary range under these salary setting clauses.
22. The Agency Head may determine the payment of salary at a higher value within the relevant salary range of the relevant classification and the date of effect at any time.
23. In determining a salary under these salary setting clauses, the Agency Head will have regard to relevant factors including the employee's experience, qualifications, and skills.

24. Where an employee commences ongoing employment in the agency immediately following a period of non-ongoing employment in the agency for a specified term or task, the Agency Head will determine the payment of the employee's salary within the relevant salary range of the relevant classification which recognises the employee's prior service as a non-ongoing employee in the agency.
25. Where an employee commences ongoing employment in the agency immediately following a period of casual employment in the agency, the Agency Head will determine the payment of salary within the relevant salary range of the relevant classification which recognises the employee's prior service as a casual employee in the agency.
26. Where an APS employee moves to the agency at level from another APS agency, and their salary is above the maximum of the salary range for their classification, the Agency Head will maintain the employee's salary at that level, until it is absorbed into the salary range for that classification.
27. Where the Agency Head determines that an employee's salary has been incorrectly set, the Agency Head may determine the correct salary and the date of effect.

Incremental advancement

28. Employees will have access to salary progression.
29. The Agency Head has the discretion to approve an incremental advancement outside a performance cycle year.
30. Salary progression within a classification range occurs with effect from 1 July in the relevant year. This includes:
 - 30.1 An employee having at least six months of aggregate service at or above level.
 - 30.2 If an employee has less than six months of aggregate eligible service in the agency at or above the relevant classification level during the most recent annual performance cycle, the Agency Head may exercise their discretion to determine a higher salary under the salary setting clause in the agency agreement.
 - 30.3 Satisfactory performance assessed in accordance with the Performance and Development Policy.
 - 30.4 Salary progression while acting at a higher classification, will be retained for future acting duties at, or promotion to, that classification regardless of elapsed time.
 - 30.5 Eligible service for salary progression will includes:
 - 30.5.1 Periods of paid and unpaid parental leave
 - 30.5.2 Periods of unpaid leave that count as service, and
 - 30.5.3 service while employed on a non-ongoing basis.

- 30.6 During a period of unpaid parental leave employees will be eligible to advance a maximum of one increment, regardless of the length of unpaid parental leave.
- 30.7 Casuals (except for casual Observers) are not eligible for incremental advancement.

Superannuation

- 31. AFMA will make compulsory employer contributions as required by the applicable legislation and fund requirements.
- 32. Employer superannuation contributions will be paid on behalf of employees during periods of paid leave that count as service.
- 33. AFMA will make employer superannuation contributions to any eligible superannuation fund, provided that it accepts payment by fortnightly electronic funds transfer (EFT) using a file generated by AFMA's payroll system.

Method for calculating super salary

- 34. AFMA will provide an employer contribution of 15.4 per cent of the employee's Fortnightly Contribution Salary (FCS) for employees in the Public Sector Superannuation Accumulation Plan (PSSap) and Ordinary Time Earnings (OTE) for employees in other accumulation funds.
- 35. Employer contributions will be made for all employees covered by this agreement.
- 36. Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements.

Payment during unpaid parental leave

- 37. Employer contributions will be paid on periods of unpaid parental leave in accordance with the requirements of the PSSap fund where the employee is a member of the PSSap.

Overpayments

- 38. An overpayment occurs if AFMA provides an employee with an amount of money to which the employee was not entitled (including but not limited to salary, entitlements, allowances, travel payment and/or other amount payable under this agreement).
- 39. Where the Agency Head considers that an overpayment has occurred, the Agency Head will provide the employee with notice in writing. The notice will provide details of the overpayment.
- 40. If an employee disagrees that there has been an overpayment including the amount of the overpayment, they will advise the Agency Head in writing within 28 calendar days of receiving the notice. In this event, no further action will be taken until the employee's response has been reviewed.
- 41. If after considering the employee's response (if any), the Agency Head confirms that an overpayment has occurred, the overpayment will be treated as a debt to the Commonwealth that must be repaid to the agency in full by the employee.

42. The Agency Head and the employee will discuss a suitable recovery arrangement. A recovery arrangement will take into account the nature and amount of the debt, the employee's circumstances, and any potential hardship to the employee. The arrangement will be documented in writing.
43. AFMA and the employee may agree to make deduction from final monies where there is an outstanding payment upon cessation of employment.
44. Interest will not be charged on overpayments.
45. Nothing in clauses 38 to 44 prevents:
 - 45.1 AFMA from pursuing recovery of the debt in accordance with an Accountable Authority Instruction issued under the *Public Governance, Performance and Accountability Act 2013*
 - 45.2 AFMA from pursuing recovery of the debt through other available legal avenues, and
 - 45.3 the employee or AFMA from seeking approval to waive the debt under the *Public Governance, Performance and Accountability Act 2013*.

Supported wage system

46. An employee can get a percentage of the relevant pay rate in line with their assessed capacity to do the work if they:
 - 46.1 have a disability
 - 46.2 meet the criteria for a Disability Support Pension, and
 - 46.3 are unable to perform duties to the capacity required.
47. Specific conditions relating to the supported wage system are detailed in Attachment C.

Salary packaging

48. Employees may access salary packaging provisions under programs endorsed by AFMA and made available by third party providers. Packaging arrangements are to be at no additional cost to AFMA.

Section 3: Allowances and reimbursements

Higher duties allowance

49. Where a role needs to be filled for two or more working weeks, higher duties allowance will be paid to any employee temporarily occupying the role acting at a classification level higher than their substantive classification level.

50. Where an employee acts in the same higher classification position for an aggregate period of more than three weeks in a calendar year, each subsequent period of one week or more in that calendar year will be paid higher duties allowance for the total period of performance at the higher level.
51. Higher duties allowance will be equal to the difference between the employee's current salary and the salary that would be payable if they were promoted to the higher classification level, or a higher amount determined by the Agency Head.
52. Where an employee is found to be eligible for salary progression at their acting classification level, they will receive an appropriate increase in the rate of higher duties allowance. The employee's salary level will be retained for all future periods of acting regardless of elapsed time.
53. Where an employee is assigned only part of the higher duties, the Agency Head will determine the amount of allowance payable.
54. Higher duties allowance will be payable while an employee is acting at a higher classification level as part of a job-sharing arrangement where the duration of the arrangement is at least two working weeks.
55. The Agency Head may shorten the qualifying period for higher duties allowance on a case-by-case basis.

Workplace responsibility allowances

56. A workplace responsibility allowance will be paid where an employee who is appointed by the agency or elected an eligible peer to one of the following roles:
 - 56.1 First Aid Officer
 - 56.2 Health and Safety Representative
 - 56.3 Emergency Warden
 - 56.4 Harassment Contact Officer, and
 - 56.5 Mental Health First Aid Officer.
57. An employee is not to receive more than one workplace responsibility allowance unless approved by the Agency Head due to operational requirements.
58. The minimum rate will be:

Rate from commencement of the agreement	Rate from 13 March 2025	Rate from 12 March 2026
\$30.51 per fortnight	\$31.67 per fortnight	\$32.75 per fortnight

Table 1: Workplace responsibility rates

59. As a salary-related allowance, this value will continue to be increased in line with scheduled pay increases. These increases are incorporated in the minimum rates in the table above.
60. The full allowance is payable regardless of flexible work and part-time arrangements.

61. An employee's physical availability to undertake the role will be considered by AFMA when appointing and reappointing employees to these roles. This is noting that not all workplace responsibility roles will necessarily require a physical presence in the workplace for the role to be successfully undertaken such as Harassment Contact Officers, Mental First Aid Officers, and Health and Safety Representatives depending on work group arrangements.
62. Casual employees who are eligible to receive a workplace responsibility allowance will be paid the full amount (noting the minimum rate), as varied from time to time, provided they engage in work during any given pay cycle, irrespective of the frequency and duration of the work undertaken.

Community language allowance

63. A community language allowance will be paid where the Agency Head determines that an employee is regularly required to use their ability to communicate in Braille or a language other than English (including First Nations languages and AUSLAN) in the course of their work, and the employee meets the required level of competency set by the Agency Head. Further information is included in policy.
64. The allowance is paid in accordance with the employee's level of competency:

Rate	Standard	Rate from commencement of the agreement	Rate from 13 March 2025	Rate from 12 March 2026
1	An employee who has adequate language skills, as determined by an individual or body approved by the Agency Head, for simple communication.	\$1,435 per annum	\$1,490 per annum	\$1,541 per annum
2	An employee who is certified by the National Accreditation Authority for Translators and Interpreters (NAATI) as a Translator or Interpreter at any level or is assessed to be at the equivalent level by an individual or body approved by the Agency Head.	\$2,870 per annum	\$2,979 per annum	\$3,080 per annum

Table 2: Community language allowance rates

65. The allowance is calculated annually and paid fortnightly.
66. The full allowance is payable regardless of flexible work and part-time arrangements.

67. The allowance is payable during periods of paid leave.
68. The allowance counts as salary for superannuation purposes and for calculating retirement and redundancy entitlements.

Restriction allowance or on call allowance

69. Restriction allowance or on call allowance is available to those employees who are required by AFMA to be restricted outside ordinary hours so that they remain contactable by AFMA and other agencies by telephone and/or be available for recall to duty to a nominated office at short notice.
70. Further details on restriction allowance or on call allowance are contained within Attachment G.

Land-based operations allowance

71. Working on compliance operations involves working in conditions and different hours that are outside of AFMA's ordinary hours in an office-based environment.
72. Further details are within Attachment F.

Marine allowances

73. Various marine allowances are available to employees who are required to go to sea.
74. Further details are within Attachment E.

Section 4: Classifications and broadbands

AFMA Graduates Broadband (APS 4 – APS 5)

75. Graduates will commence as an ongoing employee at pay point APS 4.1. The graduate program duration is 12 months. After six months service, AFMA graduates who have received a satisfactory rating in performance reviews up to that date will advance to pay point APS 4.2. On successful completion of the graduate program, AFMA graduates will be assessed for advancement to APS 5 (pay point APS 5.1) if:
 - 75.1. an employee's performance is satisfactory
 - 75.2. there is sufficient work available at the higher classification, and
 - 75.3. the employee has the necessary skills and proficiencies to perform that work.

76. Where a graduate is not assessed as suitable for advancement, they will remain at the existing pay point and will be required to compete on merit for any future classification advancements.

Salary	Classification – Graduate Broadband	Commencement of Enterprise Agreement	12 months from the date of commencement	24 months from date of commencement
Commencement	APS 4.1	\$78,711	\$81,702	\$84,480
Six months service	APS 4.2	\$81,736	\$84,842	\$87,727
Completion of graduate program*	APS 5.1	\$86,746	\$90,042	\$93,103

Table 3: Graduate salary

*Subject to Clause 75.

Work level standards

77. The APS work level standards continue to operate and describe the work at each of the classification levels in this agreement, consistent with the *Public Service Classification Rules 2000*, made in accordance with section 23 of the PS Act.

Section 5: Working hours and arrangements

Employment types

78. **Ongoing employee** means an employee engaged under section 22(2)(a) of the PS Act.
79. **Non-ongoing employee** means an employee engaged under section 22(2)(b) of the PS Act for a specified term or for the duration of a specified task, and consistent with the FW Act.
80. **Casual employee (irregular and intermittent employee)** means an employee engaged under section 22(2)(c) of the PS Act who:
- 80.1. is a casual employee as defined by the FW Act, and
 - 80.2. works on an irregular and intermittent basis.
81. **Full-time employee** is an employee whose ordinary hours are 37 hours 30 minutes per week, which may include an average over a period defined by AFMA in accordance with this agreement.
82. **Part-time employee** means an employee whose ordinary hours are less than 37 hours 30 minutes per week, which may include an average over a period defined by AFMA in accordance with this agreement.

Job security

Commitment to ongoing employment and rebuilding APS capacity

83. The APS is a career-based public service. In its engagement decisions AFMA recognises that the usual basis for engagement is an ongoing APS employee.

Reporting

84. AFMA will report to the Workplace Consultative Committee on an annual basis, or more frequently if agreed, on the number, duration, classification, and location of ongoing, non-ongoing and casual employees engaged by AFMA.

Pathways to permanency

85. AFMA and the APS will comply with the casual conversion provision of the FW Act. In addition, AFMA recognises that a proactive approach, including regularly reviewing casual and non-ongoing arrangements, is both a fair and efficient approach to supporting ongoing employment as the usual form of employment.

Casual (irregular or intermittent) employment

86. A casual (irregular or intermittent) employee is defined in the definitions section.
87. A decision to expand the use of casual employees is subject to Section 10 of this agreement.
88. AFMA will regularly review the working arrangements of casuals to assess if they are genuinely performing irregular or intermittent duties and report de-identified outcomes to the Workplace Consultative Committee, where one is in place.
89. Remuneration for casual employees shall be on an hourly basis. A casual employee shall receive a 25 per cent loading on the base hourly rate of their classification as set out in this agreement.
90. The casual loading is paid in lieu of payment for public holidays not worked, notice of termination of employment, redundancy benefits and all paid leave entitlements, other than leave required by legislation including long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976* and leave for family and domestic violence support.
91. A casual employee shall be engaged for a minimum of three hours per engagement or shall be paid for a minimum of three hours at the appropriate casual rate.
92. A casual employee who is eligible for a workplace responsibility allowance will be paid the full amount.

Non-ongoing employment

93. A non-ongoing employee is defined in the definitions section.
94. Non-ongoing employees will generally have the same terms and conditions of employment as ongoing employees under this agreement's terms, except:
 - 94.1. personal/carer's leave accrual at clause 222, and

- 94.2. redundancy provisions at clause 438 subject to clause 95.
95. If the non-ongoing employee's contract is not permitted by section 333E of the FW Act, then the redundancy provisions at clause 438 will apply.
96. If the redundancy provisions apply to an employee under clause 95, the agency must adhere to the consultation requirements at Section 10.

Working hours

Standard days of work

97. The standard working days for employees are from Monday to Friday inclusive.

Bandwidth

98. Employees (APS 1–6) must start and finish within the bandwidth of 7:00am to 7:00pm. The pattern of hours worked are subject to operational requirements, the availability of work, and where applicable, the written approval of the employee's manager.
99. An employee (APS 1–6) cannot work outside the bandwidth hours unless directed or agreed.

Ordinary hours

100. The ordinary hours of work at seven hours and 30 minutes per day (totalling 75 hours per fortnight). The standard periods of work are from:

Canberra, Thursday Island, and Lakes Entrance offices		Darwin office	
From	To	From	To
8.45am	12.30pm	8.00am	12.00pm
1.30pm	5.15pm	1.00pm	4.30pm

Table 4: Ordinary hours

101. While employees may vary these times with the agreement of their manager, these are the standard periods of duty in AFMA.

Rest breaks

102. Employees will not be required to work continuously for a period in excess of five hours and must take a break for a minimum of 30 minutes following each period of five hours worked.
103. Employees should have at least an eight-hour break plus reasonable travel time between working on one day and working on the next, whether that work is undertaken during ordinary hours or as a period of overtime. Where employees remain absent from work until such time as they have had an eight-hour break, this will not result in any deductions from the employee's pay or leave credits.

Flex for APS 1–6 classifications

Flex

104. Flex or flex time is available to all APS 1–6 employees excluding casuals.
105. Part-time APS 1–6 employees may access the same flex arrangements as full-time employees, but their maximum flex credit and debit levels will be on a pro-rata basis. Flex may not be used to vary a part-time employee's hours unless approved by the manager.
106. Where APS 1–6 employees are regularly working additional hours, and do not have the opportunity to use reasonable flex credits excess hours beyond 37.5 hours in a settlement period, they will be paid out at a single time rate with prior approval. Arrangements, including any limits, must be approved by the employee's manager.
107. Employees may accrue a maximum flex credit to a total of 37.5 hours in each settlement period.
108. In exceptional circumstances, a manager may approve a carryover of credits more than 37.5 hours from one settlement period to the next if the excess credit will be used in the next period. Successive carryovers more than 37.5 hours will not be approved.
109. An employee who moves to another APS agency or resigns from AFMA should, in consultation with the manager, use any flex credit prior to separation.
110. Payment of unused flex may be made to an employee on separation with AFMA if the employee:
 - 110.1. has pre-approval from the Agency Head, and
 - 110.2. is unable to use the available flex credit due to operational requirements
111. Payment of unused flex will be made at the single time rate up to a maximum of 37.5 hours.
112. Employees may carry forward a maximum flex debit of seven hours and 30 minutes from one pay period to the next.
113. Where the maximum debit is exceeded at the end of the pay period (fortnight), the employee will reduce the debit to the maximum allowable (seven hours and 30 minutes or lower) within the next pay period.
114. Flex debits in excess of seven hours and 30 minutes in two consecutive pay periods will be administered as leave without pay.

Executive level TOIL

115. Executive level (EL) employees are sometimes required to work reasonable additional hours. Consistent with the NES, employees may refuse to work unreasonable additional hours.
116. EL employees seeking to access time off in lieu (TOIL) are required to keep records of their working hours using a method determined by AFMA.

- 117. A manager is to grant TOIL in recognition of reasonable additional hours worked. TOIL granted to employees can be taken as whole or part days.
- 118. The working arrangements for an EL employee should be agreed through discussion between the manager and the EL employee. The discussion should include consideration of the work requirements that will safely get the job done and reasonably allow the employee to balance their work and personal life.
- 119. An EL employee's working arrangements and actual hours worked should be discussed on at least a quarterly basis between the EL employee and their manager.
- 120. The pattern of hours is to be flexible enough to accommodate short term peaks and troughs in workload and include expected reasonable additional hours. The agreed pattern of hours is to be recorded.
- 121. Requests from EL employees to access flexible time off which are consistent with their agreed working arrangements are to be supported, subject to operational requirements.

TOIL – At Sea

- 122. TOIL is available for APS 1–6 employees on a time for time basis and may be paid out at single time rate, in accordance with the terms below.
- 123. APS 1–6 employees will receive one day TOIL for every Saturday, Sunday, or public holiday while they are at sea.
- 124. Employees, other than Observers, may accrue TOIL while at sea up to the following limits:

Duration of trip at sea	Maximum TOIL to be taken per accrual (pro-rata for part-time employees)	Timeframe for TOIL to be taken
Up to two weeks at sea	Four days	Taken in one settlement period
Up to three weeks at sea	Six days	Taken in two settlement periods
Up to four weeks at sea	Eight days	Taken in two settlement periods
Up to five weeks at sea	Nine days	Taken in two settlement periods
Up to six weeks at sea	10 days	Taken in two settlement periods
Up to seven weeks at sea	11 days	Taken in three settlement periods
Up to eight weeks at sea	12 days	Taken in three settlement periods

Table 5: TOIL accrual at sea

- 125. TOIL accrued in a trip in excess of the above limits will be paid out at single time.
- 126. Where TOIL is not able to be taken within the timeframes outlined above, any outstanding TOIL will be paid out at single time at the next settlement period.

127. Employees, excluding casuals, who accrue TOIL while at sea, may apply to be paid out at single time rate for all TOIL accrued, with the written approval of their manager.

Overtime and restriction

Overtime

128. Any APS 1 to 6 employee directed to undertake work more than 8 and half hours per day will be eligible for overtime, either paid at the applicable overtime rate or taken as TOIL at single time.
129. Any part time employee at the APS 1-6 level directed to undertake work outside their part time hours will be eligible for overtime.
130. Where overtime is undertaken during bandwidth hours, the employee may elect to accrue flex at single time rate.
131. An employee may refuse to work unreasonable additional hours in accordance with section 62 FW Act.
132. Where overtime is payable at the following rates as outlined in Table 6.

Overtime period	Rate
Monday to Saturday – first 3 hours	150%
Monday to Saturday – after 3 hours	200%
Sunday – all day	200%
Public Holiday	250%

Table 6: Overtime rates

133. Overtime is paid on the basis of hours worked (excluding emergency duty, on call and restriction provisions) calculated to the nearest 15 minutes.

Emergency duty

134. Where an APS 1 to 6 employee is called on duty to respond to an emergency at a time when they would not normally have been on duty and has been given no notice of such a call prior to ceasing ordinary duty. The period for which this emergency payment will be made will include time necessarily spent travelling to and from duty. The minimum payment under this clause will be three hours at the rate of double time.

Shift work

135. Employees are considered to be undertaking shift work if they are rostered to perform ordinary hours of duty, any part of which falls outside the period 6.30am to 6.00pm Monday to Friday and/or on Saturdays, Sundays, or Public Holidays for an ongoing or fixed period.

136. Shift workers will be entitled to the following penalty rates:

Penalty rates	Ordinary hours worked
115%	On a shift any part which falls between 6.00pm and 6.30am
180%	Saturday – all hours
200%	Sunday – all hours
250%	Public Holiday - all hours

Table 7: Shift work penalty rates

137. Where an employee is directed to perform overtime directly following a period of shift work, the rate of pay will be the greater of the shift worker penalty rate or overtime rate outlined in clause 132.
138. Shift rosters will specify the commencing and finishing times of ordinary working hours for the respective shifts and will ensure a maximum five-hour period worked without a break.
139. Except at the regular changeover of shifts or by mutual agreement, an employee should not be required to work more than one shift in each 24 hours.
140. Shift workers can exchange shifts or rostered days off by mutual agreement, with approval from the manager, and provided that the agreement does not give an employee an entitlement to overtime.
141. At least seven days' notice of changes to rostered hours will be given, or less by agreement.

Flexible working arrangements

142. AFMA, employees and their union recognise:
- 142.1. the importance of an appropriate balance between employees' personal and working lives, and the role flexible working arrangements can play in helping to achieve this balance
 - 142.2. access to flexible work can support strategies to improve diversity in employment and leadership in the APS
 - 142.3. access to flexible work supports APS capability, and can assist in attracting and retaining the employees needed to deliver for the Australian community, including employees located at a wider range of locations
 - 142.4. that flexibility applies to all roles at AFMA, and different types of flexible working arrangements may be suitable for different types of roles or circumstances, and
 - 142.5. requests for flexible working arrangements are to be considered on a case-by-case basis, with a bias towards approving requests.

143. AFMA is committed to engaging with employees and their union to build a culture that supports flexible working arrangements across AFMA at all levels. This may include developing and implementing strategies through an AFMA's Workplace Consultative Committee.
144. Flexible working arrangements include, but are not limited to, changes in hours of work, changes in patterns of work, and changes in location of work.

Requesting formal flexible working arrangements

145. The following provisions do not diminish an employee's entitlement under the NES.
146. An employee may make a request for a formal flexible working arrangement.
147. The request must:
 - 147.1. be in writing
 - 147.2. set out details of the change sought (including the type of arrangement sought and the proposed period the arrangement will operate for), and
 - 147.3. set out the reasons for the change, noting the reasons for the change may relate to the circumstances set out at section 65(1A) of the FW Act.
148. The Agency Head must provide a written response to a request within 21 days of receiving the request.
149. The response must:
 - 149.1. state that the Agency Head approves the request and provide the relevant detail in clause 150, or
 - 149.2. if following discussion between AFMA and the employee, the agency and the employee agree to a change to the employee's working arrangements that differs from that set out in the request – set out the agreed change, or
 - 149.3. state that the Agency Head refuses the request and include the following matters:
 - 149.3.1. details of the reasons for the refusal, and
 - 149.3.2. set out the agency's particular business grounds for refusing the request, explain how those grounds apply to the request, and
 - 149.3.3. either:
 - 149.3.3.1. set out the changes (other than the requested change) in the employee's working arrangements that would accommodate, to any extent, the employee's circumstances outlined in the request and that the agency would be willing to make, or
 - 149.3.3.2. state that there are no such changes, and
 - 149.3.4. state that a decision to refuse the request, or failure to provide a written response within 21 days is subject to the dispute resolution procedures of the enterprise agreement, and if the employee is an eligible employee under the FW Act, the dispute resolution procedures outlined in section 65B and 65C of the FW Act.

150. Where the Agency Head approves the request, this will form an arrangement between the agency and the employee. Each arrangement must be in writing and set out:
 - 150.1. any security and work health and safety requirements
 - 150.2. a review date (subject to clause 154), and
 - 150.3. the cost of establishment (if any).
151. The Agency Head may refuse to approve the request only if:
 - 151.1. AFMA has discussed the request with the employee, and
 - 151.2. AFMA has genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for refusal), and
 - 151.3. AFMA and the employee have not reached such an agreement, and
 - 151.4. AFMA has had regard to the consequences of the refusal for the employee, and
 - 151.5. the refusal is on reasonable business grounds.
152. Reasonable business grounds include, but are not limited to:
 - 152.1. the new working arrangements requested would be too costly for AFMA
 - 152.2. there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested
 - 152.3. it would be impractical to change the working arrangements of other employees, or to recruit new employees, to accommodate the new working arrangements requested
 - 152.4. the new working arrangements requested would be likely to result in a significant loss in efficiency or productivity
 - 152.5. the new working arrangements requested would be likely to have a significant negative impact on customer service, and
 - 152.6. it would not be possible to accommodate the working arrangements without significant changes to security requirements, or where work health and safety risks cannot be mitigated.
153. For First Nations employees, AFMA must consider connection to country and cultural obligations in responding to requests for altering the location of work.
154. Approved flexible working arrangements will be reviewed by AFMA and the employee after 12 months, or a shorter period, if agreed by the employee. This is to ensure the effectiveness of the arrangement.

Varying, pausing, or terminating flexible working arrangements

155. An employee may request to vary an approved flexible working arrangement in accordance with clause 147. An employee may request to pause or terminate an approved flexible working arrangement.

156. The Agency Head may vary, pause, or terminate an approved flexible working arrangement on reasonable business grounds, subject to clause 158.
157. The agency must provide reasonable notice if varying, pausing or terminating a flexible working arrangement without the agreement of the employee, having regard to the circumstances of the employee. Exceptions to this requirement are urgent and critical operational circumstances or an employee demonstrated and repeated failure to comply with the agreed arrangements.
158. Prior to the Agency Head varying, pausing, or terminating the arrangement under clause 156, AFMA must have:
 - 158.1. discussed with the employee their intention to vary, pause, or terminate the arrangement with the employee
 - 158.2. genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for alteration)
 - 158.3. had regard to the consequences of the variation, pause, or termination for the employee
 - 158.4. ensured the variation, pause, or termination is on reasonable business grounds, and
 - 158.5. informed the employee in writing of the variation, pause or termination to the approved flexible working arrangement, including details set out in clause 149.3.

Working from home

159. AFMA will not impose caps on groups of employees on the time that may be approved to work from home or remotely, with each request to be considered on its merits.
160. AFMA may provide equipment necessary for, or reimbursement, for all or part of the costs associated with establishing a working from home arrangement.
161. An employee working from home is covered by the same employment conditions as an employee working at an office site under this agreement.
162. The agency will provide employees with guidance on working from home safely.
163. Employees will not be required by AFMA to work from home unless it is lawful and reasonable to do so. This may include where circumstances prevent attendance at an office during a pandemic or natural disaster. In these situations, AFMA will consider the circumstances of the employees and options to achieve work outcomes safely.

Ad-hoc arrangements

164. Employees may request ad-hoc flexible working arrangements. Ad-hoc arrangements are generally one-off or short-term arrangements for circumstances that are not ongoing.
165. Employees should, where practicable, make the request in writing and provide as much notice as possible.
166. Requests for ad-hoc arrangements are not subject to the request and approval processes detailed in clauses 145 to 154.
167. AFMA should consider ad-hoc requests on a case-by-case basis, with a bias to approving ad-hoc requests, having regard to the employee's circumstances and reasonable business grounds.
168. Where a regular pattern of requests for ad-hoc arrangements from an employee emerges, AFMA should consider whether it is appropriate to seek to formalise the arrangement with the employee.

Altering span of hours

169. An employee may request to work an alternative regular span of hours (bandwidth hours). If approved by the Agency Head, hours worked on this basis will be treated as regular working hours and will not attract overtime payments. AFMA will not request or require that any employee alter their regular span of hours (bandwidth hours) under these provisions.

Usual location of work

170. The employee's standard place of work will be the designated office location identified in the employee's letter of offer or other engagement documentation. If no designated office location was specified on engagement, the Agency Head may specify a designated office location by advising the employee in writing.
171. The agency and employee may agree to vary the employee's designated office location on a temporary or permanent basis.

Part-time work

172. The hours of duty for part-time employees are the hours stated in the employee's part-time work agreement.
173. Employees engaged on a full-time basis will not be compelled to convert to part-time employment.
174. Employees engaged on a part-time basis will not be compelled to convert to full-time employment.
175. The pattern of hours specified under clause 172 will provide for no less than three hours per day (or an alternative period agreed by the Agency Head and the employee) and will be continuous on any one day.

Christmas closedown

176. The Agency will cease its normal operations from close of business on the last working day before Christmas Day, with business resuming on the first working day after New Year's Day.
177. Employees are entitled to be absent with pay for the working days during Christmas closedown.
178. There will be no requirement to take annual or personal/carers or flex over the Christmas closedown period.
179. Payment for absences on working days during Christmas Closedown will be made in accordance with an employee's ordinary hours of work for that day. However, where an employee would otherwise be absent on leave on that day, the rate of payment will be in accordance with the payment for that leave entitlement, e.g., if the employee is absent on long service leave at half pay, payment for that day will also be at half pay.
180. This clause does not apply to casual employees.
181. Only those employees who are directed or rostered to work during this period may attend for work over the Christmas closedown period.
182. AFMA will recognise the first closedown day after Boxing Day public holiday as an agency holiday that will attract penalty or overtime rates in accordance with public holiday provisions contained in this agreement.
183. Employees who are directed or rostered to work the remaining two days of the closedown period will be entitled to take two days paid leave at an alternate time agreed between the employee and the manager.

Public holidays

184. Employees are entitled to the following holidays each year as observed at their normal work location in accordance with the FW Act:
 - 184.1. 1 January (New Year's Day)
 - 184.2. 26 January (Australia Day)
 - 184.3. Good Friday and the following Easter Monday
 - 184.4. 25 April (Anzac Day)
 - 184.5. the King's birthday holiday (on the day on which it is celebrated in a state or territory or a region of a state or territory)
 - 184.6. 25 December (Christmas Day)
 - 184.7. 26 December (Boxing Day), and
 - 184.8. 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.

185. If a public holiday falls on a Saturday or Sunday, and 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.
186. The Agency Head and an employee may agree on the substitution of a day or part day that would otherwise be a public holiday, having regard to operational requirements.
187. The Agency Head and an employee may agree to substitute a cultural or religious day of significance to the employee for any day that is a prescribed holiday. If the employee cannot work on the prescribed holiday, the employee will be required to work make-up time at times to be agreed. This substitution does not impact or reduce an employee's entitlement to First Nations ceremonial leave, NAIDOC leave or cultural leave.
188. Where an employee substitutes a public holiday for another day, they will not be paid penalty rates for working their normal hours on the public holiday.
189. Where a public holiday falls during a period when an employee is absent on leave (other than annual leave, paid personal/carer's leave or defence service sick leave) there is no entitlement to receive payment as a public holiday. Payment for that day will be in accordance with the entitlement for that form of leave (e.g., if on long service leave on half pay, payment is at half pay.)
190. 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 if the employee performs work on that day, and the Sunday would otherwise be a public holiday under clause 184.1 to 184.8.
191. An employee who is absent on a day or part day that is a public holiday in their normal work location is entitled to be paid for the part or full day absence as if that day or part day were not a public holiday, except where that person would not normally have worked on that day.
192. Where a full-time employee, including but not limited to, employees on compressed hours, has a regular planned day off which would fall on a public holiday, the Agency Head may allow the employee to change their planned day off so that it does not fall on a public holiday. If it is not possible to change their planned day off, the employee will be credited an equivalent amount of time to their regular hours for the day in flex credits or EL TOIL in recognition of their planned day off.
193. AFMA will recognise Easter Eve (Easter Saturday) as an agency holiday that will attract penalty or overtime rates in accordance with the public holiday provisions contained in this Agreement.
194. If an employee who performs duty on each of the days of the week in a cycle of shift on a regular roster of shift work and a public holiday occurs on a day when the employee is rostered off duty, the employee is entitled to an additional day leave instead of the public holiday.

Section 6: Leave

Annual leave

195. Employees (other than casual employees) are entitled to four weeks (20 days) paid annual leave per year of service, accruing daily. Annual leave for part-time employees accrues on a pro-rata basis.
196. Employees located in Darwin will receive additional three days annual leave of full pay every period of 12 months.
197. Employees located on Thursday Island will receive an additional seven days annual leave of full pay for every period of 12 months.
198. Employees who are shift workers and are regularly rostered to work on Saturdays and Sundays are entitled to an additional 0.25 of a day paid leave (up to a maximum of five days per anniversary year) for each shift worked on a Saturday or Sunday.
199. For annual leave purposes, employees who are shift workers will receive a leave loading of 17.5 per cent of the normal weekly earnings excluding any shift penalties that would have been payable had they not taken leave.
200. Where an employee has been on compensation for more than 45 weeks, annual leave will accrue based on actual hours worked.
201. Employees are entitled to access annual leave credits as they accrue.
202. Annual leave may be taken at half pay. However, unless approved by the Agency Head, it may not be taken at half pay where the employee has an excess leave balance. When annual leave is taken at half pay, the leave credit deduction will be half of the actual period of leave taken.
203. Paid annual leave may be taken for a period agreed between an employee and AFMA. AFMA will not unreasonably refuse to agree to a request by the employee to take paid annual leave.
204. The granting of leave is discretionary and subject to operational requirements.
205. Where an employee has entered into an irrevocable financial arrangement and is recalled to duty, the employee will be reimbursed for any non-refundable component of the costs incurred based on receipts provided. The Agency Head will recredit the amount of annual leave and long service leave that the affected employee was unable to utilise as a result of a recall to duty.
206. An employee who is on annual or long service leave from AFMA may be recalled to duty by the Agency Head. In such a situation, the employee will take all reasonable steps to return to the required workplace within the specified timeframe.
207. Where an employee has accumulated greater than two years annual leave credits, the employee will continue to accrue leave credits but must take the excess leave within three months of the last accrual date.
208. Where the excess leave has not been taken within the three-month period from the last accrual date, the Agency Head may direct the employee to take leave to reduce the excess leave balance with one month notice.

209. Employees will receive payment in lieu of any untaken annual leave upon separation from AFMA.

Cash out of annual leave

210. Employees may apply in writing to the Agency Head to 'cash in' up to one week's leave in conjunction with the taking of annual leave. An employee must retain a minimum balance of four weeks annual leave credits after cashing out the one week of leave and taking the associated leave. Each cashing out of paid annual leave must be by a separate agreement in writing between the Agency Head and employee. The employee must be paid at least the full amount that would have been payable to the employee had the employees taken the leave that the employee has forgone.
211. Employees may apply to 'cash in' one week of annual leave out of any 12 months entitlement. The 'cash in' of leave must be taken in conjunction with a minimum of one week's leave (annual or long service leave only).

Purchased leave

212. Employees may purchase one to four weeks additional annual leave per year, subject to approval.
213. An employee must commit to the purchased leave arrangement for a period of 12 months unless the Agency Head agrees, in exceptional circumstances, that an arrangement can be entered into for a lesser period. The leave purchased must be taken within 13 months of the date of the first payment.
214. A minimum of half a day's purchased leave must be taken at any one time.
215. The purchased leave will be reconciled at one year from the date of the first payment and unused leave must be taken or paid out before the end of the remaining month. In exceptional circumstances, outstanding credits can be rolled over into the following year at the discretion of the Agency Head, but employees cannot purchase more leave until the previously purchased leave has been taken or paid out.
216. The purchased leave will count for service.
217. Purchased leave cannot be taken at half pay.
218. If an employee leaves AFMA and has not used all or part of the paid purchased leave, the employee will be re-paid, the value of the leave not taken.

Personal/carer's leave

219. Employees (other than casual employees) will receive 18 days per annum personal/carer's leave (pro-rata for part-time employees).
220. Personal/carers leave at half pay may be approved by the Agency Head.

Accrual

221. For an ongoing employee, 18 days personal/carers leave will be credited upon the employee's commencement with the APS. After 12 months, the employee's leave will accrue and be credited daily.

222. For a non-ongoing employee, the personal/carers leave will be credited upon the employee's commencement with AFMA. This will be 18 days leave pro-rata based on the employee's initial contract period and is capped at 18 days. After the initial contract period or 12 months, whichever is shorter, or where the employee has an existing entitlement to personal/carers leave, leave will accrue and be credited daily.
223. A casual employee may be absent without pay when not fit for work due to personal illness or injury. A casual employee may access two days unpaid carers leave per occasion, consistent with the NES.

Usage

224. Personal/carer's leave is provided for absences from the workplace due to personal circumstances. Personal/carers leave to be used:
- 224.1. Due to personal illness or injury.
 - 224.2. To attend appointment with a registered health practitioner.
 - 224.3. To manage a chronic condition.
 - 224.4. To provide care or support for a family or household member or a person they have caring responsibilities for because:
 - 224.4.1. Of a personal illness or injury affecting the other person.
 - 224.4.2. Of an emergency affecting the other person.

Carers

225. A person that an employee has caring responsibilities for may include a person who needs care because they:
- 225.1. Have a medical condition, including when they are in hospital.
 - 225.2. Have a mental illness.
 - 225.3. Have a disability.
 - 225.4. Are frail or aged.
 - 225.5. Are a child, not limited to a child of the employee.

Evidence

226. Evidence may be requested after:
- 226.1. More than three consecutive days.
 - 226.2. More than eight days without evidence in a calendar year.
227. Acceptable evidence includes:
- 227.1. A certificate from a registered health practitioner,
 - 227.2. A statutory declaration, or
 - 227.3. Another form of evidence approved by the Agency Head.
228. A certificate from a registered health practitioner may be used as evidence of a chronic condition for up to 12 months for both personal and carers leave.

229. An employee may be granted one day's personal/carers leave per occasion to attend a family member's funeral. Personal/carer's leave cannot be used for this purpose to the extent that it results in less than 10 days of an employee's credit per year being available for use for personal injury or illness and caring as provided under the FW Act. An employee may choose to take funeral leave as either personal leave, annual leave, or leave under flexible working arrangements e.g., flex or TOIL.
230. An employee will be required to provide evidence to access Personal/carers leave provided in clause 229 to attend a funeral e.g., a death certificate or funeral notice.
231. An employee who uses personal/carers leave must give prior notice to the manager as soon as practicable (which may be at a time after the leave has started). This includes notifying the period or expected period of the leave.
232. Employees, including casual employees, are also entitled to an additional two days unpaid carers leave per occasion. This may be a single unbroken period of up to two days, or any separate period as agreed by the Agency Head and employee. Unpaid carer's leave may only be taken after the employee has exhausted their other paid personal/carer's leave entitlements. A period of unpaid carer's leave does not break an employee's continuity of service however, it does not count as service.
233. Unused personal/carers leave will accrue from year to year but will not be paid out on separation
234. All approved personal/carers leave will be deducted from an employee's available credit. Single absences of less than one day can be taken as either personal/carers leave, or leave under flexible working arrangements e.g., flex or TOIL.

Portability of leave

235. Where an employee moves into AFMA from another APS agency where they were an ongoing employee, the employee's unused accrued annual leave and personal/carer's leave will be transferred, provided there is no break in continuity of service.
236. Where an employee is engaged at AFMA immediately following a period of ongoing employment in the Parliamentary Service or the ACT Government Service, the employee's unused accrued annual leave and personal/carer's leave will be recognised unless the employee received payment in lieu of those entitlements on cessation of employment.
237. Where an employee is engaged as an ongoing employee at AFMA, and immediately prior to the engagement the person was employed as a non-ongoing APS employee (whether in the agency or another), at the employee's request, any unused accrued Annual leave (excluding accrued leave paid out on separation) and personal/carer's leave will be recognised.
238. Where an employee is engaged as a non-ongoing APS employee, and immediately prior to the engagement the person was employed as a non-ongoing APS employee (whether in the agency or another) at the employee's request, any unused accrued annual leave (excluding accrued leave paid out on termination of employment) and personal/carer's leave will be recognised.
239. Where an employee is engaged as an ongoing employee at AFMA, and immediately prior to the engagement the person was employed by a Commonwealth employer

(other than in the Parliamentary Services which are covered in clause 236), the Agency Head will recognise any unused accrued personal/carer's leave at the employee's request. The Agency Head will advise the employee of their ability to make this request.

240. Where an employee is engaged as an ongoing employee at AFMA, and immediately prior to the engagement the person was employed by a state or territory government, the Agency Head may recognise any unused accrued personal/carer's leave, provided there is not a break in continuity of service.
241. For the purposes of clauses 235 to 240, an employee with a break in service of less than two months is considered to have continuity of service.
242. AFMA will recognise up to 20 days annual leave accrued in other non-APS Commonwealth agencies where that agency transfers funding for the accrued liability. Personal/carers leave does not transfer from other non-APS Commonwealth agencies.

Leave without pay

243. Leave without pay (LWOP) does not count for service except where the LWOP is to work with another organisation in the Commonwealth's interest or as provided by legislation. In these cases, the LWOP will count as service for the accrual of personal/carers leave. Whether the LWOP counts as service for long service leave or superannuation purposes is governed by the relevant Acts.
244. Any unpaid leave, excluding that for Defence service, will not be counted towards redundancy entitlements.

Re-crediting of leave

245. When an employee is on:
 - 245.1. annual leave
 - 245.2. purchased leave
 - 245.3. Defence reservist leave
 - 245.4. First Nations ceremonial leave
 - 245.5. NAIDOC leave
 - 245.6. cultural leave, or
 - 245.7. long service leave, andbecomes eligible for, under legislation or this agreement:
 - 245.8. personal/carer's leave, or
 - 245.9. compassionate or bereavement leave, or
 - 245.10. jury duty, or
 - 245.11. emergency services leave, or
 - 245.12. leave to attend to family and domestic violence circumstances, or

- 245.13. parental leave, premature birth leave, stillbirth leave, or pregnancy loss leave, the affected period of leave will be re-credited.
246. When an employee is on personal/carer's leave and becomes eligible for parental leave, premature birth leave, stillbirth leave, or pregnancy loss leave, the affected period of leave will be re-credited.
247. Re-crediting is subject to appropriate evidence of eligibility for the substituted leave.

Long service leave

248. An employee is eligible for long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.
249. The minimum period for which long service leave will be granted is seven calendar days (whether taken at full or half pay). Long service leave cannot be broken with other periods of leave, except as otherwise provided by legislation or provided for in the re-crediting of leave clause at clauses 245 to 247 of this agreement.

Miscellaneous leave

250. The Agency Head may grant leave to an employee including casual employees, either with or without pay, in circumstances not provided for elsewhere in this agreement for a purpose that the Agency Head considers to be in the interests of the Agency and having regard to operational requirements.
251. For casual employees, this is exclusively to provide for paid family and domestic violence leave and otherwise by Government directive.
252. The Agency Head may limit the amount of leave that may be approved.

Cultural, ceremonial and NAIDOC leave

NAIDOC leave

253. First Nations employees may access up to one day of paid leave per calendar year to participate in NAIDOC week activities.
254. NAIDOC leave can be taken in part days.

First Nations ceremonial leave

255. First Nations employees may access up to six days of paid leave over two years to participate in significant activities associated with their culture or to fulfil ceremonial obligations.
256. The Agency Head may approve additional leave for cultural or ceremonial purposes as miscellaneous leave, with or without pay.
257. First Nations ceremonial leave can be taken as part days.
258. First Nations ceremonial leave is in addition to compassionate and bereavement leave.

Cultural leave

- 259. The Agency Head may grant up to three days of paid leave per calendar year for the purpose of attending significant religious or cultural obligations associated with the employees' particular faith or culture.
- 260. The Agency Head may approve additional leave for cultural purposes as miscellaneous leave, with or without pay.
- 261. Cultural leave can be taken as part days.
- 262. For the avoidance of doubt, this leave does not cover cultural purposes or obligations which are eligible for paid leave under clause 255.

Parental leave

- 263. A primary caregiver, secondary caregiver and ML Act is defined in the definitions section.
- 264. An employee who is a primary caregiver or secondary caregiver is entitled to parental leave up until 24 months from the date of the child's birth or placement (parental leave period). For the avoidance of doubt, this is inclusive of all legislated leave entitlements. The parental leave period does not extend non-ongoing employment where the employment period remaining is less than 24 months. An employee is only eligible for parental leave with pay as either a primary caregiver or a secondary caregiver for the parental leave period and cannot switch roles for the purpose of accessing additional paid leave.
- 265. For the pregnant employee, the parental leave period starts on commencement of maternity leave as per ML Act requirements and ceases 24 months from the date of birth. Medical certification requirements for the pregnant employee will be as required by the ML Act.
- 266. Conditions in this agreement will continue to apply in circumstances where successor legislation to the ML Act does not provide parental leave conditions included in this agreement.

Payment during parental leave

- 267. An employee is entitled to parental leave with pay as per clauses 269 and 270 below within the parental leave period. Any further parental leave during the parental leave period is without pay. Unused paid parental leave remaining at the end of the employee's parental leave period will lapse. An employee may choose to use their accrued paid leave entitlements in accordance with usage and eligibility requirements in this agreement during the parental leave period that would otherwise be without pay.
- 268. Employees newly engaged or who have moved to AFMA from another APS agency are eligible for the paid parental leave in clauses 269 and 270 where such paid leave had not already been provided by another APS or Commonwealth employer in the 24 months since the child's date of birth or placement. If the paid leave used by the employee with the previous Commonwealth or APS employer is less than the limits specified in clauses 269 and 270, the balance is available to the employee.

269. An employee who is a primary caregiver is entitled to parental leave with pay during the parental leave period to a maximum of 18 weeks as provided in **Table 8 Primary caregivers – circumstances for paid parental leave** below.

Paid leave entitlement under the ML Act	Additional parental leave with pay under this agreement for the primary caregiver
12 weeks paid maternity leave, including any reduced paid maternity leave period due to ML Act qualifying period rules	Paid leave to bring the total period of paid parental leave to 18 weeks
No ML Act eligibility or coverage	18 weeks

Table 8 Primary caregivers - circumstances for paid parental leave

270. An employee who is a secondary caregiver is entitled to parental leave with pay during the parental leave period as provided in **Table 9 Secondary caregivers – circumstances for paid parental leave** below.

Period which coincides with the parental leave period for the secondary caregiver	Parental Leave with pay under this agreement
Date of commencement of this agreement to 28 February 2025	Eight weeks, or top up to eight weeks where a lesser period of parental leave has already been provided
1 March 2025 to 28 February 2026	Eleven weeks, or top up to 11 weeks where a lesser period of parental leave has already been provided
1 March 2026 to 27 February 2027	Fourteen weeks, or top up to 14 weeks where a lesser period of parental leave has already been provided
On and from 28 February 2027	Eighteen weeks, or top up to 18 weeks where a lesser period of parental leave has already been provided

Table 9: Secondary caregivers - circumstances for paid parental leave

271. **Flexibility:** Parental leave with pay, whether provided as maternity leave under the ML Act or under this agreement, can be accessed flexibly during the parental leave period and does not have to be taken in a single block. For the avoidance of doubt, parental leave can be used to replicate a part time work arrangement and can be taken concurrently with another parent in relation to the same child.
272. **Rate of payment** during paid parental leave is the same as for an absence on **personal/carer's** leave and based on the employee's weekly hours at the time of the absence.
273. **Half-pay option:** The payment of any paid parental leave may be spread over a maximum period of 36 weeks at the rate of, no less than, half the normal rate of salary. All paid parental leave counts as service for all purposes, where permitted by legislation.

Adoption and long-term foster care

274. An employee who is a primary caregiver or secondary caregiver is entitled to parental leave in accordance with this agreement for adoption or long-term foster care, provided that the child:
- 274.1. is under 16 as at the day (or expected day) of placement
 - 274.2. has not lived continuously with the employee for a period of six months or more as at the day (or expected day) of placement, and
 - 274.3. is not (otherwise than because of the adoption) a child of the employee or the employee's spouse or de facto partner.
275. Documentary evidence of approval for adoption or enduring parental responsibilities under formal fostering arrangements must be submitted when applying for parental leave for adoption or long-term foster carer purposes.

Stillbirth

276. Parents of a stillborn child remain eligible for parental leave, except for paid leave for the secondary caregiver which is two weeks.
277. A stillborn child is a child:
- 277.1. who weighs at least 400 grams at delivery or whose period of gestation was 20 weeks or more, and
 - 277.2. who has not breathed since delivery, and
 - 277.3. whose heart has not beaten since delivery.

Pregnancy loss leave

278. A pregnant employee who experiences, or an employee whose partner experiences, pregnancy loss is entitled to one weeks' paid leave. Pregnancy loss is a miscarriage or other loss of pregnancy that occurs between 12- and 20-weeks' gestation that is not a stillbirth.
279. Pregnancy loss leave is in addition to entitlements to compassionate leave for miscarriage provided under the FW Act and this agreement.

Premature birth leave

280. In circumstances of a live birth before 37 weeks' gestation a pregnant employee, or an employee whose partner has given birth prematurely, is entitled to paid premature birth leave from the date of the child's birth up to just before 37 weeks' gestation. Parental leave with pay is then available from what would have been 37 weeks' gestation in accordance with parental leave in this agreement, noting the parental leave period commences on the child's date of birth.

Transitional provisions

281. Employees eligible for paid leave under the ML Act are required under legislation to use their paid maternity leave first. In this circumstance, the employee may postpone their paid premature birth leave otherwise payable under clause 280 until after the legislated paid maternity leave is used.

Return to work

282. On ending parental leave, employees have the return-to-work guarantee and the right to request flexible working arrangements that are provided by the FW Act.

Compassionate leave

283. Employees will be eligible for three days paid compassionate leave on each occasion when:

283.1. a member of their family, household, or someone they have a close personal relationship with contracts, develops or sustains a life-threatening illness or injury, or

283.2. the employee or their partner has a miscarriage.

284. An employee may be asked to provide evidence to support their absences on compassionate leave.

285. Compassionate leave for an occasion may be taken as three consecutive days or in separate periods totalling three days. This can include part days.

286. For casual employees, compassionate leave is unpaid.

Bereavement leave

287. Employees will be eligible for three days paid bereavement leave on each occasion when:

287.1. a member of their family, household, or someone they had a close personal relationship with dies, or

287.2. a child is stillborn, where the child was a member of their family (including a member of their household).

288. An employee may be asked to provide evidence to support their absences on bereavement leave.

289. Bereavement leave for an occasion may be taken as three consecutive days or in separate periods totalling three days. This can include part days.

290. For casual employees, bereavement leave is unpaid.

291. A single event may give rise to three days compassionate leave plus three days bereavement leave.

Emergency response leave

292. In line with section 108 of the FW Act, an employee who engages in an eligible community service activity can get emergency response leave to volunteer for emergency management duties for:

292.1. the time engaged in the activity

292.2. reasonable travelling time, and

- 292.3. reasonable recovery time.
293. Full-time and part-time employees will be able to access 20 working days of paid emergency response leave at their full rate of pay per year if required. The Agency Head may provide additional emergency response leave with pay.
- 293.1. For the purposes of this clause, full rate of pay is to be as if the employee was at work.
294. Paid leave may be refused where the employee's role is essential to the Agency's response to the emergency.
295. An employee must provide evidence that the organisation requests their services. Employees can provide evidence before or as soon as practical after their emergency service activity.
296. The Agency Head may approve reasonable paid or unpaid leave for ceremonial duties and training.
297. Emergency response leave, with or without pay, will count as service.

Jury duty

298. Employees who are required by a court to attend either for jury selection, or to act as a juror, will be released from duty for the required period, without the need to apply for leave.
299. Full and part-time employees will be released from duty on full pay. Payment for casuals will be as per the relevant state legislation.
- 299.1. For the purposes of this clause, full rate of pay is to be as if the employee was at work.
300. The employee is required to inform their manager before they are released from duty and provide evidence of the need to attend.
301. If the employee receives a payment from the court for attendance (which are not expense-related such as allowances and reimbursements), they must repay that amount to AFMA for the period of absence. This will be administered in accordance with the overpayments clause 38-45.

Defence Reservist leave

302. The Agency Head will give an employee leave with or without pay to undertake:
- 302.1. Australian Defence Force (ADF) Reserve and continuous full-time service (CFTS), and
- 302.2. Australian Defence Force Cadet obligations.
303. An employee who is a Defence Reservist can take leave with pay for:
- 303.1. up to four weeks (20 days) in each financial year, and
- 303.2. an extra two weeks (10 days) in the first year of ADF Reserve service.

304. Leave can be built up and taken over two consecutive years. This includes the extra two weeks in the first year of service.
305. An employee who is an Australian Defence Force Cadet officer or instructor can get paid leave up to three weeks in each financial year to perform their duties. Australian Defence Force Cadets means:
 - 305.1. Australian Navy Cadets
 - 305.2. Australian Army Cadets, and
 - 305.3. Australian Air Force Cadets.
306. In addition to the entitlement at clause 303, paid leave may be granted to an employee to attend an interview or medical examination in connection with the enlistment of the employee in a Reserve Force of the Defence Force.
307. Paid Defence Reservist leave counts for service.
308. Unpaid Defence Reservist leave for six months or less counts as service for all purposes. This includes periods of CFTS.
309. Unpaid leave taken over six months counts as service, except for annual leave.
310. An employee will not need to pay their tax free ADF Reserve salary to their agency for any reason.

Defence service sick leave

311. An employee is eligible for defence service sick leave credits when the Department of Veterans Affairs (DVA) has certified that an employee's medical condition is because of either:
 - 311.1. war-like service, or
 - 311.2. non-war like service.
312. An eligible employee can get two types of credits:
 - 312.1. an initial credit of nine weeks (45 days) defence service sick leave (pro-rata for part time employees) will apply as of the later below option:
 - 312.1.1. they start employment with the APS
 - 312.1.2. DVA certifies the condition, or
 - 312.2. an annual credit of three weeks (15 days) defence service sick leave (pro-rata for part time employees).
313. An employee can use their defence service sick leave when a recognised medical practitioner provides a certificate that says they were away due to their DVA certified medical condition.
314. Unused annual credits can be built up to nine weeks.
315. An employee cannot use annual credits until the initial credit is exhausted.
316. Defence service sick leave is paid and counts as service for all purposes.

Leave to attend proceedings

317. An employee giving evidence before a Court, Tribunal or Royal Commission on behalf of the Commonwealth or a Commonwealth party in the course of their duties, will be considered on duty.
318. An employee who is not covered under clause 317, and is required to give evidence to, appear before, or attend to instruct a representative at a Court, Tribunal or Royal Commission in relation to their duties will be released from duty without loss of pay. This includes in proceedings relating to a dispute between the employee and AFMA.
319. An employee may otherwise be granted paid or unpaid miscellaneous leave by the Agency Head if required to give evidence to a Court, Tribunal or Royal Commission for any other reason. Where approval for unpaid leave is given, the employee may elect to use accrued annual leave, flex leave, or time off in lieu.
320. The Agency Head may refuse to release an employee from duty having regard to business requirements and whether the employee's attendance is necessary for the Court, Tribunal, or Royal Commission hearing.

Section 7: Employee support and workplace culture

Blood donation

321. An employee can take reasonable time away from duty during their ordinary work hours to donate blood, plasma, or platelets. It includes reasonable travel time and employers will consider employees on duty.
322. The employee must inform their manager in advance of when they will be away from work with their manager before donating blood, plasma, or platelets.

Vaccinations

323. AFMA will offer annual influenza vaccinations at no cost to all employees.
324. Where AFMA requires an employee performing a role to be vaccinated for a particular condition, this vaccination will be offered at no expense to the employee.

Employee Assistance Program

325. Employees, their partners, and their dependants/children will have access to a confidential, professional counselling service to assist employees to manage personal and work issues. This service will be provided at no cost to employees by AFMA and will be accessible on paid time.

Respect at work

Principles

326. AFMA values a safe, respectful, and inclusive workplace free from physical and psychological harm, harassment, discrimination, and bullying. AFMA recognises that preventing sexual harassment, sex discrimination, sex-based harassment, and victimisation in the workplace is a priority.
327. AFMA recognises that approaches to prevent sexual harassment, sex discrimination, sex-based harassment, and victimisation in the workplace should be holistic and consistent with the Australian Human Rights Commission's guidance including the *Good Practice Indicators Framework for Preventing and Responding to Workplace Sexual Harassment*.

Consultation

328. The agency will consult with employees and their unions and/or other representatives in developing, reviewing, and evaluating approaches to prevent sexual harassment, sex discrimination, sex-based harassment, and victimisation in the workplace.

Family and domestic violence support

329. AFMA will provide support for employees affected by family and domestic violence, depending on the employee's circumstances.
330. AFMA recognises that a holistic approach should be taken to support the employee, appropriate for the employee's individual circumstances.
331. Family and domestic violence support provisions, including paid leave, are available to all employees covered by this agreement.
332. An employee experiencing family and domestic violence support can access paid miscellaneous leave. Reasons an employee experiencing family and domestic violence may access this leave include, but are not limited to:
- 332.1. illness or injury affecting the employee resulting from family and domestic violence
 - 332.2. providing care or support to a family member (including a household member) who is also experiencing family and domestic violence, and is ill or injured as a result of family and domestic violence
 - 332.3. providing care or support to a family member (including a household member) who is also experiencing family and domestic violence, and is affected by an unexpected emergency as a result of family and domestic violence
 - 332.4. making arrangements for the employee's safety, or the safety of a close relative
 - 332.5. accessing alternative accommodation
 - 332.6. accessing police services
 - 332.7. attending court hearings

- 332.8. attending counselling, and
- 332.9. attending appointments with medical, financial, or legal professionals.
333. This entitlement exists in addition to an employee's existing leave entitlements and may be taken as consecutive days, single days or part days and will count as service for all purposes.
334. These provisions do not reduce an employee's entitlement to family and domestic violence leave under the NES.
335. Paid miscellaneous leave available under this clause is paid for ongoing and non-ongoing employees at their full rate as if they were at work.
336. Paid leave for casual employees under this clause is paid at their full pay rate for the hours they were rostered to work in the period they took leave.
337. Evidence may be requested to support AFMA in approving leave. In most cases, this will not be required. Where it is required, this will be discussed with the employee and a statutory declaration is the only form of evidence AFMA will require, unless the employee chooses to provide another form of evidence.
338. An employee may also choose to provide other forms of evidence, including a medical certificate, or document issued by the police service, a Court, a doctor, district nurse, a family violence support service or lawyer.
339. AFMA will take all reasonable measures to treat information relating to family and domestic violence confidentially. AFMA will adopt a 'needs to know' approach regarding communication of an employee's experience of family and domestic violence, subject to steps AFMA may need to take to ensure the safety of the employee, other employees or persons, or mandatory reporting requirements.
340. Where AFMA needs to disclose confidential information for purposes identified in clause 339, where it is possible, AFMA will seek the employee's consent and take practical steps to minimise any associated safety risks for the employee and/or privacy breaches.
341. AFMA will not store or include information on the employee's payslip in relation to the employee's experience of family and domestic violence, any leave accessed for the purposes of family and domestic violence, or support(s) provided by the employer, unless otherwise required by legislation.
342. Other available support may include, but is not limited to, flexible working arrangements, additional access to EAP, changes to their span of hours or pattern of hours and/or shift patterns and/or location of work were reasonably practicable.
343. AFMA will acknowledge and consider an employee's experience of family and domestic violence if an employee's attendance or performance at work is affected.
344. Further information about leave and other support available to employees affected by family and domestic violence may be found in policy.

Integrity in the APS

345. AFMA understands that procedural fairness is essential in building and maintaining trust with APS employees, and that it requires fair and impartial processes for employees affected by APS-wide or agency decisions.
346. Employees are to give advice that is frank, honest, timely, and based on the best available evidence. This includes scientific and engineering advice based on evidence-based facts guided by the best available science and data. Employees will not be disadvantaged or discriminated against because they have given advice in accordance with their expertise or professional qualifications and in accordance with the APS Code of Conduct in the PS Act.
347. Employees can, during their ordinary work hours, take time to:
 - 347.1. access an APS-wide ethics advisory service or another similar service provided by a professional association such as a law society or in the agency, and
 - 347.2. attend AFMA mandated training about integrity.

First Nations cultural competency training

348. The Agency Head will take reasonable steps to ensure all substantive, ongoing EL2 employees employed at the commencement of this agreement or any new substantive, ongoing EL2 employees who commence within the first six months of this agreement will complete relevant First Nations cultural competency training within 12 months of the commencement of the agreement.
349. Any new substantive, ongoing EL2 employee who commences after six months of the commencement of this agreement will be required to complete a relevant First Nations cultural competency training course within six months of their engagement or promotion.

Lactation and breastfeeding support

350. Reasonable paid time during work hours will be provided for lactation breaks for breastfeeding, expressing milk, and other associated activities.
351. AFMA will provide access to appropriate facilities for the purpose of breastfeeding or expressing milk, subject to clause 352. In considering whether a space is appropriate, an agency should consider whether:
 - 351.1. there is access to refrigeration
 - 351.2. the space is lockable, and
 - 351.3. there are facilities needed for expressing such as appropriate seating.
352. Where it is not practicable for an agency site to have a designated space, a flexible approach will be taken so that the employee can access the support required.

353. AFMA will facilitate discussion between individual employees and their managers about accommodating the employee's lactation needs and practical arrangements to meet these needs.
354. The manager and employee shall discuss any flexible working arrangements that may be needed to support lactation. This may include consideration of arrangements such as working from home and/or remote working or varying work hours on an ad-hoc or regular basis. Wherever possible, requests by an employee will be accommodated, noting these needs may be changed over time.

Disaster support

355. Where an official disaster or emergency is declared and this prevents an employee from reasonably attending work, or where it impacts their household or home, the Agency Head will consider flexible working arrangements to assist the employee to perform their work.
356. Where flexible working arrangements are not appropriate, the Agency Head may grant paid miscellaneous leave to an employee regarding the scale and nature of the emergency. This leave counts as service and may be approved retrospectively.
357. In considering what period of leave is appropriate, the Agency Head will take into account the safety of the employee, their family (including their household) and advice from local, State and Commonwealth authorities.

Section 8: Performance and development

Performance management

358. All employees are required to participate in all aspects of AFMA's performance management process including both formal reviews as well as seeking and providing feedback when and as required.
359. The principles for a fair and effective performance management process are:
 - 359.1. **Positive and beneficial** — evaluation of performance is to be a respectful, positive, and beneficial experience with a focus on clear, quality outcomes.
 - 359.2. **Career-focused learning and development** — access to learning and development opportunities is a regular part of performance development. Development opportunities should relate to an employee's current role and future career aspirations as well as enabling them to meet the needs of a changing APS.
 - 359.3. **No surprises approach** — performance processes will be based on the 'no surprises' principle. Employees will be provided timely, objective, and constructive feedback from their managers outside the formal performance review process.
 - 359.4. **Regular objective two-way feedback** — employees will be provided with the opportunity to provide respectful and constructive feedback to their managers. Managers will be receptive to feedback and open to discussion.

- 359.5. **Fair and equitable** — performance processes will provide employees with an opportunity to respond to performance feedback, consistent with natural justice principles. This will include considering the individual circumstances of employees, including health or other personal issues. Performance processes will provide employees with a clear understanding of their role and what is expected of them.
- 359.6. **Realistic and measurable performance objectives** — work outcomes and performance measures will be realistic, within the employee's control and consistent with their work level.
- 359.7. **Employee support** — an employee's right to be represented by their union, or where they choose, to have a support person present, will be respected and facilitated throughout the entire process. The focus of performance process will be to support employees in reaching their full potential.

Workloads

- 360. AFMA recognises the importance of employees balancing their work and personal life. While it is acknowledged that at times it may be necessary for some extra hours being worked by some employees, this should be regarded as the exception rather than the rule.
- 361. When determining workloads for an employee or group of employees, AFMA will consider the need for employees to strike a balance between their work and personal life.
- 362. Where an employee or group of employees raise that they have experienced significant workload pressures over a prolonged period of time, AFMA and the employee/s together must review the employees' workloads and priorities and determine appropriate strategies to manage the impact on the employee or group of employees.

Study assistance

- 363. AFMA's Study Assistance Scheme enables employees to undertake studies leading to a recognised qualification that will contribute to the improvement of their professional skills and knowledge, relevant to their employment with AFMA and the APS. An employee undertaking approved studies may be provided study leave with pay during the teaching period for:
 - 363.1. up to a maximum of five hours per week to undertake study activities (up to a maximum of eight hours per week for First Nations employees, and/or
 - 363.2. additional study leave to attend any compulsory residential component up to a maximum of three hours per week to travel to and from study activities, and/or
 - 363.3. up to two days additional travel leave to attend compulsory exams, conferring ceremonies and residential courses if the studies activities are remote from the employee's base location, and
 - 363.4. where warranted by other circumstances.

364. Study leave may only be accumulated on an irregular basis. The employee may use accumulated hours to attend rescheduled study activities, in addition to approved usual weekly study commitments.
365. It is the responsibility of the employee and manager to negotiate how to use the approved paid study leave to ensure operational requirements are met, and that the employee has reasonable time to dedicate to their study.
366. Any study leave granted may be with pay or without pay or a combination of with and without pay.
367. Financial assistance by means of reimbursement will be provided for study fees and course related costs per semester on completion of the approved unit/s of study.
368. Where an employee undertakes approved study by distance education, reasonable accommodation costs incurred by the employee in attending any compulsory residential component by the way of reimbursement will be provided up to 50 per cent of the cost accrued.

Learning and development

369. AFMA is committed to fostering a culture of continuous learning and development to ensure employees have the skills, knowledge, and capabilities relevant to their current duties and future career development.
370. All AFMA employees will be provided regular paid learning and development opportunities relevant to their full spectrum of current tasks and for their career advancement. Learning and development at AFMA is not limited to mandatory or required training.
371. Managers and the employee will be proactive in identifying, supporting and participating in development activities opportunities for employee development as part of the performance management process and reflected in the employee's Performance and Development Agreement. Any requests additional to those identified in an employee's Performance and Development Agreement will also be considered, with the Performance Development Agreement updated subsequently, generally as part of the performance review process.
372. AFMA will ensure that employees are provided additional and appropriate learning and development where there is a significant change to employees' work. Where employees are moved into a role or work area that requires additional or different skills or qualifications, AFMA will provide those employees with the learning and development opportunities and sufficient support to obtain these.
373. In addition to individual career development, AFMA supports employees through AFMA's Corporate Training and Development Program. Agency-wide learning and development activities aligning to AFMA's strategic workforce objectives will be available to all employees.

Professional qualifications

374. AFMA will meet the cost of certificates and professional memberships which are essential to an employee's duties. Reimbursement to employees of fees associated with the issue of certificates or membership of professional associations will be made where:
- 374.1. Membership of a professional association is required under State or Territory laws for an employee to undertake their responsibilities for the Agency, or
 - 374.2. Where AFMA is of the opinion that membership of a professional association would provide a real and distinct benefit for the Agency.
375. Renewal of such memberships for individual employees will be considered on a year-by-year basis.

Section 9: Travel and location-based conditions

Travel

376. If an APS 1–6 employee is required to travel for work and works additional hours within the bandwidth, these hours may be recorded as flex to be taken at a later date in accordance with flex provisions in this agreement. Alternatively, their manager may approve the employee to take TOIL on return from the travel.
377. Where an APS 1–6 employee is required to travel outside bandwidth hours and the nature of the travel presents significant inconvenience to the employee, the manager may agree to reasonable time off to recognise the additional effort commensurate to the inconvenience. Such travel time off in lieu will not be provided on an hour for hour basis.
378. Any time off in lieu of travel time outside bandwidth hours granted by the manager must be taken within the next settlement period after the travel has ended and will not accrue. Any period of time granted will not be deducted from the employee's pay or leave credits and is subject to operational requirements.

Relocation assistance

379. Where an existing employee is required to relocate at the request of AFMA (such as a promotion), the employee will be provided with financial relocation assistance. Employees who relocate on a temporary basis to take up higher duties are entitled to removal expenses if they relocate for a period of 13 weeks or more.
380. Where an employee is required to relocate on engagement with AFMA, the employee will be provided with financial relocation assistance.

381. Reasonable expenses associated with the relocation include:
- 381.1. the cost of transport of the employee, dependants, and partner by the most economical means
 - 381.2. removal expenses, namely the reimbursement of reasonable incurred costs of the removal of furniture and household effects of the employee, dependants, and partner
 - 381.3. the reimbursement of the cost of the insurance premium based on a reasonable replacement value, and
 - 381.4. the reasonably incurred expenses in kennelling and transport of pets, up to the amount specified in the APS Award.
382. Additional relocation assistance may be considered by Agency Head's discretion.

Remote localities

Localities market packages

383. AFMA will provide a localities market package for Thursday Island employees. The package varies for each locality and takes into account the differing living conditions in each location.
384. The package of entitlements may include district allowance, air fares assistance, extra days annual leave, and emergency air fares assistance depending on the locality.
385. Payment rates for District allowance are outlined in Attachment D.

Emergency fares assistance

386. Employees stationed at Thursday Island and their dependants are entitled to emergency air fares assistance for travel:
- 386.1. where a member of the immediate family is critically ill or dies, or
 - 386.2. where it is necessary to leave the locality for emergency medical or dental treatment that is not available at the locality.

Leave fares assistance

387. Employees stationed on Thursday Island may claim leave fares assistance which will be equivalent to:
- 387.1. The value of one full economy return air fare to Brisbane for the employee and their dependants who reside with them, accruing on the anniversary of the day of commencement on Thursday Island and subsequent anniversary dates.
 - 387.2. The value of an extra 50 per cent of a return air fare to Brisbane for the employee and their dependants who reside with them, available after six months employment on Thursday Island and every 12 months thereafter.
388. The value of air fares will be set at the fully refundable air fare as of 30 June each year.

Cash out of fares assistance

389. Employees on Thursday Island will be able to use up to 40 per cent of the airfare assistance allocation for other travel expenses to be paid as a lump sum gross salary when the employee takes leave of one week or more.

Section 10: Consultation, representation, and dispute resolution

Consultation

Principles

390. Genuine and effective consultation with employees and the relevant union(s), taking into account the diverse needs of employees, fosters a positive and inclusive workplace, enabling the views of employees to be considered.
391. AFMA recognises:
- 391.1. the importance of inclusive and respectful consultative arrangements
 - 391.2. employees and the relevant union(s) should have a genuine opportunity to influence decisions
 - 391.3. the nature and extent of consultation will vary depending on the proposed change and the likely impact on employees. Consultation on agency policies may occur over at least two weeks, whereas a major change is likely to require a more extensive consultation process
 - 391.4. consultation with employees and relevant unions(s) on workplace matters that significantly affect or materially impact them is sound management practice, and
 - 391.5. the benefits of employee and union involvement and the right of employees to be represented by their union.
392. Genuine and effective consultation involves:
- 392.1. providing employees and the relevant union(s) with a genuine opportunity to influence the decision prior to a decision being made
 - 392.2. providing all relevant information to employees and the relevant union(s) in a timely manner to support consideration of the issues
 - 392.3. considering feedback from employees and the relevant union(s) in the decision-making process, and
 - 392.4. advising employees and the relevant union(s) of the outcome of the process, including how their feedback was considered in the decision-making process.

When consultation is required

393. Consultation is required to:

- 393.1. change work practices which materially alter how an employee carries out their work
- 393.2. change or the introduction of policies or guidelines relevant to workplace matters (unless the changes are minor or procedural)
- 393.3. major change that is likely to have a significant effect on employees
- 393.4. implement decisions that significantly affect employees
- 393.5. change to employees' regular roster or ordinary hours of work (subject to any other relevant provisions in this agreement), and
- 393.6. other workplace matters that are likely to significantly or materially impact employees.

394. AFMA, employees and the relevant union(s) recognise that consultation prior to a decision may not be practicable where a decision is made by Government or is required due to matters beyond the reasonable control of the agency. In these circumstances, consultation regarding the implementation of the decision will occur as early as is reasonably practicable.

Provisions for consultation on major change and introduction of a change to regular roster or ordinary hours of work of employees

395. This clause applies if AFMA:

- 395.1. proposes to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise that is likely to have a significant effect on the employees, or
- 395.2. proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Representation

396. Employees may appoint a representative for the purposes of the procedures in this clause. A representative for the purpose of this clause may be a union representative.

397. AFMA must recognise the representative if:

- 395.3. a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation, and
- 395.4. the employee or employees advise the employer of the identity of the representative.

Major change

398. In this clause, a major change is **likely to have a significant effect on employees** if it results in, for example:
- 398.1 the termination of the employment of employees, or
 - 398.2 major change to the composition, operation, or size of the employer's workforce or to the skills required of employees, or
 - 398.3 the elimination or diminution of job opportunities (including opportunities for promotion or tenure), or
 - 398.4 the alteration of hours of work, or
 - 398.5 the need to retrain employees, or
 - 398.6 the need to relocate employees to another workplace, or
 - 398.7 the restructuring of jobs.
399. The following additional consultation requirements in clause 400 to 406 apply to a proposal to introduce a major change referred to in clause 393.3.
400. Consultation with employees and the relevant union(s) and/or recognised representatives will occur prior to a decision being made, subject to clause 394.
401. Where practicable, an AFMA change manager, or a primary point of contact will be appointed, and their details provided to employees and the relevant union(s) and/or their recognised representatives.
402. AFMA must notify employees and relevant union(s) and/or recognised representatives of the proposal to introduce the major change as soon as practicable.
403. As soon as practicable after proposing the change, or notifying of the change in circumstances described at clause 394, AFMA must:
- 403.1 discuss with affected employees and relevant union(s) and/or other recognised representatives:
 - 403.1.1 the proposed change
 - 403.1.1.1 the effect the proposed change is likely to have on the employees, and
 - 403.1.1.2 proposed measures to avert or mitigate the adverse effect of the proposed change on the employees, and
 - 403.1.2 for the purposes of the discussion, provide in writing to employees and the relevant union(s) and/or other recognised representatives:
 - 403.1.2.1 all relevant information about the proposed change, including the nature of the change proposed, and
 - 403.1.2.2 information about the expected effects of the proposed change on the employees, and
 - 403.1.2.3 any other matters likely to affect the employees.

- 404. AFMA must give prompt and genuine consideration to matters raised about the major change by employees and the relevant union(s) and/or other recognised representatives.
- 405. However, AFMA is not required to disclose confidential or commercially sensitive information to employees and the relevant union(s) and/or other recognised representatives.
- 406. If a term in this agreement provides for a major change to production, program, organisation, structure, or technology in relation to the enterprise of AFMA, the requirements set out in clauses 400 to 404 are taken not to apply.

Change to regular roster or ordinary hours of work

- 407. The following additional consultation requirements in clause 408 to 412 apply to a proposal to introduce a change referred to in clause 398.5.
- 408. AFMA must notify affected employees and the relevant union(s) and/or other recognised representatives of the proposed change.
- 409. As soon as practicable after proposing to introduce the change, AFMA must:
 - 409.1 discuss with employees and the relevant union(s) and/or other recognised representatives the proposed introduction of the change, and
 - 409.2 for the purposes of the discussion, provide to the employees and relevant union(s) and/or other recognised representatives:
 - 409.2.1 all relevant information about the proposed change, including the nature of the proposed change, and
 - 409.2.2 information about what the employer reasonably believes will be the effects of the proposed change on the employees, and
 - 409.2.3 information about any other matters that the employer reasonably believes are likely to affect the employees, and
 - 409.3 invite employees and the relevant union(s) and/or other recognised representatives to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- 410. However, AFMA is not required to disclose confidential or commercially sensitive information to the relevant employees and the relevant union(s) and/or other recognised representatives.
- 411. AFMA must give prompt and genuine consideration to matters raised about the proposed change by the employees and the relevant union(s) and/or other recognised representatives.

Interaction with emergency management activities

- 412. Nothing in this term restricts or limits the ability of a designated emergency management body to undertake activities provided at section 195A(1) of the FW Act.

Workplace Consultative Committee

- 413. The Agency Head will establish an AFMA Workplace Consultative Committee to discuss relevant workplace matters.
- 414. The Workplace Consultative Committee will operate subject to an agreed term of reference and structure for the term of the agreement. Representation on the committee will be in accordance with the terms of reference.

APS consultative committee

- 415. The Agency Head will support the operation of the APS consultative committee to the extent possible. This includes providing information requested by the Australian Public Service Commission to support the operation of the APS consultative committee, subject to legislative requirements.

Dispute resolution

- 416. If a dispute relates to:
 - 416.1 a matter arising under the agreement, or
 - 416.2 the NESthis term sets out procedures to settle the dispute.
- 417. An employee or union who is covered by this agreement may initiate and/or be a party to a dispute under this term.
- 418. An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term. Representatives will be recognised and dealt with in good faith.
- 419. Parties to the dispute must attempt to resolve the dispute at the workplace level, by discussion between the employee or employees and relevant managers. Parties to the dispute will notify higher level managers to assist in the resolution of the dispute. Parties will give genuine consideration to proposals to resolve the dispute.
- 420. If a dispute about a matter arising under this agreement is unable to be resolved at the workplace level, and all appropriate steps under clause 419 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.

421. The Fair Work Commission may deal with the dispute in two stages:
- 421.1 the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion, or making a recommendation, and
 - 421.2 if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
 - 421.2.1 arbitrate the dispute, and
 - 421.2.2 make a determination 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 FW Act. A decision that the Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the FW Act. Therefore, an appeal may be made against the decision.

422. While the parties are attempting to resolve the dispute using the procedures in this term:
- 422.1 an employee must continue to perform their work as they would normally in accordance with established custom and practice at AFMA that existed immediately prior to the dispute arising unless they have a reasonable concern about an imminent risk to their health or safety, and
 - 422.2 subject to 433.1, an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
 - 422.2.1 the work is not safe, or
 - 422.2.2 applicable work health and safety legislation would not permit the work to be performed, or
 - 422.2.3 the work is not appropriate for the employee to perform, or
 - 422.2.4 there are other reasonable grounds for the employee to refuse to comply with the direction.

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

424. Any disputes arising under the Australian Fisheries Management Authority Enterprise Agreement as maintained by the Public Service (Subsection 24(1) - Australian Fisheries Management Authority Non-SES Employees) Amendment Determination 2023/01 or the NES that were formally notified under clause 6 of that agreement before the commencement of this agreement, that remain unresolved at the date of commencement of this agreement, will be progressed under the dispute resolution procedures in this agreement.

Leave of absence to attend proceedings

425. Where the provisions of clause 416 to 420 have been complied with, and to assist in the resolution of the matter, the employee, and/or the union delegate or other employee representative referred to in clause 417, or employee required to provide evidence, will be granted paid time to attend dispute resolution processes and proceedings in the Fair Work Commission arising from referral of the matter in clause 420.

Delegates' rights

426. Union delegates play an important and legitimate role in the workplace. This includes representing their members and supporting employee access to union officials and providing employee views to the agency.

427. The role of union delegates is to be respected and supported.

428. AFMA and union delegates will work together respectfully and collaboratively.

Supporting the role of union delegates

429. AFMA respects the role of union delegates to:

429.1 provide information, consult with, and seek feedback from employees in the workplace on workplace matters

429.2 consult with other delegates and union officials, and get advice and assistance from union officials

429.3 represent the interests of members to the employer and industrial tribunals, and

429.4 represent members at relevant union forums, consultative committees, or bargaining.

430. AFMA and union delegates recognise that undertaking the role of a union delegate is not the primary purpose of an employee's engagement and must work with and not unreasonably impact their regular duties. Honorary officials may request additional time and facilities from time to time.

431. Union delegates will be provided with reasonable paid time during their normal working hours to perform their union delegate role. The paid time provided should not result in disruption to critical services or operational requirements.

432. To support the role of union delegates, AFMA will, subject to legislative and operational requirements, including privacy and security requirements:

432.1 provide union delegates with reasonable access to agency facilities and resources, including for paid or unpaid meetings between employees and their unions and to communicate with union officials

432.2 advise union delegates and other union officials of the agency facilities and resources available for their use, which may include telephone, photocopying, internet, and email

- 432.3 allow reasonable official union communication appropriate to the agency from union delegates with employees, including through email, intranet pages, and notice boards. This may include providing a link to a union website for employees to access union information. Any assistance in facilitating email communications does not include an agency vetoing reasonable communications
 - 432.4 provide access to new employees as part of induction, and
 - 432.5 provide reasonable access to union delegates to attend appropriate paid time training in workplace relations matters, during normal working hours.
433. Where APS employees are elected as officials of a trade union or professional association, they are not required to seek permission from the workplace or AFMA before speaking publicly in that capacity, subject to the APS Code of Conduct and legislative requirements.

Section 11: Separation and retention

Resignation

- 434. An employee may resign from their employment by giving the Agency Head at least 14 calendar days' notice.
- 435. At the instigation of the Agency Head, the resignation may take effect at an earlier date within the notice period. In such cases, the employee will receive paid compensation in lieu of the notice period which is not worked.
- 436. The Agency Head has the discretion to agree to a shorter period of notice or waive the requirement to give notice.

Payment on death of an employee

- 437. When an employee dies, or the Agency Head has directed that an employee is presumed to have died on a particular date, subject to any legal requirements, the Agency Head must authorise payments to the partner, dependants or legal representative of the former employee, the amount to which the former employee would have been entitled had they ceased employment through resignation or retirement, or where legislation provides specifically for amounts calculated based on the death of the employee those amounts. If payment has not been made within a year of the former employee's death, it should be made to their legal representative.

Redeployment, retraining, redundancy

Redeployment, reduction, and retrenchment

438. Redeployment and redundancy arrangements apply to ongoing employees except those ongoing employees on probation or who have less than 12 months eligible service. Redeployment and redundancy arrangements do not apply to non-ongoing employees. Where an employee's performance has been rated as working below the minimum standard for the classification level in accordance with the performance and development scheme, they are not deemed to be excess and therefore only the redeployment arrangements (and not retention or redundancy) apply until the performance issue is resolved.
439. In this section, a reference to eligible service means:
- 439.1 service with AFMA.
 - 439.2 Government service as defined in Section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*.
 - 439.3 Service with the Commonwealth (other than service with a joint Commonwealth-State body corporate in which the Commonwealth does not have a controlling interest) which is recognised for long service leave purposes.
 - 439.4 Service with the Australian Defence Force.
 - 439.5 APS service immediately preceding deemed resignation under the repealed s.49 of the PS Act 1922, if the service has not previously been recognised for redundancy pay purposes.
 - 439.6 Service in another organisation where an employee transferred from the APS so that organisation with a transfer of function or an employee engaged by that organisation on work within a function is appointed because of the transfer of that function to the APS and such service is recognised for long service leave purposes.
 - 439.7 Where that period has been continuous, or with breaks of no longer than one month between periods of service where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer.
440. Any period of service which ceased by way of any of the grounds for termination specified in s.29 of the PS Act (including any additional grounds prescribed in the Regulations), or
- 440.1 on a ground equivalent to any of these grounds, or
 - 440.2 through voluntary retirement at or above the minimum retiring age applicable to the employee, or
 - 440.3 with the payment of a redundancy benefit or similar payment or an employer-financed retirement benefit,
- will not count as service for severance pay purposes.

441. An employee is an excess employee if:
- 441.1 the employee is included in a class of employees which, in AFMA's opinion, comprises a greater number of employees than is necessary for the efficient and economical working of AFMA, or
 - 441.2 the employee cannot be effectively used because of technological or other changes in the work methods of AFMA or changes in the nature, extent, or organisation of the functions of AFMA, or
 - 441.3 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 locality and the Agency Head has determined that the provisions of this clause apply to the employee.

Discussion process – excess employees

442. When the Agency Head is aware that an employee is likely to become excess, the Agency Head will advise the employee of the situation in writing. The Agency Head will hold discussions with the employee to consider:
- 442.1 Reasons for the excess employee situation and the method used to determine excess employees.
 - 442.2 Measures that could be taken to resolve the situation, including redeployment opportunities for the employee at or below level.
 - 442.3 Transfer opportunities from AFMA to another agency within the APS.
 - 442.4 Whether voluntary retrenchment might be appropriate.
 - 442.5 Referral to the Australian Public Service Commission or other providers of redeployment.
443. Where an employee nominates a representative, the Agency Head will hold the discussions with the employee's representative. After discussion, the Agency Head will decide to offer a voluntary redundancy or to take other actions of redeployment.
444. This discussion will be held and concluded within four weeks from written notification that the employee is likely to become excess.
445. The Agency Head will take all reasonable steps, consistent with the interests of the efficient administration of AFMA, to transfer an excess employee to a suitable vacancy at the same level within the APS.

Voluntary retrenchment

446. Where the Agency Head invites an excess employee to accept voluntary retrenchment, the employee will have one month in which to consider and accept the offer. Where the offer is accepted the Agency Head will not give notice of termination before the end of that period without the agreement of the employee.
447. Within that month, an employee invited to accept voluntary retrenchment will be given information on the amount of severance pay, pay in lieu of notice and paid-up leave credits.
448. Excess employees will receive assistance up to a maximum of \$400 for advice on superannuation and other financial matters.

449. Only one offer of voluntary retrenchment will be made to an excess employee.

Period of notice

450. Where the excess employee agrees to be voluntarily retrenched, the Agency Head may retrench the employee by giving the required notice of termination. The period of notice will be four weeks (or five weeks for an employee over 45 with at least five years of continuous service, or an employee with 20 years' service).
451. Where an employee terminates their employment or is terminated at the beginning of, or within, the notice period, the employee will receive payment in lieu of notice as set out in the FW Act for the unexpired portion of the notice period.

Severance benefit

452. An excess employee who accepts an offer of voluntary retrenchment and whose employment is terminated by the Agency Head under section 29 of the PS Act on the grounds that they are excess to requirements will be paid a sum equal to two weeks salary for each completed year of eligible Commonwealth service, plus a pro-rata payment for completed months of service since the last completed year of service. The minimum sum payable will be four weeks salary and maximum will be 48 weeks salary, subject to any minimum amount the employee is entitled to under the NES.
453. The severance benefit will be calculated on a pro-rata basis for any period where an employee has worked part time hours during their period of service and the employee has less than 24 years' full-time service. Absences from work which do not count as service for long service leave purposes will not count as service for severance pay purposes.

Rate of payment – severance benefit

454. To calculating the severance benefit, salary will include:
- 454.1. The employee's base salary, or
 - 454.2. The salary of any higher work value, where the employee has been working at the higher classification for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of termination.

Retention periods

455. Unless the employee agrees, an excess employee will not be involuntarily terminated until the following retention periods have elapsed:
- 455.1. thirteen months where an employee has 20 or more years of service or is over 45 years of age, or
 - 455.2. seven months for other employees.
456. If an employee is entitled to a redundancy payment under the NES, the relevant retention period set out in the clause above will be reduced by the employee's redundancy pay entitlement under the NES on termination, calculated as at the expiration of the retention period (as adjusted by this clause).

457. The retention period will commence on the earlier of the following:
- 457.1. the day the employee is advised in writing by the Agency Head that he/she is an excess employee, or
 - 457.2. one month after the day on which the Agency Head invites the employee to accept voluntary retrenchment.
458. The retention period will be extended by any periods of compensable certified illness or injury taken during the retention period. Certified illness or injury of a non-compensable nature may extend the retention period for a maximum of three months.
459. During the retention period the Agency Head:
- 459.1. will continue to take reasonable steps to find alternative employment for the excess employee, and
 - 459.2. may, with four weeks' notice, transfer the excess employee to a job in a lower classification. Where this occurs before the end of an employee's retention period, the employee will receive income maintenance to maintain their salary at the previous higher classification for the balance of the retention period, and
 - 459.3. will consider the claims of AFMA excess employees in isolation prior to any selection process at positions at or below level.
460. Where the Agency Head is satisfied that there is insufficient productive work available for the employee within AFMA during the remainder of their retention period, the Agency Head may terminate the employee and pay a lump sum comprising of the balance of the retention period (as shortened for the NES) and the employee's NES entitlement to redundancy pay.
461. Where an employee is reduced in classification before the end of the retention period, the employee will receive income maintenance payments for the remainder of the retention period. These payments will include:
- 461.1. The higher salary where an employee has been on higher duties for more than 12 months continuously and the higher duties would have continued except for the excess situation.
 - 461.2. Other allowances or loadings, not including disability or reimbursement payments, in salary which are paid during periods of leave and on a regular basis.

Involuntary termination

462. The Agency Head may involuntarily terminate an excess employee at the end of the retention period. An excess employee will not be terminated involuntarily if the employee has not been invited to accept an offer of voluntary retrenchment or has elected to be terminated but the Agency Head has refused to approve it.
463. An excess employee will not be terminated involuntarily without being given four weeks' notice (or five weeks' notice for an employee over 45 years of age with at least five years of continuous service or any employee with 20 years or more service) of termination, or payment in lieu of notice.

464. Wherever possible this period will be concurrent with the retention period.

Attachment A – Base salaries

Classification	Salary levels	As at 31 August 2023	From the later of commencement of the agreement or 14 March 2024	From 13 March 2025	From 12 March 2026
APS 1	1.1	\$48,862	\$52,000	\$54,516	\$57,497
	1.2	\$52,953	\$55,071	\$57,164	\$59,108
	1.3	\$57,064	\$59,347	\$61,602	\$63,696
APS 2	2.1	\$61,178	\$63,625	\$66,043	\$68,288
	2.2	\$63,236	\$65,765	\$68,264	\$70,585
	2.3	\$65,298	\$67,910	\$70,491	\$72,888
APS 3	3.1	\$66,966	\$69,645	\$72,292	\$74,750
	3.2	\$69,872	\$72,667	\$75,428	\$77,993
	3.3	\$72,781	\$75,692	\$78,568	\$81,239
APS 4	4.1	\$75,684	\$78,711	\$81,702	\$84,480
	4.2	\$78,592	\$81,736	\$84,842	\$87,727
	4.3	\$80,919	\$84,156	\$87,354	\$90,324
APS 5	5.1	\$83,410	\$86,746	\$90,042	\$93,103
	5.2	\$88,343	\$91,877	\$95,368	\$98,611
APS 6	6.1	\$93,273	\$97,004	\$100,690	\$104,113
	6.2	\$98,212	\$102,140	\$106,021	\$109,626
	6.3	\$103,143	\$107,269	\$111,345	\$115,131
EL 1	1.1	\$114,739	\$119,329	\$123,864	\$128,075
	1.2	\$119,945	\$124,743	\$129,483	\$133,885
	1.3	\$123,332	\$128,265	\$133,139	\$137,666
	1.4	\$127,526	\$132,627	\$137,667	\$142,348
EL 2	2.1	\$134,613	\$139,998	\$145,318	\$150,259
	2.2	\$142,464	\$148,163	\$153,793	\$159,022
	2.3	\$149,817	\$155,810	\$161,731	\$167,230
	2.4	\$156,938	\$163,216	\$169,418	\$175,178

Table 1: Base salaries

Attachment B – Salaries for Casual Observers

Classification	Salary levels	As at 31 August 2023	From the later of commencement of the agreement or 14 March 2024	From 13 March 2025	From 12 March 2026
APS 1	1.1	\$224.65	\$243.37	\$252.62	\$261.21
	1.2	\$243.63	\$263.93	\$273.96	\$283.27
	1.3	\$262.53	\$284.41	\$295.22	\$305.26
APS 2	2.1	\$281.48	\$304.94	\$316.53	\$327.29
	2.2	\$290.93	\$315.17	\$327.15	\$338.27
	2.3	\$300.42	\$325.46	\$337.83	\$349.32
APS 3	3.1	\$308.08	\$333.75	\$346.43	\$358.21
	3.2	\$321.47	\$348.26	\$361.49	\$373.78
	3.3	\$334.83	\$362.73	\$376.51	\$389.31
APS 4	4.1	\$348.19	\$377.21	\$391.54	\$404.85
	4.2	\$361.57	\$391.70	\$406.58	\$420.40
	4.3	\$372.28	\$403.30	\$418.63	\$432.86

Table 1: Salaries for Casual Observers

Casual Observers may be required to work on any day of the week. Due to the special nature of their duties, casual observers are paid a daily rate for every day of the week that they work. The rates in Attachment B include a loading of 25 per cent of the relevant salary rate paid to casual observer employees only, in lieu of payment for public holidays on which the employee is not rostered to work and all paid leave except long service leave and TOIL other than that prescribed in Attachment E TOIL – Observers.

Attachment C – Supported wage system

This schedule defines the condition which will apply to employees because of the effects of a disability are eligible for a supported wage under the terms of this agreement.

Definitions

1. 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 Government 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 agreement wages because of a disability, as documented in the Supported Wage System Handbook. The handbook is available from the JobAccess website (www.jobaccess.gov.au).

SWS wage assessment agreement means the document in the form required by the Department of Social Services that records the employee's productive capacity and agreed wage rate.

Eligibility criteria

2. 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 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.
3. The 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.

Supported wage rates

4. Employees to whom this clause applies shall be paid the applicable percentage of the relevant minimum wage according to the following schedule:

Assessed capacity	Percentage of agreement rate
10 per cent	10 per cent
20 per cent	20 per cent
30 per cent	30 per cent
40 per cent	40 per cent
50 per cent	50 per cent
60 per cent	60 per cent
70 per cent	70 per cent
80 per cent	80 per cent
90 per cent	90 per cent

Table 1: Applicable percentage of relevant minimum wage paid to applicable employees

5. Provided that the minimum amount payable to an employee to whom the SWS applies is not less than the amount prescribed in the National Minimum Wage Order.

Note: The minimum amount payable is reviewed every year in July.

6. Where an employee's assessed capacity is 10 per cent, they must receive a high degree of assistance and support.

Assessment of capacity

7. For the purposes 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 the employee, and if the employee so desires, a union which the employee is eligible to join.
8. Assessment made under this schedule must be documented in a SWS wage assessment agreement and retained by the employer as a time and wages record in accordance with the Act.

Lodgement of SWS wage assessment agreement

9. 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 Fair Work Commission.

10. All SWS wage assessment agreements must be agreed and signed by the employee and employer 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 Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

Review of assessment

11. The assessment of the applicable percentage should be subject to annual review or more frequent review based on 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.

Other terms and conditions of employment

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

Workplace adjustment

13. 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 redesign of job duties, working time arrangements and work organisation in consultation with other workers in the area.

Trial period

14. For an adequate assessment of the employee's capacity to be made, an employer 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.
15. 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.
16. The minimum amount payable to the employee during the trial period must be no less than the current weekly rate, as determined by the Fair Work Commission.
17. Work trials should include induction or training as appropriate to the job being trialled.
18. Where the employer and 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 7 and 8 in this attachment.

Attachment D – District allowance

Location	Employee without dependants (as at 1 July 2023)	Employee with one or more dependants (as at 1 July 2023)
Thursday Island	\$8,677	\$11,570

Table 1: District allowance

This allowance is not payable where housing is provided. Only one family member per household is entitled to claim district allowance. Annual district allowance calculated annually (1 July each year) based on Australian Bureau of Statistics (6401.0) Consumer Price Index Capital City Comparison for Brisbane.

Attachment E – “At Sea” provisions

Allowances for Casual Observers

At sea allowance (ASA) Observers

At sea allowance for Observers is a daily rate, calculated on an hourly basis at sea

	Daily rate on Commencement	Daily rate 12 months from the date of commencement	Daily rate 24 months from the date of commencement
At sea allowance for Observers	\$280.99	\$291.67	\$301.59

Table 1: Allowances for Casual Observers

Note: Observers do not have access to a separate Marine Travel Allowance payment.

The calculation for ASA Observer includes a provision for:

- hours worked daily
- composite overtime rate
- adverse conditions component, and
- marine travel allowance.

TOIL – Observers

In recognition of the added rigours of working at sea for extended periods, casual observers will accrue TOIL at one day for every Saturday, Sunday or public holiday worked for a continuous deployment period, longer than 20 days. TOIL accrual commences from day one at sea and must be taken as soon as practical after a trip has occurred. TOIL will not be paid out.

Allowances for office-based employees

Marine Travel Allowance (MTA) office-based employees

Marine Travel Allowance (MTA) is non-taxable allowance which is payable where employees are performing duty at sea for more than 24 consecutive hours. MTA reimburses those travel costs associated with meal and incidentals and is updated on 1 July each year in line with Australian Taxation Office advice. MTA will consist of the maximum cost of incidentals plus 25 per cent of maximum food and meals. Where duty is for less than 24 hours, AFMA will reimburse the employee for any actual costs incurred for food and meals.

At sea allowance (ASA) office-based employees

The daily rate for office-based employees (not undertaking observer duties) is calculated on an hourly basis at sea.

	Daily rate on Commencement	Daily rate 12 months from the date of commencement	Daily rate 24 months from the date of commencement
At sea allowance for office-based employees	\$153.99	\$159.84	\$165.27

Table 2: At sea allowance (ASA) office-based employees

Allowances for Fisheries Compliance Officers

Marine conditions

Fisheries compliance officers who work at sea are eligible for special allowances and conditions of service as follows.

Marine Travel Allowance (MTA) Fisheries Compliance Officers

Marine Travel Allowance (MTA) is a non-taxable allowance which is payable where employees are performing duty at sea for more than 24 consecutive hours. MTA reimburses those travel costs associated with meals and incidentals and is updated on 1 July each year in line with Australian Taxation Office advice. MTA will consist of the maximum cost of incidentals plus 25 per cent of the maximum food and meals.

Where duty is for less than 24 hours, AFMA will reimburse the employee for any actual costs incurred for food and meals where evidence is provided.

Marine Travel Allowance	Rate
As at 1 July 2023	\$55.43

Table 3: Marine Travel Allowance (MTA) Fisheries Compliance Officers

At sea allowance (ASA) Fisheries Compliance Officers

ASA is payable for each completed 12 hours at sea in recognition of the cramped physical and the environmental conditions involved in undertaking compliance duties on vessels and to compensate for the extra hours worked and the potential requirement for unusual hours. The rate payable for 24 hours is detailed in the table below.

ASA is not payable concurrently with the land-based operation allowance.

	Daily rate on Commencement	Daily rate 12 months from the date of commencement	Daily rate 24 months from the date of commencement
At sea allowance for Fisheries Compliance Officers	\$263.49	\$273.50	\$282.80

Table 4: At sea allowance (ASA) Fisheries Compliance Officers

Annualised salary for Fisheries Compliance Officers

All employees expected to go to sea for 50 days or more have the option of being paid 50 days. At sea allowance (ASA) as an annualised amount paid on a fortnightly basis. Any days worked in excess of the set annualised amount (50 days) will be paid at the daily rate as they are worked. Employees who do not choose to be paid the annualised amount will be paid at the daily rate as they are worked.

Similarly, if an officer resigns from AFMA or moves to another APS agency during the year, the annualised amount will be acquitted on a pro-rata basis, and the difference paid by AFMA, or re-paid by the officer.

Attachment F – Land-based operations allowance

Land-based operations allowance

Compliance operations conditions

Compliance operations that are not conducted ‘at sea’ involve conditions and timeframes that are not normal in an office-based environment. Accordingly, Fisheries Compliance Officers who work land-based operations (which may incorporate short trips on vessels of less than 12 hours) are eligible for special allowances and conditions of service as follows.

Land-based operations allowance (LBOA) (Fisheries Compliance Officers)

LBOA is payable for each completed 12 hours on compliance operations in recognition of the uncomfortable physical and environmental conditions involved in undertaking land-based operations and to compensate for the extra hours worked and the potential requirement for unusual hours.

The rate payable for 24 hours is detailed in the table below.

LBOA is not payable concurrently with the at sea allowance, marine travel allowance, and restriction allowance, on-call allowance, or overtime			
	Daily rate on Commencement	Daily rate 12 months from the date of commencement	Daily rate 24 months from the date of commencement
Land-based operations allowance	\$196.93	\$204.41	\$211.36

Table 1: Land-based operations allowance (LBOA) (Fisheries Compliance Officers)

Attachment G – Restrictions and on call allowance

Restriction or on call allowance

Restriction allowance or on call allowance is available to those employees who are required by AFMA to be restricted outside ordinary hours, so they remain contactable by AFMA and other agencies by telephone and/or be available for recall to duty to a nominated office at short notice.

Restriction allowance

Restriction allowance is available to those employees who are required by AFMA to be restricted outside ordinary hours so they remain contactable by AFMA and other agencies by telephone and be available for recall to duty at short notice, 24-hours a day.

Duty while restricted

APS 1–6 employees who are recalled to duty while restricted will be entitled to payment of overtime in accordance with this Agreement.

Where employees are recalled to the workplace, overtime payment will include travel time and employees will receive a minimum payment of four hours at the prescribed overtime rates.

Fisheries Compliance Officers will be entitled to restriction allowance where they are rostered on a patrol and the patrol is unexpectedly delayed and the length of the delay is unknown. The restriction allowance will start from 12 hours after a patrol is scheduled to leave until the patrol leaves port, or until the officer is notified by their manager that the patrol has been cancelled. Where the officer is advised of a revised definite date of departure and is not required to be on standby each day, they will not be eligible for restriction allowance.

The rate of restriction allowance that is payable is as follows:

Date of effect	Daily rate on Commencement	Daily rate 12 months from date of commencement	Daily rate 24 months from date of commencement
Monday to Friday, excluding public holidays	\$60.69	\$63.12	\$65.64
Saturday and Sunday, excluding public holidays	\$123.25	\$128.18	\$133.31
Public holidays	\$183.93	\$191.29	\$198.94

Table 1: Duty while restricted

Restriction allowance is paid for whole or half days only. Restriction allowance does not count for superannuation purposes.

On call allowance

On call allowance is available to those employees who are formally directed by AFMA to carry a phone and be contactable outside of normal working hours.

This allowance must have prior approval (specifying the timeframe for the on-call requirements) by the Agency Head and is not payable in conjunction with the restriction allowance. On-call allowance does not count for superannuation purposes.

The hourly rate of on call allowance that is payable is as follows:

On commencement	12 months from date of commencement	24 months from date of commencement
\$2.77	\$2.88	\$2.98

Table 2: On call allowance

APS 1–6 may be entitled to overtime where the durations of any one phone call/s totals more than 15 minutes on any one on call day. The minimum time paid will be one hour per telephone call, however no additional overtime will be paid where an employee receives multiple calls within a one-hour period.

Restriction allowance for shift workers

Restriction allowance is available to shift workers who are required by AFMA to be on call between the hours of 22:00 and 07:00. Employees must be contactable by AFMA and other agencies by telephone and be available for recall to duty at short notice.

	Daily rate on Commencement	Daily rate 12 months from date of commencement	Daily rate 24 months from date of commencement
Restriction allowance for shift workers	\$35.33	\$36.67	\$37.92

Table 3: Restriction allowance for shift workers

Duty while restricted (shift workers)

APS 1–6 employees who are recalled to duty while restricted will be entitled to payment of overtime in accordance with this Agreement.

Where employees are recalled to the workplace, overtime payment will include travel time and employees will receive a minimum payment of four hours at the prescribed overtime rates.




Australian Government

Australian Fisheries Management Authority

Formal acceptance of agreement and signatories

Employer

Signed for, and on behalf of, the **Australian Fisheries Management Authority**
(ABN 81 098 497 517)

Signed:  _____

Date: 06 March 2024

Full name: Mr Wez Norris

Title Chief Executive Officer

Address: Level 3, 15 Lancaster Place, Majura, ACT, 2609

Bargaining Representative

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

Signed:  _____

Date: 05/03/24

Full name: Melissa Payne

Title: Assistant National Secretary

Address: 54-58 Foveaux Street, Surry Hills, NSW, 2010



Australian Government

Australian Fisheries Management Authority

Securing Australia's fishing future

www.afma.gov.au

THE FAIR WORK COMMISSION

FWC Matter No.: AG2024/606

Applicant: Australian Fisheries Management Authority

Section 185 – Application for approval of a single enterprise agreement

Undertaking – Section 190

I, Wez Norris, Chief Executive Officer, have the authority given to me by the Australian Fisheries Management Authority to give the following undertakings with respect to the Australian Fisheries Management Authority Enterprise Agreement 2024-27 ("the Agreement"):

1. Undertake that in respect of clauses 49-55 of the Agreement, if, during a four-week settlement period, an APS employee temporarily occupies a role acting at a higher classification level for which they are not entitled to receive higher duties allowance, the agency will:
 - a. at the end of that settlement period, conduct a reconciliation between the amount the employee would have been entitled to be paid under the Australian Public Service Enterprise Award 2015 (APS Award) and the amount they are entitled to under the Agreement for that period; and
 - b. if there is any shortfall between the amount the employee is entitled to be paid under the Agreement and the amount that would have been paid to the employee under the APS Award, pay the employee the amount of that shortfall plus \$5.00 in the next pay period.

2. Undertake that in respect of clauses 172-175 of the Agreement, the part-time arrangement setting out an employee's agreed part-time hours will be issued before the part-time arrangement commences and will include:
 - a. The ordinary hours the employee will work each week; and
 - b. The pattern of hours to be worked, including starting and finishing times for employees other than shift workers, on each or any day of the week, within the bandwidth. The pattern of hours will be provided for no less than three hours per day, or an alternative period agreed.

Signature:



Date: 25 March 2024