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Office of Parliamentary Counsel Enterprise Agreement 2016-2019

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Acceptance of Agreement

This Agreement is made under section 172 of the *Fair Work Act 2009*. By signing below, the parties to this Agreement signify their agreement to its terms.

Peter Quiggin PSM
First Parliamentary Counsel
Level 4, 28 Sydney Avenue
Forrest ACT 2603

Employer

Date

For and on behalf of the
Community and Public Sector Union
1st Floor, 40 Brisbane Avenue
Barton ACT 2600

Bargaining Representative Signature

Date

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Part 1—Preliminary matters

1 Title

This Agreement is the Office of Parliamentary Counsel Enterprise Agreement 2016-2019.

2 Parties to the Agreement

- (1) This Agreement covers all employees other than Senior Executive Service employees employed by the Office of Parliamentary Counsel under the provisions of the *Public Service Act 1999*.
- (2) This Agreement is made under section 172 of the *Fair Work Act 2009* and covers:
 - (a) First Parliamentary Counsel;
 - (b) all employees other than Senior Executive Service employees; and
 - (c) the Community and Public Sector Union (if the Fair Work Commission has noted in its decision to approve the Agreement that the Community and Public Sector Union is covered).

3 Period of operation

- (1) This Agreement will commence operation seven days after it is approved by the Fair Work Commission.
- (2) The nominal expiry date of this Agreement is three years from the date of commencement.

4 Variation of the Agreement

This Agreement may only be varied in accordance with the *Fair Work Act 2009*.

5 Comprehensive agreement

- (1) This Agreement is a comprehensive agreement.
- (2) It is acknowledged that employment by OPC is subject to the provisions of any applicable Commonwealth law.

6 Other policies and procedures

This Agreement is supported by OPC policies and procedures to provide more detailed guidance to managers and employees. Most of this material is set out in Office Procedural Circulars and is identified in the relevant clause. Any Office Procedural Circular referred to in this Agreement may be reviewed or amended from time to time by FPC after consultation with the Workplace Consultative Committee. Office Procedural Circulars are not incorporated into, and do not form part of, this Agreement. Where any provisions of this Agreement are inconsistent with OPC policies and procedures, as varied from time to time, then the terms of this Agreement will prevail.

7 Termination of employment

- (1) The sole and exhaustive rights and remedies of an employee in relation to termination of employment are those that the employee has:
 - (a) under Division 11 of Part 2-2 of Chapter 2 of the *Fair Work Act 2009*; and
 - (b) under Part 3-2 of Chapter 3 of the *Fair Work Act 2009*; and
 - (c) under Division 2 of Part 3-6 of Chapter 3 of the *Fair Work Act 2009*; and

- 1 (d) under other Commonwealth laws (including the Constitution); and
2 (e) at common law.

3 (2) Termination of employment, or a decision to terminate employment, cannot be reviewed
4 under the procedures set out in clause 12 of this Agreement.

5 (3) Nothing in this Agreement prevents FPC from terminating the employment of an employee
6 for serious misconduct, without further notice or payment in lieu, in accordance with
7 section 123 of the *Fair Work Act 2009*. However, FPC must comply with the procedures
8 established by FPC under section 15 of the *Public Service Act 1999* for determining whether
9 an employee has breached the Code of Conduct.

10 8 Delegations

11 FPC may, in writing, delegate any of his or her powers under this Agreement to another
12 person, or authorise another person to exercise any of those powers. However, FPC may not
13 delegate, or authorise the exercise of, the power under this clause.

14 Part 2—Working together

15 Division 1—Structures and processes

16 9 General consultation

- 17 (1) The WCC is the main forum in OPC for consultation with employees.
18 (2) The WCC will continue in operation with the existing membership and processes. More
19 information about the WCC is contained in an Office Procedural Circular.
20 (3) Office Procedural Circulars set out other consultation and participative work practices in
21 OPC.

22 10 Consultation on major change

- 23 (1) This clause applies if OPC has made a definite decision to introduce a major change to its
24 program, organisation, structure or technology that is likely to have a significant effect on
25 employees of OPC.
26 (2) For a major change referred to in subclause (1):
27 (a) FPC must notify the relevant employees of the decision to introduce the major change;
28 and
29 (b) subclauses (3) to (10) apply.
30 (3) The relevant employees may appoint a representative for the purposes of the procedures in
31 this clause.
32 (4) If:
33 (a) a relevant employee appoints, or relevant employees appoint, a representative for the
34 purposes of consultation; and
35 (b) the employee or employees advise FPC of the identity of the representative;
36 FPC must recognise the representative.
37 (5) As soon as practicable after the decision is made, FPC must:
38 (a) discuss with the relevant employees and their representatives:
39 (i) the introduction of the change; and
40 (ii) the effect the change is likely to have on the employees; and
-

1 (iii) measures OPC is taking to avert or mitigate the adverse effect of the change on
2 the employees; and

3 (b) for the purposes of the discussion—provide, in writing, to the relevant employees and
4 their representatives:

5 (i) all relevant information about the change including the nature of the change
6 proposed; and

7 (ii) information about the expected effects of the change on the employees; and

8 (iii) any other matters likely to affect the employees.

9 (6) However, FPC is not required to disclose confidential or commercially sensitive information
10 to the relevant employees or their representatives.

11 (7) FPC must give prompt and genuine consideration to matters raised about the change by the
12 relevant employees and their representatives.

13 (8) Where provision is already made elsewhere in this Agreement for a major change to
14 program, organisation, structure or technology of OPC, the requirements set out in paragraph
15 (2)(a) and subclauses (3) and (5) are taken not to apply.

16 (9) In this clause, a major change is *likely to have a significant effect on employees* if it results
17 in:

18 (a) the termination of the employment of employees; or

19 (b) major change to the composition, operation or size of OPC's workforce or to the skills
20 required by employees; or

21 (c) the elimination or diminution of job opportunities (including opportunities for
22 promotion or tenure); or

23 (d) the alteration of hours of work; or

24 (e) the need to retrain employees; or

25 (f) the need to relocate employees to another workplace; or

26 (g) the major restructuring of jobs.

27 (10) In this clause, *relevant employees* means the employees who may be affected by a change
28 referred to in subclause (1).

29 **10A Consultation on change of ordinary hours**

30 (1) This clause applies if OPC proposes to introduce a change to ordinary hours of work of
31 employees.

32 (2) For a change referred to in subclause (1):

33 (a) FPC must notify the relevant employees of the proposed change; and

34 (b) subclauses (3) to (8) apply.

35 (3) The relevant employees may appoint a representative for the purposes of the procedures in
36 this clause.

37 (4) If:

38 (a) a relevant employee appoints, or relevant employees appoint, a representative for the
39 purposes of consultation; and

40 (b) the employee or employees advise FPC of the identity of the representative;

41 FPC must recognise the representative.

42 (5) As soon as practicable after proposing to introduce the change, FPC must:

43 (a) discuss with the relevant employees and their representatives the introduction of the
44 change; and

- 1 (b) for the purposes of the discussion—provide, in writing, to the relevant employees and
2 their representatives:
3 (i) all relevant information about the change including the nature of the change
4 proposed; and
5 (ii) information about what FPC reasonably believes will be the effects of the change
6 on the employees; and
7 (iii) any other matters likely to affect the employees; and
8 (c) invite the relevant employees and their representatives to give their views about the
9 impact of the change (including any impact in relation to their family or caring
10 responsibilities).

11 (6) However, FPC is not required to disclose confidential or commercially sensitive information
12 to the relevant employees or their representatives.

13 (7) FPC must give prompt and genuine consideration to matters raised about the change by the
14 relevant employees and their representatives.

15 (8) In this clause, *relevant employees* means the employees who may be affected by a change
16 referred to in subclause (1).

17 11 Grievance officer

18 Employees are to annually elect an employee to be grievance officer for OPC. The functions
19 of the grievance officer are to receive individual grievances from staff members and to take
20 the grievances up with the appropriate body or person with a view to settling them.

21 12 Resolution of disputes

22 (1) This clause sets out procedures to settle a dispute that relates to:

- 23 (a) a matter arising under this Agreement; or
24 (b) the National Employment Standards.

25 (2) An employee who is a party to the dispute may appoint a representative for the purposes of
26 the procedures in this clause.

27 (3) In the first instance, the parties to the dispute must try to resolve the dispute at the workplace
28 level, by discussions between the employee or employees and relevant supervisors and/or
29 management.

30 (4) If discussions at the workplace level do not resolve the dispute, a party to the dispute may
31 refer the matter to the Fair Work Commission.

32 (5) The Fair Work Commission may deal with the dispute in 2 stages:

- 33 (a) the Fair Work Commission will first attempt to resolve the dispute as it considers
34 appropriate, including by mediation, conciliation, expressing an opinion or making a
35 recommendation; and
36 (b) if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair
37 Work Commission may then:
38 (i) arbitrate the dispute; and
39 (ii) make a determination that is binding on the parties.

40 Note: If the Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it
41 under the Act. A decision that the Fair Work Commission makes when arbitrating a dispute is a
42 decision for the purpose of Division 3 of Part 5-1 of the Act. Therefore, an appeal may be made
43 against the decision.

44 (6) While the parties are trying to resolve the dispute using the procedures in this clause:

-
- 1 (a) an employee must continue to perform his or her work as he or she would normally
2 unless he or she has a reasonable concern about an imminent risk to his or her health or
3 safety; and
- 4 (b) an employee must comply with a direction given by the employer to perform other
5 available work at the same workplace, or at another workplace, unless:
- 6 (i) the work is not safe; or
7 (ii) applicable occupational health and safety legislation would not permit the work to
8 be performed; or
9 (iii) the work is not appropriate for the employee to perform; or
10 (iv) there are other reasonable grounds for the employee to refuse to comply with the
11 direction.

12 (7) The parties to the dispute agree to be bound by a decision made by the Fair Work
13 Commission in accordance with this clause.

14 (8) In this clause:

15 *Act* means the *Fair Work Act 2009*.

16 **Division 2—Other matters**

17 **17 Managing unsatisfactory performance**

18 (1) If FPC considers that an employee's work performance is unsatisfactory, the employee's
19 supervisor will, as soon as practicable:

- 20 (a) advise the employee in writing that the employee's work performance is considered to
21 be unsatisfactory; and
22 (b) provide the employee with details of the required standards for the duties the employee
23 has been assigned and how the employee has failed to meet those standards.

24 The employee will have 7 days to comment.

25 (2) If, having regard to the comments (if any) provided by the employee, the employee's
26 supervisor considers it necessary, remedial action will be instituted. Details of such action
27 and the processes are set out in an Office Procedural Circular.

28 (3) There will be an initial period of assessment, usually of 3 months, that will be undertaken by
29 the employee's supervisor. Where performance issues have not been satisfactorily resolved a
30 further period of assessment, usually of 3 months, will take place. This further assessment
31 will be undertaken by a person who is not the employee's supervisor.

32 (4) [not required]

33 **19 Probation**

34 Information about probation for employees joining OPC from outside the APS is contained
35 in an Office Procedural Circular. The Office Procedural Circular includes the following
36 topics:

- 37 (a) who is engaged on probation;
38 (b) the length of probation;
39 (c) the basis of assessment during probation;
40 (d) the appraisal system;
41 (e) special provisions for employees on leave or attending Legal Workshop etc.;
42 (f) what is to be done if employees are rated as "unsatisfactory";
43 (g) special provisions for graduated return to work or exceptional circumstances.
-

1 **21 Employee assistance program**

2 OPC will provide access to counselling and related services on the basis set out in an Office
3 Procedural Circular.

4 **Part 3—Terms and conditions**

5 **Division 1—Working hours**

6 **23 Hours of work**

7 (1) The standard hours of work are 8.30 am until 12.30 pm and 1.30 pm until 5.00 pm Monday
8 to Friday. This is 7 hours and 30 minutes per day or 37 hours and 30 minutes per week.

9 (2) For the purposes of section 62 of the *Fair Work Act 2009* (maximum weekly hours), the
10 parties to this Agreement agree that standard hours will be averaged over successive 6 month
11 periods beginning on 1 January and 1 July. A supervisor may request or require an employee
12 to work reasonable additional hours (within the meaning of section 62 of the *Fair Work Act*
13 *2009*).

14 (3) The span of hours during which employees may work normal hours (normal bandwidth) is
15 7.00 am to 7.00 pm Monday to Friday. However, an employee on flex-time may only work
16 normal hours in the periods from 7.00 am to 8.00 am and 6.00 pm to 7.00 pm with the
17 express prior approval of his or her supervisor.

18 (4) Employees must take a meal break of at least 30 minutes after working continuously for a 5
19 hour period.

20 **24 Flex-time and flexible working hours**

21 (1) Employees (including part-time employees) performing duties in positions at APS Levels
22 1-6 are entitled to flex-time.

23 (2) Executive Level employees and drafters (including part-time employees) may work flexible
24 hours.

25 (3) Supervisors may, if they think it appropriate, approve absences (including whole days) in
26 recognition of substantial additional time worked by Executive Level employees and drafters
27 who are working flexible working hours. Such approved absences need not be covered by
28 any formal grant of leave.

29 (4) The flex-time system will provide for a 4 week settlement period. An employee may carry
30 over a flex-time credit of up to 25 hours, or a debit of no more than 10 hours, between
31 settlement periods. An employee may, with approval, take up to 5 days off as flex-time in
32 any single settlement period.

33 (5) Office Procedural Circulars provide details on the flex-time system and the flexible working
34 hours arrangements. The Office Procedural Circular also provides details on corporate hours
35 for drafters, which are 9.30 am to 4.00 pm, Mondays to Thursdays.

36 **24A Requests for flexible working arrangements**

37 (1) An employee who is covered by subsection 65(1) of the *Fair Work Act 2009* may request
38 flexible working arrangements, including part-time hours, to assist the employee. The
39 employee is not eligible to make this request unless they have completed at least 12 months
40 of continuous service with OPC.

(2) A request made in accordance with subclause (1) must be in writing and set out details of the change sought and the reasons for the change.

(3) FPC will respond in writing to the request within 21 days and will only refuse on reasonable business grounds. Where the request is refused, the response will include reasons for the refusal.

Division 2—Other entitlements

25 Allowances

Employees are entitled to the allowances as set out in the following table in the circumstances set out in an Office Procedural Circular. The table sets out basic entitlement conditions and minimum amounts for some of those allowances.

Item	Allowance	Basic entitlement conditions	Minimum amount	Notes
1	Temporary performance allowance			see clause 92
2	First aid certificate allowance	(a) possession of current first aid certificate recognised under an OPC; and (b) appointment by FPC as a First Aid Officer	\$15.90 per week	
3	Community language allowance			entitlement and rate fixed by an OPC
4	Allowance for office disabilities			entitlement and rate fixed by an OPC
5	Motor vehicle allowance	(a) authorisation by FPC to use a private motor vehicle for official purposes; and (b) FPC is satisfied that such use will result in greater efficiency or less expense to OPC	Rates published by the ATO	
6	Overtime meal allowance	(a) requirement to work overtime; and (b) entitled to payment for the overtime including where the overtime is converted into a flex credit	\$31.80	This allowance is in addition to any overtime allowance payable under clause 45
7	Loss or damage to clothing or personal effects allowance	loss occurs in the course of employment		reimbursement basis
8	Prescription eyewear allowance	(a) prescription of eyewear by an optometrist or ophthalmologist; and (b) need to wear prescribed eyewear in performance of any work	\$530 every two years	
9	Dependant care cost	(a) requirement to work outside	reimburse	

Item	Allowance	Basic entitlement conditions	Minimum amount	Notes
	allowance	ACT, or outside normal patterns of work; and (b) additional family care arrangements necessary as a result; and (c) costs minimised by employee; and (d) FPC given reasonable advance notice	ent of reasonable expenses as determined by FPC	
10	Semi-official telephone allowance	(a) occupant of position determined by FPC; and (b) availability of private telephone for OPC use	\$37 per fortnight	

26 Travel

The entitlements of employees travelling on official business are set out in an Office Procedural Circular. FPC is to determine appropriate allowances having regard to the amount or rate of the allowance, or an equivalent allowance, that is payable to employees within the Attorney-General's Department or comparable agencies.

27 Accommodation

All drafters are entitled to individual offices.

28 Relocation

Employees who relocate permanently on engagement, movement or promotion to OPC will receive assistance agreed with FPC.

Division 3—Part-time work

30 Part-time hours

(1) An employee is working part-time if their average weekly normal hours are less than 37.5 hours. These hours are to be worked during the normal bandwidth.

Example: A part-time employee may work a 9 day fortnight.

(2) The number of hours worked and the work patterns of an employee granted permission to work part-time hours are to be as agreed between the employee and FPC from time to time.

31 Salary and other benefits

Salary and other benefits (except reimbursement benefits) for part-time employees will be calculated on a pro-rata basis. Reimbursement benefits will be paid on the same basis as for full-time employees.

32 Permission to work part-time hours

(1) FPC may grant an employee permission to work part-time hours either indefinitely or for a specified period.

- 1 (2) FPC must grant this permission to an employee returning to duty after maternity, parental,
2 adoption or foster carer's leave who requests permission from FPC to work part-time hours
3 for up to 12 months after returning to duty. Subject to operational requirements, FPC will not
4 unreasonably refuse permission to other employees to work part-time hours.

5 **33 Resumption of full-time work**

- 6 (1) An employee who is granted permission to work part-time hours indefinitely cannot be
7 required to, and is not entitled to, resume, or commence, working full-time hours except by
8 agreement between the employee and FPC.
- 9 (2) An employee who is granted permission to work part-time hours for a specified period
10 cannot be required to, and is not entitled to, resume working full-time hours before the end
11 of the period except by agreement between the employee and FPC. At the end of the period,
12 the employee is entitled to resume working full-time hours or to request permission to
13 continue to work part-time hours.

14 **34 Application of part-time work provisions to existing part-time employees**

15 Part-time arrangements that are in place at the commencement of this Agreement continue.
16 The number of hours worked, and the work patterns, may be subsequently varied under
17 subclause 30(2).

18 **35 Part-time work arrangements don't prevent abolition of positions**

19 Nothing in this Division affects FPC's powers to declare an employee excess in accordance
20 with Part 7 or limits any other dealing with a position in accordance with any applicable
21 legislation.

22 **Division 4—Other matters**

23 **36 Staff development**

24 Development opportunities, including the payment of financial assistance to approved
25 students where appropriate, will be made available to employees. Details of OPC's Staff
26 Development Program are set out in an Office Procedural Circular.

27 **37 Unauthorised absences**

- 28 (1) If an employee is absent from duty without approval, all pay and other benefits provided
29 under this Agreement may, at FPC's discretion, cease to be available until the employee
30 resumes duty or is granted leave. Until then, standard hours of work as defined in clause 23
31 will apply in the case of a full-time employee and the part-time hours of work agreed with
32 FPC will apply in the case of a part-time employee.
- 33 (2) Unauthorised absences may constitute non-performance of duties and result in termination of
34 employment. The procedures for dealing with non-performance of duties are set out in an
35 Office Procedural Circular.

Part 4—Classifications/local designations and remuneration

Division 1—Salaries: general

38 Salary increases

In recognition of the productivity improvements and savings in OPC, the following increases are payable under this Agreement:

- (a) 2.5% increase in salary, payable from the commencement of this Agreement;
- (b) 2% increase in salary, payable 12 months from the commencement of the Agreement;
- and
- (c) 1.5% increase in salary, payable 24 months from the commencement of the Agreement.

Each increase is to be calculated based on the salary immediately before the increase.

39 Salary levels

- (1) The tables in Attachment A set out the salaries that are payable to employees under this Agreement.
- (2) The salary and pay point for the employee at the commencement of this Agreement is the same as the salary for the employee immediately before the commencement of this Agreement.

40 Individual Flexibility Arrangements

- (1) FPC and an employee may agree to make an individual flexibility arrangement to vary the effect of terms of this Agreement if:
 - (a) the arrangement deals with one or more of the following matters:
 - (i) arrangements about when work is performed;
 - (ii) overtime rates;
 - (iii) penalty rates;
 - (iv) allowances;
 - (v) remuneration;
 - (vi) leave;
 - (vii) retention payments; and
 - (b) the arrangement meets the genuine needs of OPC and the employee in relation to one or more of the matters mentioned in paragraph (a); and
 - (c) the arrangement is genuinely agreed to by FPC and the employee.
- (2) FPC must ensure that the terms of the individual flexibility arrangement:
 - (a) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
 - (b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
 - (c) result in the employee being better off overall than the employee would be if no arrangement was made.
- (3) FPC must ensure that the individual flexibility arrangement:
 - (a) is in writing; and
 - (b) includes the name of the employer and employee; and
 - (c) is signed by FPC and the employee and, if the employee is under 18 years of age, signed by a parent or guardian of the employee; and

-
- 1 (d) includes details of:
2 (i) the terms of the Agreement that will be varied by the arrangement; and
3 (ii) how the arrangement will vary the effect of the terms; and
4 (iii) how the employee will be better off overall in relation to the terms and conditions
5 of his or her employment as a result of the arrangement; and
6 (e) states the day on which the arrangement commences and, where applicable, when the
7 arrangement ceases.

8 (4) FPC must give the employee a copy of the individual flexibility arrangement within 14 days
9 after it is agreed to.

10 (5) FPC or the employee may terminate the individual flexibility arrangement:

- 11 (a) by giving no more than 28 days written notice to the other party to the arrangement; or
12 (b) if FPC and the employee agree in writing—at any time.

13 **41 [not required]**

14 **42 [not required]**

15 **43 [not required]**

16 **44 Broadband structure**

17 (1) The non-drafting classifications are grouped into 2 broadbands plus the 2 Executive Levels
18 (which are not broadbanded). Broadband A covers APS 1, 2 and 3 and Broadband B covers
19 APS 4, 5 and 6.

20 (2) The Assistant Parliamentary Counsel Grade 1 has a Broadband that covers APS 3, 4, 5 and 6.

21 **Division 2—Overtime**

22 **45 Overtime payments**

23 *General provisions*

24 (1) Overtime is payable for work performed by APS 1 to 6 level employees at the direction of
25 their supervisor:

- 26 (a) outside the normal bandwidth; or
27 (b) on a public holiday; or
28 (c) in excess of 10 hours in a single day.

29 (2) An employee, other than a drafter, who is above the salary barrier is entitled to overtime for
30 work outside the normal bandwidth or on a public holiday in exceptional circumstances such
31 as where the person's supervisor requires the person to do the particular work involved at
32 that time to avoid disruption to other OPC staff.
33

(3) Overtime duty is payable at the rates set out in the following table:

Overtime rates	
Period when overtime worked	Rate at which overtime duty is payable
Monday to Friday (outside normal bandwidth hours or in excess of 10 hours)	Time and a half for the first 3 hours worked each day and double time after that
Saturday	Time and a half for the first 3 hours worked each day and double time after that
Sunday	Double time for each hour worked
Public holidays (within standard hours of work)	Time and a half for each hour worked, in addition to the single time being paid for the public holiday
Public holidays (outside standard hours of work)	Double time and a half for each hour worked

- (4) If an employee is required to work overtime on a weekend or public holiday, he or she will be paid for a minimum period of 4 hours at the appropriate overtime rate.
- (5) If an employee works overtime, he or she will be entitled to an 8 hour break, plus reasonable travelling time, before recommencing work, without incurring any loss of pay. If this break is not possible due to operational requirements, the employee will be paid double time until he or she has such a break.
- (6) An employee who would be entitled to payment for overtime may, with the approval of his or her supervisor, convert the overtime into a flex credit at the same rate at which overtime payment would have been available (e.g. time that would be paid for at double-time rates may be converted into double flex credits). However, only actual overtime worked can be converted into flex credits; there will be no provision for deeming an employee to have worked a minimum number of overtime hours before converting the overtime to flex credits.
- (7) If an employee is called into work to meet an emergency at a time when he or she would not normally have been on duty, and the employee was given no notice of such a call before ceasing ordinary duty, he or she will be paid for the period of work at the rate of double time. The period for which this overtime will be paid will include time necessarily spent travelling to and from duty. The minimum payment for the work will be two hours at double time.
- (8) The ordinary time hourly rate for the payment of overtime is worked out on the basis that ordinary full-time salary is payable for 37.5 hours work per week.

Part-time employees

- (9) Subject to subclause (11), part-time employees who are not drafters and who are not above the salary barrier are entitled to overtime for the following duty worked at the direction of their supervisor:
- (a) all duty performed which is not continuous with the employee's ordinary hours of work; and
 - (b) all extra duty performed on any day which is continuous with the employee's ordinary hours of work, where some or all of the extra duty falls outside the normal bandwidth and where the employee also completes the normal hours of work on that day; and
 - (c) all duty performed which is continuous with the employee's ordinary hours of work and which falls wholly within the normal bandwidth but which exceeds, in any one week, that employee's approved number of part-time hours; and
 - (d) all duty in excess of 10 hours in a single day.

1 (10) Subclause (2) has effect in relation to part-time employees who are not drafters and who are
 2 not covered by subclause (9) as if references to normal bandwidth were references to the
 3 part-time employee's ordinary hours of work.

4 (11) Part-time employees are not entitled to overtime, but are entitled to be paid at their normal
 5 time hourly rate, for the duty mentioned in subclause (9) if:

6 (a) the duty is performed within the normal bandwidth; and

7 (b) before the week in which the duty is performed, the employee volunteers to perform
 8 the duty; and

9 (c) the employee agrees that this subclause will apply to the duty.

10 Note: This subclause is intended to cover situations where a part-time employee willingly agrees to work
 11 additional hours, or on additional days, for a specified period. A staff member cannot be required to
 12 perform duty under this subclause without his or her agreement.

13 **Division 3—Initial salaries and salary advancement**

14 **46 Initial salary—staff other than APC 1s**

15 (1) An employee (other than an employee who is already an APS employee or an employee
 16 engaged as an APC 1) is, on engagement, to be paid at the salary point for the classification
 17 determined by FPC.

18 (2) An employee who is already an APS employee is, on movement to OPC, to be paid at the
 19 first salary point for the classification that is higher than the employee's salary immediately
 20 before joining OPC or at such higher salary point for the classification as is determined by
 21 FPC.

22 (3) If an employee moves to a position in OPC from another APS agency and the employee's
 23 salary in the previous APS agency (*current salary*) exceeds the current maximum of the
 24 relevant classification under this Agreement then, at FPC's discretion, the employee may be
 25 maintained on the current salary until the salary that would otherwise be payable to the
 26 employee equals or exceeds the current salary.

27 **47 Initial salary—APC 1s**

28 (1) An employee (other than an employee who is already an APS employee) engaged as an APC
 29 1 is, on engagement, to be paid:

30 (a) at the first salary point in the APC 1 scale if the employee has not been admitted as a
 31 practitioner, however described, of the High Court or the Supreme Court of a State or
 32 Territory; or

33 (b) at the second salary point in the APC 1 scale if the employee has been admitted as a
 34 practitioner, however described, of the High Court or the Supreme Court of a State or
 35 Territory; or

36 (c) at such higher salary point in the APC 1 scale as is determined by FPC.

37 (2) An employee who is already an APS employee who is engaged as an APC 1 is, on
 38 engagement, to be paid:

39 (a) at the first salary point in the APC 1 scale if the employee has not been admitted as a
 40 practitioner, however described, of the High Court or the Supreme Court of a State or
 41 Territory; or

42 (b) if the employee has been admitted as a practitioner, however described, of the High
 43 Court or the Supreme Court of a State or Territory, at the first salary point in the APC
 44 1 scale that is higher than the employee's salary immediately before joining OPC; or

45 (c) at such higher salary point in the APC 1 scale as is determined by FPC.

1 Note: If an APS employee's previous salary is higher than the top salary point in the APC 1 scale, the
2 employee will be paid at the top salary point.

3 (3) If a person moves to an APC 1 position in OPC from another APS agency and the person's
4 salary in the previous APS agency (*current salary*) exceeds the current maximum of the
5 APC 1 level under this Agreement then, at FPC's discretion, the person may be maintained
6 on the current salary until the salary that would otherwise be payable to the person equals or
7 exceeds the current salary.

8 (4) An APC 1 who is being paid at the first salary point and who gains admission as a
9 practitioner, however described, of the High Court or the Supreme Court of a State or
10 Territory will advance to the second salary point in the APC 1 scale.

11 **48 Salary advancement within classifications**

12 (1) Salary advancement within classifications for employees will be linked to appraisal of the
13 employee under the applicable Performance Management Program.

14 (2) An employee who receives a rating of 3 (fully effective), and who is not on the top pay point
15 of his or her classification, will advance to the next pay point with effect from the 1 July next
16 after the end of the appraisal period.

17 (3) However, an employee is not entitled to salary at a rate exceeding that which was payable on
18 engagement, promotion or movement to the position until the employee has completed at
19 least 3 months' service at the rate payable on engagement, promotion or movement.

20 (4) An employee who receives a rating of 2 (adequate) will not be eligible for salary
21 advancement, and may be counselled about his or her performance.

22 (5) An employee who receives a rating of 1 (unsatisfactory) may be subject to action under the
23 Office Procedural Circular dealing with managing unsatisfactory performance.

24 **49 Salary advancement between classifications within a broadband—employees other than** 25 **drafters**

26 (1) An employee other than a drafter advances under this clause to a higher classification within
27 a broadband if, and only if:

28 (a) management determines that there is sufficient work at the higher classification and
29 determines that it cannot be performed by people currently at that level; and

30 (b) after management seeks expressions of interest from all staff who could be interested
31 in performing the work, the employee is selected to perform that work; and

32 (c) the employee was rated as fully effective at the employee's last performance appraisal.

33 (2) The selection of an employee to perform duties will be done by FPC or a panel appointed by
34 FPC.

35 (3) While FPC or the panel is to determine the process to be used to select the employee, it is
36 expected that the selection process would involve (at a maximum) a short statement of claim
37 by those seeking to be selected and short 'referee' comments from the supervisors of those
38 employees.

39 (4) An employee who is dissatisfied with a decision of a panel may seek a review of the decision
40 using the processes set out in clause 12.

49A Salary advancement between classifications within a broadband—Assistant Parliamentary Counsel Grade 1

An Assistant Parliamentary Counsel Grade 1 advances under this clause to a higher classification within a broadband if, and only if:

- (a) management determines that there is sufficient work at the higher classification; and
- (b) the employee has the necessary skills and proficiencies to perform that work; and
- (c) the employee was rated as fully effective at the employee's last performance appraisal.

50 Salary on promotion within OPC

An employee who is promoted within OPC is to be paid at the first salary point for the classification that is higher than the employee's salary immediately before being promoted or at such higher salary point for the classification as is determined by FPC.

50A Supported wage system

Information on supported wage rates and related arrangements is at Attachment B to this Agreement.

Division 4—Other matters**51 Temporary performance at a lower level**

If an employee requests or agrees, in writing, to temporarily perform work at a lower classification or local designation level, FPC may determine in writing that the employee will be paid a rate of salary applicable to the lower level for the period specified in the request or agreement.

52 Salary packaging

Salary packaging (that is, allowing employees to receive part of their remuneration in the form of non-cash benefits) is available to all employees. Detailed arrangements for salary packaging are set out in an Office Procedural Circular.

53 Superannuation

- (1) OPC will make compulsory employer contributions as required by the applicable legislation and fund requirements.
 - (2) Where an employee has chosen an accumulation superannuation fund (including the Public Sector Superannuation Accumulation Plan (PSSap)), the employer contribution will be at the rate of 15.4% of superannuation salary. This will not be reduced by any other contributions made through salary sacrifice arrangements.
 - (3) A choice made in accordance with this subclause is subject to the chosen fund being an approved fund which can accept employer contributions by electronic funds transfer and for which there are no fees and costs to be borne by OPC.
 - (4) Employer superannuation contributions will not be paid on behalf of employees during periods of unpaid leave that does not count as service, unless otherwise required under Commonwealth legislation.
-

1 **54 Notice of resignation or retirement from the APS**

2 An employee who intends to resign or retire from the APS must give at least 2 weeks' notice
3 unless the employee and FPC agree on an alternative period of notice.

4 **55 Payment on death**

5 If an employee dies, or FPC directs that an employee is presumed to have died on a
6 particular date, payment may be made, to the dependants or the legal personal representative
7 of the former employee, of an amount that would have been paid to the employee under this
8 Agreement if the employee had otherwise ceased employment by resignation or retirement.
9 Any money owing to the Commonwealth as a result of advanced annual leave credits will be
10 waived.

11 **Part 5—Leave**

12 **Division 1—Annual leave**

13 **56 Overview of annual leave arrangements**

14 Employees will be able to take annual leave at either full pay or half pay.

15 **57 Accrual of annual leave credit**

- 16 (1) An employee is entitled to 20 days annual leave with pay for each full year of service.
17 Annual leave entitlements accrue continuously, will be credited fortnightly and are
18 cumulative.
- 19 (2) A part-time employee accrues a pro-rata annual leave credit based on the hours worked.
- 20 (3) An employee who receives compensation under the *Safety, Rehabilitation and Compensation*
21 *Act 1988* accrues annual leave credit in accordance with the preceding provisions of this
22 clause for the first 45 weeks during which he or she receives compensation and after the end
23 of the 45 weeks, accrues annual leave credit on a pro-rata basis based on the hours worked
24 while he or she continues to receive compensation.
- 25 (4) Leave does not accrue during absences on leave without pay not to count as service.
26 However, an employee who takes 30 calendar days or less of such leave during a calendar
27 year will be credited with leave on 31 December for the leave that would have accrued
28 during that leave if it had counted as service.

29 **58 Taking annual leave**

- 30 (1) The granting of annual leave is subject to operational requirements, but FPC will not
31 unreasonably:
- 32 (a) refuse to authorise an employee to take an amount of annual leave that is credited to
33 the employee; or
34 (b) revoke an authorisation enabling an employee to take annual leave during a particular
35 period.
- 36 (2) FPC may grant annual leave to be taken before the necessary annual leave credits accrue.
- 37 (3) Annual leave counts as service for all purposes.
- 38 (4) If a public holiday to be observed by employees falls within a period of annual leave granted
39 to an employee, there will be no deduction from annual leave credit in respect of the
40 employee's absence from duty on that public holiday.
-

59 Annual leave credits—portability of leave

- (1) An employee in the Service who becomes an employee in OPC will, on movement or promotion to OPC, be credited with annual leave equal to the employee's annual leave credit immediately before movement or promotion, provided there is no break in continuity of service.
- (2) An employee in the Parliamentary Service or the ACT Government Service who is engaged as an employee of OPC, will be credited with annual leave equal to the employee's annual leave credit immediately before engagement.
- (3) Any annual leave credits are to be expressed in days (rather than hours) before being credited.

60 Employee directed to take annual leave

- (1) FPC may direct an employee to take annual leave if, at the time the direction is given, the employee has annual leave credits of more than 10 weeks.
- (2) The maximum amount of annual leave FPC may direct an employee to take under this clause is 1/4 of the amount of credited annual leave of the employee at the time that the direction is given.

61 Annual leave to be paid out when employment ceases

When employment ceases, the employee is entitled to payment in lieu of annual leave in respect of any outstanding annual leave credits. This payment will be made at the employee's final rate of salary, including any allowances that would have been paid during annual leave.

62 Employees may take annual leave at half pay

An employee may nominate in writing that a period of annual leave is to be taken at half pay. Where annual leave is taken at half pay at the request of the employee, the employee's annual leave credit will be debited with half the number of days taken on half pay.

63 Restrictions on taking annual leave at half pay

- (1) An employee may only take whole days of annual leave at half pay.
- (2) An employee may not take annual leave at half pay if, at the end of the period of annual leave, the employee's annual leave credits would total more than the amount that would be the annual leave credits representing 2 years service.

63A Cashing out annual leave

- (1) An employee may, with the approval of FPC, cash out a portion of the employee's annual leave credit.
 - (2) A request to cash out annual leave will not be approved if the cashing out would result in the employee's remaining annual leave credits being less than 4 weeks.
 - (3) Each cashing out of a particular amount of annual leave credit must be by a separate agreement in writing between FPC and the employee.
 - (4) If an employee cashes out annual leave, the employee will be paid the full amount that would have been paid to the employee had the employee taken the leave at the time the payment is made.
-

Division 2—Personal/carer’s leave

Subdivision A—Personal/carer’s leave credits

66 Accrual of personal/carer’s leave credit

- (1) An employee accrues the following personal/carer’s leave credit:
 - (a) on the date of engagement—18 days with full pay;
 - (b) on the next 1 January—a pro-rata credit for the period of service since the date of engagement;
 - (c) on each subsequent 1 January—18 days with full pay, or a pro-rata credit for an employee with less than 12 months service since the previous 1 January.Personal/carer’s leave is cumulative.
- (2) A part-time employee accrues personal/carer’s leave credit in accordance with this clause on a pro-rata basis based on the employee’s hours of duty.
- (3) An employee who receives compensation under the *Safety, Rehabilitation and Compensation Act 1988* accrues personal/carer’s leave credit for the first 45 weeks during which he or she receives compensation and after the end of the 45 weeks, accrues personal/carer’s leave credit on a pro-rata basis based on the hours worked while he or she continues to receive compensation.
- (4) Leave does not accrue during absences on leave without pay not to count as service. However, an employee who takes 30 calendar days or less of such leave during a calendar year will accrue personal/carer’s leave as if they did not take any leave without pay not to count as service during the year.

67 Personal/carer’s leave credits—portability of leave

- (1) An employee in the Service who becomes an employee in OPC will, on movement or promotion to OPC, be credited with personal/carer’s leave equal to the employee’s personal/carer’s leave (however described) credit immediately before movement or promotion, provided there is no break in continuity of service.
- (2) An employee in the Parliamentary Service or the ACT Government Service who is engaged as an employee of OPC, will be credited with personal/carer’s leave equal to the employee’s personal/carer’s leave (however described) credit immediately before engagement.
- (3) Any personal/carer’s leave credits expressed in half-pay days will be credited at the rate of one day of personal/carer’s leave for each 2 days of half-pay leave.

68 Previous employment may be allowed to count as service

FPC may, on or after the commencement of the employee’s employment in the Service, decide that the whole or a part of a previous period of employment of the employee is to count as service for the purpose of accrual of personal/carer’s leave credit.

Subdivision B—Use of personal/carer’s leave

69 Personal/carer’s leave with pay

- (1) FPC may grant personal/carer’s leave with pay to an employee in accordance with personal/carer’s leave credit available to the employee in the following circumstances or for the following purposes:

-
- 1 (a) where the employee is unfit for duty because of illness or injury;
 2 (b) where the employee attends a medical appointment;
 3 (c) for care or support for a family member, or a member of the employee's household,
 4 who requires care or support because of a personal illness of, or injury to, the member
 5 or an unexpected emergency affecting the member;
 6 (d) for attending to essential requirements associated with birth, adoption or fostering of
 7 children;
 8 (e) to attend a ceremony of religious or cultural significance which involves a family
 9 member;
 10 (f) for the provision of emergency interpreting for a family member;
 11 (g) to attend the employee's graduation ceremony;
 12 (h) to accompany a family member to court where the family member is a party or a
 13 witness to proceedings;
 14 (i) to enable the employee to participate as an accredited official or competitor in an
 15 international sporting event that FPC considers is of major international significance.

16 (2) Personal/carer's leave with pay under paragraphs (1)(d) to (h) is only to be granted for
 17 occasional, non-enduring situations while longer term arrangements are made (if necessary).

18 (2A) Personal/carer's leave with pay under paragraphs (1)(b) and (1)(d) to (i) must not be used,
 19 and will not be granted, if it would be detrimental to an employee in any respect, when
 20 compared to the National Employment Standards under the *Fair Work Act 2009*.

21 (3) Personal/carer's leave with pay cannot be used as a substitute for formal child care
 22 arrangements (for example, during school holidays). In addition, personal/carer's leave with
 23 pay cannot be granted in the following circumstances:

- 24 (a) attendance at a family member's school or educational facility (whether or not required
 25 or encouraged by the school or facility);
 26 (b) to care for a family member on a student-free school day.

27 This subclause does not apply to unexpected situations arising at short notice.

28 (4) Personal/carer's leave of more than 5 consecutive days may not be granted with pay without
 29 production of a medical certificate or, if it is not reasonably practicable for the employee to
 30 give the employer a medical certificate, a statutory declaration made by the employee.

31 (5) An application for personal/carer's leave with pay must specify the paragraph in subclause
 32 (1) under which it is made and be supported by reasons for the application.

33 (6) Where the employee attends a counselling appointment through the employee assistance
 34 program, the appointment can be treated as a medical appointment under paragraph (1)(b).

35 **70 Personal/carer's leave on half pay**

36 Any part of an employee's personal/carer's leave credit may be taken on half pay at the
 37 request of the employee, and the employee's personal/carer's leave credit will be debited
 38 with half the number of days taken on half pay.

39 **71 Anticipation of personal/carer's leave credit**

40 If the employee's personal/carer's leave credit is exhausted, FPC may allow the employee to
 41 use up to 15 days personal/carer's leave credit in advance of the credit accruing.

1 **72 Personal/carer's leave without pay**

- 2 (1) FPC may grant personal/carer's leave without pay to an employee who has no
3 personal/carer's leave credit available.
- 4 (2) If a medical certificate or other evidence is required under clause 69 and it is not provided,
5 the personal/carer's leave granted to an employee must be without pay.

6 **73 When does personal/carer's leave count as service?**

- 7 (1) A period of personal/carer's leave counts as service for all purposes except in circumstances
8 covered by any of subclauses (2) to (4).
- 9 (2) Personal/carer's leave granted without pay because of subclause 72(2) does not count as
10 service for any purpose.
- 11 (3) If an employee has been granted personal/carer's leave for a continuous period of more than
12 78 weeks (including at least 52 weeks leave with pay), any of the personal/carer's leave that
13 is without pay after the end of the first 78 weeks does not count as service for any purpose
14 (unless otherwise required by legislation).
- 15 (4) If an employee has been granted personal/carer's leave without pay for a continuous period
16 of more than 26 weeks, any of the personal/carer's leave that is without pay after the end of
17 the first 26 weeks does not count as service for any purpose (unless otherwise required by
18 legislation).

19 **Subdivision C—Provisions applicable only to illness or injury of employee**

20 **74 FPC may direct leave of absence**

21 If a medical report obtained for the purpose of determining an employee's fitness for duty
22 states that the employee is unfit for duty, FPC may grant the employee personal/carer's leave
23 in accordance with the report and direct the employee to absent himself or herself from duty
24 during the period of leave.

25 **75 Personal/carers leave not available while on maternity leave**

26 An employee is not entitled to personal/carer's leave with pay for any period when the
27 employee is entitled to leave with pay under the *Maternity Leave (Commonwealth*
28 *Employees) Act 1973* or under subclause 80(3) of this Agreement.

29 **76 Employee sick on public holiday**

30 If an employee is unfit for duty because of illness or injury on a public holiday, the
31 employee's personal/carer's leave credit is not reduced for that day.

32 **77 Invalidity**

- 33 (1) The retirement of an employee on invalidity grounds must not, without the employee's
34 consent, take effect earlier than the day when the employee's credit for personal/carer's
35 leave is exhausted unless the continuous period for which the employee is granted
36 personal/carer's leave with pay (whether full pay or half pay or a combination) immediately
37 before retirement exceeds 52 weeks unless provided by legislation.
- 38 (2) If a person, after retirement on invalidity grounds, is re-engaged because of action taken
39 under section 75 of the *Superannuation Act 1976*, the person must be credited on

1 re-engagement with the personal/carer's leave at his or her credit immediately before
2 retirement.

3 **Subdivision D—Unpaid carer's leave**

4 **79 Unpaid carer's leave to care for family member etc.**

5 An employee is entitled to 2 days of unpaid carer's leave for each occasion when a family
6 member of the employee requires care or support during such a period because of a personal
7 illness or injury of the member or an unexpected emergency affecting the member. This
8 leave does not count as service for any purpose.

9 **Division 3—Leave for particular purposes**

10 **80 Maternity leave and parental leave**

- 11 (1) Employees who are pregnant, or who have given birth, are covered by the provisions of the
12 *Maternity Leave (Commonwealth Employees) Act 1973* (the **ML Act**).
- 13 (2) Employees with an entitlement to paid leave under the ML Act are provided with an
14 additional 4 weeks of paid leave, to be taken continuous with the period of paid maternity
15 leave provided by the ML Act.
- 16 (3) Employees who adopt or permanently foster a child, and who have care of, or responsibility
17 for, that child, are entitled to up to 52 weeks of parental leave. If the employee:
18 (a) is an ongoing APS employee with at least 12 months continuous service in OPC or
19 another APS agency; and
20 (b) is the primary caregiver for the child;
21 the employee is entitled to take the first 16 weeks as paid leave. Leave for adoption or
22 permanent foster care is available from one week prior to the date of placement. The paid
23 leave counts as service for all purposes.
- 24 (4) However, employees are entitled to parental leave for adoption or permanent foster care only
25 if that child:
26 (a) is under 16 years of age;
27 (b) has not, or will not have, lived continuously with the employee for a period of 6
28 months or more as at the day (or expected day) of placement; and
29 (c) is not (otherwise than because of the adoption) a child of the employee or the
30 employee's partner.
- 31 (5) Documentary evidence of approval for adopting or enduring parental responsibilities under
32 formal fostering arrangements must be submitted when applying for parental leave for
33 adoption or permanent foster carer purposes.
- 34 (7) On ending the initial period of up to 52 weeks of maternity or parental leave, employees may
35 request an extension of unpaid parental leave for a further period of up to 52 weeks. The
36 second period of unpaid leave is to commence immediately following the initial leave
37 period.
- 38 (8) Unpaid maternity or parental leave will not count as service for any purpose except for any
39 unpaid leave taken during the first 12 weeks.
- 40 (9) This leave is inclusive of public holidays and will not be extended because a public holiday
41 or the Christmas shutdown falls during a period of paid or unpaid maternity or parental
42 leave. On ending maternity or parental leave, employees have the return to work guarantee

1 and the right to request flexible working arrangements provided by (or the equivalent to
2 those provided by) the *Fair Work Act 2009*.

3 **81 Supporting partner/other primary caregiver leave**

- 4 (1) Employees who are not otherwise entitled to paid maternity under the ML Act or parental
5 leave under this Agreement are entitled to 4 weeks of paid leave on the birth, adoption or
6 permanent foster care placement of a child or their partner's child.
- 7 (2) This leave is to commence within 2 weeks of the birth/placement of the child and is inclusive
8 of public holidays, i.e. the leave will not be extended because a public holiday or the
9 Christmas shutdown falls during a period of leave provided by this clause.
- 10 (3) Documentary evidence as outlined in clause 80, or a birth certificate following the birth of a
11 child, must be submitted when applying for supporting partner/other primary caregiver leave.
- 12 (4) This paid leave will count as service for all purposes.

13 **82 Long service leave**

14 The entitlement to long service leave is provided for under the *Long Service Leave*
15 *(Commonwealth Employees) Act 1976*. Leave will only be granted for a minimum period of
16 7 consecutive calendar days at full pay or 14 calendar days at half pay. Long service leave
17 cannot be broken with other periods of leave, except as otherwise provided by legislation.

18 **83 War service sick leave**

- 19 (1) Employees who are war veterans and who suffer from a war-caused or defence-caused
20 medical condition may be entitled to war service sick leave.
- 21 (2) An eligible employee who provides a statement from the Department of Veterans' Affairs
22 stating what condition has been determined as being war-caused or defence-caused under
23 relevant legislation will accrue two separate credits of paid war service sick leave:
24 (a) a special credit of 9 weeks war service sick leave that is credited on first
25 commencement with the Service following eligible war service; and
26 (b) an annual credit of 3 weeks war service sick leave that is credited annually on
27 commencement and following each 12 months of service.
28 Unused annual credits accumulate, subject to a maximum credit balance of 9 weeks. The
29 annual credit cannot be accessed until the special credit has been used up.
- 30 (3) FPC may only grant war service sick leave when an employee is unfit for duty due to the
31 accepted war-caused or defence-caused medical condition.
- 32 (4) In applying for war service sick leave the employee must present a medical certificate stating
33 the nature of the medical condition, or stating it was a war-caused condition.
- 34 (5) If an employee's war service sick leave credits have been used up, the employee may apply
35 for personal/carer's leave.
- 36 (6) Employees who rejoin the Service and who have been credited with war service sick leave in
37 respect of an earlier period of employment in the Service will be credited with:
38 (a) any special credit that remained unused as at the final day of the prior employment in
39 the Service; and
40 (b) any annual credit held on the final day of the prior employment in the Service.
41 The next annual credit will accrue when the employee's period of service since
42 recommencement and the employee's period of service between the 1 November before

1 cessation and the date of cessation from the Service equals 12 months. After that, further
2 annual credits will accrue after each 12 months of service.

3 (7) A period of paid war service personal leave counts as service for all purposes.

4 **84 Defence Reserve leave**

5 (1) In accordance with the *Defence Reserve Service (Protection) Act 2001*, OPC supports the
6 release of Defence Reservists for peacetime training and deployment.

7 (2) An employee who is a member of a Defence Reserve is entitled to 20 days leave on full pay
8 each year for the purposes of undertaking Defence Reserve service or training. Any leave not
9 taken during a year may be taken during the following year (but not during any year after
10 that following year).

11 (3) In the year in which an employee joins a Defence Reserve, the employee is entitled to an
12 additional 10 days leave on full pay for the purposes of undertaking initial Defence Reserve
13 training.

14 (4) For the purposes of determining leave entitlements under subclauses (2) and (3), a year
15 begins on the day on which the employee becomes a member of a Defence Reserve and on
16 each anniversary of that day, and leave may be taken at any time during the year.

17 (5) FPC may grant further leave for the purposes of Defence Reserve service or training. Such
18 further leave may be granted on full or part pay or without pay.

19 (6) Subject to subclause (7), leave under this clause is to count as service for all purposes.

20 (7) Periods of leave without pay under this clause that exceed 6 months in any 12 month period
21 do not count as service for the purposes of accruing annual leave.

22 **84A Community service leave**

23 (1) An employee who engages in an eligible community service activity (including a voluntary
24 emergency management activity and jury service) is entitled to a period of leave in
25 accordance with Division 8 of Part 2-2 of Chapter 2 of the *Fair Work Act 2009*.

26 (2) The entitlement to leave with pay for a voluntary emergency management activity and jury
27 service is provided for in clause 85 of this Agreement.

28 (3) Periods of leave granted, with or without pay, for voluntary emergency management
29 activities include leave for emergency service responses, regular training, reasonable
30 recovery time and ceremonial duties.

31 **84B Ceremonial, cultural and NAIDOC leave**

32 (1) FPC may grant up to 10 days of unpaid leave (not to count as service for any purpose) over
33 any two year period to Aboriginal and Torres Strait Islander employees:

34 (a) for ceremonial purposes arising from the death of an immediate or extended family
35 member; or

36 (b) for other ceremonial and cultural obligations under Aboriginal or Torres Strait Islander
37 law.

38 (2) Leave under subclause (1) in respect of the death of a person may be granted in addition to
39 leave under subclause 85(2) in respect of that death.

40 (3) FPC may grant up to 2 days of paid leave (to count as service for all purposes) to allow an
41 employee to participate in NAIDOC Week activities.

Division 4—Other leave

85 Leave with pay

- (1) Leave with pay (to count as service for all purposes) will be granted to an employee in the circumstances set out in this clause.

Bereavement leave

- (2) An employee is entitled to 3 days paid leave for each bereavement if a family member, or a member of the household, of the employee dies.
- (3) A maximum of 5 days for each bereavement will be granted to attend to responsibilities such as funeral arrangements, executor duties, administrative estate duties or duties to assist police or legal authorities with enquiries where a family member of an employee has died.
- (4) A maximum of 4 hours will be granted to attend a funeral in the Canberra region of a close friend. A maximum of 1 day will be granted if the funeral is elsewhere.

Serious illness or injury

- (5) A maximum of 3 days for each occasion will be granted if a family member, or a member of the household, of the employee:
- (a) contracts or develops a personal illness that poses a serious threat to his or her life; or
 - (b) sustains a personal injury that poses a serious threat to his or her life.

Disasters

- (6) A maximum of 3 days will be granted for each occasion if the employee's home or contents have been destroyed or significantly damaged by an event that FPC considers a disaster.

Members of emergency management bodies

- (7) A maximum of 4 days for each occasion will be granted to enable the employee to attend an emergency (e.g. bushfire, flood) as a member of a recognised emergency management body.

Court proceedings

- (8) Leave will be granted if the employee is required to serve on a jury or to give evidence at legal or industrial proceedings.

Returned soldiers pension review

- (9) A maximum of 10 days will be granted to enable an employee who is a returned soldier to receive medical attention or undergo a pension review.

Moving leave

- (10) A maximum of one day will be granted in any period of 12 months to move house.

FPC may increase the maximum period

- (11) If a maximum period for the leave is specified in this clause, the period may be extended at FPC's discretion.

86 Leave without pay

- (1) Leave without pay (not to count as service for any purpose) will be granted to an employee to enable the employee to accompany a partner on a posting away from the ACT.
- (2) Leave without pay (to count as service for all purposes except the accrual of annual leave credits) will be granted to an employee to engage in employment outside the Service, if FPC is satisfied that the proposed employment would be in the interests of the Service.
- (3) Leave without pay (to count as service for all purposes) will be granted to an employee to take up employment in accordance with clause 7.4 of the Australian Public Service Commissioner's Directions 2013.
- (4) Leave without pay will be granted to an employee to engage in employment outside the Service for purposes associated with compensation leave. This leave will count as service for all purposes, except that, in determining the accrual of annual and personal/carer's leave credits (see clause 57 and clause 66), it will be treated as a period during which the employee is receiving compensation.

86A FPC discretion to grant leave

- (1) Leave with pay (to count as service for all purposes) may be granted, at FPC's discretion, for any purpose for which leave with pay could not otherwise be granted.
- (2) Leave without pay (not to count as service for any purpose unless otherwise required by legislation) may be granted, at FPC's discretion, for any purpose for which leave could not otherwise be granted.

87 Leave under this Division

- (1) Leave under this Division may be granted subject to conditions.
- (2) Leave without pay under this Division does not count as service for any purpose (unless otherwise required by legislation) if the employee does not resume duty in the Service at the end of the period of leave.

Division 5—Miscellaneous**88 Expenses—cancellation of leave or recall to duty**

- (1) This provision applies if an employee's leave is cancelled without reasonable notice or an employee is recalled to work from leave.
- (2) On request from the employee, he or she will be reimbursed such travel costs and incidental expenses as FPC thinks reasonable, being costs and expenses incurred in respect of the employee or any family member travelling with or intended to travel with the employee and that are not otherwise recoverable under any insurance or from any other source.

89 Public holidays

- (1) Employees will be entitled to the following public holidays:
 - (a) New Year's Day (1 January);
 - (b) Australia Day (26 January);
 - (c) Good Friday;
 - (d) Easter Monday;
 - (e) Anzac Day (25 April);

- 1 (f) the Queen’s birthday holiday (on the day on which it is celebrated in a State or
2 Territory or a region of a State or Territory);
3 (g) Christmas Day (25 December);
4 (h) Boxing Day (26 December);
5 (i) any other day, or part-day, declared or prescribed by or under a law of a State or
6 Territory to be observed generally within the State or Territory, or a region of the State
7 or Territory, as a public holiday, other than a day or part-day, or a kind of day or part-
8 day, that is excluded by the *Fair Work Regulations 2009* from counting as a public
9 holiday.

10 (2) If under a State or Territory law, a day or part-day is substituted for one of the public
11 holidays listed above, then the substituted day or part-day is the public holiday.

12 (3) FPC and an employee may agree on the substitution of a day or part-day that would
13 otherwise be a public holiday, having regard to operational requirements.

14 (4) An employee, who is absent on a day or part-day that is a public holiday in the place where
15 the employee is based for work purposes, is entitled to be paid for the part or full day
16 absence as if that day or part-day was not a public holiday, except where that person would
17 not normally have worked on that day.

18 (5) Where a public holiday falls during a period when an employee is absent on leave (other
19 than annual or paid personal/carer’s leave) there is no entitlement to receive payment as a
20 public holiday. Payment for that day would be in accordance with the entitlement for that
21 form of leave (e.g. if on long service leave on half pay, payment is on half pay).

22 **90 Christmas shutdown**

23 (1) OPC will close its normal operations from close of business on the last working day before
24 Christmas, with business resuming on the first working day after New Year’s Day.

25 (2) Employees will be provided with time off for the working days between Christmas and New
26 Year’s Day and will be paid in accordance with their ordinary hours of work. Where an
27 employee is absent on leave, payment for the Christmas shutdown will be in accordance with
28 the entitlement for that form of leave (e.g. if on long service leave on half pay, payment is on
29 half pay).

30 (3) There will be no deduction from annual or personal/carer’s leave credits for the shutdown
31 days.

32 **Part 6—Operations**

33 **91 Performance management**

34 (1) OPC’s Performance Management Programs provide the framework for managing and
35 improving the performance of employees and identifying present and future development
36 opportunities for employees. Details of OPC’s Performance Management Programs are set
37 out in Office Procedural Circulars.

38 (2) Training in performance management will be offered from time to time to all staff involved
39 in a program.

40 **92 Temporary performance allowance**

41 (1) An employee temporarily assigned to perform all or part of the duties of a higher
42 classification or local designation for a period of at least 1 week will be paid an allowance
43 (*temporary performance allowance* or *TPA*) equal to the difference between the employee’s

own salary and the salary the employee would receive if promoted to the higher classification or local designation or, in the case of partial performance of duties, an alternative amount determined by FPC.

- (2) An Office Procedural Circular sets out guidelines for decisions about directing employees to perform duties at a higher level, and for matters relating to the performance of duties in those circumstances.
- (3) Where an employee is temporarily directed to perform duties at a level in the SES, the employee's rate of payment, and entitlement to a motor vehicle or an allowance in respect of a motor vehicle, is to be determined by FPC.

Part 7—Redeployment, retirement and redundancy

93 Application

These provisions only apply to employees:

- (a) who are, or are likely to become, excess employees; and
- (b) who are not serving a probationary period; and
- (c) who are ongoing APS employees with more than one year's service.

94 Excess employees

An employee is an excess employee if the employee is excess to the requirements of OPC because:

- (a) the employee is included in a class of employees employed in OPC, and the class comprises a greater number of employees than is necessary for the efficient and economical working of OPC; or
- (b) the services of the employee cannot be effectively used because of technological or other changes in the work methods of OPC or changes in the nature, extent or organisation of the function of OPC.

95 FPC's obligations

Throughout the application of this Part, FPC will take all reasonable steps, consistent with the efficient management of OPC, to move an excess employee to a suitable vacancy at an equal classification level within OPC or in another APS agency.

96 Consultation process

- (1) When FPC is aware that an employee is, or employees are, likely to become excess, FPC will, at the earliest practicable time, advise the employee(s) of the situation.
- (2) Discussions with the potentially excess employee(s) or, if an employee requests, with the employee's representative, will be held to consider:
 - (a) measures which might be taken to reduce the likelihood of an employee or employees becoming excess; and
 - (b) immediate referral to a provider of redeployment services; and
 - (c) redeployment opportunities for the employee(s) concerned, including identifying whether the employee(s) seeks redeployment; and
 - (d) whether voluntary redundancy might be appropriate and whether the employee(s) wants to be offered voluntary redundancy.

- 1 (3) FPC may, before the conclusion of these discussions, invite employees who are not
2 potentially excess to express interest in voluntary redundancy, if those terminations would
3 permit the redeployment of employees who are potentially excess. FPC will not advise an
4 employee that he or she is excess until the discussions referred to in subclause (2) have
5 occurred. The period of these discussions will be one month (or such other period as is
6 agreed between FPC and that employee).
- 7 (4) If 15 or more employees are likely to become excess:
8 (a) FPC will not invite employees to express interest in voluntary redundancy or advise an
9 employee that he or she is excess within one month (or such lesser period as agreed)
10 after advising employees that they are likely to become excess; and
11 (b) FPC will also, having regard to section 531 of the *Fair Work Act 2009*, invite each
12 trade union of which any of the employees is a member, and which represents the
13 industrial interest of such of those employees as are members, to participate in the
14 discussions referred to in subclause (2).
- 15 (5) If FPC declares 15 or more employees excess, he or she will advise Centrelink of the
16 proposed redundancies.

17 **97 Voluntary redundancy**

- 18 (1) If FPC invites an excess employee to do so, the employee will have one month to elect in
19 writing for voluntary redundancy. FPC will not give notice of termination before the end of
20 that period or until such election is received, whichever is earlier.
- 21 (2) Within the month provided for under subclause (1), the employee must be given information
22 on:
23 (a) the amount of his or her severance pay, pay in lieu of notice and paid up leave credits;
24 and
25 (b) the amount of his or her accumulated superannuation contributions; and
26 (c) options open to him or her concerning superannuation; and
27 (d) the taxation rules applying to the various payments.
- 28 (3) An excess employee who declines an offer of voluntary redundancy or who does not elect
29 for voluntary redundancy within the one month period will immediately be referred to a
30 provider of redeployment services.

31 **98 Period of notice**

- 32 (1) If the employee agrees to his or her employment being voluntarily terminated, FPC can
33 approve the termination of the employee's employment and, upon approval, will give the
34 required notice of termination. The period of notice will be 4 weeks (or 5 weeks for an
35 employee aged over 45 with at least 5 years of continuous service).
- 36 (2) If an employee retires or the employee's employment is terminated at the beginning of, or
37 within, the notice period, the employee will receive payment in lieu of notice for the
38 unexpired portion of the notice period.

39 **99 Severance benefit**

- 40 (1) An employee whose employment is terminated under subclause 98(1) is entitled to be paid
41 an amount equal to 2 weeks salary for each completed year of service, plus a pro rata
42 payment for completed months of service since the last completed year of service, subject to
43 any minimum amount the employee is entitled to under the National Employment Standards.

-
- 1 (2) The minimum amount payable will be 4 weeks salary and the maximum will be 48 weeks
2 salary.
- 3 (3) If an employee has less than 24 years full-time service, the severance benefit will be
4 calculated on a pro rata basis for any period when the employee has worked part-time hours
5 during the period of service.
- 6 (4) Subject to subclauses (5), (6) and (7), *service* for severance pay purposes under this clause
7 means:
- 8 (a) service in OPC; and
9 (b) Government service as defined in section 10 of the *Long Service Leave*
10 (*Commonwealth Employees) Act 1976*; and
11 (c) service with the Commonwealth (other than service with a joint Commonwealth-State
12 body corporate in which the Commonwealth does not have a controlling interest)
13 which is recognised for long service leave purposes; and
14 (d) service with the Australian Defence Forces; and
15 (e) service in the Service immediately preceding deemed resignation due to marriage
16 under section 49 of the *Public Service Act 1922* as in force before 18 November 1966,
17 if the service has not previously been recognised for severance pay purposes; and
18 (f) service in another organisation if:
19 (i) an employee was transferred from the Service to that organisation with a transfer
20 of function; or
21 (ii) an employee engaged by that organisation on work within a function is engaged
22 as a result of the transfer of that function to the Service;
23 and such service is recognised for long service leave purposes.
- 24 (5) Any period of service which ceased:
- 25 (a) through termination on any of the following grounds or on a ground equivalent to any
26 of the following grounds:
27 (i) the employee lacked, or had lost, an essential qualification for performing his or
28 her duties;
29 (ii) non-performance, or unsatisfactory performance, of duties;
30 (iii) inability to perform duties because of physical or mental incapacity;
31 (iv) failure to satisfactorily complete an entry level training course;
32 (v) failure to meet a condition imposed under subsection 22(6) of the *Public Service*
33 *Act 1999*;
34 (vi) a breach of the Code of Conduct; or
35 (b) under the *Public Service Act 1922* on a ground equivalent to a ground set out in
36 paragraph (a); or
37 (c) through voluntary retirement at or above the minimum retiring age applicable to the
38 employee; or
39 (d) with the payment of redundancy benefit, a similar payment or an employer-financed
40 retirement benefit;
41 will not count as service for severance pay purposes.
- 42 (6) Absences from work which do not count as service for any purpose will not count as service
43 for severance pay purposes.
- 44 (7) For earlier periods of service to count there must be no breaks between the periods of
45 service, except if the break in service is less than 1 month and an offer of employment with
46 the new employer was made and accepted by the employee before ceasing employment with
47 the preceding employer.
-

1 **100 Rate of payment—severance benefit**

2 For the purpose of calculating any payment under this Part, *salary* includes:

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

10 **101 Retention and redeployment**

11 (1) Unless the employee agrees, an excess employee's employment will not be terminated until

12 the following retention period has elapsed:

- 13 (a) if an employee has 20 or more years of service or is over 45 years of age—13 months;
- 14 (b) in any other case—7 months.

15 If an employee is entitled to a redundancy payment under the National Employment

16 Standards, the retention period will be reduced by an amount equivalent to an employee's

17 redundancy entitlement under the National Employment Standards on termination.

18 (2) The retention period commences on the earlier of the following:

- 19 (a) the day the employee is advised in writing by FPC that he or she is an excess
- 20 employee;
- 21 (b) one month after the day on which FPC invites the employee to elect to have his or her
- 22 employment terminated.

23 (3) During the retention period, FPC:

- 24 (a) will continue to take reasonable steps to find alternative employment for the excess
- 25 employee; and
- 26 (b) may, with 4 weeks' notice, reduce the excess employee's classification as a means of
- 27 securing alternative employment for the excess employee.

28 If an excess employee's classification is reduced before the end of the retention period, the

29 employee will continue to be paid at the previous classification for the balance of the

30 retention period.

31 (4) The excess employee may request assistance in meeting reasonable travel and incidental

32 expenses incurred in seeking alternative employment and FPC may approve the payment of

33 such assistance as he or she thinks reasonable.

34 (5) The retention periods specified in subclause (1) and the notice period specified in subclause

35 102(3) will be extended by any periods of personal/carers leave supported by medical

36 evidence which is taken during these periods.

37 (6) If:

- 38 (a) an excess employee has been receiving redeployment assistance from a provider of
- 39 redeployment services for 2 months; and
- 40 (b) the provider of redeployment services certifies that there is no reasonable prospect of
- 41 redeployment in the Service; and
- 42 (c) FPC believes there is insufficient productive work available for an excess employee
- 43 during the remainder of the retention period;

44 FPC may, with the agreement of the employee, terminate the employee's employment and

45 pay the balance of the retention period, reduced by an amount equivalent to the employee's

entitlement to redundancy pay under the National Employment Standards, as a lump sum and this payment will be taken to include the payment in lieu of notice of termination.

102 Termination

- (1) FPC may terminate the employment of an excess employee at the end of the retention period.
- (2) An excess employee's employment will not be terminated if:
 - (a) the employee has not been invited to elect to be voluntarily terminated under subclause 97(1); or
 - (b) the employee has elected to have his or her employment voluntarily terminated but FPC has refused to approve such termination.
- (3) An excess employee will be given 4 weeks notice (or 5 weeks notice for an employee over 45 with at least 5 years of continuous service) if it is proposed that the employee's employment be terminated. This notice period will, as far as practicable, be served concurrently with the retention period.

103 Accelerated separation arrangements for redundancy purposes

- (1) OPC may offer an accelerated separation option to employees who have been invited to express interest in voluntary redundancy. In addition to the severance benefit, this option entitles an employee:
 - (a) who has been identified as being eligible to be made an offer of voluntary redundancy; and
 - (b) who agrees to termination of employment; and
 - (c) whose employment is terminated within 14 days after receiving the offer; to an amount of 10 weeks salary (or 11 weeks salary for an employee at least 45 years of age with at least 5 years continuous service).
- (2) The payments made under this clause are inclusive of any award or statutory entitlement to payment in lieu of notice.
- (3) If an employee has elected not to accept an accelerated separation offer, the other provisions of this Part will then apply.

105 Termination of employment—review mechanism

Subclauses 7(1) and (2) provide for the review mechanisms for decisions related to termination of employment.

Part 8—Transitional arrangements

106 Preservation of annual leave credits

At the commencement of this Agreement, each employee has an accrued annual leave credit equal to the employee's accrued annual leave credit immediately before that commencement.

107 Preservation of personal/carer's leave credits

At the commencement of this Agreement, each employee has an accrued personal/carer's leave credit equal to the employee's accrued personal/carer's leave credit immediately before that commencement.

Part 9—Definitions

108 Definitions

(1) In this Agreement, unless the contrary intention appears:

2PC means a Second Parliamentary Counsel.

APC 1 means Assistant Parliamentary Counsel Grade 1.

APC 2 means Assistant Parliamentary Counsel Grade 2.

APC 3 means Assistant Parliamentary Counsel Grade 3.

APS agency means an agency staffed under the *Public Service Act 1999*.

child includes an adopted child.

Defence Reserve means the Naval Reserve, the Army Reserve or the Air Force Reserve.

Note: For Naval Reserve, Army Reserve and Air Force Reserve, see the *Naval Defence Act 1910*, the *Defence Act 1903* and the *Air Force Act 1923*.

dependant in relation to an employee means:

- (a) the partner of the employee; or
- (b) a child or parent of the employee, or of the partner of the employee, being a child or parent who ordinarily resides with the employee and who is wholly or substantially dependent upon the employee.

dependent child means a child who is a dependant of the employee and is less than 21 years of age.

drafter means a person who occupies a position of APC 1, 2 or 3.

family member, for an employee, means a person who:

- (a) is related to the employee by blood, marriage, affinity or adoption; or
- (b) stands in a bona fide domestic or household relationship with the employee, without discrimination as to sexual preference; or
- (c) is a child, foster child or ward of the employee or of a person who stands in a bona fide domestic or household relationship with the employee.

FPC means First Parliamentary Counsel.

full-time employee means an employee other than a part-time employee.

illness includes a medical condition.

medical certificate means a certificate of a registered health practitioner, or other evidence of illness or injury approved by FPC.

member of OPC means:

- (a) a non-SES employee in OPC; or
- (b) an SES employee working in OPC; or
- (c) a 2PC; or
- (d) FPC.

normal bandwidth means the span of hours specified in subclause 23(3) (7.00 am to 7.00 pm, Monday to Friday).

1 **ongoing APS employee** has the same meaning as in the *Public Service Act 1999*.

2 **OPC** means the Office of Parliamentary Counsel.

3 **partner** means, in relation to a person who is a member of a couple, the other member of the
4 couple.

5 **part-time employee** means an employee who is working part-time hours.

6 **personal/carer's leave credit** means personal/carer's leave credit accrued under Subdivision
7 A of Division 2 of Part 5.

8 **registered health practitioner** means a person who is registered or licensed as a health
9 practitioner (or a health practitioner of a particular type) under a law of a State or Territory.

10 **salary barrier** is defined in subclause (2).

11 **Service** means the Australian Public Service.

12 **SES** means Senior Executive Service.

13 **superannuation salary** means the annual rate of superannuation salary within the meaning
14 of the *Superannuation Act 1990* worked out on the assumption that the employee was a
15 regular employee within the meaning of that Act.

16 **TPA** means temporary performance allowance.

17 **WCC** means the Workplace Consultative Committee continued in operation under clause 9.

- 18 (2) An employee is **above the salary barrier** while he or she is employed or acting in a position
19 the minimum annual salary of which exceeds the maximum annual salary payable to an APS
20 Level 6 employee. In any other case, an employee is **below the salary barrier**.

Attachment A—Salaries

1 Salaries

Table A—Salaries payable under this Agreement—employees other than drafters				
1. Broadband and classification or local designation	2. Pay points	3. Salary from commencement of agreement	4. Salary 12 months from commencement of agreement	5. Salary 24 months from commencement of agreement
OPC Broadband A				
APS Level 1	APS1.1	44907	45805	46493
	APS1.2	46413	47341	48051
	APS1.3	47671	48624	49353
	APS1.4	49631	50623	51382
APS Level 2	APS2.1	50820	51836	52613
	APS2.2	52219	53263	54062
	APS2.3	53591	54663	55483
	APS2.4	54982	56082	56923
	APS2.5	56358	57485	58347
APS Level 3	APS3.1	57885	59043	59928
	APS3.2	59390	60577	61486
	APS3.3	60898	62116	63048
	APS3.4	62477	63726	64682
OPC Broadband B				
APS Level 4	APS4.1	64514	65804	66791
	APS4.2	66567	67898	68916
	APS4.3	68297	69663	70708
	APS4.4	70049	71449	72521
APS Level 5	APS5.1	71956	73395	74496
	APS5.2	74214	75698	76834
	APS5.3	76304	77830	78998
APS Level 6	APS6.1	77720	79274	80463
	APS6.2	79654	81247	82466
	APS6.3	81834	83471	84723
	APS6.4	85949	87668	88983
	APS6.5	89278	91063	92429
Executive Level 1				
Executive Level 1	E1.1	98765	100740	102251
	E1.2	106717	108851	110484
	E1.3	113609	115881	117619
	E1.4	119926	122325	124159
Executive Level 2	E2.1	113609	115881	117619
	E2.2	119926	122325	124159
	E2.3	128976	131555	133529
	E2.4	133332	135999	138039
	E2.5	136774	139509	141602

Table B—Salaries payable under this Agreement—drafters				
1. Classification or local designation	2. Pay points	3. Salary from commencement of agreement	4. Salary 12 months from commencement of agreement	5. Salary 24 months from commencement of agreement
Assistant Parliamentary Counsel Grade 1 (<i>APC 1</i>)	APC1.1 (APS 3.3)	60898	62116	63048
	APC1.2 (APS 4.3)	68297	69663	70708
	APC1.3 (APS 5.2)	74214	75698	76834
	APC1.4 (APS 6.1)	77720	79274	80463
	APC1.5 (APS 6.3)	81834	83471	84723
	APC1.6 (APS 6.5)	89278	91063	92429
	APC1.7 (APS 6.6)	98765	100740	102251
	APC1.8 (APS 6.7)	106717	108851	110484
	APC1.9 (APS 6.8)	113609	115881	117619
Assistant Parliamentary Counsel Grade 2 (<i>APC 2</i>)	APC2.1 (E1.1)	98765	100740	102251
	APC2.2 (E1.2)	106717	108851	110484
	APC2.3 (E1.3)	113609	115881	117619
	APC2.4 (E1.4)	119926	122325	124159
Assistant Parliamentary Counsel Grade 3 (<i>APC 3</i>)	APC3.1 (E2.1)	113609	115881	117619
	APC3.2 (E2.2)	119926	122325	124159
	APC3.3 (E2.3)	128976	131555	133529
	APC3.4 (E2.4)	133332	135999	138039
	APC3.5 (E2.5)	136774	139509	141602

1

2 **[Table C is not required]**

3

4 **2 Junior Rates of Pay**

5 Junior rates of pay will apply to APS 1 Level, with rates expressed as a percentage of the rate
6 as shown in Table A as follows:

- 7 (a) Under 18 years—60 per cent;
8 (b) At 18 years—70 per cent;
9 (c) At 19 years—81 per cent;
10 (d) At 20 years—91 per cent.
11

Attachment B—Supported Wage System (SWS)

1 Overview

This attachment defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this Agreement.

2 Definitions

In this attachment:

Approved assessor means a person accredited by the management unit established by the Commonwealth under the SWS to perform assessments of an individual's productive capacity within the SWS.

Assessment instrument means the tool provided for under the SWS that records the assessment of the productive capacity of the person to be employed under the SWS.

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*, 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 wages because of a disability, as documented in the SWS 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 Employment that records the employee's productive capacity and agreed wage rate.

3 Eligibility criteria

- (1) Employees covered by this attachment 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.
- (2) The attachment 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.

4 Supported wage rates

- (1) Employees to whom this clause applies shall be paid the applicable percentage of the relevant minimum wage according to the following table, provided that the minimum amount payable is not less than the minimum prescribed rate set by the relevant Government body:

Assessed capacity	% of prescribed rate
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10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

- 1 (2) Where an employee's assessed capacity is 10 per cent; they must receive a high degree of
2 assistance and support.

3 **5 Assessment of capacity**

- 4 (1) For the purposes of establishing the percentage of the relevant minimum wage, the
5 productive capacity of the employee will be assessed in accordance with the SWS by an
6 approved assessor, having consulted the employer and the employee, and if the employee so
7 desires, a union which the employee is eligible to join.
- 8 (2) Assessment made under this attachment must be documented in a SWS wage assessment
9 agreement, and retained by the employer as a time and wages record in accordance with the
10 Act.

11 **6 Lodgement of SWS wage assessment agreement**

- 12 (1) All SWS wage assessment agreements under the conditions of this attachment, including the
13 appropriate percentage of the relevant minimum wage to be paid to the employee, must be
14 lodged by the employer with the Fair Work Commission.
- 15 (2) All SWS wage assessment agreements must be agreed and signed by the employee and
16 employer parties to the assessment. Where a union, which has an interest in the agreement, is
17 not a party to the assessment, the assessment will be referred by the Fair Work Commission
18 to the union by certified mail and the agreement will take effect unless an objection is
19 notified to the Fair Work Commission within 10 working days.

20 **7 Review of assessment**

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

25 **8 Other terms and conditions of employment**

- 26 (1) Where an assessment has been made, the applicable percentage will apply to the relevant
27 wage rate only.

- 1 (2) Employees covered by the provisions of the attachment will be entitled to the same terms
2 and conditions of employment as all other workers covered by this Agreement paid on a pro-
3 rata basis.

4 **9 Workplace adjustment**

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

9 **10 Trial Period**

- 10 (1) In order for an adequate assessment of the employee's capacity to be made, an employer
11 may employ a person under the provisions of this attachment for a Trial Period not
12 exceeding 12 weeks, except that in some cases additional work adjustment time (not
13 exceeding 4 weeks) may be needed.
- 14 (2) During that Trial Period the assessment of capacity will be undertaken and the percentage of
15 the relevant minimum wage for a continuing employment relationship will be determined.
- 16 (3) The minimum amount payable to the employee during the Trial Period must be no less than
17 \$81 per week, increased in line with decisions by the relevant Government body.
- 18 (4) Work trials should include induction or training as appropriate to the job being trialled.
- 19 (5) Where the employer and employee wish to establish a continuing employment relationship
20 following the completion of the Trial Period, a further contract of employment will be
21 entered into based on the outcome of assessment under clause 5 of this attachment.
- 22