DECISION AND ORDER

Fair Work Act 2009
s.234 - Application for an intractable bargaining declaration

Australian Salaried Medical Officers Federation
(B2024/1319)

ACT PUBLIC SECTOR MEDICAL PRACTITIONERS DETERMINATION 2023-2026
[AG531082]

DEPUTY PRESIDENT EASTON
COMMISSIONER MCKINNON
COMMISSIONER SLOAN

SYDNEY, 12 NOVEMBER 2025

Application for an intractable bargaining declaration; workplace determination – finalisation of terms – workplace determination made.

[1] Further to our decision of 14 October 2025 (see [2025] FWCFB 229) the parties have conferred on the final terms of the workplace determination to be known as the *ACT Public Sector Medical Practitioners Workplace Determination 2025* (the **Determination**).

[2] A small number of matters remain for consideration. In this decision we have used the same defined terms and abbreviations as we did in our previous decision.

Clause 4.3
[3] The bargaining representatives do not agree on the final terms of clause 4.3. In the course of the bargaining, the parties agreed on the terms of clause 4.2 and 4.3 as follows:

> "4.2. The nominal expiry date of this Determination will be 31 March 2026.
>
> 4.3. Bargaining for a replacement enterprise agreement will commence no later than eight months prior to the nominal expiry date of this Determination."

[4] The effect of clause 4.3 is that bargaining for a replacement agreement was due to commence on 31 August 2025. That date has now passed.

[5] The Territory seeks an amendment to clause 4.3 to require bargaining to commence no later than three months before the expiration of the Determination. It submits, reasonably, that given the passage of time since bargaining effectively concluded, the parties will be in breach of clause 4.3 as soon as the Determination commences if the clause is not amended.

[6] ASMOF argues that clause 4.3 should not be altered because the Determination should be in the same terms as the other ACTPS agreements. ASMOF also argue that the effect of the Territory's proposal is to preclude Medical Practitioners and their Union from bargaining for the core conditions.

[7] The AMA similarly argues that reducing the period to three months would "undermine" the Full Bench's decision that medical practitioners should not be distinguished from other ACTPS employees.

[8] There is a more significant impediment to the Territory's proposal by reason of the terms of the statute. Subsection 270(2) of the *Fair Work Act 2009* (Cth) (Act) requires the determination to include the agreed terms. Clause 4.3 is one such term. It must be included in the determination as made.

[9] However, the issue identified by the Territory needs to be addressed to ensure that clause 4.3 has meaningful operative effect and to ensure the parties are not disadvantaged by the time taken to bring this matter to a conclusion. We see no reason why the practical difficulties identified by ASMOF and the AMA cannot be overcome by the commencement of bargaining in relation to medical practitioners as soon as practicable after the determination is made. To date, the primary focus of bargaining has been the common 'core' conditions, which are negotiated with all ACTPS unions on the basis that they will apply in the same way to all ACTPS employees, including medical practitioners. ASMOF and the AMA will have a reasonable opportunity to contribute to bargaining on those matters once bargaining for a replacement agreement commences. Further, we do not agree that a different approach to the commencement date for bargaining will undermine our earlier decision. It is a practical necessity because of the different course adopted in bargaining in relation to medical practitioners.

[10] We will vary the determination once made under s.218A (as it applies to workplace determinations under s.279) - see further below.

Clause 56.2

[11] The bargaining representatives agreed on staged increases in allowances from 1 January 2023 onwards. The AMA proposed that additional words be included:

> "Any subsequent ACTPS-wide adjustments to allowance rates during the life of the Determination will automatically apply to this Determination."

[12] We do not think that this additional provision is necessary. The life of the Determination is relatively short and it can be assumed that all ACTPS-wide adjustments "during the life" of the Determination are already known and have been incorporated into the specific adjustments already included in the Determination.

Clause 112.1

[13] ASMOF, the AMA and the Territory have agreed that that clause 112.1 should be in the following terms:

> 'From 1 July 2025 each Specialist and Senior Specialist who is eligible for TESL will be paid an allowance of $19,707 per annum for Medical Education Expenses (MEE). The allowance will be paid on a fortnightly basis and will count as salary for superannuation purposes.'

[14] One independent bargaining representative does not agree with the amount proposed by the Territory. No submissions have been received arguing for a different rate.

[15] In the circumstances we are content to apply the amount agreed by the majority of bargaining representatives.

Clause 112.3

[16] In the 2022 Agreement the annual limit for reimbursement of medical education expenses for full-time Specialist and Senior Specialist was adjusted "in line with ACT Treasury annual CPI projections" (per clause 110.2). Similarly, education allowances for junior medical officers was also adjusted by the same method (clause 113.2).

[17] ASMOF and the Territory have agreed that the MEE allowance in the Determination will be adjusted by the same method as the 2022 Agreement.

[18] The AMA argued that the allowance should be adjusted by the ABS Consumer Price Index (CPI) for the Education and Health sub-indexes for Canberra or, if discontinued, the most comparable ABS index. The AMA argued that the MEE must move in line with the real costs of professional education and clinical training to remain effective, rather than the general household inflation or wage growth.

[19] The link between education expenses for medical practitioners and the ABS' health CPI data is not immediately obvious. The health CPI data collected by the ABS measures changes in the price of health services. Even though medical practitioners covered by Determination are providing health services that may or may not affect the ABS' data, we are not satisfied that the MEE allowance should be adjusted by reference to changes in the price of health services.

[20] The AMA submitted that the Education CPI indexes measure changes in the cost of course and tuition fees charged by tertiary and professional education providers but also submitted that medical education expenses for Staff Specialists could include other expenses such as simulation-based training, college CPD modules and conference participation.

[21] We are not satisfied that the AMA has made out a proper case to change how the annual cap for medical education expenses is indexed.

Final determination

[22] For the reasons given above and in our earlier decision, we will make the Determination in the terms published separately today.

Variation under s.218A

[23] As noted above, clause 4.3 of the Determination requires bargaining for a replacement agreement to commence on 31 August 2025. This is an obvious defect in the determination because the date by which bargaining was to commence has now passed.

[24] On 24 July 2025, bargaining commenced in relation to common core provisions for replacement agreements covering the Territory and all other ACTPS employees. This followed the commencement of bargaining with ACTPS unions on 18 July 2025. Bargaining for the next MPEA should commence as soon as reasonably practicable. In the circumstances, clause 4.3 will be varied to replace 'eight' with 'four'. The practical effect of this change is that bargaining for a replacement agreement will now be required to commence on Monday 30 November 2025.

[25] We have separately published our Order varying clause 4.3 of the Determination, effective today.

Orders

[26] We make the following orders effective today:

1. Pursuant to s.269 of the *Fair Work Act 2009* we make the *ACT Public Sector Medical Practitioners Workplace Determination 2025*.

DEPUTY PRESIDENT

Appearances:

J Martin of Counsel instructed by Slater & Gordon Lawyers for Australian Salaried Medical Officers Federation
K Eastman SC of Counsel with *D Fuller* of Counsel and *K Weir* of Counsel for Australian Capital Territory as represented by Canberra Health Servies
A Borg of BAL Lawyers for Radiation Oncologists
S McIntosh of Counsel instructed by Sullivans Legal Co for Australian Medical Association (ACT)
Witness MP-8, Independent Bargaining Representative

Hearing details:

2025.
Canberra
March 3, 4.

Final written submissions

CHS: 24 March 2025

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ACT Public Sector Medical Practitioners Determination 2023-2026

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PART 1: OPERATION OF THE DETERMINATION

Section A – Technical Matters

1. TITLE

1.1. This Determination, made under section 269 of the *Fair Work Act 2009*, will be known as the *ACT Public Sector Medical Practitioners Determination 2023-2026.*

2. MAIN PURPOSE

2.1. The main purpose of this Determination is to provide for common terms and conditions that apply across the ACT Public Sector (ACTPS) and terms and conditions that reflect the operational and business requirements of particular business units and of medical practitioners.

Retaining our people

2.2. In order to promote permanent employment and job security for employees in the ACTPS, the ACTPS will endeavour to minimise the use of temporary and casual employment. The ACTPS agrees to the use of temporary employees only where there is no officer available with the expertise, skills or qualifications required for the duties to be performed or the assistance of a temporary nature is required for the performance of urgent or specialised work within a particular business unit of the ACTPS and it is not practical in the circumstances to use the services of an existing officer.

2.3. Casual employment may be utilised to meet short-term work demands or specialist skill requirements which are not continuing and would not be anticipated to be met by existing employee levels. Casual employment must not be utilised for the purpose of undermining the job security of temporary and permanent employees.

2.4. In respect of casual employment, a conversion to full time or part time permanent employment will be considered in accordance with the ACT Government's Secure Workforce Conversion Process where: regular and systematic patterns of work have existed in the 6 month period prior to the employee's 12 month anniversary; and where there is and where persons have a reasonable expectation that such arrangements can continue, on a part time or full time basis consideration should be given to engaging the person on a different basis, including on a permanent or temporary basis without significant changes.

Note: This is in addition to the FW Act right to request conversion.

2.5. The ACTPS will continue to consult with unions and employees on the development of strategies and initiatives that may assist in the successful recruitment and retention of mature age employees. Such strategies and initiatives will be the subject of discussion and agreement between the employee and the relevant manager/supervisor.

2.6. These strategies and initiatives may include any of the following:

2.6.1. developing flexible working arrangements, such as variable employment, part-year employment, job sharing and purchased leave;

2.6.2. planning phased retirement arrangements for individual mature age employees who are considering retirement within four to five years, including through reducing the employee's management or higher level responsibilities during a phased retirement period;

2.6.3. examining the implications of current superannuation legislation for using such flexible employment and working arrangements and informing affected employees how such implications may be addressed;

2.6.4. arranging training to assist the employee in any changing roles the employee may have as part of the employee's phased retirement;

2.6.5. developing arrangements to facilitate the return of former mature age employees, including by engaging such persons for a short period in a mentoring capacity;

2.6.6. at the discretion of the head of service, contributing to the cost to an employee of financial advice received as part of planning for a phased retirement period.

Attracting future employees

2.7. The ACTPS will consult with union(s) through the Directorate Consultative Committee (DCC) to develop strategies to assist in attracting and retaining suitable employees. This will involve development of appropriate strategies and processes, including the conduct of surveys of staff, to assist this objective.

Developing our people

2.8. The ACTPS will consult and agree with union(s) on the development and finalisation of Learning and Development Plans and on the annual key learning and development priorities. The ACTPS and the union(s) will also agree on the equitable use of resources to address these priorities and strategies appropriate for the different categories of employees. For the purposes of this clause, "resources" includes but is not limited to employees, time, funding (where required) and equipment.

2.9. This Determination supports a performance culture within the ACTPS that promotes ethical workplace conduct and rewards employees for their contribution towards the achievement of ACTPS's objectives.

2.10. It is acknowledged that performance management is important to employee development and to ensuring the relationship between corporate, team and individual responsibilities are aligned to individual, team and organisational objectives.

2.11. Any performance management schemes in the ACTPS will not include performance pay and will not be used for disciplinary purposes.

Recognising our people

2.12. The ACTPS is committed to achieving an environment where employees feel valued for the contribution they make to achieving organisational goals. The most effective form of recognition is timely and appropriate feedback. The ACTPS will consult with the union(s) on other effective ways of recognising and rewarding the achievement of individuals and work groups.

2.13. Any outcomes of this consultation will only be implemented by agreement of the ACTPS and the union(s).

Ensuring fairness

2.14. The ACTPS recognises and encourages the contribution that people with diverse backgrounds, experiences and skills can make to the workplace. The ACTPS aims to ensure that this diversity is able to contribute to effective decision making and delivery of client service.

2.15. The ACTPS will work with employees to prevent and eliminate discrimination on the basis of sex, sexuality, gender identity, relationship status, status as a parent or carer, pregnancy, breastfeeding, race, religious or political conviction, disability, industrial activity, age, profession, trade, occupation or calling, association, or a spent conviction, in accordance with the *Discrimination Act 1991.*

Achieving a better work and life balance

2.16. The ACTPS is committed to providing employees with a work-life balance that recognises the family and other personal commitments of employees.

2.17. The ACTPS acknowledges the commitment and responsibilities that Aboriginal and Torres Strait Islander employees have to their community, and that Aboriginal or Torres Strait Islander identity is not left at the door when entering the workplace. The ACTPS recognises that Aboriginal and Torres Strait Islander employees have the capacity to make a unique and important contribution and bring a strength to the operations of the Australian Capital Territory and Public Service.

2.18. This Determination provides a number of entitlements specific to Aboriginal and Torres Strait Islander employees in recognition of their community and cultural responsibilities, and in this statement expressly recognises the roles that Aboriginal and Torres Strait Islander employees may be required to undertake as part of their community. Involvement in community is an on-going function for Aboriginal and Torres Strait Islander peoples and is not tied to 'office hours'.

2.19. It is recognised that commitment to community can result in expectations being placed on Aboriginal and Torres Strait Islander employees that may not be expected of other employees, and that Aboriginal and Torres Strait Islander employees may be culturally bound to the performance of specific functions for their community. It is also recognised that Aboriginal and Torres Strait Islander employees may be impacted in their lives by a variety and accumulation of cultural factors.

2.20. Within and subject to operational requirements, supervisors and managers should seek to work with Aboriginal and Torres Strait Islander employees to support utilising the appropriate entitlements contained in this Determination and achieve an appropriate balance between cultural and community responsibilities, and workplace duties.

Promoting a healthy and safe working environment

2.21. The ACTPS is committed to promoting, achieving and maintaining the highest levels of health and safety for all employees.

2.22. The ACTPS is committed to facilitating workforce participation at a level that meets the needs of each individual and accounts for their particular circumstances.

2.23. The ACTPS will take all reasonable steps and precautions to provide a healthy, safe and secure workplace for the employee. The ACTPS and all employees will act in a manner that is consistent with the *Work Health and Safety Act 2011* (WHS Act).

2.24. Further, given the clear evidence of the benefits and cost effectiveness of workplace health initiatives for both employers and employees, the ACTPS will develop health and wellbeing policies and programs that promote healthy lifestyles and help maintain a high standard of physical and mental health, along with supporting individual workplace safety and general wellbeing. Such policies and programs may include any of the following:

2.24.1. organisational and environmental policies and programs;

2.24.2. awareness, training and education programs that promote healthy lifestyles, assist employees to identify and reduce risk factors;

2.24.3. traditional and non-traditional physical activity programs.

Climate change mitigation and sustainability

2.25. The parties acknowledge all of the following:

2.25.1. That climate is changing and this affects residents of the ACT.

2.25.2. The ACT has a long-term emissions reduction target of net zero greenhouse gas emissions by the year 2050 with a series of interim targets to achieve that goal.

2.25.3. Education, discussion, information sharing and cooperation in the workplace is an important part of supporting the achievement of the emissions target.

3. Application of the Determination and Coverage

3.1. This Determination applies to and covers all of the following:

3.1.1. the head of service on behalf of the Australian Capital Territory;

3.1.2. persons engaged under the *Public Sector Management Act 1994* (PSM Act) at any time when the Determination is in operation in one of the classifications in Annex A, except a person engaged as head of service under section 31(1) of the PSM Act, persons engaged as directors-general under section 31(2) of the PSM Act, or persons engaged as executives under section 31(2) of the PSM Act;

3.1.3. ACT Territory Authorities and Instrumentalities that engage persons under the PSM Act in classifications listed in Annex A of this Determination, and

3.1.4. The Australian Salaried Medical Officers Federation (ASMOF).

4. Commencement and Duration

4.1. This Determination will commence operation on the day it is made by the FWC.

4.2. The nominal expiry date of this Determination will be 31 March 2026.

4.3. Bargaining for a replacement enterprise agreement will commence no later than eight months prior to the nominal expiry date of this Determination.

4.4. Copies of this Determination will be made available, in paper or electronic form, to all employees covered by the Determination.

5. Operation of the Determination

5.1. This Determination is comprehensive and provides the terms and conditions of employment of employees covered by this Determination, other than terms and conditions applying under applicable legislation.

5.2. Applicable legislation includes all of the following:

5.2.1. *The Fair Work Act 2009 (Cth)* (FW Act);

5.2.2. *Public Sector Management Act 1994* (ACT) (PSM Act);

5.2.3. *Public Sector Management Standards* (PSM Standards);

5.2.4. *Work Health and Safety Act 2011* (ACT) (WHS Act);

5.2.5. *Holidays Act 1958* (ACT) (Holidays Act);

5.2.6. *Territory Records Act 2002* (ACT) (TR Act);

5.2.7. *Safety Rehabilitation and Compensation Act 1988* (Cth) (SRC Act);

5.2.8. *Health Practitioner Regulation National Law* (ACT) Act 2010; and

5.2.9. *Health Act 1993*.

5.2.10. *Financial Management Act 1996* (ACT) (FM Act)

5.2.11. *Superannuation Guarantee (Administration) Act 1992-(Cth).*

5.2.12. *Integrity Commission Act 2018 (ACT) (IC Act)*

5.2.13. *Public Interest Disclosure Act 2012 (ACT) (PID Act)*

5.2.14. *Labour Hire Licensing Act (ACT) 2020 (LHL Act)*

5.3. This Determination constitutes a closed Determination in settlement of all claims for its duration. Therefore, during the life of this Determination, there will be no further claims that affect the provisions of this Determination, except where these claims are consistent with the terms of this Determination. This clause does not limit the rights to vary a Determination under the FW Act.

5.4. This Determination will be read and interpreted in conjunction with the National Employment Standards (NES) of the FW Act. If there is inconsistency between this Determination and the NES, and the NES provides greater benefit, the NES provision will apply to the extent of the inconsistency.

5.5. This Determination prevails over ACT legislation, including the PSM Act and the PSM Standards and relevant policy statements and guidelines to the extent of any inconsistency.

Errors and Omissions

5.6. Consistent with clause 2.1 of this Determination, in the event of any errors or omissions resulting in a disagreement over the interpretation of any provision of this Determination then the parties will discuss possible solutions.

5.6.1. In the event that no solution is agreed then a reference to clause 135 may be made by either party.

6. AUTHORITY OF THE HEAD OF SERVICE

6.1. The head of service may, in writing, delegate any power or function that the head of service has under this Determination to another person or position within the ACT Public Sector (ACTPS), subject to directions, except for this power of delegation and the powers under:

6.1.1. 3.1.1

6.1.2. 3.1.2

6.1.3. 4.3

6.1.4. 25.3

6.1.5. 25.4

6.1.6. 106.4.3

6.1.7. 146.15

6.1.8. 146.17

6.1.9. 146.18

6.1.10. 146.19

6.1.11. 148.2

6.1.12. 154.1

6.1.13. 169

6.1.14. Annex B

6.1.15. Annex D, section 16 (Campaign for election)

6.2. This does not limit the power of the head of service to authorise a person to act for and on the head of service's behalf.

6.3. Only directors-general may, in writing, sub-delegate a power or function delegated to them by the head of service.

6.4. To avoid doubt, in this Determination reference to the head of service may be taken to mean 'Delegate' where the head of service has delegated the particular power or function under subclause 6.1.

Public Sector Employers

6.5. Certain statutory office-holders and chief executive officers are defined by section 152 of the PSM Act to be a Public Sector Employer where a territory law states both of the following:

6.5.1. they may employ staff;

6.5.2. the staff must be employed under the PSM Act.

6.6. Where a statutory office-holder or chief executive officer is a Public Sector Employer, then a reference to the head of service in this Determination will be taken to mean the Public Sector Employer such that the Public Sector Employer may exercise any power or function that the head of service has under this Determination, except for the powers under subclauses 148.2 and 154.1.

6.7. A Public Sector Employer may, in writing, delegate any power or function they have under this Determination to another person or position within the ACTPS, subject to directions, except for this power of delegation.

6.8. This does not limit the power of a Public Sector Employer to authorise a person to act for and on behalf of the Public Sector Employer.

6.9. In this Determination, reference to the head of service may be taken to mean delegate of the Public Sector Employer where the Public Sector Employer had delegated the particular power or function under subclause 6.7.

7. AUTHORITY OF THE PUBLIC SECTOR STANDARDS COMMISSIONER

7.1. Where the Public Sector Standards Commissioner has express powers under this Determination, only the Public Sector Standards Commissioner may delegate, in writing, those powers to another person or position within the ACTPS, subject to directions, except for this power of delegation.

7.2. This does not limit the power of the Public Sector Standards Commissioner to authorise a person to act for and on behalf of the Public Sector Standards Commissioner.

7.3. Where the Public Sector Standards Commissioner is conducting investigations by reference to section 144(1)(a)(i) of the PSM Act about a matter declared by the Chief Minister in the way prescribed, the Public Sector Standards Commissioner is not limited to or bound by the investigation procedures contained in clauses 124 and 125 of this Determination.

8. TERMINATION OF DETERMINATION

8.1. The ACTPS and the union(s) covered by this Determination agree that the maintenance of, and adherence to, agreed terms and conditions of employment is a key component of good workplace relations and a

dispute free workplace. They therefore agree that they will not exercise their right to terminate this Determination under the FW Act.

PART 2: WORKING ARRANGEMENTS

Section B – Employment

9. TYPES OF EMPLOYMENT

9.1. A person will be engaged under the PSM Act in one of the following categories:

9.1.1. Permanent employment on a full-time or permanent part-time basis, including appointment with or without probation;

9.1.2. Short-Term Temporary employment for a period not exceeding twelve months on a full-time or part-time basis or for a specified period of time or for a specified task;

9.1.3. Long Term Temporary employment for a period greater than twelve months but not exceeding five years on a full-time or part-time basis or for a specified period of time or for a specified task;

9.1.4. Casual Temporary employment.

9.2. Persons engaged on a part-time basis will receive, on a proportionate basis, equivalent pay and conditions to those of full-time employees unless specifically provided for elsewhere in this Determination.

9.3. Persons engaged in medical classifications are required to provide evidence of current registration to practice, with the ACT Medical Board, under the Health Practitioner Regulation National Law (ACT) Act 2010 before appointment/engagement is confirmed and thereafter annually.

10. REVIEW OF EMPLOYMENT STATUS

10.1. In order to promote permanent employment and job security for employees in the ACTPS, temporary employees, as well as eligible casual employees who have been engaged on a regular and systematic basis for at least twelve months and who have a reasonable expectation that such arrangements will continue may, by application in writing to their manager or supervisor, request an examination of their employment status.

Note: This is in addition to the FW Act right to request conversion.

10.2. Having considered the request, the manager or supervisor must respond in writing, giving reasons, within a six week timeframe.

10.3. To avoid doubt, decisions stemming from such reviews are subject to the application of selection and appointment processes applying in the ACTPS. These processes include the application of the merit principle and the application of a probation period on appointment. These processes are also subject to there being no excess officers who would be eligible for redeployment to the office.

10.4. A selection process initiated under this clause must be conducted with the use of a joint selection committee in accordance with clause 16 of this Determination.

11. APPROVAL OF OUTSIDE EMPLOYMENT

11.1. In all situations, medical staff must obtain prior approval before commencing a second job and disclose and avoid real or apparent conflict of interest.

11.2. Approval shall not be unreasonably withheld if the secondary employment will not interfere with the employee's normal duties nor constitute a conflict of interest of the employee to the Directorate. If the application is not approved, the reasons must be provided in writing.

11.3. When assessing applications, the head of service should consider the following criteria:

11.3.1. Employees should not have a second job if that employment places them in a conflict with their official duties;

11.3.2. A second job should not affect the work performance of employees in their official positions; and

11.3.3. The second job should be performed totally in the employee's private time.

11.4. Approval for a second job will be made with consideration to safe working hours principles.

11.5. Additional arrangements detailed in subclauses 23.14 to 23.20 will apply to Specialists and Senior Specialists seeking to undertake outside employment.

12. CLINICAL ACADEMIC

12.1. For the purpose of this clause, a Clinical Academic is defined as a Senior Medical Practitioner appointed to an academic position at Australian National University Medical School who is also granted clinical privileges at Directorate facilities.

12.2. Where the Directorate chooses to engage a Clinical Academic, he or she will be employed either temporarily or permanently as a Specialist or Senior Specialist on a part-time basis as required.

Section C – Probation

13. PROBATION

13.1. Where a person is appointed on probation under the PSM Act, the period of probation will ordinarily be for no more than six months.

13.1.1. The probation period can only be longer than six months where the period of probation has been extended following an assessment of performance.

13.2. The head of service must, at the time a person is appointed on probation, inform the person in writing of the period of probation and the criteria and objectives to be met for the appointment to be confirmed.

13.3. Probation provides a supportive process for the officer during which mutual evaluation and decisions about permanent appointment can be made.

13.4. There must be at least two formal assessments of a person's performance at appropriate and reasonable points of the probationary period. The head of service must provide the person with a copy of each assessment report and provide the officer an opportunity to respond within seven business days.

13.4.1. If the assessment warrants the supervisor or manager's recommendation that the head of service terminate the person's employment, that recommendation must be included in the assessment report.

13.4.2. Where an employee's employment is to be terminated at the initiative of the head of service, the employee must be given at least 14 days written notice in accordance with section 70(5) of the PSM Act.

13.5. If the period of probation is extended in accordance with the PSM Act (s71B), the head of service must inform the officer in writing of the period of the extension, the reasons for the extension, and what the officer must do by the end of the period of extension for their permanent appointment to be confirmed.

13.6. A period of extension is not to be longer than six months unless it is for extraordinary circumstances and has been approved by the head of service.

13.7. A decision of the head of service to accept the recommendation to terminate the appointment of an officer on probation, as per subclause 13.4.1, is excluded from the Internal Review Procedures (Section Q) and Appeal Mechanism (Section R) of this Determination.

13.7.1. To avoid doubt, an officer on probation is able to seek a review of the officer's probation under the Internal Review Procedures (Section Q), except in relation to a decision to terminate the officer's employment.

Section D – Selection and Advancement

14. Advancement to Senior Specialist

14.1. This clause provides for broadbanding arrangements for advancement from Specialist to Senior Specialist.

14.2. A Specialist at the Specialist Band 5 may apply to be advanced to Senior Specialist under this clause.

14.3. Assessment of suitability for advancement will be made by a Review Panel in accordance with the criteria and robust competency framework to be set out in "Advancement to Senior Specialist" guidelines.

14.4. Based on its findings, the Review Panel will make a recommendation to the head of service on the suitability of the applicant for advancement to Senior Specialist.

14.5. This process and the guidelines will be reviewed by the DCC on an annual basis.

15. Junior Medical Officer Classification and Advancement

15.1. This section details the process for advancement for Junior Medical Officers (JMOs).

PG Year	Classification
1	Intern
2	RMO 1
3	SRMO 1 / Junior Registrar
4	SRMO 2 / Registrar 1
5	SRMO 3 / Registrar 2
6	Registrar 3
7	Registrar 4
7+	Senior Registrar

Note: Advancement to Senior Registrar is only available through promotion and is subject to the merit principles of the PSM Act and a competitive selection process.

15.2. Progression will be based on years of service and consistent with the provisions of subclause 31.3, subject to:

15.2.1. Selection for an advertised vacancy;

15.2.2. Satisfactory performance;

15.2.3. Completion of the requirements of any relevant training program, including those of Specialty Colleges; and

15.2.4. Meeting the requirements for the classification as set out in the Dictionary of this Determination.

15.3. Staff in any of the classifications listed in the table above will not be eligible for accelerated advancement (subclause 31.6)

15.4. Progression beyond PGY 5 will require the JMO to be enrolled in a training program of a Specialty College. Only time spent at PGY 6 will count for progression to PGY 7.

16. JOINT SELECTION COMMITTEES

16.1. A Joint Selection Committee must consist of a minimum of the following:

16.1.1. A chairperson who has appropriate skills and experience, nominated by the head of service;

16.1.2. A person who as appropriate skills and experience, nominated by the union(s);

16.1.3. A person who has appropriate skills and experience, nominated by the head of service from a list of employees, and agreed by the head of service and the principal union.

16.2. The ACTPS must as far as practicable ensure that employees who are Joint Selection Committee members have access to appropriate training to assist them in performing their role.

Note: 1. Provisions relating to the use of joint selection committees are located in the PSM Standards.

Note: 2. For every JSC the relevant union(s) must be contacted to ascertain the union nominee and to seek agreement for the third JSC member.

Section E – Hours of Work

17. Hours of Work – Medical Officers

17.1. In this Section employee refers to a Medical Officer.

Ordinary Hours of Work for Full-time employees

17.2. The ordinary weekly hours are 38.00 hours performed on the following basis:

17.2.1. 76.00 hours within a period not exceeding fourteen consecutive days; or

17.2.2. 152 hours within a period not exceeding 28 consecutive days; or

17.2.3. Any other period of twelve months or less that is agreed in writing between the manager or supervisor and the employee to provide for an average working week of 38 hours per week over the agreed period:

17.2.3.1. Such arrangement must meet the requirements of the Directorates' fatigue management policy(s); and

17.2.3.2. The directorate will report to the DCC on arrangements made under 17.2.3.

17.3. The ordinary hours of work for a full-time employee will be performed according to a roster, in shifts as required, with hours in excess of an average 38.00 hours per week and not remunerated or otherwise compensated being credited towards an Accrued Day Off (ADO) with pay.

17.4. An employee is defined as a shift worker if the employee is rostered to perform ordinary daily hours in accordance with a published roster and on Saturdays and Sundays or on public holidays on a regular or ongoing basis.

Hours of Work for Part-Time employees

17.5. A part-time employee will work less than the ordinary weekly hours of work for a full-time employee in accordance with a regular part-time work agreement under subclause 70.5 or 72.5 of this Determination.

17.6. The minimum length of shift of a regular part-time employee is three hours.

17.7. A part-time Medical Officer shall not be required to hold themselves in readiness to perform duty under restriction situations unless the Medical Officer has consented in writing to the imposition of restriction situations.

18. Meal Break

18.1. Unless there are exceptional and unforeseen circumstances, an employee will not be required to work for more than five hours without a meal break. The standard meal break will be of 30 minutes duration.

18.2. Meal breaks will not count as time worked unless specific provisions are made for this in this Determination.

18.3. The term 'meal break' does not require the employee to partake of a meal during the break period.

18.4. Notwithstanding subclause 18.1 it is recognised that there may be occasions when a meal break cannot be taken within five hours of commencing work, and that the meal break should be taken at some other time during the shift or the employee may be permitted to finish early on that shift.

18.5. Subject to Clause 36.3, where a Medical Officer is required to continue working through the employee's meal break, and an alternative is unable to be programmed under subclause 18.4 the Medical Officer will be paid for the time worked at a single rate of pay.

18.6. Managers, unit heads and supervisors are to establish simple and effective procedures in consultation with Medical Officers to record when staff are required to work through their meal breaks to ensure that a pattern of not being able to take a break does not develop and to ensure that payment is made.

18.6.1. The employer will report on compliance to the DCC.

18.7. An employee who works up to six hours in a day may, with the agreement of the supervisor/manager, work up to six hours without a meal break to accommodate the employee's personal circumstances and work/life balance.

19. Rostering Practice for Medical Officers

Notice of Rosters

19.1. A Medical Officer will be given at least 4 week's notice of rosters to be worked in relation to ordinary hours of work and also where practicable, in relation to additional (overtime) rostered hours of work.

19.2. Notwithstanding subclause 19.1, amendments to rosters may be required without notice to meet emergent situations (where unpredictable change in service demands make meeting the requirements of subclause 19.1 impracticable).

19.3. Each Roster shall make provision for Meal Breaks in a manner consistent with Clause 18 (Meal Breaks).

19.4. Regular reports on rostering practices shall be provided to the Directorate Consultative Committee.

Breaks between shifts

19.5. A minimum 9 hour break between shifts including travel time (fatigue leave) or 10 hours where practicable shall be rostered.

19.6. If the minimum break between shifts, outlined in subclause 19.5, overlaps ordinary hours there shall be no loss of pay for ordinary hours for taking this break.

19.7. If recalled to duty with less than a nine hour break between shifts, including travel time, overtime rates shall be paid at the commencement of recall until a nine hour break can be taken.

19.8. The parties agree to undertake further investigation (with a view to creation of additional positions) if Medical Officers are regularly expected to work without a break.

Maximum Shift Length

19.9. The maximum shift length is 14 hours, including mealbreaks.

Pattern of Work Hours

19.10. At the initiation of the employee or the Directorate, the work patterns of an employee may be varied from time to time to provide for shifts of no less than 8 hours in length on a weekday, or no less than four hours in length on a Saturday, Sunday or a Public Holiday.

19.11. All time worked in excess of 10 hours in any one shift will be paid at overtime rates.

19.12. The rosters should include any overtime that can reasonably be anticipated at the time of the posting of the roster.

19.13. No broken or split shifts will be worked.

Maximum Rostered Hours of Work

19.14. The maximum number of rostered hours per fortnight (excluding on-call) is 112 hours.

Rostering of days free from duty

19.15. Where practicable, days free from duty shall be consecutive and where possible additional accrued days off in accordance with clause 20 shall be combined with days free from duty.

19.16. Employees will be given the opportunity to indicate preferences for the rostering of ADOs, and these will be met unless there are operational reasons for not doing so.

19.17. A Medical Officer may not be rostered on for more than seven consecutive days on ordinary duty without a minimum 1 day duty-free break.

19.18. A Medical Officer shall be free from ordinary hours of duty for not less than two days in each week or where this is not practicable four days in each fortnight.

19.19. A Medical Officer will have at least two consecutive days free from any duty in each calendar fortnight.

19.20. Where practicable, a Medical Officer will have every second weekend free from all duty.

19.21. A Medical Officer will have two days free from any duty following the end of night shift duties to ensure adequate rest time and to minimise sleep deprivation which occurs on night shift. Where operationally possible the number of days free from ordinary duty should equal the number of consecutive night shifts worked.

19.22. For the purposes of this clause a day is defined as each of the periods, reckoned from one midnight to the next, into which a week, month or year is divided, and corresponding to a rotation of the earth on its axis.

20. Accrued Day Off (ADO) for Medical Officers

20.1. A full-time Medical Officer who works a 40 hour week, accrues two hours every week to go towards an ADO. That is for every 8 hour shift 0.4 hours will accumulate towards an ADO.

20.2. ADOs shall be granted in multiples of half-days/days for periods ranging from half a day up to two weeks subject to agreement between the employee and the supervisor/manager. Where an employee cannot agree with the supervisor/manager on the taking of an ADO the employee may be directed to take an ADO provided at least two weeks' notice is given by the Directorate.

20.3. For each day or shift a Medical Officer is absent on annual leave, paid personal leave or compassionate leave, those leave credits will be reduced by the number of ordinary hours that the Medical Officer would have worked on that day or shift (including time accrued for the ADO). Each day or shift of paid leave taken during the cycle of shifts will therefore be regarded as a day worked for accrual purposes.

20.4. Accrual toward an ADO does not occur when an employee is on any other form of leave. ADOs will only be taken once the equivalent time has been accrued. ADOs will not be taken in advance.

20.5. An employee may bank a maximum of 13 ADOs.

20.6. Where an employee has accrued in excess of 10 ADOs and unless exceptional operational circumstances exist, the employee and relevant manager or supervisor must agree, and implement, an ADO usage plan to ensure the accrued credit will not exceed the 13 day accrual limit.

Cashing Out

20.7. Where an employee has an ADO balance in excess of 6 days, they may elect to cash out any amount in excess of 6 days where:

20.7.1. the employee has taken at least one ADO in the preceding 12 weeks, or

20.7.2. the election is accompanied by an application to take at least one ADO by the end of the next published roster.

20.8. Where the claim is made under 20.7.2 above, payment will be made once the ADO has been taken.

20.9. An application to take an ADO under 20.7.2 will not be unreasonably refused.

20.10. ADOs will be cashed out at the ordinary hourly rate of pay.

20.11. An employee who is required to work on the employee's scheduled ADO will be given another day off instead at a time agreed between the employee and the employee's supervisor/manager.

20.12. Upon termination of employment, on promotion or appointment to a higher classification, or on changing from full-time to part-time hours, a Medical Officer shall be paid the monetary value of any untaken accrued days off, calculated at the person's ordinary time rate of pay as prescribed in Annex A – Classifications and Rates of Pay.

20.13. Refer to clause 34 for provisions for employees to exchanging shifts.

21. Make-up Time – Medical Officers

21.1. The employer may authorise an employee to be absent from duty for a part of a rostered shift, and allow the time not worked on that occasion to be worked at a later time agreed between the employee and the employer. The employee will be required to work this make-up time as soon as practicable after the approved absence from duty.

21.2. A Medical Officer on shift work may perform the make-up time on any shift. Make-up time will not be counted as overtime. The penalty rate applicable to make-up time will be the penalty that would have been paid to the employee if the employee had worked his or her rostered shift as posted.

21.3. A Medical Officer not participating in shift work may perform the make-up time between 8:00am and 6:00pm, Monday to Friday. Make-up time will not be counted as over-time.

21.4. A make-up time arrangement should not be authorised if it would result in a reduction in services.

21.5. Each approved absence from duty under this clause will be recorded in the employee's attendance record and will not count as time worked. Each related instance of make-up time will similarly be recorded in the employee's attendance record and will be counted as ordinary time worked.

21.6. Make-up time arrangements may be withdrawn if the head of service forms the view that the arrangements have been used inappropriately.

22. Casual Employment Arrangements

Minimum attendance

22.1. The minimum payment on each occasion when a casual employee is called for and attends for duty will be four hours, whether or not the casual employee is required to work for those four hours.

22.2. Notwithstanding subclause 22.1 where it is initiated by the casual Medical Officer and it is mutually agreed between a casual Medical Officer and the officer's supervisor to cease duty prior to the scheduled completion of a rostered shift, the casual Medical Officer shall not be entitled to payment for that portion of the shift not worked.

Rate of Pay

22.3. A person engaged as a casual employee will be paid at the same hourly rate of remuneration as would be applicable to an employee performing the duties and hours of that role. In addition, the casual employee will receive a loading of 25% in lieu of paid leave entitlements, other than long service leave, and in lieu of payment for public holidays on which the employee did not work.

22.4. The loading provided by subclause 22.3 will be calculated as percentage of the ordinary hourly rate of pay set out in Annex A to this Determination for the employee's classification.

Payment for Shift Work

22.5. A casual employee is eligible to receive payment of shift penalties in accordance with clause 33 or clause 35, as applicable.

22.6. The loading paid under subclause 22.3 is not taken into account in the calculation of shift work penalty payments.

Overtime

22.7. An eligible casual employee may receive payment for overtime in accordance with clause 36: Overtime for Medical Officers.

22.8. A casual employee is eligible for payment of overtime in respect of all hours worked in excess of eight hours, on any day or shift, except where the employee has been notified that he or she will be working on a longer shift, in which case hours in excess of the actual shift length will be paid for at overtime rates.

22.9. The loading paid under subclause 22.3 is not taken into account in the calculation of overtime payments.

Overtime Meal Allowance

22.10. A casual employee is eligible to receive payment of overtime meal allowances in accordance with clause 39: Overtime Meal Allowance.

22.11. The term 'meal break' does not require the employee to partake of a meal during the break period.

Payment for Public holidays

22.12. A casual employee is not eligible for payment in respect of public holidays, unless the employee works on a public holiday.

22.13. Where an eligible casual employee does work on a public holiday, the casual employee is entitled to the appropriate shift penalties or overtime payments described in clauses 33, 35 and 36.

Leave

22.14. A casual employee is not eligible for paid leave other than long service leave.

23. HOURS OF WORK – SENIOR MEDICAL PRACTITIONERS

Ordinary Hours of Work

23.1. Consistent with Part 2-2 Division 3 of the FW Act, Senior Medical Practitioners will work an average of 40 hours per week, made up of;

23.1.1. 38 hours per week; and

23.1.2. two (2) reasonable additional hours per week.

23.2. A Senior Medical Practitioner will not be rostered on ordinary hours for more than an average of 40 hours per week, as determined in advance in accordance with this clause.

23.3. Each Specialist and Senior Specialist will contribute agreed percentages of their work duty to teaching, clinical roles and administration responsibilities. Unless otherwise agreed in writing, 80% of a Specialist or Senior Specialist's time will be spent on clinical work, and 20% on non-clinical work. Subject to 23.5, in determining the specific percentage to apply to an individual or work area, consideration will be given to operational requirements, workload, teaching requirements and other relevant factors.

23.4. Percentages should be agreed on a local level.

23.5. Before it can be applied, any percentage must be agreed by all relevant parties (i.e. managers, affected Senior Medical Practitioners), and must recognise the need for flexibility to accommodate operational requirements.

23.6. Unless otherwise agreed, all work shall be undertaken at the employee's normal place of duty.

Part-time Hours of Work

23.7. A part-time employee will work less than the ordinary weekly hours of work for a full-time employee.

23.8. Senior Medical Practitioners covered by this Determination may, with the approval of the head of service, in portions of 10% (or other percentage as agreed), engage in part-time employment subject to clause 27 by entering into a written part-time agreement. A 10% portion of a part-time agreement, for the purpose of this clause, will be one session per week (i.e four hours). The part-time agreement must be agreed in writing between the Senior Medical Practitioner and the head of service.

23.9. Senior Medical Practitioners employed pursuant to a part-time agreement must be available to participate on the On-call roster to a reasonable degree.

Span of Hours and Shift Work

23.10. The normal duties of a Senior Medical Practitioner means the clinical or other duties and responsibilities undertaken by the Senior Medical Practitioner and can be broken up in the following manner:

23.10.1. that fall between the hours of 7:00am and 7:00pm Monday to Friday; or

23.10.2. for ten sessions per week; or

23.10.3. for sessions as otherwise agreed (which can be at recruitment); or

23.10.4. performed according to a regular part-time work agreement under subclause 70.5 or 72.5 of this Determination.

23.11. The arrangements for normal duties can be agreed at either an individual or unit level.

23.12. Specific working arrangements to apply to a group of employees, including arrangements under 23.10 or shift work, can only be introduced after consultation with the employees affected and the employee's representatives and following the agreement of a majority of employees affected.

23.13. If not otherwise agreed as per 23.11 or 23.12, the default arrangement will be 2 sessions per day, 10 sessions per week, Monday to Friday.

Flexible Working Arrangements

23.14. In order to provide more flexible working arrangements for Specialists and Senior Specialists, permission may be granted by the head of service for the Specialist or Senior Specialist to complete their normal duties over a period of no less than 4 days a week.

23.15. This permission will be subject to the operational requirements of the Directorate, at such times as are agreeable to the employer in accordance with agreed work ratios as agreed under subclause 23.3 of this Determination. In accordance with clause 11, permission must be obtained in advance for any form of outside employment undertaken as a result of such a reorganisation of work, including offsite private practice.

23.16. There will be no reduction in the normal duties of an employee whose working arrangements are amended under this provision. Absences during normal working hours will be made up by the employee at such times as are agreeable to the employer.

23.17. Any adjustments to the standard span of hours arrangements as provided for in subclause 23.10 will be agreed at the beginning of each year for that year. Adjustments may be made to these arrangements during the year with the agreement of the Directorate and the Specialist or Senior Specialist.

23.18. The Specialist or Senior Specialist will be required to record and account for his/her whereabouts for the periods identified as being present at work. To monitor this, the Directorate may utilise paper based and/or electronic recording of duty, random diary checks and/or physical presence checks. Patient confidentiality of diary information will be taken into account in the use of diary checks.

23.19. Where a suspected breach of the Determination is identified, the head of service shall consult with the employee representative in the investigation of the suspected breach. Where a breach is confirmed, the head of service may cancel the arrangement and initiate disciplinary action against the employee concerned.

23.20. The head of service can, in extenuating circumstances and by advice in writing, suspend any arrangements approved under these provisions.

Note: Notwithstanding the provisions of this clause, clause 70 applies to Senior Specialists seeking a flexible working arrangement on a basis other than that provided for in subclauses 23.14 to 23.20.

Meal Break

23.21. An employee will not be required to work for more than five hours without a meal break. The standard meal break will be of 30 minutes duration, except where locally agreed arrangements for a longer period are made.

23.22. The term 'meal break' does not require the employee to partake of a meal during the break period.

23.23. An employee who works up to six hours in a day may, with the agreement of the supervisor/manager, work up to six hours without a meal break to accommodate the employee's personal circumstances and work/life balance.

24. Record Keeping

24.1. The ACTPS will keep records relating to the employees' work, including records about attendance and pay, in accordance with the requirements of the FW Act, the Fair Work Regulations and the *Territory Records Act 2002.*

24.2. Every Medical Officer will maintain an appropriate record (as specified by the employer) of duty performed including recording the time of commencing and ceasing duty for each day and the reason for any absence from duty. These records will be provided to the supervisor/manager where the supervisor/manager so requests.

24.3. Every Senior Medical Practitioner will record the times of their attendance at work (whether ordinary duty or extra duty), and reasons for absence from duty during normal working times, in a form acceptable to the head of service, which may include paper based and/or electronic recording. These records will be provided to the supervisor/manager where the supervisor/manager so requests.

25. Secure Workforce Conversion Process

25.1. The ACTPS is committed to promoting permanent employment and job security for employees within the ACTPS.

25.2. For the purposes of giving effect to this commitment, which is further outlined in this Determination, including at subclauses 2.3 and 2.4, a Joint Union and ACT Government Secure Workforce Conversion Process has been established by the ACT Government. The Secure Workforce Conversion Process delivers important outcomes regarding secure work for temporary and casual employees.

25.3. In accordance with subclauses 2.3 and 2.4, assessments will occur through the Secure Workforce Conversion Process which will facilitate recommendations to the head of service as to whether a position, or group of positions, or a temporary or casual employee, should be converted to permanency. Where such a recommendation has been made, the head of service will endeavour to convert the position(s) or employee(s) to permanent employment. The head of service may appoint the employee(s) currently in the relevant positions without a further merit selection process, if the head of service is satisfied that the relevant employee(s) meets the requirements of the proposed position and the criteria of the Secure Work Conversion Process.

25.4. Where the Secure Workforce Conversion Process has made a recommendation to the head of service that a position or group of positions, or an employee with temporary or casual employment should be converted to permanency and the head of service decides not to appoint the relevant employee(s), the head of service must provide written reasons for their decision.

26. Notice of Termination

26.1. Where an employee's employment is to be terminated at the initiative of the employee, the employee must provide written notice of their resignation from the ACTPS to the head of service at least two weeks prior to the proposed date of resignation.

26.2. The period of notice in subclause 26.1 may be reduced by agreement in writing between the employee and the head of service.

PART 3: PAY AND CLASSIFICATIONS

Section F – Rates of Pay and Allowances

27. Part-Time Employment

27.1. Persons engaged on a part-time basis will receive, on a proportionate basis, equivalent pay and conditions to those of full time employees, unless specifically stated elsewhere in this Determination.

28. Pay Increases

28.1. Employees will be paid in accordance with the employee's classification and rates of pay set out in Annex A to this Agreement.

28.2. Pay increases for all classifications set out in Annex A of this Agreement will be:

28.2.1. $1,750 flat rate increase in the first full pay period on or after 1 January 2023.

28.2.2. 1% from the commencement of the first full pay period on or after 1 June 2023.

28.2.3. $1,750 flat rate increase in the first full pay period on or after 1 December 2023.

28.2.4. 1.5% from the commencement of the first full pay period on or after 1 June 2024.

28.2.5. 1% from the commencement of the first full pay period on or after 1 December 2024 and $1,500 flat rate increase.

28.2.6. 1% from the commencement of the first full pay period on or after 1 June 2025.

28.2.7. 1% from the commencement of the first full pay period on or after 1 December 2025 and $1,000 flat rate increase.

29. Method of Payment

29.1. Employees will be paid fortnightly in arrears and by electronic funds transfer into a financial institution of their choice.

29.2. The ACTPS commits to paying employees their ordinary fortnightly pay on the appropriate pay day. The ACTPS also commits to paying any shift penalties, overtime payments and higher duties allowance as soon as reasonably possible but not later than within two pay periods of the appropriate authorisation having been received by the relevant corporate area.

29.3. Claims for payment under the provisions of this Determination, including penalty, on-call and overtime payments will be submitted for approval within 3 weeks. Priority in processing claims will be given to those lodged in a timely fashion.

29.4. The ordinary fortnightly pay is based on the following formula:

29.4.1. $$\text{Fortnightly pay} = \frac{\text{annual rate of pay} \times 12}{313}$$

29.5. A part-time employee is paid pro-rata based on the employee's agreed ordinary hours.

29.6. An employee must, with the approval of the head of service, be advanced the pay due for any period of approved paid annual or long service leave. Advancement of pay is subject to payroll processing timeframes. The approval of the head of service must not be unreasonably withheld.

30. Payroll deductions for Union Fees

30.1. Upon request by the union, the ACTPS must facilitate arrangements for payroll deductions for union fees. The ACTPS agrees that it must not impose any limitations or impediments to an employee utilising payroll deduction for union fees that do not apply to other regular payroll deductions, such as health insurance.

31. Pay points and Increments

31.1. A person who is engaged by the ACTPS, or an employee who is promoted or is approved to perform the duties of a higher office, is entitled to be paid at the first pay point for the classification level.

31.2. Despite subclause 31.1, the head of the service may approve a person who is engaged by the ACTPS, or an employee who is promoted or approved to receive higher duties allowance, to be paid at a higher pay point within that classification level.

31.3. Increments apply to both an employee's permanent and higher duties classification. When an employee has completed twelve months higher duties within a 24-month period an increment will be paid, and all further instances of higher duties will be paid at this level.

31.4. Previous service at a higher duties pay must be considered when determining a pay point should the employee be promoted to that classification and will be used to determine the date at which increments fall due.

31.5. An eligible employee is entitled, subject to there being no underperformance or discipline action undertaken in accordance with Section N: Workplace Values and Behaviours, to be paid an annual increment on and from the relevant anniversary of the date of commencement in the classification for the employee concerned.

31.6. Accelerated incremental advancement may occur as follows:

31.6.1. A person who is engaged by the ACTPS, or an employee who is promoted or approved to perform higher duties, may be paid at a higher pay point within that classification level.

31.6.2. Subject to a maximum of two additional increments within the classification range being awarded to the employee in a 12-month period (excluding any additional increments awarded to the employee on commencement in the position in accordance with subclause 31.2), the head of service may approve the payment of additional accelerated increments to the employee at one of the following times:

31.6.2.1. At the time annual incremental advancement is due i.e., at the time an employee is eligible for annual incremental advancement (either in the substantive or higher duties position);

31.6.2.2. At any other time between periods of annual incremental advancement.

31.6.3. Where an employee is awarded additional accelerated increments over the 12-month period between the payments of annual increments in accordance with subclause 31.6.2, the employee

is still eligible for the payment of an annual increment, and the date of effect of the annual increment will remain unchanged.

31.7. In considering whether to approve payment at a higher pay point (as per subclause 31.1),or accelerated advancement (as per subclause 31.6), the head of service must take into account all of the following factors:

31.7.1. The employee's:

31.7.1.1. Qualifications;

31.7.1.2. Relevant work and personal experience;

31.7.1.3. Current pay;

31.7.1.4. Ability to make an immediate contribution;

31.7.2. Difficulties in attracting and retaining suitable employees.

31.8. JMOs are not eligible for incremental advancement as described in subclauses 31.6 and 31.7.

Increments for Part-time Employees

31.9. Subject to a satisfactory performance assessment, a part-time employee will be granted incremental advancement as follows:

31.9.1. Where the average hours of employment of the part-time employee are equivalent to 20 hours or more per week, incremental advancement shall occur on the same annual basis as for a full-time employee.

31.9.2. Where the average hours of employment of the part-time employee are less than 20 hours per week, incremental advancement shall not occur on an annual basis but on the basis of each 24 months' of service.

Increments for Part-time Senior Medical Practitioners

31.10. Notwithstanding subclause 31.9, a Senior Medical Practitioner who works pursuant to a part-time agreement will progress to the next incremental step every 12 months from the date of the Senior Medical Practitioner's commencement of employment, provided the work performed by the Senior Medical Practitioner extraneous to the part-time agreement is commensurate with the experience of a full-time Senior Medical Practitioner and is acceptable to the head of service. This clause does not preclude accelerated progression.

32. HIGHER DUTIES ALLOWANCE

32.1. Higher Duties Allowance (HDA) is payable to an officer who is directed to temporarily perform the duties of a position with a higher classification.

32.2. An officer who is acting in a position with a higher classification for a period of one day or more, will be paid HDA for that period.

32.3. Where an officer on temporary transfer is to perform the full duties of the higher position, HDA is calculated as the difference between the officer's current pay and a point in the pay range of the higher position determined by the head of service in accordance with clause 31.

32.4. Where an officer is performing only part of the duties of the higher position and the higher position is at least two levels above the officer's current substantive level, payment of partial HDA may be agreed between the head of service and the officer, prior to the commencement of the temporary transfer.

32.5. The rate of payment for partial HDA will be a point in the pay range(s) of the intervening level(s). The head of service's decision on the rate of payment of partial HDA must take into account the specified part of the duties of the higher position that the officer is to perform.

32.6. An officer receiving HDA is entitled to normal incremental progression for the officer's substantive position and the HDA position in accordance with clause 31.

32.6.1. Increments gained while performing HDA are maintained upon the officer ceasing the higher duties.

32.7. Previous higher duties service will be considered in determining the appropriate pay point for future periods of higher duties.

32.8. If a position is expected to be available for a period of six months or longer the position must be advertised in the Gazette.

32.9. Periods of higher duties should not normally extend beyond twelve months. If after twelve months the position is nominally vacant it must be advertised unless there are exceptional circumstances.

32.10. Nothing in this clause restricts casual or temporary employees performing duties of a higher office in accordance with the PSM Act and the PSM Standards.

33. Payment for Shift Workers – Medical Officers

Payment of Shift Penalties

33.1. Any ordinary hours worked by a Medical Officer, as defined, between the following hours shall be paid at an ordinary time plus the appropriate penalty rate:

33.1.1. Hours worked between 6:00pm and midnight – Monday to Friday; 12.5%.

33.1.2. Midnight and 8:00am; midnight Sunday to Midnight Friday; 25%.

33.1.3. Midnight Friday and midnight Saturday; 50%.

33.1.4. Midnight Saturday and midnight Sunday; 75%.

33.1.5. Public holidays; 150%.

33.2. The additional payment prescribed by this clause will not be taken into account in the computation of overtime or in the determination of any allowance based upon pay. The additional payment will not be paid for any shift for which any other form of penalty payment is made under this Determination, or under the provisions of the PSM Act or the PSM Standards under which the employee is employed.

Payment Whilst on Annual Leave

33.3. Additional payment for shift duty, as provided by this clause, is to be made in respect of any such duty that an employee would have performed had the employee not been on approved annual leave.

34. Shift Exchange Protocol – Medical Officers

34.1. The employer may authorise two employees to exchange shifts.

34.2. An exchange of shifts will not be authorised if it would result in the ACTPS incurring additional labour costs, or a reduction in services.

34.3. An exchange of shifts will be recorded in both employees' attendance records.

34.4. An employee will be paid the penalty rates applicable to the work he or she actually performs.

34.5. So far as practicable (and notwithstanding the voluntary nature of these arrangements), an exchange of shift should not result in an employee working an unreasonable pattern of working hours.

34.6. The foregoing arrangements will apply similarly in respect of an employee's participation in an on-call roster.

34.7. The shift exchange protocol may be withdrawn if the head of service forms the view that the arrangements have been used inappropriately.

35. Payment for Shift Workers – Senior Medical Practitioners

35.1. Shift penalty payments will apply to Senior Medical Practitioners directed to work rosters.

35.2. Where practicable, the maximum shift length shall be 16 hours.

35.3. Shift penalties will be calculated using the appropriate base pay as per Annex A, including, for eligible employees, the 17.4% special allowance paid under subclause 43.3.

35.4. Penalty rates for Senior Medical Practitioners are as follows:

35.4.1. Hours worked between 6:00pm and midnight – Monday to Friday; 20%.

35.4.2. Hours worked between midnight and 8:00am; midnight Sunday to Midnight Friday; 25%.

35.4.3. Hours worked between midnight Friday and midnight Saturday; 50%.

35.4.4. Hours worked between midnight Saturday and midnight Sunday; 100%.

35.4.5. Hours worked on Public holidays; 150%.

35.5. Penalty payments will only be made upon submission to Payroll Services of completed timesheets signed and authorised by a manager nominated by the employer.

35.6. Rostering of shift work and the payment of penalties will only be approved when the shift work:

35.6.1. is required by the Directorate; and

35.6.2. relates to direct patient care.

36. Overtime for Medical Officers

36.1. An employee may be required or requested by the head of service to work reasonable additional hours for duty at any time that the employee is required, subject to the payment for overtime in accordance with the conditions set out in this clause, and the reasonable additional hours provisions of section 62 of the FW Act.

36.1.1. Where an employee is requested by the head of service to work additional hours and those additional hours are not rostered in accordance with Clause 19, then the employee and the head of service will ensure the additional hours are recorded.

36.2. Overtime rates as set out at Clause 36.4 are payable for duty approved by the head of service and performed by a Medical Officer, as defined, in excess of their ordinary hours specified in or agreed in accordance with clause 17, and which does not accrue towards an ADO in accordance with clause 20.

36.3. Where a Medical Officer has been required to work during their meal break and they are not able to finish duty early on the same shift then they will be entitled to receive payment for overtime once the total ordinary work time for that shift has elapsed.

36.4. Overtime will be paid at the rate of time and one half for the first two hours, and double time for the remaining hours worked, provided that all overtime performed on a Sunday shall be at double time. For overtime worked on a public holiday or a substituted public holiday as defined in clause 106 of this Determination will be paid a total rate of double time and one half at the employee's ordinary hourly rate of pay for all time worked, unless time off in lieu is agreed in accordance with clause 37.

37. Time off in Lieu of Payment for Overtime – Medical Officers

37.1. Where agreed between the manager/supervisor and the employee, the employee will be granted time off in lieu of payment for overtime (TOIL).

37.2. TOIL is to be taken at a time agreed between the manager/supervisor and the employee.

37.3. In order to prevent the accumulation of excessive time and to facilitate the effective delivery of services, TOIL should be granted as soon as practicable after the overtime has been worked.

37.4. TOIL may be accrued to allow an employee to be absent for a whole day or shift. TOIL may be taken in association with other rostered days off.

37.5. Each instance of TOIL will be recorded in the employee's attendance records. A claim for overtime will not be submitted in any case where TOIL is authorised.

37.6. TOIL is granted on an hour-for-hour basis.

38. Payment for an Employee Rostered Off on a Public Holiday – Medical Officers

38.1. Where an employee is:

38.1.1. Normally to perform regular rostered work on a particular day of the week; and

38.1.2. Is scheduled to be on a rostered day off on this particular day; and

38.1.3. The particular day is a public holiday,

the employee will be granted a day's leave in lieu of a public holiday which occurs on a day on which that employee is rostered off duty.

38.2. The day in lieu provided for in subclause 38.1 must be granted within one month after the holiday, if practicable.

38.3. Where it is not practicable to grant a day's leave in lieu in accordance with subclause 38.1, the employee will be paid one day's pay at the ordinary hourly rate.

39. Overtime Meal Allowance

39.1. A Medical Officer who works authorised overtime and was not notified on or prior to his/her previous shift of the requirement to work such overtime shall be either supplied with a meal by the employer or paid in addition to payment for such overtime the relevant rate of allowance as outlined at Item 8 of Annex C:

39.1.1. The rate specified for breakfast when commencing such overtime work at or before 6:00am;

39.1.2. The rate for an evening meal when such overtime is worked for at least one hour immediately following the employee's normal ceasing time, exclusive of any meal break and extends beyond or is worked wholly after 7:00pm;

39.1.3. The rate for lunch when such overtime extends beyond 2:00pm on Saturdays, Sundays or holidays.

Meal Tickets

39.2. In lieu of the allowances paid under subclause 39.1, meal tickets, redeemable at the Staff Cafeteria against any purchase to the value of the meal tickets, are available for Medical Officers undertaking work in accordance with subclause 39.1.

40. Rest Relief After Overtime

40.1. In this clause employee refers to employees other than casual employees.

40.2. Unless the head of service directs an employee to report for duty earlier, the employee must have a continuous period of nine hours, including travel time, off duty between ceasing overtime duty following ordinary hours of work one day and commencing ordinary hours of work the following day.

40.3. An employee is entitled to be absent from duty, without loss of pay, until the employee has been off duty for a continuous period of nine hours, including travel time. If recall to duty occurs, this absence may be before or after the recall.

40.4. If an employee is required by the head of service to return to duty without having had nine consecutive hours off duty, including travel time, the employee must:

40.4.1. Be paid at double the ordinary hourly rate of pay rate until the employee is released from duty for that period; and

40.4.2. The employee will then be entitled to be absent until the employee has had nine consecutive hours off duty including travel time, without loss of pay for any ordinary working time occurring during that absence.

41. Payment for Public Holiday Duty

41.1. An employee who is not a shift worker and who works on a public holiday for a period that is:

41.1.1. Not in excess of the employee's ordinary weekly hours; and

41.1.2. Not outside of the employee's limit of daily hours; and

41.1.3. Not in excess of the employee's ordinary daily hours,

will be entitled to an additional payment of 150% of the employee's ordinary hourly rate of pay.

42. On-call and Recall Arrangements – Medical Officers

42.1. An on-call period is a period during which a Medical Officer is required by the Directorate to be on-call.

42.2. No Medical Officer will be required to remain on-call while on leave.

42.3. For the purposes of calculation of payment of on-call allowances and for recall, an on-call period shall not exceed 24 hours.

42.4. A Medical Officer shall be paid for each on-call period an allowance equal to the rate of the first hour of overtime. The on-call rate shall, upon recall requiring attendance at the usual place of work, be subsumed into the payment made for the initial recall period. The on-call allowance will only be paid once during a 24 hour period.

42.5. Where an employee who has been placed in an on-call situation is recalled for duty, but is not required to be recalled to their usual place of work (for example, where an employee is able to access computer systems at home via remote access), the employee will be paid at the applicable overtime rates, subject to a minimum payment of one hour overtime being made to the employee.

42.6. For the purpose of clarity, Digital Call-back includes, but is not limited to, work that requires access to, review of or the creation of a record containing the patient's personal health information (as defined in the *Health Records (Privacy and Access Act) 1997* (ACT)) and clinical decision making but does not include review of information that would reasonably be conveyed effectively verbally by phone.

42.7. A Medical Officer who is recalled for duty shall be paid for all time worked at the appropriate overtime rate, with a minimum of four hours pay at such rates, except as set out in 42.5. If a Medical Officer is recalled on more than one occasion during the recall period for which he or she is paid, the Medical Officer will not be entitled to further payment until the expiration of the four hour payment period.

42.8. The amounts specified in subclause 42.4 will be taken to include expenses incurred in being available for on-call and recall duty including taking telephone calls. The total recall overtime claim cannot total more than the on-call period.

43. On-call and Recall Arrangements – Senior Medical Practitioners

43.1. It is acknowledged and recognised that Senior Medical Practitioners (SMPs) are required to be available for reasonable on-call and recall outside of their normal duties.

43.2. Subject to operational requirements or agreement between the parties, a part-time employee will only be required to participate in an on-call roster on a pro-rata basis. An employee working part-time following a period of leave in accordance with clause 74 will only be required to work on-call in the same ratio as their part-time hours.

43.3. A Senior Medical Practitioner who is regularly required by the employer to be on-call and/or available for recall outside his or her ordinary hours of duty will be entitled to be paid an annual allowance at the rate of 17.4% of their annual pay specified at Annex A of this Determination. Where recall (which includes incidents that require advice, but not attendance at the workplace) becomes a regular pattern for an employee not on the on-call roster, there will be a review of the on-call rosters, including the roster patterns and which employees are included on the roster.

43.4. Where an employee does not contribute to the on-call roster on a full-time basis (regardless of whether they are a full-time or part-time employee), the allowance paid under subclause 43.3 will be calculated on a pro-rata basis, reflecting the extent of their contribution to the roster in their work area. The maximum pro-rata for this purpose is 100% of a full-time commitment.

43.5. Where there is a dispute between the employer and a Senior Medical Practitioner over the incidence of the requirement to be on-call and/or available for recall outside the normal hours of work or the pattern and whether that requirement is deemed by subclauses 43.3 and 43.4 of this Determination to be regular, the matter will be referred to the parties for discussion. If no agreement is then reached between the parties, the matter may be referred in accordance with the Disputes Avoidance/Settlement Procedure set out in clause 135 of this Determination.

Trial Arrangements

43.6. The parties acknowledge that there are a number of ad hoc responses to on call and recall that are in place as a consequence of the limitations in the current one-size-fits-all on-call model and the variations in the extent, complexity, and demands of on-call work.

43.7. This clause sets out the arrangements for:

43.7.1. Conducting a further review of the on-call and recall system for Senior Medical Practitioners;

43.7.2. Trialling different models of on call and recall that more accurately link remuneration to the amount of on call undertaken and the amount of work undertaken while on call.

Definitions

43.8. For the purpose of this clause:

43.8.1. **"On Call"** is undertaken outside an employee's ordinary hours and requires an SMP to be available for work if called;

43.8.2. **"Digital Recall"** Occurs where an SMP is called-back to perform duty and is able to perform that duty using appropriate digital resources without the need to be recalled to duty at a designated place of work.

43.8.2.1. For the purpose of clarity, Digital Call-back includes, but is not limited to, work that requires access to, review of or the creation of a record containing the patient's personal health information (as defined in the *Health Records (Privacy and Access Act) 1997* (ACT)) and clinical decision making but does not include review of information that would reasonably be conveyed effectively verbally by phone.

43.8.3. **"Recalled to duty at a designated place of work"** means a recall to perform duty while oncall at any designated place of work and is not limited to a recall to perform at the employee's usual place of work.

43.8.4. An **"on-call period"** is any period of not more than 24 hours where the SMP is required or directed by the SMPs manager or supervisor to be contactable and available to be recalled to duty within a reasonable time outside the SMPs ordinary hours of duty.

43.8.5. A **"Continuous On Call period"** is where an SMP is on call for more than one on-call period on consecutive days. A Continuous On Call period may not exceed 14 days.

Trial Arrangements

43.9. During the life of this Determination as part of the remuneration and on call review the parties will agree on trials of various on call and recall models in accordance with the trial framework provided for at clause 43.7.2.

43.10. The trials will operate for an agreed period of not less than 6 months and may be extended by agreement.

43.11. The procedures for the operation of any agreed trial, including those set out at 43.15. and 43.18 below, will be documented and provided to staff prior to the commencement of the trial.

43.12. Nothing in this provision prevents the parties from amending a model under trial or introducing and trialing additional models and any such amendment or additional model would be without prejudice to any extension or adoption of a trial as a permanent arrangement.

43.13. During a trial a participating employee will be paid the amounts calculated under the trial or the existing arrangements, whichever is the greater, based on a comparison undertaken at the conclusion of the trial and following a request from the SMP.

43.14. The initial trials will be in accordance with 43.15 and 43.18 below.

Hourly Rate Model

43.15. SMPs that work a pattern that requires them to be on-call for at least 4 on-call periods over 28 days and where on average physical recall occurs at least once in an on-call period may be eligible.

43.15.1. An SMP working under this model will be paid a base salary consistent with the provisions of clause 31 (pay points and increments)

43.15.2. A full time equivalent, or pro rata calculation will be based on an average of 40 hrs a week consistent with the provisions of Clause 23 (hours of work).

43.15.3. Hours of work can be averaged across a 4 week period.

43.15.4. Hours of work will include a 20% non-clinical component consistent with the provisions of Clause 23.

43.16. The work to be undertaken by an SMP during normal weekly hours will be established by either:

43.16.1. individual job sizing or

43.16.2. a standardised work pattern for an SMP in a work unit.

43.17. In addition to the payment set out above, an SMP working under this model will be paid:

43.17.1. For every on-call period:

43.17.1.1. For each hour of on-call - 10% of the SMPs base hourly rate of pay.

43.17.1.2. For all recalls to duty during an oncall period an hourly rate equivalent to time and a half for the first two hours, and double time for the remaining hours worked, providing

that all recalls on a Sunday will be paid at double time. Time worked on a public holiday or a substituted public holiday will be paid at double time and a half.

43.17.1.2.1. Calculation of the hours recalled will be rounded up to the nearest 15 minutes.

43.17.1.2.2. The minimum payment for a recall to duty at a designated place of work will be 2 hours. If a further recall occurs during this 2 hour period, the employee will not be eligible for a further payment until the expiration of the two hour payment period.

43.17.2. An SMP participating in this trial is required to submit claims for payment within 4 weeks of the qualifying recall. All claims for payment must be submitted within 4 weeks of the end of the trial.

43.17.3. The provisions of clauses 43.2 to 43.5, 44 and 45 do not apply to an SMP for the duration of any participation in this trial.

Existing Practice Model

43.18. Where, prior to the implementation of this Determination, a clinical unit had in operation an on-call arrangement utilising existing provisions under Clause 45, such arrangements can be approved by the parties as trials for the purpose of this clause.

Recovery Time

43.19. Under the trial arrangements, clinical units that operate an after-hours' on-call roster are expected to both:

43.19.1. have agreed arrangements in place that allow an employee to have an adequate break without deduction from full pay before commencing work following periods of on call related work or shift work where the employee is too fatigued to safely undertake their next scheduled activity.

43.19.2. Monitor fatigue levels of all staff participating in such rosters.

Review

43.20. The parties to this Determination will undertake a comprehensive review of the on-call and recall system for Senior Medical Practitioners during the life of this Determination.

43.21. The review will be conducted jointly by CHS and ASMOF, with dedicated resources provided by CHS.

43.22. The review will include real time trials as provided for in subclause 8 of this clause.

43.23. The parties to this Determination will hold a first meeting within six weeks of the commencement of the Determination. At the first meeting the following will occur:

43.23.1. the terms of reference for the review will be agreed;

43.23.2. the terms of reference for the trials will be agreed and will include:

43.23.2.1. a form of consent for the participating employees

43.23.2.2. a mechanism for recording the on call and recall work undertaken

43.23.3. schedule of meetings; and

43.23.4. a project plan will be established.

43.24. The review meetings will be chaired by the Chief Operating Officer, CHS and shall comprise of at least the following members:

43.24.1. One representative nominated by ASMOF, who shall be the deputy chair of the committee.

43.24.2. The Chief Operating Officer, who shall be the CHS chair of the committee.

43.24.3. A minimum of two workforce representatives and a minimum of two CHS stakeholders

43.25. In undertaking the review, the parties to this Determination will consider the following matters:

43.25.1. A sustainable remuneration package;

43.25.2. Transparency around working arrangements, including both core hours and on-call/recall, and what is considered part of each;

43.25.3. Equitable, evidence based provisions recognising the scope and extent of additional work undertaken by SMPs;

43.25.4. A clear path for transition from existing provisions, including local arrangements which vary considerably from area to area within CHS, both at an organisational and individual level and appropriate grandfathering provisions if needed; and

43.25.5. A solution that is financially sustainable.

43.26. CHS will provide the necessary secretariat functions and project management support for job-sizing and trials under the two arrangements.

43.27. The Parties to this Determination will produce an agreed set of recommendations for consideration by the Government ahead of negotiations commencing for a replacement enterprise agreement.

44. Onerous Hours, And Recall Arrangements – Senior Medical Practitioners

44.1. Where Senior Medical Practitioners (SMP) are required by the head of service to work in excess of normal duties and reasonable on-call and/or recall to provide patient care, the head of service may determine the hours to be onerous. Any work in excess of 180 hours over a period of 4 weeks (2 consecutive pay periods), is considered onerous hours (see 44.9 below for part-time staff).

44.1.1. Where a SMP is regularly working onerous hours, then their working arrangements should be reviewed in accordance with the provisions of Clause 71.

44.2. A SMP who works onerous hours is eligible for either:

44.2.1. TOIL in accordance with Clause 46; or

44.2.2. An allowance in lieu.

44.3. Where TOIL is not utilised, an allowance expressed as a percentage of theSMP's base salary will be payable in accordance with the following table:

Hours over 4 week period	Rate of allowance
<200	No allowance payable

>=200	5% of base salary for the 4 week period
>240	10% of base salary for the 4 week period

Only the highest applicable rate of allowance will apply, and payment will be pro-rata for part-time staff.

44.4. For the purpose of calculating hours under subclause 44.3, hours spent being available to be called and any hours – other than ordinary hours - directly remunerated by means of payment under clauses 45 or 60, a relevant provision of an applicable ARIN or otherwise, are not included.. For clarity, recalls not directly renumerated (i.e. those covered under Clause 43), including the provision of advice when not in attendance at the workplace, are included.

44.5. The payments provided under subclause 44.3 do not count as pay for the purposes of calculating any employee entitlement, including superannuation.

44.6. Approval for payment under subclause 44.3 is subject to application.

44.7. The employer will establish a standard system to enable the recording of hours worked and provide for the application and payment of the allowance in subclause 44.3.

44.8. It is the responsibility of the employee to keep and substantiate records for claims.

44.9. The provisions of this clause will apply on a pro-rata basis to part -time employees - i.e. both eligibility and basis for payment are determined on a pro-rata basis. For example: Excluding access to TOIL, an employee working 20 hours a week would trigger the onerous hours allowance provisions at 44.3 for a four week period in which they worked more than 90 hours, with paymentcalculated on their part-time pay..

44.9.1. Where such additional work is ongoing, then the manager should discuss the situation with the employee iin accordance with the provisions of Clause 71.

45. Additional Hours

45.1. Notwithstanding the provisions of subclauses 44.2 to 44.9, a Senior Medical Practitioner who works additional hours requested by the head of service to meet identified additional high demand will be paid the hourly rate of the Senior Medical Practitioner's base pay plus a penalty rate of 100% for each hour worked. Such payments made do not count as pay for the purposes of calculating any employee entitlement, including superannuation.

Staff Specialists and Senior Specialists in Radiology

45.2. Staff Specialists or Senior Specialists working in Radiology (collectively called Consultants) will be paid an allowance in accordance with Annex C when the head of service directs a Consultant to attend for duty on a day that the Consultant would not otherwise be in attendance; for example, private practice days and non-rostered weekends.

45.3. This clause does not apply when a consultant is on-call or rostered for normal duty.

45.4. A day, for the purposes of this clause, is a minimum of six hours.

45.5. The payment is in lieu of any other payment by way of salary or allowance to which the Consultant would otherwise be entitled under this Determination, including payment under subclause 45.1.

45.6. The payment does not count as salary for any purpose, including superannuation.

45.7. The payment will not be paid in conjunction with any entitlement under an ARIn for the same purpose entered into before this Determination commenced.

45.8. This provision replaces all existing ARIns provisions prescribing payment for the same purpose as this clause. Any such ARIn provisions applying at the date this Determination commences operation shall be deemed to cease operation on that date.

45.9. The payment will be adjusted in accordance with clause 56, with the first such adjustment applying from the first increase in the rates of pay in Annex A occuring on or after the date of commencement of this Determination.

Extra Surgery Scheme - Anaesthetists

45.10. Where an anaesthetist agrees to a request from the head of service to undertake additional work in conjunction with an approved Extra Surgery Scheme, the anaesthetist will be paid an allowance in accordance with Annex C for:

45.10.1. work performed Monday to Friday; or

45.10.2. work performed on weekends and public holidays.

45.11. Provided that the head of service and the anaesthetist will agree on a minimum number of hours to be worked and paid prior to the commencement of the additional work. If the additional work is completed before the minimum hours are worked, the anaesthetist will be paid for the agreed minimum hours.

45.12. Where required to be on-call in relation to work performed under this clause, the anaesthetist will also be paid an additional allowance per 24 hour period, in accordance with Annex C. Any call-backs related to this on-call will be paid at the applicable hourly rate in 45.10 above.

45.13. Payment under this clause will not be made for any period where the employee is already in attendance, on another on-call arrangement, or being otherwise remunerated under any other provision of this Determination or an Attraction and Retention Incentive.

45.14. Schemes eligible for payment under these arrangements must be approved in advance by the head of service. A list of approved Extra Surgery Schemes will be maintained by the Directorate and made accessible to employees.

45.15. The payment does not count as salary for any purpose, including superannuation.

45.16. The payment will not be paid in conjunction with any entitlement under an ARIn for the same purpose entered into before this Determination commenced.

45.17. This provision replaces all existing ARIns provisions prescribing payment for the same purpose as this clause. Any such ARIns provisions applying at the date this Determination commences operation shall be deemed to cease operation on that date.

Note: Subclauses 45.13 and 45.14 are intended to prevent payment under both an ARIn and subclauses 45.10 and 45.11 for the same work.

45.18. The payment will be adjusted in accordance with clause 56, with the first such adjustment applying from the first increase in the rates of pay in Annex A occuring on or after the date of commencement of this Determination.

No double payment

45.19. Hours remunerated under subclauses 45.1 to 45.15 do not count for the purposes of calculating entitlements under subclauses 44.2 or 44.4.

46. Time off in Lieu – Senior Medical Practitioners

46.1. Time off in lieu (TOIL) provided for under subclause 44.2 is to be taken at a time agreed between the Clinical Unit Head and the affected Senior Medical Practitioner.

46.2. In order to prevent the accumulation of excessive time in lieu and to facilitate the effective delivery of services, TOIL should be taken as soon as practicable after it is accrued.

46.3. TOIL may be accrued to allow an employee to be absent for a whole day or shift. TOIL may be taken in association with other rostered days off.

46.4. Each instance of TOIL will be recorded in the employee's attendance records.

47. Rights of Private Practice Arrangements for Specialists and Senior Specialists

47.1. The employer, all Specialists and Senior Specialists will ensure that every effort is made to bill private patients. The employer will provide appropriate support as is necessary to ensure that private patients are promptly billed, and outstanding accounts are recovered.

47.2. Subject to the provisions in this clause, Specialists and Senior Specialists may elect to participate in a rights of private practice scheme. Where a Specialist or Senior Specialist is eligible to participate in more than one such scheme, they may choose which scheme to participate in. A Specialist or Senior Specialist is only eligible to participate in the Pathology, Radiology or Radiation Oncology Scheme if they are employed in that speciality. Specialists and Senior Specialists may participate in more than one scheme on a fractional basis, but the total must not exceed their employed FTE.

47.3. New Specialists and Senior Specialists must elect to commence on one of the schemes outlined at subclause 47.5 below. Specialists and Senior Specialists should only remain on Scheme A where the nature of their discipline or agreed work arrangements make it difficult to bill private patients.

47.4. Specialists and Senior Specialists may move between schemes only with the agreement of the head of service, and subject to an assessment of the billing undertaken by the employee. Where this decision comes into dispute, an independent committee comprising one union nominee, one management nominee and an agreed third person, will be established to review the decision. This will be the only avenue of dispute resolution in these circumstances.

47.4.1. For the life of this Determination an SMP whose remuneration from the applicable private practice scheme is reduced as a consequence of the implementation of Activity Based Funding (ABF) then the SMP's entitlements under that scheme will be determined on the same basis that they would have been prior to the implementation of ABF.

47.5. The available schemes are:

47.5.1. Scheme A – Staff Specialist receives 100% of base pay as in Annex A (prorated for part-time) plus 20% allowance calculated on Scheme Pay. Earnings up to equivalent of 10% of Scheme Pay incur

100% facility fee. Earnings greater than 10% and up to 30% of Scheme Pay to be split into 50% facility fee and 50% bonus. Earnings greater than 30% incur 100% facility fee;

47.5.2. Scheme B – Staff Specialist receives 100% of base pay as in Annex A (prorated for part-time) plus up to 50% of Scheme Pay as a bonus on earnings from private practice billings. A facility fee calculated in accordance with Annex E is deducted before bonus payments are made to the staff Specialist;

47.5.3. Scheme C – Staff Specialist receives 75% of base pay as in Annex A (prorated for part-time), plus up to 133.33% of Scheme Pay as a bonus on earnings from private practice billings. A facility fee calculated in accordance with Annex E is deducted before bonus payments are made to the staff Specialist;

47.5.4. Pathology Scheme - Staff Specialist receives 100% of base pay as in Annex A (prorated for part-time) plus 75% allowance in lieu calculated on Scheme Pay. All earnings incur 100% facility fee in accordance with Annex E, except that 5% of Scheme Pay per Specialist will be contributed to the Private Practice Fund quarterly. No change can be made to the Pathology scheme without the agreement of at least 50% of the Staff Specialists participating in the Scheme.

47.5.5. Radiology Scheme -- Staff Specialist receives 100% of base pay as in annex A (prorated for part-time) plus an allowance as shown in Table 1 below, calculated on Scheme Pay plus payments under clause 45. All earnings incur 100% facility fee in accordance with Annex E, except that 2.5% of all facility fees incurred under this scheme in relation to all participating staff up to a maximum of $73,125 p.a. will be contributed to the Private Practice Fund. No change can be made to the Radiology Scheme without the agreement of at least 50% of the Staff Specialists participating in the Scheme.

Note: $73,125 p.a. is the maximum amount that will be contributed to the Private Practice Fund from facility fees incurred by all radiologists. It is not a reference to a maximum amount per individual radiologist.

Table 1 Radiology Scheme allowance

A Radiologist receives:	**Private Practice Entitlement (% of Scheme Pay plus Clause 44 payments)**
Base pay	127.17
Base pay plus 5% Onerous Allowance	126.22
Base pay plus 10% Onerous Allowance	125.27
Base pay plus Tier 1 Management Allowance	125.04
Base pay plus 5% Onerous Allowance and Tier 1 Management Allowance	124.22
Base pay plus 10% Onerous Allowance and Tier 1 Management Allowance	123.16
Base pay plus Tier 2 Management Allowance	123.16
Base Pay plus 10% Onerous Allowance and Tier 2 Management Allowance	123.16

NOTE: While included in the calculation of scheme pay where received, payment of on-call allowance under Clause 43 does not impact on the determination of the percentage used to calculate private practice entitlements.

47.5.6. Specialist Radiation Oncology Scheme - as outlined at subclauses 47.5.6.1 - 47.5.6.11

47.5.6.1. A Radiation Oncologist may elect to participate in Scheme A, B, or C.

47.5.6.2. Sub clauses 47.5.6.3 to 47.5.6.10 apply where a Radiation Oncologist elects under subclause 47.5.6.1 to participate in Scheme B or Scheme C.

47.5.6.3. The Radiation Oncologist will receive:

47.5.6.3.1. A bonus calculated in accordance with the scheme elected by the Radiation Oncologist as specified in either clause 47.5.2 or 47.5.3

47.5.6.3.2. An additional private practice payment amount equivalent to 35% of their private practice billings received by CHS that are in excess of the '*annual revenue threshold'* in a financial year.

47.5.6.4. A facility fee of 20% is deducted before any bonus payments are made to the Staff Specialist;

47.5.6.5. Subject to subclause 47.5.6.6, the '*annual revenue threshold*' is $370,000 for a full time Radiation Oncologist, pro rata for a part-time Radiation Oncologist.

Examples: (1) A Radiation Oncologist is employed part-time at 0.7 FTE. Their annual revenue threshold is $259,000 (0.7 x $370,000).

(2) A Radiation Oncologist commences employment on 1 January 2019. Pro rata to 30 June 2019, the financial year is 6 months. Their annual revenue threshold for that period to 30 June 2019 is $185,000 (0.5 x $370,000).

47.5.6.6. For individual Radiation Oncologists, the Radiation Oncology Administration Committee may adjust the '*annual revenue threshold*' to account for official administrative duties performed by the Specialist.

For example, the annual revenue threshold of a position is reduced by a proportion of 0.2 FTE by the committee. Their annual revenue threshold is reduced by $74,000 (0.2 x $370,000).

47.5.6.7. Subclauses 47.5.6.8 and 47.5.6.9 apply where a Radiation Oncologist elects to participate in Scheme C.

47.5.6.8. A Radiation Oncologist will be guaranteed the maximum Scheme C payment:

47.5.6.8.1. for the first 12 months of their employment; and

47.5.6.8.2. in any financial year in which they have returned from extended leave where it is not fully paid as per standard calculation process.

47.5.6.9. If a Radiation Oncologist receives a Scheme C bonus less than the maximum entitlement under Scheme C for any reason, the Radiation Oncology Administration Committee may approve a payment to the Staff Specialist of an amount equal to the difference.

47.5.6.10. Payments under clauses 47.5.6.3.2 and 47.5.6.8 (35% and guaranteed Scheme C) will be paid from the Radiation Oncology Sub-Fund and are subject to available funds.

47.5.6.11. The terms of the Radiation Oncology Scheme may only be varied or terminated by agreement of a Radiation Oncologist majority.

47.6. A Radiation Oncologist is entitled to be paid a Regional Service Development Allowance at the rates specified at Annex C on each occasion that the Radiation Oncologist is required to provide radiation oncology services at a regional outreach clinic referred to below. These payments will be drawn from the Radiation Oncology Sub-Fund.

47.6.1. Bega

47.6.2. Moruya

47.6.3. Goulburn

47.6.4. Cooma

47.6.5. Young

47.6.6. The allowance will be adjusted in accordance with clause 56.

47.7. In this clause 47:

47.7.1. a **Radiation Oncologist** is a Specialist or Senior Specialist employed as a radiation oncologist;

47.7.2. a **Radiation Oncologist majority** is more than 50% of the full time or part-time Radiation Oncologists employed by the Australian Capital Territory at The Canberra Hospital employed at the relevant time.

47.7.3. **Radiation Oncology Administration Committee** has the same meaning as in the trust deed governing the Radiation Oncology Sub-Fund.

47.8. In this clause 47, **Scheme Pay** means base pay as in Annex A (prorated for part-time) plus any allowances paid under clauses 43 and 59.

Leave and Superannuation

47.9. The fixed allowance under Scheme A, the Pathology Scheme and the Radiology Scheme will be paid during all periods of paid leave taken. However, it is not paid on accrued leave paid out on resignation, retirement, leave paid in-lieu under clause 89 (this does not include leave taken under 89.33.1, leave purchased under clause 91, or leave cashed out under clause 92.

47.10. No payments under any of the Schemes (including any fixed allowance) are salary for superannuation purposes.

Inadvertent Disadvantage

47.11. In this Clause, sub clauses 47.5.4 through to 47.10 are intended to codify the scheme arrangements in place as at 31 December 2018 for the classifications referred to therein.

47.12. Where the head of service and the union(s) agree that an employee(s) has experienced a demonstrable inadvertent disadvantage as a result of the implementation of sub clauses 47.5.4 to 47.10, Canberra Health Services will discuss possible solutions with the affected employee(s) and their representatives.

47.13. In the event that agreement between the head of service and the unions is not achieved, a reference to clause 135 may be made by either party.

Review of Facility Fees

47.14. A review of facility fees currently charged in relation to rights of private practice will be undertaken during the life of the Determination, in accordance with Terms of Reference to be agreed.

48. DAYLIGHT SAVINGS ARRANGEMENTS

48.1. During the changes from Australian Eastern Standard Time to Australian Eastern Daylight Time, employees will be paid according to the clock, with the exception of casual employment arrangements under clause 22 and overtime arrangements under clause 36 which will be paid according to the hours actually worked. This means that at the beginning of daylight saving employees working an overnight shift will work one hour less but will be paid for the full shift, and when daylight saving ends employees will work for an extra hour but will be paid according to the clock.

Section G – Pay Related Matters

49. Salary sacrifice Arrangements

49.1. Voluntary access to salary sacrifice arrangements will be made available to employees in accordance with ACTPS policies and guidelines.

49.2. The employee will meet all costs incurred as a result of the salary sacrifice arrangements under these provisions.

49.3. The employee's pay for superannuation purposes and severance and termination payments will be the gross pay that the employee would receive if the employee were not taking part in salary sacrifice arrangements.

49.4. Changes to salary sacrifice arrangements, including taxation changes, will not be a cause for further claims against the ACTPS.

49.5. The head of service will continue to provide appropriate information to employees concerning salary sacrifice arrangements.

50. Attraction and Retention Incentives

50.1. In some special circumstances it may be necessary for the head of service to determine that an employee or group of employees who are covered by this Determination and who occupy certain positions should be provided with attraction and retention incentives that may differ from some of the terms and conditions under this Determination.

50.2. The framework under which attraction and retention incentives may apply during the life of this Determination is set out in Annex B to this Determination.

51. Classification/Work Value Review

51.1. An employee, or a group of employees, or the union(s) or other employee representatives (the applicant), may present a case to request the head of the service to undertake a classification/work value review of a position or group of positions.

51.2. The head of service will undertake the review in consultation with the employee(s) and/or the union(s) or other employee representatives.

51.3. If the head of service determines that the case presented under subclause 51.1 is frivolous or vexatious, the head of service will refuse to undertake the review.

51.4. If the head of service determines that the case presented under subclause 51.1 does not contain enough information for the head of service to make an assessment on whether the review is warranted, the head of service will provide the applicant an opportunity to make further submissions. If following such further submissions, or if no such submissions are made, the head of service still does not have enough information to make an assessment on whether or not the review is warranted, the head of service may refuse to undertake the review.

51.5. Any classification/work value review will take into account the relevant work level standards, position descriptions, market and other relevant comparators, including comparators that are considered pertinent to the skills, competencies and general responsibilities required of the position(s).

51.6. These provisions do not affect the right of the head of service to undertake a classification/work value review at the initiative of the head of service.

51.7. Where agreement cannot be reached on the need to conduct the review then the disagreement may be resolved in accordance with the dispute resolution procedure.

52. OVERPAYMENTS

52.1. An overpayment is a debt owed to the Territory.

52.2. In the event that an employee has received an overpayment, the head of service may recover the overpayment in accordance with this clause.

52.3. Any disputes about the application of these provisions should be addressed through the Dispute Avoidance/Settlement Procedures outlined at clause 135 Unless the employee agrees, recovery of monies will not occur while a dispute is in process.

52.4. If the head of service believes that an overpayment has occurred, the head of service will consider whether it would be appropriate in the circumstances to waive part or all of the overpayment in accordance with section 131 of the FM Act.

52.5. For the purposes of these provisions, when considering whether a waiver is appropriate, the head of service will consider all the following compelling circumstances:

52.5.1. Financial hardship.

52.5.2. The circumstances under which the debt arose.

52.5.3. Other exceptional circumstances.

52.6. If the head of service considers that a waiver in accordance with subclause 52.4 is not appropriate in the circumstances, the head of service must provide the employee with all the following information:

52.6.1. The pay period(s) in which the overpayment occurred.

52.6.2. The nature of the overpayment.

52.6.3. The reasons why the overpayment occurred.

52.6.4. The gross and net components of the overpayment.

52.7. The head of service will provide the employee or their representative with an opportunity to respond or request a waiver within 10 working days from the date the information at 52.6 was provided. If the head of service does not receive a response within this timeframe, the overpayment process will continue in accordance with the following provisions in this clause.

52.8. Subsequent to the decision of whether to waive the overpayment in accordance with subclause 52.7 the head of service must advise the employee in writing, as soon as practicable, of all the following:

52.8.1. The decision to waive any, or part, of the overpayment, if applicable.

52.8.2. The process for recovery of the overpayment, if any.

52.8.3. The proposed recovery rate, if any.

52.9. The head of service and the employee must make genuine efforts to agree on a reasonable recovery rate having regard for all of the circumstances prior to any recovery being made. Where agreement cannot be reached subclause 52.12 applies.

52.10. Any such agreement in accordance with subclause 52.9 may include recovery of the overpayment by the head of service using one of the following methods:

52.10.1. A lump sum payment by the employee.

52.10.2. A payroll deduction from the employee's pay.

52.11. In respect to recovery action it may be agreed with the employee to adjust their leave credits instead of, or in combination with, a cash recovery under subclause 52.10, subject to the cashing out of leave limitation provisions in this Determination.

52.12. Where the head of service and the employee cannot agree about the arrangements for recovery of an overpayment, the overpayment must be recovered in accordance with an arrangement as determined by the head of service under section 246 of the PSM Act.

52.12.1. Where recovery occurs in accordance with subclause 52.12 the overpayment will be recovered at the rate of up to 10% of the employee's gross fortnightly pay, or such other rate determined by the head of service having regard for all of the circumstances.

52.13. Despite subclause 52.9 and subclause 52.12, the recovery period will not usually exceed 26 pay periods.

52.14. Any outstanding money owing to the ACTPS when an employee ceases employment is to be recovered by deduction from any final entitlements payable to the employee. If a debt still exists further debt recovery action is to be taken unless the head of service does one of the following:

52.14.1. Directs the recovery be waived, in part or in full, based on evidence provided by the employee of exceptional circumstance or that such recovery would cause undue hardship.

52.14.2. Determines that an overpayment is not recoverable. If an overpayment is not recoverable, the provisions of the relevant directorate's Financial Instructions, relating to the write off of monies, will apply.

53. UNDERPAYMENTS

53.1. Where the head of service agrees that an employee has been underpaid on the employee's base rate of pay, and the employee requests, an offline payment for the amount owing will be made to the employee within three business days of the head of service receiving the request.

53.2. Where a shift penalty, overtime payment or higher duties allowance is not made within two pay periods of the appropriate authorisation having been received by the relevant corporate area, and the employee requests, an offline payment for the amount owing will be made to the employee within three business days of the head of service receiving the request.

54. SUPERANNUATION

54.1. The head of service must provide employer superannuation contributions in accordance with the relevant legislative requirements.

54.2. This clause does not apply to employees who are members of the Public Sector Superannuation Accumulation Plan (PSSap), unless they are eligible to be members of the PSSap as a fund of choice.

54.3. This clause does not apply to preserved members of other superannuation plans, including CSS and PSSdb. Employees covered by those superannuation plans, must receive the employer contributions specified by the fund rules for the relevant superannuation plan.

54.4. An employee may choose any approved superannuation fund as long as the fund can accept employer contributions by EFT. If the employees chosen fund cannot or will not accept additional contributions as outlined in subclauses 54.5 and 54.8, then the employee will be advised of their right to change funds, to enable such contributions to be made.

54.5. The employer contributions are all of the following:

54.5.1. From 1 July 2022 to 30 June 2025 is 11.5%.

54.5.2. From 1 July 2025 to 31 December 2025 is 12%.

54.5.3. From 1 January 2026 is 12.5%.

54.5.4. A further 1% pro rata per pay, based on the employee's gross fortnightly Ordinary Time Earnings (OTE) (or other methods where prescribed by the nominated superannuation fund rules), for each pay period where the employee contributes 3% or more of their fortnightly OTE to their nominated superannuation fund (either in pre or post tax dollars) and where it is processed through the ACT Government's payroll system.

54.6. The salary for superannuation purposes is calculated on the employee's Ordinary Time Earnings (OTE) within the meaning of the *Superannuation Guarantee (Administration) Act 1992*.

54.7. Employer contributions are not be reduced by any other contributions made through salary sacrifice arrangements.

54.8. For employees who take paid or unpaid parental leave (which includes birth, parental, grandparental and foster care leave), employer contributions (which are calculated using the same formula as prescribed in subclause 93.23 are made for an aggregate period equal to a maximum of 104 weeks of the parental leave (which includes birth, parental, grandparental and foster care leave), in accordance with the rules of the appropriate superannuation scheme. For clarification, the 104-week period includes separate shorter periods aggregating to 104 weeks, and does not need to be one continuous period.

54.9. The Government must, through the Chief Minister, Treasury and Economic Development Directorate, consult with unions and employees on changes to superannuation legislation that may be proposed by the Commonwealth.

55. PAYMENT ON DEATH

55.1. Where an employee dies, or the head of service has directed that an employee is presumed to have died on a particular date, the head of service may make a payment or partial payment for unused leave credits and other entitlements directly to the dependants or the domestic partner, or to the legal personal

representative, or to the estate, of the former employee of an amount that would have been paid had the employee ceased employment otherwise than because of the employee's death. The payment in respect of unused long service leave is calculated in accordance with subclause 92.23**.**

Section H – Allowances

56. Adjustment of Allowances

56.1. Allowances provided for in this Determination are set out in this section and Annex C.

56.2. The rates for all allowances provided for in Annex C of this Agreement will be adjusted by:

56.2.1. 1.79% from the commencement of the first full pay period on or after 1 January 2023.

56.2.2. 1% from the commencement of the first full pay period on or after 1 June 2023.

56.2.3. 1.74% from the commencement of the first full pay period on or after 1 December 2023.

56.2.4. 1.5% from the commencement of the first full pay period on or after 1 June 2024.

56.2.5. 2.44% from the commencement of the first full pay period on or after 1 December 2024.

56.2.6. 1% from the commencement of the first full pay period on or after 1 June 2025.

56.2.7. 1.93% rom the commencement of the first full pay period on or after 1 December 2025.

unless the contrary intention is stated for a specific allowance in Annex C.'

56.3. Part-time and casual employees who satisfy the requirements for payment of an expense-related allowance will receive the full amount of allowance or payment prescribed in this section or Annex C.

56.4. Part-time and casual employees who satisfy the requirements for payment of a non-expense related allowance under this Determination will receive the allowance on a proportional basis.

56.5. Allowances payable to casual employees under this Determination are not subject to the loading prescribed in clause 22.

56.6. Where an employee is in receipt of a shift penalty, any disability allowance the employee receives in accordance with Annex C, will not be included for the purpose of calculating the shift penalty.

57. Higher Medical Qualification Allowance – Medical Officer

57.1. A Registrar (not including junior registrar) who holds a higher medical qualification shall be paid the allowance specified in Annex C.

57.2. A Career Medical Officer Grade 1 who holds a higher medical qualification shall be paid the allowance specified in Annex C.

57.3. Where a Registrar or Career Medical Officer Grade 1 is undertaking the fifth or subsequent year of training towards a higher medical qualification, and the employee is expected to meet the formal requirements of the higher medical qualification in that calendar year, the employee will be paid half the allowance specified in Annex C.

58. After-Hours Responsibility Allowance – Medical Officers

58.1. From the date of commencement of this Determination, a Career Medical Officer who is directed to take charge of an after-hours medical service will be paid the allowance specified in Item 3 of Annex C.

58.2. A Medical Officer (other than a Career Medical Officer) who is directed to take charge of an after-hours medical service will be paid the allowance specified in Item 4 of Annex C.

59. MANAGEMENT ALLOWANCE – SENIOR MEDICAL PRACTITIONERS

59.1. It is an expectation that a certain level of management responsibility is an essential part of the duties of a Senior Medical Practitioner.

59.2. In addition to the rates of pay set out in Annex A of this Determination, a Senior Medical Practitioner required by the head of service to undertake additional responsibilities specifically associated with the management of a clinical unit, department or service (as set out from time to time in the "Statement of Duties – Clinical Unit heads") shall be paid an additional allowance as provided for in this clause.

59.3. In assessing eligibility for the allowance, a Senior Medical Practitioner's additional responsibilities will be assessed against the following criteria:

59.3.1. Criterion A. Direct responsibility for a clinical unit, department or service and involvement in a number, but not necessarily all, of the following:

59.3.1.1. Cost centre management including:

59.3.1.1.1. - budget preparation

59.3.1.1.2. - management of allocated budget.

59.3.1.2. Participation in planning and policy development.

59.3.1.3. Responsibility for the co-ordination of:

59.3.1.3.1. - research

59.3.1.3.2. - training and/or

59.3.1.3.3. - teaching programs.

59.3.1.4. Membership and participation in senior executive management teams.

59.3.1.5. Ensuring that quality improvement and clinical governance activities are implemented.

59.3.2. Criterion B. As a minimum, perform Human Resource Management responsibilities which include but are not restricted to:

59.3.2.1. Direct supervision of staff (including other staff Specialists, Career Medical Officers and Junior Medical Officers)

59.3.2.2. Allocation of duties

59.3.2.3. Approval of staff rosters

59.3.2.4. Implementation of performance agreements in respect of supervised staff

59.3.2.5. Monitoring of hours worked.

59.3.3. Criterion C. In the assessment of the head of service, significant additional managerial responsibilities involving multiple units, services or departments e.g. the position of Chief Psychiatrist.

59.3.4. Criterion D. A level of managerial responsibility deemed by the head of service to require an allowance e.g. the position of Chief Health Officer.

59.4. The level of allowance is detailed at Annex C. Eligibility is determined in accordance with the following table:

Level of Allowance	Criteria to be Met
Level 1 (Item 5 in Annex C)	A and B
Level 2 (Item 6 in Annex C)	A and B and C
Level 3 (item 7 in Annex C)	A and C and D and may involve B

59.5. The Management allowance is:

59.5.1. not cumulative;

59.5.2. only payable for the period in which the Senior Medical Practitioner has been allocated the additional managerial responsibilities;

59.5.3. payable during paid leave and count as pay for superannuation; and

59.5.4. an allowance in the nature of pay.

59.6. The employer may direct a Senior Medical Practitioner, as a condition of receiving the allowance, to attend training intended to support & improve management skills and competencies.

59.7. Management allowances may be reviewed from time to time to ensure consistency with this clause. Where a review is to be conducted, the employee will be advised in advance and given a reasonable opportunity to contribute to the review. Where the review determines that a management allowance should be reduced or removed, the change will take effect from the determination date. If the employee moves from the position for which the allowance was originally determined, payment of the allowance will cease immediately.

60. Capital Region Retrieval Service Allowance – Specialists and Senior Specialists

60.1. Remuneration arrangements for Specialists or Senior Specialists directed by the head of service to undertake clinical direction and supervision on the Capital Region Retrieval Service (CRRS) will be developed and introduced during the life of the Determination to take account of operational and legislative changes. In the interim, existing arrangements provided under ARIn(s) will remain in force.

60.2. Any new arrangements will initially be implemented administratively and incorporated in the next enterprise agreement.

61. Mobile Phone Expense Allowance

61.1. The head of service may approve payment to a Medical Officer or Senior Medical Practitioner of an allowance towards meeting the costs of a private mobile phone to be used for work purposes.

61.2. Only those employees who are eligible for and receiving payment of an on-call allowance are eligible for this allowance.

61.3. The allowance is not available to employees who are provided with a mobile phone by the Directorate.

61.4. Eligible employees will be paid an allowance of $36.80 per fortnight.

61.5. The rate of allowance will be reviewed on an annual basis.

61.6. This allowance is an expense-related allowance.

62. Motor Vehicle Allowance

62.1. The head of service may authorise an employee to use a motor vehicle they own or hire:

62.1.1. For official purposes, where the head of service is satisfied this use would:

62.1.1.1. result in greater efficiency; or

62.1.1.2. involve the ACT Government in less expense than if public transport or a vehicle owned by the ACT Government were used.

62.1.2. For specified journeys, where the head of service is satisfied that:

62.1.2.1. the use will not result in the employee taking more time on the journey than they would otherwise take; or

62.1.2.2. it would not be contrary to the interest of the ACT Government.

62.1.3. Travel between normal headquarters and a temporary work station, or between the employee's home and a temporary work station, where the head of service is satisfied that:

62.1.3.1. there is no public transport available for travel to the temporary station; or

62.1.3.2. although public transport is available, the work program makes its use impossible.

62.2. If an employee uses a motor vehicle in accordance with this clause they are entitled to be paid an allowance as set out in Item 9 of Annex C for each kilometre travelled.

62.3. If an employee satisfies the relevant head of service that the allowance is insufficient to meet the amount of the expenses reasonably incurred and paid by the employee in using a motor vehicle for official purposes, the head of service may grant an additional allowance equal to the amount by which those expenses exceed the amount of the allowance or allowances.

62.4. If, as a consequence of using a motor vehicle an employee is required to pay a higher insurance premium than would otherwise be the case, they are entitled to be reimbursed the additional cost.

62.5. Employees who use a private motor vehicle under the motor vehicle allowance conditions may be reimbursed parking fees, bridge and car-ferry tolls incurred whilst on duty, but not fines.

62.6. This allowance is not payable during any type of paid or unpaid leave.

63. Health and Wellbeing Payment

Purpose

63.1. In recognition of the benefits of maintaining a healthy and productive workforce, employees who undertake, in their own time, health promotion activities are entitled to a health and wellbeing reimbursement payment.

Entitlement

63.2. Having considered the requirements of this clause, the head of service may approve a reimbursement payment not exceeding $100 per annum.

63.3. The payment will be on a reimbursement basis subject to an original tax invoice being provided and only one claim may be made in a Fringe Benefit year (1 April to 31 March). The health promotion activity must have been purchased in the same Fringe Benefit year of the claim being made.

63.4. In order for the employee to be reimbursed costs, a completed application form and valid tax invoice(s) must be provided as proof of purchase and must clearly display the item(s) and cost of the item to support the claim.

Eligibility

63.5. Permanent and temporary employees are eligible to claim the health and wellbeing reimbursement payment where the employee has completed at least 6 months continuous service and the tax invoice is dated during employment with the ACTPS. Casual employees are not eligible for this payment.

Approved Activities

63.6. An approved health and wellbeing activity is an activity, including a preventative activity or therapy, which is generally accepted as improving health, fitness and/or wellbeing.

63.7. The total amount that can be claimed will depend on the Fringe Benefit Tax (FBT) relating to the approved activity. All activities to be claimed must fall within the same category. The categories are specified in the application process.

63.8. Where the head of service approved a reimbursement payment in accordance with clause 63.2 the total reimbursed amount will be included in with the employees fortnightly pay and will not be subject to tax.

64. DONATE LIFE

64.1. Specialists or Senior Specialists working in the Donate Life program will be remunerated proportionately to the requirements of the role undertaken in the program and within the limit of funding provided to the ACT Government from the Australian Government Organ and Tissue Authority for that role.

64.2. The requirements for the role undertaken by each Specialist or Senior Specialist and the amount of remuneration will be detailed in an individual Donate Life Project ARIn, which will remain in force in accordance with the terms of the ARIn.

64.3. The requirements of the role undertaken by a Specialist or Senior Specialist working in the Donate Life program must also be included in individual performance agreements.

65. ALLOWANCES ON LEAVE

65.1. Unless the contrary intention is specifically provided, an allowance payable on leave is also payable on payments in lieu of leave for credits of the same leave type in accordance with the FW Act.

65.2. Note, this includes the ‘cash out’ of leave credits where available under this Determination, and the payment of leave credits on separation from the ACTPS.

66. ALLOWANCES ARISING OUT OF EMPLOYEE MOBILITY OCCASIONED BY EXCEPTIONAL CIRCUMSTANCES

66.1. In circumstances where an employee is directed, or requested and agrees, to perform the work of a classification that is different to their substantive classification and that other work attracts allowances which are not applicable to the employee's substantive classification, the head of service may, at their discretion, authorise payment to the employee of an allowance from the other classification that relates to the performance of that other work.

66.2. For the sake of clarity, subclause 66.1does not give rise to an employee having an entitlement to the payment of such other allowance. Rather, the purpose of subclause 66.1 is to provide a mechanism for the payment of an allowance in extenuating circumstances where the head of service considers it is warranted.

Section I – Relocation Support

67. Relocation Subsidy Reimbursement

67.1. The purpose of this reimbursement is to provide financial assistance to employees recruited from interstate or overseas who are engaged on a permanent or long-term temporary basis.

67.2. The head of service will inform new employees of the relevant ceiling limit prior to the new employee's relocation.

67.3. Valid receipts must be provided in support of any claim for reimbursement.

67.4. For the purpose of this clause, dependant does not require actual financial dependency and includes members of the new employee's immediate household including a domestic partner, parent, parent of a domestic partner, brother, sister, guardian, foster parent, step-parent, step-brother, step-sister, half-brother, half-sister, child, foster child or step-child residing with the employee at the time the offer is made.

67.5. The head of service may approve payment in excess of the approved amount or ceiling in exceptional circumstances.

Specialists and Senior Specialists

67.6. If a person relocates because of an appointment as a Specialist or Senior Specialist, relocation allowance is available in accordance with Determinations issued from time to time by the ACT Remuneration tribunal in relation to Executives in the ACT Public Service.

67.7. The allowance is not available for short-term temporary engagements, or to existing ACTPS staff who are promoted to this level.

67.8. In the event that a Specialist or Senior Specialist terminates their employment with the Directorate within twenty-four months of the date of engagement and does not commence employment with another ACTPS Directorate within one month, they may be required by the head of service to repay:

67.8.1. in the case the Specialist or Senior Specialist terminates employment within twelve months from the date of appointment – 100% of the relocation payment; or

67.8.2. in the case the Specialist or Senior Specialist terminates employment more than twelve months and less than twenty-four months from the date of appointment – 50% of the relocation payment.

Career Medical Officers

67.9. The section applies to employees recruited from interstate or overseas who are engaged on a permanent basis in positions classified as Career Medical Officers. It has no application to staff employed in any other classification.

67.10. The head of service may approve a reimbursement payment to a new employee as the head of service considers is reasonable in the new employee's circumstances. The relevant pre-determined ceiling is set out in the following table:

Single with no dependants	$12,000
Additional payment per dependant (first six dependants)	$ 2,000
Additional payment per dependant (seventh and further dependants).	$ 1,750

67.11. In order for a new employee to be reimbursed costs, valid receipts must be provided.

67.12. In the event that the employee terminates their employment with the Directorate within eighteen months of the date of engagement and does not commence employment with another ACTPS Directorate within one month, the employee may be required by the head of service to repay one of the following:

67.12.1. in the case the employee terminates employment within twelve months from the date of appointment – 100% of the relocation reimbursement;

67.12.2. in the case the employee terminates employment more than twelve months and less than twenty-four months from the date of appointment – 50% of the relocation reimbursement.

67.13. Junior Medical Officers and Post Graduate Fellows, Interns, Resident Medical Officers, Junior Registrars, Senior Resident Medical Officers, Registrars, Senior Registrars and Postgraduate Fellows who have had to relocate to work in the ACT are eligible to apply for reimbursement in accordance with the Relocation Subsidy Reimbursement Guideline - Junior Medical Officers. All applications will be reviewed on an individual basis.

67.14. Staff on secondment from other jurisdictions are not eligible for payment under this clause.

67.15. If the employee terminates their employment with the Directorate prior to the end of their initial contract, the employee may be required by the head of service to repay:

67.15.1. In the case the employee terminates employment within six months from the date of appointment – 100% of the relocation payment; or

67.15.2. In the case the employee terminates employment more than six months but less than 12 months from the date of appointment – 50% of the relocation payment.

68. SHORT TERM SECONDMENT

68.1. JMOs who are required to relocate in order to undertake a short term secondment/rotation to a medical facility outside of the ACT will be eligible for the following assistance, which will be provided by the secondment facility:

68.1.1. Provision of accommodation at the secondment location;

68.1.2. Reimbursement of the reasonable cost of travel from the ACT to the location of the medical facility at the commencement of the secondment/rotation;

68.1.3. Reimbursement of the reasonable cost of return travel to the ACT at the conclusion of the secondment/rotation;

68.1.4. Reimbursement of the reasonable cost of a single return journey to the ACT during the course of the secondment/rotation.

68.2. For the duration of the secondment/rotation, the JMO shall be eligible to be paid an allowance of 10% of their base pay (pro-rata for part-time employees) for the duration of the secondment/rotation. This allowance will be treated as salary for all purposes and will continue to be paid in the event that the JMO is required to take Leave Without Pay from the ACTPS in order to undertake the secondment/rotation.

68.3. The Directorate will only allow secondments to occur where these provisions are provided.

68.4. During the secondment, the JMO will remain an employee of the Territory.

PART 4: WORK AND LIFE BALANCE

Section J – Flexible Working Arrangements and Employee Support

69. Work-Life Balance

69.1. The ACTPS is committed to providing flexible working arrangements which allow employees to manage their work and personal commitments. This must be balanced against the operational requirements for the ACTPS to deliver services to the Canberra community.

69.2. The ACTPS recognises the need to provide sufficient support and flexibility at the workplace to assist employees in achieving work and life balance and to meet their caring responsibilities. While family friendly initiatives are important aspects of work and life balance, it is also important that all employees, at all stages in their working lives, are supported through this Determination.

70. Request for Flexible Working Arrangements

70.1. An employee may, apply to the head of service for a flexible working arrangement to support their work and life balance. The head of service must give the employee a written response to the request within twenty-one calendar days of receiving the request, stating whether the request is approved and the reasons if the request is refused.

70.2. An employee may request flexible working arrangements, in accordance with the FW Act, in any of the following circumstances relating to the employee:

70.2.1. They seek working arrangements to suit their personal circumstances;

70.2.2. The employee has a parental or other caring responsibility for a child of school age or younger;

70.2.3. They have a caring responsibility for an individual with a disability, a terminal or chronic medical condition, mental illness or is frail and aged;

70.2.4. They have a disability;

70.2.5. They are over the age of 55;

70.2.6. They are experiencing family violence;

70.2.7. They are providing personal care, support and assistance to a member of their immediate family or household because they are experiencing family violence.

70.2.8. They are pregnant.

70.3. Nothing in this clause diminishes any provisions expressed elsewhere in this Determination, where those entitlements are entitlements in their own right.

70.4. To assist employees in balancing work and personal commitments, flexible working arrangements are provided throughout this Determination. Examples of these flexible working and leave arrangements include, but are not limited to:

70.4.1. Flexible starting and finishing times;

70.4.2. Ability to take a few hours off work, and make it up later;

70.4.3. Home based work on a short term or long term basis;

70.4.4. Part-time work;

70.4.5. Job sharing;

70.4.6. Purchased leave;

70.4.7. Annual leave;

70.4.8. Long service leave;

70.4.9. Leave without pay;

70.4.10. Leave not provided for elsewhere.

70.5. The flexible working arrangement must be recorded in writing and run for a specified duration of up to three years. At the end of the flexible working arrangement's period of operation, unless a new flexible working arrangement is entered into, the default is that the employee returns to their nominal status.

70.6. Approved flexible working arrangements may be reviewed annually at which time the circumstances under which the flexible working arrangements were originally granted will be examined and reassessed.

70.7. Employees that have an existing flexible working arrangement at the commencement of this Determination must have that arrangement reviewed within 12 months of commencement of this Determination.

70.8. The head of service may only deny an employee's request for flexible working arrangements or a variation to existing flexible working arrangements where there are reasonable business grounds for doing so.

70.9. Reasonable business grounds to deny a request include any of the following:

70.9.1. the new working arrangements requested by the employee would be too costly to implement, or would likely result in a significant loss in efficiency or productivity, or would likely have a significant negative impact on service;

70.9.2. there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested by the employee;

70.9.3. it would be impractical to change the working arrangements of other employees or recruit new employees to accommodate the new working arrangements requested by the employee;

70.9.4. it would be a genuine risk to the health and safety of an employee (s);

70.9.5. demonstrable exceptional circumstances have arisen that mean the request cannot be approved.

70.10. The head of service must inform the employee in writing of the decision to refuse the flexible working arrangement and the response must include all the following:

70.10.1. Details of the reasons for the refusal.

70.10.2. The reasonable business grounds for refusing the request.

70.10.3. How the reasonable business grounds apply to the request.

70.10.4. One of the following:

70.10.4.1. Provide alternative proposals for changes in the employee's working arrangements that would accommodate, to any extent, the employee's circumstances.

70.10.4.2. State that there are no alternative changes available that would accommodate, to any extent, the employee's circumstances.

70.10.5. The dispute mechanisms available under subclause 135 and the ability to refer the dispute to the FWC for resolution.

70.11. Approved flexible working arrangements may be reviewed annually, or earlier where the employee's relevant circumstances have changed or where there are reasonable business grounds that require a review to be undertaken. During this review the circumstances under which the flexible working arrangements were originally granted will be examined and reassessed.

70.12. The intent of locking in a flexible working arrangement for a period of up to 3 years is to provide certainty to both the employee and manager concerned. A flexible working arrangement may be revoked by either the employee or manager:

70.12.1. at the annual review; or

70.12.2. in exceptional circumstances between annual reviews.

70.13. 3 months notice must be given to amend or cease the flexible working arrangement, unless a lesser period is agreed by both parties or where there are extenuating circumstances.

70.14. Reasonable grounds to amend or revoke a flexible working arrangement may include but are not limited to the following:

70.14.1. Employee's role has changed significantly and the current flexible arrangement is no longer suitable.

70.14.2. There is the increased risk of injury or illness or where there are other work health and safety concerns.

70.14.3. History of underperformance as documented in an underperformance plan or behaviour concerns.

70.15. Revoking a flexible work arrangement should not be considered until after efforts to amend arrangements have been attempted.

70.16. Employees that have an existing flexible working arrangement at the commencement of this Determination must have that arrangement reviewed within 12 months of commencement of this Determination. Note: Other than as provided for in this clause, subclauses 23.14 to 23.20 apply to Senior Specialists seeking to complete their normal duties over not less than four days per week.

71. Management of Working Hours

71.1. The ACTPS recognises the importance of employees balancing work and personal life. The appropriate balance is a critical element in developing and maintaining healthy and productive workplaces. While it is acknowledged that peak workload periods may necessitate some extra hours being worked by some employees, this should be regarded as the exception rather than the rule. For Senior Medical Practitioners, this clause should be read in conjunction with clauses 43, 44 and 46.

71.2. Managers, supervisors and employees have a responsibility to minimise the extent to which excessive hours are worked. In the circumstances where work pressures result in the employee being required to work, or is likely to work, excessive hours over a significant period, the manager, supervisor and employee

together must review workloads and priorities and determine appropriate strategies to address the situation.

71.3. Complying with clause 71.2 requires the manager or supervisor to consider and implement one or more of the following strategies to reduce the amount of excessive hours being accumulated:

71.3.1. Review of workloads and priorities.

71.3.2. Re-allocation of resources.

71.3.3. Consideration of appropriate arrangements for time off in lieu or other recompense.

71.3.4. Review of staffing levels and/or classifications within the work group.

71.4. The head of service will consult with the Directorate Consultative Committee about the development and implementation of appropriate strategies to deal with issues associated with both paid and unpaid overtime, as well as strategies for ensuring compliance with obligations around rights to disconnect.

72. REGULAR PART-TIME EMPLOYMENT

72.1. A person may be employed in any classification as a part-time officer for an agreed number of regular hours that is less than the ordinary weekly hours specified in this Determination for that relevant classification over a four-week period.

72.2. Proposals to reduce hours below full-time employment may be initiated by the head of service for operational reasons. An employee who wishes to work part-time may apply for a flexible working arrangement in accordance with subclause 70.1.

72.3. The head of service must obtain the written agreement of a full-time officer before the officer converts to part-time.

72.4. No pressure is to be exerted on full-time officers to convert to part-time employment or to transfer to another position to make way for part-time employment.

72.5. The agreed period, pattern of hours and days and commencement and cessation times for part-time work must be agreed between the officer and the officer's manager or supervisor and recorded in writing.

Variation to Part-time Hours

72.6. Proposals to vary a part-time employment arrangement may be initiated by the head of service for operational reasons or by an officer for personal reasons.

72.7. Where an officer initiates a proposal the head of service will have regard to the personal reasons put by the officer in support of the proposal and to the Directorate's operational requirements.

72.8. The head of service will obtain the written agreement to the officer before the officer's hours are varied.

72.9. No pressure will be exerted on an officer to vary the officer's hours of employment or to transfer to another position to make way for part-time employment.

72.10. The agreed period, pattern of hours and days and commencement and cessation times for part-time work will be agreed between the officer and the officer's manager/supervisor and recorded in writing.

73. Job Sharing

73.1. In this clause employee refers to employees other than casual employees.

73.2. Job sharing arrangements may be introduced by agreement between the head of service and the employee involved, subject to operational requirements. Employees working under job sharing arrangements share one job and are considered to be part-time with each working part-time on a regular, continuing basis.

73.3. An employee must request in writing permission to work in a job sharing arrangement. The head of service must agree to reasonable requests for regular job sharing arrangements, subject to operational requirements.

73.4. The pattern of hours for the job sharing arrangement must be agreed between the employee and the head of service. However, any single attendance at the office-based worksite must be for no less than three consecutive hours.

73.5. The employee who is in a job sharing arrangement and who was previously working full-time may revert to full-time employment before the expiry of the agreed period of job sharing if all parties to the arrangement agree.

73.6. In the event that either employee ceases to participate in the job sharing arrangement, the arrangement must be terminated.

74. Part-time Employment Following Birth Leave, Primary Caregiver Leave, Adoption or Permanent Care Leave or Parental Leave

74.1. Subject to this clause, the head of service must approve an application by an officer employed on a full-time basis who returns to work after accessing birth leave, primary caregiver leave, adoption or permanent care leave or parental leave, to work on a part-time basis up until the date which is three years from the birth or adoption of the child, or the granting of parental responsibility for a foster child.

74.2. If the head of service deems that an application by an officer to access part-time work under this clause can only be accommodated if the officer agrees to become unattached, then the application must only be approved if the officer so agrees.

74.3. The maximum aggregate period of part-time employment that may be approved for an officer under subclause 74.1 is seven years.

74.4. Either the officer who accesses Primary Care Giver Leave under clause 95, or adoption and permanent care leave under clause 99, or the employee who is entitled to and accesses birth leave under clause 93 is entitled to access part-time employment as provided in subclause 74.1.

74.5. The agreed period, pattern of hours and days and commencement and cessation times for part-time work will be agreed between the officer and the officer's manager or supervisor and recorded in writing.

75. Home Based Work

75.1. The diverse nature of work conducted in the ACTPS lends itself to a range of working environments.

75.2. Home-based work, on a regular basis, is a voluntary arrangement that requires the agreement of both the head of service and the employee. The head of service must consider requests by employees for home-based work, having regard to operational requirements and the suitability of the work.

75.3. In determining appropriate home-based work arrangements, the head of service and the employee must consider the following range of matters:

75.3.1. appropriate and effective communication with office based employees;

75.3.2. the need to ensure adequate interaction with colleagues;

75.3.3. the nature of the job and operational requirements;

75.3.4. privacy and security considerations;

75.3.5. health and safety considerations;

75.3.6. the effect on clients;

75.3.7. adequate performance monitoring and arrangements.

75.4. Home-based work arrangements may be terminated by the head of service on the basis of operational requirements, inefficiency of the arrangements, or failure of the employee to comply with the arrangements.

75.5. An employee may terminate home-based work arrangements at any time by giving reasonable notice to the head of service.

75.6. There may also be occasions where it is appropriate for an employee to work from home on an ad hoc basis. In these circumstances, arrangements to work from home are to be negotiated on a case-by-case basis between the employee and the supervisor or manager.

75.7. The ACTPS must provide home computing facilities where an employee and the employee's supervisor/manager agree there is a need for such facilities. Provision of equipment by the ACTPS will be subject to workplace health and safety requirements and to an assessment of technical needs by the supervisor/manager.

Section K – Employee Support

76. Employee Assistance Program

76.1. As a benefit to employees, the ACTPS must provide employees and employees' immediate families with access to an independent, confidential and professional counselling service at no cost to the employee.

77. Scheduling of Meetings

77.1. To assist employees to meet their personal responsibilities, where possible, all meetings in the Directorate are to be scheduled at times that take into account those responsibilities.

78. Vacation Childcare Subsidy

78.1. This clause applies to an employee (other than a casual employee or a temporary employee who has been engaged by the ACTPS for a period of less than twelve months) with school aged children who makes a timely application, with regard to work and rostering arrangements applying in their particular business unit, based on their accrued annual leave, purchased leave or long service leave during school holidays that is rejected. The head of service must make a payment to the employee of $52.00 per day towards the cost of each school child enrolled in an accredited school holiday program to the employee for each calendar year based subject toon all the following conditions::

78.1.1. the maximum payable per child over a five day period is $260.

78.1.2. the maximum payable days per child per year is ten;

78.1.3. the maximum number of children the benefit is payable for is three;

78.1.4. payment will not be made without the production of a receipt.

78.2. An accredited school holiday program is a program approved, subsidised or approved and subsidised by a State, Territory, or Local Government.

78.3. The payment applies only on the days when the employee is at work.

78.4. The payment will be made regardless of the length of time the child is in the program each day, but it cannot exceed the actual cost incurred.

78.5. An employee whose domestic partner receives a similar benefit from the partner's employer is not eligible for the payment.

79. Family Care Costs

79.1. Where an employee is directed to work outside the employee's regular pattern of work, the head of service must authorise reimbursement to the employee by receipt for some or all of the costs of additional family care arrangements.

80. Nursing Employees

80.1. The ACTPS is committed to supporting employees who are breastfeeding or expressing milk for a baby or young child (nursing employees).

80.2. Nursing employees must be provided with the facilities and support necessary to enable such employees to combine a continuation of such nursing activity with the employee's employment.

80.3. Where practicable the work area must establish and maintain a suitable private room for nursing employees. Where there is no room available another appropriate space may be used.

80.4. Up to one hour, per day or shift, paid lactation breaks that are non-cumulative must be available for nursing employees.

81. Transfer of Medically Unfit Staff

81.1. This clause does not apply to casual employees.

81.2. A medically unfit employee is an employee who is considered by the head of service to be an employee who is unable to perform duties appropriate to the employee's role because of physical or mental incapacity following recommendation by an authorised doctor as defined under the PSM Act.

81.3. Despite the provision of subsection 27 of the PSM Act, a medically unfit employee may, by agreement with the employee, be transferred to any position within the employee's current skill level and experience, at either their substantive classification or equivalent classification. If the employee moves into an alternative classification stream, they may only be transferred to a classification that has a maximum salary which does not vary from the top increment of the emplpyee's substantive classification by more than 10%, and penalties and allowances attached to the substantitve position will not be taken into consideration in this calculation. Penalties and allowances may only continue to be paid where applicable in the new position. For clarity this allows transfer between alternate classification streams, but does not allow for the transfer of an officer within the same classification stream e.g. a SOGB transfer to a SOGA.

81.4. An employee must not be redeployed in accordance with subclause 81.3 unless there is no suitable vacant position at the employee's substantive classification within their Directorate.

82. Transfer to a Safe Job During Pregnancy

Purpose

82.1. This clause provides arrangements to enable a pregnant employee to have their duties modified or to be transferred to an appropriate safe job during their pregnancy or enable them to be absent from their workplace if an appropriate safe job is not available.

Eligibility

82.2. In accordance with the National Employment Standards of the FW Act (NES), this clause applies to a pregnant employee when they do both of the following:

82.2.1. give notice that they will be applying for birth leave;

82.2.2. provide evidence from a registered health professional or registered medical professional to the head of service that they are fit for work but that it is inadvisable to continue with some or all of their duties in their present position during a stated period because of illness or risks arising out of the pregnancy or hazards connected with that position.

82.3. In these circumstances, the employee is entitled to have their duties modified or to be transferred to an appropriate safe job for the stated period with no detriment to their current terms and conditions of employment.

Paid Absence for 'No Safe Job' Purposes

82.4. If the head of service determines that an appropriate safe job is not available, and when the employee has completed twelve months of continuous service, the employee is entitled to take paid absence for 'no safe job' purposes for the stated period at a rate of payment that is the same rate as would be paid if the employee was granted personal leave. This period of paid absence counts as service for all purposes.

82.5. If the head of service determines that an appropriate safe job is not available, and the employee has not completed twelve months of continuous service, the employee is entitled to take unpaid absence for 'no safe job' purposes. This period of absence does not count as service for any purposes but does not break continuity of service.

82.6. The employee's entitlements under this clause cease when the employee's pregnancy ends before the end of the stated period.

Section L – Leave

83. Part Time Employees

83.1. Part time employees are credited and debited leave on a pro-rata basis.

84. Non-approval of Leave

84.1. Where a request is not approved the head of service must, if so requested in writing by the employee, provide the reasons for that decision to the employee in writing. Where a request is not approved the head of service will consult with the employee to determine mutually convenient alternative arrangements.

85. Unattachment of Medical Staff on Leave Without Pay for Over Twelve Months

85.1. Permanent medical staff who are granted leave without pay for longer than 12 calendar months for any purpose (excepting birth leave under 93.3), shall become unattached officers.

86. Personal Leave

Purpose

86.1. Personal leave is available to employees to enable them to be absent from duty in any of the following circumstances:

86.1.1. the employee is unfit for work because of a personal illness, or personal injury;

86.1.2. the employee must provide care or support to a member of the employee's immediate family, or a member of the employee's household who is in either of the following circumstances:

86.1.2.1. they are ill or injured;

86.1.2.2. they are affected by an unexpected emergency;

86.1.3. The employee is attending a medical appointment for themself, or a member of their immediate family or household, with a registered health professional who is operating within their scope of practice.

86.1.4. there are special, extraordinary or unforeseen circumstances in accordance with clause 87.

Eligibility

86.2. Personal leave is available to employees other than casual employees.

Entitlement

86.3. An employee may be granted personal leave up to their available credit from the first day of service.

86.4. Personal leave is cumulative and there is no cap on the personal leave balance an employee may accrue.

86.5. If a person is retired from the Service on grounds of invalidity and is re-appointed as a result of action taken under the *Superannuation Act 1976* or the *Superannuation Act 1990*, they are entitled to be re-credited with unused personal leave credit held prior to the invalidity retirement.

86.6. Personal leave will not accrue during a period of unauthorised absence or a period of leave without pay that does not count for service.

86.7. A part-time officer or part-time temporary employee will accrue personal leave calculated on a pro-rata basis.

Interim Arrangements Until Daily Accrual is Implemented

86.8. Except for a short-term temporary employee and an employee to whom subclause 86.9 applies, an employee's personal leave balance will be credited with an equivalent of 3.6 weeks of personal leave on the day they commence with the Territory.

86.9. On engagement under the PSM Act, employees who have prior service recognised for personal leave purposes will be credited with any personal leave balance accrued with the previous employer. On the employee's normal accrual date, the employee will then receive personal leave in accordance with subclause 86.10. Where the employee's personal leave prior to engagement with the ACTPS was accrued on a progressive basis, rather than credited prospectively, the employee will also be credited with an amount of personal leave which is the difference between 3.6 weeks and any personal leave already accrued with the previous employer for their current accrual year.

Note: For the purposes of this clause 'normal accrual date' means the accrual date with the previous employer as recognised as part of the prior service.

86.10. An additional credit of 3.6 weeks personal leave will be made on the anniversary of the employee's commencement during each year of service.

86.11. The accrual date for personal leave will be deferred by one day for every calendar day of unauthorised absence or leave without pay that does not count for service.

Short-term Temporary Employees

86.12. A short term temporary employee will be credited with 0.2 weeks of personal leave on commencement and a further 0.8 weeks of personal leave after four weeks continuous service. Thereafter the employee will be credited with 0.2 weeks of personal leave for each subsequent four weeks of continuous service up to a maximum of two weeks in the employee's first twelve months of service.

86.13. After twelve months continuous service short-term temporary employees will receive 5.2 weeks of personal leave with pay. For every subsequent twelve months of service, short-term temporary employees will receive personal leave in accordance with subclause 86.10.

86.14. A short-term temporary employee subsequently appointed under the PSM Act prior to completing twelve months service will have their personal leave balance brought up to the equivalent of 3.6 weeks, less any personal leave with pay granted under subclause 86.3. For subsequent accruals that short-term temporary employee will receive personal leave on the same basis as an officer on the anniversary of the commencement of their employment.

Daily Accrual Implementation

86.15. Personal leave will move to daily accrual from commencement of this Determination.

86.16. An employee's personal leave credit accrues daily according to the following formula:

Total hours of leave accrued per day = (A x B x D) / C, where:

A = number of ordinary hours per week worked.

B = one where the day counts as service or zero where the day does not count as service or is an unauthorised absence.

C = number of calendar days in the year.

D = number of weeks of personal leave an employee is entitled to a year.

86.17. For the purpose of subclause 86.16 the basic leave entitlement is one of the following:

86.17.1. In the case of 36.75 hour workers, 132.3 hours leave (3.6 weeks) for each full year worked.

86.17.2. In the case of 38 hour workers, 136.8 hours leave (3.6 weeks) for each full year worked.

86.18. Except for a short-term temporary employee and an employee to whom subclause 86.19 applies, an employee's personal leave balance will be credited with an equivalent of 3.6 weeks of personal leave on the day they commence with the Territory.

86.19. On engagement under the PSM Act, employees who have prior service recognised for personal leave purposes will be credited with any personal leave balance accrued with the previous employer.

86.20. For permanent and long-term temporary employees, if the personal leave balance brought over from the previous employer, in accordance with subclause 86.19, is less than 3.6 weeks, the employee will be credited with the difference between 3.6 weeks and the balance brought over.

86.21. For short-term temporary employees, if the personal leave balance brought over from the previous employer, in accordance with subclause 86.19, is less than 1.8 weeks, the employee will be credited with the difference between 1.8 weeks and the balance brought over.

Short-term temporary employees

86.22. A short-term temporary employee will be credited with 1.8 weeks of personal leave on commencement. On each day of service thereafter, the employee will receive a credit based on the formula in subclause 86.16.

86.23. After 12 months continuous service short-term temporary employees will receive 1.8 weeks of personal leave with pay.

86.24. A short-term temporary employee subsequently appointed under the PSM Act within 12 months of commencement will be credited with an additional 1.8 weeks of personal leave.

Transition period for daily accrual implementation

86.25. Current employees will transition from annual accrual to daily accrual of personal leave on the next accrual date for each employee within the transition year. On this date, and each day of service thereafter, the employee will receive a credit based on the formula in subclause 86.16.

86.26. Current employees will be credited with an equivalent of 3.6 weeks of personal leave on their accrual date in the transition year. On this date, and each day of service thereafter, the employee will receive a credit based on the formula in subclause 86.16.

When Personal Leave Credits Have Been Exhausted

86.27. The head of service may, for any reasons including where personal leave credits have been exhausted, and subject to the production of documentary evidence, grant an employee a period of unpaid personal leave for personal illness or injury or for the care or support of a member of the employee's immediate family or household who is ill or injured or affected by an unexpected emergency. This is in addition to the entitlement to unpaid carer's leave that employees have under the National Employment Standards.

Note: In such circumstances, alternative arrangements are also provided for at subclause 86.59.

86.28. Despite subclause 86.27, the head of service may allow an employee, when the employee provides documentary evidence that the employee has a personal illness or injury, or needs to provide care or support to a member of the employee's immediate family or household, to anticipate up to a maximum of 1 week paid personal leave accrual where all full pay personal leave credits are exhausted.

86.29. Any personal leave debits that an employee has at the time they cease employment with the ACTPS will be treated as a debt in accordance with clause 52. The debt will be recovered from any termination payment owing to the employee, except in the case of death.

86.30. Temporary employees may be granted up to an aggregate of twenty days without pay in the first twelve months.

86.31. The head of service may, in exceptional circumstances and subject to the production of documentary evidence, grant an employee an additional period of paid personal leave for personal illness or injury, or for the employee to provide care or support to a member of the employee's immediate family who is ill or injured. This leave may be at either full or half pay. Such leave will not be granted if the absence is due to a condition for which the employee is receiving compensation under the Safety, Rehabilitation and Compensation Act 1988.

Other Provisions

86.32. An employee in receipt of workers compensation for more than forty five weeks will accrue personal leave on the basis of hours actually worked.

86.33. Unused personal leave credit will not be paid out on cessation of employment.

Evidence and Conditions

86.34. An employee must give notice of the intention to take personal leave. The notice must be provided to their manager or supervisor, as soon as practicable, (which in the case of personal illness or injury may be a time immediately after the leave has commenced) and must advised the duration, or expected duration, of the leave.

86.35. The head of service may grant personal leave if they are satisfied there is sufficient cause, having considered any requested or required documentary evidence.

86.36. An employee must provide requested or required documentary evidence in a timely manner. To unduly withhold the provision of documentary evidence may result in the personal leave application not being approved for payment.

86.37. The head of service must accept either of the following types of documentary evidence as proof of personal illness or injury or the need to care for or support a member of the employee's immediate family or household who is ill or injured or who is affected by an unexpected emergency:

86.37.1. a certificate from a registered medical practitioner or registered health professional who is operating within their scope of practice;

86.37.2. a statutory declaration made by the employee if it is not reasonably practicable for the employee to give the head of service a certificate.

86.38. Unless otherwise approved by the head of service, an employee may only access a maximum of three consecutive days of paid personal leave on each occasion up to an accumulated maximum of seven days in any accrual year, without providing documentary evidence. Absences for personal leave without documentary evidence in excess of three consecutive days, or seven days in any accrual year is without pay.

86.39. Up until daily accrual implementation subclause 86.38 will apply. Following daily accrual implementation the maximum days without a certificate will reset on the next accrual/transition date for the employee and apply for the remaining part of the calendar year. From 1 January 2025, unless otherwise approved by the head of service, an employee may only access a maximum of 3 consecutive days of paid personal leave on each occasion up to an accumulated maximum of 7 days without providing documentary evidence. This will continue to reset on 1 January each year. Absences for personal leave without documentary evidence in excess of 3 consecutive days, or 7 days in any calendar year is without pay.

86.40. Notwithstanding subclause 86.38 the head of service may, with reasonable cause, request the employee to provide a medical certificate from a registered medical practitioner or registered health professional operating within their scope of practice or a statutory declaration for any absence from duty on personal leave at the time of notification of the absence.

86.41. Any personal leave without pay that goes beyond a maximum continuous period of combined paid and unpaid personal leave of 78 weeks does not count as service for any purpose.

86.42. For clarity, any other form of leave taken in lieu of unpaid personal leave that is intended to cover illness or injury will be considered as personal leave for the purpose of subclause 86.41.

86.43. The head of service must approve an application for up to five days of personal leave for the purpose of bonding leave in accordance with clause 96.

86.44. The head of service may refer an employee for a medical examination by a nominated registered medical practitioner or registered health professional, or nominated panel of registered medical practitioners or registered health professionals at any time for any of the following reasons:

86.44.1. the head of service is concerned about the wellbeing of an employee and considers that the health of the employee is affecting, or has a reasonable expectation that it may affect, the employee's ability to adequately perform their duties;

86.44.2. the head of service considers that documentary evidence supplied in support of an absence due to personal illness or injury is inadequate;

86.44.3. the employee has been absent on account of illness for a total of thirteen weeks in any twenty six week period.

86.45. The head of service may require the employee to take personal leave after considering the results of a medical examination requested by the head of service.

Rate of Payment

86.46. Personal leave is granted with pay except where it is granted without pay under subclauses 86.27, 86.30 or 86.38.

86.47. Subject to the approval of the head of service, an employee may request to use personal leave at half pay for absences of at least one week. Such absences will be deducted from the employee's accrued credits at a rate of 50% of the period of absence.

86.48. Any personal leave taken must be deducted from the employee's credit.

Effect on Other Entitlements

86.49. Personal leave with pay counts as service for all purposes.

86.50. Personal leave without pay, other than provided for at subclause 86.41 counts as service for all purposes.

86.51. Where an employee is absent on paid personal leave and a public holiday for which the employee is entitled to be paid falls within that period of absence both the following apply:

86.51.1. the employee will be paid as a normal public holiday for that day;

86.51.2. the public holiday will not be deducted from the employee's personal leave credits.

86.52. Where the personal leave under subclause 86.51 is without pay both sides of a public holiday or Christmas shutdown period, the public holiday, or the Christmas shutdown period, will also be without pay.

86.53. While personal leave is not deducted over the Christmas shutdown period, the Christmas shutdown does not break continuity of the period of absence in relation to the maximum period(s) of leave under subclause 86.41.

Interaction with Other Leave Types

86.54. This clause applies to an employee who suffers personal illness or injury, or provides care or support for a member of the employee's immediate family or household who is ill or injured or who is experiencing an unexpected emergency, for one day or longer while the employee is on one of the following types of leave:

86.54.1. annual leave;

86.54.2. purchased leave;

86.54.3. long service leave;

86.54.4. unpaid birth leave;

86.54.5. unpaid parental leave;

86.54.6. grandparental leave;

86.54.7. accrued day off.

86.55. If the employee produces a certificate from a registered medical practitioner or a registered health professional operating within their scope of practice, or in the case of an unexpected emergency other satisfactory evidence, the employee may apply for personal leave.

86.56. Where an employee is subsequently granted the personal leave, the other leave must be re-credited for that period of the personal leave that falls within the period of the other leave.

86.57. An employee cannot access paid personal leave while on paid birth leave, or primary care giver's leave, or adoption or permanent care leave, but can apply for personal leave during unpaid birth leave or unpaid parental leave.

86.58. If the employee has exhausted all paid personal leave, personal leave without pay cannot be substituted for unpaid birth leave.

86.59. If an employee exhausts the employee's paid personal leave entitlement and produces documentary evidence, as per subclause 86.37, as evidence of continuing personal illness or injury, or requirement to care or provide support to a member of the employee's immediate family or household, the employee may apply to the head of service for approval to take annual leave or long service leave. If approved, this leave will not break the continuity of the 78 weeks under subclause 86.41.

87. Personal Leave in Special, Extraordinary or Unforeseen Circumstances

87.1. Employees, other than casual employees, are eligible for personal leave in special, extraordinary or unforeseen circumstances.

87.2. Personal leave in special, extraordinary or unforeseen circumstances, is non-cumulative and if granted is deducted from the employee's personal leave balance.

87.3. The head of service may grant a maximum of ten days of personal leave, other than for personal illness or the care of a member of the employee's immediate household who is sick or requires support, in an accrual year, in special, extraordinary, unforeseen or unexpected circumstances and where it is essential that the employee have leave from the workplace. These ten days are in addition to the seven days personal leave without documentary evidence.

87.4. While personal leave in special, extraordinary or unforeseen circumstances does not normally require documentary evidence, the head of service may request reasonable evidence before granting the leave.

87.5. Personal leave in special, extraordinary or unforeseen circumstances must be granted with pay.

88. Infectious Disease Circumstances

88.1. Where an employee is prevented from attending for duty under the *Public Health Act 1997*, the head of service may grant that employee personal leave during that period.

88.2. The employee may also apply for the absence or a part of it to be deducted from their annual leave credit.

89. Annual Leave

Purpose

89.1. Annual leave is available to employees to enable them to be absent from duty for the purposes of rest and recreation.

Eligibility

89.2. Annual leave is available to employees other than casual employees.

Entitlement

89.3. An employee may be granted annual leave up to their available credit from the first day of service.

89.4. Annual leave is cumulative.

89.5. An employee's annual leave credit accrues on a daily basis according to the following formula:

89.5.1. Total hours of leave accrued per day = (A x B x D) / C where:

89.5.2. A = number of ordinary hours per week worked;

89.5.3. B = one where the day counts as service or zero where the day does not count as service or is an unauthorised absence;

89.5.4. C = number of calendar days in the year;

89.5.5. D = number of weeks of annual leave an employee is entitled to a year.

89.6. For the purpose of subclause 89.5 the basic leave entitlement is one of the following:

89.6.1. in the case of 38 hour workers, 152 hours annual leave for each full year worked;

89.6.2. in the case of 40 hour workers, 160 hours annual leave for each full year worked.

89.7. A Medical Officer who is regularly rostered to work on Sunday and works at least ten Sundays in a year is entitled to an additional five days of paid annual leave per year.

89.8. A Medical Officer rostered to work on less than ten Sundays during which annual leave will accrue is entitled to additional annual leave at the rate of one tenth of a working week for each Sunday so rostered, up to a maximum of 5 days per calendar year.

89.9. A Senior Medical Practitioner shall, in addition to their basic leave entitlement, be granted an additional week of paid annual leave accrued on a daily basis.

89.10. If an employee moves from one ACTPS Directorate to another, annual leave accrued with the first Directorate will transfer to the second Directorate.

89.11. An annual leave credit does not accrue to an employee if the employee is absent from duty on leave for specified defence service, or full-time defence service. If the employee resumes duty after a period of specified defence service, annual leave will accrue from the date the employee resumes duty.

89.12. Employees will receive payment on separation from the ACTPS of any unused annual leave entitlement.

Evidence and Conditions

89.13. Employees are encouraged to use their annual leave in the year that it accrues, and to this end should discuss their leave intentions with their manager or supervisor as soon as practicable.

89.14. An employee must make an application to the head of service to access their annual leave entitlement.

89.15. Having considered the requirements of this clause the head of service may approve an employee's application to access annual leave.

89.16. The head of service should approve an employee's application to take annual leave, subject to operational requirements.

89.17. If the head of service does not approve an employee's application for annual leave because of operational requirements, the head of service must consult with the employee to determine a mutually convenient alternative time (or times) for the employee to take the leave.

89.18. The head of service must, unless there are exceptional operational circumstances, approve an application for annual leave if it would enable an employee to reduce their annual leave credit below two and a half years' worth of annual leave credit. However, in the case of exceptional operational circumstances, the head of service must consult with the employee to determine the time (or times) for the annual leave to be taken that is mutually convenient to both the administrative unit and the employee.

89.19. If an employee's annual leave is cancelled without reasonable notice, or an employee is recalled to duty from leave, the employee is entitled to be reimbursed reasonable travel costs and incidental expenses not otherwise recoverable under any insurance or from any other source.

89.20. If the operations of the ACTPS, or part of the ACTPS, are suspended at Christmas or another holiday period, the head of service may direct an employee to take annual leave at a time that is convenient to the working of the ACTPS, whether or not an application for leave has been made. However, this does not affect any other entitlements to leave under this Determination.

89.21. If an employee has the equivalent of two years accrued annual leave credit and unless exceptional operational circumstances exist, the employee and relevant manager or supervisor must agree, and implement an annual leave usage plan to ensure the employee's accrued leave credit will not exceed two and a half years' worth of annual leave credit.

89.22. If an employee does not agree to a reasonable annual leave usage plan the head of service may direct an employee who has accrued two and a half years' worth of annual leave credit to take enough annual leave to reduce the accrued leave credit to the equivalent of two years' accrued credit, subject to giving the employee one calendar month notice. This clause does not apply to an employee who is on graduated return to work following compensation leave.

89.23. An employee must reduce their annual leave credit to 2.5 years worth of entitlement or less within 12 months if their credit exceeds 2.5 years worth of entitlement' accrued entitlement at any of the following points in time:

89.23.1. at the commencement of the Determination;

89.23.2. on joining, or returning to, the ACTPS;

89.23.3. on returning to duty from compensation leave;

89.24. An employee may not be directed under subclause 89.22 to take annual leave where the employee has made an application for a period of annual leave equal to or greater than the period specified in subclause 89.22 in the past six months and the application was not approved. The manager or supervisor and the employee may agree to vary an annual leave usage plan.

Rate of Payment

89.25. Annual leave is granted with pay.

89.26. Payment for the annual leave is based on the employee's ordinary hourly rate of pay, including allowances that count for all purposes for the time the leave is taken. If an employee is being paid HDA before going on paid leave and would have continued to receive HDA had they not taken leave, then the employee is entitled to payment of HDA during the leave.

89.27. The head of service may approve an application in accordance with clause 70 for annual leave to be taken at half pay with credits to be deducted on the same basis.

Effect on Other Entitlements

89.28. Annual leave counts as service for all purposes.

89.29. Public holidays for which the employee is entitled to payment that fall during periods of absence on annual leave will be paid as a normal public holiday and must not be deducted from the employee's annual leave balance.

Interaction with other Leave Entitlements

89.30. If personal leave is granted to the employee while they are on a period of annual leave, the annual leave must be re-credited for the period of paid personal leave granted.

89.31. Subject to the approval of the head of service, an employee who is on unpaid leave may be granted annual leave during that period, unless otherwise stated in this Determination.

89.32. If an employee is prevented from attending for duty under the *Public Health Act 1997*, the head of service may grant annual leave during that period.

Payment in Lieu of Annual Leave

89.33. On receiving a request in writing from an employee, the head of service may approve payment in lieu of an employee's annual leave credit subject to all the following:

89.33.1. the employee must take at least one week of annual leave in conjunction with this the payment in lieu of annual leave or the employee has taken at least one week of annual leave in the past six months;

89.33.2. the payment in lieu must not result in a reduction in the balance of an employee's remaining annual leave credit to below one year's accrued entitlement.

89.34. Payment in lieu of annual leave is based on the employee's ordinary hourly rate of pay, including allowances that count for all purposes at the date of application. The payment in lieu is based on the pay that the employee would have received for a notional period of leave equal to the credit being paid in lieu on the day the application is made.

90. ANNUAL LEAVE LOADING

Purpose

90.1. Annual leave loading is available to employees to provide monetary assistance while they are on annual leave.

Eligibility

90.2. Employees who accrue annual leave under clause 89 are entitled to an annual leave loading. Part time employees are paid the annual leave loading on a pro rata basis.

Entitlement

90.3. Where an employee's entitlement is based on subclause 90.7.1, the leave loading payable is subject to a maximum payment. This maximum payment is the equivalent of the Australian Bureau of Statistics' male average weekly total earnings for the May quarter of the year before the year in which the date of accrual occurs. Where the leave accrual is less than for a full year, this maximum is applied on a pro rata basis.

90.4. An employee whose employment ceases and who is entitled to payment of accumulated annual leave or pro rata annual leave must be paid any accrued annual leave loading not yet paid and leave loading on pro rata annual leave entitlement due on separation.

Evidence and Conditions

90.5. Annual leave loading accrued is paid at such a time as the employee nominates, by making a written request to the head of service.

90.6. Any unpaid annual leave loading accrued by employees must be paid on the first payday in November following its accrual.

Rate of Payment

90.7. The amount of an employee's entitlement under subclause 90.2 is based on whichever is the greater of the following:

90.7.1. subject to subclause 90.3, 17.5 per cent of the employee's ordinary hourly rate of pay on 1 January multiplied by the number of hours of annual leave accrued during the preceding calendar year (excluding shift penalties);

90.7.2. any shift penalties that the employee would have received had the employee not been on approved annual leave.

91. PURCHASED LEAVE

Purpose

91.1. Purchased leave is available to employees to enable them to be absent from duty to support their work/life balance.

Eligibility

91.2. Employees, other than casual employees, are eligible to apply to purchase leave.

Entitlement

91.3. Employees may purchase leave in addition to the employee's usual annual leave entitlement, up to a maximum of twelve weeks in any twelve month period, subject to head of service approval.

91.4. An employee may apply, at any time, to the head of service for approval to participate in the purchased leave scheme.

91.5. The application must specify the amount of leave to be purchased in whole weeks up to a maximum of twelve weeks in any twelve month period, and the period over which the additional leave is to be acquitted.

91.6. Approval by the head of service for an employee to purchase and use purchased leave, is subject to both the operational requirements of the workplace and the personal responsibilities of the employee.

91.7. Approval to purchase additional leave must not be given where an employee has an annual leave balance of two and a half years' worth of annual leave credit or more, except where the employee intends to use all excess annual leave credit before taking purchased leave.

91.8. Once an employee commences participation in the scheme, the employee may only opt out of the scheme before the expiration of the agreed acquittal period, if any of the following apply:

91.8.1. the employee can demonstrate, in writing, that exceptional circumstances exist and the head of service agrees. For example, unforeseen financial hardship;

91.8.2. the employee's employment with the ACTPS ceases before the expiration of the agreed acquittal period;

91.8.3. the employee proceeds on paid birth or primary care giver leave.

91.9. If an employee transfers from one ACTPS Directorate to another ACTPS Directorate during the agreed acquittal period, the employee's continuation in the purchased leave scheme is subject to the separate approval of the gaining Directorate. Where such approval is not given, any money owing to the employee in respect of purchased leave not taken must be refunded to the employee as soon as practicable. Any shortfall in payments must be deducted from monies owing to the employee.

Evidence and Conditions

91.10. An employee should discuss with their manager or supervisor, as soon practicable, their intention to be absent on purchased leave.

91.11. An employee must make an application to the head of service to access their purchased leave entitlement.

91.12. Having considered the requirements of this clause the head of service may approve an employee's application to access purchased leave. A decision not to approve the leave must be made in accordance with subclause 84.1.

91.13. Approval by the head of service to grant purchased leave is subject to the operational requirements of the workplace, the personal responsibilities of the employee and appropriate periods of notice.

91.14. A minimum of one week of purchased leave, or the pro-rata equivalent for part-time employees, must be taken at any one time unless the remaining balance is less than one week, or the head of service is satisfied, on evidence presented, there are exceptional circumstances which warrant purchased leave being taken in shorter periods.

91.15. Purchased leave must be used within the agreed acquittal period, not exceeding twelve months from the date of commencement in the scheme. Purchased leave not taken within the agreed acquittal period will be forfeited and the value of the leave refunded to the employee at the end of the acquittal period.

Rate of Payment

91.16. While an employee is on a period of purchased leave the employee must be paid at the rate of pay used to calculate the employee's deduction.

91.17. Purchased leave will be paid for by a fortnightly deduction from the employee's pay over an agreed acquittal period not exceeding twelve months from the date the employee commences participation in the scheme.

91.18. Fortnightly deductions, from the employee's pay, will commence as soon as practicable following approval of the employee's application to participate in the purchased leave scheme. The deductions will be calculated on the employee's pay at the date of commencement of participation in the scheme, the amount of leave to be purchased and the agreed acquittal period.

91.19. Despite subclause 91.18, if the employee's pay changes during the acquittal period the employee may apply to the head of service for the deduction to be recalculated.

91.20. Fortnightly tax deductions are calculated on the employee's gross pay after the deduction has been made for purchased leave.

91.21. Subject to subclause 91.22, allowances in the nature of pay may be included in the calculation of purchased leave payments if both the following apply

91.21.1. the head of service and the employee agree any or all of these allowances are appropriate;

91.21.2. there is the likelihood the allowance will continue to be received over the duration of the acquittal period.

91.22. Disability allowances, which are paid according to the hours worked, cannot be included for the purposes of calculating purchased leave payments.

Effect on Other Entitlements

91.23. Leave taken as purchased leave counts as service for all purposes.

91.24. Public Holidays for which the employee is entitled to payment that fall during periods of absence on purchased leave must be paid as a normal public holiday and not deducted from the employee's purchased leave balance.

91.25. Purchased leave does not affect the payment and timing of pay increments or the accrual of other forms of leave.

91.26. The purchase of additional leave under this clause does not affect the superannuation obligations of the ACTPS or the employee involved.

Interaction with other Leave Types

91.27. Where an employee provides a certificate from a registered medical practitioner or a registered health professional operating within their scope of practice for a personal illness or injury or for the purpose of providing care or support for a member of the employee's family who is ill or injured or who is experiencing an unexpected emergency during a period of absence on purchased leave, the employee will have the purchased leave re-credited for that period covered by the certificate, and substituted by personal leave.

91.28. An employee participating in the scheme who proceeds on paid birth or primary care giver's leave must elect to do one of the following:

91.28.1. exit the purchased leave scheme and have any money owing refunded;

91.28.2. subject to subclause 91.29, remain in the scheme and have pay deductions continue during the period of paid birth or primary care giver's leave.

91.29. Purchased leave taken during an employee's absence on birth or primary care giver's leave does not extend the employee's total period of birth leave or primary care giver's leave.

91.30. An employee participating in the scheme who is in receipt of paid workers' compensation will have pay deductions for purchased leave continue. Normal conditions for purchased leave will apply for employees on graduated return to work programs; however, entry into the scheme should be discussed with the rehabilitation case manager.

92. LONG SERVICE LEAVE

Definitions

92.1. The following definitions apply to long service leave:

92.1.1. **Current rate of salary** means the salary an employee received on the relevant day.

92.1.2. **Eligible employment** means:

92.1.2.1. continuous employment by the ACTPS; and

92.1.2.2. continuous recognised prior employment; and

92.1.2.3. a period of leave without pay to count as service (other than personal leave without pay in excess of 78 weeks and leave in relation to defence employment being employment in the Reserve Forces or of the Citizen Forces either on a continuous full-

time basis or for a period fixed in accordance with the *Defence Act 1903*, or equivalent legislation as in force at the relevant time, or national service; and

92.1.3. Eligible employment excludes:

92.1.3.1. employment remunerated by fees, allowances or commission, honorarium or equivalent; and

92.1.3.2. appointment or engagement for the sole purpose of overseas employment; and

92.1.3.3. unauthorised absence.

92.1.4. **Prescribed average number of hours** in respect of part-time employment is the greater of:

92.1.4.1. the employee's average number of hours of employment per week:

92.1.4.2. during the 12 months of eligible part-time employment ending on the relevant day set out above; or

92.1.4.3. during the periods aggregating 12 months the employee was last employed on part-time hours before the relevant day set out above; or

92.1.4.4. if the employee has less than 12 months of eligible part-time employment, during the period or periods when the employee has been employed on part-time hours; or

92.1.4.5. the employee's average number of hours of employment per week during the entire period of their eligible employment.

92.1.5. **Relevant day** means:

92.1.5.1. In relation to an employee who has been granted long service leave, the day immediately before the date that leave commences; and

92.1.5.2. in relation to an employee who receives a payment in lieu of long service leave:

92.1.5.2.1. the day immediately before the date they cease to be an employee; or

92.1.5.2.2. the nominated date to cash out accrued long service leave credit.

92.1.6. **Relevant rate per hour** means the rate per hour that salary would be payable to the employee on the relevant day.

Purpose

92.2. Long service leave is available to employees to enable them to be absent from duty in recognition of their length of service in the public sector.

Note: Historically and in other jurisdictions long service leave may have been, or be, known by other names, including long leave, furlough or extended leave.

Eligibility

92.3. Long service leave is available to all employees including casual employees.

92.4. This clause does not apply to a person who is:

92.4.1. seconded to the ACTPS from the Commonwealth, State or Territory government; or

92.4.2. appointed or engaged for the sole purpose of employment outside Australia (overseas employment).

92.5. The eligibility requirements and entitlements for long service leave under the PSM Standards apply, subject to the provisions of this clause.

92.6. Chief Minister Treasury and Economic Development (CMTEDD) must consult with the unions and seek union agreement in relation to changes to long service leave entitlements provided under the PSM Standards.

Entitlement

92.7. Long service leave is measured in months.

92.8. Employees accrue long service leave at the rate of 3 months for each ten years of completed eligible employment, or an equivalent aggregate period of employment for casual employees.

92.9. For employees who take long service leave and return to duty following completion of their long service leave, or for employees who take payment in lieu of long service leave, their long service leave credit is calculated based on their aggregate completed years of eligible employment (e.g. the period 1 February 2009 to 31 July 2021 equates to 12 years for long service leave calculation).

92.10. For employees who will cease employment with the ACTPS following completion of their long service leave, or payment in lieu of long service leave, their long service leave credit is calculated based on their aggregate completed years and months of eligible employment (e.g. the period 1 February 2009 to 31 July 2021 equates to 12 years and 6 months for long service leave calculation).

92.11. Long service leave is cumulative and there is no limit on the long service leave balance an employee may accrue.

92.12. Employees accrue separate full-time and part-time long service leave credits according to the employee's ordinary hours of work and the following formula:

Full-time credit formula	Part-time credit formula
Full-time credit = (3a/10 - b)	Part-time credit = (3c/10 - d)
where: a = the aggregate number of years of eligible full-time employment b = the aggregate number of months of long service leave previously paid to the employee in relation to the employee's full-time employment at any time during their eligible employment.	where: c = the aggregate number of years of eligible part-time employment d = the aggregate number of months of long service leave previously paid to the employee in relation to the employee's part-time employment at any time during their eligible employment.

92.13. For calculating an employee's long service leave credit:

92.13.1. For permanent and temporary employees, a period of leave without pay of one day or more that does not count as service does not count towards long service accrual, but does not break a period of employment for the purpose of determining an employee's eligibility for long service leave.

92.13.2. Where an employee has a break in employment, or a break between other eligible employment and ACTPS employment, of longer than 12 months the prior employment will not be counted as employment that accrues long service leave.

92.13.3. On commencement, if during a period of eligible employment an employee received a payment in lieu of long service leave, or an equivalent type of leave, in the ACTPS or another jurisdiction, the employee is taken to have been granted a period of long service leave equal to the period of long service leave that payment was made for.

Evidence and conditions

92.14. An employee should discuss with the head of service as soon as practicable their intention to be absent on long service leave.

92.15. An employee or their legal representative must make an application to the head of service to access their long service leave entitlement.

92.16. Having considered the requirements of this section the head of service may approve an employee's application to access long service leave, or payment in lieu of long service leave, to the extent of that employee's pro-rata long service leave credits after an aggregated seven years of completed eligible employment.

Note: After seven years eligible employment the employee will have accrued 2.1 months of long service leave credit (i.e. 3 x 7/10).

92.17. The minimum period of long service leave an employee may request is one day.

92.18. If the head of service does not approve an application by an employee for long service leave because of operational requirements the head of service must consult with the employee to determine a mutually convenient alternative time (or times) for the employee to take the leave.

Payment in Lieu

92.19. To encourage the flexible use of long service leave, an employee may, in writing, request the approval of the head of service for payment in lieu (cash out) of long service leave.

92.20. The minimum period an employee may request a payment in lieu of long service leave is seven days.

92.21. The head of service may approve the partial or full payment in lieu of an employee's accrued long service leave credit on a relevant day, nominated by the employee in their application. The payment in lieu of long service leave will be based on the rate of pay the employee would have received had the employee taken the leave from the relevant day.

92.22. Employees will receive payment on separation of any pro-rata long service leave entitlements after an aggregated 7 years of completed eligible employment, at their full rate of pay as if they had taken their entire long service leave credit on the day their employment ends .

92.23. Where an employee whose period of eligible employment is less than seven years but not less than one year ceases to be an employee:

92.23.1. otherwise than because of the employee's death, on, or after, the employee attaining the minimum retiring age; or

92.23.2. because of the employee's redundancy; or

92.23.3. satisfies the head of service that the employee so ceasing is due to ill health of such a nature as to justify the employee so ceasing

the head of service will authorise payment to the employee under this subclause of an amount equal to the salary the employee would have received had they taken long service leave on the day their employment ends.

92.24. If an employee whose period of employment is not less than one year dies, the head of service may authorise payment of an amount equal to the amount that would have been payable to the employee if the employee had, on the day the employee died, ceased to be an employee otherwise than because of death, on or after, the employee attaining the minimum retiring age.

92.25. A payment or pro rata payment in lieu of long service leave is paid:

92.25.1. if the officer was employed in the same capacities on the relevant day and the day immediately before the relevant day – at the officer's full rate of pay on the relevant day; or

92.25.2. if the officer is employed in different capacities on the relevant day and on the day immediately before the relevant day – at the officer's full rate of pay on the day immediately before the relevant day.

Rate of Payment

92.26. Long service leave will be paid at:

Employment	Rate of Payment
Where an employee's accrued long service leave includes eligible full-time employment the payment in relation to full-time long service leave credit will be calculated.	At the employee's current rate of salary or relevant rate per week on the relevant day.
Where an employee's accrued long service leave includes eligible part-time employment with no change in ordinary hours the payment in relation to part-time long service leave credit will be calculated.	At the employee's current rate of salary or relevant rate per week on the relevant day.
Where an employee's accrued long service leave includes periods of part-time employment of varying weekly hours the payment in relation to any part-time long service leave credit will be calculated.	At the employee's relevant rate per hour for that part of the long service leave multiplied by the prescribed average number of hours. (PSMS 266(6) – Category A) At the lower of: (PSMS 266(7) – Category B) (a) the employee's current rate of salary per week in relation to that part of leave; or (b) calculated as follows – (a x b)/c

	where: a = the employee's current rate of salary per week in relation to that part of the leave b = the prescribed average number of hours of the employee's employment c = the employee's number of hours of employment per week the employee worked on the relevant day

92.27. For periods of seven consecutive days or more, long service leave may be taken on double, full or half pay when approved by the head of service and subject to operational requirements, with credits to be deducted on the same basis.

92.28. Employees may be granted long service leave in blocks of less than seven days with the approval of the head of service. Each day taken will be deducted at the rate of 1.4 and this can be taken on double, full or half pay.

92.29. Despite subclause 92.28, where an employee requests 6 consecutive days of long service, 7 days will be deducted from the employee's long service leave balance.

92.30. If the employee is on higher duties at the time of taking, or cashing out, long service leave, payment for the leave at the higher duties rate will only be approved if the higher duties would have continued for the entire period of the leave taken, or the entire period of the leave cashed out.

92.31. Payment in lieu of long service leave if an employee's employment with the ACTPS ceases will include an amount in respect of a higher duties allowance, if:

92.31.1. the officer has performed the duties of an office with a higher classification than their substantive office for a continuous period of 12 months or ending on the relevant day; or

92.31.2. immediately before the person ceased to be an officer, the officer had performed the duties of two or more offices with a higher classification than their substantive office for periods that were continuous with one another aggregating 12 months or more.

92.32. Payment in lieu of long service leave which includes an amount in respect of higher duties allowance is paid at the lowest rate at which higher duties allowance was paid to the officer during that period of higher duties.

92.33. Salary for long service leave includes allowances payable to the employee during long service leave in accordance with Annex C:

92.33.1. for the supply and maintenance by the employee of tools and equipment ordinarily required by them to perform the duties of their work.

92.34. Salary for long service leave does not include:

92.34.1. shift penalty payments; or

92.34.2. overtime payments; or

92.34.3. payments in the nature of an on-call or restriction allowance.

Effect on other entitlements

92.35. Long service leave counts as service for all purposes.

92.36. When applying for long service leave an employee must seek approval of the head of service if they propose to engage in outside employment during the leave.

Access to Other Entitlements

92.37. Public holidays, Christmas Shutdown, weekends and other relevant days an employee is entitled to be absent from duty under clause 106 that fall during periods of absence on long service leave are deducted from the employee's long service leave balance.

92.38. An employee who is ill or injured or cares for a member of the employee's immediate family or household who is ill or injured, for one day or more while on long service leave and who produces a certificate from a registered health professional who is operating within their scope of practice may apply for personal leave.

92.39. If personal leave is granted to the employee, long service leave will be re-credited for the period of personal leave granted.

92.40. An employee may apply for and be granted long service leave during a period they would be eligible to be granted:

92.40.1. unpaid birth leave (captured at 93.33); or

92.40.2. unpaid parental leave (captured at 97.16); or

92.40.3. grandparental leave (captured at 98.20); or

92.40.4. unpaid community service leave for voluntary community service (captured at 104.38); or

92.40.5. unpaid personal leave (captured at 86.59); or

92.40.6. Family, domestic or sexual violence leave (captured at 102.19).

92.41. An employee who is prevented from attending for duty under the *Public Health Act 1997*, part 6 may be granted long service leave during that period.

93. BIRTH LEAVE

Purpose

93.1. Birth leave is available to pregnant employees to enable them to be absent from duty to do any of the following:

93.1.1. support their own wellbeing and to care for and bond with a new born child;

93.1.2. support the protection of the family and children under the *Human Rights Act 2004*;

93.1.3. support the employee's right to continuity of service.

Eligibility

93.2. An employee who is pregnant is eligible to be absent on birth leave.

93.3. An employee is eligible for birth leave where any of the following applies:

93.3.1. The employee gives birth to a new born child;

93.3.2. The employee's pregnancy ends at or within twenty weeks of the estimated date of delivery of the child, including where a child is stillborn.

93.4. Where an employee's pregnancy ends by miscarriage, any birth leave which has been prospectively approved must be cancelled. In this circumstance, the employee may become eligible for compassionate leave in accordance with clause 103 and special birth leave in accordance with clause 94.

Eligibility – Paid Birth Leave

93.5. An employee (other than a casual employee) who is eligible for birth leave and who has completed twelve months of continuous service, including recognised prior service, immediately prior to commencing a period of birth leave, is eligible for paid birth leave.

93.6. An employee (other than a casual employee) who is eligible for birth leave and who completes twelve months of continuous service within the first 24 weeks of birth leave is eligible for paid birth leave for the period between completing twelve months of service and the end of the first 24 weeks of birth leave.

93.7. An employee who is eligible for birth leave and who is on approved leave without pay is eligible for paid birth leave for the period between completing the approved period of leave without pay and the end of the first 24 weeks of birth leave.

Entitlement

93.8. An eligible employee is entitled to be absent for up to fifty two weeks birth leave for each pregnancy. To avoid doubt, the entitlement under this clause does not increase in cases of multiple births.

93.9. Subject to subclause 93.4, an employee who is eligible for paid birth leave is entitled to be paid for the first 24 weeks of birth leave and this entitlement is in addition to the Federal paid parental leave scheme.

93.10. Birth leave is non-cumulative.

93.11. Subject to subclauses 93.13 and 93.14, an employee who is eligible for birth leave must absent themselves from duty for a period commencing six weeks prior to the estimated date of delivery of the child and ending six weeks after the actual date of birth of the child.

93.12. An eligible employee's period of birth leave commences six weeks prior to the estimated date of delivery unless one of the following applies:

93.12.1. The employee is approved a later commencement date under subclause 93.13. Birth leave will commence on the date recommended by the medical practitioner or registered midwife.

93.12.2. The child is born more than six weeks before the estimated date of delivery. Birth leave will commence on the day the child is born.

93.12.3. the pregnancy ends at or within twenty weeks of the estimated date of delivery of the child, including where a child is stillborn. Birth leave will commence on the day the pregnancy ends.

93.13. An employee who produces evidence from a registered medical practitioner or registered midwife that they are fit for duty until a date less than six weeks prior to the estimated date of delivery of the child may

continue to work up until a date recommended by the medical practitioner or registered midwife, subject to the approval of the head of service.

93.14. An employee who has given birth to a child and produces evidence from a registered medical practitioner that they are fit for duty from a date less than six weeks after the date of birth of the child may resume duty on a date recommended by the medical practitioner, subject to the approval of the head of service.

93.15. An employee who has given birth to a child may resume duty following the end of the six week period after the birth of the child and earlier than the end of the approved period of birth leave subject to the approval of the head of service.

93.16. An employee is entitled to return to work in accordance with the provisions in the National Employment Standards of the FW Act.

93.17. The provisions applying to temporary JMOs on training programs will be set out in a Standard Operating Procedure. This will include detail on access to birth leave, primary care giver leave and adoption or permanent care leave.

Evidence and Conditions

93.18. An employee must give notice to their manager or supervisor as soon as practicable of their intention to be absent on birth leave.

93.19. Birth leave is deemed to be approved; however, an employee must submit an application to the head of service for any period of birth leave. Having considered the requirements of this clause the head of service must approve an employee's application to access birth leave.

93.20. Prior to commencing birth leave an employee must provide the head of service with evidence of the pregnancy and the estimated date of delivery from a registered medical professional or a registered health professional who is operating within their scope of practice.

93.21. If requested by the head of service, and employee must provide the head of service with evidence of the birth and the date of the birth of the child as soon as possible after the birth of the child. Such evidence may include a copy of the birth certificate or documents provided by a registered medical practitioner or registered health professional who is operating within their scope of practice.

Rate of Payment

93.22. The rate of payment to be paid to the employee during a paid period of birth leave is the same rate as would be paid if the employee was granted paid personal leave.

93.23. Despite clause 93.22, where an employee varies their ordinary hours of work, either from part time to full time, from part time to different part time, or from full time to part time, during the twelve month period directly preceding birth leave, the rate of payment for the paid component of their birth leave, which is capped at full time rates, is calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the twelve-month period immediately before the period of birth leave commences.

93.24. To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of subclause 93.23.

93.25. Paid birth leave may be taken with full or half pay, or as a combination of full and half pay, with credits to be deducted on the same basis. The maximum paid period is up to forty eight weeks at half pay.

93.26. The head of service may approve, subject to a medical certificate from a registered medical practitioner, an employee taking paid birth leave in a non-continuous manner, on the condition that no other form of paid leave is approved before the employee has used all of their paid birth leave entitlement.

93.27. A period of paid birth leave does not extend the maximum fifty two week period of birth leave available to an eligible employee.

93.28. An employee's period of absence on birth leave between the paid period of birth leave and the maximum fifty two week period of birth leave must be without pay, unless other paid leave entitlements are accessed.

Effect on Other Entitlements

93.29. Birth leave with pay counts as service for all purposes.

93.30. Any period of unpaid birth leave taken by an employee during the period commencing six weeks prior to the estimated date of delivery of the child and ending six weeks after the actual date of birth of the child counts as service for all purposes.

93.31. Subject to subclause 93.30, any period of unpaid birth leave taken by an employee does not count as service for any purpose but does not break continuity of service.

93.32. Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on birth leave will not be paid as a normal public holiday.

Interaction with Other Leave Types

93.33. An application by an employee for long service leave or annual leave during a period that would otherwise be an unpaid period of birth leave must be granted to the extent of available entitlements.

93.34. Subject to subclause 86.55, an application by an employee for personal leave during a period that would otherwise be an unpaid period of birth leave must be granted subject to the employee providing a certificate from a registered medical practitioner or a registered health professional operating within their scope of practice to the extent of available entitlements.

Keep in Touch Arrangements (Birth Leave)

93.35. At any time after six weeks from the child's date of birth, an employee may, following an invitation from the head of service, agree to attend the workplace on up to ten separate occasions of up to one day each so as to keep in touch with developments in the workplace (for meetings and training etc.).

93.36. The employee must be paid at their ordinary hourly rate of pay for the hours they attend the workplace in accordance with subclause 93.35 during unpaid birth leave. Keep in touch attendance counts as service for all purposes but does not extend the period of leave and does not end or reduce the entitlement to birth leave.

93.37. For the purpose of subclause 93.35, a medical certificate is not required.

Portability of service for paid birth leave

93.38. When determining an employee's eligibility for paid birth leave, continuous service in the health industry with a public hospital or health facility, will be recognised, provided that:

93.38.1. Service was on a full-time or regular part-time basis (not as a casual employee);

93.38.2. The employee commences duty with the Directorate on the next working day after ceasing employment with the former employer. (There may be a break in service of up to two months before commencing duty with the new employer provided that the new position was secured before ceasing duty with the former employer. However, such a break in service will not be counted as service for the purposes of calculating any prior service prerequisite for paid birth leave).

94. Special Birth Leave

Purpose

94.1. Special birth leave is available to employees where:

94.1.1. the employee is not fit for work due to a pregnancy related illness, or

94.1.2. the pregnancy of the employee ends within twenty eight weeks of the estimated date of delivery, other than by the birth of a living child.

Note: If a pregnancy ends within twenty weeks of the estimated date of delivery of the child the employee may be entitled to paid or unpaid birth leave as per subclause 93.3.

Eligibility

94.2. Special birth leave is available to all employees and eligible casual employees.

Entitlement

94.3. An employee is entitled to a period of unpaid special birth leave for the duration certified by a registered medical practitioner or a registered health professional operating within their scope of practice, as necessary.

Evidence and Conditions

94.4. The employee must provide the head of service with notice that they are taking special birth leave. The notice must be given as soon as practicable (which may be after the leave has started); and should include the period, or expected period, of the leave.

94.5. An employee must submit an application to the head of service for any period of special birth leave. Having considered the requirements of this clause the head of service must approve an employee's application to access special birth leave.

94.6. An employee who has given notice that special birth leave will be (or is being) taken must provide reasonable evidence of the purpose for taking leave. This evidence may include a medical certificate from a registered medical practitioner or a registered health professional operating within their scope of practice.

Rate of Payment

94.7. Special birth leave is granted without pay.

Effect on Other Entitlements

94.8. Special birth leave does not count as service for any purpose.

94.9. Special birth leave does not break continuity of service.

94.10. Special birth leave accessed due to pregnancy related illness is not deducted from the entitlement for unpaid birth leave accessed after the birth of the child.

Interaction with Other Leave Types

94.11. Special birth leave is in addition to any accrued personal leave entitlement.

94.12. Special birth leave is in addition to compassionate leave.

95. PRIMARY CARE GIVER LEAVE

Purpose

95.1. Primary care giver leave is available to employees to enable them to be absent from duty to do both of the following:

95.1.1. care for and bond with a newborn child;

95.1.2. support the protection of the family and children under the *Human Rights Act 2004*.

Eligibility

95.2. Primary care giver leave is available to employees (other than casual employees) who are the primary care giver of a newborn child.

95.3. An employee is eligible for primary care giver leave if they have completed at least twelve months continuous service, that may include recognised prior service, immediately prior to commencing a period of primary care giver leave.

95.4. An employee who is eligible for paid birth leave, foster and short term care leave, or adoption, permanent or long term care leave is not eligible for primary care giver leave.

95.5. An employee who completes the twelve months of continuous service within eighteen weeks of becoming the primary care giver for a child is eligible for primary care giver leave from the date they are eligible for the leave to the end of the first eighteen weeks of becoming the primary care giver of the child.

Portability of service for primary care giver leave

95.6. When determining an employee's eligibility for primary care giver leave, continuous service in the health industry with a public hospital or health facility, will be recognised, provided that:

95.6.1. Service was on a full-time or regular part-time basis (not as a casual employee);

95.6.2. Cessation of service with the former employer was not by reason of dismissal on any ground, except retrenchment or reduction of work;

95.6.3. The employee commences duty with the Directorate on the next working day after ceasing employment with the former employer. (There may be a break in service of up to two months before commencing duty with the new employer provided that the new position was secured before ceasing duty with the former employer. However, such a break in service will not be counted as service for the purposes of calculating any prior service prerequisite for primary care giver leave).

Entitlement

95.7. An eligible employee is entitled to eighteen weeks of paid primary care giver leave in relation to a birth, and this entitlement is in addition to the Federal paid parental leave scheme. To avoid doubt, the entitlement under this clause does not increase in cases of multiple births, adoptions or care and protection orders that apply to more than one child.

95.8. Primary care giver leave is non-cumulative.

95.9. An employee is entitled to return to work in accordance with the provisions in the National Employment Standards.

Evidence and Conditions

95.10. An employee should discuss with their manager or supervisor, as soon practicable, their intention to be absent on primary care giver leave.

95.11. An employee must make an application to the head of service to access their primary care giver leave.

95.12. The employee must provide the head of service with appropriate evidence concerning the reasons for and circumstances under which the primary care giver leave application is made, which may include any of the following:

95.12.1. a certificate from a registered medical practitioner or registered health professional operating within their scope of practice relating to the estimated date of delivery of a child;

95.12.2. a birth certificate.

95.13. In all cases details of leave being taken by other persons who may be considered a primary care giver in relation to the same child (or children in the case of multiple births) must be provided.

95.14. Before granting primary care giver leave, the head of service must be satisfied that the employee demonstrates that they are the primary care giver.

95.15. For the purposes of this clause a newborn is considered to be a baby of up to twenty six weeks old. In extenuating circumstances, the head of service may approve primary care giver leave when a newborn is more than twenty six weeks old.

95.16. For the purposes of subclause 95.15, the primary care giver is entitled to access up to eighteen weeks primary care givers leave where the leave has commenced before the baby was twenty six weeks old, subject to subclause 95.17.

95.17. Having considered the requirements of this clause the head of service will approve an employee's application to access primary care giver leave.

95.18. The eighteen weeks available as paid primary care giver leave includes any paid bonding leave (including the personal leave component of the bonding leave entitlement) previously taken by that employee in relation to the birth. For clarity, the total combined entitlement of paid bonding leave (including the personal leave component of the bonding leave entitlements) and paid primary care giver leave available is twenty six weeks in relation to the birth.

95.19. Primary care giver leave may be taken in any combination with birth leave provided that the person who has given birth and entiled to birth leave, and the other employee eligible for primary care giver leave do not take these forms of paid leave concurrently.

95.20. Subclause 95.18 does not apply where the person giving birth is an ACTPS employee entitled to surrogacy leave in accordance with clause 108.

Rate of Payment

95.21. Primary care giver leave is granted with pay.

95.22. The rate of payment to be paid to the employee during a paid period of primary care giver leave is the same rate as would be paid if the employee was granted personal leave.

95.23. Despite subclause 95.22 where an employee varies their ordinary hours of work, either from part time to full time, from part time to different part time, or from full time to part time, during the twelve month period directly preceding primary care giver leave, the rate of payment for the paid component of their primary care giver leave, which is capped at full time rates, is calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the twelve-month period immediately before the period of primary care giver leave commences.

95.24. To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of subclause 95.23.

95.25. Primary care giver leave may be granted with full or half pay, or a combination of full or half pay, with credits to be deducted on the same basis. The maximum paid period is up to thirty six weeks at half pay.

95.26. The head of service may approve an employee taking primary care giver leave in a non-continuous manner, provided a period of annual leave or long service leave in between the periods of adoption and permanent care leave will not be approved until the employee has used all of the employee's paid primary care giver leave entitlement within 72 weeks of the birth of the child.

Effect on Other Entitlements

95.27. Primary care giver leave counts as service for all purposes.

95.28. Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on primary caregiver leave will not be paid as a normal public holiday.

Interaction with Other Leave Types

95.29. Primary care giver leave does not extend the maximum period of unpaid parental leave available to an employee. To avoid doubt, primary care giver leave is not extended by public holidays which fall during periods of primary care giver leave.

Keep in Touch Arrangements (Primary Care Giver Leave)

95.30. An employee on primary care giver leave may, following an invitation from the head of service, agree to attend the workplace on up to ten separate occasions of up to one day each so as to keep in touch with developments in the workplace (for meetings and training etc.).

95.31. The employee will be paid at their ordinary hourly rate of pay for the hours they attend work in accordance with subclause 95.30 during unpaid primary care giver leave. Keep in touch attendance will count as service for all purposes but does not extend the period of leave and does not end or reduce the entitlement to primary care giver leave.

96. BONDING LEAVE

Purpose

96.1. Bonding leave is available to employees to enable them to be absent from duty to do the following:

96.1.1. bond with their newborn child, adopted child, or a child for whom the employee's domestic partner has commenced a primary care giving role under a permanent caring arrangement;

96.1.2. support the protection of the family and children under the *Human Rights Act 2004*.

Eligibility

96.2. Bonding leave is available to employees other than casual employees at the time of the child's birth, adoption, or the commencement of a permanent or long term caring arrangement when the employee is not the primary care giver to the child.

96.3. An employee who is eligible for paid birth leave, adoption, permanent or long term care leave, or primary care giver leave is not entitled to bonding leave. If, bonding leave has been taken by the employee, and the employee later becomes entitled to primary care giver leave, paid bonding leave and paid personal leave taken in accordance with this clause will reduce available primary care giver leave.

Entitlement

96.4. Under this clause, an employee is entitled to be absent on paid leave for a maximum of five weeks (twenty five working days) at, or near, the time of the birth, adoption or commencement of the permanent or long term caring arrangement. The maximum absence may be increased by a further five days of personal leave for bonding purposes as per subclause 86.43.

96.5. In accordance with the National Employment Standards, an eligible employee is entitled to be absent up to a maximum of eight weeks of concurrent unpaid bonding leave in the first twelve months following the birth or adoption or commencement of a permanent or long term caring arrangement for a child, subject to a minimum period of two weeks at a time unless a shorter period is agreed by the head of service.

96.6. The entitlement under subclause 96.5 is reduced by the extent of the entitlement accessed by an employee under subclause 96.4.

96.7. To avoid doubt, the entitlement under this clause does not increase in cases of multiple births, adoptions or permanent caring arrangements that apply to more than one child at the one time.

96.8. Bonding leave is non-cumulative.

96.9. Paid Bonding leave must be taken within fourteen weeks from the date of birth, adoption or commencement of the permanent or long term caring arrangements, unless there are exceptional circumstances and the head of service agrees to a longer period.

96.10. The five days of personal leave accessed as per subclause 86.43 may be taken at any time up to fourteen weeks from the date of the birth, adoption or commencement of the permanent or long term caring arrangement.

96.11. Where an employee's domestic partner is also an ACTPS employee this leave may be taken concurrently with the domestic partner receiving birth leave, adoption or permanent or long term care leave, or primary caregiver leave.

Evidence and Conditions

96.12. An employee should discuss with their manager or supervisor, as soon as practicable, their intention to be absent on bonding leave.

96.13. Bonding leave must be approved subject only to the head of service being satisfied that the eligibility requirements have been met; however, an employee must submit an application to the head of service for any period of bonding leave.

96.14. The employee must provide the head of service with appropriate evidence concerning the circumstances under which the bonding leave application is made, which may include any of the following:

96.14.1. a medical certificate relating to the estimated date of delivery of a child;

96.14.2. a birth certificate;

96.14.3. documents from an adoption authority concerning the proposed adoption of a child;

96.14.4. documents relating to responsibility permanent caring arrangement until the child reaches the age of eighteen.

96.15. Unless the head of service determines that exceptional circumstances apply bonding leave must not be approved to care for any of the following:

96.15.1. a baby over the age of fourteen weeks (not applicable in cases of adoption, permanent or long term caring arrangements); or

96.15.2. an adopted or fostered adult who is the subject of a permanent caring arrangement over the age of eighteen on the day of placement.

Rate of Payment

96.16. Bonding leave is granted with or without pay.

96.17. The rate of payment to be paid to the employee during a period of paid bonding leave is the same rate as would be paid if the employee was granted personal leave.

96.18. Bonding leave may be granted with full or half pay, or a combination of full and half pay, with credits to be deducted on the same basis. The maximum period is up to ten weeks at hald pay.

Effect on Other Entitlements

96.19. Paid bonding leave counts as service for all purposes and unpaid bonding leave does not count as service for any purposes but does not break continuity of service.

96.20. Public holidays for which the employee is entitled to payment that fall during periods of absence on paid bonding leave must be paid as a normal public holiday and will not extend the maximum period of bonding leave.

97. PARENTAL LEAVE

Purpose

97.1. Parental leave without pay is in addition to the provisions available in birth leave, primary care giver leave, and adoption or permanent or long term care leave and is available to employees to enable them to be

absent from duty following the birth or adoption of a child or the commencement of permanent caring arrangement for a child.

Eligibility

97.2. Parental leave is available to an employee or an eligible casual employee who is the primary care giver of a child following the birth or adoption of a child or the commencement of a permanent caring arrangement for a child.

Entitlement

97.3. An employee is entitled to up to two years of parental leave following the child's birth, adoption or commencement of a permanent or long term caring arrangement, less any period of birth leave, primary care giver leave or permanent or long term care leave which the employee has taken in relation to the same child.

97.4. To avoid doubt, the entitlement under this clause does not increase in cases of multiple births, adoptions or permanent caring arrangements that apply to more than one child at any one time.

97.5. At the end of this time the employee is entitled to return to work in accordance with the provisions in the National Employment Standards.

97.6. An employee may apply for up to an fifty-two additional weeks of parental leave for up to two occasions of birth. The leave must be granted if all the following apply:

97.6.1. The parental leave is taken within three years following the child's birth, adoption or commencement of a permanent or long term caring arrangement.

97.6.2. That the employee agrees, where necessary, to become unattached.

97.6.3. The parental leave is taken in pereiods of one week or more.

Evidence and Conditions

97.7. An employee should discuss with their manager or supervisor, as soon as practicable, their intention to be absent on parental leave.

97.8. An employee must make an application to the head of service to access their unpaid parental leave entitlement.

97.9. The head of service must approve an employee's application to access parental leave if satisfied the employee has met the requirements under this clause.

97.10. The employee must provide the head of service with appropriate evidence concerning the reasons for and circumstances under which the unpaid parental leave application is made, which may include any of the following:

97.10.1. a birth certificate;

97.10.2. documents from an adoption authority concerning the adoption of a child;

97.10.3. documents relating to a permanent caring arrangement.

97.11. The head of service must not grant parental leave if the employee's domestic partner is on parental leave and is an employee of the ACTPS.

Rate of Payment

97.12. Parental leave is granted without pay.

Effect on Other Entitlements

97.13. Parental leave does not count as service for any purpose.

97.14. Parental leave does not break continuity of service.

97.15. Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on parental leave will not be paid as a normal public holiday.

Interaction with Other Leave Types

97.16. An employee on parental leave may access annual and long service leave on full or half pay to the extent of available entitlements.

97.17. An application by an employee for personal leave during a period that would otherwise be a period of parental leave must be granted subject to the employee providing a certificate from a registered medical practitioner or registered health professional operating within their scope of practice.

Keep in Touch Arrangements (Parental Leave)

97.18. An employee may, following an invitation from the head of service, agree to attend the workplace on up to ten separate occasions of up to one day each so as to keep in touch with developments in the workplace (for meetings and training etc.), less any Keep In Touch time approved during birth or primary caregiver leave as per subclauses 93.35 or 95.3097.18.

97.19. The employee will be paid at their ordinary hourly rate of pay for the hours that they attend the workplace in accordance with subclause 97.18. Keep in touch attendance counts as service for all purposes but does not extend the period of leave and does not end or reduce the entitlement to parental leave.

98. GRANDPARENTAL LEAVE

Purpose

98.1. Grandparental leave is available to employees to enable them to be absent from duty to undertake a primary care giving role to their grandchild during normal business hours.

Eligibility

98.2. Grandparental leave is available to employees other than casual employees and employees on probation.

98.3. To be eligible for grandparental leave, the baby or child which the employee is providing care for must be one of the following:

98.3.1. their grandchild;

98.3.2. their step-grandchild;

98.3.3. their adopted grandchild;

98.3.4. a child for whom the employee's child has parental or caring responsibility authorised under a law of a State or Territory.

Entitlement

98.4. An eligible employee may be granted up to fifty two weeks of grandparental leave, in relation to each grandchild under care. This leave may be taken over a period not exceeding five years.

98.5. Grandparental leave is available up until the fifth birthday of the grandchild for whom the employee is the primary care giver.

98.6. Grandparental leave is non-cumulative.

98.7. The length of a period of absence on grandparental leave must be agreed between the eligible employee and the head of service.

Example 1: A day or part-day on an occasional basis.

Example 2: A regular period of leave each week, fortnight or month.

Example 3: A larger block of leave such as six or twelve months.

98.8. If an employee is absent on grandparental leave and becomes a grandparent to another grandchild, for whom they are the primary care giver, a new application must be made as per subclause 98.4.

Evidence and Conditions

98.9. An employee should discuss with their manager or supervisor, as soon as practicable, their intention to be absent on grandparental leave.

98.10. An employee must make an application to the head of service to access their grandparental leave entitlement, and must include details of the period, or expected period, of the absence.

98.11. Having considered the requirements of this clause the head of service may approve an employee's application to access grandparental leave. A decision not to approve the leave must be taken in accordance with subclause 84.1.

98.12. The head of service should not approve an application for grandparental leave where an employee has an annual leave balance in excess of eight weeks.

98.13. An application for grandparental leave must include one of the following types of evidence:

98.13.1. a statutory declaration or a medical certificate confirming the birth or the estimated date of delivery of the grandchild;

98.13.2. the grandchild's adoption certificate or a statutory declaration confirming the adoption of the grandchild;

98.13.3. a letter or a statutory declaration confirming that there is an authorised care situation.

98.14. If both grandparents are employees of the ACTPS either grandparent may be granted leave, but the leave may not be taken concurrently.

Rate of Payment

98.15. Grandparental leave is granted without pay.

Effect on Other Entitlements

98.16. Employees cannot engage in outside employment during a period of grandparental leave without the prior approval of the head of service.

98.17. Grandparental leave counts as service for all purposes except the accrual of annual leave and personal leave.

98.18. Grandparental leave does not break continuity of service.

98.19. Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on grandparental leave will not be paid as a normal public holiday.

Interaction with Other Leave Types

98.20. An employee on grandparental leave may access annual leave, purchased leave or long service leave.

98.21. An application by an employee for personal leave during a period that would otherwise be grandparental leave must be granted subject to the employee providing a certificate from a registered medical practitioner or registered health professional who is operating within their scope of practice.

Unattachment

98.22. During an employee's absence on grandparental leave, the head of service may, with the employee's written consent, declare the employee unattached.

99. Adoption, Permanent or Long Term Care Leave

Purpose

99.1. Adoption or Permanent or Long Term Care leave is available to employees to enable them to be absent from duty to do the following:

99.1.1. care for and bond with an adopted child or a child for whom the employee has a permanent caring responsibility, including kinship arrangements, where the child is under the age of eighteen; and

99.1.2. support the protection of the family and children under the *Human Rights Act 2004* and the *Children and Young People Act 2008*.

Eligibility

99.2. Paid adoption, permanent or long term care leave is available to an employee (other than a casual employee) who is the primary care giver of one of the following:

99.2.1. an adopted child;

99.2.2. a child for whom the employee has a permanent caring responsibility, where the child is under the age of eighteen.

99.3. An employee providing foster care under a Concurrency Care Foster Care Program described in clause 101 must be treated as having a permanent caring responsibility and be eligible for Adoption, Permanent or long term Care leave subject to the terms of this clause.

99.4. An employee is not eligible for any further grant of adoption, permanent or long term care leave for a child if both the following apply to the employee in relation to that child:

99.4.1. The employee is granted adoption, permanent or long term care leave in respect of the child being cared for under a Concurrency Care Foster Care Program;

99.4.2. The employee subsequently enters into an adoption, permanent or long term care arrangement for that child.

99.5. An employee who has completed at least twelve months continuous service, including recognised prior service, immediately prior to commencing a period of adoption, permanent or long term care leave, is eligible for adoption, permanent or long term care leave.

99.6. An employee who is eligible for paid primary care giver leave is not eligible for adoption, permanent or long term care leave.

99.7. An employee who completes twelve months of continuous service within eighteen weeks of becoming the primary care giver for an adopted child or a child for whom the employee has a permanent caring responsibility is eligible for adoption or permanent care leave for the period between completing twelve months of qualifying service and the end of the first eighteen weeks of becoming the primary care giver of the child.

Entitlement

99.8. An eligible employee is entitled to eighteen weeks of paid leave in relation to each occasion of adoption or commencement of a permanent or long term caring responsibility, less any leave taken in accordance with clause 96 in the same twelve month period in relation to the same child.

99.9. A casual employee is entitled to unpaid pre-adoption leave in accordance with the provisions of the National Employment Standards.

99.10. To avoid doubt, the entitlement under subclause 99.8 does not increase when the adoption, permanent or long term caring responsibility involves more than one child at the time of application.

99.11. Adoption, permanent or long term care leave is non-cumulative.

99.12. An employee is entitled to return to work in accordance with the provisions in the National Employment Standards.

Evidence and Conditions

99.13. An employee should discuss with their manager or supervisor, as soon practicable, their intention to be absent on adoption, permanent or long term care leave.

99.14. An employee must make an application to the head of service to access their adoption,permanent or long term care leave.

99.15. The employee must provide the head of service with appropriate evidence concerning the reasons for and circumstances under which the adoption, permanent or long term care leave application is made, which may include any of the following:

99.15.1. documents from an adoption authority concerning the adoption;

99.15.2. an authorisation as a kinship carer made under the *Children and Young Peoples Act 2008*;

99.15.3. documents confirming that an arrangement consistent with the terms ser out in clause 101 applies.

99.16. In all cases details of leave being taken by other persons in relation to the same child must be provided.

99.17. Leave under this clause must not be approved for employees in circumstances where the child has lived continuously with the employee for a period of six months or more at the date of placement or in cases where the child is a child of the employee or employee's spouse or partner.

99.18. Before granting leave the head of service must be satisfied that the employee is the primary care giver.

99.19. Adoption, permanent or long term care leave may commence up to one week prior to the date the employee assumes permanent caring responsibility for the child but not later than the formal commencement of the adoption, permanent or long term caring responsibility, unless exceptional circumstances apply.

99.20. In all cases, the child must be under the age of eighteen on the date the employee assumes permanent responsibility for the child for leave to be approved.

Rate of Payment

99.21. Adoption, permanent or long term care leave is granted with pay, except for unpaid pre-adoption leave for casual employees.

99.22. The rate of payment to be paid to the employee during a paid period of adoption, permanent or long term care leave is the same rate as would be paid if the employee was granted personal leave.

99.23. Despite sub-clause 99.22, where an employee varies their ordinary hours of work, either from part time to full time, from part time to different part time, or from full time to part time, during the twelve month period directly preceding adoption, permanent or long term caring leave, the rate of payment for the paid component of their adoption, permanent or long term care leave, which is capped at full time rates, is calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the twelve month period immediately before the period of adoption, permanent or long term care leave commences.

99.24. To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of sub-clause 99.23.

99.25. The head of service may approve an employee taking adoption, permanent or long term care leave in a non-continuous manner, provided any other form of paid leave will not be approved until the employee has used all of the employee's paid adoption, permanent or long term care leave entitlement within fifty-two weeks of the commencement of the adoption, permanent or long term caring responsibility.

99.26. Leave may be granted with full or half pay, or a combination of full or half pay, with credits to be deducted on the same basis. The maximum paid period is up to thirty six weeks at half pay.

Effect on Other Entitlements

99.27. Paid adoption, permanent or long term care leave counts as service for all purposes.

99.28. Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on adoption, permanent or long term care leave will not be paid as a normal public holiday.

Interaction with Other Leave Types

99.29. Adoption, permanent or long term care leave does not extend the maximum period of unpaid parental leave available to an employee.

100. FOSTER AND SHORT TERM CARE LEAVE

Purpose

100.1. Foster and Short Term Care leave is available to employees to enable them to be absent from duty to do the following:

100.1.1. care for a child in an emergency or other short term out of home care placement, including kinship arrangements and respite care, that has not been determined to be permanent;

100.1.2. support the protection of the family and children under the *Human Rights Act 2004* and the *Children and Young People Act 2008.*

Eligibility

100.2. Foster and Short Term Care leave is available to employees other than casual employees who are the primary care giver of a child in an emergency or other out of home care placement that has not been determined as permanent.

100.3. An employee who has completed at least twelve months continuous service, including recognised prior service, immediately prior to commencing a period of Foster and Short Term Care leave, is eligible for Foster and Short Term Care leave.

Entitlement

100.4. An eligible employee is entitled to a period of paid leave proportionate to the duration of the caring arrangement per application and up to a maximum of ten working days or shifts per calendar year.

100.5. Where the duration of the existing arrangement is subsequently altered, for example, a change from an emergency placement to a short term placement, the employee may, subject to further application and approval, have their leave extended up to a maximum period of ten working days or shifts.

100.6. An eligible employee will be entitled to paid leave as per subclause 100.4 to undertake accreditation towards an enduring parental authority to care for the child to whom the current short term caring arrangement applies.

100.7. The entitlement under sub-clause 100.4 does not increase when the short term caring arrangement involves more than one child at the time of application.

100.8. Foster and Short Term Care leave is non-cumulative.

100.9. Where an employee exhausts their paid leave entitlement under this clause the employee may seek approval for further unpaid leave.

Evidence and Conditions

100.10. An employee should discuss with their manager or supervisor, as soon practicable, their intention to be absent on Foster and Short Term Care leave.

100.11. An employee must make an application, as soon as practicable, to the head of service to access their Foster and Short Term Care leave.

100.12. The employee must provide the head of service with appropriate evidence concerning the reasons for and circumstances under which each Foster and Short Term Care leave application is made, which may include any of the following:

100.12.1. documents relating to current and previous court orders granting responsibility for a foster child;

100.12.2. documents from a registered health professional or registered medical practitioner.

100.13. Having considered the requirements of this clause the head of service may approve an employee's application to access foster and short term care leave. A decision not to approve the leave must be taken in accordance with subclause 84.1.

Rate of Payment

100.14. Foster and Short Term Care leave will be granted with pay or without pay.

100.15. The rate of payment during absence on a period of paid Foster and Short Term Care leave is the same rate as would be paid if the employee was granted personal leave.

100.16. The approved leave period may be taken at full pay in a single block or as single or part days.

Effect on Other Entitlements

100.17. Paid Foster and Short Term Care leave counts as service for all purposes and unpaid Foster and Short Term Care leave does not count as service for any purposes but does not break continuity of service.

100.18. Public holidays for which the employee is entitled to payment that fall during periods of absence on paid Foster and Short Term Care leave must be paid as a normal public holiday and will not be considered to be Foster and Short Term Care leave.

Interaction with Other Leave Types

100.19. An eligible employee is required to have exhausted their entitlement under this leave clause before accessing their personal leave credit to care for a child, for whom they are responsible under a short term caring arrangement, who is ill or injured.

101. CONCURRENCY CARE ENTITLEMENT TO ADOPTION OF PERMANENT CARE LEAVE

101.1. For the purpose of subclause 101.2, a Community Organisation is an organisation involved with out of home care and adoption of children and young people such as the following:

101.1.1. A member of the ACT Together consortium;

101.1.2. Marymead;

101.1.3. A similar organisation based outside the ACT.

101.2. For the purposes of subclause 101.3, a Concurrency Care Foster Care Program involves a Community Organisation placing a child with foster carers while restoration to the birth family is explored. If restoration is not achieved, the foster carers have an opportunity to care for the child permanently. The Primary Care Giver in such an arrangement is required by the Community Organisation to take a minimum of 12 month leave to stabilise the placement of the child.

101.3. Notwithstanding clause 100, an employee who provides foster care under a Concurrency Care Foster Care Program, in accordance with arrangements approved by the Community Services Directorate, is entitled to apply for Adoption or Permanent Care Leave under clause 99, as if they had a permanent caring responsibility. Such employees are not entitled to leave under clause 100.

102. FAMILY, DOMESTIC OR SEXUAL VIOLENCE LEAVE

Purpose

102.1. Leave under this clause is available to employees to enable them to deal with the impact caused by family, domestic or sexual violence. The ACTPS is committed to assisting employees experiencing family, domestic or sexual violence to remain in work, maintain their physical and financial security and access relevant services.

Eligibility

102.2. Family, domestic or sexual violence leave is available to all employees:

102.2.1. Experiencing family, domestic or sexual violence; or

102.2.2. supporting an immediate family member experiencing family, domestic or sexual violence.

Entitlement

102.3. An employee experiencing family, domestic or sexual violence has access up to a maximum of 20 days or shifts per calendar year of paid leave. Family, domestic or sexual violence leave is non-cumulative.

102.4. Family, domestic or sexual violence leave is in addition to other leave entitlements and is not to be used as a substitute for personal leave. However, where supporting evidence is not immediately available the head or service must, grant paid leave under clause 87 of this Determination (Personal Leave in Special, Extraordinary or Unforeseen Circumstances), subject to available credit. If the employee subsequently produces supporting evidence, the personal leave will be re-credited and the leave taken will be converted to family, domestic or sexual violence leave.

102.5. Family, domestic or sexual violence leave is to be used for, but not limited to, the following actions required as a consequence of family, domestic or sexual violence occurring:

102.5.1. Attendance at appropriate medical appointments for referral to other appropriate counselling or support services.

102.5.2. Obtaining legal advice.

102.5.3. Attending counselling appointments.

102.5.4. Seeking assistance from other relevant support services.

102.5.5. Attending court proceedings.

102.5.6. Attending prosecution appointments.

102.5.7. Attending police appointments.

102.5.8. Attending to Protection Order matters and Domestic Violence Order matters however termed.

102.5.9. Attending to issues arising through urgent property damage.

102.5.10. Seeking veterinary assistance for pets injured.

102.5.11. Accessing alternative accommodation.

102.5.12. Accessing alternative childcare or schooling for children.

102.5.13. Any other reason relating to recovering from the effects of experiencing family, domestic or sexual violence where personal leave is not applicable.

Note: An employee, accessing leave under this provision, may require additional time for travel and recovery following attendance at appointments, proceedings etc.

102.6. Family, domestic or sexual violence leave may be taken as consecutive or single days, or as part days.

102.7. For confidentiality and privacy reasons family, domestic or sexual violence leave will be attributed as coming under "where leave cannot be granted under any other provision" which is included and identified within "Other Leave Types" in Annex D of this Determination.

Evidence and conditions

102.8. Employees wishing to access family, domestic or sexual violence leave should discuss making an application with their manager or supervisor or an appropriate HR Manager as soon as reasonably practical.

102.9. As a general rule, a leave application should be submitted by an employee for approval by the head of service before the commencement of the leave. However, retrospective applications may be approved provided that appropriate evidence is provided as soon as reasonably practicable upon the employee's return to the workplace.

102.10. Evidence of the occurrence of family, domestic or sexual violence is required to access leave for family, domestic or sexual violence purposes.

102.11. Evidence may include any of the following:

102.11.1. A document issued by the Police or a court.

102.11.2. A written referral, issued by a registered medical practitioner or registered nurse, to a counsellor trained in providing support in family, domestic or sexual violence situations.

102.11.3. A document issued by a counsellor who is trained in providing support to people experiencing the effects of family, domestic or sexual violence.

102.11.4. Written confirmation from an Employee Assistance Program provider or from a family, domestic or sexual violence support service that the employee is experiencing family, domestic or sexual violence issues.

102.12. Managers are to keep all information concerning the leave application strictly confidential. This includes, after sighting any supporting documentation, returning that documentation to the employee.

102.13. Having considered the requirements of this clause the head of service may approve an employee's application to access family, domestic or sexual violence leave. A decision not to approve the leave must be taken in accordance with subclause 84.1.

Rate of payment

102.14. Family, domestic or sexual violence leave is granted with pay.

102.15. For an employee other than a casual employee, the rate of payment for family, domestic or sexual violence leave is the employee's full rate of pay, worked out as if the employee had not taken the period of leave.

102.16. For a casual employee, the rate of payment for family, domestic or sexual violence leave is the employee's full rate of pay, worked out as if the employee had worked the hours in the period for which the employee was rostered or expected to be rostered.

102.17. Family, domestic or sexual violence leave may be granted at half pay where there are extenuating circumstances.

Effect on other entitlements

102.18. Leave with pay for family, domestic or sexual violence purposes counts as service for all purposes.

Interaction with other leave types

102.19. Where family, domestic or sexual violence leave credits have been exhausted, the head of service may grant an employee leave without pay or other forms of paid leave, such as annual leave or long service leave.

102.20. Employees should utilise personal leave for an illness or injury, or to seek treatment for an illness or injury, caused by family, domestic or sexual violence.

102.21. Leave entitlements under clause 87 of this Determination (Personal Leave in Special, Extraordinary or Unforeseen Circumstances) may be used by an employee who is seeking leave to support a person who is experiencing family, domestic or sexual violence.

Employee Assistance

102.22. Reasonable adjustments must be facilitated to ensure the employee's individual safety in the workplace including different work locations, removal or change of phone listing, changes to their work email address and other practicable workplace adjustments.

103. COMPASSIONATE LEAVE

Purpose

103.1. Compassionate leave is available to employees to enable them to be absent from duty when one of the following applies to a member of an employee's immediate family or household:

103.1.1. They have a personal illness or injury that poses a serious threat to the person's life;

103.1.2. They die, including where a child is stillborn.

103.2. Compassionate leave is available to enable them to be absent from duty when they experience a miscarriage or when an employee's domestic partner has experienced a miscarriage.

Eligibility

103.3. Compassionate leave is available to all employees.

Entitlement

103.4. An employee may be granted compassionate leave from the first day of service.

103.5. Compassionate leave is non-cumulative.

103.6. Employees are entitled to up to five days of compassionate leave on each occasion of the death of a member of the employee's immediate family or household. The head of service may grant an additional paid or unpaid period of compassionate leave for this purpose.

103.7. Employees are entitled to up to two days of compassionate leave on each occasion of personal illness or injury of a member of the employee's immediate family or household that poses a serious threat to the person's life. The head of service may grant an additional paid or unpaid period of compassionate leave for this purpose.

Evidence and Conditions

103.8. The employee should discuss with their manager or supervisor, as soon as practicable, their absence or intention to be absent on compassionate leave.

103.9. An employee must make an application to the head of service to access compassionate leave.

103.10. The head of service may request evidence that would satisfy a reasonable person that an application for compassionate leave is for a purpose specified in subclause 103.1.

103.11. Having met the requirements of this clause, the head of service must approve an employee's application to access compassionate leave.

103.12. If the employee has not provided the evidence requested under subclause 103.10, a decision not to approve the leave may be taken in accordance with subclause 84.1.

Rate of Payment

103.13. Compassionate leave must be granted with pay, except for casual employees and except where it is granted without pay under subclauses 103.6 or 103.7.

103.14. Compassionate leave is paid at the employee's base rate of pay, including relevant allowances for the ordinary hours the employee would have worked during the leave.

Effect on Other Entitlements

103.15. Compassionate leave with pay counts as service for all purposes.

103.16. Public Holidays for which the employee is entitled to payment that fall during periods of absence on paid compassionate leave must be paid as a normal public holiday and will not be considered an absence on compassionate leave.

Interaction with Other Leave Types

103.17. If compassionate leave of at least one day is granted while an employee is absent on another type of leave, the other type of leave must be re-credited for the period of the absence on compassionate leave.

104. COMMUNITY SERVICE LEAVE

Purpose

104.1. Community service leave is available to employees to allow them to be absent from the workplace to engage in the following three distinct types of community service activities:

104.1.1. jury service (including attendance for jury selection) that is required by or under a law of the Commonwealth, a State or a Territory;

104.1.2. a voluntary emergency management activity;

104.1.3. other recognised voluntary community service activities.

Jury Service

Eligibility

104.2. Community service leave for jury service is available to all employees.

Evidence and Conditions

104.3. Although the granting of community service leave for jury service is deemed to be approved, an employee must do both the following:

104.3.1. Submit a leave application for the period of the absence;

104.3.2. Provide sufficient documentary evidence of the reason for the absence.

104.4. The employee should discuss with their manager/supervisor their intention to be absent on community service leave for jury service.

Rate of Payment

104.5. Community service leave for jury service must be granted with pay to employees other than casual employees.

104.6. If the employee is paid jury fees, this amount must be deducted from the employee's pay less reasonable out-of-pocket expenses.

Effect on Other Entitlements

104.7. Community service leave for jury service counts as service for all purposes.

104.8. Public holidays for which the employee is entitled to payment that fall during periods of absence on paid community service leave for jury service must be paid as a normal public holiday and will not be considered to be community service leave for jury service.

Voluntary Emergency Management

Eligibility

104.9. An employee who is a member of a relevant voluntary emergency management service, including any of the following, is eligible for Community Service Leave:

104.9.1. a State or Territory Emergency Service;

104.9.2. a fire-fighting service;

104.9.3. a search and rescue unit;

104.9.4. Another volunteer service that performs similar functions,

104.10. A casual employee who is a member of a relevant emergency service is eligible to unpaid community service leave for voluntary emergency management service.

Entitlement

104.11. Eligible employees are entitled to be absent on unpaid leave to engage in voluntary emergency management activities, subject to operational requirements in the workplace.

104.12. Eligible employees, other than casual employees, are eligible for up to four days paid community service leave for voluntary emergency management per emergency.

104.13. Community service leave for voluntary emergency management is non-cumulative.

Evidence and Conditions

104.14. An employee should discuss their intention to be absent on paid or unpaid community service leave for voluntary emergency management with their manager or supervisor as soon as practicable, which may be

at a time after the absence has started. The employee must advise the manager or supervisor of the period, or expected period, of the absence.

104.15. An employee must make an application to the head of service to access their community service leave entitlement for voluntary emergency management.

104.16. The employee must, if requested by the head of service, provide sufficient documentary evidence of the reason for the absence.

104.17. The head of service may grant paid community service leave for voluntary emergency management to enable the employee to fulfil an obligation in the event of a civil emergency.

104.18. Having considered the requirements of this clause the head of service may approve an employee's application to access paid community service leave for voluntary emergency management. A decision not to approve the leave must be taken in accordance with subclause 84.1.

Rate of Payment

104.19. Where paid leave is granted for community service leave for voluntary emergency management, it is paid at the employee's ordinary hourly rate of pay.

Effect on Other Entitlements

104.20. A period of approved community service leave for voluntary emergency management counts as service for all purposes.

104.21. Public holidays for which the employee is entitled to payment that fall during periods of absence on paid community service leave for voluntary emergency management must be paid as a normal public holiday and will not be considered to be community service leave for voluntary emergency management.

Additional Leave

104.22. Additional paid leave may be approved by the head of service for any voluntary emergency management duties required to be performed by an employee who is a member of a State or Territory Emergency Service.

Voluntary Community Service

Eligibility

104.23. Community service leave for voluntary community service is available to all employees.

Entitlement

104.24. Employees, other than casual employees, are entitled to up to three days of paid leave for community service leave to engage in a recognised voluntary community service activity within a twelve month period.

104.25. Community service leave for voluntary community service is non-cumulative.

104.26. An employee may be granted unpaid community service leave to engage in a recognised voluntary community service activity, subject to operational requirements in the workplace.

Evidence and Conditions

104.27. An employee should discuss their intention to be absent on community service leave for voluntary community service, as soon as practicable, with their manager or supervisor.

104.28. An employee must make an application to the head of service to access their community service leave for voluntary community service entitlement.

104.29. The head of service may request sufficient documentary evidence of the reason for the absence.

104.30. In considering an application from an employee for paid leave to engage in a voluntary community service activity, the head of service must consider all of the following:

104.30.1. Whether the activity is a recognised voluntary activity and benefits the local community;

104.30.2. Whether the community organisation or project is an acceptable organisation or project as defined in Whole-of-Government policy or the employee's Directorate guidelines (whichever is the greater);

104.30.3. Whether there is a risk the activity would place the employee in a real or perceived conflict of interest.

104.31. Leave for a voluntary community service activity must not be approved for activities which:

104.31.1. involve any payment in cash or kind for the duties performed by the employee; or

104.31.2. replace work ordinarily undertaken by a paid worker; or

104.31.3. are undertaken solely for direct personal benefit of the employee; or

104.31.4. place the employee in a conflict of interest situation; or

104.31.5. are primarily focussed on promoting particular religious or political views; or

104.31.6. involves work which does not have a local community focus.

104.32. Having considered the requirements of this clause the head of service may approve an employee's application to access paid or unpaid community service leave for voluntary community service.

104.33. A decision not to approve the leave must be made in accordance with subclause 84.1.

Rate of Payment

104.34. Community service leave for voluntary community service is granted with pay for the first three days leave in a twelve month period to all employees except casual employees.

Effect on Other Entitlements

104.35. Community service leave for voluntary community service counts as service for all purposes up to a maximum of twenty three days in any twelve month period.

104.36. Where the head of service has approved a request for unpaid community service leave for voluntary community service exceeding twenty days in a twelve month period, the leave in excess of twenty days does not count as service.

104.37. Public holidays for which the employee is entitled to payment that fall during periods of absence on paid community service leave for voluntary community service must be paid as a normal public holiday and will not be considered to be community service leave for voluntary community service.

Interaction with Other Leave Types

104.38. Leave granted under this provision may be taken in combination with approved annual or long service leave.

105. OTHER LEAVE

Purpose

105.1. Other leave is available to employees to enable them to be absent from duty for a variety of purposes as set out in Annex D

105.2. Other leave may be granted in the interests of any of the following:

105.2.1. the Directorate, a State, a Territory or the Commonwealth;

105.2.2. the community in general;

105.2.3. the employee.

Note: Separate provisions apply for community service leave which includes jury service, voluntary emergency management and voluntary community service.

Eligibility

105.3. An employee who meets the eligibility requirements specified in Annex D is eligible to apply for that form of other leave.

Entitlement

105.4. An employee may be granted other leave to the maximum period set out in Annex D.

Evidence and Conditions

105.5. An employee should discuss with their manager or supervisor, as soon as practicable, their intention to be absent on a form of other leave, including the reasons for the absence and the period, or expected period, of the absence.

105.6. An employee must make an application to the head of service to access a form of other leave.

105.7. Having considered the requirements of this clause the head of service may approve an employee's application to access a form of other leave. A decision not to approve the leave must be made in accordance with subclause 84.1.

105.8. The employee must, if requested by the head of service, provide sufficient documentary evidence supporting the reason for the absence.

105.9. When considering requests for other leave, the head of service must take into account all of the following:

105.9.1. the employee's circumstances;

105.9.2. community norms and obligations;

105.9.3. the operational requirements of the workplace;

105.9.4. other available leave options;

105.9.5. any conditions on the entitlement as defined in Annex D.

Rate of Payment

105.10. Other leave may be granted with or without pay in accordance with Annex D.

Effect on Other Entitlements

105.11. A period of other leave will, or will not, count as service in accordance with Annex D.

105.12. Public holidays for which the employee is entitled to payment that fall during periods of absence on other paid leave must be paid as a normal public holiday and will not reduce an entitlement of the employee to other leave under Annex D.

Interaction with Other Leave Types

105.13. Leave must not be granted under this provision if another form of leave is more appropriate.

Unattachment

105.14. Where the leave is without pay for a period of more than twelve months the head of service may, with the employee's written consent, declare the employee unattached.

Leave entitlements provided for elsewhere

105.15. In addition to the leave entitlements available within section F, leave entitlements are provided throughout this Determination and the PSM Standards, including:

Annex D – Other Leave	1. Attend Aboriginal or Torres Strait Islander Ceremonies 2. Attend Aboriginal and Torres Strait Islander meetings 3. Attend NAIDOC week activities 4. Religious purposes 5. Defence Reserve 6. Operational Service Personal Leave 7. Returned soldiers for medical purposes 8. Accompany a domestic partner on a posting 9. Engage in employment in the interests of defence or public safety 10. Attend as a witness 11. Attend proceedings at the Fair Work Commission 12. Donate an organ 13. Donate Blood 14. Hold a full-time office in a staff organisation 15. Local government purposes 16. Campaign for election 17. Attend sporting events as an accredited competitor or official 18. Cope with a disaster 19. Engage in employment associated with compensation 20. Engage in employment in the interests of the ACTPS 21. Take leave where leave cannot be granted under any other provision

140	Attendance at Industrial Relations Courses and Seminars
165	Leave and Expenses to Seek Employment
Public Sector Management Standards	Study assistance

106. PUBLIC HOLIDAYS

Eligibility

106.1. Public holidays are available to employees other than casual employees.

Entitlement

106.2. Employees are entitled to be absent from duty a day, or part of a day, that is a public holiday, in accordance with the FW Act and this clause.

106.3. The following days are observed as public holidays under this Determination:

106.3.1. 1 January (New Year's Day), and, if that day falls on a Saturday or Sunday, the following Monday;

106.3.2. 26 January (Australia Day), or, if that day falls on a Saturday or Sunday, the following Monday;

106.3.3. the 2nd Monday in March (Canberra Day);

106.3.4. Good Friday;

106.3.5. the Saturday following Good Friday;

106.3.6. Easter Sunday;

106.3.7. the Monday following Good Friday;

106.3.8. 25 April (Anzac Day), or, if that day falls on a Saturday or Sunday, the following Monday;

106.3.9. 27 May (Reconciliation Day), or, if that day is not a Monday, the following Monday;

106.3.10. the 2nd Monday in June (the day for the observance of the anniversary of the birthday of the Sovereign);

106.3.11. the 1st Monday in October (Labour Day);

106.3.12. 25 December (Christmas Day), and one of the following:

106.3.12.1. if Christmas Day falls on a Saturday, the following Monday;

106.3.12.2. if Christmas Day falls on a Sunday, the following Tuesday;

106.3.13. 26 December (Boxing Day), and one of the following:

106.3.13.1. if Boxing Day falls on a Saturday—the following Monday;

106.3.13.2. if Boxing Day falls on a Sunday or Monday—the following Tuesday.

106.4. In addition to the public holidays provided for under subclause 106.3 employees are entitled to be absent from duty as if it were a public holiday on all of the following:

106.4.1. the next business day after Boxing Day; or one of the following:

106.4.1.1. if Boxing Day falls on a Saturday, the following Tuesday;

106.4.1.2. if Boxing Day falls on a Sunday, the following Wednesday;

106.4.2. any other day, or a part of any other day, that the Minister declares to be a public holiday in the ACT under the *Holidays Act 1958*;

106.4.3. any other day, or a part of any other day, that the head of service declares to be a holiday under the PSM Act.

106.5. Where a day identified in subclause 106.3 is replaced by another day by an amendment to the *Holidays Act 1958*, the replacement day will be observed as the public holiday in its place.

106.6. An employee and the head of service may agree on the substitution of a day or part day that would otherwise be a public holiday, having regard to operational requirements.

106.7. If an arrangement described under clause 106.6 is not practical in relation to the operational and business requirements of the directorate or business unit, the employee may, with the approval of the head of service, observe a day of cultural or religious significance to the employee as a holiday and make up the equivalent hours at some other agreed time.

Rate of Payment

106.8. Subject to subclauses 106.7 and 106.8, where an employee who is entitled to be absent from duty on a day, or a part of a day, that is a public holiday, and the employee is absent from duty, the employee will be paid at the employee's ordinary hourly rate for the employee's ordinary hours of work on that day or part-day.

106.9. A part-time employee is entitled to observe a public holiday without loss of pay if the employee would usually have been required to work on the day of the week on which the public holiday falls. To remove any doubt, a part time employee whose regular part time hours do not fall on a public holiday will not be paid for that public holiday.

106.10. An employee will not be paid for a public holiday which occurs during a period of leave without pay.

106.11. If a public holiday occurs on the day immediately before or immediately after an employee is on a period of leave without pay the employee is entitled to be paid for the public holiday.

Effect on Other Entitlements

106.12. Subject to subclause 106.11, public holidays count as service for all purposes.

106.13. A public holiday does not count as service if it occurs while the employee is on a period of leave not to count as service.

107. DISABILITY LEAVE

Purpose

107.1. Disability leave is available to employees to enable them to be absent from duty for the purposes of activities associated with an employee's diagnosed permanent or ongoing physical or psychological disability.

107.2. Disability leave supports the Territory's commitment to being an equitable employer and to support employees with disability to balance their work commitments with appointments or activities associated with their disability.

Eligibility

107.3. Disability leave is available to employees, other than casual employees, who have a disability. For the purposes of this clause, disability is defined as a permanent or ongoing physical or psychological disability attributable to one or more intellectual, cognitive, neurological, sensory or physical impairments or to one or more impairments attributable to a psychiatric condition.

Entitlement

107.4. Employees eligible for disability leave will be entitled up to a maximum of 5 days/shifts of disability leave per calendar year, subject to the provision of appropriate evidence. Disability leave is non-cumulative.

107.5. An employee may be granted disability leave from the first day of service.

107.6. The use of disability leave is restricted to activities associated with an employee's disability, and is not to be used as a substitute for personal leave entitlements available under clause 86.

107.7. Disability leave is to be used for activities or appointments associated with the employee's disability, including, but not limited to any of the following:

107.7.1. To attend appointments with medical practitioners.

107.7.2. To attend treatment, rehabilitation, therapy or counselling.

107.7.3. To attend tests or assessments.

107.7.4. To receive delivery of, fitting, repairing, maintaining and undergoing training in use of orthoses, prostheses, adaptive equipment, or other aids.

107.7.5. To obtain wheelchair or other equipment maintenance or replacement.

107.8. Disability leave may be taken as consecutive or single days, or as part days.

Evidence and conditions

107.9. Employees wishing to access disability leave should discuss their intention to take leave with their manager or supervisor as soon as practical.

107.10. An employee must make an application to the head of service to access disability leave accompanied by supporting documentary evidence.

107.11. Documentary evidence may include any of the following:

107.11.1. A medical certificate from a registered medical practitioner or registered health professional operating within their scope of practice.

107.11.2. A written referral, issued by a registered medical practitioner.

107.11.3. A statutory declaration.

107.11.4. Other reasonable forms of documentation.

107.12. Having considered the requirements of this clause the head of service may approve an employee's application to access disability leave, subject to operational requirements in the workplace.

107.13. If the head of service does not approve an employee's application for disability leave because of operational requirements, the head of service must consult with the employee to determine a mutually convenient alternative time (or times) for the employee to take the leave.

Employee Support

107.14. An employee may initiate a request to seek support through a flexible work arrangement and reasonable adjustments through an individual plan.

107.15. Following a request made under 107.13, the manager and employee will jointly prepare and agree to the individual plan.

Rate of payment

107.16. Disability leave must be granted with pay.

107.17. The rate of payment to be paid to the employee during a paid period of disability leave is the same rate as would be paid if the employee was granted paid personal leave.

Effect on other entitlements

107.18. Employees who are unable to attend work due to illness related to their disability may utilise personal leave.

107.19. Disability leave will count as service for all purposes.

107.20. Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on disability leave must be paid as a normal public holiday.

Interaction with other leave entitlements

107.21. Where an employee has exhausted their disability leave entitlement, they may apply to the head of service for approval to take personal leave, or other forms of paid leave such as annual leave or long service leave.

107.22. An employee who is entitled under this Determination to operational service personal leave for injuries or diseases associated with operational service, or for medical purposes as a returned soldier, is not entitled to disability leave.

108. SURROGACY LEAVE

Purpose

108.1. Surrogacy leave is available to pregnant employees who have entered into a valid surrogacy arrangement to enable them to be absent from duty to do both of the following:

108.1.1. Support their own wellbeing.

108.1.2. Support the employee's right to continuity of service.

Eligibility

108.2. An employee who is pregnant as part of a valid Australian surrogacy agreement is eligible to be absent on surrogacy leave.

108.3. An employee who is eligible for surrogacy leave is not entitled to birth leave under clause 93.

108.4. An employee is eligible for surrogacy leave where one of the following applies:

108.4.1. The employee gives birth to a newborn child as part of a valid surrogacy agreement.

108.4.2. The employee's pregnancy as part of a valid surrogacy agreement ends at within 20 weeks of the estimated date of delivery other than by the birth of a living child (including stillbirth).

108.5. Where an employee's pregnancy ends more than 20 weeks before the estimated date of delivery of the child any surrogacy leave which has been prospectively approved must be cancelled. In this circumstance the employee may become eligible for compassionate leave in accordance with clause 102 and/or special birth leave in accordance with clause 93.

Eligibility – paid surrogacy leave

108.6. An employee, other than a casual employee, who is eligible for surrogacy leave and who has completed 12 months of continuous service, including recognised prior service, immediately prior to commencing a period of surrogacy leave is eligible for paid surrogacy leave.

108.7. An employee, other than a casual employee, who is eligible for surrogacy leave and who completes 12 months of continuous service within the first 12 weeks of surrogacy leave is eligible for paid surrogacy leave for the period between completing 12 months of service and the end of the first 12 weeks of surrogacy leave.

108.8. An employee who is eligible for paid surrogacy leave and who is on approved leave without pay is eligible for paid surrogacy leave for the period between completing the approved period of leave without pay and the end of the first 12 weeks of surrogacy leave.

Entitlement

108.9. Subject to subclause 108.6, an employee who is eligible for paid surrogacy leave is entitled to 12 weeks of paid leave in relation to each birth.

108.10. To avoid doubt, the entitlement under this clause does not increase in cases of multiple births.

108.11. Surrogacy leave is non-cumulative.

108.12. Subject to subclauses 108.13 and 108.14, a surrogate who is eligible for surrogacy leave must absent themselves from duty for a period commencing 6 weeks prior to the estimated date of delivery of the child and ending 6 weeks after the actual date of birth of the child.

108.13. A surrogate who produces medical evidence from a registered medical practitioner stating they are fit for duty until a date less than 6 weeks prior to the estimated date of delivery of the child may continue to work up until a date recommended by the medical practitioner, subject to the approval of the head of service.

108.14. A surrogate who has given birth to a child and produces medical evidence from a registered medical practitioner stating they are fit for duty from a date less than 6 weeks after the date of birth of the child may resume duty on a date recommended by the medical practitioner, subject to the approval of the head of service.

108.15. A surrogate who has given birth to a child may resume duty following the end of the 6 week period after the birth of the child, and earlier than the end of the approved period of surrogacy leave subject to the approval of the head of service.

108.16. An employee who has given birth to a child is entitled to return to work in accordance with the provisions in the National Employment Standards of the FW Act.

Evidence and conditions

108.17. An employee must give notice to their manager or supervisor as soon as practicable of their intention to be absent on surrogacy leave.

108.18. Surrogacy leave is deemed to be approved; however, an employee must submit an application to the head of service for any period of surrogacy leave.

108.19. Having considered the requirements of this clause the head of service must approve an employee's application to access surrogacy leave.

108.20. Prior to commencing surrogacy leave an employee will provide the head of service with documentary evidence of both the following:

108.20.1. The pregnancy and the estimated date of delivery from a registered medical practitioner or registered health professional who is operating within their scope of practice.

108.20.2. Evidence of the valid surrogacy arrangement.

108.21. If requested by the head of service, an employee must provide the head of service with documentary evidence of the birth and the date of the birth of the child as soon as possible after the birth of the child. Such documentary evidence may include a copy of the birth certificate or documents provided by a registered medical practitioner or registered health professional who is operating within their scope of practice.

Rate of payment

108.22. The rate of payment to the employee during a paid period of surrogacy leave is the same rate as would be paid if the employee was granted paid personal leave.

108.23. Despite 108.22, where an employee varies their ordinary hours of work, either from part time to full time, from part time to different part time, or from full time to part time, during the 12-month period directly preceding surrogacy leave, the rate of payment for the paid component of their surrogacy leave, which will be capped at full time rates, will be calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the 12-month period immediately before the period of surrogacy leave commences.

108.24. To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of subclause 108.23.

Effect on other entitlements

108.25. Surrogacy leave with pay will count as service for all purposes.

108.26. Any period of unpaid surrogacy leave taken by an employee during the period commencing 6 weeks prior to the estimated date of delivery of the child and ending 6 weeks after the actual date of birth of the child will count as service for all purposes.

108.27. Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on surrogacy leave will not be paid as a normal public holiday.

Interaction with other leave entitlements

108.28. An employee who is eligible for surrogacy leave is not entitled to birth leave under clause 93.

109. GENDER AFFIRMATION LEAVE

Purpose

109.1. Gender affirmation leave is available to employees to enable them to be absent from duty for the purposes of activities associated with affirming an employee's gender.

Eligibility

109.2. Gender affirmation leave is available to employees, other than casual employees, who are affirming their gender.

Entitlement

109.3. Gender affirmation leave is available to an employee during the course of their employment to undertake necessary gender affirmation steps and procedures.

109.4. An employee undergoing gender affirmation is entitled, subject to the provision of appropriate evidence, to both the following:

109.4.1. Up to 4 weeks (20 days) paid leave, or up to 8 weeks (40 days) at half pay.

109.4.2. Up to 48 weeks unpaid leave.

109.5. Leave for gender affirmation purposes is in addition to other leave entitlements, and is to be used for activities associated with affirming an employee's gender, including, but not limited to any of the following:

109.5.1. To attend appropriate medical or psychological appointments.

109.5.2. To attend counselling appointments.

109.5.3. To obtain legal advice or attend documentation amendment appointments.

109.5.4. To obtain hormonal treatments.

109.5.5. To undergo gender affirmation surgery or to attend surgery-related appointments.

Note: it may be necessary under this provision for the employee to use additional time to the duration of appointments in order to facilitate travel and recovery.

109.6. Leave for gender affirmation purposes may be taken as consecutive or single days, or as part days.

Evidence and conditions

109.7. Employees wishing to access gender affirmation leave should discuss their intention to take leave with their manager or supervisor, or an appropriate HR Manager, as soon as practical.

109.8. An employee must make an application to the head of service to access gender affirmation leave. As far as practicable an employee will provide at least 4 weeks' written notice of their intended commencement date together with supporting documentary evidence.

109.9. Evidence may include any of the following:

109.9.1. A medical certificate from a registered medical practitioner or registered professional operating within their scope of practice.

109.9.2. A written referral, issued by a registered medical practitioner, to a counsellor.

109.9.3. A document issued by a counsellor.

109.9.4. A legal or other document issued by a state, territory, or federal government organisation.

109.9.5. A statutory declaration.

109.10. Having considered the requirements of this clause the head of service may approve an employee's application to access gender affirmation leave.

Rate of payment

109.11. Gender affirmation leave will be granted with pay for the first 4 weeks, or 8 weeks at half pay.

109.12. Paid gender affirmation leave may be taken with full or half pay, or a combination of full and half pay, with credits to be deducted on the same basis. The maximum paid period is up to 8 weeks at half pay.

109.13. The rate of payment to be paid to the employee during a paid period of gender affirmation leave is the same rate as would be paid if the employee was granted paid personal leave.

Effect on other entitlements

109.14. Leave with pay for gender affirmation purposes will count as service for all purposes. Leave without pay for gender affirmation purposes will not count as service for any purpose, but will not break an employee's continuity of service.

109.15. Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on gender affirmation leave will be paid as a normal public holiday.

Interaction with other leave entitlements

109.16. An application by an employee for long service leave or annual leave during a period that would otherwise be an unpaid period of gender affirmation leave will be granted to the extent of available entitlements.

109.17. An application by an employee for personal leave during a period that would otherwise be an unpaid period of gender affirmation leave will be granted subject to the employee providing a certificate from a registered medical practitioner or registered health professional operating within their scope of practice to the extent of available entitlements.

110. ASSISTED REPRODUCTIVE LEAVE

Purpose

110.1. Assisted reproductive leave is available to employees, other than casual employees, to enable them to be absent from duty to undergo assisted reproductive treatments and attend medical appointments in relation to assisted reproductive treatments.

Eligibility

110.2. Paid assisted reproductive leave is available to an employee, other than a casual employee, who is to undergo assisted reproductive treatments.

110.3. An employee who has completed at least 12 months continuous service, including recognised prior service, immediately prior to commencing assisted reproductive treatments is eligible for assisted reproductive leave.

110.4. Assisted reproductive leave is not available to the partner of the person undergoing assisted reproductive treatments unless they are also undergoing assisted reproductive treatment.

110.5. These provisions do not apply in respect of the birth of a child of the employee's legal surrogate or the adoption of a child or children by the employee.

Entitlement

110.6. The employee is entitled to up to five days paid assisted reproductive leave per calendar year.

110.7. Leave is non-cumulative and may be taken as single or consecutive days.

110.8. Assisted reproductive leave may be taken as part-days to facilitate the attendance of related medical appointments.

Evidence and Conditions

110.9. An employee should discuss with their manager or supervisor, as soon as practicable, their intention to be absent on assisted reproductive leave.

110.10. An employee must make an application to the head of service to access their assisted reproductive leave.

110.11. The head of service may request documentary evidence supporting the employees request to access assisted reproductive leave. Documentary evidence may include a medical certificate from a registered medical practitioner or registered health professional operating within their scope of practice confirming reproductive leave treatments and associated appointments.

110.12. Having considered the requirements of this clause, the head of service may approve an employee's application to access assisted reproductive leave.

Rate of Payment

110.13. Assisted reproductive leave is granted with pay, and is paid at the employee's base rate of pay, including relevant allowances for the ordinary hours the employee would have worked during the leave.

Effect on Other Entitlements

110.14. Assisted reproductive leave will count as service for all purposes.

110.15. Public holidays for which the employee is entitled to payment that fall during periods of absence on assisted reproductive leave will be paid as a normal public holiday and must not be deducted from the employee's annual leave balance.

Interaction with Other Leave Types

110.16. Paid assisted reproductive leave must not be taken concurrently with any other forms of leave.

110.17. Employees who are unfit to attend work due to illness related to their assisted reproductive treatments must apply for personal leave and are not eligible for assisted reproductive leave.

110.18. Despite clause 110.17, where an employee has exhausted their personal leave credits, the head of service may consider approving an application for assisted reproductive leave where the employee is unfit to attend work due to illness related to their assisted reproductive treatments.

PART 5: PERFORMANCE CULTURE

Section M – Learning and Development

111. Training, Education and Study Leave (TESL) – Specialists and Senior Specialists

Purpose of TESL

111.1. TESL is leave for the purpose of undertaking training and educational activities. It encompasses leave to attend short courses and seminars (previously catered for by the Conference Leave), and Sabbatical Leave (for which purpose Study Leave was formerly available).

Leave Entitlement

111.2. A full time Specialist or Senior Specialist is entitled to 160 hours of Training, Education and Study Leave (TESL) each year.

111.3. An employee may be granted TESL up to their available credit from the first day of service.

111.4. An employee's TESL credit accrues on a daily basis according to the formula set out below:

(A x B x D) / C = total hours of leave accrued per day where:

A = number of ordinary hours per week worked (40 for a full-time employee); and

B = one where the day counts as service or zero where the day does not count as service or is an unauthorised absence;

C = number of calendar days in the year; and

D = number of weeks of TESL a full time employee is entitled to in a year (4)

111.5. The entitlement to TESL under this clause replaces the entitlements to study leave and conference leave under the PSM Standards.

111.6. TESL entitlements can accrue for a maximum of eight years (i.e. a maximum accrual of 1280 hours for full time Specialists and Senior Specialists (see 27.1 for part-time employees).

111.7. Short-term (up to three months) temporary and casual employees are not eligible for TESL. A temporary employee with over three months service will accrue their entitlement from the beginning of the fourth month of service.

Fractional appointments (regular part-time employment)

111.8. The head of service may require a Specialist or Senior Specialist who is working pursuant to a regular part-time employment agreement to take TESL at the full-time equivalent daily rate. Alternatively, by agreement with the head of service, a Specialist or Senior Specialist who is working pursuant to a regular part-time employment agreement may take TESL at the same part-time daily rate of pay, provided that his/her leave entitlement is not exceeded. Agreement will not be unreasonably withheld.

Applying for and Granting of Leave

111.9. Applications for leave will be in writing. Each application will specify:

111.9.1. The first and last day the employee proposes to be absent from duty (the leave application must specify the first day on which the employee seeks to be absent from duty, not the last day of duty.);

111.9.2. The first and last day of the training or educational activities which the employee will undertake;

111.9.3. The program and content of the training or educational activity proposed to be undertaken;

111.9.4. The relevance of the training or educational activity to the employee's professional development as a Specialist; and

111.9.5. The relevance of the training or educational activity to the employer's field of operations.

111.10. The employee will submit the application to the relevant unit head or functionally equivalent supervisor for consideration and recommendation to the head of service.

111.11. Where an employee seeks to take more than six weeks leave at any time (whether as TESL, or a mix of TESL and other leave), the employee must give the employer six months' notice of the intention to take leave. The employer has the discretion to waive this requirement, but it would only do so if there would be no impact on services.

111.12. The head of service may grant leave to an employee to undertake training and educational activities. The criteria for the grant of leave are:

111.12.1. The application is supported by the employee's clinical unit head and supervisor;

111.12.2. Operational requirements permit the absence of the employee;

111.12.3. The training or educational activities to be undertaken are relevant to the employer's field of operations; the employer's business plans; the employee's professional development as a Specialist; the achievement of objectives as set out in the employee's performance agreement;

111.12.4. That the employee's mandatory training is up to date or will be at the time the leave will be taken;

111.12.5. TESL can be taken for the purposes relevant to both the Specialist or Senior Specialist and the Directorate, at the discretion of the Specialist or Senior Specialist, within or outside Australia, subject to approval by the head of service; and

111.12.6. The test of relevance to an employee's professional development under their performance agreement and the Directorate's operational requirements will be applied strictly.

111.13. Applications involving overseas travel must be submitted for approval to the head of service.

No payment on termination of employment

111.14. A Specialist or Senior Specialist will not be entitled to any entitlement pursuant to this clause upon retirement, resignation, redundancy or dismissal.

112. MEDICAL EDUCATION EXPENSES (MEE)

112.1. From 1 July 2024 each Specialist and Senior Specialist who is eligible for TESL will be paid an allowance of $19,180 per annum for Medical Education Expenses (MEE).

112.2. The allowance will be paid to eligible part-time employees on a pro-rata basis.

112.3. MEE will be adjusted in line with ACT Treasury annual CPI projections with the first such adjustment applying from 1 July 2025.

Transitional Arrangements

112.4. The following provisions will apply to any MEE balances accrued prior to 1 July 2024 or commitments made under previous enterprise agreements as at the date this agreement came into effect (Transitional MEE).

112.5. Transitional MEE will be available for conferences and training in accordance with the provisions of clause 111.

112.6. Where a part-time employee would, but for their part-time working arrangements, be eligible for TESL, they may access Transitional MEE in accordance with the provisions of this clause.

112.7. Transitional MEE may be retained for a maximum of five years from the date it first accrued (i.e. if all or part of an employee's Transitional MEE entitlement remains unused after five years from the date it accrued, that entitlement lapses).

112.8. A Specialist or Senior Specialist will not be eligible for Transitional MEE pursuant to this clause upon retirement, resignation, redundancy or dismissal.

112.9. In the event that an employee who has accessed a Transitional MEE entitlement does not complete one years' service as a Specialist or Senior Specialist, any Transitional MEE paid will be subject to recovery on a pro-rata basis (e.g. if only six months worked prior to departure, 50% of the MEE received will be liable to recovery.)

112.10. Where an eligible employee has committed future MEE entitlements in anticipation of an accrual under the previous arrangements on or after 1 July 2024, then the employee may elect to either:

112.10.1. Cancel the commitment; or

112.10.2. reimburse the Territory for the amounts paid out on their behalf.

112.11. The Transitional MEE will reside in and be administered through the Private Practice Fund (for clarity, this would include all MEE in the fund at the date of effect of this agreement, including any such amounts that lapse for any reason in future.)

112.12. The Memorandum of Understanding governing the Private Practice Fund will be subject to a review by the employer and ASMOF.

113. STUDY LEAVE – RESIDENT MEDICAL OFFICERS, SENIOR RESIDENT MEDICAL OFFICERS, REGISTRARS AND SENIOR REGISTRARS

113.1. Subject to the terms of this clause study leave without loss of pay may be granted to Resident Medical Officers, Registrars and Senior Registrars as follows:

113.2. Face-to-face courses: Half hour study time for every hour of compulsory lecture and/or tutorial attendance, up to a maximum of four hours study time per week.

113.3. Where no face-to-face course is provided: A maximum of four hours study time per week for a maximum of 27 weeks per year.

113.4. Study leave shall only be granted in respect of a course:

113.4.1. Leading to higher medical qualifications as defined in the Dictionary of this Determination; and

113.4.2. In respect of a qualification that when obtained would be relevant to the needs of the hospital.

113.5. The employee shall submit to the head of service a timetable of the proposed course of study and evidence of the employee's enrolment in the course.

113.6. Where leave is sought in conjunction with an examination, applications must be lodged at least 8 weeks before the date of commencement of the proposed leave. A decision on the application is to be notified to the employee no later than four weeks before the requested commencement date.

113.7. The grant of study leave is subject to the convenience of the hospital and should not interfere with the maintenance of essential services or with patient care. However once granted, approval will not be revoked except in emergencies.

113.8. Periods of study leave granted shall not be taken into account for the purposes of calculating overtime payments.

113.9. Study leave granted subject to the terms of this clause, may be accrued to a maximum of seven working days for the purpose of enabling the employee to study prior to a written, oral or clinical examination. An option to accumulate study leave in terms of this clause shall be exercised at the commencement of each academic year and the employee shall notify the head of service accordingly.

113.10. Employees who have given continuous service of more than one year shall be allowed to accrue study leave granted subject to the terms of this clause but not taken, up to a maximum of 14 working days.

113.11. Study leave accruals are not paid out on termination of employment.

113.12. An employee who has been granted study leave under the relevant NSW industrial instrument by a NSW employer will not be granted any more leave than the employee would be entitled to take, if the employee had continued in employment with the former employer. The same principle will be applied to employees recruited from other jurisdictions.

114. Conference Leave – Senior Career Medical Officers, Career Medical Officers and Postgraduate Fellows

114.1. A Career Medical Officer, Senior Career Medical Officer or Postgraduate Fellow may be granted leave with pay by the head of service for the purpose of attending a medical or related conference(s).

114.2. On commencement as a Senior Career Medical Officer, Career Medical Officer or Postgraduate Fellow and on completion of each subsequent year of service, a credit shall be added to the conference leave balance.

114.3. That credit will be 40 hours for Career Medical Officers and Postgraduate Fellows, and 80 hours for Senior Career Medical Officers.

114.4. The maximum conference leave credit that may accrue is 120 hours for CMOs and Fellows, 240 hours for Senior CMOs. The period of leave granted must not exceed the conference leave credit of the employee.

114.5. The approval of the head of service is required for such leave which must not interfere with the maintenance of essential services and patient care. Approval shall not be unreasonably withheld.

114.6. The professional development activities undertaken during such paid leave must be relevant to the position occupied by the employee.

114.7. Appropriate expenses associated with such leave, up to a maximum of $7,785.00 per annum, are to be reimbursed (upon presentation of appropriate documentation) by the employer, provided that no

expenses or allowances shall be payable in respect of travel or accommodation outside Australia, except where that travel is approved in advance.

114.8. The amount specified in subclause 114.7 will be adjusted in line with ACT Treasury annual CPI projections, with the first such adjustment applying from 1 July 2025.

114.9. The amount specified in subclause 114.7 will be pro-rata for part-time employees.

114.10. Conference leave accruals are not paid out on termination of employment.

114.11. Conference Leave will only be approved if an employee's mandatory training is up to date or will be at the time the leave is taken.

115. Conference Leave – Junior Medical Officers

115.1. A Junior Medical Officer may be granted up to 80 hours leave per annum with pay by the head of service to attend medical conference(s), workshops relating to their field of study or approved training programs. Applications for leave will be made at least four weeks in advance, unless otherwise agreed by the head of service:

115.1.1. Approval will not be unreasonably withheld.

115.1.2. The Junior Medical Officer may be required to report to the medical cohort on the knowledge or skills acquired by undertaking the approved activity.

115.2. Conference Leave will only be approved if an employee's mandatory training is up to date or will be at the time the leave is taken.

116. Education Allowance – Junior Medical Officers

116.1. A Junior Medical Officer will be paid an allowance to support the employees continuing medical education of:

116.1.1. $4,695.00 per annum for SRMO 2, SRMO 3, Registrar 1-4 and Senior Registrars;

116.1.2. $3,419.00 per annum for RMO1, SRMO1 and Junior Registrar, and

116.1.3. $1,185.00 per annum for Interns.

116.2. The allowance will be paid fortnightly and is paid pro rata to part-time employees.

116.3. The allowance is not salary for any purpose of the Determination, including superannuation.

116.4. The allowance will commence from the date of commencement of this Determination and will be adjusted in line with ACT Treasury annual CPI projections, with the first such adjustment applying from the first full pay period commencing on or after 1 July 2025.

117. Protected Teaching Time for Interns and Resident Medical Officers

117.1. Interns and Resident Medical Officers at the Postgraduate Year 1 and Postgraduate Year 2 levels must attend teaching sessions for two hours once per week.

117.2. To facilitate their attendance at the teaching sessions, they will be free from clinical responsibilities during this time and not required to answer pagers or take calls.

117.3. If an Intern or Resident Medical Officer is regularly not attending teaching sessions, their supervisor will be expected to provide an explanation as to why this is not occurring and facilitate their further attendance.

Section N – Workplace Values and Behaviours

118. INTRODUCTION

118.1. All employees have a common interest in ensuring that workplace behaviours are consistent with, and apply the values and general principles set out in Division 2.1 of the PSM Act and the ACT Public Service Code of Conduct and Signature Behaviours. This involves the development of an ethical and safe workplace in which all employees act responsibly and are accountable for their actions and decisions.

118.2. Behaviours that are not consistent with public sector values, principles and conduct including but not limited to bullying, harassment and discrimination of any kind will not be tolerated in ACTPS workplaces. It is recognised that bullying, harassment and discrimination in the workplace has both emotional and financial costs and that both systemic and individual instances of bullying and harassment are not acceptable.

118.3. The following provisions of Section N contain procedures for managing workplace behaviours that do not meet expected standards and management of misconduct.

118.4. These provisions for managing workplace behaviours and values promote the principles of natural justice and procedural fairness.

118.5. Any misconduct, underperformance, internal review or appeal process under the previous enterprise agreement that is not completed as at the date of commencement of this Determination will be completed under the previous enterprise agreement. Any right of appeal from that process will also be set out in the previous enterprise agreement.

118.6. Noting that the provisions of this Section N are in identical terms to provisions (however described) of other ACTPS Enterprise Agreements: If an employee moves from one directorate or Agreement to another either on a permanent or temporary basis while a misconduct process is on foot, and irrespective of whether this Determination or another ACTPS Enterprise Agreement applied to the employee at the time the misconduct process commenced, the misconduct process will continue and the employee is required to continue to participate in the process.

118.6.1. Any disciplinary action and sanction which is determined to be applied under clause 126 will be applied to the employee in their new position, where the head of service determines it is appropriate and necessary and having due regard to the nature of the misconduct and the changes in employment circumstances including any material bearing on the employee's duties and responsibilities in their new position.

118.7. If an employee’s employment has ended with the ACTPS while a misconduct process is on foot, the public sector standards commissioner will do one of the following:

118.7.1. Determine to complete the misconduct process under Section N of this Determination, including inviting the employee to participate in the process, such that the outcome of the process can be taken into account with any application by the employee to subsequently re-enter the ACTPS.

118.7.2. Determine to stay the misconduct process under Section N of this Determination, upon the employee's end of employment and communicate to the employee that the misconduct process may recommence if the employee subsequently re-enters, or seeks to re-enter, the service.

118.7.3. Determine to discontinue the matter.

118.8. Any disciplinary action and sanction which is determined as a consequence of a resumed misconduct process may be imposed on the employee in their new position in accordance with 118.6.1 or taken into account with any application by the employee to subsequently re-enter the ACTPS.

119. PRELIMINARY ASSESSMENT

119.1. The preliminary assessment is a means of determining if there is a workplace issue, and the most appropriate way to resolve it. The preliminary assessment must be conducted expeditiously. The outcome should be focused on the workplace issue and an appropriate response that addresses the issue in context. The preferred approach whenever possible is to resolve the issues through a local and low level approach, and in a non-disciplinary way.

119.2. In cases where a workplace issue arises such as an allegation of inappropriate behaviour or alleged misconduct, the appropriate manager must undertake an assessment to determine whether the matter can be resolved locally or whether further action is required or not.

119.3. When undertaking an assessment, the nature, circumstances and context of the issue should be considered when forming the response.

119.4. The preliminary assessment may result in the following outcomes (this is not an exhaustive list):

119.4.1. If the manager is satisfied that no further action is necessary, no further action needs to be taken.

119.4.2. If the manager is of the view that formal or informal counselling or other alternative remedial or restorative action is appropriate, the manager will implement that action.

119.4.3. If the manager considers the issue related to performance issues, the manager may commence an underperformance process in accordance with Section O (Underperformance).

119.4.4. If the manager determines that there are allegations of potential misconduct that require investigation, the manager will recommend to the relevant referral delegate that the matter should be referred in accordance with 119.8.

119.5. The manager may seek the assistance of an appropriate Human Resources adviser from within the Directorate or Professional Standards Unit, however the manager is responsible for undertaking the assessment unless an actual or perceived conflict of interest exists.

119.6. The assessment must be done in an expeditious manner and generally be limited to having discussions (either verbal or written) about the issue, with relevant employees, and, if requested, their representatives.

119.7. Although the principles of procedural fairness apply, this assessment is not a formal investigation (as this may occur after the assessment is undertaken) and is designed to enable a manager to quickly determine whether other action or formal investigation is needed or not to resolve the issues. The manager must communicate the outcomes to relevant employees and their representatives if any.

119.8. If the manager determines that the issue requires investigation the manager must recommend to the head of service that the matter be investigated.

119.9. The head of service may determine that no investigation is necessary where the employee admits to the alleged misconduct and the employee agrees that there is no need for an investigation. The employee must fully understand the misconduct they are admitting to and make an admission statement taken by the public sector standards commissioner.

119.10. Where an employee makes an admission in accordance with subclause 119.9 the public sector standards commissioner will provide the admission statement to the head of service who will determine the appropriate outcome. This may include disciplinary action or sanction in accordance with clause 126. The head of service must ensure that they have sufficient information concerning the nature and full circumstances of the misconduct, any mitigating factors, and details of the employee's prior service record and performance to enable a fair and reasonable determination under clause 126 to be made.

120. COUNSELLING

120.1. Counselling may happen outside of the preliminary assessment and misconduct processes. This is an opportunity for the employee and the manager to discuss possible causes and remedies for identified workplace problems. All parties have an obligation to participate in counselling in good faith.

120.2. Counselling can be conducted either informally through coaching and feedback or formally.

120.3. Informal counselling is a non-disciplinary method utilised to resolve a workplace issue. It should be used as a supportive, feedback type mechanism. Coaching and feedback should encourage and support the employee in understanding the requirements and expectations of a public servant in their role.

120.4. Formal counselling is counselling that an employee is required to participate in and is available as remedial action following the outcome of a preliminary process under clause 119. An employee may be directed to participate in formal counselling.

120.5. Where an employee refuses or fails to follow a direction to participate in formal counselling, the head of service may refer the matter to the Public Sector Standards Commissioner for investigation.

120.6. Where the employee disagrees with a direction to participate in formal counselling, the employee may provide a written request to the head of service seeking a formal investigation of the alleged inappropriate behaviour or alleged misconduct that required the formal counselling. Where a request is received, the head of service must refer the matter to the Public Sector Standards Commissioner for review.

120.7. In cases where counselling is considered to be appropriate, the employee will be informed what the discussion will be about and be invited to have a support person, who may be the employee's union or other employee representative, present at the counselling and will allow reasonable opportunity for this to be arranged. The employee must be advised whether the counselling is considered a formal or informal process.

120.8. In the cases where the counselling is considered to be formal, the manager or the head of service must create a formal record of the counselling which must include details about the ways in which the employee's conduct needs to change or improve, the time frames within which these changes or improvements must occur and may include a written direction about future expectations, standards and behaviours.

120.9. The record of formal counselling must be provided to the employee and the employee given an opportunity to correct any inaccuracies and provide comments before signing the record. The employee's signature is taken as representing their full agreement that the record accurately reflects the discussion. If the employee elects not to sign the record, then details of the offer and any reasons given for refusal must be clearly noted.

120.10. Where the manager or supervisor or the head of service considers that the employee's conduct has not improved following informal or formal counselling, a misconduct process may be undertaken in relation to

continued or subsequent behaviour, following a preliminary assessment being undertaken in accordance with clause 119.

121. MISCONDUCT & DISCIPLINE

Objectives and application

121.1. This clause establishes procedures for managing misconduct or alleged misconduct by an employee.

121.2. This clause applies to all employees, except casual employees who are not eligible casual employees. In applying these procedures to officers on probation, temporary employees or eligible casual employees, the head of service may determine that procedures and practices throughout clauses 122 to **Error! Reference s ource not found.** apply on a proportionate basis according to the circumstances of the case and in accordance with the principles of procedural fairness and natural justice.

121.2.1. If the process is to be applied on a proportionate basis in accordance with this subclause the content of that process, along with any estimated timeframes, must be communicated to the employee when the process commences.

121.3. The objective of these procedures is to encourage the practical and expeditious resolution of misconduct issues in the workplace.

121.4. All parties have an obligation to participate in misconduct processes in good faith.

What is misconduct

121.5. For the purposes of this section, misconduct includes any of the following:

121.5.1. The employee fails to meet the obligations set out in section 9 of the PSM Act.

121.5.2. The employee engages in conduct that the head of service or the public sector standards commissioner is satisfied may bring, or has brought, the directorate or the ACTPS into disrepute.

121.5.3. A period of unauthorised absence and the employee does not offer a satisfactory reason on return to work.

121.5.4. The employee is found guilty of, or is convicted of a criminal offence or where a court finds that an employee has committed an offence but a conviction is not recorded, taking into account the circumstances and seriousness of the offence, the duties of the employee and the interests of the ACTPS and the directorate.

121.5.5. The employee fails to notify the head of service of criminal charges in accordance with clause 127.

121.5.6. The employee makes a vexatious or knowingly false allegation against another employee.

What is serious misconduct

121.6. Serious misconduct means conduct that is so serious that it may be inconsistent with the continuation of the employee's employment with the Territory. Serious misconduct is defined within the Fair Work Regulations.

122. DEALING WITH ALLEGATIONS OF MISCONDUCT

122.1. Upon becoming aware of a matter of alleged misconduct the head of service must determine whether or not the matter needs to be investigated. Where the head of service determines that investigation is required the head of service must refer the matter to the public sector standards commissioner for investigation.

122.2. At any stage of dealing with alleged misconduct the head of service may, in accordance with clause 123 do any of the following:

122.2.1. Re-assign other duties to the employee.

122.2.2. Transfer the employee to other duties.

122.2.3. Suspend the employee with pay.

122.2.4. Suspend the employee without pay where serious misconduct is alleged.

122.3. In considering the appropriate action under 122.5, the employer should give preference to retaining the employee in the workplace where possible.

122.4. Upon receiving a referral in accordance with subclause 122.1 the public sector standards commissioner must do one of the following:

122.4.1. Make arrangements for an appropriately trained or experienced person (the investigating officer) to investigate the alleged misconduct in accordance with clause 124.

122.4.2. Decline to investigate the matter, or any part of the matter, if the public sector standards commissioner decides that an investigation will not resolve the matter and refer it back to the head of service for resolution or further consideration.

122.5. The public sector standards commissioner may determine that no investigation is necessary where the employee admits to the alleged misconduct and the employee agrees that there is no need for an investigation. The employee must fully understand the misconduct they are admitting to and have their admission statement taken by the public sector standards commissioner.

122.6. Where an employee makes an admission in accordance with subclause 122.5 the head of service may determine the appropriate disciplinary action or sanction in accordance with clause 126. The head of service must ensure that they have sufficient information concerning the nature and full circumstances of the misconduct, any mitigating factors, and details of the employee's prior service record and performance to enable a fair and reasonable determination under clause 126 to be made.

122.7. The public sector standards commissioner may at any time decide to instigate an investigation of alleged misconduct, in the absence of a referral under subclause 122.1, if satisfied that the matter warrants investigation.

122.8. Notwithstanding the provisions of this section, the head of service may summarily terminate the employment of an employee without notice for serious misconduct as defined within the Fair Work Regulations.

123. REASSIGNMENT, TRANSFER OR SUSPENSION

123.1. This clause applies to all employees.

123.2. In accordance with subclause 122.2 the head of service may reassign, transfer or suspend an employee with or without pay where the head of service is satisfied that the action taken is reasonable and it is in the public interest, the interests of the ACTPS or the interests of the directorate to do so while the alleged misconduct is being dealt with.

123.3. Suspension with pay should only be considered where it is inappropriate for the employee to remain in their current position and reassignment of duties or transfer is not appropriate. Suspension without pay should only be considered where cases of serious misconduct is alleged in accordance with 122.2.

123.4. The requirements under subclauses 123.5, 123.6 and 123.11 also apply in circumstances where an employee has been reassigned or transferred with pay to other duties following an allegation of misconduct, to the extent that the employee is no better off financially than if they had not been reassigned or transferred.

123.5. The head of service must not reassign, transfer or suspend an employee without first informing the employee of the reasons for the proposed reassignment, transfer or suspension and giving the employee the opportunity to be heard. Despite this, the head of service may suspend an employee first and then give the employee the reasons for the suspension and an opportunity to be heard, where, in the head of service's opinion, this is appropriate in the circumstances.

123.6. While suspended with pay an employee is paid in accordance with all of the following:

123.6.1. The employee's ordinary hourly rate of pay and any higher duties allowances that would have been paid to the employee for the period they would otherwise have been on duty.

123.6.2. Overtime (but not overtime meal allowance) and shift penalty payments where there is a regular and consistent pattern of extra duty or shift work being performed over the previous 6 months which would have been expected to continue but for the suspension from duty.

123.6.3. Any other allowance or payment (including under an Attraction and Retention Incentive entered into in accordance with Annex B to this Determination) of a regular or on-going nature that is not conditional on performance of duties.

123.7. Where a decision is made to suspend an employee with pay, no appeal or internal review of that decision is available.

123.8. Unless the employee is on authorised leave an employee who is suspended must be available to attend work and participate in the disciplinary process within 48 hours of receiving notice.

123.9. Suspension without pay is usually only appropriate where serious misconduct is alleged or where the employee is charged with a criminal offence that would in the opinion of the head of service be incompatible with the continuation of the employee's employment.

123.10. A period of suspension with or without pay must not be more than 30 calendar days unless exceptional circumstances apply.

123.11. If the period of suspension with or without pay extends beyond 30 calendar days as per subclause 123.10, the suspension should be reviewed every 30 calendar days unless the head of service considers that, in the circumstances, a longer period is appropriate.

123.12. While suspended without pay all of the following apply:

123.12.1. The employee may apply to the head of service for permission to seek alternate employment outside the ACTPS for the period of the suspension or until the permission is revoked. Any such

permission given to the employee is granted on the condition that the employee remains available to attend work and participate in the disciplinary process as per subclause 123.8.

123.12.2. In cases of demonstrated hardship, the head of service may determine that the employee may cash out accrued long service leave and annual leave.

123.12.3. The employee may apply to the head of service for the suspension to be with pay on the grounds of demonstrated hardship.

123.13. An employee suspended without pay and who is later acquitted of the criminal offence (which is the subject of the allegation(s) of misconduct which caused the employee to be suspended), or is found not to have been guilty of the misconduct is entitled to both the following:

123.13.1. Repaid the amount by which the employee's pay was reduced.

123.13.2. Credited with any period of long service or annual leave that was cashed out in accordance with paragraph 123.12.2.

123.14. Where an employee is suspended and later found guilty of a criminal offence (whether or not a conviction is recorded), or is found guilty of misconduct and whose employment is terminated because of the offence or misconduct, a period of suspension under this clause does not count as service for any purpose, unless the head of service determines otherwise.

124. INVESTIGATIONS

124.1. The role of the investigating officer is to establish the facts of the allegations and to provide a report of those facts to the public sector standards commissioner.

124.2. The investigating officer must do all the following:

124.2.1. Inform the employee in writing of the particulars of the alleged misconduct, and details concerning the investigative process.

124.2.2. Give the employee a reasonable opportunity to respond to allegations, which the employee may do in writing or at a scheduled interview or in a different manner as agreed with the investigating officer, before making a finding of fact.

124.2.3. For written responses provide the timeframe for response which must be reasonable under the circumstances.

124.2.4. If the response includes an interview, provide the employee with at least 24 hours written notice prior to conducting an interview, and advise the employee if the interview is to be recorded electronically.

124.2.5. Advise the employee that the employee may have a second person present during the interview, who may be the employee's union representative or other individual acting as support person and must allow reasonable opportunity for this to be arranged; and provide a record of the interview to the employee.

124.2.6. Give the employee an opportunity to supplement the record of an interview with a written submission, if the employee so chooses.

124.2.7. As soon as practicable take any further steps considered necessary to establish the facts of the allegations.

124.2.8. Provide a written report to the public sector standards commissioner setting out the investigating officer's findings of fact.

124.3. If the employee fails to, or chooses not to, respond to the allegations in accordance with subclause 124.2 within a reasonable timeframe, the investigating officer must prepare the report and set out the findings of fact on the information available.

124.4. The investigating officer's findings of fact must be made on the balance of probabilities.

124.5. The head of service must provide access to relevant ACTPS information and communication technology (ICT) records including email, computer, work phone records, or building access logs in order for the public sector standards commissioner to establish the facts of the allegations.

125. FINDINGS OF MISCONDUCT

125.1. After considering the report from the investigating officer, the public sector standards commissioner must make a proposed determination on the balance of probabilities as to whether misconduct has occurred.

125.2. If the public sector standards commissioner determines that the misconduct has not occurred, the public sector standards commissioner must notify the employee of this finding and advise that no sanctions will be imposed.

125.3. If the public sector standards commissioner makes a proposed determination that misconduct has occurred, in accordance with subclause 125.1 the public sector standards commissioner must do all of the following:

125.3.1. Advise the employee in writing of the proposed determination that misconduct has been found to have occurred.

125.3.2. Provide written reasons for arriving at this proposed determination.

125.3.3. Provide a copy of the investigation report unless this would be inappropriate in the circumstances.

125.3.4. Advise the employee of the period during which the employee has to respond to the proposed determination that misconduct has occurred. This period must be no less than 14 calendar days.

125.4. After considering the employee's response or, if the employee has not responded, at any time after the period outlined in paragraph 125.3.4 has lapsed, the public sector standards commissioner must make a final determination as to whether or not misconduct has occurred and will do the following:

125.4.1. Inform the employee in writing of the final determination of whether or not misconduct has occurred; and if the determination is that misconduct has occurred do both the following:

125.4.1.1. Refer the matter to the head of service for consideration of whether or not disciplinary action is to be taken in accordance with clause 126.

125.4.1.2. Inform the employee that the matter has been referred to the head of service in accordance with subparagraph 125.4.1.1.

126. DISCIPLINARY ACTION AND SANCTIONS

126.1. This clause applies to circumstances in which one of the following applies:

126.1.1. The head of service receives a determination from the public sector standards commissioner in accordance with paragraph 125.4.1.

126.1.2. An admission is made by the employee under subclause 119.2 and 122.5.

126.1.3. An employee has been convicted of a criminal offence and the conviction or finding has adversely affected the interests of the Directorate or the ACTPS under subclause 127.4.

126.2. The head of service must consider whether or not disciplinary action is appropriate, and whether or not one or more of the following sanctions may be taken in relation to the employee:

126.2.1. A written reprimand.

126.2.2. A financial penalty in the form of one or more of the following:

126.2.2.1. Reduce the employee's incremental level.

126.2.2.2. Defer the employee's incremental advancement.

126.2.2.3. Impose a fine on the employee.

126.2.2.4. Require the employee to fully or partially reimburse the employer for damage that the employee has wilfully incurred to property or equipment.

126.2.3. Transfer the employee temporarily or permanently to another position at level or to a lower classification level.

126.2.4. Remove any benefit derived through an existing Attraction and Retention Incentive.

126.2.5. Termination of employment.

126.3. Nothing in this section limits the ability of the head of service to require an employee to participate in formal remedial programs and sessions aimed at assisting the employee with addressing the behaviour that was the subject of the misconduct process.

126.4. In relation to paragraph 126.2.3, if an employee's classification is reduced as a result of disciplinary action, service before the demotion is not counted towards an increment for any higher duties the employee performs after demotion.

126.5. Sanctions imposed under these procedures must be proportionate to the degree of misconduct concerned. In determining the appropriate sanction, all the following factors must be considered:

126.5.1. The nature and seriousness of the misconduct.

126.5.2. The degree of relevance to the employee's duties or to the reputation of the directorate or the ACTPS.

126.5.3. The circumstances of the misconduct.

126.5.4. Any mitigating factors, including any full admission of guilt.

126.5.5. The previous employment history and the general conduct of the employee.

126.6. If the employee has moved to a new position (other than as a result of a decision in accordance with clause 122) during the course of the misconduct process, the changes in employment circumstances must be taken into account as appropriate in accordance with paragraph 118.6.1.

126.7. Unless there are exceptional circumstances, the head of service must within 14 calendar days of receiving the referral or admission statement from the public sector standards commissioner under subparagraphs

125.4.1.1 or 119.10 or 122.6 inform the employee in writing of the proposed disciplinary action to be taken, if any, and provide the employee with 7 calendar days to respond.

126.8. The timeframes stipulated in 126.7 may be extended if the head of service and the public sector standards commissioner agree that extenuating circumstances warrant the extension.

126.9. After considering the employee's response in accordance with subclause 126.7, or if the employee does not respond, at any time after the 7 calendar days as set out in clause 126.7 have passed, the head of service must make their final decision and inform the employee in writing of all the following:

126.9.1. The final decision.

126.9.2. The disciplinary action to be taken, if any.

126.9.3. The date of effect and, if relevant, the cessation of any disciplinary action.

126.9.4. The appeal mechanisms that are available under Section R of this Determination.

127. CRIMINAL CHARGES

127.1. An employee must advise the head of service in writing within 48 hours where practicable, but no longer than 7 calendar days, of any criminal charges laid against the employee in circumstances where the interests of the directorate or of the ACTPS may be adversely affected, taking into account all of the following:

127.1.1. The circumstances and seriousness of the alleged criminal offence.

127.1.2. The employee's obligations under section 9 of the PSM Act.

127.1.3. The effective management of the employee's work area.

127.1.4. The integrity and good reputation of the ACTPS and the directorate.

127.1.5. The relevance of the offence to the employee's duties.

127.2. Where criminal charges are laid against an employee and the interests of the directorate or the ACTPS may be adversely affected, the head of service may suspend the employee in accordance with the suspension arrangements under clause 123.

127.3. If an employee is found guilty of, or convicted of a criminal offence (including if a non-conviction order is made) the employee must provide a written statement regarding the circumstances of the offence to the head of service within 7 calendar days of the conviction or the finding.

127.4. Where an employee is convicted of a criminal offence and the conviction or finding has adversely affected the interests of the directorate or the ACTPS, the head of service may impose a sanction for misconduct against the employee in accordance with clause 126.

128. RIGHT OF APPEAL

128.1. An employee has the right under Section R to appeal against any finding of misconduct under clause 125, any discipline action or to apply a sanction under clause 126, or against any decision taken under clause 123 to suspend the employee without pay, or to transfer the employee at a reduced pay, except action to terminate the employee's employment.

128.2. An employee may have an entitlement to bring an action under the FW Act in respect of any decision under this Section to terminate the employee's employment. This is the sole right of review of such a decision.

128.3. The appeal procedures under Section R apply to the exclusion of the rights of appeal and review under the PSM Act and the internal review procedures contained in Section Q of this Determination.

129. COMPETENCY REVIEW PROCEDURES

129.1. This clause deals with matters relating to an employee's competence to practice medicine, or a matter related to the scope of practice of a Senior Medical Practitioner.

129.2. Such matters will be managed in accordance with the policy and Standard Operating Procedure (SOP) for reviewing the clinical competence of a doctor, providing that:

129.2.1. The principles of natural justice will apply to all aspects of the process;

129.2.2. Nothing in the policy or the SOP will preclude the Directorate from meeting any obligation under relevant legislation, including the *Health Practitioner Regulation National Law (ACT) Act 2010* or the *Health Act 1993*.

129.3. Actions pursuant to this clause are not considered disciplinary or underperformance actions for the purposes of Section R of this Determination.

129.4. Matters relating to underperformance, discipline or misconduct should be dealt with under the relevant provisions of Section N or Section O.

130. SCOPE OF CLINICAL PRACTICE PROCESSES

130.1. The Directorate is responsible for ensuring that employees are appropriately qualified. A part of this process is the determination of scope of clinical practice as provided for under the *Health Act 1993.*

130.2. Senior Medical Practitioners covered by this Determination are required to comply with and co-operate with the scope of clinical practices processes as established by the Directorate in accordance with the *Health Act 1993.*

Section O - Underperformance

131. INTRODUCTION

131.1. All employees have an obligation to exercise the functions of an office in accordance with the best practice principle. These responsibilities and standards are established in accordance with Division 2.1 of the PSM Act and the ACT Public Service Code of Conduct and Signature Behaviours.

131.2. These provisions for managing cases of unsatisfactory work performance promote the principles of natural justice and procedural fairness.

131.3. Any underperformance under the previous enterprise agreement that is not completed as at the date of commencement of this Determination will be completed under the previous enterprise agreement. Any right of appeal from that process will also be set out in the previous enterprise agreement.

132. UNDERPERFORMANCE

132.1. Under this clause, procedures are established for managing underperformance by an employee.

132.2. This clause applies to all employees, except casual employees who are not eligible casual employees. In applying these procedures to officers on probation, temporary employees, or eligible casual employees, the head of service may determine that procedures and practices throughout this clause 132 may be applied on a proportionate basis according to the circumstances of the case, and in accordance with the principles of procedural fairness and natural justice.

132.2.1. If the process is to be applied on a proportionate basis in accordance with this subclause the content of that process, along with any estimated timeframes, must be communicated to the employee when the process commences.

132.3. The objectives of these procedures are to do both the following:

132.3.1. Provide advice and support to an employee whose performance is below the standard required.

132.3.2. Provide a fair, prompt and transparent framework for action to be taken where an employee continues to perform below expected standard.

Underperformance discussions

132.4. Consistent with good management practice, concerns about underperformance should be raised by the manager or supervisor with the employee at the time that the concerns arise or are identified. The manager or supervisor should offer advice and support to the employee to overcome these concerns. The manager or supervisor should inform the employee that the underperformance procedures in subclause 132.7 to subclause 132.20 might be invoked if the underperformance continues.

132.5. In order to ensure that these procedures operate in a fair and transparent manner, the manager or supervisor is responsible for documenting all relevant discussions. This includes making a record of all relevant discussions under this clause, to be signed by both the manager or supervisor and the employee. The employee must be given the opportunity to comment on any records before signing them. In circumstances where the employee refuses to sign such a record, the refusal must be noted on the relevant record.

132.6. All parties have an obligation to participate in underperformance processes in good faith.

Underperformance process

Step One: Action Plan

132.7. Where a manager or supervisor assesses that an employee's work performance is demonstrated as being below expected standards after having previously discussed concerns with the employee in line with subclause 132.4, the manager or supervisor must inform the employee in writing of this assessment and the reasons for it. The employee must be invited by the manager or supervisor to provide written comments on this assessment, including any reasons that in the employee's view may have contributed to their recent work performance.

132.8. After taking into account the comments from the employee, the manager or supervisor must prepare an action plan in consultation with the employee.

132.9. The manager or supervisor must invite the employee to have a support person, who may be the employee's union or other employee representative, present at discussions to develop the action plan and must allow reasonable opportunity for this to be arranged.

132.10. The action plan must provide all of the following:

132.10.1. Identify the expected standards of work required of the employee on an on-going basis.

132.10.2. Identify any learning and development strategies that the employee should undertake.

132.10.3. Outline the potential underperformance actions that may be taken if the employee does not meet the expected standards.

132.10.4. Specify the action plan period, which should not normally be less than one month and should not exceed 6 months to allow the employee sufficient opportunity to achieve the expected standard.

132.10.5. Specify the assessment criteria to be measured within the action plan period.

132.11. Any current performance Determination must be suspended during the period of the action plan. Any incremental advancement action for the employee must be suspended during the action plan period.

Step Two: Regular Assessment

132.12. During the action plan period, the manager or supervisor must make regular written assessments (desirably every fortnight) of the employee's work performance under the action plan. The employee must be given an opportunity to provide written comments on these assessments.

132.13. If the manager or supervisor considers that further assessment time is needed the manager or supervisor may extend the action plan period. However, the extended assessment time must not result in the action plan exceeding 6 months' duration. The manager or supervisor must inform the employee in writing of the decision to extend the assessment time and the duration of the action plan.

Step Three: Final Assessment Report

132.14. If at the end of the action plan period, the manager or supervisor assesses the work performance of the employee as satisfactory, no further action can be taken under these procedures at that time. The manager or supervisor must inform the employee in writing of this decision.

132.15. If at the end of the action plan period, the manager or supervisor assesses the work performance of the employee as not satisfactory, the manager or supervisor must provide a report including the assessment and reasons for the assessment to the head of service.

Step Four: Underperformance Action

132.16. The head of service must advise the employee in writing of all the following:

132.16.1. The assessment and reasons for the manager's or supervisor's assessment.

132.16.2. The underperformance action(s) (subclause 132.17) proposed to be taken and the reasons for proposing this action.

132.16.3. The employee's right to respond in writing to the proposed action within a period of not more than 7 calendar days.

132.17. At any time after 7 calendar days from the date the head of service advised the employee under subclause 132.16, and after considering any response from the employee, the head of service may decide to take one or more of the following underperformance actions:

132.17.1. Transfer the employee to other duties (at or below current pay).

132.17.2. Defer the employee's incremental advancement.

132.17.3. Reduce the employee's incremental point.

132.17.4. Temporarily or permanently reduce the employee's classification and pay.

132.17.5. Remove any benefit derived through an existing Attraction and Retention Incentive.

132.17.6. Terminate the employee's employment.

132.18. If an employee's incremental point is reduced in accordance with paragraph 132.17.3, or the employee's classification is permanently reduced in accordance with paragraph 132.17.4 the date the sanction takes effect will become the new anniversary date for the purpose of future incremental advancement. Any higher duties worked prior to the date of sanction do not count towards incremental advancement at a higher level.

132.19. The head of service must inform the employee in writing of the decision made under subclause 132.17, the reasons for the decision and the appeal mechanisms available under this Determination.

132.20. At any time in these procedures, the employee may elect to be retired on the grounds of inefficiency.

133. APPEAL RIGHTS

133.1. The employee has the right under Section R to appeal any underperformance action taken under subclause 132.17, except action to terminate the employee's employment.

133.2. The employee may have an entitlement to bring an action under the FW Act in respect of any termination of employment under this Determination. This is the sole right of review of such an action.

PART 6: WORKING RELATIONSHIPS

Section P – Communication and Consultation

134. CONSULTATION

134.1. There will be effective consultation with an employee(s) and their representatives, including union representatives, on workplace matters. The ACTPS recognises that consultation and employee participation in decisions that affect them is essential to the successful management of change.

134.2. Where there are proposals by the ACTPS to introduce changes that would have a significant effect on an employee or a group of employees, the head of service will consult with the affected employees and union(s). Consultation means a genuine opportunity to contribute to and influence the decision making process prior to decisions being made.

134.2.1. Significant Effect includes, but is not limited to, effects of proposals that deal with any of the following:

134.2.1.1. the termination of the employment of employees through redundancy;

134.2.1.2. changes to the composition, operation or size of the directorate workforce or the skills required of employees;

134.2.1.3. the elimination or diminution of job opportunities (including opportunities for promotion or tenure);

134.2.1.4. the alteration of hours of work;

134.2.1.5. the need to retrain employees;

134.2.1.6. the need to physically relocate employees;

134.2.1.7. the restructuring of job-roles, positions, structures or directorates;

134.2.1.8. changes to employment policies;

134.2.1.9. anything likely to materially affect workloads;

134.2.1.10. any other matter deemed relevant by parties covered by this Determination.

134.3. An employee(s) or their representative(s) may also initiate consultation on any matters or proposals if such consultation hasn't already been initiated under subclause 134.2.

134.4. The head of service must provide relevant information to assist the employee(s) and the union(s) to understand the reasons for the proposed changes and the likely impact of these changes so that the employee(s) and the unions are able to contribute to the decision making process.

134.5. In addition to the consultation outlined in subclauses 134.1 to 134.3:

134.5.1. Directorate Consultative Committees (DCCs) must be established, with membership to be agreed by the head of service and the union(s) following commencement of this Determination and comprising representatives of both the following:

134.5.1.1. the head of service; and

134.5.1.2. the union(s); and

134.5.2. adequate time must be provided to employees and the union(s) to consult with the relevant Directorate(s);

134.5.3. Three Workplace Consultative Committees (WCC) will be established to represent the Senior Medical Officers, Career Medical Officers and Junior Medical Officers.

134.5.4. Additional levels of consultation, such as additional Workplace Consultative Committees (WCC), may be established with the agreement of the DCC to operate at the local level. Where established these levels of consultation will deal with workplace specific issues before such issues may be raised with the DCC and have membership agreed by the DCC.

134.6. The purpose of the DCC is to do all of the following:

134.6.1. monitor the operation and implementation of this Determination;

134.6.2. consider any proposed new or proposed significant changes to Directorate policy statements and guidelines that relate to the provisions of this Determination; and

134.6.3. consult on workplace matters significantly affecting employees.

134.7. The DCC must meet within two months of the commencement of this Determination. The purpose of this meeting is to agree on the terms of reference, which must include the consultative structure to operate during the term of this Determination.

134.7.1. The DCC must meet no less than once in any twelve month period thereafter, unless a different period is agreed in the Terms of Reference.

134.7.2. Additional meetings of the DCC may also be convened if requested by any member of the DCC, or as determined by the Terms of Reference.

134.8. The Chief Minister, Treasury and Economic Development Directorate must consult with the union(s) and employees prior to the finalisation of any significant changes or any new provisions in the PSM Act and the PSM Standards and any new service wide policy statements or guidelines that relate to the provisions of this Determination. This consultation may occur through the Joint Council.

Consultation on Changes to Regular Rosters or Ordinary Hours of Work

134.9. Where the ACTPS proposes to introduce a change to the regular roster or ordinary hours of work of employees, the head of service must do all the following:

134.9.1. notify the relevant employees of the proposed change;

134.9.2. recognise the affected employee(s) union or other representative;

134.9.3. as soon as practicable after proposing to introduce the change, all of the following:

134.9.3.1. discuss with the relevant employees the introduction of the change; and

134.9.3.2. for the purposes of the discussion, provide to the relevant employees all of the following:

134.9.3.2.1. all relevant information about the change, including the nature of the change;

134.9.3.2.2. information about what the head of service reasonably believes will be the effects of the change on the employees;

134.9.3.2.3. information about any other matters that the head of service reasonably believes are likely to affect the employees;

134.9.3.3. invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

134.10. The head of service is not required to disclose confidential or commercially sensitive information to the relevant employees.

134.11. The head of service must give prompt and genuine consideration to matters raised about the change by the relevant employees. These provisions are to be read in conjunction with other consultative obligations detailed in the Determination.

Note: In this term "relevant employees" means the employees who may be affected by a change referred to in subclause 134.9.

134.12. In addition, the employer undertakes that, for the purposes of subclause 134.2, the head of service will recognise and consult with the affected employee(s), their union or other representative.

135. DISPUTE AVOIDANCE/SETTLEMENT PROCEDURES

135.1. The objective of these procedures is the prevention and resolution of disputes about both of the following:

135.1.1. matters arising in the workplace, including disputes about the interpretation or implementation of the Determination;

135.1.2. the application of the NESs.

135.2. For the purposes of this clause, except where the contrary intention appears, the term 'parties' refers to 'parties to the dispute'.

135.3. All persons covered by this Determination agree to take reasonable internal steps to prevent, and explore all avenues to seek resolution of, disputes.

135.4. An employee who is a party to the dispute may appoint a representative, which may be a relevant union, for the purposes of the procedures of this clause.

135.5. In the event there is a dispute, all the following processes apply.

135.5.1. Where appropriate, the relevant employee or the employee's representative must discuss the matter with the employee's supervisor. Should the dispute not be resolved, it must proceed to the appropriate management level for resolution.

135.6. In instances where the dispute remains unresolved, the next appropriate level of management, the employee, the union or other employee representative must be notified, and a meeting will be arranged at which a course of action for resolution of the dispute will be discussed.

135.7. If the dispute remains unresolved after this procedure, a party to the dispute may refer the matter to FWC.

135.8. The FWC may deal with the dispute in two stages:

135.8.1. FWC must first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and

135.8.2. if FWC is unable to resolve the dispute at this first stage, FWC may then do both the following:

135.8.2.1. arbitrate the dispute;

135.8.2.2. make a determination that is binding on the parties.

135.9. The FWC may exercise any powers it has under the FW Act as are necessary for the just resolution or determination of the dispute.

135.10. A person may be assisted and represented at any stage in the dispute process in the FWC on the same basis as applies to representation before FWC under section 596 of the FW Act.

135.11. All persons involved in the proceedings under subclause 135.8 must participate in good faith.

135.12. Unless the parties agree to the contrary, FWC must, in responding to the matter, have regard to whether a party has applied the procedures under this term and acted in good faith.

135.13. The parties agree to be bound by a decision made by FWC in accordance with this clause.

135.14. Notwithstanding subclause 135.13, any party may appeal a decision made by FWC in accordance with the FW Act.

135.15. Despite the above, the parties may agree to submit the dispute to a body or person other than FWC. Where the parties agree to submit the dispute to another body or person, all the following apply:

135.15.1. references to FWC in the above provisions will be read as a reference to the agreed body or person;

135.15.2. all obligations and requirements on the parties and other relevant persons under the above provisions will be complied with;

135.15.3. the agreed body or person must deal with the dispute in a manner that is consistent with section 740 of the FW Act.

135.16. While the parties are trying to resolve the dispute using procedures in this clause the employee must do all of the following:

135.16.1. continue to perform their work as they would normally unless they has a reasonable concern about an imminent risk to their health or safety; and

135.16.2. comply with a direction given by the head of service to perform other available work at the same workplace, or at another workplace, unless any of the following apply:

135.16.2.1. the work is not safe;

135.16.2.2. applicable workplace health and safety legislation would not permit the work to be performed;

135.16.2.3. the work is not appropriate for the employee to perform;

135.16.2.4. there are other reasonable grounds for the employee to refuse to comply with the direction.

135.17. Any dispute formally commenced in accordance with subclause 135.7 under the ACT Public Sector Medical Practitioners Enterprise Agreement 2021 – 2022, but not concluded before the commencement of this Determination, shall continue to be dealt with in accordance with the dispute settlement provisions in this Determination. Any steps already taken in that process will be recognised and accepted by parties and the FWC as steps taken for the purpose of this clause.

136. FLEXIBILITY TERM

136.1. The head of service and an individual employee may agree to vary the application of certain provisions of this Determination to meet the genuine needs of a business unit in the ACTPS and of the individual employee (an individual flexibility arrangement).

136.2. The head of service and an individual employee may agree to vary through an individual flexibility arrangement any of the following provisions of the Determination:

136.2.1. vacation childcare subsidy (subclause 78.1)

136.2.2. and family care costs (subclause 79.1)

136.3. The head of service must ensure that the terms of an individual flexibility arrangement meet all of the following:

136.3.1. they would be permitted if the arrangement were an enterprise agreement;

136.3.2. they do not include a term that would be an unlawful term if the arrangement were an enterprise agreement; and

136.3.3. they will result in the employee being better off overall than the employee would have been if no individual flexibility arrangement were agreed to.

136.4. The head of service must ensure that the individual flexibility arrangement meets all of the following:

136.4.1. It identifies the clause in 136.2 of this Determination that the head of service and the employee have agreed to vary;

136.4.2. It sets out details of how the arrangement will vary the effect of the clause;

136.4.3. It includes details of how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement;

136.4.4. It states the day the arrangement commences.

136.5. An individual flexibility arrangement made under this clause must be genuinely agreed to by the head of service and the individual employee.

136.6. Except as provided in subclause 136.7.2, an individual flexibility arrangement made under this clause must not include a provision that requires the individual flexibility arrangement to be approved, or consented to, by another person.

136.7. The head of service must ensure that an individual flexibility arrangement made under this clause is made in writing and signed by the following:

136.7.1. in all cases - by the employee and the head of service;

136.7.2. if the employee is under eighteen – by a parent or guardian of the employee.

136.8. The head of service must give the employee a copy of an individual flexibility arrangement made under this clause within fourteen days after it is agreed to.

136.9. The head of service or the employee may terminate the individual flexibility arrangement by doing either of the following:

136.9.1. giving written notice of no more than 28 days to the other party to the arrangement;

136.9.2. if both parties agree in writing – at any time.

136.10. The right to make an individual flexibility arrangement under this clause is in addition to, and is not intended to otherwise affect, the right of the head of service and an individual employee to make an agreement under any other provision of this Determination.

137. FREEDOM OF ASSOCIATION

137.1. The ACTPS recognises that employees are free to choose whether or not to join a union. Irrespective of that choice, employees must not be disadvantaged or discriminated against in respect of the employees' employment under this Determination. The ACTPS recognises that employees who choose to be members of a union have the right to choose to have their industrial interests represented by the union.

137.2. Employees in negotiations of any kind are entitled to negotiate collectively where they so choose.

137.3. Employees engaging in negotiations of any kind are entitled to be represented by a representative of their choice. The ACT Government will deal with any such representative in good faith.

138. RIGHT OF EXISTING AND NEW EMPLOYEES TO REPRESENTATION IN THE WORKPLACE

138.1. The ACTPS acknowledges the rights of its employees to be represented on any workplace relations matter and to meet with their representatives in the workplace. The ACTPS recognises the legitimate right of the union(s) to represent its employees who are members, or eligible to become members of the union(s).

138.2. The FW Act prescribes the purpose and manner under which the union(s) may exercise right of entry in the workplace. The Directorate will grant the union(s) access in accordance with the FW Act.

138.3. In addition, the ACTPS must do all of the following:

138.3.1. allow union officials and employees, who are permit holders, to enter ACTPS workplaces for normal union business or to represent employees, to meet with management or members and to distribute or post material, provided that work is not disrupted;

138.3.2. allow the union(s) to meet with new ACTPS employees who are members, or who are eligible to become members, of the union(s), at a time during normal working hours which the union(s) and the head of service agree upon, and of which the head of service must advise the employees;

138.3.3. provide all new ACTPS employees with some form of induction program, including an induction package containing information about the union(s) which the union(s) has given the ACTPS;

138.3.4. invite the union(s) to attend any face to face induction of new ACTPS employees, the details of which the head of service must advise to the union(s) contact officer or other nominated person with reasonable notice. Such attendance must be included as an integral part of the induction process and be for the purpose of delivering an information presentation including recruitment information to new ACTPS employees; and

138.3.5. organise regular face to face meetings, which may be the face to face inductions of new ACTPS employees as per subclause 138.3.5, between new ACTPS employees and the relevant union(s), for the purpose of delivering an information presentation including recruitment information to new ACTPS employees. Such meetings will be held at regular intervals as agreed between the relevant directorate(s) and the relevant unions.

138.4. For the avoidance of doubt, nothing in subclause 138.3 should be taken as conferring a right of entry that is contrary to, or for which there is otherwise, a right of entry under the FW Act.

139. CO-OPERATION AND FACILITIES FOR UNIONS AND OTHER EMPLOYEE REPRESENTATIVES

139.1. For the purpose of ensuring that union(s) and other employee representatives who are employees of the ACTPS can effectively fulfil their employee representative role under this Determination, the following provisions apply.

139.2. Reasonable access to ACTPS facilities, including the internal courier service, access to the ACT Government communication systems, telephone, facsimile, photocopying, access to meeting rooms and storage space, must be provided to employee representatives to assist them to fulfil employee representative obligations, duties and responsibilities having regard to the ACTPS's statutory, operational requirements and resources.

139.3. In addition to the ACTPS facilities outlined in subclause 139.2, where available, a union or employee representative who is an employee of the ACTPS must be able to establish designated Outlook public folders which will provide a collaborative electronic workspace to improve the flow of information. The use of ACTPS facilities must be in accordance with published whole-of-government policies and for matters other than for industrial action.

139.4. A union or other employee representative who is an employee of the ACTPS must be provided with adequate paid time off from their usual working hours, to undertake duties to represent other employees.

139.5. While the representative duties would normally be expected to be performed within the workplace, on occasions the union(s) or employee representative may be required to conduct these duties external to the workplace.

139.6. The role of union workplace delegates and other recognised union representatives is to be respected and facilitated. The ACTPS and union workplace delegates must deal with each other in good faith.

139.7. In addition to other provisions in this Determination, in discharging their representative roles at the workplace level, the rights of union workplace delegates include, but are not limited to all of the following:

139.7.1. to be treated fairly and perform their role as workplace delegate without any discrimination in their employment;

139.7.2. to speak on behalf of their members in the workplace;

139.7.3. to participate in collective bargaining on behalf of those who they represent, as per the FW Act;

139.7.4. to reasonable paid time off from their usual working hours to do any of the following:

139.7.4.1. provide information and seek feedback from employees in the workplace on workplace relations matters in the ACTPS during normal working hours;

139.7.4.2. represent the interests of members to the employer and industrial tribunals;

139.7.4.3. consult with other delegates and union officials in the workplace, and receive advice and assistance from union staff and officials in the workplace;

139.7.5. to email employees in their workplace to provide information to and seek feedback, subject to individual employees exercising a right to 'opt out';

139.7.6. to consultation, and access to relevant information about the workplace and the ACTPS, subject to privacy legislation and other relevant legislation;

139.7.7. to undertake their role as union representatives on Directorate workplace relations consultative committee(s);

139.7.8. to have reasonable access to ACTPS facilities (including internet and email facilities, meeting rooms, lunch rooms, tea rooms and other areas where employees meet) for the purpose of carrying out work as a delegate and consulting with members and other interested employees and the union;

139.7.9. to address new employees about union membership at the time they enter employment in their workplace;

139.7.10. to access appropriate training in workplace relations matters including training provided by a union in accordance with clause 140.

139.8. In exercising their rights under subclause 139.7, workplace delegates and unions must adhere to ACTPS policies and guidelines and consider operational issues and the likely effect on the efficient operation of the ACTPS and the provision of services.

140. ATTENDANCE AT INDUSTRIAL RELATIONS COURSES AND SEMINARS

140.1. For the purpose of assisting employees in gaining a better understanding of industrial relations issues relating to this Determination, the head of service must grant leave to employees to attend recognised short training courses or seminars subject to all of the following conditions:

140.1.1. operating requirements permit the granting of leave;

140.1.2. the scope, content and level of the short courses will contribute to the better understanding of industrial relations issues;

140.1.3. leave granted under this clause is at full pay, not including shift and penalty payments or overtime;

140.1.4. each employee will not be granted more than fifteen days or shifts leave in any calendar year.

140.2. If the employee has applied for leave under subclause 140.1 and the head of service rejected the application because of operational requirements, approval of any subsequent application for leave by the employee under subclause 140.1 must not be withheld unreasonably, provided that the employee gives the head of service at least fourteen days/shifts notice in writing.

140.3. The ACTPS will accept any short course conducted or accredited by a relevant employee organisation (for example, union(s), the Australian Council of Trade Unions or the ACT Trades and Labour Council) as a course to which subclause 140.1 applies.

140.4. Leave granted for this purpose counts as service for all purposes.

141. WORK ORGANISATION

141.1. An employee agrees to carry out all lawful and reasonable directions of the head of service according to the requirements of the work and the employee's skill, experience and competence, in accordance with this Determination and without deskilling the employee.

141.2. An employee will not, unless this is done in the course of the employee's duties or as required by law or by the ACTPS, use or disclose to any person any confidential information about the ACTPS's business that becomes known to the employee during the employee's employment.

141.3. The ACTPS will not reveal to any person any medical, financial or personal details of the employee that the ACTPS may have obtained, except with the permission of the employee or where the ACTPS is under a legal obligation to do so.

141.4. Subject to subclauses 141.5 to 141.8 and limited to new employees of the ACTPS whose employment with the ACTPS commences on or after the commencement of this Determination (new employee), the ACTPS will provide details of the new employee's employment to the relevant Union(s) (irrespective of whether the employee has elected to become a member of the Union).

141.5. The details of the new employee's employment which the ACTPS may provide to a relevant Union is limited to the new employee's first name and surname, the ACT Government contact information for the new employee (email address and contact phone number), and the position and Directorate in which the new employee is engaged. The ACTPS will not provide the information to the Union(s) until at least twenty-one (21) days after the new employee has commenced employment.

141.6. Subclause 141.4 does not apply if the Head of Service has received written notification from the new employee, either prior to their commencement of employment, or within fourteen (14) days after their commencement, that the employee does not consent to the information specified in subclause 141.5 being shared with the relevant Union(s).

141.7. Each of the Unions referred to in subclause 3.1 who wish to receive the information referred to in subclause 141.5 must advise the ACTPS of the classifications covered by this Determination which, in accordance with its rules, the Union is entitled to represent. Upon receipt of that advice from the Unions, the ACTPS will compile a schedule and provide it to the Unions (Union Representation Schedule).

141.8. The ACTPS will only provide new employee information to the relevant Union(s) under clause 141.4 in accordance with the Union Representation Schedule and will do so on a monthly basis.

142. PRIVATISATION

142.1. In order to promote job security, the parties agree that privatisation of a Government entity may only occur if all of the following apply:

142.1.1. The entity does not perform a role central to the functions of government;

142.1.2. disadvantaged groups would not be negatively affected by the privatisation;

142.1.3. a social impact statement has been completed which indicates that there is a demonstrated public benefit from the sale.

142.2. In the event that privatisation of an ACTPS Directorate or a service or services currently supplied by an ACTPS Directorate is under consideration, consultation must occur on the implications for employees and the Directorate from these proposals.

142.3. Where such privatisation is under consideration, the ACTPS must provide the necessary reasonable resources to develop an in-house bid and this bid must be prepared either offsite or onsite as determined by the head of service and subject to consideration on equal terms to any other bid. An independent probity auditor must be appointed by the head of service to oversee the assessment of the in-house bid.

Section Q - Internal Review Procedures

143. Objectives and Application

143.1. Under this section, procedures are established for employees to seek a review of management actions that affect their employment with the ACTPS.

143.2. The procedures in this section promote the values and general principles of the ACTPS and account for the principles of natural justice and procedural fairness.

143.3. These procedures apply to all employees covered by this Determination.

143.4. For the purposes of this section, an action includes a decision and a refusal or failure to make a decision.

144. Decisions and Actions Excluded

144.1. The following decisions and actions are excluded from the rights of an employee to seek a review under procedures set out in this section:

144.1.1. actions regarding the policy, strategy, nature, scope, resourcing or direction of the ACTPS and agencies (see clause 134 of this Determination for consultation on these actions);

144.1.2. actions arising under Commonwealth or ACT legislation that concern domestic or international security matters;

144.1.3. actions regarding superannuation (see relevant superannuation legislation for complaints and appeals, in particular the *Superannuation Industry Superannuation Supervision Act 1993* and the *Superannuation (Resolution of Complaints) Act 1993*);

144.1.4. actions regarding workers' compensation (see the *Safety, Rehabilitation and Compensation Act 1988* for reviews and appeals on these actions);

144.1.5. decisions to terminate the appointment of an officer on probation;

144.1.6. decisions on classification of an office (see clause 51 of this Determination for reviews on classifications);

144.1.7. any action to which the employee has an appeal or review right under Section R of this Determination;

144.1.8. any action to which the employee has an appeal right under subclause 148.3 of this Determination;

144.1.9. any action arising from the preliminary assessment process under clause 119;

144.1.10. actions arising from the misconduct procedures of this Determination;

144.1.11. actions arising from the under-performance procedures of this Determination;

144.1.12. any decisions under subclauses 122.1, 122.4 and 122.5 of this Determination;

144.1.13. any decision under subclauses 149.2 of this Determination;

144.1.14. actions regarding the setting of rates of pay or conditions of employment under an award or agreement made under the FW Act, or under the PSM Act or the PSM Standards (this includes an Attraction and Retention Incentive (ARINs), Special Employment Arrangements (SEAs) or a pre-FW Act Australian Workplace Agreement (AWA);

144.1.15. decisions to appoint of not appoint a person as an officer to a vacant position;

144.1.16. decisions that another officer perform the duties of a higher office or role for periods up to and including six months;

144.1.17. decisions to transfer another employee or promote another employee to an advertised vacancy where the officer or employee seeking the review was not an applicant;

144.1.18. actions arising from the internal review procedures or appeal panel procedures of this Determination, including the review and appeals procedures under Section S of this Determination.

145. INITIATING A REVIEW

145.1. An employee should first discuss their concerns about an action or decision with the relevant decision maker with a view to resolving the matter within the workplace before initiating a review under these procedures.

145.2. An employee, or the employee's union or other employee representative on the employee's behalf, has the right to apply for a review of any action or decision that directly affects the employee's employment, unless the action or decision is specifically excluded under this Section.

145.3. An employee, or the employee's union or other employee representative, may initiate a review under this Section by making an application to the head of service in accordance with all of the following:

145.3.1. Is in writing;

145.3.2. is made no more than 28 calendar days after the employee was advised of the decision that is the subject of the application for review, unless the head of service agrees that extenuating circumstances exist;

145.3.3. identifies the action or decision or both for which the employee seeks a review;

145.3.4. it does not concern a decision or action that is excluded under subclause 144.1;

145.3.5. it identifies the reasons the review is sought including, in the employee's view, the effect/s that the action or decision has or is having on the employee's employment;

145.3.6. outlines the extenuating circumstances, if any, where the application is made outside the timeframe specified in subclause 145.3.2;

145.3.7. describes the outcome sought.

145.4. If the review relates to a failure or refusal to make a decision in accordance with subclause 143.4, the 28 day time period outlined in subclause 145.3.2 is taken to commence on the day it was apparent that there was a failure or refusal to make a decision.

145.5. The head of service must, provided that the requirements under subclause 145.3 have been met, refer the matter for review in accordance with clause 146.

146. REVIEW PROCESS

146.1. Notwithstanding subclause 145.5, where appropriate, and agreed by the employee who made the application under clause 145.3 (for the purposes of this section "the applicant"), or the applicant's union or

other employee representative on the applicant's behalf, the head of service must consider mediation as an option before arranging for a review under subclause 146.3. The mediator must be agreed between the applicant and the head of service.

146.2. In the event that mediation does take place and that it resolves the issues raised in the application, then no further action is required under these procedures. In that event a formal written statement that the issue has been resolved must be signed by the applicant and the head of service.

146.3. Subject to subclauses 145.5, 146.1 and 146.2, the head of service must arrange for an application made under clause 145.3 to be reviewed by an independent person (the reviewer) who may be one of the following:

146.3.1. a suitably skilled person who was not involved in the original action;

146.3.2. a person chosen from a panel of providers.

146.4. The reviewer must be provided with all relevant information and evidence that was available to the delegate in the making of the original decision or in taking the original action.

146.5. The reviewer may recommend to the head of service that an application should not be considered on any of the following grounds:

146.5.1. the application concerns a decision or action that is excluded under subclause 144.1

146.5.2. the applicant has made an application regarding the decision or action to a court or tribunal, or where the reviewer believes it is more appropriate that such an application be made;

146.5.3. the reviewer believes on reasonable grounds that the application is any of the following:

146.5.3.1. frivolous or vexatious;

146.5.3.2. misconceived or lacks substance;

146.5.3.3. should not be heard for some other compelling reason.

146.6. The head of service must either confirm a recommendation made by the reviewer under subclause 146.5 that an application should not be considered or arrange for another reviewer to consider the application.

146.7. The head of service must inform the applicant in writing, within fourteen calendar days of the date of any decision under subclause 146.6, including, the reasons for any decision not to consider the application.

146.8. If the reviewer does not make a recommendation under subclause 146.5, then the reviewer must conduct a procedural review on the papers to determine all of the following:

146.8.1. whether it was open to the head of service to take the action that they did;

146.8.2. whether the principles of procedural fairness and natural justice were complied with in taking the original action;

146.8.3. whether the final decision of the head of service was fair and equitable in all of the circumstances.

146.9. If the reviewer has any doubt over the reliability or validity of the information, evidence or processes used in making the original decision or action, or that significant information or evidence was not considered in the making of the original decision or action, the reviewer must inform the head of service of that doubt and the reasons for it in the written report in accordance with 146.10.

146.10. After reviewing any action or decision the reviewer must, subject to subclause 146.11, make a written report to the head of service recommending one of the following:

146.10.1. the original decision or action be confirmed;

146.10.2. the original decision or action be varied;

146.10.3. other action be taken.

146.11. A copy of the report under subclause 146.10 must be provided to the applicant and the applicant must be given the opportunity to provide a response.

146.12. The applicant may respond to any aspects of the report. Such a response must be in writing and be provided to the head of service within fourteen calendar days of the applicant receiving the report.

146.13. The head of service, after considering the report from the reviewer and any response from the applicant to the report of the reviewer, may do one of the following:

146.13.1. confirm the original action;

146.13.2. vary the original action;

146.13.3. take any other action the head of service believes is reasonable.

146.14. The head of service must inform the applicant in writing, within fourteen calendar days of the date of any decision under subclause 146.13 including the reasons for the action.

Review of head of service decisions

146.15. Where the subject of the application is an action or decision of the head of service (in person) or the director general (in person) as the delegate of the head of service, the written report of the reviewer must be made to the Public Sector Standards Commissioner. A copy of this report must be provided to the applicant.

146.16. The Public Sector Standards Commissioner may, after considering the report from the reviewer, recommend to the head of service one of the following:

146.16.1. the original action be confirmed;

146.16.2. the original action be varied;

146.16.3. other action be taken that the Public Sector Standards Commissioner believes is reasonable.

146.17. The head of service (in person) or the director general (in person) as the delegate of the head of service, after considering the report from the Public Sector Standards Commissioner, may do one of the following:

146.17.1. accept any or all of the report's recommendation(s) and take such action as necessary to implement the recommendation(s);

146.17.2. not accept the report's recommendation(s) and confirm the original action.

146.18. If the head of service (in person) or the director general (in person) as the delegate of the head of service does not accept any one of the recommendation(s) of the Public Sector Standards Commissioner under subclause 146.16, they must do both of the following:

146.18.1. provide written reasons to the Public Sector Standards Commissioner for not accepting the recommendation(s);

146.18.2. provide the applicant, within fourteen calendar days, with written reasons for not accepting the recommendation(s).

146.19. If the head of service (in person) or the director general (in person) as the delegate of the head of service does not accept any one of the recommendation(s) of the Public Sector Standards Commissioner under subclause 146.16, the Public Sector Standards Commissioner must report on this outcome.

147. RIGHT OF EXTERNAL REVIEW

147.1. The applicant, or the applicant's union or other employee representative on the employee's behalf, may seek a review of a decision or action under subclause 146.13 or subclause 146.17 by an external tribunal or body, including the FWC.

147.2. The FWC is empowered to resolve the matter in accordance with the powers and functions set out in clause 135 of this Determination. The decision of the FWC is binding, subject to any rights of appeal against the decision to a Full Bench of the FWC in accordance with subclause 135.15.

Section R – Appeal Mechanism for Misconduct, Underperformance and Other matters

148. OBJECTIVE AND APPLICATION

148.1. This section sets out an appeal mechanism for an employee (referred to in this section as "the appellant") is not satisfied with the outcome of decisions described in the following clause.

148.2. The head of service must nominate a person, or position, to be the Convenor of Appeals ("the Convenor").

148.3. This appeal mechanism applies to all of the following decisions:

148.3.1. decisions to suspend the employee without pay under clause 122.2 of this Determination;

148.3.2. decisions relating to findings of misconduct under clause 125, provided that such an appeal can only be made after a decision about disciplinary action under clause 126 has been made, except a decision to terminate the employee's employment;

148.3.3. decisions to take disciplinary action under subclause 126.1 of this Determination, except a decision to terminate the person's employment;

148.3.4. decisions to take underperformance action under subclause 132.17of this Determination, except a decision to terminate the person's employment; and

148.3.5. decisions taken in relation to an employee's eligibility for benefits under clause 161 the amount of such benefits, the amount payable by way of income maintenance under clause 164, and the giving of an involuntary notice of redundancy clause 163.

148.3.6. Any other decision that is subject to appeal under the PSM Act.

148.4. In relation to appeals about misconduct findings and disciplinary action in accordance with subclauses 148.3.2 and 148.3.3, only one application for appeal can be made in relation to the same misconduct matter. The application must state which one of the following the application relates to:

148.4.1. the finding of misconduct under clause 125;

148.4.2. the disciplinary action under clause 126;

148.4.3. both the finding of misconduct under clause 125 and the disciplinary action under clause 126.

148.5. An employee may have an entitlement to bring an action under the FW Act in respect of any termination of employment under this Determination. This is the sole right of review of such an action.

149. INITIATING AN APPEAL

149.1. The appellant, or the appellant's union or other representative, on the appellant's behalf, may initiate an appeal under these procedures by making an application to the Convenor in accordance with all of the following:

149.1.1. is in writing;

149.1.2. describes the decision or action taken or to be taken, the reasons for the application and the outcome sought;

149.1.3. is received by the Convenor within fourteen calendar days of being notified, or the appellant becoming aware, of the decision to take the action;

149.1.4. seeks to appeal an appellable decision as set out in subclause 148.3.

149.2. Notwithstanding any other provisions in this section, the Convenor has the authority to dismiss an appeal if the appellant obstructs, unreasonably delays or fails to co-operate with the process.

150. INDEPENDENT APPEAL MEMBERS

150.1. The public sector standards commissioner must keep a list of approved independent appeal members.

150.2. Where an application is received by the Convenor in accordance with the requirements set out in subclause 149.1 and subclause 149.2 the Convenor must select a person from the approved list of independent appeal members to conduct a single member determinative appeal. Powers and Role of the Independent Appeal Member

150.3. In considering an application, the independent appeal member must have due regard to the principles of natural justice and procedural fairness. Proceedings of the appeal are to be conducted as quickly as practicable and consistent with a fair and proper consideration of the issues.

150.4. The Convenor must invite the appellant to have a support person, who may be the appellant's union or other employee representative, present at any meetings held between the independent appeal member and the appellant and must allow reasonable opportunity for this to be arranged.

150.5. The independent appeal member must be provided with all relevant information and evidence that was available to the decision-maker in the making of the original decision or in taking the original action.

150.6. The independent appeal member has the discretion to decide not to conduct a review of the appeal application, or, if it has commenced reviewing the application, to decide not to proceed further if the independent appeal member believes any of the following apply:

150.6.1. The application is frivolous or vexatious, or not made in good faith.

150.6.2. The appellant making the appeal may apply to another person or authority about the application who may more appropriately deal with the application.

150.6.3. Further review of the application is not warranted.

Conducting an appeal

150.7. Where the independent appeal member determines that an application for appeal should proceed, the independent appeal member must conduct a procedural review on the papers provided under subclause 150.5 to determine whether all of the following apply:

150.7.1. It was open to the head of service to take the action they did.

150.7.2. The principles of procedural fairness and natural justice were complied with in taking the original action or decision.

150.7.3. The final decision of the head of service, the Public Sector Standards Commissioner or both was appropriate in all of the circumstances.

150.8. Where the independent appeal member is satisfied that a fundamental piece of evidence was not considered in the original process, the independent appeal member may request that the Convenor refer the matter back to the head of service, Public Sector Standards Commissioner or both for further investigation.

150.9. The head of service or Public Sector Standards Commissioner, after considering the referral from the Convenor under subclause 150.8, must do one of the following:

150.9.1. As soon as possible, arrange for a further investigation to be conducted, in line with the referral of the Convenor, and must provide any further information, evidence or outcomes of the further investigation to the independent appeal member in order that they may complete their review.

150.9.2. Provide written reasons to the independent appeal member, within 14 calendar days, for not accepting their referral for further investigation.

150.10. After reviewing any application under this section, the independent appeal member must, subject to subclause 150.8, make a determination of the appeal and do one of the following:

150.10.1. Confirm the original decision.

150.10.2. Vary the original decision.

150.10.3. Prescribe that other action be taken.

150.11. The independent appeal member must provide a report to the Public Sector Standards Commissioner and the head of service which must include the determination and the reasons for the determination. A copy of the report must also be provided to the appellant.

151. Costs

151.1. The employer is not liable for any costs associated with representing an applicant in these procedures.

152. Right of External Review

152.1. The employee, or the employee's union or other employee representative on the employee's behalf may seek a review by the FWC of a decision under subclause 150.10.

152.2. The FWC is empowered to resolve the matter in accordance with the powers and functions set out in clause 131 of this Determination. The decisions of FWC will be binding, subject to any rights of appeal against the decision to a Full Bench in accordance with subclause 135.14.

Section S Appeal and Process Reviews of certain recruitment decisions

153. APPLICATION

153.1. Under this Section, procedures are established for officers to seek a review of recruitment processes or appeal certain recruitment decisions.

153.2. These procedures for appeals and reviews account for the principles of procedural fairness and natural justice in this context.

153.3. For the purposes of this Section, an action includes a decision and a refusal or failure to make a decision.

153.4. Decisions made by Joint Selection Committees in accordance with clause 16 cannot be reviewed or appealed.

154. APPEALS ABOUT PROMOTIONS AND TEMPORARY TRANSFER TO HIGHER OFFICE

154.1. The head of service (in person) must nominate a person, or position, to be the Convenor of Appeals ("the Convenor"), which may or may not be the same person, or position, nominated under subclause 148.2.

154.2. This appeal mechanism applies to both the following:

154.2.1. decisions about promotion or temporary transfer to a higher office or role (for periods in excess of six months) affecting the officer where the officer was an applicant for the position, except decisions made on the unanimous recommendation of a joint selection committee (see PSM Act and PSM Standards);

154.2.2. decisions to promote an officer after acting for a period of twelve months or more in a position at or below Resident Medical Officer 2 (or equivalent classification).

154.3. For the purposes of subclause 154.2, an appeal may only be made in relation to promotions or temporary transfer to a higher office or role where the pay applicable is any classification with a maximum pay that is less than the minimum pay of a classification equivalent to a Registrar 2, or unless otherwise specified in the PSM Act. For positions above this level (or equivalent) an application may be made for a process review in accordance with clause 155 of this Determination.

154.4. For the purposes of subclause 154.2.2, any suitably qualified officer may appeal the decision.

154.5. For appeals concerning promotion or transfer to a higher office or role under subclause 154.2, the only ground on which the independent appeal members can review the decision is that the officer making the appeal would be more efficient in performing the duties of the position than the person promoted or selected for temporary transfer.

Initiating an Appeal

154.6. An officer ("the appellant" for the purposes of this Section) or the appellant's union or other employee representative on the appellant's behalf, may initiate an appeal under these procedures by making an application to the Convenor in accordance with all of the following:

154.6.1. It is in writing.

154.6.2. It is received by the Convenor within fourteen calendar days of the decision to take the action being notified in the Gazette. For decisions relating to the temporary transfer to a higher office or role for periods in excess of six months that are not required to be notified in the gazette, it is

received by the Convenor within fourteen days of the applicant being notified or becoming aware of the outcome of the process.

154.6.3. It seeks to appeal an appellable decision as set out in subclause 154.2.

154.7. Notwithstanding any other provisions in this Section, the Convenor has the authority to dismiss an appeal if the appellant obstructs, unreasonably delays or fails to co-operate with the process.

Independent Appeal Members

154.8. Where an application is received by the Convenor in accordance with the requirements set out in subclause 154.6, subject to subclause 154.7 the Convenor must select a person from the approved list of independent appeal members held by the Public Sector Standards Commissioner to conduct a single member determinative appeal.

Independent Appeal Member Recommendations

154.9. After reviewing an application about promotion or temporary transfer to a higher office or role affecting the appellant, the independent appeal member must recommend to the head of service to do one of the following with regard to the decision that is the subject of the application:

154.9.1. confirm the decision;

154.9.2. vary the decision;

154.9.3. take another action.

154.10. The head of service must inform the appellant and affected parties in writing of their decision and the reasons for the decision, within 28 calendar days.

155. PROCESS REVIEW

155.1. An officer may seek a review of the process leading up to a decision about any of the following:

155.1.1. decisions that another officer perform the duties of a higher office or role (with a pay less than that of a Registrar 2 or equivalent classification) for periods greater than six months if the vacancy was advertised;

155.1.2. decisions to promote or not promote an officer;

155.1.3. decisions to appoint or not appoint an employee, or to engage or not engage an employee, on a temporary contract;

155.1.4. decisions to transfer, or not to transfer, an employee;

155.1.5. decisions under the PSM Standards to promote an officer after acting for a period of twelve months or more in a position above Resident Medical Officer 2 or equivalent classification.

155.2. The findings of a review under this clause do not alter the outcome of the original decision but may be used to inform similar processes conducted in the future or address any failings on the part of employees involved in the process under review.

Initiating a Review

155.3. An officer ("the applicant" for the purposes of this Section), or the applicant's union or other employee representative on the applicant's behalf, may initiate a review under these procedures by making an application to the head of service in accordance with all of the following:

155.3.1. is in writing;

155.3.2. describes how the applicant believes the process was not conducted properly, and provides reasons for this;

155.3.3. is received by the head of service within fourteen calendar days of the employee being advised of the decision, or becoming aware of the decision;

155.3.4. seeks to review a reviewable process as set out in subclause 155.1.

Conducting a Process Review

155.4. Subject to subclause 155.3 the head of service must arrange for an application to be reviewed by an independent person (the reviewer) who may be one of the following:

155.4.1. a suitably skilled person who was not involved in the original action; or

155.4.2. a person chosen from a panel of providers.

155.5. The independent reviewer must be provided with all relevant information and evidence that was available to the decision-maker in the making of the original decision.

155.6. The reviewer must make an assessment whether relevant processes contained in this Determination, the PSM Act and PSM Standards were followed, and to what extent.

155.7. After reviewing the information and evidence provided under subclause 155.3, the independent reviewer must provide a report to the head of service, which does one of the following:

155.7.1. confirms that the process was conducted in accordance with the provisions of this Determination, the PSM Act, and PSM Standards; or

155.7.2. finds that there were deficiencies in the process. Such findings must be supported by reasons and the report may include recommendations for how similar processes may be conducted in future.

Section T – Redeployment and Redundancy

156. DEFINITIONS

156.1. "Excess officer" means an officer who has been notified in writing by the head of service that they are excess to the ACTPS Directorate's requirements because one of the following applies:

156.1.1. The officer is included in a class of officers employed in the ACTPS Directorate, which class comprises a greater number of officers than is necessary for the efficient and economical working of the Directorate;

156.1.2. The services of the officer cannot be effectively used because of technological or other changes in the work methods of the Directorate or changes in the nature, extent or organisation of the functions of the Directorate.

156.2. "Potentially excess officer" means an officer who is formally notified they are likely to become an excess officer in a foreseeable space of time.

157. APPLICATION

157.1. The ACTPS recognises the need to make the most effective use of the skills, abilities and qualifications of its officers in a changing environment. When positions become excess, the Directorate must seek to redeploy permanent officers within the Directorate or the ACTPS in order to avoid or minimise an excess officer situation. Should redeployment not be possible, voluntary redundancy, reduction in classification and involuntary redundancy must be considered in that order. Throughout these procedures, the Directorate must, where practicable, take into consideration the personal and career aspirations and family responsibilities of affected officers.

158. CONSULTATION

158.1. Where it appears to the head of service that a position is likely to be either potentially excess or excess to an ACTPS Directorate's requirements, and prior to any individual officer(s) being identified, the head of service must, at the earliest practicable time, advise and discuss with the parties to this Determination, the following issues (as appropriate in each case):

158.1.1. The number and classification of officers in the part of the Directorate affected;

158.1.2. The reasons an officer is, or officers are, likely to be excess to requirements;

158.1.3. The method of identifying officers as excess, having regard to the efficient and economical working of the Directorate and the relative efficiency of officers;

158.1.4. The number, classification, location and details of the officers likely to be excess;

158.1.5. The number and classification of officers expected to be required for the performance of any continuing functions in the part of the Directorate affected;

158.1.6. Measures that could be taken to remove or reduce the incidence of officers becoming excess;

158.1.7. Redeployment prospects for the officers concerned;

158.1.8. The appropriateness of using voluntary retirement;

158.1.9. Whether it is appropriate for involuntary retirement to be used if necessary.

158.2. The discussions under subclause 158.1 must take place over such time as is reasonable, taking into account the complexity of the restructuring and need for potential excess officer situations to be resolved quickly and must comply with the consultation requirements of clause 134. Any use of involuntary redundancy must be agreed between the unions at this stage and must not be used without the written agreement of the head of service and the union(s).

158.3. The head of service must comply with the notification and consultation requirements for union(s) and Centrelink about terminations set out in the FW Act.

158.4. The head of service will, at the first available opportunity, inform all officers likely to be affected by an excess staffing situation of the terms and operation of this section.

158.5. Where a redundancy situation affects a number of officers engaged in the same work at the same level, elections to be made voluntarily redundant may be invited.

158.6. Nothing in this Determination prevents the head of service inviting officers who are not in a redundancy situation to express interest in voluntary redundancy, where such redundancies would permit the redeployment of potentially excess and excess officers who do not wish to accept voluntary redundancy.

159. NOTIFICATION

159.1. Except where a lesser period is agreed between the head of service and the officer, the officer must not, within one month after the union(s) have been advised under subclause 158.1, be invited to volunteer for retirement nor be advised in writing in accordance with subclause 159.4 that the officer is excess to the relevant Directorate's requirements.

Potentially Excess Officers

159.2. At the point where individual employees can be identified, the head of service must advise the officer(s) that a position(s) is likely to become excess and that the employee may be affected. In that advice the officer(s) must also be advised that the officer may be represented by a union or other employee representative at subsequent discussions. The head of service must discuss with the officer(s) and, where chosen, the employee representative(s) the issues dealt with in subclauses 158.1.1 through 158.1.9 (as appropriate in each case).

159.3. Potentially excess officers who have not been invited to be voluntarily retired, or who have declined to elect to be voluntarily retired, are subject to the redeployment provisions in clause 160**.**

Excess Officers

159.4. Subject to subclause 159.1 the notification of an officer's excess status may only be given when the consultation required under clause 158 and the consultation required under subclause 159.2 has taken place. Following such consultation, where the head of service is aware that an officer is excess, the head of service must advise the officer in writing.

159.5. An excess officer is subject to the redeployment provisions in clause 160.

159.6. An excess officer who is offered a voluntary redundancy, but who does not accept the offer, is entitled to a seven month retention period in accordance with clause 162.

160. REDEPLOYMENT

160.1. Redeployment of potentially excess and excess officers must be in accordance with the officer's experience, ability and, as far as possible, the officer's career aspirations and wishes.

160.2. Once an officer has been notified that they are potentially excess or excess in accordance with subclause 159.2and 159.4 respectively, the officer must be registered by their Directorate on the Redeployment Register.

160.3. The head of service must consider a potentially excess or excess officers from other ACT Public Service agencies in isolation for vacancies at the officer's substantive level.

160.4. An excess officer (or potentially excess) has absolute preference for transfer to positions at the officers' substantive level and must be considered in isolation from other applicants for any vacancy within the ACTPS. For the purposes of this clause substantive level means the same classification or an alternative equivalent classification in another classification stream where the maximum pay does not exceed the top increment of the officer's current classification by more than 10%. For clarity this does not allow for the transfer of an officer within the same classification stream, e.g. a SOGB to transfer to a SOGA.

160.5. Under this clause an excess officer must be given preference over a potentially excess officer.

160.6. An excess officer need only be found suitable, or suitable within a reasonable time (generally three to six months) to be transferred to a position in accordance with subclause 160.4.

160.7. The head of service must make every effort to facilitate the placement of an excess officer within the service.

160.8. The head or service must arrange reasonable training that would assist the excess officer's prospects for redeployment.

160.9. The head of service must provide appropriate internal assistance and career counselling and assist as necessary with the preparation of job applications.

161. VOLUNTARY REDUNDANCY

161.1. Subject to subclause 159.1, at the completion of the discussions in accordance with clause 158, the head of service may invite officers to elect to be made voluntarily redundant under this clause.

161.2. Where the head of service invites an officer to elect to be made voluntarily redundant, the officer must be provided a consideration period of a maximum of one month from the date of the offer in which to advise the head of service of the officer's election, and the head of service must not give notice of redundancy before the end of the one month consideration period.

161.3. To allow an officer to make an informed decision on whether to submit an election to be made voluntarily redundant, the head of service must provide the officer with advice on all of the following:

161.3.1. The sums of money the officer would receive by way of severance pay, pay instead of notice, and paid up leave credits;

161.3.2. The career transition/development opportunities within the ACTPS.

161.4. The officer should seek independent advice on all of the following:

161.4.1. amount of accumulated superannuation contributions;

161.4.2. the options open to the officer concerning superannuation;

161.4.3. the taxation rules applicable to the various payments.

161.5. The relevant directorate must supplement the costs of independent, accredited financial counselling incurred by each officer who has been offered voluntary redundancy up to a maximum of $1000. The head of service must authorise the accredited financial counsellors to invoice the relevant Directorate directly.

161.6. Subject to subclause 161.7 where the head of service approves an election to be made redundant and gives the notice of retirement in accordance with the PSM Act, the period of notice is one month, or five weeks if the officer is over forty-five years old and has completed at least two years continuous service.

161.7. Where the head of service so directs, or the officer so requests, the officer will be retired at any time within the period of notice under subclause 161.6, and the officer must be paid in lieu of pay for the unexpired portion of the notice period.

Severance Benefit

161.8. An officer who elects to be made redundant in accordance with this clause is entitled to be paid the greater of the following:

161.8.1. An amount equal to two weeks of the officer's pay for each completed year of continuous service, plus a pro-rata payment for completed months of continuous service since the last year of continuous service. The maximum sum payable under this subclause is 48 weeks' pay; or

161.8.2. An amount equal to twenty-six weeks of the officer's pay.

161.9. For the purpose of calculating any payment instead of notice or part payment, the pay an officer would have received had they been on annual leave during the notice period, or the unexpired portion of the notice period as appropriate, is used.

161.10. For the purpose of calculating payment under subclause 161.8 all of the following apply:

161.10.1. if an officer has been acting in a higher position for a continuous period of at least twelve months immediately preceding the date on which they receive a notice of retirement, the pay level is the officer's pay in the higher position at that date;

161.10.2. if an officer has, during 50% or more of pay periods in the twelve months immediately preceding the date on which they receive a notice of retirement, been paid a loading for shiftwork or are paid a composite pay, the weekly average amount of shift loading received during that twelve month period is counted as part of "weeks' pay";

161.10.3. The inclusion of other allowances, being allowances in the nature of pay, will be with the approval of the head of service.

161.10.4. Redundancy pay will be calculated on a proportionate basis where the employee has worked part-time hours during the period of service and the employee has less than 24 years' full-time service.

162. RETENTION PERIOD FOR EXCESS OFFICERS

162.1. An excess officer who does not accept voluntary redundancy is entitled to a seven month retention period.

162.2. The retention period will commence on one of the following days:

162.2.1. On the day the officer is advised in writing by the head of service that the officer is an excess officer; or

162.2.2. In the case of an officer who is invited by the head of service to submit an election to be retired – one month after the day on which the election is invited.

162.3. At the end of the retention period, if the officer has not been redeployed, the officer must be offered a choice of the following:

162.3.1. a suitable vacant position at the officer's substantive level, to be transferred to in accordance with the PSM Act;

162.3.2. retirement from the ACTPS with a severance payment which is the equivalent to what the officer would have received had the officer accepted the voluntary redundancy, less the amount of salary that the officer received during the retention period.

162.4. To be transferred to a suitable position in accordance with subclause 162.3.1 an excess officer need only be found suitable, or suitable within a reasonable time (generally three to six months) to be transferred to the position.

163. INVOLUNTARY RETIREMENT

163.1. An excess office may be made involuntarily redundant, subject to the agreement of the union(s). This clause applies to excess officers who are not any of the following:

163.1.1. Retired with consent;

163.1.2. Redeployed to another position; or

163.1.3. Reduced in classification.

163.2. An officer may be involuntarily retired subject to the agreement of the union(s), such agreement must not be withheld if, during or after six months from the date the officer was declared excess, the officer does one of the following:

163.2.1. Does not accept a transfer in accordance with the PSM Act;

163.2.2. refuses to apply for, or be considered for, a position for which the officer could reasonably be expected to be qualified to perform, either immediately or in a reasonable time.

163.3. Where the head of service believes that there is insufficient productive work available for an excess officer during the retention period, the head of service may make the officer involuntarily redundant before the end of the retention period.

163.4. An excess officer must not be involuntarily retired if they have not been invited to elect to be voluntarily retired with benefits, or have made such an election, and the head of service refuses to approve it.

163.5. Where the head of service involuntarily retires an excess officer, the officer must be given no less than four weeks' notice of the action proposed; or five weeks if the officer is over forty-five years old and has completed at least two years of continuous service. This notice period must, as far as practicable, be concurrent with the seven month retention period.

164. INCOME MAINTENANCE PAYMENT

164.1. An officer who has been receiving a higher rate of pay for a continuous period of at least twelve months and who would have continued to receive that pay rate except for the excess officer declaration, must be considered to have the higher pay rate.

164.2. This pay is known as the income maintenance pay. The income maintenance pay, where applicable, is used for the calculation of all conditions and entitlements under this clause.

164.3. The income maintenance pay exists for the retention period or the balance of the retention period.

164.4. If an officer is involuntarily retired, the entitlements, including paying out the balance of the retention periods, where applicable, must be calculated on the income maintenance pay rate. If an officer is involuntarily retired during the retention periods the officer's date of retirement is the date that the officer would have retired after the retention period ceased, not the date of the involuntary retirement. All final entitlements must be calculated from the latter date.

164.5. If an officer is involuntarily reduced in classification during the retention period, the officer is entitled to be paid at the income maintenance pay rate for the balance of the retention period.

164.6. All allowances in the nature of pay must be included in determining the income maintenance pay rate.

165. LEAVE AND EXPENSES TO SEEK EMPLOYMENT

165.1. At any time after the officer has been advised under subclause 159.2 of being potentially excess, the officer is entitled to paid leave to seek alternative employment. Leave granted under this clause is for periods of time to examine the job and to attend interviews. Reasonable travelling time must also be granted.

165.2. The officer is entitled to any reasonable fares and other incidental expenses if these are not met by the prospective employer.

166. USE OF PERSONAL LEAVE

166.1. The use of personal leave must not extend the retention periods of an officer unless these periods are supported by a medical certificate or are of such a nature as to make the seeking of employment during certificated personal leave inappropriate.

166.2. An officer who is receiving income maintenance must have those payments continued during certified personal leave periods of up to a total of six months.

167. APPEALS

167.1. Without affecting the officer's rights under the FW Act, an excess officer has the right under Section R to appeal any decision taken in relation to the officer's eligibility for benefits under clauses 159.6, 163 and the amount of such benefits, or the amount payable by way of income maintenance under clause 164.

167.2. An excess officer who received a notice of involuntary redundancy under clause 163 has the right under Section R to appeal the decision.

168. DETERMINATION NOT TO PREVENT OTHER ACTION

168.1. Nothing in this Determination prevents the reduction in classification of an officer or the retirement of an officer as a result of action relating to discipline, invalidity, inefficiency or less of essential qualifications.

169. RE-ENGAGEMENT OF PREVIOUSLY RETRENCHED OFFICERS

169.1. Despite the PSM Act, officers who are involuntarily retired from the ACTPS can be engaged at any time by the head of service.

169.2. Officers who elect to be made voluntarily redundant under clause 161 cannot be re-engaged by the ACTPS until a period has expired, which is equivalent in weeks and days to the termination payment received under 161.8 or 162.3.2, except with the written consent of the head of service.

Annex A – Classifications and Rates of Pay

MEDICAL PRACTITIONERS

PAY RATES

CLASSIFICATION	**Pay Rates as at 9.6.22**	$1,750 from 05/01/2023	1% from 08/06/2023	$1,750 from 07/12/2023	1.50% from 06/06/2024	1% + $1,500 from 05/12/2024	1% from 05/06/2025	1% + $1,000 from 04/12/2025
Medical Student Emergency Worker	$62,599	$64,349	$64,992	$66,742	$67,744	$69,921	$70,620	$72,326
Intern	$77,898	$79,648	$80,444	$82,194	$83,427	$85,762	$86,619	$88,485
RMO 1	$91,153	$92,903	$93,832	$95,582	$97,016	$99,486	$100,481	$102,486
SRMO 1 / Junior Registrar	$99,996	$101,746	$102,763	$104,513	$106,081	$108,642	$109,728	$111,826
SRMO 2	$112,917	$114,667	$115,814	$117,564	$119,327	$122,020	$123,241	$125,473
SRMO 3	$122,359	$124,109	$125,350	$127,100	$129,007	$131,797	$133,115	$135,446
Registrar 1	$112,917	$114,667	$115,814	$117,564	$119,327	$122,020	$123,241	$125,473
Registrar 2	$122,359	$124,109	$125,350	$127,100	$129,007	$131,797	$133,115	$135,446
Registrar 3	$131,840	$133,590	$134,926	$136,676	$138,726	$141,613	$143,029	$145,460
Registrar 4	$141,084	$142,834	$144,262	$146,012	$148,203	$151,185	$152,696	$155,223
Senior Registrar	$158,634	$160,384	$161,988	$163,738	$166,194	$169,356	$171,049	$173,760

CMO 1	$140,609	$142,359	$143,783	$145,533	$147,716	$150,693	$152,200	$154,722
	$151,467	$153,217	$154,749	$156,499	$158,847	$161,935	$163,554	$166,190
	$158,100	$159,850	$161,449	$163,199	$165,646	$168,803	$170,491	$173,196
	$163,434	$165,184	$166,836	$168,586	$171,115	$174,326	$176,069	$178,830
	$169,889	$171,639	$173,355	$175,105	$177,732	$181,009	$182,819	$185,648
CMO 2	$176,425	$178,175	$179,957	$181,707	$184,432	$187,777	$189,654	$192,551
	$181,912	$183,662	$185,499	$187,249	$190,057	$193,458	$195,393	$198,346
	$192,573	$194,323	$196,266	$198,016	$200,986	$204,496	$206,541	$209,607
	$209,516	$211,266	$213,379	$215,129	$218,356	$222,039	$224,260	$227,502
Senior CMO	$225,594	$227,344	$229,617	$231,367	$234,838	$238,686	$241,073	$244,484
	$242,117	$243,867	$246,306	$248,056	$251,777	$255,794	$258,352	$261,936
Transitional CMO 1	$192,573	$194,323	$196,266	$198,016	$200,986	$204,496	$206,541	$209,607
Transitional CMO 2	$209,516	$211,266	$213,379	$215,129	$218,356	$222,039	$224,260	$227,502
Transitional CMO 3	$225,594	$227,344	$229,617	$231,367	$234,838	$238,686	$241,073	$244,484
Specialist Band 1	$188,151	$189,901	$191,800	$193,550	$196,453	$199,918	$201,917	$204,936
Specialist Band 2	$199,154	$200,904	$202,913	$204,663	$207,733	$211,310	$213,423	$216,558
Specialist Band 3	$210,146	$211,896	$214,015	$215,765	$219,001	$222,691	$224,918	$228,168
Specialist Band 4	$221,174	$222,924	$225,153	$226,903	$230,307	$234,110	$236,451	$239,815

Specialist Band 5	$232,185	$233,935	$236,274	$238,024	$241,595	$245,511	$247,966	$251,445
Senior Specialist	$254,198	$255,948	$258,507	$260,257	$264,161	$268,303	$270,986	$274,696
Post Graduate Fellow	$218,553	$220,303	$222,506	$224,256	$227,620	$231,396	$233,710	$237,047

Annex B – Agreed Framework for Attraction and Retention Incentives (ARIns)

1. Introduction

1.1 This Section ('the Framework') sets out the provisions that apply to Attraction and Retention Incentives (ARIns).

1.2 An ARIn may only be agreed and approved in accordance with this Framework.

1.3 ARIns apply to all employee types employed in classifications covered by this Determination.

1.4 Subject to the terms of this Framework, it is a matter for the director-general's sole discretion (in consultation with the head of service) as to whether an ARIn will be offered or continued.

1.5 In assessing whether an ARIn should be offered or continued to an employee, the director-general will consider the consequences the provision of the ARIn may have on the Territory's ability to recruit and/or retain employees to Executive positions.

1.6 In this Framework, unless the contrary intention appears:

i. 'Attraction and Retention Incentives' (ARIns) means additional pay and/or conditions of employment, provided in recognition of the additional requirements of a position that are set out in paragraph 1.21.3 and recorded through a written agreement between the director-general and the employee occupying the position to which the ARIn is to apply.

ii. 'Base rate of pay' in relation to an employee is the rate of pay payable under Annex A of this Determination for the employee's classification on the date the ARIn commences, or for a review, on the date that the ARIn is approved, or renewed, following a review.

iii. 'Director-general' means the person occupying the position of director-general of the relevant directorate, or their nominated delegate.

iv. 'Group ARIn' means an ARIn approved by the Director-General, after consideration by the head of service, for a number of related positions with the same classification performing an identical function in a directorate, which is applied to the employees in those positions.

v. 'Head of service' means the person occupying the position and exercising the powers of the head of service.

vi. A reference to 'position, employee, occupant or union' includes 'positions, employees, occupants or unions'.

vii. 'Relevant market data' may include but is not limited to job sizing assessments, recruitment experience, market surveys and job advertisements.

viii. The 'rates of pay component' of an ARIn refers to enhanced pay rates as per subparagraph 1.21.4i only and does not include any additional lump sum or periodic component of an ARIN or any additional provision approved per subparagraph 1.21.4ii or subparagraph 1.21.4iii.

1.2 ARIn Requirements

1.1 The terms and conditions of employment of this Determination will continue to form the basis for employees covered by this Determination. Accordingly, where an ARIn applies to an employee, the terms and conditions of the employee is a combination of both of the following:

i. the terms and conditions contained in this Determination; and

ii. the terms and conditions contained in the ARIn.

1.2 The terms and conditions of employment contained in an ARIn prevail over the terms and conditions of employment contained in this Determination to the extent of any inconsistency.

1.3 In determining whether to offer or continue an ARIn to an employee, the director-general will have regard to all the following relevant matters:

i. whether the position is critical to the operation of the Directorate or to a business unit in the Directorate;

ii. whether an employee who occupies the position requires specialised qualifications, skill set and/or experience to perform the requirements of the position;

iii. whether the role and skills required by the employee who occupies the position are in high demand;

iv. the level at which comparable individuals with skills and qualifications for the role are remunerated in the marketplace;

v. the difficulty and cost associated with recruiting to the position;

vi. any other matter considered relevant to determining whether or not an ARIn would be appropriate in the circumstances.

1.4 An ARIn may contain:

i. enhanced pay rates;

ii. enhanced superannuation contribution rates;

iii. other terms and conditions of employment where the Director-General considers there is a clear, unambiguous, and exceptional need.

1.5 The terms of the ARIn instrument must contain provisions setting out

i. the expiry date of the ARIn;

ii. the level of the employee's base rate of pay;

iii. the pay component, any other terms and conditions of employment that are to apply under the ARIn, and the total dollar value of the ARIn;

iv. the requirement that the terms and conditions of the employee will revert to the applicable rates of pay and terms and conditions of employment under this Determination in the event the ARIn ceases to operate or is terminated; and

v. the terms of this Framework are included by reference.

1.3 No Overall Reduction in Terms and Conditions

1.1 An ARIn must not be agreed where it would result, when assessed as a whole, in a reduction in the overall terms and conditions of employment provided for the employee under this Determination.

1.2 An ARIn cannot provide terms and conditions that are less favourable than the National Employment Standards or the rates of pay set out in this Determination for the same work at the same classification level.

1.3 Where it is proposed that an ARIn will replace or reduce a condition of employment contained in this Determination, the director-general will consult with the relevant union with coverage of the position through the Office of Industrial Relations and Workplace Strategy ('OIRWS') about the proposed change prior to the provision of a written submission to the head of service for consideration.

1.4 In consulting with the OIRWS and union in accordance with paragraph 1.3, the director-general will:

i. provide the OIRWS and union with relevant information about the position and the proposed change;

ii. give the union a reasonable opportunity to consider this information and, if the union wishes, provide written views to the director-general within fourteen days; and

iii. consider any views offered by the union before deciding to enter into the ARIn.

1.5 Information that the director-general provides to the union under this section will not include information that might directly or indirectly disclose the identity of the particular employee unless the employee consents to its release.

1.4 ARIn Requirements During a Recruitment Process

Advertising with an ARIn

1.1 Where a proposed ARIn is not within the scope of a Group ARIn, a recruitment selection process may incorporate an ARIn by advertising the position at a higher package value, comprising the relevant Determination rate of pay plus an identified ARIn amount.

1.2 In these circumstances pre-approval of the ARIn through a Comprehensive Submission is required prior to advertising. When the ARIn is implemented (after the employee commences), a second Comprehensive Submission to the head of service is not required.

Offering an ARIn as part of a job offer

1.3 Where a proposed ARIn is not within the scope of a Group ARIn, a recruitment selection process at the offer stage may incorporate an ARIn as part of the offer of employment.

1.4 In such circumstances the recruitment material and advertisement must state the position rate of pay set out in this Determination, and state that an ARIn may be available to the successful applicant.

i. This approach is not recommended as a better field of applicants may be attracted when a position is advertised with a higher package identified up front.

1.5 In these circumstances pre-approval of the ARIn through a Comprehensive Submission is not required prior to advertising, but if an ARIn is ultimately proposed to be offered to the successful applicant, approval is required through a Comprehensive Submission prior to the offer being made. Time for the review process to occur must be anticipated in the recruitment process.

Advertising Group ARIns

1.6 When a position to be advertised is covered by a current Group ARIn, there is no need for a further Comprehensive Submission (as it has already been completed as part of the Group ARIn approval process). As such, while the position remains covered by the scope of a Group ARIn, it will automatically apply and should be included in the advertisement.

ARIn Requirements

1.7 Where an ARIn is used as part of a recruitment process:

i. the total package (excluding superannuation) should be disclosed and disaggregated to show:

1. the relevant Determination rate; and

2. the content of the ARIn, which is reviewable under the terms of this Determination.

1.8 The nature of the information disclosed at the point of advertising will depend on the type of ARIn used, but applicants should be made aware the ARIn:

i. is reviewable in accordance with the ARIn Framework;

ii. may be terminated, or have its value adjusted (either up or down); and

iii. must continue to meet the eligibility criteria, including consideration of relevant market rates and/or changes to the operational requirements of the business unit.

1.5 Deeming

1.1 An ARIn that is applied to a position, and to the employee occupying the position to which the ARIn applies, which is covered by this Determination on the day before the Determination commenced operation will continue in accordance with the provisions of this Framework.

1.6 Types of ARIns

1.1 The director-general may approve an ARIn as follows.

Project ARIns

1.2 A Project ARIn requires:

i. the additional remuneration meets the criteria in paragraph 1.21.1 of this Framework;

ii. a term no longer than 36 months; and

iii. the employee's work to which the ARIn is attached is associated with the employee's role in a specified project with a finite term.

1.3 A Project ARIn cannot be renewed and will cease to operate on the date specified in the ARIn for cessation of the position's involvement in the project, or the date of completion of the project, whichever date is the earlier.

1.4 A Comprehensive Submission is required to establish a Project ARIn, but no further reviews are required.

1.5 Where required, a subsequent new Project ARIn may be offered once only. Where this occurs, a Comprehensive Submission is required.

Fixed Term ARIns

1.6 A Fixed Term ARIn requires:

i. that the additional remuneration meets the criteria in paragraph 2.3 of this Framework;

ii. a term no longer than 12 months.

1.7 A Comprehensive Submission is required to establish a Fixed Term ARIn, but no further reviews are required.

1.8 A Fixed Term ARIn cannot be varied or renewed and will automatically cease on its specified expiry date.

Renewable ARIns

1.9 A Renewable ARIn requires:

i. the additional remuneration to meet the criteria in paragraph 2.3 of this Framework;

ii. a term no longer than 36 months.

1.10 A Renewable Term ARIn will cease to operate on the date specified in the ARIn.

1.11 A Renewable ARIn will cease to operate where the ARIn is reviewed in accordance with section 1.7 of this Framework and the director-general determines following the review that the ARIn should no longer apply. The date of effect of the ARIn cessation is the date that is at least ninety days after the date notice is provided to the employee of cessation of the ARIn, or on an earlier date if agreed by the employee.

1.12 A Comprehensive Submission is required to establish a Renewable ARIn.

1.13 A Renewable ARIn requires a Renewal Submission no more than 18 months from commencement or from the last Renewal or Comprehensive Submission.

i. The purpose of the Renewal Submission is to determine whether the director-general continues to consider that it is appropriate to provide an employee occupying the position to which the ARIn applies with the terms and conditions of employment provided by the ARIn.

Group ARIns

1.14 Where it is proposed that identical ARIns are to apply to a group of positions performing identical functions at the same classification level within a Directorate, this may be done as a single 'block' approval giving rise to a Group ARIn.

1.15 A Group ARIn requires:

i. the additional remuneration to meet the criteria in paragraph 2.3 of this Framework; and

ii. a term no longer than three years; and

iii. a group of positions and employees performing identical functions at the same classification level, approved in a block in accordance with paragraph 1.14 for a period of up to three years.

1.16 A Comprehensive Submission is required to:

i. establish a Group ARIn;

ii. at the midpoint of this Determination term; and

iii. prior to the nominal expiry date of this Determination.

1.17 Following a review and consultation with the head of service, the director-general will determine whether:

i. the ARIn should be renewed (in the same or different terms);

ii. ceased in accordance with paragraph 1.21 or

iii. in the case of a review conducted in accordance with paragraph 1.16iii, the additional pay component of the ARIn should be incorporated into base rates of pay in any subsequent Agreement.

1.18 To establish a Group ARIn only one Comprehensive Submission needs to be made in accordance with section 1.7 of this Framework in relation to the group of positions as identified in the submission to the head of service.

1.19 If following a review under section 1.7 the director-general determines that the ARIn should be renewed (on the same or different terms) the revised ARIn will apply to all employees in the specified positions or class of positions.

1.20 Employees may be offered a Group ARIn during the term the Group ARIn is in effect. Each employee in a position covered by the Group ARIn will be provided with an individual ARIn providing the same benefits and expiration date.

1.21 A Group ARIn will cease to operate where the ARIn is reviewed in accordance with section 1.7 of this Framework and the director-general determines following the review that the ARIn should no longer apply. The date of effect of the ARIn cessation is the date that is at least ninety days after the date notice is provided to the employee of cessation of the ARIn, or on an earlier date if agreed by the employee.

1.7 Review

Comprehensive Submission

1.1 In reviewing an ARIn, the director-general must have regard to the matters to be considered at paragraph 2.3. The director-general must also take into consideration relevant market data.

1.2 To commence, cease or change any ARIn, a Comprehensive Submission to the head of service is required. Specifically, a Comprehensive Submission is required to be submitted where:

i. a preliminary view is formed by the director-general that the position ceases to be critical to the operation of the Directorate or business unit in the Directorate;

ii. a preliminary view is formed by the director-general that the employee ceases to hold the required specialist qualifications or specialist attributes;

iii. a new ARIn (Project ARIn, Fixed Term ARIn, Renewable ARIn or Group ARIn) is being proposed for an existing employee or group of employees;

iv. in relation to a Renewable ARIn, three years have elapsed since the last Comprehensive Submission;

v. in relation to a Group ARIn, to establish a Group ARIn and no more than three years from either commencement or from the last Comprehensive Submission and prior to the date of expiry of this Determination;

vi. a position is to be advertised with a rate of pay which includes the proposed ARIn amount; or

vii. a variation is being proposed to an existing Renewable ARIn or Group ARIn.

1.3 A Comprehensive Submission must:

i. address the matters to be considered at paragraph 2.3 of this Framework; and

ii. address whether the substantive position is correctly classified; and

iii. address whether the position's job description and/or organisation structure of the business unit can be adjusted to mitigate the need for an ARIn; and

iv. where the director-general considers that there is a compelling reason for the Directorate to pay enhanced rates of pay in excess of 50% of the base rate of pay for the position's classification, the director-general will provide the OIRWS details of that compelling reason, including appropriate evidence and supporting remuneration data.

1.4 When a recruitment selection process is proposed to include a pre-approved ARIn, the Comprehensive Submission must:

i. address the circumstances of the recruitment selection process (i.e., why an ARIn is necessary to be included in the advertised rate);

ii. demonstrate the position (or a similar position) has recently been advertised without an ARIn and did not attract a suitable field or provide evidence that advertising at the Determination rate will not attract a suitable field; and

iii. set out the reasons in support of the ARIn itself (i.e., why the position meets the ARIn eligibility criteria).

Renewal Submission

1.5 Where, following head of service consideration of a Comprehensive Submission and a Renewable ARIn is approved by the director-general, it must be reassessed no more than 18 months later through a Renewal Submission.

1.6 A Renewal Submission is required to be completed where:

i. it is proposed that a Renewable ARIn should be renewed on the same terms;

ii. an employee who is party to a Fixed Term, Renewable or Project ARIn temporarily vacates the position to which the ARIn relates, and it is being proposed that the ARIn be provided to the employee who is acting in the vacated position; or

iii. an employee who is party to a Fixed Term, Renewable or Project ARIn temporarily vacates the position to which the ARIn relates for a period of ninety days or more, and it is being proposed that the ARIn apply to the employee upon the employee's return to the position.

Overdue Submissions

1.7 A Comprehensive or Renewal Submission due under this Determination must be completed before the due date.

1.8 Where a Comprehensive or Renewal Submission is not completed before the due date, the responsible Directorate will within one week of the due date passing:

i. notify the employee(s) covered by the ARIn of the delay;

ii. provide reasons for the delay to the head of service; and

iii. develop and implement a plan to ensure the review is completed within three months.

1.9 If the review is not completed within the three-month period, the head of service will arrange for the review to be completed expeditiously.

1.10 The ARIn will continue until the review is completed in accordance with either subparagraph 1.8iii or paragraph 1.9.

1.8 Consultation Requirements

1.1 Nothing in this section is intended to reduce overall terms and conditions.

1.2 The employee may invite a union or other employee representative to assist or represent their interests during consultation.

Establishment

1.3 The director-general must consult on the proposed terms of an ARIn with the employee to whom the ARIn is to apply, prior to the ARIn being approved; except where the ARIn is to be included as part of a recruitment process and there is no retrospective employee recruited at that stage.

Renewal or Cessation

1.4 If the position to which the ARIn applies is occupied when undertaking a review of the ARIn, the director-general will consult with the employee occupying the position to which the ARIn applies.

1.5 Where the employee occupying the position for which the ARIn is being reviewed is on long-term leave or is not responsive, reasonable attempts must be made to consult with the employee, or the employee's representative. If such reasonable attempts to consult with the employee are unsuccessful, then the director-general may proceed with the review without the input of the employee.

1.6 Upon completion of the review the director-general will notify the affected employee(s) in writing, and where relevant their representative(s), of the preliminary outcomes and reasons for the decision. The director-general will provide the employee(s) and their representative(s) 14 days in which to provide a written response for consideration by the director-general before making a final decision.

No Overall Reduction in Terms and Conditions

1.7 Where the terms of paragraph 1.31.3 are met, the director-general must consult with the relevant union in accordance with paragraph 1.31.3.

1.9 Approval Requirements

1.1 The director-general may only approve an ARIn when the following has occurred:

i. Taking into account the matters to be considered under paragraph 1.21.1 of this Framework, the director-general in his or her sole discretion considers that it is appropriate to provide an employee with terms and conditions of employment that are in excess of those which are ordinarily provided for under this Determination.

ii. The consultation requirements in section 8 of this Framework have been met.

iii. The review requirements in section 1.7 of this Framework have been met.

1.2 Before approving an ARIn the director-general must consider the views of the head of service.

1.10 Operation

1.1 The rates of pay component of an ARIn will count as pay for all purposes including superannuation and for the purposes of calculating the rate of pay for annual leave, long service leave, paid personal leave, paid maternity leave, redundancy payments and other paid leave granted under this Determination. If leave is on reduced pay or without pay, the pay component of the ARIn must be reduced proportionately.

1.2 Normal incremental advancement (where available) and pay and superannuation increases contained in Section C of this Determination will continue to apply in relation to the substantive classification of the employee in receipt of an ARIn. Pay increase percentages will not apply to the pay component of an ARIn unless specified in the ARIn.

1.3 Any payments made pursuant to paragraph 1.2 of this Framework are paid in addition to the ARIn i.e. this means the ARIn payment does not absorb increases paid pursuant to paragraph 1.2.

1.4 The rates of pay component of an ARIn is payable by fortnightly instalment or lump sum.

1.5 The additional pay component provided under an ARIn may be used for the purposes of salary sacrifice arrangements in accordance with the Salary Sacrifice Arrangement provisions of this Determination. Where an employee salary sacrifices any part of the terms of an ARIn and, in accordance with this Framework, the ARIn ceases to apply, the employee must notify the salary sacrifice arrangement provider that the terms of the ARIn can no longer be packaged.

i. The pay component of an ARIn cannot be directly linked to performance pay.

1.6 An ARIn will be paid proportionately on a pro-rata basis where the employee is part time. Where the scheduled part time hours worked by an employee to which the ARIn applies are amended the ARIn reduces (or increases) proportionately.

1.7 ARIn's are generally not paid retrospectively, but with the approval of the head of service may be for up to 3 months.

1.8 The ARIn will commence from whichever is the latter (unless an earlier date has been agreed by the head of service in accordance with paragraph 1.7):

i. the date specified in the ARIn; or

ii. the date of final approval by the director-general after the requirements of section 6 are met.

1.9 An ARIn will cease to apply to an employee on the date that employee vacates the position to which the ARIn applies, including when the employee becomes unattached or is temporarily transferred to another position.

i. A Renewal Submission is required to be completed where an ARIn is to apply to another employee who occupies the vacated position, unless the position and the other employee are covered by the same Group ARIn. A renewal submission will be required in these circumstances.

ii. The ARIn will automatically apply to the employee upon their return to the vacated position. A renewal submission will not be required in these circumstances.

1.10 An ARIn will cease to apply to an employee in relation to a sanction arising from a misconduct or underperformance matter, on the date the sanction is to apply where the delegate determines that the sanction to be applied to the employee is termination of the application of the ARIn.

1.11 An ARIn will cease to apply to an employee on the date an employee loses the qualification, or registration which allows them to perform the duties of the position to which the ARIn relates.

Annex C – Allowances

Non Expense Related Allowances

		At 9.6.22	1.79% from 05/01/2023	1% from 08/06/2023	1.74% from 07/12/2023	1.5% from 06/06/2024	2.44% from 05/12/2024	1% from 05/06/2025	1.93% from 04/12/2025
Higher Medical Qualification (pa)									
Clause 57	Registrar	$3,550	$3,614	$3,650	$3,713	$3,769	$3,861	$3,899	$3,975
	CMO 1	$3,854	$3,923	$3,962	$4,031	$4,092	$4,191	$4,233	$4,315
After Hours Responsibility (per 12 hrs) Clause 58									
	CMOs	$35.77	$36.41	$36.77	$37.41	$37.98	$38.90	$39.29	$40.05
	Other	$26.97	$27.45	$27.73	$28.21	$28.63	$29.33	$29.62	$30.20
Management (pa)									
Clause 59	Level 1	$25,336	$25,790	$26,047	$26,501	$26,898	$27,554	$27,830	$28,367
	Level 2	$44,340	$45,134	$45,585	$46,378	$47,074	$48,222	$48,705	$49,645
	Level 3	$63,340	$64,474	$65,119	$66,252	$67,245	$68,886	$69,575	$70,918
Radiology Specialist/Senior Specialist Additional Hours									
Clause 45.2		$3,166	$3,223	$3,255	$3,312	$3,361	$3,443	$3,478	$3,545
Anaesthetist Extra Surgery Scheme									
Clause 45.10	Mon-Fri	$346	$352	$356	$362	$367	$376	$380	$387
	Sat, Sun, PH	$450	$458	$463	$471	$478	$489	$494	$504
Anaesthetist Extra Surgery Scheme – On-Call									
Clause 45.12		$375	$382	$386	$392	$398	$408	$412	$420

Radiation Oncologist – Regional Service Development Allowance Clause 47.6								
Bega	$3,755	$3,822	$3,860	$3,928	$3,987	$4,084	$4,125	$4,204
Moruya	$3,755	$3,822	$3,860	$3,928	$3,987	$4,084	$4,125	$4,204
Goulburn	$2,371	$2,413	$2,438	$2,480	$2,517	$2,579	$2,604	$2,655
Cooma	$2,371	$2,413	$2,438	$2,480	$2,517	$2,579	$2,604	$2,655
Young	$2,727	$2,776	$2,804	$2,852	$2,895	$2,966	$2,995	$3,053

Expense Related Allowances

Overtime Meal (per occasion) Clause 39	At 9.6.22
Breakfast	$13.14
Lunch	$16.89
Dinner	$25.18

Motor Vehicle Allowance (per kilometre) Clause 62	
Small car - 1600cc non-rotary, 800cc rotary	$0.78
Medium Car - 1601-2600cc non-rotary, 801-1300cc rotary	$0.90
Large car over - 2600cc non-rotary, over 1300cc rotary	$0.91

Annex D – Other Leave

Leave to:	**1. Attend Aboriginal or Torres Strait Islander Ceremonies**
Purpose	The head of service may approve an employee's application to access leave to attend a ceremony associated with the death of an immediate or extended family member or for other ceremonial obligations under Aboriginal and Torres Strait Islander law.
Eligibility	An employee who is of Aboriginal or Torres Strait Islander descent.
Entitlement	A maximum period of 10 days in any 2-year period, in addition to bereavement leave.
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.
Leave to:	**2. Attend Aboriginal and Torres Strait Islander meetings**
Purpose	The head of service may approve an employee's application to access leave to attend representative meetings in the capacity of an elected representative of the Aboriginal and Torres Strait Islander peak body.
Eligibility	An employee who is an elected representative of the ACT Aboriginal and Torres Strait Islander peak body.
Entitlement	Paid time to attend recognised meetings.
Conditions	If an employee accepts any fee for attendance at the meeting, leave is granted without pay. An employee may accept reimbursement for out-of-pocket expenses.

Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.

Leave to:	**3. Attend NAIDOC week activities**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to attend and participate in NAIDOC Week activities.
Eligibility	An employee other than a casual employee.
Entitlement	This leave may be granted for one complete day or for varying periods over the week's activities, totalling the equivalent of one complete day.
Conditions	Subject to operational requirements.
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.
Leave to:	**4. Religious purposes**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to attend a ceremony integral to the practice of the employee's religious faith.
Eligibility	An employee who is an adherent to the particular religious faith and who is a practising member of that religious faith.

Entitlement	A maximum period of 10 days in any 2 year period.
Conditions	Religious leave is only available for ceremonies that are of significant importance to the particular faith that are generally observed by the entire faith. Leave is not available for ceremonies that are only of significance to the individual member of the particular religious faith.
Rate of payment	Without pay.
Effect on other entitlements	Will not count as service for any purpose.

Leave to:	**5. Defence Reserve**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to undertake specified defence service and, also, enlistment, training or deployment with the Australian Defence Force Reserve (ADFR).
Eligibility	Available to employees other than casual employees.
Entitlement	The entitlement to leave for Reserve Service is prescribed under the *Defence Reserve Service (Protection) Act 2001*. An employee may be granted leave (with or without pay) to enable the employee to fulfil Australian Defence Force (ADF) Reserve and Continuous Full Time Service (CFTS) or Cadet Force obligations. An employee is entitled to ADF Reserve Leave with pay, for up to 4 weeks during each financial year for the purpose of fulfilling service in the ADF Reserve. These purposes include training and operational duty as required. During an employee's first year of ADF Reserve service, a further 2 weeks paid leave may be granted by the head of service to facilitate participation in additional ADF Reserve training, including induction requirements. With the exception of the additional 2 weeks in the first year of service, leave can be accumulated and taken over a period of 2 years, to enable the employee to undertake training as a member of the ADF Reserves.

	Employees are not required to pay their tax-free ADF Reserve salary to the ACTPS in any circumstances. An employee who is an officer or instructor of cadets in a Cadet Force may be granted paid leave of up to 3 weeks each financial year to perform duties as an officer or instructor of Cadets. For these purposes 'Cadet Force' means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets. Defence Reserve Leave counts as service for all purposes, except for unpaid leave to undertake CFTS. Unpaid leave for the purpose of CFTS counts for all purposes except Annual Leave. An eligible employee may also apply for Annual Leave, Long Service Leave, leave without pay, or they may use ADOs or flextime (where available) to make up time for the purpose of fulfilling ADF Reserve, CFTS or Cadet Force obligations.
Conditions	An eligible employee must give notice to the head of service as soon as practicable of their absence or intention to be absent for Defence Reserve Leave, including documentary evidence.
Rate of payment	With pay or without pay.
Effect on other entitlements	As per entitlement.

Leave to:	**6. Operational Service Personal Leave**
Purpose	The head of service may approve an employee's application to access leave to enable officers and employees who have rendered operational service to be absent from duty when they are unfit for work because of war-caused injuries or diseases.
Eligibility	An officer or employee (other than a casual employee) who has rendered operational service.

Entitlement	Operational service personal leave is cumulative and is additional to personal leave entitlements contained in clause E4. Officers: On appointment, an eligible officer is entitled to 9 weeks operational service personal leave. An eligible officer is entitled to receive an additional credit of 3 weeks operational service personal leave at all of the following times: 12 months after the date of appointment. 24 months after the date of appointment. 36 months after the date of appointment. The maximum operational service personal leave balance that an eligible officer may have is 18 weeks. Employees (other than Officers): On engagement, an eligible employee is entitled to 9 days operational service personal leave. An eligible employee is entitled to receive an additional credit of 3 days operational service personal leave at all of the following times: 12 months after the date of engagement. 24 months after the date of engagement. 36 months after the date of engagement. The maximum operational service personal leave balance that an eligible employee may have is 18 days. Where operational service personal leave credits have been exhausted, the head of service may grant an employee personal leave or a period of unpaid operational service personal leave.
Evidence and Conditions	An eligible officer or employee should discuss with their manager or supervisor, as soon as practicable, of their absence or intention to be absent on operational service personal leave.

	An eligible officer or employee must make an application to the head of service to access their operational service personal leave entitlement. Having considered the requirements of this clause the head of service may approve an eligible officer or employee's application to access operational service personal leave. A decision not to approve the leave will be taken in accordance with subclause E3.1.
Leave to:	**6. Operational Service Personal Leave (cont.)**
	Operational service personal leave may be granted by the head of service for any of the following: (a) To cover absences resulting from war-caused injury or diseases. Following a written request from an eligible officer or employee, which must include documentary evidence that the absence is due to the war-caused injury or disease, including evidence that the injury or disease is a war-caused injury or disease in accordance with the requirements of the *Veterans' Entitlement Act 1986 (Commonwealth)*.
Rate of payment	With pay. The rate of payment to be paid to the employee during a period of operational service personal leave is the same rate as would be paid if the employee was granted personal leave, except where it is granted without pay.
Effect on other entitlements	Operational service personal leave with pay will count as service for all purposes. Operational service personal leave without pay will not count as service.
Interpretation	**Operational service** has the same meaning as in the *Veterans' Entitlement Act 1986* (Commonwealth). **War-caused injuries or diseases** has the same meaning as in the *Veterans' Entitlement Act 1986* (Commonwealth).

Leave to:	**7. Returned soldiers for medical purposes**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to attend an appointment for treatment or review as a returned soldier under the *Veterans' Entitlement Act 1986* (Commonwealth).
Eligibility	An employee who is a returned soldier.
Entitlement	A maximum period of 2 weeks in any 12 month period.
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.
Leave to:	**8. Accompany a domestic partner on a posting**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to accompany the employee's domestic partner for the period, or part of the period, of an interstate or overseas posting.
Eligibility	An employee whose domestic partner is posted to interstate or overseas employment by their employer, and the employer is one of the following: • the ACTPS, • the APS, • Calvary Hospital Incorporated, • A statutory authority established under a Federal, state or territory law. or the domestic partner is employed in a capacity that is directly relevant to representing Australia's national interest.

	For the purpose of this leave, 'post' means any office or other establishment of the employers above, where an employee's domestic partner is required by the employer to serve interstate or overseas, for any purpose. This includes a mission, appointment, station or place in a country overseas.
Entitlement	The maximum period is the period during which the domestic partner of the employee is required to perform duties overseas, or interstate.
Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	Will not count as service for any purpose.

Leave for:	**9. Engage in employment in the interests of defence or public safety**
Purpose	The head of service may approve an employee's application to access leave to enable the employee to engage in work or employment that the head of service considers is in the interests of the defence or public safety of the Commonwealth or the Territories.
Eligibility	An employee.
Entitlement	A maximum period of 2 years.
Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	The first 12 months will count as service for all purposes. Subsequent leave will count as service for all purposes except annual leave.

	If an employee does not return to duty with the ACTPS the leave will not count as service for any purpose.

Leave to:	**10. Attend as a witness**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to give evidence before a body or person before whom evidence may be taken on oath.
Eligibility	An employee.
Entitlement	Refer to rate of payment.
Conditions	If an employee is required to travel to give evidence, they may be reimbursed for reasonable travel expenses as if the employee had travelled in the course of the employee's duties, less any amount received as witnesses' expenses.
Rate of payment	With pay where the employee is to give evidence for any of the following: (a) On behalf of a Territory, a State or the Commonwealth. (b) On behalf of an authority established by or under a law of a Territory, State or the Commonwealth. (c) In a judicial review or administrative review proceeding where the matter being reviewed relates to the work of the employee; or (d) Before a Royal Commission appointed under a law of the Commonwealth. (e) Before a person conducting an inquiry under a law of a Territory, a State or the Commonwealth. (f) Before a person or authority exercising arbitral functions under a law of a Territory, a State or the Commonwealth. Without pay where the leave to give evidence is for any other purpose.

Effect on other entitlements	Will count as service for all purposes.
Leave to:	**11. Attend proceedings at the Fair Work Commission**
Purpose	The head of service may approve an employee's application to access leave to enable the employee to give evidence on behalf of a staff organisation in proceedings at the Fair Work Commission. *An employee may be granted a period of leave as required in the circumstances and may be with or without pay depending on the circumstances.*
Eligibility	An employee who is a representative of a staff organisation.
Entitlement	The time necessary to present a case or to give evidence or to attend inspections conducted by the Fair Work Commission, plus reasonable travel time.
Conditions	Leave with pay cannot be granted to more than 2 representatives for the same period.
Rate of payment	With pay or without pay.
Effect on other entitlements	With pay does count as service for all purposes. Without pay does not count as service for any purpose, but does not break continuity of service for long service leave purposes.

Leave to:	**12. Donate an organ**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to donate an organ.
Eligibility	An employee who volunteers as an organ donor.
Entitlement	A maximum period of 3 months in any 12 month period.

Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.
Leave to:	**13. Donate blood**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to donate blood.
Eligibility	An employee, who volunteers as a blood donor.
Entitlement	The time necessary to attend to give blood, including travel and reasonable recovery time.
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.

Leave to:	**14. Hold a full-time office in a staff organisation**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to hold a full-time office in a staff organisation; council of staff organisations, or credit union, co-operative society, building co-operative or similar body.
Eligibility	An employee
Entitlement	The maximum period of leave that may be granted is the period for which the employee is elected to office, or in the case of a non-elected office, 3 years.

Conditions	To be eligible for leave to hold a non-elected office the employee must have been employed in the ACTPS or in the Australian Public Service for at least 4 years, at the date at which the leave is proposed to begin. Leave may only be granted for this purpose where the relevant body is incorporated and is conducted by, or on behalf of, a staff organisation for the benefit of the members of the staff organisation or all persons employed in the ACTPS.
Rate of payment	Without pay.
Effect on other entitlements	Will count as service for accruing personal leave and calculating the period of service for long service, except where the leave is to enable the employee to take up an honorary office. Where leave is granted to enable the employee to take up an honorary office, the first 2 months leave in each calendar year will count as service for all purposes. Leave in excess of 2 months in a calendar year will not count as service for any purpose other than ongoing eligibility to access birth leave as provided by subclause E14.7.
Leave to:	**15. Local government purposes**
Purpose	The head of service may approve an employee's application to access leave to enable the employee to attend formal meetings, in the capacity of an elected office holder, of a local government council.
Eligibility	An employee who is a duly elected office holder of a local government council.
Entitlement	A maximum period of one of the following: (a) In the case of an employee who is mayor or president of the council, 5 days in any 12 month period. (b) In any other case 3 days in any 12 month period
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.

Leave for:	**16. Campaign for election**
Purpose	The head of service may approve an employee's application to access leave to enable the employee to campaign for election.
Eligibility	An employee who is standing for election to the ACT Legislative Assembly, Commonwealth or State House of Parliament, or other approved legislative or advisory body approved by the head of service.
Entitlement	A maximum period of 3 months.
Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	Will not count as service for any purpose.

Leave for:	17. Attend sporting events as an accredited competitor or official
Purpose	The head of service may approve an employee's application to access leave to enable an employee to attend sporting events as an accredited competitor or official.
Eligibility	An employee who is selected by an official sporting body to participate as an accredited official or competitor with national or international sporting status.
Entitlement	To attend training for, or to attend, a major national or international sporting or other recognised event in the capacity of an accredited official or competitor.
Conditions	Leave is with pay unless otherwise agreed by the employee.
Rate of payment	With pay or without pay.
Effect on other entitlements	With pay does count as service for all purposes. Without pay does not count as service for any purpose.
Leave for:	**18. Cope with a disaster**
Purpose	The head of service may approve an employee's application to access leave when an employee is affected by a disaster which has destroyed or significantly damaged the employee's usual place of residence or its contents.
Eligibility	An employee whose home is wholly or partly uninhabitable associated with health or safety reasons.
Entitlement	A maximum period of 3 days in each consecutive period 12 months.
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.

Leave for:	19. Engage in employment associated with compensation
Purpose	The head of service may approve an employee's application to access leave to enable an employee to engage in employment outside the ACTPS as part of a rehabilitation process under the *Safety, Rehabilitation and Compensation Act 1988.*
Eligibility	An employee who is, or was, entitled to compensation leave under the *Safety, Rehabilitation and Compensation Act 1988* and the employment is part of a rehabilitation process under that Act.
Entitlement	A maximum period of 3 years.
Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	Will count as service for all purposes.

Leave for:	20. Engage in employment in the interests of the ACTPS
Purpose	The head of service may approve an employee's application to access leave to enable an employee to engage in work or employment outside the ACTPS where the head of service is satisfied that the employment is in the interests of the ACTPS.
Eligibility	An employee, (other than an employee) who meets one of the following: (a) They are a probationary employee. (b) They have 6 months or less continuous employment.
Entitlement	A maximum period of 5 years.

Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	Will count as service for all purposes except for annual leave. If an employee does not return to duty with the ACTPS the leave will not count as service for any purpose.
Leave to:	**21. *Take leave where leave cannot be granted under any other provision***
Purpose	The head of service may approve an employee's application to access leave to enable an employee to be absent from duty where the leave cannot be provided for elsewhere.
Eligibility	An employee.
Entitlement	A maximum period of 12 months.
Conditions	-
Rate of payment	Without pay, except where the head of service determines there are special circumstances, having regard to: (a) the purpose for which the leave is being taken; and (b) the length of service of the employee; and (c) the length of the period for which the leave is being taken. In special circumstances the head of service determines whether leave is at full pay or half pay.
Effect on other entitlements	Leave without pay will not count as service for any purpose. However where the head of service determines there are special circumstances and that the period of leave granted is to be with pay then the paid leave will count as service for all purposes.

Annex E – Private Practice Payments

1. Definitions

1.1 In this Annex:

"**Fees**" means, for each Specialist, the total private practice fees received by the Directorate for each financial year;

"**Relevant Threshold**" means the amount calculated in accordance with the formula listed in this schedule.

2. Scheme B Private Practice Payments

2.1 For Specialists participating in Scheme B, the Directorate must pay the Specialist a bonus equivalent to the Fees exceeding the Relevant Threshold but not exceeding 50% of the Specialist's Scheme Pay.

2.2 If the Fees do not exceed 20% of the Specialist's Scheme Pay, the Directorate must pay the Specialist a bonus equivalent to the Fees.

3. Scheme C Private Practice Payments

3.1 For Specialists participating in Scheme C, the Directorate must pay the Specialist a bonus equivalent to the Fees exceeding the Relevant Threshold but not exceeding 133.33% of the Specialist's Scheme Pay.

4. Calculation of Relevant Threshold

4.1 For the purposes of calculating the Private Practice Payment payable to Specialists participating in Scheme B or C, the Relevant Threshold = P x F where:

P = the percentage specified in Column Two of Table 1 opposite the reference in Column One of that Item to the treatment provided by the Specialist; and

F = Fees.

TABLE 1 – PERCENTAGES APPLICABLE TO FEES

Column 1 – Specialty		**Column Two**	**Column Two From the first day of the first full calendar month following the making of this Determination**
Cardiology			
Medicare Benefits Schedule Item No.			
110	Consultation	20%	20%
116	Consultation – subsequent visit	20%	20%
119	Consultation – minor subsequent visit	20%	20%
132	Consultation – multiple morbidities	20%	20%
133	Consultation – multiple morbidities – subsequent visit	20%	20%
11712	Continuous ECG Monitoring	20%	20%
11700	12-Lead Electrocardiography – ECG	20%	20%
All Others		20%	20%

Respiratory and Sleep Medicine		**Column Two**	**Column Two From the first day of the first full calendar month following the making of this Determination**
Medicare Benefits Schedule Item No.			
110	Consultation	20%	20%
116	Consultation – subsequent visit	20%	20%
119	Consultation – minor subsequent visit	20%	20%
132	Consultation – multiple morbidities	20%	20%
133	Consultation – multiple morbidities – subsequent visit	20%	20%
11503	Measurement of the Mechanical or gas Exchange Function of the Respiratory System	40%	20%
11505	Measurement of spirometry	40%	20%
11506	Measurement of the Respiratory Function	40%	20%
11508	Cardiopulmonary exercise testing	40%	20%
11509	Measurement of the Respiratory Function	40%	20%
11512	Continuous Measurement of the Relationship between flow and volume during expiration or inspiration	40%	20%
12000-21	Allergy Testing	40%	20%
All others		50%	20%

Medical Imaging / Radiology	100%	100%
Pathology	100%	100%
All Other Specialists	20%	20%

Note: For clarity, the new rates in Column Two with effective date of the first day of the first full month after the commencement of this Determination have been added to provide extra clarity around commencement date in the event that this differs from the commencement date of this Determination.

Where, as a consequence of a change in the Medicare Benefits Schedule (MBS), item numbers in column 1 are changed, the new number or numbers will be allocated the same column 2 percentage figure that would have applied had the change not occurred.

Where, as a consequence of a change in the MBS, a new item is added, consideration will be given to the appropriate column 2 percentage for that item.

The fees outlined in Table 1 are subject to review per subclause 47.14 (Review of Facility Fees). Subject to the agreed outcome of that review, the rates in table 1 will be amended prospectively.

Annex F – Reviews

1. This Determination provides for the following reviews or projects:

    a. A review of the structure of Senior Medical Practitioners' remuneration, including on-call and recall arrangements (clause 43), and onerous hours for Senior Medical Practitioners (clause 44).

    b. A review of facility fees currently charged in relation to rights of private practice (subclause 47.14).

    c. A review of the MOU governing the Private Practice Fund (subclause 112.12).

    d. The parties agree to work towards the development of suitable workload measures during the life of the Determination.

2. These are to be undertaken during the life of the Determination, with oversight provided by the DCC.

3. The parties will agree on the terms of reference, reporting and timelines for these at the first DCC meeting following the approval of this Determination.

Annex G – Medical Student Worker

1. A Medical Student Worker (MSW) means an employee who:

    a. Is a medical student; and

    b. is entered on the student register in an approved program under the Health Practitioner Regulation National Law (ACT) for the medical profession for the purpose of becoming a registered medical practitioner; and

    c. has commenced their final (fourth) year of study (full-time or part time equivalent); and

    d. has completed any course elements necessary for undertaking the duties for which they are engaged; and

    e. has undertaken at least one clinical placement in a hospital setting or has had clinical exposure to patients.

2. A Medical Student Worker is considered the equivalent of a Medical Officer for the purposes of applying the Determination.

3. The rate of pay for the Medical Student Worker Classification is set out in Annex A.

4. A Medical Student Worker can be engaged in the following circumstances:

    a. an exceptional or unforeseen circumstance which causes a surge in business-as-usual and staffing demand; or

    b. a declaration by the Hospital Commander that triggers the emergency duty provision; or

    c. a public health declaration by the Chief Health Officer.

5. A Medical Student Worker works closely within a multi-disciplinary team to assist in providing high quality patient care and support, which is consistent with the level of clinical competency and experience of the medical student worker. This includes the assessment and management of patients across a range of clinical areas, while working under supervision of doctors in senior roles.

6. Each MSW will be assessed individually to identify suitability for the role especially on the ability to work in a complex clinical environment including appropriate escalation and ability to assist with the management of patients, in and after hours, in order to provide high quality, safe, patient-centered care.

7. The scope of duties and the period of engagement will be determined on a case-by-case basis, but the duties will not be at the same level as the scope of duties of the classification of an intern/provisionally registered Medical Officer.

8. Where a decision is made to engage a Medical Student Worker, the unions will be provided with details as to the reason(s), duration and scope of duties that will be expected of the medical student worker.

9. The employing health service will determine which clinical areas the Medical Student Worker will be allocated to, based on workforce requirements.

Annex H – Special Arrangements for Calvary

Transition of Former Calvary Employees

1. This clause applies to Former Calvary Employees only.

2. For the purpose of this clause, 'Former Calvary Employee' means a person who was employed by Calvary, or a related corporation of Calvary, at Calvary Public Hospital Bruce or Clare Holland House, immediately before the Acquisition Day and accepted, or subsequently accepted, an offer to transition their employment to the ACT Public Service under the Health Infrastructure Enabling Act 2023 and Health Infrastructure Enabling Regulation 2023.

3. For the purpose of this clause, 'Acquisition Day' means 3 July 2023.

4. For the purpose of this clause, 'Ordinary Place of Work' means:

    a. for Former Calvary Employees who worked at, or from, Calvary Public Hospital Bruce, the North Canberra Hospital.

    b. for Former Calvary Employees who worked at, or from, Clare Holland House Barton, Clare Holland House.

5. For the purpose of this clause, 'Service' means a service or function delivered at, or from, the North Canberra Hospital or Clare Holland House immediately before Acquisition day, and the roles/positions which deliver that Service.

Ordinary Place of Work

6. Former Calvary Employees will remain working at their Ordinary Place of Work unless they have volunteered to work at another site through standard operational mechanisms.

7. For clarity, Former Calvary Employees will only be required to participate on rosters (including on-call/recall or close-call) at their Ordinary Place of Work, unless the Former Calvary Employee was participating on other rosters immediately before the Acquisition Day.

8. In circumstances where the head of service proposes to move a Service from the North Canberra Hospital, Bruce Campus or from Clare Holland House to a different site, and the moving of that Service would affect a Former Calvary Employee because their role/position/roster moves with the Service, the head of service must:

    a. write to the Former Calvary Employee setting out in detail the proposed changes.

    b. state that there is no requirement for the Former Calvary Employee to agree to move to a different site.

    c. state that the Former Calvary Employee may seek independent advice.

9. The Former Calvary Employee must provide their response to the proposed changes in writing.

10. If the Former Calvary Employee does not agree to move to a different site, they will remain working at their Ordinary Place of Work and may be transferred to an alternate position at their Ordinary Place of

Work. For clarity, nothing in this clause prevents or restricts the operation of the Redeployment and Redundancy provisions under section L where the Former Calvary Employee declines a proposal to move.

11. If the Former Calvary Employee agrees to move to a different site, this clause will cease to apply to the Former Calvary Employee in respect of any future head of service requests to move to a different site.

12. For clarity, this clause does not prevent the head of service from moving a Service from the North Canberra Hospital or Clare Holland House to a different site. The consultation process established in clause 135 applies.

13. For clarity, this clause does not apply to a Former Calvary Employee who is directed to undertake working arrangements in response to an event or series of events, or activities declared to be a significant emergency event, in writing, by the head of service.

14. Any employment related disputes arising out of the application of this clause or sections 5(3) or 5(4) of the Health Infrastructure Enabling Regulation 2023 (as amended from time to time) may be addressed through the Dispute Avoidance/Settlement Procedures outlined at subclause 136.

Canberra Hospital Employees

15. For the purpose of clauses 15-19 of this Annex, 'Canberra Hospital employees' means ACTPS employees of Canberra Health Services whose normal place of work is The Canberra Hospital campus and does not include Former Calvary Employees as defined at clause 4 of this Annex.

16. For the purposes of this clause, 'Transition Period' means 3 July 2023 to 2 July 2024.

17. Canberra Hospital employees will not be required to provide ad-hoc shift cover or participate on rosters (including on-call/recall or close-call) at North Canberra Hospital or Clare Holland House during the Transition Period unless they have volunteered to do so through standard operational mechanisms.

18. Notwithstanding clause 17 of this Annex, if the head of service has operational requirements to ensure safe coverage of a service at the North Canberra Hospital or Clare Holland House and volunteer capacity has been exhausted, the head of service can require a Canberra Hospital employee to provide ad-hoc shift cover during the Transition Period.

    a. A2.4.1 Any affected employee under clause 18 of this Annex will be consulted and provided a genuine opportunity to discuss their participation in the operational requirement prior to decisions being made.

19. In circumstances where the head of service proposes to move a service from Canberra Hospital to North Canberra Hospital or Clare Holland House, and the moving of the service would affect a Canberra Hospital employee because their role/position/roster moves with the service, the consultation process established in clause 135 applies.

Superannuation for Former Calvary Employees

20. Clauses 20, 21 annd 22 of this Annex only apply to Former Calvary Employees as defined at clause 4 of this Annex who were members of the Public Sector Superannuation Accumulation Plan (PSSap) immediately before Acquisition Day.

21. The head of service must provide employer contributions to the PSSap equivalent to the PSSap employer contribution rate specified by legislation immediately before Acquisition Day (15.4%).

    Note: this clause will cease to apply when the employer contributions at clause 54 equals or exceeds 15.4%.

22. For clarity, employer contributions at 54.5 do not apply whilst this clause applies.

Dictionary

Accrued Day Off (ADO) means a day/shift off duty for an employee using bankable leave accrued as a result of increasing the employee's average weekly hours of work from 38 hours to 40 hours.

ACTPS means the public sector established by the PSM Act. To avoid doubt, this includes Calvary Health Care ACT Limited.

Determination means the *ACT Public Sector Medical Practitioners Determination 2023-2026* and includes all Annexes and Schedules.

AHPRA means the Australian Health Practitioner Regulation Agency

Appointed means an appointment in accordance with Part 5 division 5.3 of the PSM Act.

Assisted Reproductive Leave means the following assisted reproductive treatments: Intrauterine insemination (IUI), In vitro fertilisation (IVF), and Intracytoplasmic sperm injection (ICSI) and related medical appointments.

Business Day means any day of the week that is a Monday to Friday, which is not a Public Holiday.

Calvary means Calvary Health Care ACT Limited (ABN 74 105 304 989).

Career Medical Officer (CMO) means a person who is a registered medical practitioner; and has had at least three years' post graduate experience in public hospital service or any lesser period acceptable to the employer; and is engaged as a Career Medical Officer by the employer. For the purpose of application of conditions under this Determination, a reference to a CMO also includes an employee engaged as a Senior Career Medical Officer or a Transitional Grade unless specified otherwise.

Carer means an employee who provides, in addition to the employee's normal family responsibilities, care and support on a regular basis to other family members or other persons who are sick or ageing, have an injury, have a physical or mental illness or a disability – other than in relation to their employment with the ACTPS.

Casual employee means a person engaged under section 111 of the PSM Act to perform work with no firm advance commitment to continuing and indefinite work according to an agreed pattern of work..

Child includes children in the case of multiple births.

College means a professional organisation approved by the Australian Medical Council for education, training, and granting of postgraduate qualifications in a clinical discipline or speciality.

Consultation means providing relevant information to employees and their employee representatives. It means more than a mere exchange of information. For consultation to be effective the participants must be contributing to the decision-making process not only in appearance but in fact.

Counts as service for all purposes means also the provision of employer superannuation contributions to the extent of an employee's superannuation fund rules.

DCC means the Directorate Consultative Committee established under clause 134 of this Determination.

Delegate means the head of service or the person authorised by the head of service to perform specific functions under this Determination.

Directorate or Directorates means an administrative unit so named or other government agency within the meaning of the PSM Act and Calvary Health Care ACT Limited.

Director General means a person engaged under section 31(2) of the PSM Act as the Director General of the Directorate and includes a person who exercises Head of Service powers in relation to the appointment, engagement and employment of staff in a government agency in accordance with the PSM Act or other Territory law, but only in relation to staff of that government agency.

Disability means a permanent or ongoing physical or psychological disability attributable to one or more intellectual, cognitive, neurological, sensory or physical impairments or to one or more impairments attributable to a psychiatric condition.

Domestic Partnership means a relationship between two people, whether or a different or the same sex, living together as a couple on a genuine domestic basis.

Eligible Casual Employee means an employee for whom all of the following apply:

(a) they have been employed as a casual employee;
(b) they have been employed by the ACTPS on a regular and systemic basis for a sequence of periods of employment during a period of at least twelve months;
(c) they have a reasonable expectation of continuing employment by the ACTPS on a regular and systematic basis.

Eligible employment means:

(a) continuous employment by the ACTPS; and
(b) continuous recognised prior employment; and
(c) a period of leave without pay to count as service (other than personal leave without pay in excess of 78 weeks and leave in relation to defence employment being employment in the Reserve Forces or of the Citizen Forces either on a continuous full-time basis or for a period fixed in accordance with the *Defence Act 1903*, the *Naval Defence Act 1910*, or the *Air Force Act 1923*), or national service; and

Eligible employment excludes:

(a) employment remunerated by fees, allowances or commission, honorarium or equivalent; and
(b) appointment or engagement for the sole purpose of overseas employment; and
(c) unauthorised absence.

Employee means (unless there is a clear intention in this Determination to restrict the meaning) an officer or a casual employee or a temporary employee who is employed or engaged under the PSM Act in a classification set out in Annex A, excluding a person engaged as Head of Service under Sections 31(1) of the PSM Act, persons engaged as directors-general under section 31(2) of the PSM Act, or persons engaged as Executives under section 31(2) of the PSM Act.

Employee Representative means any person chosen by an employee, or a group of employees, to represent the employee(s).

Facility Fees means fees or a fee charged in respect to the management of the rights of private practice arrangements set out in clause 46 of this Determination.

Family Violence is as defined under the *Family Violence Act 2016* (ACT).

FW Act means the *Fair Work Act 2009*.

FWC means Fair Work Commission.

FW Regulations means the Fair Work Regulations 2009.

Head of Service means a person engaged under sections 31(1) of the PSM Act as the Head of Service and the Head of Service for the ACT Long Service Leave Authority or a person who exercises Head of Service powers in relation to the appointment, engagement and employment of staff in a government agency in accordance with the PSM Act or other Territory law, but only in relation to staff of that government agency.

Higher Medical Qualifications means medical qualifications obtained by a Medical Officer subsequent to graduation which are either (a) recognised by the Medical Board of the ACT as being specialist qualifications and are required for appointment to the position, or (b) other postgraduate medical qualifications, as approved by the head of service on advice of the Executive Director Medical Services or equivalent, as being essential for the performance of the specified duties.

Household Member means a person (other than the employee's immediate family) residing in the employee's normal place of residence at the time of their illness, injury, emergency or death.

Immediate family means a person who is any of the following:

(a) a domestic partner (including a former domestic partner);
(b) a child or an adult child, parent, grandparent, grandchild or sibling of the employee or domestic partner of the employee;
(c) a person related to the employee by Aboriginal and/or Torres Strait Islander kinship structures;
(d) a child who is the subject of a permanent caring arrangement;
(e) an adopted child.

'Immediate family' includes adopted, step, fostered or ex-nuptial immediate family where these circumstances exist.

Additionally, the head of service may consider that the definition of 'immediate family' be extended for a particular decision involving an employee where exceptional circumstances exist. This might include other close family members or an employee who lives alone and has no-one to nominate as 'immediate family', may nominate one person, in similar circumstances, for the purpose of caring responsibilities.

Intern means a provisionally registered Medical Officer (including overseas trained Medical Officers) serving in a health facility prior to obtaining general registration as a medical practitioner, and who is employed in a position classified as intern.

An international medical graduate may be employed provisionally as an intern, without clinical privileges, providing they have lodged an application with AHPRA for provisional registration. The confirmation of such an appointment is subject to the granting of provisional registration.

Junior Medical Officer means Intern, Resident Medical Officer, Junior Registrar, Registrar, Senior Registrar and Senior Resident Medical Officer.

Junior Registrar means a Medical Officer who:

- has satisfactorily completed their internship; and
- has obtained general registration; and
- who is employed in a position classified as a Junior Registrar; and
- who is enrolled in a vocational training program at the PGY 3 level.

Long-term temporary means a person engaged under the PSM Act for a period of 12 months or more.

Manager means a person who has responsibility for planning, organising and leading a work unit or group activity.

Medical Officer means an Intern, Resident Medical Officer, Registrar, Senior Registrar, Career Medical Officer, Transitional Grade or Senior Career Medical Officer.

Medical Student Emergency Response Worker means an employee who is a medical student and entered on the student register in an approved program under the Health Practitioner Regulation National Law (ACT) for the medical profession for the purpose of becoming a rregistered medical practitioner; and has commenced their final (fourth) year of full-time study (full-time or part time equivalent), has completed any course elements necessary for undertaking the duties for which they are engaged; and undertaken at least one clinical placement in a hospital setting or has had clinical exposure to patients.

Miscarriage is as defined under the *Fair Work Act 2009* (Cth).

National Employment Standards (NES) means Part 2-2 of the *Fair Work Act 2009* (Cth), as amended from time to time.

Officer means a person who is appointed as an officer under Division 5.3 or 5.8 of the PSM Act.
Note: Permanent staff are officers.

Permanent or Long Term Caring Responsibility means an out of home care placement for child(ren) until the child(ren) turns eighteen as defined by the *Children and Young People Act 2008* (ACT) or as defined under equivalent legislation within other Australian states or territories.

Post Graduate Fellow to be eligible for employment as a Post Graduate Fellow, a medical practitioner must:

- be a registered medical practitioner; and
- must be at least PGY7+ or equivalent ; and
- be employed in a position classified as Post Graduate Fellow.

Note: Post Graduate Fellow positions are normally only filled for a maximum period of 12 months.

Primary Care Giver is a person who is the primary carer of a child in the person's reference period if the child is in the person's care in that period and the person meets the child's physical needs more than anyone else in that period.

Private Practice means the provision of medical services undertaken by a senior Medical Officer outside of their responsibilities with the Directorate, in accordance with the provisions of sub clauses 23.14 to 23.20.

PSM Act means the *Public Sector Management Act 1994* as varied or replaced.

PSM Standards means the Public Sector Management Standards made under the PSM Act as varied.

Public Sector Standards Commissioner means a person appointed under section 142 of the PSM Act.

Registered health professional means a health professional registered, or licensed, as a health professional (or as a health professional of a particular type) under a law of a State or Territory that provides for the registration or licensing of health professionals (or health professionals of that type).

Registered Medical Practitioner means a person registered or licensed as a medical practitioner under a law of a state or territory that provides for the registration or licensing of medical practitioners.

Resident Medical Officer means a Medical Officer who:

- has satisfactorily completed their internship; and
- has obtained general, provisional or limited registration and;
- who is employed in a position classified as Resident Medical Officer.

Registered Midwife means a person whose name is included in the Register of Midwives kept by the National Board for midwifery.

Registrar means a Medical Officer who:

- Has completed the equivalent of at least three years of relevant full time clinical experience, and
- Has obtained general or limited registration as a medical practitioner, and
- Is employed in a position classified as Registrar.

Rostered Day Off (RDO) means any one or more days rostered off duty without pay.

Scheme Pay means base pay as in Annex A (prorated for part-time) plus any allowances paid under clauses 43 and 59.

Senior Career Medical Officer means a Medical Officer who:

- has at least seven years (full time equivalent) clinical post graduate experience; and
- is required to perform clinical duties and responsibilities at a senior level with minimum clinical supervision; and
- is employed in a position classified as a Senior Career Medical Officer.

Senior Medical Practitioner (SMP) means a Specialist, Senior Specialist or Post Graduate Fellow (except where specifically excluded).

Senior Registrar means a Medical Officer who, in addition to meeting the requirements for a Registrar:

- has completed at least 48 months of (full time equivalent) experience in recognised Registrar training position and substantially completed fellowship training; and
- holds higher medical qualifications and is employed in a position classified as Senior Registrar.

Senior Resident Medical Officer means a Medical Officer who:

- has satisfactorily completed their internship; and
- has obtained general or limited registration; and
- who is employed in a position classified as a Senior Resident Medical Officer; and
- who has successfully completed at least two years full time equivalent employment as a JMO.

Senior Specialist means a Specialist who:

- has been employed by a hospital on the maximum pay for a Specialist for a period of at least three years (at an average FTE of at least 0.5); and
- has gained such experience and attained such ability in his or her speciality as is deemed by the employer to justify appointment to the classification.

Service or ACT Public Service means the ACT Public Service established by the PSM Act.

Session means a period of work not less than four hours in duration.

Short Term Care means an out of home care placement for a child(ren) of up to two years duration as defined by the *Children and Young People Act 2008* (ACT) or as defined under equivalent legislation within other Australian states or territories.

Short-term temporary employee means an employee engaged under the PSM Act for a period of less than twelve months.

Staff Specialist or Specialist means a person who is:

(a) is a medical practitioner registered with AHPRA under the *Health Practitioner Regulation National Law Act 2009* as a specialist.
(b) is a medical practitioner registered with AHPRA under the *Health Practitioner Regulation National Law Act 2009* who has equivalent qualifications and experience required by AHPRA as a specialist.

Stillbirth/Stillborn Child is as defined under the *Fair Work Act 2009* (Cth).

Strategic Board means the senior management team, comprising the head of service and the 8 directors-general, responsible for providing whole-of-government leadership and strategic direction to the ACT Public Service.

Supervisor means a person who has direct supervisory responsibility for one or more employees in a work unit or group activity.

Temporary employee means a person engaged under the PSM Act for a specific period of time or for a specified task under Division 5.8 of the PSM Act, excluding a person engaged under section 31(1) of the PSM Act as head of service, persons engaged as directors-general under section 31(2) of the PSM Act or persons engaged as executives under section 31(2) of the PSM Act.

Union(s) means a union or unions which are covered by this Determination, who are registered under the *Fair Work (Registered Organisations) Act 2009* (Cth).

WHS Act means the *Work Health and Safety Act 2011*.